

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Charleston County

Honorable Brooks P. Goldsmith, Circuit Court Judge
S.C. SUPREME COURT

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SASHA GASKINS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-002554

APPENDIX

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1 THE COURT: Well I heard his answer. He said
2 he told him he did okay.

3 MR. SOWELL: Okay.

4 THE COURT: But don't go any farther than
5 that.

6 (In open court.)

7 THE COURT: You may proceed.

8 MR. SOWELL: Thank you, Your Honor.

9 Q (By Mr. Sowell) Did your lawyer tell you what
10 was discussed at the trial yesterday?

11 A No, sir.

12 Q And you don't know what Reggie said?

13 A No, sir.

14 Q Yesterday?

15 A No, sir.

16 Q What happened to Harper's ring?

17 A The last time I seen Joshua Harpe's ring it
18 was on Joshua Harpe's counter when I departed that
19 house to go to the ATM machine.

20 Q You didn't tell the police officer that you
21 gave it to your girlfriend?

22 A No, sir.

23 Q I show you a transcript of your discussion
24 with Detective Holmes and Detective Dasher.

25 MR. KIDD: Objection, Your Honor.

1 THE COURT: You need to ask a question, give
2 him an opportunity to admit or deny, and then allow
3 him to use it to refresh his memory.

4 MR. SOWELL: Yes, Your Honor.

5 Q (By Mr. Sowell) Did you tell police officers
6 that you gave that ring to your girl?

7 A No, sir.

8 Q I want you to look at these parts down here.
9 Don't read them, just read them over to yourself.

10 Now I ask you again, what happened to that
11 ring?

12 A Like I said, sir, the last time I seen that
13 ring it was on Joshua Harpe's counter when I departed
14 to go to the ATM machine.

15 Q I'm sorry?

16 A I left his apartment to go to the ATM machine
17 the ring was sitting by counter by the sink.

18 Q Did you tell the police officer, I gave it to
19 my girl?

20 A No. I told the police officer I gave the
21 money that I got out of the ATM to my girl, which is
22 Breanna Bruster at the time.

23 Q Did you tell the police officers that Reggie
24 wanted that ring?

25 A No, sir.

1 Q You didn't?

2 A No, sir.

3 Q I ask you again to read the same paragraphs.
4 See if that refreshes your memory.

5 A Yes, sir.

6 Q Did you tell the police officers, talking
7 about Reggie, he wanted that ring?

8 A No, sir.

9 MR. SOWELL: May we approach?

10 THE COURT: Uh-hum.

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

13 THE COURT: What are you referring to? Is
14 that something that was reported by the officer or
15 was that something that was in his actual statement?

16 MR. KIDD: It's a videotape recording we have
17 had transcribed. And we can't verify the accuracy of
18 the transcription.

19 If he wants to really get into, we are going
20 to have to play the video

21 THE COURT: You have to look at the video to
22 make sure the transcription is accurate. But at this
23 point you are stuck with his yes or no answer because
24 I don't know if the transcript is accurate.

25 MR. SOWELL: He didn't --

1 THE COURT: I don't know that it really is of
2 any importance because Reginald Rice was found with
3 the ring. That's what prompted the police to arrest
4 him and started to whole.

5 MR. SKIPPER: Mr. Starks has asked to speak
6 with me, he has a question.

7 THE COURT: This is a sticky one.

8 MR. SKIPPER: I understand.

9 THE COURT: What is he going to ask?

10 MR. SKIPPER: I have no idea. I didn't talk
11 to him.

12 THE COURT: You don't think it's anything that
13 will incriminate him, do you?

14 MR. SOWELL: I don't think he can incriminate
15 himself, he's already admitted.

16 THE COURT: He can incriminate himself. He
17 can say he killed somebody. He doesn't have
18 immunity.

19 MR. SKIPPER: No, he doesn't have immunity.
20 That's why I haven't talked to him yet.

21 (In open court.)

22 THE COURT: Mr. Foreman, ladies and gentlemen,
23 I have a brief matter of law to take up outside of
24 your presence. Please do not discuss the case,
25 please leave your notepads in your seats.

1 (Whereupon, the jurors exit the courtroom.)

2 THE COURT: Before you all leave, Mr. Skipper,
3 your client has asked to speak to you. I'm going to
4 allow him to do that, but you are not to discuss his
5 testimony.

6 Your comments have to be confined to whether
7 he thinks he is going to incriminate himself.

8 MR. SKIPPER: Certainly, Your Honor. You want
9 us to do that here?

10 THE COURT: It's up to you, wherever you'd
11 like to do it.

12 MR. SKIPPER: To be on the safe side.

13 THE COURT: Sure. You can take him into the
14 conference room so he can speak to his attorney.

15 (Whereupon, a recess was taken.)

16 THE COURT: Mr. Skipper, have you had an
17 opportunity to talk to your client?

18 MR. SKIPPER: Yes, ma'am.

19 THE COURT: I assume it was not about his
20 testimony?

21 MR. SKIPPER: Correct, Your Honor.

22 THE COURT: Okay. Are we ready to proceed?

23 MR. SKIPPER: Yes, ma'am, we are.

24 THE COURT: Okay, bring in the jury.

25 (Whereupon, the jurors enter the courtroom.)

1 THE COURT: You may continue with your
2 cross-examination of the witness.

3 Q (By Mr. Sowell) Mr. Starks, do you understand
4 that if you change your story in response to my
5 questions, you change your story from what you
6 previously told the jury earlier today and yesterday,
7 and change your story and tell something that's not
8 what you told yesterday, you could be charged with
9 perjury?

10 A Yes, sir.

11 Q You understand that the solicitor's office can
12 grant immunity so that you could tell the truth if
13 you wanted to?

14 A Yes, sir.

15 Q But they haven't done that, have they? Have
16 you been granted immunity for your testimony?

17 A What is immunity, sir?

18 Q Have they agreed not to prosecute you if you
19 changed your story?

20 A No, sir.

21 Q So you risk prosecution for perjury if you
22 were to change your story now?

23 A Yes, sir.

24 Q I'm just trying to figure out what you know.
25 I believe you told the police officers that Breanna

1 was your girlfriend?

2 A Yes, sir.

3 Q And how long had you known her when you told
4 the police officers that?

5 A Four days. Three days.

6 Q And but you had slept with her?

7 A Yes, sir.

8 Q So that makes her your girlfriend?

9 A Yes, sir.

10 Q Now did you tell the police officers when they
11 were questioning you the first time, I know what you
12 want but I had nothing to do with that burglary?

13 A You said did I tell them what, sir? Can you
14 restate the question.

15 Q They were asking you about Herb's house?

16 A Yes, sir.

17 Q Did you tell them, I know what you are looking
18 for but I had nothing to do with that burglary?

19 A Yes, sir.

20 Q So you lied to the police officers then or
21 now?

22 A Sir?

23 Q Did you lie then or now?

24 A No, I lied then.

25 Q How do I know when you are lying and when you

1 are not lying?

2 A I don't know, sir.

3 Q We don't know either, do we?

4 A No, sir.

5 Q But you obviously lie?

6 A Yes, sir. In the beginning of this case I did
7 lie, sir.

8 Q And I think when the police officers told you
9 what they know about your involvement, you agreed to
10 testify as to what they wanted to hear. And then you
11 told them, I'm a liar?

12 A I told them I lied.

13 Q And you told them you lie all the time, didn't
14 you?

15 A No, sir, I did not tell them that.

16 Q What did you tell them?

17 A I just told them that probably the first two
18 times would be a lie, but then eventually I'd tell
19 the truth.

20 Q How many times have you bought marijuana from
21 coach?

22 A I never bought marijuana from Coach Harpe,
23 sir.

24 Q Never?

25 A No, sir.

1 Q Were you here during his testimony?

2 A No, sir.

3 MR. KIDD: Objection, Your Honor.

4 THE COURT: Basis?

5 MR. KIDD: Facts not in evidence, Mr. Harpe
6 hasn't testified.

7 THE COURT: Overruled. Well, I apologize.
8 Approach,

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

11 MR. SOWELL: He hasn't called him.

12 THE COURT: Mr. Butler testified. It has to
13 be based on what happened. Mr. Harpe hasn't
14 testified. He hasn't -- Mr. Harpe hasn't testified
15 yet.

16 (In open court.)

17 THE COURT: Sustained.

18 Q (By Mr. Sowell) How many times have you
19 bought marijuana from Herb?

20 A Three times, sir.

21 Q Three?

22 A Yes, sir.

23 Q Have you referred any of your friends over
24 that bought marijuana from him?

25 A No, sir. I was referred from my friends who

1 bought marijuana from him.

2 Q Did you tell any of your friends that you all
3 knew Herb's got some?

4 A No, sir.

5 Q What friend referred you to Herb?

6 A Reginald Rice and another kid at the Citadel
7 named Reynolds, last name Reynolds. And another
8 teammate of mine by the name of Ryan Jones.

9 Q Do lots of Citadel teammates use marijuana and
10 buy it from Herb?

11 A Herb used to attend the Citadel. So a lot of
12 -- not just football players, but also regular corp
13 cadets knew who Herb was. I didn't even know Herb
14 attended the Citadel. The way I met Herb was through
15 Reginald Rice and Ryan Jones.

16 Q How many Citadel football players do know that
17 did buy marijuana from Herb?

18 A Four.

19 Q Okay. Now I am trying to understand how you
20 plan to break into your friend's house just few hours
21 after you call him on the phone, and break into his
22 house, tie him up, tie his girlfriend up, rape her,
23 how did you not think they would know who you were?

24 A Sir, me and Herb Butler were not friends.
25 Herb Butler probably couldn't even tell you my name.

1 If this situation probably would have never occurred.

2 The times that I have communicated with Herb
3 Butler was one time on the phone by myself. The
4 other times were with actual teammates.

5 Q Didn't you go to his house and buy marijuana
6 from him three different times?

7 A Yes, sir. But two of the times I was
8 accompanied by teammates who did all the talking and
9 I just sat there. Only one time I went to his house
10 by myself.

11 Q Did you know that Reggie had bought from him
12 on a numerous number of times?

13 A Yes, sir.

14 Q How did you expect Reggie to be able to get
15 into his house and you rape his girlfriend and steal
16 from him, and him not recognize Reggie?

17 A Well he hadn't heard Reggie in about a year or
18 two years.

19 Q He definitely knew who he was, didn't he?

20 A I mean he called his name out during the
21 robbery, yes, sir.

22 Q In fact at first Herb thought you all were
23 joking, didn't he?

24 A He didn't think it was a joke because he knew
25 who it was. He thought it was a joke because, I

1 mean, he probably just didn't think somebody would
2 come in his house and rob him.

3 Q And when did he finally realize that you all
4 were going to rob him?

5 A I'm pretty when Reginald Rice came in behind
6 me and told him to get down with another gun pointed
7 at his head.

8 Q Well didn't he -- didn't you and Reggie -- he
9 didn't realize you all were really going to rob him
10 until after you all kicked him in the head, did he?

11 A No, sir. It was before that, sir.

12 Q How long before that?

13 A Herbert Butler probably wasn't actually
14 brutally assaulted until maybe an hour after we had
15 been there.

16 Q You weren't here when Reggie discussed that
17 yesterday, were you?

18 A No, sir.

19 Q After the robbery, the first robbery, did the
20 girls cry and get all hysterical?

21 A Which girls?

22 Q The two girls that were with you?

23 A No, sir.

24 Q Did either one of them?

25 A No, sir.

1 Q Why did you tell the police officers they
2 cried?

3 A I told the police officer that Ms. Michalak
4 had cried.

5 Q After you charged into Herb's house, how long
6 was it after that you all got inside the house that
7 Sasha left the house?

8 A Probably about six or seven minutes.

9 Q What happened before she left the house?

10 A Basically both Emily and Mr. Herbert Butler
11 were moved into the main living room and were on the
12 floor.

13 Q And why would Herb not be able to see Sasha if
14 she was there in the living room?

15 A Because me and Reginald Rice were blocking his
16 view. And by the time we told him to get down, I
17 mean when a gun is pointed at your head I don't think
18 you are really trying to look and see what is behind
19 you.

20 Q Did you tell the police officers that Stephen
21 was like a little cat, you could lead him anywhere?

22 A I didn't put it like that, but I did say
23 Steven was easily influenced.

24 Q Did you tell the police officers that Reggie
25 is crazy?

1 A Yes, sir.

2 Q Did you tell them that Stephen is like a
3 little cat, just follows you whatever you do?

4 A Pretty much whatever I did Stephen would do.
5 Because of our recent past history of him doing some
6 things that he kind of had to repay me back for.

7 Q Did you tell the police officers he is not
8 even like that?

9 A Like what?

10 Q I don't know.

11 A What do you mean by your question, sir?

12 Q I'm just reading what you told the police
13 officer.

14 A I don't think those words come out of my
15 mouth, sir.

16 MR. KIDD: Your Honor, was there a question?

17 MR. SOWELL: The question was did he tell the
18 police officers.

19 THE COURT: There was a question.

20 MR. KIDD: Can I have him repeat it for me?

21 THE COURT: Sir, do you understand the
22 question?

23 THE WITNESS: All he said was did I tell the
24 police officer he was like that. I don't even know
25 what he's referring to.

1 THE COURT: Please repeat the question, the
2 witness doesn't understand the question.

3 Q (By Mr. Sowell) Did you tell the police
4 officers, the thing is he is not even like that?

5 A No, sir.

6 Q Ask you to read this paragraph right here and
7 see if it refreshes your memory.

8 Do you need to hold this?

9 A Sir, that's copy and pasted. Because when I
10 say he is not like that, I was talking about Josh
11 Harpe. I remember exactly that night and I remember
12 that conversation.

13 Everything in that paragraph that you have
14 showed me is copied and paste.

15 Q What do you mean cut and paste?

16 A It means you took stuff that I said about
17 Joshua Harpe and glued it into stuff and tried to
18 match it with stuff I said about Stephen Francois.

19 Q Would you be surprised to know that the
20 solicitor's office provided me with this copy exactly
21 like this?

22 A Sir, could you play the tape with me saying
23 that?

24 Q Yes, sir, I can.

25 THE COURT: Please ask a question, no

1 comments. And, sir, do not ask questions of counsel.

2 THE WITNESS: Yes, ma'am.

3 MR. SOWELL: Your Honor, could I ask the
4 solicitor's office to verify this, what they provided
5 to me.

6 THE COURT: I believe it is what they provided
7 but they cannot vouch for the veracity or the truth
8 of the accuracy of the transcription.

9 So if you want accuracy, you are going to have
10 to play it. But you have to come within the ambit of
11 the rules to do that.

12 MR. SOWELL: Yes, ma'am. We will come back to
13 that later.

14 Q (By Mr. Sowell) Whose idea was it to rob
15 Herb?

16 A After Reginald Rice had seen Herb on Tuesday
17 -- well he didn't see Herb. After Reginald Rice had
18 met up with the kid I told you about named Reynolds
19 and had smoked some stuff that he got from Herb, he
20 basically said, you know, Herb probably got
21 something, do I know where Herb is staying.

22 And I gave him the information as far as where
23 Herb was staying. It was sort of just a mutual plan.

24 Q I think that you said that Reggie had
25 purchased marijuana from Herb several times?

1 A Yes, sir. During the time that he was in
2 Charleston, during his time at the Citadel. But
3 since he had been back in Charleston with me, which
4 he hadn't been back in like two years, and that was
5 the week he was back with me, he hadn't even spoken
6 with Herb.

7 Q Now did you tell the police officers why Sasha
8 wanted to be involved in this robbery?

9 A Yes, sir.

10 Q What was your version?

11 A I told them that she wanted -- she said
12 something about getting her hair done. She needed to
13 get her hair done, and then they needed a TV for
14 their apartment that they were moving in.

15 Q So she wanted money for her hair, and she and
16 Stephen wanted a TV for their room?

17 A Yes, sir.

18 Q What room?

19 A Their apartment they were moving in off B
20 Street.

21 Q Well would it surprise you to know that Ms.
22 Gaskins was -- had already signed up and been gotten
23 her orders to report to the Air Force?

24 A No.

25 Q It wouldn't surprise you?

1 A No. I didn't know Sasha Gaskins, I didn't
2 know her background, I didn't know anything about
3 her. All I can inform you is what she told me in the
4 dorm room that night, and what Stephen Francois
5 agreed to.

6 Q Did she tell you she wanted a TV or she wanted
7 her hair done?

8 A She told me she wanted her hair done. And
9 they both agreed mutually on the TV.

10 Q Was Reggie there?

11 A I think so, yes, sir.

12 Q You told us earlier that he was there?

13 A Yes, sir.

14 Q So she was there, and she told you that she --
15 she told you and Reggie she wanted to get her hair
16 done?

17 A Yes, sir.

18 Q And you weren't here when Reggie testified
19 yesterday?

20 A No, sir.

21 Q Okay. How did you know that Herb has money?

22 A I didn't know that Herb had money. All I was
23 told was that Herb had been back and forth to the
24 Citadel. And it's not too many -- I mean you got to
25 have money to leave the Citadel, come back, leave the

1 citadel and keep coming back.

2 Q After you met Breanna, was it Wednesday?

3 A Yes, sir.

4 Q And you took her back to your apartment?

5 A Yes, sir, after we left Kickin' Chicken.

6 Q And she had never met you before?

7 A No, sir.

8 Q And she goes and jumps in your car and says,
9 let's go rob a house?

10 A No, sir. When we went back to pick up Breanna
11 Bruster, we also picked up Stephen Francois and Sasha
12 Gaskins. We all road to Kickin' Chicken. A comment
13 was made at the Kickin' Chicken about, we need to
14 hurry up if we are going to do this.

15 Breanna Bruster got curious about what we was
16 talking about. Back on the way back to my apartment
17 it was discussed in the car about what we were going
18 to do. Breanna Bruster had a choice to stay at my
19 apartment or to go.

20 She decided that -- she said that she was not
21 going to stay a person's apartment that she just met,
22 so she decided to go. Breanna Bruster also had
23 another opportunity to be taken back to her dorm room
24 and she chose not to go, and she decided to go with
25 us.

1 Q Did Breanna want anything from the robbery?

2 A No, sir.

3 Q When did you first obtain these guns?

4 A Probably two and a half weeks, two to three
5 weeks prior to this robbery.

6 Q Now you are claiming that you put these guns
7 in your mattress?

8 A Yes, sir.

9 Q Then you called your parents and told them
10 where the guns were?

11 A No, sir.

12 Q Your parents knew where the guns were, didn't
13 they?

14 A No, sir.

15 Q Who had the key to your apartment?

16 A My roommate.

17 Q And who else had access to your apartment?

18 A The young lady who has keys to all of the
19 apartments.

20 Q The manager?

21 A Yes, sir.

22 Q Well how do you think anyone got in your
23 apartment to remove those guns?

24 A Well first off that night that the police
25 raided my house, my apartment wasn't locked because I

1 left my keys in there, so.

2 Q So you just walked off and left all this
3 stolen property in your house without locking the
4 door?

5 A Yes, sir. Because I was informed that the
6 cops were coming and I was putting stuff in different
7 places, I ended up rolling my keys up somewhere and
8 ended up losing them.

9 Q So you left all the stolen property in your
10 house with the doors unlocked. What happened to your
11 house keys?

12 A Like I said I haven't seen them since that
13 night. I don't even know.

14 Q Since what night?

15 A Since the Friday night, Saturday morning.

16 Q Since when?

17 A Friday night, Saturday morning.

18 Q Are you telling me the police kept your keys?

19 A I don't even know if my keys were found to be
20 honest with you. I have not seen my keys, sir.

21 Q What were you driving when you got stopped?

22 A When I got stopped where?

23 Q When you got arrested?

24 A I was driving my Nitro.

25 Q What happened to those keys?

1 A Those keys and the keys to my house were on
2 two different key rings.

3 Q I didn't ask you that. I said what happened
4 to the Nitro keys?

5 A I guess they were given back to my parents
6 after my car was impounded.

7 Q Now you are saying your parents knew nothing
8 about the guns in the mattress?

9 A Yes, sir.

10 Q Tell me why did your mother call the girls and
11 tell them to hide the bullets?

12 A Because my mother knew -- my mother knew about
13 the bullets. When I went home one weekend she seen
14 the bullets in the pocket of my door. But she did
15 not know of any gun.

16 Q So you are telling us that your mother knew
17 you had bullets and she wanted the girls to hide
18 those bullets, but your parents knew nothing about
19 the guns?

20 A She had not seen that one gun.

21 Q That's not what I asked you.

22 A She knew nothing about a gun. She even asked
23 me did I have a gun, and I lied to her and I told her
24 no.

25 Q So she knew about the bullets but not about

1 the guns?

2 A My parents never seen the gun.

3 Q Are your parents going to be here in this
4 trial?

5 A No, sir.

6 Q But no question your mother called the girls
7 and said hide those bullets?

8 A My mother called Breanna Bruster and told her
9 to clean my car out, exactly what I told Sasha
10 Gaskins to do. I don't know what the conversation
11 was between my mother and Breanna Bruster because I
12 was in the custody of Charleston County police
13 officers.

14 Q Well you just told this jury that your mother
15 told Breanna to hide the bullets?

16 A No. I said my mother called Breanna Bruster
17 and told her to clean out my car. I said I don't
18 know what the conversation was about. That's the
19 same thing I told see Sasha Gaskins to do was to
20 clean out my car.

21 I don't know what the conversation was about
22 between Breanna Bruster and my mother, because I was
23 in the Charleston County Detention Center.

24 MR. SOWELL: Your Honor, may we approach?

25 THE COURT: Uh-hum.

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

3 MR. SOWELL: I'm getting close to calling
4 Breanna to get this.

5 MR. KIDD: It's hearsay. He'll have to put
6 the mother on the stand.

7 THE COURT: You have to prove that he knows
8 that, and that he was present for the conversation
9 and actually knew that. And all you're struck with
10 is a yes or no answer.

11 MR. SOWELL: He can answer yes.

12 THE COURT: He said he doesn't know. You
13 can't make him know something he didn't know. You
14 have to ask the people that were involved to testify
15 about it. Because it really is hearsay.

16 MR. SOWELL: Would you go back a few lines and
17 see if he said yes, sir, or words such as that.

18 THE COURT: He said he doesn't know what the
19 conversation was.

20 (In open court.)

21 THE COURT: You may proceed.

22 Q (By Mr. Sowell) Why did your mother want your
23 car cleaned out?

24 A Because I'm guessing she remembered the
25 bullets that she had seen that day which was about

1 two weeks ago.

2 Q So two weeks prior to this your mother had
3 seen the bullets?

4 A Yes, sir.

5 Q And she called Breanna and said, clean that
6 car out?

7 A She asked me, when I was given a chance to
8 call my mother, she asked me who had my car. And I
9 said Breanna. Then she said, well, I didn't have
10 Breanna's number. I gave Breanna's number to my
11 brother, well my best friend, before I got detained.

12 And I told her that he had the number. And I
13 guess that's how they got in touch with her. But,
14 like I said, I don't know what the conversation was
15 about because I wasn't present for that conversation.

16 Q Didn't you just tell the jury your mother told
17 Breanna to clean out the car?

18 A Other than that, sir, I don't know if she told
19 her to remove the bullets.

20 Q Okay. I asked you earlier when did you first
21 get these guns?

22 A About two and a half to three weeks prior to
23 this robbery.

24 Q Now did you get both from the same place?

25 A Did I get both guns from the same place?

1 Q Yes, sir.

2 A Yes, sir.

3 Q Didn't you tell the police that, I got one gun
4 from my brother in North Carolina, and another gun
5 from somewhere else?

6 A No because I don't have any family in North
7 Carolina, sir.

8 Q Didn't you tell the jury -- didn't you tell
9 the police officer that Stephen didn't know what he
10 was going to do in the robbery until the last time he
11 came to my apartment?

12 A Can you restate that, sir?

13 Q Didn't you tell police officer that, Stephen
14 didn't know what he was going to do during the
15 robbery until the last time he came to my apartment?

16 A No, sir. Stephen knew what he was going to do
17 when we left his dorm room, when we left the dorm
18 room good.

19 Q I'm sorry, what now?

20 A Stephen already knew what he had to do when we
21 left Sasha Gaskins' dorm room.

22 You are referring to the first robbery, right,
23 sir?

24 Q Yes, sir.

25 Did the police officers question you where you

1 said that, Stephen didn't know his role and we got
2 back to your apartment before you left. Did he ask
3 you that?

4 A sir?

5 Q The police officer asked you, you said that
6 Stephen didn't know his role until you got back to
7 your apartment before you left and you said yeah?

8 A You said the police officer asked me did
9 Stephen know his role before he left my apartment?

10 Q Yes, sir. Before you got back to your
11 apartment?

12 A Like I said --

13 Q After you went to eat?

14 A Like I said, Stephen knew his role before we
15 left Sasha Gaskins' dorm room. He knew his role
16 before we left my apartment. He knew his role after
17 we left my apartment.

18 Q Ask you to read from here to here.

19 A No, sir. Stephen knew his role, like I said,
20 when we left Sasha Gaskins' dorm room, when we left
21 my apartment, when we got back to my apartment. He
22 knew his role way before that night even came up. He
23 knew all he had to do was drive around and wait in
24 the car.

25 Q Did you lie to the police officers when you

1 told them this?

2 A I probably did, sir.

3 Q I'm having a real hard time when you are going
4 to lie and when you are not going to lie?

5 A Like I said, at the beginning of this case,
6 sir, I did a lot of lying.

7 Q Yes, you did.

8 THE COURT: Please make sure you ask a
9 question. No commentary.

10 MR. SOWELL: Yes, ma'am.

11 Q (By Mr. Sowell) Who was it that told Herb you
12 were going to cut his penis off?

13 A Reginald Rice.

14 Q Pardon me?

15 A Reginald Rice.

16 Q So it was Reggie who threatened Herb with your
17 sword?

18 A Yes, sir.

19 Q Okay. And during this time you were raping
20 his girlfriend?

21 A Yes, sir.

22 Q Is that yes?

23 A Yes, sir, I did. Yes, sir.

24 Q Who owned that sword?

25 A The sword came from Augusta.

1 Q Who owned that sword?

2 A The sword ended up in my possession. The
3 sword stayed at my house. I mean, you want to say I
4 owned it you can say it.

5 Q Did you tell the officers that you take the
6 sword everywhere you go?

7 A Yes, sir.

8 Q Now did you think that Herb wouldn't report
9 this incident because he was a drug dealer and he
10 didn't want to bring the police down on his house?

11 A Yes, sir.

12 Q So you picked Herb because you knew he was a
13 drug dealer?

14 A I didn't pick Herb, sir. But we did come up
15 with that conclusion.

16 Q And did you -- did anyone threaten Herb?

17 A Yes, sir.

18 Q Who threatened him?

19 A Reginald Rice threatened to cut his genitals
20 off.

21 Q Okay. Did you threaten to kill him?

22 A Probably did, sir.

23 Q Did you threaten to kill his parents?

24 A No, sir.

25 Q Who did?

1 A Nothing about his family came out of my mouth,
2 sir. I didn't hear anybody say anything about
3 killing his parents, sir.

4 Q I believe you told the police officers that
5 Herb thought this was a joke?

6 A At the beginning, yes, sir.

7 Q Now did Sasha think you were stupid enough to
8 do this and not get caught?

9 MR. KIDD: Objection.

10 THE COURT: Basis?

11 MR. KIDD: Speculation.

12 THE COURT: Sustained.

13 Q (By Mr. Sowell) Did Sasha tell you that this
14 was stupid, you cannot avoid getting caught?

15 A No, sir.

16 MR. KIDD: Objection, hearsay.

17 THE COURT: Overruled, coconspirator.

18 Q (By Mr. Sowell) Did she tell you that Herb
19 has got to know you?

20 A No, sir.

21 Q Did she tell anything to indicate to you that
22 she thought this was a joke?

23 A No, sir.

24 Q At what point did Herb recognize Reggie?

25 A After I left the house and went to the ATM,

1 and after I came back that's the first time I heard
2 him call his name out. When I came back to the house
3 Reginald Rice let me know that Herbert had already
4 called his name out one time.

5 But my first time hearing him call his name
6 out was when I had returned back from the ATM.

7 Q Well wasn't that an extremely risky thing to
8 do for Herb to let you know he knew who you were?

9 A He didn't know who I was, sir. He knew who
10 Reginald Rice was.

11 Q Wasn't that an awful risky thing for Reggie to
12 let Herb -- wasn't it awfully risky for Herb to let
13 Reggie know he recognized him?

14 A You say was it awfully risky for Herb to let
15 Reggie know that he recognized him?

16 Q Right?

17 A I guess you could say that.

18 Q What kept Reggie from just killing Herb at the
19 time he was recognizing him?

20 A Because there was no plan to take anybody's
21 life, sir.

22 Q Was there any plan to rape anybody?

23 A No, sir.

24 Q Was there any plan to cut off anybody's penis?

25 A No, sir.

1 Q Did you all ever tell the girls, we are going
2 to rape somebody?

3 A No, sir.

4 Q Did we ever tell the girls, we are going to
5 cut somebody's penis off?

6 A No, sir.

7 Q Did the girls ever know that you all were
8 going to do anything to harm these people?

9 A I mean the girls knew there was about to be a
10 robbery. I mean, I mean I don't know too many
11 robberies that you know some people don't get hurt.

12 Q You're telling me that in a robbery you know
13 you are going to hurt somebody?

14 A I mean there is that chance, yes, sir.

15 Q Pardon me?

16 A There is a chance.

17 Q So you knew when you planned all this that
18 Herb and his girlfriend were going to get hurt?

19 A First off, we didn't know that Ms. Michalak
20 was going to be at his house, but she was there. No,
21 we didn't plan for anybody to get hurt.

22 Q But you knew Herb would get hurt?

23 A No. Like I said, sir, we didn't plan for
24 anybody to get hurt.

25 Q Didn't you just tell me that somebody gets

1 hurt at all robberies?

2 A No, I didn't say that.

3 Q What did you say?

4 A I said there is a chance of getting hurt in a
5 robbery.

6 Q And there is a better chance of you getting
7 hurt when the robber recognizes you, when the victim
8 recognizes the robber, isn't it?

9 A Yes, sir.

10 Q How would you have felt if you came back to
11 Herb's house and found them dead and Reggie said, I
12 had to do it because they recognized him?

13 A We would have been in a lot of trouble. More
14 than what we already in now.

15 Q High probability that could have happened,
16 couldn't it?

17 A Yes, sir.

18 Q And this was your buddy?

19 A Who, Reginald Rice?

20 Q Herbert.

21 A Like I said, Herbert Butler was -- I wasn't
22 friends with Herbert Butler, sir.

23 Q How many of your friends have you robbed?

24 A None, sir.

25 Q Didn't you tell the police officers a whole

1 list of your friends that you robbed?

2 A No, sir.

3 Q Oh, was that Reggie who said that?

4 A I don't know what Reggie might have told the
5 police officers, sir.

6 MR. KIDD: Objection, Your Honor.

7 THE COURT: Basis?

8 MR. KIDD: Speculation.

9 THE COURT: Overruled. He has answered the
10 question to the best of his knowledge.

11 Q (By Mr. Sowell) Didn't Reggie tell you that
12 he told the police officers about all his friends he
13 had robbed?

14 A No, sir.

15 MR. SOWELL: Your Honor, I don't like to go
16 back into another question that was stricken, but I
17 think --

18 THE COURT: Ask your question. If there is an
19 objection we will deal with it.

20 Q (By Mr. Sowell) Didn't your mother tell the
21 girls to hide those bullets?

22 A Sir, my mother told Breanna Bruster, not the
23 girls, my mother didn't even know who Sasha Gaskins
24 was, she told Breanna Bruster, from my understanding,
25 to clean out the car. The same instructions that I

1 asked Sasha Gaskins to do.

2 Any other thing stated in that conversation, I
3 have no idea what it was about.

4 Q Who is Cody?

5 A Who is who?

6 Q Cody.

7 A I don't know.

8 Q Pardon me?

9 A I don't know.

10 Q Didn't you tell the police officers that
11 Reggie Rice and Cody bought a lot of marijuana from
12 Herb?

13 A No, sir. I don't even know who Cody is.

14 Q Didn't you tell the police officers that there
15 is a guy at school named Cody, he and Reggie smoke
16 weed that Cody had purchased from Herb?

17 A I don't know a guy named Cody. If you are
18 speaking of the dude who's last name is Reynolds, I
19 couldn't tell you his first name. But if that is his
20 first name, I call him Blue, that's what I call him.
21 I don't know who Cody is, sir.

22 Q Well you did tell the police officers his name
23 is Cody, didn't you?

24 A No, I did not, sir.

25 Q Here we go again.

1 THE COURT: No comment.

2 MR. KIDD: Objection, Your Honor, may we
3 approach.

4 THE COURT: Yes, sir.

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

7 MR. KIDD: I have no problem him crossing him
8 with these transcripts, but when we are dealing with
9 typos, these transcripts were done -- well I don't
10 know how many pages, but it was hundreds and hundreds
11 of pages done very quick in a short amount of time.

12 There are a ton of typos.

13 MR. SAVAGE: If he wants to impeach him he can
14 use the video.

15 THE COURT: You need to ask a question, he
16 answers yes or no. You allow him to refresh his
17 memory.

18 If you want to impeach him, you have to play
19 the video and you should have had the video ready to
20 play. You need time to do that. Stick with the
21 rules.

22 (In open court.)

23 THE COURT: Proceed.

24 Q (By Mr. Sowell) Didn't you tell the police
25 officer that Reggie and Kobe smoked weed that Kobe

1 had purchased from Herb?

2 A Oh, you're saying Kobe, I thought you were
3 saying Cody, C-O-D-Y, not K-O-B-E.

4 Q So You know who Kobe is?

5 A I couldn't tell you who Kobe is, but I know
6 that that day that Reggie had purchased marijuana
7 from -- well Reggie was with the person who purchased
8 marijuana from Reggie -- I mean from Herbert, it was
9 Reynolds, Reggie and the dude Kobe, K-O-B-E.

10 Q When you thought I asked about Cody, you
11 ignored the fact that you do know a Kobe?

12 A Because you said Cody, I don't know a Cody,
13 K-O-D-Y. I don't know a Kobe either, but that was
14 the name that Reggie Rice had told me.

15 Q If from now in I mispronounce very slightly
16 any name, you consider both the name you know and the
17 name I am mispronouncing, okay?

18 A Yes, sir.

19 Q You swore to tell the truth.

20 A Yes, sir.

21 THE COURT: No commentary and no instructing
22 the witness, that's within the Court's province. You
23 will answer the questions that are posited.

24 Sir, answer yes or no and then you may explain
25 your answer.

1 You may proceed.

2 Q (By Mr. Sowell) When you pulled up the final
3 time and to get out of the car and go into Herb's
4 house, who was driving?

5 A Stephen.

6 Q I'm sorry, who was driving?

7 A You mean the final time of retrieving all the
8 stuff?

9 Q Pulled up before your first entry.

10 A Before my first entry?

11 Q Yes, sir.

12 A Who was driving?

13 Q Who was driving?

14 A Stephen Francois.

15 Q Where were you seated?

16 A Behind Stephen Francois.

17 Q Where was Reggie seated?

18 A Behind Breanna Bruster.

19 Q And where was Ms. Gaskins?

20 A In the middle.

21 Q In the backseat?

22 A Yes.

23 Q Between you and Reggie?

24 A Yes, sir.

25 Q And you both had guns?

1 A Not at the time, sir.

2 Q Did you both have guns?

3 A Yes, sir, but not in the backseat, sir. They
4 were both in the bag.

5 Q I'm sorry?

6 A They were in the bag.

7 Q Where was the bag?

8 A On the floor.

9 Q So there are two guns in the bags on the
10 floor?

11 A Right.

12 Q Now had Ms. Gaskins ever seen those guns?

13 A Yes, sir.

14 Q Where?

15 A In her dorm room.

16 Q In her dorm room?

17 A Yes, sir.

18 Q How did you get to her dorm room?

19 A She seen the one that was broke and that was
20 the one I was carrying.

21 Q When you got out of the car who took the guns
22 out?

23 A I did.

24 Q Before you opened the doors, did you hand
25 Reggie a gun and you keep a gun or did you split it

1 up after you got out?

2 A I couldn't tell you.

3 Q And what hand did you have the guns in when
4 you were walking from the car to the house?

5 A I didn't have the gun out walking down the
6 street, it was a good walk. I mean I don't think
7 it's good to walk down the street with a gun out.

8 Q Where was the gun?

9 A The gun was in my pants.

10 Q In your pants?

11 A Yes, sir.

12 Q How about Reggie's gun?

13 A I couldn't tell you. I didn't see it in his
14 hand, I guess he put it in his pants too.

15 Q And when did you take your gun out of your
16 pants?

17 A When I got to the door.

18 Q You got all the way to the front door?

19 A Yes, sir.

20 Q And when you opened the door to get out of the
21 car, did you tell Ms. Gaskins to get out?

22 A No, sir.

23 Q Did she come out your door?

24 A I couldn't tell you.

25 Q Now you told us earlier that you didn't know

1 that Reggie had robbed several of his friends?

2 A No, that's not what I told you, sir. You
3 asked me did Reggie tell me about a list of friends
4 he had robbed and I told you no. I told the police
5 about a list of friends he had robbed, I told you no.

6 I didn't tell the police about anybody besides
7 -- I didn't tell the police that Reggie had a list of
8 people I know of that he had robbed that I knew of.

9 Q Did you tell the police officers Reggie said,
10 I robbed Bruce Pepper, Dwight Jones, Cameron Turner,
11 three football players on our team?

12 A I was informed that by another teammate that
13 he had robbed those three people, but they stayed
14 together. And that was one house, that wasn't a
15 consecutive three robberies, that was one house where
16 all three of them stayed together.

17 And him and I guess two other teammates is all
18 I know them by, they -- I guess they took some
19 electronics from them.

20 Q So you knew that Reggie had already robbed
21 three people?

22 A Yes, sir. But I didn't -- go ahead. Yes,
23 sir.

24 Q The three victims this night, or three victims
25 this weekend, Herb and Emily and the coach, were they

1 all threatened by either you or you and Reggie?

2 A They were all threatened by me and Reggie and
3 Stephen.

4 Q I'm sorry?

5 A And Stephen.

6 Q Stephen threatened somebody?

7 A Ms. Michalak wasn't threatened by Stephen, but
8 when Stephen came in the house of Herbert Butler
9 while Herbert was in his room, Stephen threatened
10 him. While he had Josh Harpe on the floor in his
11 house, Stephen threatened him.

12 Q Stephen threatened him, what gun did Stephen
13 have?

14 A Stephen had my gun, or the gun that I had,
15 when I departed from the house to go to the ATM
16 machine.

17 Q So you and Reggie and Stephen verbally
18 threatened all three of these victims?

19 A Me and Reggie and Stephen verbally threatened
20 Joshua Harpe and Herbert Butler. Me and Reggie
21 verbally threatened Ms. Michalak.

22 Q Did these three victims have reason to be
23 afraid of you?

24 A Yes, sir.

25 Q Did these three victims have reason to be

1 afraid of Reggie?

2 A Yes, sir.

3 Q Would anyone who was threatened by you and
4 Reggie during those times have reason to be afraid of
5 what you all would do to them?

6 A You mean at the time? At the time of the
7 robbery?

8 Q At the -- did any of these three victims --
9 I'm sorry. Would anybody that you and/or Reggie have
10 verbally threatened with guns in your hands have
11 reason to be afraid for their life?

12 A If anybody had a gun in their hand and they
13 threatened somebody, somebody would be afraid for
14 their life.

15 Q So if anyone that you threatened would have
16 had reason to be afraid for their life based on your
17 threats and Reggie's threats?

18 A Anybody that's in possession of a gun, you
19 verbally threatened anybody else, I'm pretty sure
20 they would be afraid for their life.

21 Q That's not what I asked you. I asked you,
22 anyone you had threatened --

23 MR. KIDD: Objection --

24 THE COURT: Sustained, asked and answered.

25 MR. KIDD: -- speculation.

1 THE COURT: Ask your next question.

2 Q (By Mr. Sowell) Did -- where did the incident
3 with Emily and your penis come before or after Herb
4 recognized Reggie?

5 A Before.

6 Q No question Herb said I thought this was a
7 joke, I thought you all were just playing with me?

8 A Did he say -- you are asking did he say that?

9 Q Did he say that? Did you tell the police
10 officers he said that?

11 A At the beginning he did think it was a joke.

12 Q I'm sorry?

13 A In the beginning he did think it was a joke.

14 Q When he came -- what do you mean in the
15 beginning?

16 A When we first come in the house he said, this
17 is a joke, right?

18 Q When you first came in the house didn't he
19 drop the steaks?

20 A When we first came in the house he come out
21 the kitchen with the steak in his hand -- well he was
22 still in the kitchen -- come to the curtain and I was
23 the first one he ran into. I mean he was like, is
24 this a joke? I don't know why he would say that, but
25 that's what he said.

1 And then when Reginald Rice came behind me
2 with another gun that's when he pretty much knew that
3 it wasn't a joke.

4 Q Did Reggie order you to search everybody's
5 cars?

6 A Yes, sir.

7 Q So Reggie was kind of the boss then?

8 A I would say it was mutual.

9 Q I'm sorry?

10 A I would say it was mutual.

11 Q What was Reggie's reputation around campus?

12 A That he was hot-tempered.

13 Q Hot-tempered, a little bit crazy?

14 A I mean if you push his buttons.

15 Q He had robbed at least three of his friends?

16 MR. KIDD: Objection, Your Honor, asked and
17 answered.

18 THE COURT: Sustained.

19 Q (By Mr. Sowell) Did you tell the police that
20 the students at the Citadel were afraid of Reggie?

21 A Certain ones were.

22 Q Did you tell even his company commander was
23 afraid of him?

24 A When he was a freshman his company commander
25 made a comment about his child and he went off on him

1 and he put fear in him, yes, sir.

2 Q I'm sorry, I couldn't understand you.

3 A I said when he was a freshman his company
4 commander made a comment about his daughter and
5 Reggie went off on him and put some fear in his
6 heart. He didn't put his hand on him, he just
7 screamed and yelled at him. And the way that
8 military stuff go, he put fear in his heart, he was
9 scared of him.

10 Q So his company commander was afraid of him?

11 A If you want to say that.

12 Q He threatened his company commander?

13 A I couldn't tell you, I wasn't there.

14 Q But you knew the man was afraid of him?

15 A The company commander that was there at the
16 time wasn't there when I got there. So I couldn't
17 tell you if the man was afraid of him or not. But
18 people had told me that the man Reggie had done that,
19 that Reggie had did that to him because Reggie was a
20 freshman and all that. And at the Citadel the
21 freshman are treated like knobs, so I don't know.

22 Q Did you tell the police that Reggie got these
23 guns from his cousin in North Carolina?

24 A Yes, sir.

25 Q Is that true?

1 A Yes, sir.

2 Q When I asked you earlier where you got the
3 guns you wouldn't tell me?

4 A No, sir. Earlier you said, is it true that
5 you told the police that you got these guns from your
6 brother or cousin in North Carolina. And I told you
7 that I don't have any family members in North
8 Carolina. I told you that those gun came from
9 Augusta, Georgia which is where Reggie stayed at.
10 That was the first time I seen those guns, two weeks
11 prior to the robbery, two to three weeks prior to the
12 robbery.

13 Q How did you know where Reggie got the guns?

14 A Because he informed me.

15 Q When did he tell you that?

16 A When I first seen the guns.

17 Q Did he tell you when he got them?

18 A No, sir.

19 Q Everybody seems to think you are the one that
20 made all these plans.

21 MR. KIDD: Objection, Your Honor.

22 Q (By Mr. Sowell) Is that correct?

23 THE COURT: Basis?

24 MR. KIDD: Form.

25 THE COURT: There is a question.

1 sir, you may answer the question. Do you
2 understand it?

3 A From the way it sounded, like, yeah.

4 Q (By Mr. Sowell) Pardon me?

5 A From the way it sounded like, yeah.

6 Q whose plan, who formulated all these plans to
7 steal all these things?

8 A Everything was mutual, like I said.

9 Q You don't just everybody sitting around and
10 you get together this plan?

11 A It was mutual between me and Reginald Rice.
12 Reginald Rice came to Charleston, South Carolina
13 because he needed money.

14 Q And he brought guns with him?

15 A Yes, sir.

16 Q Reggie came to Charleston and went to town
17 robbing people?

18 A You can say that.

19 Q Is it true?

20 A You know not other people, just particularly
21 one person.

22 Q Pardon me?

23 A One person, yes, sir.

24 Q Did Stephen tell Herb that we don't like white
25 boys?

1 A Yes, sir.

2 Q Who was it that tried to commit the crimes in
3 Georgia?

4 A What crime in Georgia, sir?

5 Q The robberies?

6 A I don't know anything about any robberies in
7 Georgia, sir.

8 Q Didn't Reggie tell the whole crowd that he had
9 just tried two attempted robberies in Georgia?

10 A It was --

11 MR. KIDD: Objection, Your Honor.

12 THE COURT: Basis?

13 MR. KIDD: Hearsay.

14 MR. SOWELL: Coconspirator.

15 THE COURT: Sustained as it regards this
16 incident.

17 Q (By Mr. Sowell) Did you tell the police
18 officers that you all had -- Reggie had tried to
19 commit two armed robberies in Georgia?

20 A No, sir.

21 Q Did the police officers ask you about it?

22 A Not that I'm aware of. They had asked me have
23 I ever performed any other robberies with Reginald
24 Rice and I told them no.

25 Q I think you told this jury that Reggie told

1 you that Herb wouldn't report this because he was a
2 drug dealer?

3 A I said it was mutual.

4 Q Pardon me?

5 A I said it was mutual we came to that
6 conclusion.

7 Q So you and Reggie said Herb wouldn't report
8 this break-in because he's a drug dealer?

9 A No drug dealer would report a theft if they
10 got drugs in the house.

11 Q Is that the reason Herb does not call the
12 police?

13 MR. KIDD: Objection.

14 A I'm pretty sure.

15 THE COURT: Basis?

16 MR. KIDD: Speculation.

17 THE COURT: Overruled.

18 Q (By Mr. Sowell) Did Herb have a reason to be
19 afraid for his life when you were in his house?

20 A Yes, sir.

21 Q Did Herb have a reason to think his life was
22 in danger after you all left?

23 A I wouldn't say in danger, but I mean probably
24 be scared to go outside, leave the house.

25 Q Didn't you all tell him, if you report this

1 we'll come back and kill you?

2 A They didn't come out of my mouth.

3 Q Come out of Reggie's?

4 A I couldn't tell you.

5 Q You were standing there beside him, weren't
6 you?

7 A Was I standing there beside him?

8 Q Yes, sir.

9 A Not directly beside him.

10 Q When you were in the same room Reggie said,
11 Herb, if you report this we are going to come back
12 and kill you?

13 A Like I said, I didn't hear Reginald Rice state
14 that.

15 Q Did you tell the police officers you were
16 afraid that Reggie would kill these people when you
17 went to the gas station?

18 A I did tell them that.

19 Q So you were afraid that Reggie was going to
20 kill these victims?

21 A I was afraid of his temper, yeah. I was
22 afraid of what he might do if something went wrong.

23 Q Did you tell the police officers that Reggie
24 has problems, he's got a temper problem, a serious
25 temper problem?

1 A No, sir.

2 Q Pardon me?

3 Q No, sir.

4 Q Have you heard him tell his girlfriend that he
5 is going to kill her?

6 MR. KIDD: Objection, Your Honor.

7 THE COURT: Basis?

8 MR. KIDD: Hearsay.

9 THE COURT: Sustained.

10 Q (By Mr. Sowell) Did Reggie want everybody to
11 think that he is a mean, bad guy?

12 A No, I don't think that. I think that he just
13 really was -- Reggie was a cool person. Like I said,
14 if you push him the wrong way, but if you punish
15 anybody the wrong way they pretty much show their bad
16 side. Everybody in here has a bad side.

17 Q You were afraid Reggie was going to kill his
18 victims.

19 A If you push him to his limit, I was afraid
20 what he might do.

21 Q This was after you already raped Herb's
22 girlfriend?

23 A Yes, sir.

24 Q And weren't you are afraid to leave Reggie
25 there alone with the two victims after they had

1 recognized who he was?

2 A Like I said, they didn't recognize who he was
3 when I was there. I didn't know if they recognized
4 his voice until I came back.

5 Q You were afraid he was going to kill them?

6 MR. KIDD: Objection, Your Honor, asked and
7 answered.

8 THE COURT: sustained, asked and answered.

9 Q (By Mr. Sowell) Did you tell the police
10 officers that Reggie would kill somebody that pissed
11 him off?

12 A If you pushed him to the limit, he probably
13 was capable of doing it.

14 Q Did you tell the police officers if somebody
15 pissed off Reggie he would kill them.

16 MR. KIDD: Objection, Your Honor, asked and
17 answered.

18 THE COURT: sir, please answer the question
19 yes or no, then you may explain your answer.

20 A Yes, sir. Like I said, he was capable -- I
21 mean if you pushed him to the limit, I mean he had a
22 loaded gun, he sold drugs, I mean.

23 Q Did you tell the police officers that Herb had
24 pissed off Reggie before you went to the ATM?

25 A Yes, sir.

1 Q And did you say, Herb just kept on pouting, he
2 wouldn't shut up?

3 A Yes, sir.

4 Q Did you say -- the officers asked, what was
5 making Reggie mad? And you said, because, man, he
6 kept saying, stop playing games with me, I know this
7 is a joke?

8 A Not really that. I -- I don't think I said
9 stop making, I think it's a joke.

10 Q What was Herb talking about that he kept on
11 talking?

12 A Herb kept talking about, what you all want, I
13 ain't got nothing. Reggie was telling him to be
14 quiet.

15 Q I will show you the transcript again. Start
16 right here where it says, and that was, down to right
17 here. See if that refreshes your memory about what
18 you told the police officers.

19 A I don't even talk like this. I don't even
20 talk like this. I don't know if you copy and
21 pasting, but I don't even talk like this.

22 MR. KIDD: Objection, Your Honor, to the form
23 of impeachment if that's the case.

24 A These words, I don't even use.

25 MR. SOWELL: I haven't done anything.

1 THE COURT: Overruled. Ask the question, give
2 him the option to admit or deny. Then use it to
3 refresh his memory.

4 A I didn't say this. I don't even talk like
5 that. I don't use -- hardly ever use those words. I
6 don't talk like that.

7 Q (By Mr. Sowell) So you realize where I got
8 this?

9 A You got it from the solicitor's office, right?

10 Q That's right. And you think the solicitor's
11 office lied when they said this was your transcript?

12 MR. KIDD: Objection, Your Honor.

13 THE COURT: Sustained, speculation. Ask a
14 question, Mr. Sowell.

15 Q (By Mr. Sowell) Are you telling me --

16 THE COURT: In the form provided by the rules.
17 Ask him a question, give him an opportunity to admit
18 or deny question, and allow that transcription to
19 refresh his memory.

20 Q (By Mr. Sowell) Did the police officer ask
21 you, was Herb already pissed Reggie off before you
22 went to the ATM?

23 A Yes.

24 Q And you said yes?

25 A Yes, sir.

1 Q And officer said, how so? And you said
2 because just kept talking, just kept talking?

3 A Yes, sir.

4 Q And the question was, and was it making Reggie
5 mad? And your response was, yeah, because he just
6 kept saying, stop playing with me, man, I know this
7 is a joke?

8 A No, sir.

9 Q You didn't say that?

10 A I didn't say that's why he was mad at him. He
11 was mad him because he kept talking and he kept
12 trying to tell us where stuff was at and Reggie
13 wasn't even asking questions and Reggie wanted
14 everybody to be quiet.

15 Q So you're saying Reggie didn't want somebody
16 to tell him where the marijuana was or where the
17 money was, he just wanted him to be quiet?

18 A He was trying to get everybody situated, down
19 and quiet I guess.

20 Q So Reggie didn't want to know where the money
21 was, he just wanted silence?

22 A At the time Reggie just wanted silence, sir.

23 Q That's what he got pissed off about?

24 A Because Herb kept talking.

25 Q That's why you were afraid Reggie was going to

1 kill them when you left?

2 A I just knew he was mad.

3 Q Pardon me?

4 A I knew he was upset.

5 Q And you were afraid he was going to kill him?

6 A I mean.

7 Q Isn't that what you told the police officers?

8 A Yes, that's what I told the police officers.

9 Q Who decided which guns to get?

10 A I just always kept one with no bullets in it
11 because that was his cousin's gun, I never had a
12 loaded gun and I didn't know nothing about that. I
13 kept the one that didn't work, didn't have a trigger
14 pin.

15 Q So you never shot a pistol before?

16 A No, sir.

17 Q Ever shot a BB gun?

18 A Yes, sir.

19 Q Was Ms. Gaskins in the house when you attacked
20 Emily?

21 A I never attacked Emily.

22 Are you referring to when I -- with my
23 charges? Is that what you are referring to?

24 Q Was Sasha in the house when you inserted your
25 penis into Herb's girlfriend?

1 A No, sir.

2 Q Was she in the house when you kicked Herb?

3 A No, sir.

4 Q Was she in the house when Reggie punched
5 several times, punched Herb several times?

6 A No, sir.

7 Q Did anyone ever physically attack Emily except
8 for what you did?

9 A No, sir.

10 Q And I believe before you walked out the door
11 you apologized to her?

12 A Yes, sir.

13 Q And I believe you met Breanna on Wednesday or
14 is it Thursday?

15 A Wednesday, sir.

16 Q And then after you met her you went back, they
17 went to class, and you went back to your house?

18 A No. Me and Reginald Rice drove around. Like
19 I said I went to the ATM to get some money out from
20 my friend.

21 Q Who is this friend that gave you the ATM card?

22 A It was a girl that attends the Citadel.

23 Q Pardon me?

24 A It's a girl that attends the Citadel.

25 Q What is her name?

1 A Laura Saraphino.

2 Q So Laura was the one who gave you the money
3 out of her ATM card?

4 A She didn't give me no money. I retrieved
5 money for her. She was at work at the call center.

6 Q So she gave you her card and said, go get me
7 some cash and bring it back to me?

8 A Right.

9 Q And I think you testified that after you did
10 that you met with some friends, you all partied and
11 clubbing and smoking and drugs?

12 A No, sir.

13 Q You said you all were partying, were clubbing
14 and smoking and drugs?

15 A No, I didn't say that, sir, not after that.
16 Not after I got her ATM card and took it back to her.

17 Q On Wednesday night did you do that?

18 A No, sir. I did no clubbing on Wednesday
19 night, sir. I performed the robbery and I went back
20 to my apartment and I took Sasha Gaskins and Breanna
21 Bruster and Stephen Francois back to the College of
22 Charleston.

23 Q When you told the jury early that you partied
24 and you clubbed and you smoked you used drugs, when
25 are we talking about? Was it Tuesday night?

1 MR. KIDD: Objection, Your Honor.

2 THE COURT: Basis?

3 MR. KIDD: Mischaracterizing testimony.

4 THE COURT: Overruled. You may answer the
5 question, sir, to the best of your knowledge.

6 Q (By Mr. Sowell) When you told the jury you
7 were parting and clubbing and smoking and drugs, when
8 were you talking about that?

9 A I don't think I told jury that, sir. I don't
10 think I told the jury anything about clubbing. Only
11 time I talked about a club was that's where we were
12 supposed to go after we robbed Herbert Butler.

13 Q Didn't you tell me that once before you said
14 that the first time the idea of a robbery was formed
15 on the way back from Atlanta?

16 A Uh-hum, yes, sir.

17 Q And the original plan was to rob coach?

18 A Yes, sir.

19 Q And coach was your coach?

20 A Yes, sir.

21 Q And what position did you play at the Citadel?

22 A Quarterback.

23 Q And quarterback has what interaction with the
24 coaches?

25 A I mean all our teammates had the same

1 interaction with all the coaches.

2 Q Are you telling me the quarterback doesn't
3 talk to the coach more than any other player on the
4 team?

5 A The way the Citadel is, because of the things
6 we go through during core, it's equal. It's not like
7 a normal school. Everybody can reach the coach, any
8 coach at any time.

9 Q On the field, does the quarterback talk to the
10 coach more than any other player?

11 A Talk to my head coach, my position coach.
12 Joshua Harpe was not my position coach.

13 Q How often did you talk to him on the field at
14 the Citadel?

15 A I mean if I was on the sideline and he was
16 there, he'd come and say he didn't have nothing to
17 do. But I probably just talk with him equally with
18 anyone else on my team talking equally.

19 Q Even practice?

20 A In practice, off the field, on the field.

21 Q How many conversations do you think you had
22 with coach Herb -- Harpe? When you left the Citadel,
23 when this thing happened, how many months had you
24 played for the Citadel?

25 A When I robbed Mr. Harpe?

1 Q Counting spring practice, counting early fall
2 practice?

3 A Year and a half.

4 Q Year and a half. But when this thing happened
5 you had already been kicked off the team?

6 A No, sir, I was never kicked off the team. I
7 was suspended from the team.

8 Q What is the different?

9 A Difference being kicked off the team you are
10 not on the team, your name is off the roster. My
11 name was still on the roster.

12 Q What do you mean on the roster?

13 A Which means you have a 93-man roster, your
14 name is on the roster means you have a jersey. If
15 you're kicked off the team you don't have a jersey.
16 You don't have a jersey with your last name on it if
17 you are kicked off the team.

18 Q Were you able to come to football practice?

19 A I was able to sit in the stands and watch.

20 Q Were you able to come to the football
21 practice?

22 A I was suspended from the team, so I was not
23 able to unite with my teammates.

24 Q Were you able to come to the football field?

25 A No, sir -- yes, sir, I was able to come to the

1 football field, I wasn't able to come to the
2 practice. I wasn't able to interact with my
3 teammates. I was able to be out there, I just was
4 not able to interact with my teammates.

5 Q You could stand up in the stands?

6 A Yes, sir.

7 Q But you couldn't come down to the field?

8 A Basically.

9 Q Why did the coach think you called him that
10 night?

11 A I did call him.

12 Q Why did he think you were calling him?

13 A Because I told him -- I asked him about
14 practice.

15 Q But you couldn't go to practice.

16 A That's the whole thing, I asked him could I
17 show up. He said it would be good if you sit in the
18 stands.

19 Q What coach told you you were suspended?

20 A Coach Higgins.

21 Q Did he tell you, you can't come back to
22 practice?

23 A He said I couldn't come over to the weight
24 room and be over there interacting with them during
25 the week.

1 Q Who told you you couldn't come down to the
2 field?

3 A Nobody didn't tell me I couldn't come down to
4 the field.

5 Q Well you just told us you couldn't. Who told
6 you you couldn't?

7 A That's an assumption. I mean you are
8 suspended from the team, of course you can't be
9 interacting with them.

10 Q So you couldn't do anything with the team
11 while you were under suspension?

12 A No, sir.

13 Q Then why would you have called the coach?

14 A I mean the reason for calling him was to find
15 out where he was at. But my excuse of calling him
16 was to find out, because he talks to Coach Higgins
17 more than I do, and at the time I was suspended off
18 the team, he had a meeting with him, so I asked him
19 would it be a good idea if I come sit in the stands
20 and he said yeah.

21 Q How many other problems did you have with the
22 Citadel football team besides just a traffic ticket
23 for failure stop for a stop sign?

24 A As far as the actual football athletics, I
25 really had none. Most of my problems come out of the

1 core part, showing up for class, doing formation
2 stuff and things like that. As far as actually
3 playing football, lifting weights and that type of
4 stuff, I had no problems, sir.

5 Q Now you are telling me that the -- were you on
6 scholarship?

7 A Yes, sir.

8 Q What was your scholarship?

9 A Full.

10 Q Full scholarship. You're telling me that you
11 were on full scholarship, were you first team?

12 A Yes, sir.

13 Q You are telling me that you were on full
14 scholarship, first team quarterback, the most
15 important guy on the whole field, and you got
16 suspended and couldn't come to practice because you
17 ran a stop sign?

18 A That pounded on to the other things that I had
19 not been doing and living up to. Because the year
20 before that I was almost ineligible to play and I had
21 to spend the whole summer period and do my classes.
22 And I had to write a letter to the NCAA for them to
23 make me able to play.

24 Q Why did you have to write a letter to them?

25 A Because I was ineligible, I didn't have enough

1 credits, I hadn't been showing up to class, I hadn't
2 been doing my work.

3 Q But you did nothing involving football bad?

4 A Nope.

5 Q You just ran one stop sign?

6 A And on top of not going to class, and coach
7 keep having to ask me to go to class and things like
8 that. Anything concerning athletics I had no
9 problem, sir.

10 Q Did you get a letter from the administration,
11 from the office, from the president, from the
12 commander, anybody like that?

13 A No, sir.

14 Q When you got suspended, did that terminate
15 your scholarship?

16 A No, sir.

17 Q Did he tell you how long your suspension was
18 going to be for?

19 A No, sir. But I had found out if I just would
20 have been all right I would have come back the next
21 week.

22 Q Did you play first team your freshman year?

23 A No, sir, red-shirted.

24 Q So you were a red-shirt freshman when this all
25 happened?

1 A Yes, sir.

2 Q Explain to the jury what read-shirt means.

3 A Red-shirt means you got an extra year. You
4 sit out your freshman year and get an extra year to
5 play.

6 Q Who were you playing behind your freshman
7 year?

8 A Bart Blanchard and Cameron Turner.

9 Q Did they both graduate the next year?

10 A No, sir.

11 Q Did either one of them graduate?

12 A No, sir.

13 Q What was the purpose of red-shirting you then?

14 A Basically to get my speed up, get my weight
15 up, get stronger, faster, learn the offense, get my
16 throws in.

17 Q So your sophomore year was your freshman
18 eligibility year, you were first team?

19 A First team, splitting up with Bart Blanchard.

20 Q I'm sorry?

21 A Me and Bart Blanchard split up the first team.
22 We split, some days he would start, some days I would
23 start.

24 Q After you all went to the Kickin' Chicken, was
25 that on Wednesday night?

1 A Yes, sir.

2 Q You all had planned to go to a party?

3 A After we finished the robbery, yes, sir.

4 Q Who was going to the party?

5 A All of us.

6 Q And you told this jury that during this
7 robbery with Herb that the girls kept saying, come on
8 let's go, we have to go to the party. Is that what
9 happened?

10 A No, sir, I never told them that.

11 Q What did you say about hurrying to make a
12 party?

13 A After we left the Kickin' Chicken there was a
14 comment made about we either need to do this, or we
15 need to do this now because we are running out of
16 time. The only thing I said about a party was that
17 was the afterwards, after event.

18 Q The what?

19 A That was after the robbery. As far as the
20 party, that would be a perfect fit if they accused us
21 of robbing anybody we would have pictures that we
22 were at a party so they couldn't accuse us.

23 Q How many times -- you have been at Herb's
24 house three times?

25 A Yes, sir.

1 Q You bought from him three times?

2 A You say I bought from him three times? Yes,
3 sir.

4 Q Have you ever been to his house to socialize
5 except for buying marijuana?

6 A Sir, are you asking me have I ever just been
7 over there just to play around and talk to him?

8 Q Yes, sir.

9 A No, sir.

10 Q The only reason you ever went to his house was
11 just to buy drugs?

12 A Yes, sir.

13 Q Who duct-taped Emily?

14 A Mutual.

15 Q Who duct-taped Herb when you were duct-taping
16 Emily?

17 A Herb was already duct-taped.

18 Q Who duct-taped Herb?

19 A Reggie.

20 Q Did -- I think you said that Emily was crying?

21 A Yes, sir.

22 Q Did you get anything out of Emily's car?

23 A No, sir.

24 Q Did you do any damage to her car?

25 A No, sir.

1 Q Did the girls come into the house before you
2 went to the ATM machine?

3 A No, sir. Sasha Gaskins was being there when I
4 knocked on the door. But when she knocked on the
5 door and Emily opened it.

6 Q She came back in later though to wipe her
7 fingerprints off the door?

8 A She came in, yes, sir.

9 Q I think you said she carried a bag out to the
10 car?

11 A Yes, sir, a crate.

12 Q A crate. Who carried the bags?

13 A All of us had stuff in our hands. I can't
14 tell you specifically who had a bag. I know she had
15 a crate. I know we had TV's, I know we had other
16 stuff.

17 Q How many trips?

18 A She carried a bag out of Joshua Harpe's house.

19 Q How many trips did she make out of Herb's
20 house?

21 A The one trip washing her fingerprints off the
22 door, and the other trip when everyone was moving
23 some stuff out and that's it.

24 Q How many trips did she make out to the car?

25 A Two.

1 Q Okay, let's back up. She came in to wipe her
2 fingerprints off the door?

3 A Right, that's one trip.

4 Q And she picked up a crate on the way out from
5 that trip?

6 A No, sir.

7 Q When did she come back to the house?

8 A She came back in the house when they warned us
9 that a car we had seen three times had been passing
10 by.

11 Q Okay. This marijuana that you found up in
12 attic, was it just stems?

13 A It wasn't marijuana, it was shavings.

14 Q Pardon?

15 A Shavings of marijuana.

16 Q Shavings?

17 A Yes, sir.

18 Q Smokable?

19 A Not really.

20 Q Did Reggie smoke them?

21 A We tried to smoke them, just really burning
22 paper.

23 Q I'm sorry?

24 A I said we were just really burning paper.

25 Q Didn't give you any kind of high or anything?

1 A No, sir.

2 Q Do you know why he would have kept those?

3 A I'm not a drug dealer, I don't know what you
4 can do with marijuana shavings.

5 Q Now you can mix it in with leaves and make it
6 heavier, can't you?

7 A Like I said, I'm not a drug dealer. I don't
8 know what you can do with marijuana shavings.

9 MR. KIDD: Objection, Your Honor.

10 THE COURT: Basis?

11 MR. KIDD: Withdrawn.

12 Q (By Mr. Sowell) Did Breanna ever come into
13 Herb's house?

14 A No, sir.

15 Q Did you ever buy marijuana from coach?

16 A Joshua Harpe?

17 Q Pardon?

18 A Joshua Harpe?

19 Q Yes.

20 A No, sir.

21 Q Do you know any players who did?

22 A No, sir.

23 Q Pardon me?

24 A No, sir.

25 Q Did Reggie ever buy drugs from him?

1 A Not that I know of. I know he said he smoked
2 with him one time, but as far as buying drugs from
3 him I couldn't tell you that.

4 Q Did you find any drugs in his house?

5 A Yes, sir.

6 Q What did you find?

7 A Probably about two nickel sacks of weed.
8 Probably about a gram.

9 Q Where was that found?

10 A In his bathroom.

11 Q Now you told us that you were suspended, said
12 you had problems with court. What did you mean by
13 that?

14 A I said core, core, C-O-R-E, core.

15 Q Okay. Who is Ryan Jones?

16 A A teammate of mine.

17 Q Pardon me?

18 A A teammate.

19 Q And you smoked marijuana with him?

20 A Yes, sir.

21 Q Where did you get the marijuana you smoked
22 with him?

23 A It was either from Herb or either from another
24 dude he knew in Mount Pleasant or some other places.

25 Q Now Friday night, how long was Reggie in your

1 bedroom sleeping?

2 A He wasn't in my bedroom sleeping, he was in my
3 roommate's bedroom sleeping.

4 Q Did you ever go back and talk to him or check
5 on him?

6 A Yes, sir.

7 Q You did?

8 A Yes, sir.

9 Q How long were you back there?

10 A I went back there several times. Probably
11 stayed back there no more than five minutes.

12 Q And Sasha went back to take him some tea. How
13 long did she stay with him?

14 A I couldn't tell you.

15 Q But you were there?

16 A I was there but I mean I wasn't keeping a time
17 limit on how long she was back there with him.

18 Q Who was the girl, when Sasha called the coach
19 and said this is somebody who is the girlfriend of
20 some player?

21 A Right.

22 Q Who was that girl?

23 A I don't know the name she used, but we just
24 told her to say Tim Dwight, which is another teammate
25 of ours.

1 Q What's his name?

2 A Dwight.

3 Q What's his last name?

4 A That's his first name -- I mean that's his
5 last name. First name is Tim I think.

6 Q Now who was it that came and got you -- you
7 were riding, I believe, with Ms. Gaskins and you got
8 out and called Lauren?

9 A You say I was riding with Ms. Gaskins and I
10 got out and called Lauren?

11 Q Lauren came and picked you up somewhere.
12 Where did she pick you up?

13 A She came to my apartment complex.

14 Q Did she come to your apartment or did you go
15 downstairs?

16 A She was in the parking lot, I was in my car,
17 all three of us were in my car. She pulled up, her
18 and her boyfriend pulled up next to my car.

19 Q What was the purpose of calling her?

20 A To help me get out of the apartment complex.

21 Q Why did you need help getting out of the
22 apartment complex?

23 A Because I knew that if they knew where I
24 stayed at, I'm pretty sure they knew what my car
25 looked like because Joshua Harpe knows what my car

1 looked like. And I pretty much thought he was the
2 one that sent them to my house.

3 Q Who had cars over there?

4 A Who had what?

5 Q When you called Lauren to pick you up.

6 A I didn't call Lauren. I don't even have
7 Lauren's number, sir.

8 Q When Sasha called Lauren to come pick you up,
9 who had cars in your complex? Did Sasha have a car
10 there?

11 A No, sir.

12 Q Did Breanna have a car there?

13 A No, sir.

14 Q So it's just the three of you all there, you
15 didn't want to drive your car?

16 A Right.

17 Q Why would you -- who was the guy that's with
18 Lauren?

19 A I guess her boyfriend.

20 Q Do you know his name?

21 A I think his name is Chris.

22 Q Chris. Were you trying to buy his silence?
23 Why did you give him \$40?

24 A Like I said the man didn't even know why he
25 had to come get me. And she didn't find out until we

1 got to the gas station, and they were pretty upset.

2 It wasn't about buying off his silence, it was
3 the fact that he had put himself in a situation that
4 I basically -- that we were involved in that he had
5 nothing to do with. So, I mean, out of respect you
6 give him \$40 at least.

7 Q So you gave him \$40 just because he came
8 across town?

9 A Yes, sir.

10 Q Wasn't to buy his silence?

11 A No, sir. I didn't tell him don't tell nobody.

12 Q You didn't?

13 A No, sir. I didn't say don't tell nobody. I
14 didn't say nothing about it. He didn't have nothing
15 to say. Lauren was the one who was upset.

16 Q If they kicked you out of the car, surely you
17 knew they were going to call the police?

18 A They didn't kick me out of the car.

19 Q How did you break up your associations with
20 them that day then?

21 A Like I said Lauren was more upset with her
22 then he was with me, then she was with me. He didn't
23 really have nothing to say. He was like, hey, you
24 all put me in a messed up situation.

25 Q When Lauren and Chris came to your parking

1 lot, who got in their car?

2 A Me.

3 Q And what happened to the other two girls?

4 A They followed the car.

5 Q In what?

6 A In my car.

7 Q So you did not want to be in your car, but you
8 didn't mind them being in your car?

9 A It makes sense. If they get pulled over by
10 the cops, they looking for three dudes, they're not
11 look for two girls.

12 Q How do you happen to get out of Lauren's car?

13 A Out of her boyfriend's car. I was taken to
14 the Shell gas station.

15 Q Where was the Shell gas station?

16 A Off Sam Rittenburg.

17 Q How far is that from where they picked you up?

18 A Probably about five, six minutes.

19 Q So they took you to the Shell gas station.
20 what happened?

21 A I just said thank you, and I got out of the
22 car.

23 Q Did they get out?

24 A No, sir.

25 I instructed them to take me to the Shell gas

1 station, sir.

2 Q Who told them about the incident?

3 A I mean it pretty much asked what was going on.
4 And I kind of beat around the bush and explained it
5 to them. And when Lauren pretty much got the idea
6 the first thing she did was call sasha.

7 Q Then when?

8 A Then I guess they got in an argument.

9 Q So to keep Lauren from calling the police you
10 gave them 40 bucks?

11 A I didn't give Lauren 40 bucks. I gave Chris
12 40 bucks.

13 Q To keep Chris from calling the police you gave
14 chris 40 bucks?

15 A Wasn't from calling the police.

16 Q Did you say, please don't call the police?

17 A No, I did not.

18 Q Did you know he would call the police?

19 A I know he wouldn't.

20 Q How do you know that?

21 A It's not his business. He is not in the
22 situation so why would he call the police?

23 Q You don't think he was concerned he was going
24 to get charged with this as a coconspirator or?

25 A No.

1 Q Accessory?

2 A No.

3 Q You just gave him 40 bucks because he drove
4 across town?

5 A Out of respect, yes, sir.

6 Q Now after this you went back to your apartment
7 to get a car, whose car did you get?

8 A I didn't go back to my apartment.

9 Q When you were at the coaches condo and you
10 came back down and I think you went to the ATM, how
11 did you get back up to the coach's condo?

12 A His swipe was on his key, on his key ring as
13 far as using the elevator and stuff.

14 Q How did the coach get free?

15 MR. KIDD: Objection, Your Honor.

16 THE COURT: Basis?

17 MR. KIDD: Speculation.

18 THE COURT: Sustained, subject to establishing
19 foundation.

20 Q (By Mr. Sowell) Do you know how coach got
21 free?

22 A No.

23 Q When you left was coach tied up?

24 A Yes, sir.

25 Q Was he taped on his arms and legs?

1 A Yes, sir.

2 Q Now you spent Friday night with Breanna after
3 the robbery?

4 A Yes, sir.

5 Q And the other three left?

6 A Sir.

7 Q The other three left?

8 A Two of them were in custody.

9 Q After the coach's robbery -- I'm sorry, let's
10 go back. After the Herb robbery, who stayed at our
11 house?

12 A Me and Reginald Rice.

13 Q And after the coach's robbery, who stayed at
14 your house?

15 A Nobody stayed at my house because that was the
16 same night they got arrested, Reginald Rice and
17 Stephen Francois.

18 Q Who was in your house when the police arrested
19 Reggie and Stephen?

20 A Me, Sasha and Breanna.

21 Q Anybody else?

22 A No, sir.

23 Q You said some coach called you and said come
24 to the Citadel and turn yourself in?

25 A Coach Higgins.

1 Q Coach Higgins?

2 A Head coach.

3 Q He is the head coach?

4 A Yes, sir.

5 Q How did he know you were involved?

6 A I'm guessing --

7 MR. KIDD: Objection, Your Honor, speculation.

8 THE COURT: Sir, there is an objection
9 pending, bear with me one moment.

10 MR. SOWELL: I will withdraw it.

11 THE COURT: The question is withdrawn.

12 Q (By Mr. Sowell) Who is Nell, Noleen?

13 A Noel.

14 Q Noel?

15 A She is over like the media. Like she do all
16 the stuff that has to go through the newspaper. She
17 does all the information that goes through the news
18 like interviews and all that type of stuff.

19 Q Coach Higgins called you and you came to Coach
20 Higgins' office?

21 A No, sir. I went to Noel's office.

22 Q Where is her office?

23 A It's in the top of McAllister, in the
24 basketball arena.

25 MR. SOWELL: One second, Your Honor.

1 Nothing further, Your Honor.

2 THE COURT: Any redirect?

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

4 THE COURT: Any objection to the witness being
5 excused from the state?

6 MR. KIDD: None from the state.

7 THE COURT: From the defense?

8 MR. SOWELL: No, ma'am.

9 THE COURT: Sir, you are excused.

10 Thank you, Mr. Skipper.

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

13 THE COURT: Who is your next witness?

14 MR. KIDD: Breanna Bruster. She is going to
15 be just as long as the last one.

16 THE COURT: Who is her lawyer?

17 MR. KIDD: Dumas.

18 (In open court.)

19 THE COURT: We are going to take a brief
20 restroom break. We will go until 1 o'clock at which
21 time we are going to break for lunch. If you will go
22 with the bailiffs for me, please.

23 (Whereupon, the jurors exit the courtroom.)

24 THE COURT: We will take a brief break.

25 Now I would caution you all, I generally don't

1 interrupt folk while they're questioning witnesses,
2 but you all are having a tendency to repeat yourself.
3 It doesn't matter to me, I'm not the fact finder, but
4 you need to be mindful of the jury.

5 MR. KIDD: Judge, just for planning purposes I
6 expect to if not rest this evening, pretty shortly in
7 the morning.

8 THE COURT: At this rate you ain't resting
9 this evening unless you all cut to the chase.

10 MR. KIDD: I agree with that.

11 (Whereupon, a recess was taken.)

12 THE COURT: We will go to lunch and resume at
13 2:00. Is there any exception from the state?

14 MR. KIDD: No, Your Honor.

15 THE COURT: From the defense?

16 MR. SOWELL: No, ma'am.

17 THE COURT: Please bring in the jury.

18 (Whereupon, the jurors enter the courtroom.)

19 THE COURT: You may be seated. Ladies and
20 gentlemen, we are going to break for lunch. During
21 the break please do not discuss the case and please
22 leave your notepads in your seats. Please do not
23 allow yourselves to be exposed to any media coverage
24 regarding the case. And please don't have any
25 interaction with anyone in or around the courthouse.

1 We will resume at 2:00, which is an hour and
2 five minutes. You will return directly to the jury
3 room. Have a great lunch and we will see you then.

4 (Whereupon, the jurors exit the courtroom.)

5 THE COURT: Is there anything before we break
6 for lunch from the state?

7 MR. SAVAGE: No, Your Honor.

8 THE COURT: From the defense?

9 MR. SOWELL: No, Your Honor.

10 THE COURT: See you all at 2:00.

11 (Whereupon, a recess was taken.)

12 (Whereupon, State's Exhibit No. 40 is marked
13 for identification.)

14 THE COURT: Is the state ready to proceed?

15 MR. SAVAGE: Yes, Your Honor.

16 THE COURT: Is the defense ready to proceed?

17 MR. SOWELL: Yes, ma'am.

18 THE COURT: Please bring in the jury.

19 (Whereupon, the jurors enter the courtroom.)

20 THE COURT: Ladies and gentlemen, we hope you
21 all had a pleasant luncheon recess. We will now
22 resume with the trial.

23 State may proceed.

24 MR. SAVAGE: Thank you, Your Honor. State
25 calls Breanna Bruster.

1 THE COURT: Ma'am, if you would come to the
2 witness stand to be sworn.

3 MS. BREANNA YASTACE BRUSTER,
4 after having first been duly sworn to state the
5 truth, the whole truth and nothing but the truth,
6 testified on her oath as follows:

7 THE COURT: Please pull the microphone down a
8 little more towards you, and speak directly into it.
9 You may proceed.

10 MR. SAVAGE: Thank you, Your Honor, may it
11 please the Court.

12 THE COURT: Yes, sir.

13 DIRECT EXAMINATION

14 BY MR. SAVAGE:

15 Q Good afternoon, Ms. Bruster. How old are you?

16 A 19.

17 Q Where did you grow up?

18 A Greenville, South Carolina.

19 Q Tell me a little bit about your educational
20 background.

21 A I graduated from high school, Travelers Rest
22 High School in 2009. I went on to be a freshman at
23 the College of Charleston in 2009 where I had A's and
24 B's. And this past fall semester I went to USC
25 upstate where I made the dean's list.

1 Q What were you studying at the College of
2 Charleston, what was your major?

3 A Accounting.

4 Q How about now?

5 A Accounting.

6 Q In relation to this case, did you plead guilty
7 to charges?

8 A Yes.

9 Q Were they two counts of armed robbery?

10 A Yes.

11 Q Have you met with me in my office before?

12 A Yes, sir.

13 Q We have talked about this case?

14 A Yes, sir.

15 Q Have you been promised anything from me or
16 anyone in my office in exchange for your testimony
17 today?

18 A Yes.

19 Q What have you been promised?

20 A The minimum sentence for the armed robbery
21 charge.

22 Q Okay. Is that something we have promised or
23 is that just the minimum of what it is set by the
24 statute?

25 MR. SOWELL: Your Honor, it's his witness he's

1 stuck with her answer.

2 THE COURT: I'm sorry?

3 MR. SOWELL: He didn't like her answer, he's
4 trying to lead her into another one.

5 THE COURT: No speaking objections. What is
6 the basis of the objection?

7 MR. SOWELL: Leading.

8 THE COURT: Sustained leading, rephrase.

9 Q (By Mr. Savage) Is it your understanding that
10 you can get less than the minimum from something I
11 can do?

12 A No, sir.

13 Q Who is Sasha Gaskins?

14 A She was one of my classmates at the College of
15 Charleston.

16 Q When did you meet her?

17 A At orientation at College of Charleston in
18 June '09.

19 Q Tell me a little bit about, were you friends?

20 A Yes.

21 Q Did you guys hang out together?

22 A Yes.

23 Q Tell me a little bit about what you guys did,
24 how well you knew her?

25 A We went to some parties together, just hung

1 out outside of class, sometimes we had dinner or
2 lunch together.

3 Q Are you familiar with Facebook?

4 A Yes.

5 Q Were you Facebook friends with her?

6 A Yes.

7 Q What was her screen name on Facebook?

8 A Sasha Untouchable Gaskins.

9 Q I'm sorry?

10 A Sasha Untouchable Gaskins.

11 Q Do you see the defendant -- do you see Ms.
12 Gaskins in the courtroom today?

13 A Yes.

14 Q Could you point her out and describe what
15 she's wearing?

16 A She's right here, she has on a purple shirt,
17 dreads.

18 MR. SAVAGE: Your Honor, let the record
19 reflect that the witness has identified the
20 defendant, Sasha Gaskins

21 THE COURT: Record so indicates. Proceed.

22 MR. SAVAGE: Your Honor, may we approach for
23 a brief minute?

24 THE COURT: Uh-hum.

25 (Whereupon, the following discussion was held

1 at the bench.)

2 MR. SAVAGE: I'm trying to follow the Court's
3 ruling, I can't go into the tatoo?

4 THE COURT: Character is off limits. There
5 has been no denial that she has -- that's her
6 nickname. It serves no purpose except to prejudice
7 the jury.

8 MR. SAVAGE: I can't ask her about whether she
9 has a tatoo that identifies her?

10 THE COURT: Nope. She already indicated what
11 her nickname is.

12 MR. SAVAGE: It goes to identity, who she is.

13 THE COURT: There is no question about her
14 identity. She doesn't say she wasn't there, she said
15 she was coerced.

16 MR. SAVAGE: Okay.

17 (In open court.)

18 Q (By Mr. Savage) who is Stephen Francois?

19 A It was Sasha's boyfriend.

20 Q Did you know him before these crimes occurred?

21 A Yes.

22 Q Did you know him by any other nicknames or any
23 other names.

24 A GZ.

25 A GZ?

1 A Yes, sir.

2 Q How long did you know him before these crimes
3 happened?

4 A I met him the beginning of September of '09.

5 Q '09?

6 A Yes, sir.

7 Q How about Miguel Starks, who is he?

8 A He was one of Stephen's friends.

9 Q When did you meet him?

10 A The day of the first robbery.

11 Q And Reginald Rice, who is he?

12 A One of Miguel's friends.

13 Q When did you met him?

14 A The day of the first robbery.

15 Q Same day?

16 A Yes, sir.

17 Q Back in February of 2010, were you a student?

18 A Yes, sir.

19 Q Where were you a student at that time?

20 A College of Charleston.

21 Q Do you remember Wednesday February 24, 2010?

22 A Yes, sir.

23 Q Did you go to class that day?

24 A Yes, sir.

25 Q Did you meet the defendant that day, Sasha

1 Gaskins?

2 A Yes, sir.

3 Q Did you meet Miguel Starks that day?

4 A Yes, sir.

5 Q Tell the jury about how you met them and what
6 was going on there?

7 A Well I was getting dinner with another one of
8 my friends at the dining hall at school. And Miguel
9 text me and I didn't know who it was.

10 And he told me he was one of Stephen's friends
11 and him, Sasha and Reggie came and met me outside of
12 the dining hall.

13 Q If you could do me a little favor and lean
14 into the microphone when you talk so that it comes
15 out a little bit louder, thank you.

16 So you met Miguel?

17 A Yes, sir.

18 Q Reggie?

19 A Yes, sir.

20 Q Ms. Gaskins?

21 A Yes, sir.

22 Q Was Stephen Francois there?

23 A No, sir.

24 Q No. What did you do after that?

25 A I went back to my dorm.

1 Q Did you meet with either one of those parties
2 later on in the day?

3 A Yes, sir.

4 Q Who?

5 A Miguel and Reggie came and picked me up from
6 my dorm later that night.

7 Q Where did you go?

8 A We were supposed to be going to Texas
9 Roadhouse I think to get something to eat. But we
10 just drove around and then we came back to campus to
11 pick up Stephen and Sasha.

12 Q And did you pick up Stephen and Sasha?

13 A Yes.

14 Q Where did you go from there?

15 A We went back to Miguel's house.

16 Q And what happens once got back to Miguel's?

17 A They were changing because they said they were
18 getting ready to go to a party. One of our friends
19 was having a black party that night. While we were
20 there me and Sasha went into Miguel's room. And the
21 boys were out in the living room area.

22 After Sasha, she was going to get ready, she
23 didn't have what she needed, so she said she will get
24 ready in my room. We went back into the living room
25 area and the boys had been talking and they said --

1 they asked me if I wanted to stay at the apartment or
2 go with them somewhere. And I had never been there
3 before so I said I wanted to go with them.

4 Q Okay. And you hadn't been where before?

5 A To the apartment.

6 Q Whose apartment was that?

7 A Miguel's.

8 Q Before you got to Miguel's, once they picked
9 you up from -- did they pick you up from the college
10 of Charleston campus?

11 A Yes.

12 Q Did you go straight to Miguel's place?

13 A Yes, sir.

14 Q Where did you eat that night?

15 A I'm sorry. We went to Kickin' Chicken to eat.

16 Q When did you do that?

17 A Before we went to his apartment.

18 Q So you did stop. Did you go straight from the
19 college of Charleston to there, or how did that play
20 out?

21 A We went Kickin' Chicken after we left college
22 of Charleston and went to Miguel's apartment.

23 Q When you left the college of Charleston and on
24 that road trip to the Kickin' Chicken, did anyone say
25 anything about what was going on that night?

1 A No, sir.

2 Q How about during dinner at the Kickin'
3 Chicken?

4 A No, sir.

5 Q What about the road trip from the Kickin'
6 Chicken to Miguel's apartment?

7 A No, sir.

8 Q You mentioned a little earlier in your
9 testimony you were in, I guess, a bedroom at Miguel's
10 place with the defendant. Was it just you two at
11 that point?

12 A Yes, sir.

13 Q Anything discussed at that point about what
14 was going on that night?

15 A No, sir.

16 Q At some point did you leave Miguel's apartment
17 that night?

18 A Yes, sir.

19 Q Where were you going?

20 A Well we went and got in the car. And I
21 thought we were going back to my dorm, but Sasha said
22 they were going -- she was like, we are going to do
23 something real crazy. And --

24 Q Sasha told you that?

25 A Yes, sir.

1 Q Where did she tell you that?

2 A In the car.

3 Q Is that after you left Miguel's place?

4 A Yes, sir.

5 Q Anyone say anything as you are getting into
6 the car at all?

7 A No, sir.

8 Q So you're in the car. Where are you driving
9 toward at this point now, do you know?

10 A No, sir.

11 Q What does she mean by, we are going to do
12 something crazy tonight?

13 MR. SOWELL: Objection, Your Honor.

14 THE COURT: Basis?

15 MR. SOWELL: Speculation.

16 THE COURT: Sustained. You have to establish
17 foundation for that question.

18 Q (By Mr. Savage) Did you ask her what she
19 meant by that?

20 A No, sir.

21 Q Did you ask her any question about that?

22 A No, sir.

23 Q What happened next?

24 A Well we went -- we were just driving and we
25 went past down some road and we turned and parked for

1 a second. And Miguel asked Stephen, did you see the
2 house? And he said no.

3 So we turned around and went back down the
4 road. And he pointed out the house and said it was
5 the house with a flag in front of it, a white house.

6 Q Did you see that house?

7 A Yes, sir.

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

9 THE COURT: You may.

10 Q (By Mr. Savage) Ms. Bruster, I'm showing you
11 what is marked as State's Exhibit 12. Do you
12 recognize that?

13 A Yes, sir.

14 Q What is that?

15 A It's the house that they were pointing out.

16 Q I'm now showing you what is State's Exhibit
17 13. Do you recognize that?

18 A Yes, sir.

19 Q What is that?

20 A Also the house.

21 Q And State's Exhibit 14?

22 A That's the house.

23 Q Same house?

24 A Yes, sir.

25 Q Ms. Bruster, I'm showing you what has been

1 marked as State's Exhibit 12, it will come up on the
2 screen behind you there. Now is that the house you
3 drove by?

4 A Yes, sir.

5 Q whose house was that at the time, did you
6 know?

7 A No, sir.

8 Q Did you know why you were there?

9 A No, sir.

10 Q So what happened? You drove past that house?

11 A Yes, sir.

12 Q What happened next?

13 A They went back and parked at the first place
14 they had stopped. And Miguel got out of the car and
15 went back to the trunk and got a bag out and set it
16 in the front seat.

17 Q Why did he get it out of the car, do you know?

18 A At the time, no.

19 Q Okay. What happened next?

20 A They started putting on like bandanas and
21 stuff.

22 Q Who?

23 A Miguel and Reggie.

24 Q What's the conversation -- or is there any
25 conversation going on?

1 A They started describing what they were about
2 to do.

3 Q What were they describing?

4 A They were -- Sasha was going to walk up to the
5 house and say that she had car trouble. And they
6 were going to go inside and try to get inside.

7 Q What was the last bit?

8 A Try to get inside the house.

9 Q Why?

10 A I guess they were going to rob the house.

11 Q Okay. Do you know who was inside and who they
12 were going to try to rob?

13 A No, sir.

14 Q Was Ms. Gaskins, the defendant, talking about
15 the robbery at this point as well?

16 A Yes, sir.

17 Q Was she talking about going up and knocking on
18 the door or was it someone else?

19 A All three of them were.

20 Q All three of them were? Who's all three of
21 them?

22 A Sasha, Reggie and Miguel.

23 Q Who else is in the car at this point?

24 A I was, Stephen, Sasha, Reggie and Miguel.

25 Q So five of you?

1 A Yes, sir.

2 Q You mentioned that Miguel got out of the car
3 and got some sort of bag and putting on bandanas or
4 something, putting on some sort of headgear?

5 A Yes.

6 Q Does anyone else get out of the car?

7 A No, sir.

8 Q What happens next?

9 A He gets back in the driver's seat and drives
10 back down the road to another neighborhood.

11 Q Why does he do that, do you know?

12 A No, sir.

13 Q What happens when you get to that other
14 neighborhood?

15 A He stops the car and he gets out, Sasha gets
16 out, and Reggie got out of the car. And he told
17 Stephen to get in the front seat of the car.

18 Q Anything unusual happened when they got out of
19 the car?

20 A I mean they grabbed the bag and they just
21 walked out.

22 Q Anyone threaten you at this point?

23 A No, sir.

24 Q Anyone get threatened that you saw at this
25 point?

1 A No, sir.

2 Q Did Ms. Gaskins get out of the car willingly?

3 A Yes.

4 Q Did anything drag or point anything at her and
5 demand she get out of the car?

6 A No, sir.

7 Q What happened next?

8 A They walked in the opposite direction of the
9 car, and Stephen drove off.

10 Q Did you drive off with him?

11 A Yes, sir, I was in the car.

12 Q Where did you and Stephen go to?

13 A We drove around that neighborhood.

14 Q Why did you drive around the neighborhood?

15 A I'm not sure.

16 Q Okay. How long did you drive around the
17 neighborhood for?

18 A Maybe five to ten minutes. And then after
19 that we drove past the house and came back to where
20 we originally were when they got out of the car.

21 Q When you drove past the house, did you see the
22 house?

23 A Yes, sir.

24 Q What did you see?

25 A Just the front door. There was nobody

1 outside.

2 Q Was the front door open or closed?

3 A Closed.

4 Q What happens next?

5 A When we went back to the original spot where
6 they got out of the car, we saw Sasha walking.

7 Q What did you do?

8 A She got in the car.

9 Q What happened when she got in the car?

10 A She was just like yelled out, that's crazy.
11 She was like, I knocked on the door, some girl came
12 to the door and Miguel and Reggie ran inside and a
13 dog came outside of the house.

14 Q Where did you guys go from there?

15 A We just kept driving around.

16 Q Why are you just driving around now?

17 A I'm not sure.

18 Q At this point did Ms. Gaskins ever ask to
19 leave, drive out of the area?

20 A No, sir.

21 Q Are you waiting for someone?

22 A Yes, sir.

23 Q Who are you waiting for?

24 A Reggie and Miguel were still in the house.

25 Q Why are you waiting for them?

1 A I'm not sure.

2 Q What happens next?

3 A Miguel called Stephen and told him to come
4 pick him up.

5 Q Did you hear that call?

6 A Yes, sir.

7 Q And you were in the car when that call came
8 in?

9 A Yes, sir.

10 Q Did you go back to the house?

11 A Yes, sir.

12 Q Did you pick him up?

13 A Yes, sir.

14 Q Where did you pick him up from?

15 A On the side of the road, wasn't at the house.

16 Q Did he get in the car?

17 A Yes, sir.

18 Q What happened once he got in the car?

19 A When he got in the car he wanted to drive so
20 Stephen got in the passenger seat and Miguel drove.

21 Q When he got in the car did he threaten you?

22 A No, sir.

23 Q Did he threaten anyone?

24 A No, sir.

25 Q What happens next?

1 A He drove to an ATM.

2 Q What in your mind is going on now?

3 A I was like in shock, like I didn't understand
4 what was -- I understood what was going on, I was
5 just scared.

6 Q What was going on?

7 A They were robbing the people in the house.

8 Q Okay. And I'm sorry, did you say you went to
9 an ATM?

10 A Yes, sir.

11 Q What happened at the ATM?

12 A He tried to get money out of the accounts from
13 one of the cards they got from somebody in the house.

14 Q How much money did he try to get out?

15 A He said he put in like \$8,000 or something
16 like that.

17 Q Do you know whether he got any money out?

18 A He didn't.

19 Q Did anyone say anything to him when he was
20 trying to get money out?

21 A They said, well sasha said that you should
22 check the savings account like just check the
23 account.

24 Q Ms. Gaskins said that to Mr. Starks?

25 A Yes, sir.

1 Q Did he check the savings account?

2 A Yes, sir.

3 Q Any money out of that?

4 A No, sir.

5 Q Does he get back in the car?

6 A Yes, sir.

7 Q Where do you go now?

8 A Gas station.

9 Q Why do you go to a gas station?

10 A The car was out of gas.

11 Q What happens at the gas station?

12 A Sasha gives him her debit card to put gas in
13 the car and to buy some blunts, some cigars.

14 Q Who buys the cigar and who put the gas in the
15 car?

16 A Miguel goes inside to get the cigars and he
17 puts the gas in the car.

18 Q Is it like a little convenience store and gas
19 station?

20 A Yes, sir.

21 Q When he's in the convenience store in the gas
22 station, anyone talk about let's get out of here I
23 want to leave?

24 A No, sir.

25 Q Nothing like that?

1 A No, sir.

2 Q Everyone is just sitting there waiting?

3 A Yes, sir.

4 Q Waiting for what?

5 A Him to come back and get in the car.

6 Q Does he put gas in the car?

7 A Yes, sir.

8 Q Does he buy the cigar?

9 A Yes.

10 Q What does he do with the cigar when he gets

11 back in the car?

12 A He handed the pack to Sasha.

13 Q What happens next?

14 A We go to another ATM.

15 Q What happened at that ATM?

16 A He still didn't get any money.

17 Q Anybody say anything to him at that point?

18 A No, sir.

19 Q He gets back in the car?

20 A Yes, sir.

21 Q Where do you go from there?

22 A Back to the house.

23 Q Where did you park when you go back to the

24 house?

25 A The back of the house.

1 Q Behind the house in the back, in the rear?

2 A Yes, sir.

3 Q What happens when you were at the rear of the
4 house?

5 A He says, you all can get out and come in. And
6 Stephen and Sasha got out and went inside the house.

7 Q On the trip when you first pick up Miguel and
8 from the point you get back to the house.

9 A Yes, sir.

10 Q Does Miguel say anything about what happened
11 in there, what is going on?

12 A He just says that they were -- the people
13 inside the house were taped up.

14 Q Taped up?

15 A Yes, sir.

16 Q Does he say how many people were taped up?

17 A A girl and a boy.

18 Q A girl and a boy?

19 A Yes, sir.

20 Q Does anyone say anything in reaction to
21 someone getting taped up?

22 A No, sir.

23 Q At this point did you know anyone was going to
24 get taped up?

25 A No, sir.

1 Q Did you go inside the house when you go back
2 there?

3 A No, sir.

4 Q Does anyone go inside the house?

5 A Miguel, Stephen and Sasha go inside the house.

6 Q Do they all go in together when you get back,
7 or how does that play out?

8 A At first Miguel and Stephen go inside, Sasha
9 sat there for a few minutes. And then she went
10 inside too.

11 Q So there's a period there where it's just you
12 and Sasha inside the car alone?

13 A Yes, sir.

14 Q Are the keys in the car?

15 A Yes, sir.

16 Q At any point does Sasha say to you, let's take
17 the car and get out of here, let's leave?

18 A No, sir.

19 Q Do you ever say that?

20 A No, sir.

21 Q What happens next?

22 A They stayed in the house for a little while
23 and I just sat in the car by myself.

24 Q While you were in that car, does Sasha ever
25 say anything to you about getting any threats from

1 anyone?

2 A No, sir.

3 Q Anyone forcing her to do this?

4 A No, sir.

5 Q I sorry, you said that Sasha goes inside?

6 A Yes, sir.

7 Q So it's just you out in the car now?

8 A Yes, sir.

9 Q How long are you out in the car on your own
10 for?

11 A About 10, 15 minutes maybe.

12 Q What happens after you are out there on your
13 own for 10 or 15 minutes?

14 A I call them and tell them that I'm scared,
15 they need to come on, let's go, let's leave.

16 Q What do think say?

17 A They said they were coming.

18 Q Did they come?

19 A No, sir.

20 Q What did you do?

21 A I just kept calling and telling them to come
22 on. I said I was going to leave if they didn't come.
23 And they just like brushed me off the phone and said,
24 okay, we are coming, we are coming.

25 Q At some point do they come?

1 A Yes, sir.

2 Q What happens when they come?

3 A They're coming, they start putting stuff in
4 the trunk of the car and in the car. Whatever they
5 were taking out of the house that didn't fit in the
6 trunk, they held it like in their laps and stuff in
7 the car.

8 Q Let's see if we can clear this up for the
9 jury. You're sitting out in the car on your own?

10 A Yes, sir.

11 Q Four of them are inside there?

12 A Yes, sir.

13 Q Are you acting as a lookout for them?

14 A No, sir.

15 Q You are not?

16 A No, sir.

17 Q No one asked you to do that?

18 A No, sir.

19 Q When they come back to the car, do they have
20 anything with them?

21 A Yes, sir.

22 Q What?

23 A TV, X-box, movies, coins.

24 Q Where do they put all that stuff?

25 A In the trunk and in the backseat of the car.

1 Q Did you see the defendant carrying stuff?

2 A Yes, sir.

3 Q What is she carrying?

4 A Like coins.

5 Q Small stuff?

6 A Yes, sir.

7 Q Do you ever go in the house and carry anything
8 out?

9 A No, sir.

10 Q Did you go to the backdoor and carry anything
11 out?

12 A No, sir.

13 Q Did you carry anything out of that house at
14 that point?

15 A No, sir.

16 Q Where do you go from there?

17 A After they get in the car we go back to
18 Miguel's apartment.

19 Q Who's driving?

20 A I was.

21 Q So you drove back?

22 A Yes, sir.

23 Q And what happens when you go back to Miguel's?

24 A They unload the stuff out of the car and we go
25 inside.

1 Q Do you carry anything inside?

2 A No, sir.

3 Q Why didn't you carry anything inside?

4 A I had to use the bathroom, so I was rushing to
5 use the bathroom.

6 Q So you go inside the house?

7 A Yes, sir.

8 Q You use the bathroom?

9 A Yes.

10 Q What happens after you use the bathroom?

11 A They had brought everything in the house by
12 the time I get out. And they started to divide up
13 what they wanted.

14 Q Does the defendant state anything that she
15 wants?

16 A Just the coins.

17 Q The coins?

18 A Yes, sir.

19 Q Did you ask for anything?

20 A No, sir.

21 Q What are the others asking for?

22 A Stephen wanted the TV, and Miguel was getting
23 everything else for his apartment.

24 Q Anyone talking about the robbery and sort of
25 what happened?

1 A Yes, sir.

2 Q What are they saying?

3 A They were basically saying like the guy inside
4 was scared. And he was basically putting the girl up
5 because he was scared saying take her, just leave me
6 alone, you can take everything.

7 Q Roughly how long did the robbery take that you
8 remember?

9 A About an hour.

10 Q Wasn't quick?

11 A No, sir.

12 Q Anyone smoking any drugs inside Miguel
13 apartment?

14 A Yes, sir.

15 Q Who?

16 A Miguel, Stephen, Sasha and Reggie.

17 Q Not you?

18 A No, sir.

19 Q So everyone is smoking except for you?

20 A Yes, sir.

21 Q Why aren't you smoking?

22 A I don't smoke.

23 Q Why not?

24 A It's just a choice.

25 Q Did you spend the night at Mr. Starks'?

1 A No, sir.

2 Q You don't?

3 A No, sir.

4 Q Where do you go?

5 A Back to my dorm.

6 Q How do you get back there?

7 A Miguel drives us.

8 Q Does anyone else go with you?

9 A Stephen, Reggie, Sasha and Miguel were all in
10 the car. Miguel first drove us back to Stephen's
11 dorm where him and Sasha got of the car. And then he
12 took me back to my dorm and I went inside.

13 Q On that car ride from Miguel's apartment back
14 to the dorm before anyone gets out of the car, any
15 discussion about the robbery on that trip?

16 A Yes. They were just saying it was easy.

17 Q Who was saying it was easy?

18 A Reggie.

19 Q Anything else being said.

20 A No, sir.

21 Q Where did you spend that night?

22 A In my dorm.

23 Q With anyone?

24 A No, sir.

25 Q What happens the next day?

1 A I didn't have class the next day so I worked
2 on one of -- my speech for my public speaking class.

3 Q Do you talk to any of the four codefendants
4 the next day?

5 A Yes, sir.

6 Q Who do you talk to?

7 A Well I talked to Sasha during the day. We
8 didn't really talk about anything specifically. And.

9 Q Let's talk about that. You just committed a
10 robbery. There is no discussion about the robbery?

11 A No, sir.

12 Q You didn't say to her, what the hell?

13 A No, sir.

14 Q She doesn't say anything to you?

15 A No, sir.

16 Q She doesn't mention anything about being
17 threatened, I can't believe I was forced to do that,
18 how can I get out of this, can you help me?

19 MR. SOWELL: Your Honor, objection.

20 A No, sir.

21 THE COURT: Basis of the objection?

22 MR. SOWELL: Leading.

23 THE COURT: Sustained, leading.

24 Q (By Mr. Savage) Does she ever ask you for
25 help?

1 A No, sir.

2 Q Did you ever meet with her that day?

3 A No, sir.

4 Q Did you ever meet with any of the codefendants
5 that day?

6 A Yes, sir.

7 Q Who do you meet with?

8 A Miguel and Reggie came and picked me up from
9 my dorm later on that night.

10 Q Where did you go?

11 A We go pick up Stephen and Sasha up from
12 Stephen's dorm and go back to Miguel's apartment.

13 Q And who is at Miguel's apartment now?

14 A All five of us.

15 Q What are you doing at Miguel's apartment this
16 night?

17 A Just hanging out, watching TV.

18 Q Any discussion about the robbery?

19 A No, sir.

20 Q Any discussion about any other crimes?

21 A Yes, sir. They said they were going to do
22 another one.

23 Q Who is they?

24 A Miguel and Reggie were talking about it.

25 Q What is the plan?

1 A The same thing that happened the night before.
2 They were going to use the same general plan.

3 Q Tell the jury about what the same general plan
4 is?

5 A Sasha was going to say she had car trouble,
6 and they were going to go inside and rob the house.

7 Q Who's the victim this time, do you know?

8 A No, sir.

9 Q What was your role in this? Did you have a
10 role?

11 A No, sir. Just go with Sasha.

12 Q Okay. So you were going to be there, go with
13 Sasha where?

14 A When -- this time she was going to call
15 someone. So when she went to call them, just be with
16 her.

17 Q So last time she knocked on the door?

18 A Yes, sir.

19 Q This time you're not knocking on the door?

20 A Correct.

21 Q Why not? Why the change in plans?

22 A Because of security, they couldn't get inside
23 the apartment.

24 Q How was she going to make the phone call?

25 A From a pay phone.

1 Q Why a pay phone?

2 A Because she didn't want to be traced back to
3 her phone, her cell phone.

4 Q And you were going to go with her to make that
5 call?

6 A Yes, sir.

7 Q You were willing to go with her to make that
8 call?

9 A Yes, sir.

10 Q Anyone force you to make that call?

11 A No, sir.

12 Q Anyone force her to make that call?

13 A No, sir.

14 Q Anyone threaten you at any time this night?

15 A No, sir.

16 Q Do you see any guns or any weapons that night?

17 A No, sir.

18 Q No one pointed any guns at you?

19 A No, sir.

20 Q Anyone threaten your family?

21 A No, sir.

22 Q Anyone threaten anyone's family?

23 A No, sir.

24 Q Did you spend the night at Miguel's?

25 A On Thursday, yes, sir.

1 Q Thursday?

2 A Yes, sir.

3 Q Where do you sleep?

4 A Miguel's room.

5 Q Is Miguel staying in there with you?

6 A Yes, sir.

7 Q What happens the next morning?

8 A He takes Sasha and Stephen and I back to the
9 campus.

10 Q And what do you do that day?

11 A I went to class. And I went back to my room
12 and went to sleep.

13 Q Did you talk to anyone else about the crime
14 that day?

15 A No, sir.

16 Q Did you ever meet up with the defendant that
17 day?

18 A Later that night, yes, sir.

19 Q How did that come about?

20 A First me and Miguel were just supposed to be
21 hanging out together. And we weren't supposed to be
22 hanging with Sasha and Stephen that night, they were
23 going to go to a movie with another friend.

24 So Miguel came and picked me up so that we can
25 hang out. And he went back and picked up Stephen and

1 Sasha.

2 Q Was anyone else in the car with him when he
3 picked you up?

4 A Reggie.

5 Q Were you expecting Reggie to be there?

6 A No, sir.

7 Q What -- when Miguel was coming to pick you up,
8 what did you think you guys were going to be doing?

9 A Just hanging out.

10 Q Was it like a date?

11 A I guess so, yes, sir.

12 Q Did you think it was a date?

13 A I just call it hanging out.

14 Q Hanging out?

15 A Yes, sir.

16 Q So all you get picked up again and where do
17 you go?

18 A First we went to Zaxby's to get something to
19 eat. And then we went back to Miguel's apartment.

20 Q Do you go inside Zaxby's or what do you do?

21 A We went through the drive-thru.

22 Q And you go back to Miguel's?

23 A Yes, sir.

24 Q What happens when you go back to Miguel's?

25 A First we ate. And we were just hanging out.

1 Reggie was sick so he laid down to sleep. We were
2 talking.

3 Q About what?

4 A First Miguel and Stephen were just talking
5 about like hops and stuff. And then they started
6 talking about the plan for this robbery.

7 Q And was that -- when was that robbery going to
8 happen, what was the plan?

9 A The plan was for Sasha to call the guy to try
10 to get him out of the house and so they could get
11 inside the house to rob him.

12 Q What did you see inside Miguel's house at this
13 time?

14 A At first we didn't see nothing. And then he
15 pulled out two guns that him and Stephen were playing
16 with.

17 Q See any other items?

18 A He had like a samurai sword.

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

20 THE COURT: You may.

21 Q (By Mr. Savage) Ms. Bruster, I'm showing you
22 what is State's Exhibit No. 26. Is that what you
23 saw?

24 A Yes, sir.

25 Q Did he threaten you with that at all?

1 A No, sir.

2 Q Threaten anyone that you saw?

3 A No, sir.

4 Q The guns that he had, did he point them at you
5 at all while you were inside his apartment?

6 A No, sir.

7 Q Did you see him point them at anyone?

8 A No, sir.

9 Q Is anyone saying anything to you about, in
10 that apartment about, I don't want to do this, I want
11 to get out?

12 A No, sir.

13 Q You mentioned in the first robbery they wore
14 bandanas I believe?

15 A Yes, sir.

16 Q Are they using anything this time to cover
17 their faces?

18 A Yes, sir.

19 Q What are they using?

20 A Bandanas.

21 Q Any other items of clothing that you saw?

22 A No, sir. They had on like black hoodies.

23 Q They had on what?

24 A Black hoodies.

25 Q Okay. What's the plan for the victim in this

1 A Yes, sir.

2 Q Who was left in the apartment?

3 A Sasha, Reggie and I.

4 Q Did anyone return once they left?

5 A Stephen, Miguel came back after that.

6 Q Before they came back and the period when they
7 were gone, anyone threaten you?

8 A No, sir.

9 Q Anyone threaten anyone else in there that you
10 saw or heard of?

11 A No, sir.

12 Q At some point do you leave Miguel's apartment?

13 A Yes, sir.

14 Q Where do you go?

15 A When we leave Miguel told me to drive them to
16 McDonald's. But when we get to the McDonald's he
17 says for me not to leave him there, to take him
18 across the street to some parking lot.

19 Q So are you driving at this point or who's
20 driving?

21 A I was driving.

22 Q So you don't park at McDonald's across the
23 street. Why is that?

24 A He said he saw a police car.

25 Q So did you park across the street?

1 A We stopped so that they could get out of the
2 car.

3 Q Who is they? Who got out?

4 A Stephen, Miguel and Reggie.

5 Q And what do you do now?

6 A Drive back to a gas station.

7 Q Who is driving?

8 A I was.

9 Q Who's in the car with you now?

10 A Sasha.

11 Q Does the defendant say anything to you at this
12 point?

13 A No, sir.

14 Q No one wants to leave?

15 A No, sir.

16 Q No one wants to back out?

17 A No, sir.

18 Q You were willing and able to go ahead with the
19 robbery right now?

20 A Yes, sir.

21 Q Where do you go to?

22 A To a gas station.

23 Q Why do you go there?

24 A Sasha was going to call the guy.

25 Q Does she call the guy?

1 A Yes, sir.

2 Q Tell the jury about that. How does that
3 happen at the gas station?

4 A She gets out of the car to go to the pay
5 phone. And I walk over with her and she calls the
6 guy, he doesn't answer the phone. So she calls
7 again, he didn't answer the phone again. So she
8 called him a third time and this time he answered the
9 phone.

10 Q What does she tell him?

11 A She said her name, she had an alias, I can't
12 remember what the name was, she said she had car
13 trouble, she was scared, she didn't want to be out
14 there by herself, could he come and pick her up until
15 Triple A came.

16 Q Where were you when that conversation took
17 place?

18 A I was standing away from her.

19 Q How far away?

20 A Couple feet, not too far.

21 Q What happens after she finishes that call with
22 him?

23 A She hangs up and she called Miguel and says
24 that he said he was coming.

25 Q Where do you go now?

1 A Back to the car.

2 Q And then where?

3 A To a different gas station.

4 Q What are you doing at a different gas station?

5 A Because we were supposed to drive Miguel's car
6 and it didn't have any gas in it. So we went to the
7 gas station to buy a gas canister and gas.

8 Q What kind of car did Miguel have?

9 A Black Nitro.

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

11 THE COURT: You may.

12 Q (By Mr. Savage) Ms. Bruster, I'm showing you
13 what is State's Exhibit 38 and 39. Do you recognize
14 those two?

15 A Yes, sir.

16 Q What are those?

17 A Miguel's Nitro.

18 Q So you go to the second gas station for what?

19 A Gas and a gas cannister.

20 Q Didn't you just come from a gas station?

21 A Yes, sir.

22 Q Why did you go to a different one to get gas?

23 A They didn't have gas canisters.

24 Q You get the canister?

25 A Yes, sir.

1 Q Put gas in it?

2 A Yes, sir.

3 Q Who does that?

4 A I do.

5 Q Who pays for the gas?

6 A I do.

7 Q Where do you go from there?

8 A Back to Miguel's apartment.

9 Q What happens when you get back to Miguel's
10 apartment?

11 A We try to put gas into the car, but we
12 couldn't get the canister to work.

13 Q What do you do?

14 A We asked some man that was walking his dog to
15 help us.

16 Q Does he?

17 A Yes, sir.

18 Q What happens there?

19 A He puts the gas in the car, and Miguel calls
20 Sasha's phone and says that he is on his way.

21 Q Let's talk a little bit about when the person
22 -- who is the person putting gas in the car?

23 A I don't know.

24 Q How did you find him?

25 A He was outside walking his dog.

1 Q What's going on as he's putting gas in the
2 car?

3 A We were just having a light conversation with
4 him.

5 Q You are there?

6 A Yes, sir.

7 Q Where is the defendant?

8 A She is standing there as well.

9 Q So all of you are talking to him?

10 A Yes, sir.

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

12 THE COURT: You may.

13 Q (By Mr. Savage) Ms. Bruster, I'm showing you
14 what has been marked as State's Exhibit 40 for
15 identification purposes. Do you recognize that?

16 A Yes, sir.

17 Q What is that?

18 A It's a disc with yesterday's date and my
19 initials on it.

20 Q What is on that disc?

21 A A video of --

22 MR. SOWELL: Your Honor, I object to this.

23 THE COURT: Please approach.

24 (Whereupon, the following discussion was held
25 at the bench.)

1 THE COURT: Who is it you are seeking to
2 introduce?

3 MR. SAVAGE: They're at the car, the man with
4 the dog at the gas station and they film it.

5 THE COURT: Who films it?

6 MR. SAVAGE: The defendant.

7 THE COURT: Which defendant?

8 MR. SAVAGE: Sasha Gaskins.

9 THE COURT: She filmed the two of them
10 together?

11 MR. SAVAGE: All three of them filling up the
12 gas canister and having a conversation.

13 THE COURT: What are they talking about?

14 MR. SAVAGE: They're just talking about --
15 they're just joking, laughing, talking about general
16 stuff.

17 THE COURT: What is the basis of the
18 objection?

19 MR. SOWELL: I didn't know about it until
20 yesterday at 12:30. I didn't see it.

21 THE COURT: So you have not seen it?

22 MR. SOWELL: No, ma'am.

23 THE COURT: You just need an opportunity to
24 see it.

25 MR. SOWELL: Depends on what's on there.

1 THE COURT: It appears to be them joking and
2 laughing at the gas station.

3 MR. SAVAGE: Not at the gas station, at the
4 apartment with the guy filling up. I just wanted to
5 clarify.

6 THE COURT: which directly refutes your
7 client's testimony that she felt threatened in some
8 way, or your representation that she felt threatened
9 in some way during opening argument.

10 It goes to show she is not under any duress
11 and that she's with them willingly.

12 MR. SOWELL: I don't know.

13 THE COURT: Where did you get it from?

14 MR. KIDD: It's been in evidence the whole
15 time.

16 THE COURT: That's not my question.

17 MR. SAVAGE: Off the defendant's cell phone.

18 THE COURT: They didn't give you access to her
19 telephone beforehand?

20 MR. SOWELL: They had it.

21 THE COURT: You all took it from her? How did
22 you get her phone?

23 MR. KIDD: When she was arrested.

24 MR. SAVAGE: He was given a copy of it.

25 MR. KIDD: It was taken into custody when she

1 was arrested.

2 THE COURT: You took the phone as the result
3 of an inventory search incident to arrest?

4 MR. KIDD: It was in her pocket when she was
5 arrested. And then we got a search warrant to get
6 the contents off the phone.

7 THE COURT: How long are we talking about?

8 MR. SAVAGE: Three minutes at the most.

9 THE COURT: Do you have any indication that
10 what is on there is not what they have represented to
11 me?

12 MR. SOWELL: I don't.

13 THE COURT: It goes directly to refute your
14 representation that your client was under some form
15 of duress by these individuals.

16 MR. SOWELL: I think it's totally not --

17 THE COURT: I can't hear you.

18 MR. SOWELL: I've never seen it.

19 THE COURT: Why didn't you all give it to him
20 beforehand?

21 MR. KIDD: I found it on Friday at about 3:00
22 p.m.

23 THE COURT: When did you give it to him?

24 MR. KIDD: When we got the disc on Tuesday
25 morning.

1 MR. SOWELL: Tuesday afternoon.

2 MR. SAVAGE: We told him about it beforehand.
3 The phone has been in evidence the whole time.

4 THE COURT: The remedy is to give you access
5 to the recording, not to exclude it. So my question
6 is do you want to watch it now? Is that what you are
7 asking?

8 MR. SOWELL: How long did you say?

9 MR. SAVAGE: Three minutes.

10 MR. SOWELL: Can I see it?

11 THE COURT: (Affirmative head shake.) Stand
12 back.

13 (In open court.)

14 THE COURT: Mr. Foreman, ladies and gentlemen,
15 I have a very brief matter of law to take up with the
16 attorneys. During the recess, please do not discuss
17 the case and please leave your notepads in your
18 seats.

19 (Whereupon, the jurors enter the courtroom.)

20 (Whereupon, a recess was taken.)

21 THE COURT: Is there any objection to the
22 admissability of the testimony?

23 MR. SOWELL: No, ma'am.

24 THE COURT: Bring in the jury.

25 MR. SAVAGE: Can we stipulate to it being

1 admitted?

2 THE COURT: Any objection to the admissability
3 of the tape, the recording?

4 MR. SOWELL: No, ma'am.

5 MR. SAVAGE: Thank you, Your Honor.

6 THE COURT: Marked and admitted. Give it to
7 Anne.

8 (Whereupon, State's Exhibit No. 40 is admitted
9 into evidence.)

10 THE COURT: Ready to proceed?

11 MR. KIDD: Yes, Your Honor.

12 THE COURT: Please bring in the jury.

13 (Whereupon, the jurors enter the courtroom.)

14 THE COURT: Ladies and gentlemen, we
15 appreciate your patience. We will now resume with
16 the testimony.

17 MR. SAVAGE: Thank you, Your Honor, may it
18 please the Court.

19 Q (By Mr. Savage) Ms. Bruster, while you were
20 at Miguel's car putting gas in it, where are the
21 three male codefendants?

22 A At the house.

23 Q What are they doing?

24 A I don't know exactly what they were doing.

25 Q What was the plan for them at this point?

1 A They were going to go inside and tape the man
2 up and get whatever they could.

3 MR. SOWELL: Your Honor, I couldn't understand
4 that.

5 THE COURT: Please repeat the answer, ma'am.

6 A They were going to go inside and tie the man
7 up and get whatever they could from the house.

8 Q (By Mr. Savage) Rob him?

9 A Yes, sir.

10 (Whereupon, the videotape is played.)

11 Q (By Mr. Savage) Who is that talking?

12 A Me and Sasha.

13 Q The defendant?

14 A Yes, sir.

15 (Whereupon, the videotape is played.)

16 Q (By Mr. Savage) All of that took place after
17 you had set up the victim with the phone call?

18 A Yes, sir.

19 Q What happens next?

20 A Miguel called and said that he was on his way.

21 Q Why was that recorded?

22 A By accident.

23 Q How by accident? How do you accidentally
24 record something?

25 A I guess from her phone has a side button or

1 something, I'm not sure.

2 Q Did Miguel come?

3 A Yes, sir.

4 Q How did he get there?

5 A He drove the person they were robbing's car.

6 Q How do you know it was the person's car?

7 A He told me.

8 Q Did you get in that car?

9 A Yes, sir.

10 MR. SAVAGE: May I approach?

11 THE COURT: You may.

12 Q (By Mr. Savage) Ms. Bruster, I'm showing you
13 what is State's 37. Do you recognize that?

14 A Yes, sir.

15 Q What is that?

16 A The car he came to pick us up in.

17 Q And that was the victim's car?

18 A Yes, sir.

19 Q All of you get in the car, all three of you?

20 A Miguel was already in the car, me and Sasha
21 got inside.

22 Q Say that again, please?

23 A Sasha and I got inside the car, Miguel was
24 already driving.

25 Q What's the plan now? Where do you go?

1 A He went to an ATM.

2 Q You say he went to the ATM. Did he go on his
3 own?

4 A Me and Sasha were in the car with him.

5 Q Okay. Why did he go to an ATM?

6 A He was going to try and get money out of the
7 guy's bank account.

8 Q Who?

9 A The guy's, the person they were robbing's bank
10 account?

11 A So he has his bank card?

12 A Yes, sir.

13 Q Do you go to the ATM?

14 A Yes, sir.

15 Q Tell me about what happens at the ATM?

16 A He couldn't get anything out.

17 Q What does he do?

18 A He goes to another ATM.

19 Q He goes?

20 A We go.

21 Q We go?

22 A Yes, sir.

23 Q In the same car?

24 A Yes, sir.

25 Q What happens at the second ATM?

1 A He gets some money out but it's not as much as
2 he thought he would be able to get out.

3 Q How much does he get out?

4 A He didn't tell us.

5 Q What happens next?

6 A He goes to another ATM.

7 Q What happens at that one?

8 A He tries to get some more money out and he is
9 successful.

10 Q Does anyone say anything to him as he's doing
11 this?

12 A Sasha told him to check the savings account.

13 Q Do you know whether he did?

14 A He did.

15 Q What happened when he did that?

16 A There was nothing in it.

17 Q Does he get back in the car?

18 A Yes, sir.

19 Q Who's driving?

20 A Miguel.

21 Q Where do you go from here?

22 A Back to the man's apartment.

23 Q And what happens when you get back to the
24 apartment?

25 A We go upstairs to his apartment.

1 Q Why?

2 A He didn't say exactly why. He just said, you
3 all come on, we are going upstairs.

4 Q Did he threaten you at all to go upstairs?

5 A No, sir.

6 Q Demand you to?

7 A No, sir.

8 Q Did you see him threaten the defendant?

9 A No, sir.

10 Q Did he show a weapon to you at any point, at
11 this point?

12 A No, sir.

13 Q Show a weapon to the defendant that you saw of
14 at this point?

15 A No.

16 Q What happens when you get back up to the
17 apartment?

18 A Me and Sasha stand in the foyer of the
19 apartment and he goes over to where Stephen and
20 Reggie are standing. And they're talking, I don't
21 know what they're talking about.

22 Q So you said the foyer of the apartment. You
23 go through the front door?

24 A Yes, sir.

25 Q So both of you are inside the apartment?

1 A Yes, sir.

2 Q What do you see?

3 A There is stuff like thrown everywhere in the
4 apartment.

5 Q Where is the victim?

6 A I didn't see him.

7 Q What are you guys talking about?

8 A We weren't talking about anything. Me and
9 Sasha were just standing there and the guys were
10 standing away from us so we couldn't hear what they
11 were talking about.

12 Q Okay. What do you do next?

13 A After standing there for a few minutes, Sasha,
14 Miguel and I leave.

15 Q And go where?

16 A Back to Miguel's apartment.

17 Q How do you get there?

18 A In the guy they were robbing.

19 Q The Mustang?

20 A Yes, sir.

21 Q Why did you go back to the Miguel's apartment?

22 A To get a different car.

23 Q Why?

24 A Because there was some things in the apartment
25 that they wanted, so --

1 Q That they wanted?

2 A Yes, sir.

3 Q You didn't want it?

4 A No, sir.

5 Q Do you get in the other car?

6 A Sir?

7 Q Do you get in the other car at Miguel's
8 apartment?

9 A Yes, sir.

10 Q Which car is that?

11 A It's a blue car. I don't know the make and
12 model of it.

13 Q Okay. Does Miguel get in that car with you?

14 A He was still in the Mustang.

15 Q Does anyone get in the car with you?

16 A Sasha does.

17 Q Did you ever say to Sasha at this point, I
18 want to leave, I want out?

19 A No, sir.

20 Q Did Sasha say anything to you?

21 A No, sir.

22 Q Did she ever say anything to you at this point
23 about being threatened by anyone?

24 A No, sir.

25 Q How do you get back to the apartment?

1 A I drive the blue car back to the apartment.

2 Q And what happens once you get back there?

3 A We sit outside in the parking lot.

4 Q Why?

5 A Because Miguel was going back upstairs to get

6 Stephen and Reggie.

7 Q Does he get them?

8 A Yes, sir.

9 Q Do they come back down?

10 A Yes, sir.

11 Q What happens when they were come back down?

12 A They were carrying like TVs and stuff from the
13 apartment.

14 Q Where do they put that stuff?

15 A In the car.

16 Q Did you go up into the apartment again?

17 A No, sir.

18 Q Does the defendant go up there again?

19 A No, sir.

20 Q So you don't carry anything down then?

21 A No, sir.

22 Q Defendant doesn't carry anything down?

23 A No, sir.

24 Q What happens once they load up the car?

25 A They get inside and we go back to Miguel's

1 apartment.

2 Q Who drives back there?

3 A I do.

4 Q What happens when you get back to Miguel's?

5 A They carry everything back into the house.

6 Q Did you carry anything?

7 A No, sir.

8 Q Did the defendant carry anything?

9 A Not that I recall.

10 Q What happens -- do you go inside?

11 A Yes, sir.

12 Q What happens when you go inside?

13 A They started dividing up what they wanted.

14 Q Who's wanting what? What is going on?

15 A Stephen wanted the TV. Miguel didn't want any
16 of the -- like I think he had like TVs and a Play
17 Station 3. I cannot remember what else was there,
18 but Stephen wanted the TV and Play Station 3. And I
19 don't recall what Miguel or Reggie wanted.

20 Q What did you want?

21 A Nothing.

22 Q What about the defendant?

23 A Nothing.

24 Q What happens now?

25 A I guess they were still having like an

1 adrenaline rush from the robbery. And Stephen and
2 Reggie say that they're going to take the guy's
3 credit card, because they had taken it from him, and
4 go to like a Walmart or something of that nature to
5 buy some more TVs.

6 Q Before they leave, do you guys discuss the
7 robbery at all?

8 A Yes, sir.

9 Q What do you discuss?

10 A They discussed how the guy reacted when he
11 realized they were robbing him.

12 Q What did they say? How did he react?

13 A They said like he was scared and he just threw
14 his hands up and said, you can take everything, I
15 just want my dog and I will leave.

16 Q What was their attitude towards that?

17 A They thought it was funny.

18 Q What did you think it was?

19 A I thought it was crazy because I would have
20 been scared too if someone was robbing me.

21 Q How did the defendant react?

22 A She really didn't say anything either.

23 Q What happens next?

24 A Stephen and Reggie leave the apartment. And
25 Sasha and Miguel and I stay there.

1 Q And what is the plan? What are you doing?

2 A We are just sitting there until they got back.

3 Q And do they get back?

4 A No, sir.

5 Q What happens?

6 A Sasha tries to call Stephen and he didn't
7 answer the phone. She keeps trying and he is not
8 answering. So she asked to use my phone to call him.
9 And when she does he answers and says, I'm in the
10 back of a police car.

11 Q Then what?

12 A Miguel panics and was like, put everything in
13 his closet.

14 Q Why is he panicking?

15 A Because he knew they were caught.

16 Q What is your reaction?

17 A I was scared too.

18 Q What about the defendant?

19 A She was scared as well.

20 Q What are you scared of?

21 A Getting in trouble.

22 Q By who?

23 A The police.

24 Q Did you put any stuff in the closet, hide any
25 stuff?

1 A No, sir.

2 Q Did the defendant?

3 A No, sir.

4 Q Only Miguel is touching the stuff?

5 A Yes, sir.

6 Q What happens next?

7 A Sasha and I ran outside to get into Miguel's
8 car.

9 Q Why?

10 A Because we were going to leave.

11 Q Did you leave?

12 A Yes, sir.

13 Q Did you do anything before you left?

14 A Well we sat in the car for a few minutes
15 because Miguel said that he was coming too. And he
16 finally came and got in the car and he was like, I
17 saw police don't leave yet.

18 So we sit there for a few minutes and he is
19 still saying, don't leave, don't drive in the car.
20 So Sasha calls one of our friends to come and pick us
21 up.

22 MR. SAVAGE: I apologize, I'm going to back up
23 just a little bit.

24 Your Honor, may I approach?

25 THE COURT: You may.

1 Q (By Mr. Savage) Ms. Bruster, I'm showing you
2 what is State's Exhibit 20 and 21. Do recognize
3 those?

4 A Yes, sir.

5 Q What are they?

6 A Exhibit 21 is some of the stuff that they got
7 out of the apartment. I think this is the stuff they
8 got out of the apartment on Friday.

9 Q Okay. And the other exhibit?

10 A It's the clothes and the samurai sword, the
11 bag and tape that they used during the robbery.

12 Q Where is that location?

13 A Where is what?

14 Q That photo, Exhibit 20?

15 A That looks like Miguel's room.

16 Q Okay.

17 Ms. Bruster, I'm putting Exhibit 20 up on the
18 screen behind you. Coming up in just a minute.

19 It's -- can you see that clearly? Do you need
20 to step back?

21 A I can see it.

22 Q Tell the jury what you are looking at here.
23 what do you see? What do you recognize?

24 A The black hoodie over here is the hoodie one
25 of the guys had on, I'm not sure which one. The

1 samurai sword is right there. And the tape that they
2 used during the robbery.

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

4 THE COURT: You may.

5 MR. SAVAGE: I apologize.

6 Q (By Mr. Savage) This is a laser pointer. If
7 you touch that top red button there's a little laser
8 there. Please point out to the jury what you are
9 seeing here.

10 A This is the hoodie, I'm not sure which guy had
11 it on. This is the samurai sword and the tape that
12 they used. And this is the black bag that they had
13 put the stuff in. These are the bandanas they had
14 on.

15 Q Near where I guess the sword is, the handle of
16 the sword, what is that, right near there? That
17 right there?

18 A Coke can.

19 Q Why is that there? Any significance to you?

20 A Because after we came back from the second
21 robbery Miguel told me that he had thrown a Coke can
22 out of the guy's car. So he said go back and pick it
23 up because he didn't want it to be traced back to
24 him.

25 Q Where you there when he went back and picked

1 it up?

2 A Yes, sir.

3 Q Who picked it up?

4 A I did.

5 Q Why did you pick it up?

6 A Because he told me to.

7 Q Okay, why?

8 A I don't know.

9 Q You don't know?

10 A I thought it was stupid but I did it.

11 Q Did you think that would link to the crime
12 somehow?

13 MR. SOWELL: Your Honor, leading.

14 THE COURT: Sustained, leading.

15 MR. SAVAGE: I will move on, Your Honor.

16 Q (By Mr. Savage) I'm now showing you Exhibit
17 21. Using the laser pointer, can you show the jury
18 what they are looking at?

19 A These are the TVs, speakers and things they
20 got out of the house.

21 Q Okay, thank you. Do you leave Miguel's
22 apartment that night?

23 A Yes, sir.

24 Q Who do you leave with?

25 A Sasha and I were in Miguel's car.

1 Q And do you leave with or without Miguel?

2 A He got into the car with the Lauren, and they
3 drove out of the complex and we did as well.

4 Q How did Lauren get there? What is her
5 involvement?

6 A We had called her to come and pick us up.

7 Q Who is we?

8 A Sasha and I.

9 Q Okay. How do you know Lauren?

10 A We go to school, College of Charleston
11 together.

12 Q She's a friend?

13 A Yes, sir.

14 Q So you call her?

15 A Yes, sir.

16 Q Roughly what time of day was this?

17 A It's really late night. I'm not sure of the
18 exact time.

19 Q So she comes?

20 A Yes, sir.

21 Q What happens when she comes?

22 A When she comes Miguel gets in the car with
23 her.

24 Q Where do you guys go from there?

25 A To a gas station.

1 Q Where does Miguel go?

2 A He was in the car with Lauren. They met us at
3 the gas station. And when we got to the gas station
4 Miguel got out of Lauren's car. Lauren drive off and
5 he gets back in the car with Sasha and I.

6 Q Who drives to the gas station in Miguel's car?

7 A Sasha was driving.

8 Q As you are going to the gas station, any phone
9 calls or any conversations with Lauren?

10 A No, sir.

11 Q Any conversation -- what are you and the
12 defendant talking about, Sasha?

13 A We were basically like panicking, scared, like
14 we can't believe that this is happening. We didn't
15 think that they were going to get caught.

16 Q Did you think you would get caught?

17 A No, sir.

18 Q What happens when you get to the gas station?

19 A Miguel gets out of Lauren's car. Lauren
20 drives off and Miguel gets in the car with me and
21 Sasha.

22 Q What happens next?

23 A Miguel drives back to the college of
24 Charleston campus.

25 Q What happens when you get to the campus?

1 A We were at the campus, we went back to my
2 room. Sasha was panicked. She was worried about
3 Stephen and she said that she needed to go look for
4 him.

5 So she was going to drive Miguel's car to go
6 around and find out where he was.

7 Q Does she do that?

8 A Yes, sir.

9 Q Where does Miguel go when you go back to your
10 dorm?

11 A He went with me.

12 Q Where does he stay that night?

13 A My dorm.

14 Q When you wake up the next day, where is
15 Miguel?

16 A My dorm.

17 Q At any point through that night does he
18 threaten you?

19 A No, sir.

20 Q What happens the next morning when you wake
21 up?

22 A I talked to some of my family members. I
23 tried calling Sasha and.

24 Q What are you talking to your family members
25 about?

1 A Just catching up, saying hey.

2 MR. SOWELL: I'm sorry.

3 THE COURT: Just catching up, saying hey.

4 Q (By Mr. Savage) Continue.

5 A And called Sasha. First she didn't answer.

6 Finally got her on the phone and.

7 Q Why are you calling her?

8 A To see what was happening, what was going on.

9 Q With what?

10 A With did she find GZ, did she know where he
11 was.

12 Q Tell me about that conversation?

13 A She said she hadn't found him, she didn't know
14 where he was. She had been driving around all night
15 looking for him.

16 Q Did she ever sleep anywhere that night or was
17 she driving around the whole night?

18 A She said she had been driving around all
19 night.

20 Q Okay. What happens next after get off the
21 telephone with her?

22 A Miguel talked to one of his teachers at his
23 school. He said he was supposed to have a conference
24 or something that day. And he told them that he
25 wasn't going to make it to the conference. Then

1 Sasha called his phone and told him to come outside.

2 Q So she called him?

3 A Yes, sir.

4 Q You say she said come outside. Was she
5 outside?

6 A Yes, sir.

7 Q Did you see her outside?

8 A I didn't see her.

9 Q But she calls him outside?

10 A Yes, sir.

11 Q How long is he outside there for?

12 A Maybe ten minutes.

13 Q Does he come back into the dorm after that?

14 A No, sir.

15 Q Did you talk to him after that?

16 A He called me and said that he had to go to the
17 Citadel, he was caught.

18 Q He was caught?

19 A Yes, sir.

20 Q What are you doing now then?

21 A Nothing. I started doing homework.

22 Q So Miguel is caught?

23 A Yes, sir.

24 Q You have just done two home invasions?

25 A Yes, sir.

1 Q And you are doing homework?

2 A Yes, sir.

3 Q Did you talk to the defendant?

4 A Yes, sir.

5 Q What are you talking about?

6 A She asked me to go to Columbia with her to try
7 to get money for GZ's bail.

8 Q Do you go?

9 A No, sir.

10 Q Why not?

11 A I didn't want to go to Columbia.

12 Q What happens next?

13 A She comes back and --

14 Q Comes back where?

15 A To my dorm, and picks me up.

16 Q Is she alone or is she with someone?

17 A She is alone.

18 Q So she picks you up?

19 A Yes, sir.

20 Q In what?

21 A Miguel's Nitro.

22 Q And so you get into the car?

23 A Yes, sir.

24 Q Where are you guys going?

25 A We were just driving around downtown

1 Charleston.

2 Q why?

3 A At first she said that she was going to like
4 clean the car out.

5 Q why?

6 A She didn't say. So I told her I wasn't
7 cleaning the car out, I wasn't going to do it.

8 Q why weren't you going to do it?

9 A I didn't want to. Wasn't my car. I wasn't
10 cleaning it out.

11 Q Okay. What happens next?

12 A So I told her I also wasn't going to be riding
13 around in that car because of everything that had
14 just happened. So we decided to park the car and
15 just get out of it.

16 Q You guys talking about the home invasions at
17 this point?

18 A No, sir.

19 Q So you park the car. What happens now?

20 A We walk back to my dorm.

21 Q Then what?

22 A She had got in contact with Stephen's dad and
23 he was making like plane arrangements to come to
24 Charleston to find out what was going on with him.
25 So we went to his dorm to like clean up the room

1 because her and Stephen had been staying there.

2 And we walked to one of our friend, Erica's
3 house.

4 Q What do you do at Erica's house?

5 A We hung out there for a little while, and then
6 Sasha said that she was going to the police station
7 to get her keys.

8 Q Does she go to the police station?

9 A Yes, sir.

10 Q Did you go with her?

11 A No, sir.

12 Q Did you have contact with her again that day?

13 A I text her.

14 Q About what?

15 A I text her like where are you, what is going
16 on. And she text me that she couldn't leave.

17 Q Couldn't leave where?

18 A The police station.

19 Q So she was -- was she arrested, do you know?

20 A At the time I didn't, no, sir.

21 Q You mentioned that Miguel had gotten money out
22 of the ATM on the second home invasion?

23 A Yes, sir.

24 Q What happened to that money?

25 A He gave some of it to Lauren for gas money.

1 He gave Sasha some gas money to ride around that
2 night to look for Stephen and to get clothes.

3 And when he left that morning when Sasha had
4 called him outside, he had left some of it in my room
5 with his other things.

6 Q So that was the morning after the second home
7 invasion?

8 A Yes.

9 Q How much did he leave you?

10 A He left \$120 on my desk.

11 Q And the rest was to the defendant, and some to
12 Lauren?

13 A Yes, sir.

14 Q At some point do you get arrested?

15 A Yes, sir.

16 Q When does that happen?

17 A March 16th I think it was.

18 Q What do you do with your portion of the money?

19 A I still had it when I was arrested.

20 Q Still had it?

21 A Yes, sir.

22 Q So let's talk a little bit about where did you
23 get arrested?

24 A I got arrested, I'm not sure the police
25 station, downtown.

1 Q Where did the police find you?

2 A They came to College of Charleston and asked
3 could I be questioned. I said yes. Then I went to
4 the police station.

5 Q About how long after the second home invasion
6 did this happen?

7 A Couple weeks.

8 Q Couple weeks?

9 A Yes, sir.

10 Q And were you arrested?

11 A Yes, sir.

12 Q Did you go to jail?

13 A Yes, sir.

14 Q When you were in jail was the defendant in
15 jail at the same time?

16 A Yes, sir.

17 Q Was she in the same jail as you?

18 A Yes, sir.

19 Q Did you ever see her in jail?

20 A Yes, sir.

21 Q Did you ever talk to her in jail?

22 A Yes, sir.

23 Q What did you talk about?

24 A She wrote me a letter talking about the
25 robberies and us being there.

1 Q Let's talk about that letter. How did that
2 happen? Did she give you a letter?

3 A Yes, sir.

4 Q Where did she give you that letter?

5 A She slid it under my door.

6 Q Under your door?

7 A Yes, sir.

8 Q Where were you?

9 A In the room.

10 Q Your jail cell?

11 A Yes, sir.

12 Q Tell me a little bit about the jail cell.

13 Could you see her on the other side?

14 A Yes.

15 Q How could you see her on the other side?

16 A It had a window.

17 Q You saw her through the window?

18 A Yes, sir.

19 Q Was she standing there with anyone or on her
20 own?

21 A On her own.

22 Q Could you hear her through there or was she
23 knocking, how does that work?

24 A I could hear her through the door.

25 Q A what is she telling you?

1 A She was just saying it's going to be okay, she
2 slid the letter under and she walked off.

3 Q Did you pick the letter up?

4 A Yes, sir.

5 Q Did she show you or wave the letter before she
6 slides it under there?

7 A Yes, sir.

8 Q So you see it in her hands?

9 A Yes, sir.

10 Q Then you pick it up?

11 A Yes, sir.

12 Q Straight away?

13 A Yes, sir.

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

15 THE COURT: You may.

16 Q (By Mr. Savage) Ms. Bruster, I'm showing you
17 what has been marked State's Exhibit 29. Do you
18 recognize that?

19 A Yes, sir.

20 Q What is that?

21 A The letter Sasha wrote me when I was in jail.

22 Q That day?

23 A Yes, sir.

24 MR. SAVAGE: Your Honor, state moves Exhibit

25 29.

1 THE COURT: Any objection?

2 MR. SOWELL: No, ma'am.

3 THE COURT: Marked and admitted without
4 objection.

5 (Whereupon, State's Exhibit No. 29 is admitted
6 into evidence.)

7 Q (By Mr. Savage) Ms. Bruster, I'm showing you
8 up on the screen behind you State's Exhibit 29.

9 MR. SAVAGE: Your Honor, may the witness leave
10 the stand and come down here?

11 THE COURT: Uh-hum.

12 Q (By Mr. Savage) Ms. Bruster, come stand
13 beside me, please. Can you read out loud what is
14 written on that letter?

15 MR. SOWELL: Your Honor, I think the document
16 speaks for itself. I object to this.

17 THE COURT: It can be published. She can read
18 it. She's not giving any commentary, she is simply
19 reading the words that were actually written, which
20 comes in the nature of an admission against interest.

21 Overruled. You may read the document.

22 Q (By Mr. Savage) Go ahead.

23 A It says: Do not talk to anyone, especially
24 the police, only your lawyer. They do not have shit
25 on you because you didn't do anything. Look, stay

1 strong. It took awhile for me too, but I made it.

2 Look, Jackie she's light skin and heavyset.
3 If you have anything, if you need anything, ask her
4 then she will ask me. Canteen comes every Thursday.
5 You have to order it before Sunday. Order your
6 charges and I hope you didn't talk to the cops, girl,
7 then you lying.

8 Do not believe shit they say. And you can
9 talk to your roommate, but don't shit about your case
10 because your roommate in here for killing a baby and
11 she will tell everything.

12 What did you say to your lawyer? I hope it
13 was a lawyer. What they say in bond hearing, I will
14 tell you more when you write back. But if you need
15 something like underwear or soap, something, let me
16 know.

17 And for references this shit can be beat. You
18 will come out of here with no charges on you, but I
19 believe I will have one. But you will be okay.
20 Don't stress or it will make your days here crazy. I
21 walk through, and I will get it tomorrow, WPB, please
22 write back.

23 Jackie will give you a paper and pencil, or
24 you can ask your roomie or something. These people
25 are snitches in here, girl, they will talk. It's a

1 black girl with a grill in here in her mouth, she is
2 cool to hang with and Jackie, but still don't say
3 nothing to anyone.

4 Also me and you can't be seen talking to each
5 other. That's why we have to get others to pass
6 notes and shit. But stay calm, okay. And also flush
7 every note that you get after you read it because
8 they can search your room at any time and it will
9 look good in court -- it will not look good in court.

10 I go from here Friday so we definitely have to
11 talk before Friday because they may put me in lockup.

12 Q Thank you, please take a seat.

13 At the bottom of State's 29 where it talks
14 about for reference this shit can be beat. How do
15 you interpret that?

16 A The charges --

17 MR. SOWELL: Your Honor, objection.

18 THE COURT: No interpretation. It speaks for
19 itself.

20 MR. SAVAGE: Okay, Your Honor.

21 Q (By Mr. Savage) why did you keep that note?

22 A Just to give to my lawyer. I didn't know what
23 to do with it exactly.

24 Q And you passed it on to your lawyer?

25 A Yes, sir.

1 MR. SOWELL: Your Honor, I object to leading,
2 Your Honor.

3 THE COURT: Sustained, leading.

4 MR. SAVAGE: I have nothing further, Your
5 Honor.

6 THE COURT: Any cross-examination of the
7 witness, you may proceed when you are ready.

8 MR. SOWELL: Thank you, Your Honor.

9 THE COURT: You're welcome.

10 CROSS-EXAMINATION

11 BY MR. SOWELL:

12 Q You said that Sasha wanted the coins?

13 A Yes, sir.

14 Q Do you remember your interview you had with
15 Detective Holmes, Dasher and Wagner?

16 A Yes, sir.

17 Q Did you tell them that Sasha wanted nothing?

18 A Not that I recall.

19 Q I will show you the transcript of that
20 interview. Ask you to read the bottom three lines.
21 Don't read it out loud, just read it to yourself.

22 Now I ask you again, did you tell the police
23 officers that Sasha wanted nothing?

24 A Not that I recall.

25 MR. SAVAGE: Your Honor, I object to the form.

1 THE COURT: Basis of the objection?

2 MR. SAVAGE: If he is going to impeach her, I
3 ask he impeach her in the proper manner. He was
4 trying to use the transcript.

5 THE COURT: No speaking objections.

6 MR. SOWELL: Your Honor.

7 THE COURT: Rephrase the question, please.

8 Q (By Mr. Sowell) Did you tell the police
9 officer that Sasha wanted nothing?

10 A I might have. I don't remember my exact words
11 during the interview.

12 Q Well do you remember you saying something that
13 sounded like she wants nothing?

14 A Not I recall.

15 Q Now what do you mean by not that you recall,
16 is that a yes or a no?

17 A No.

18 MR. SAVAGE: Objection, argumentative.

19 THE COURT: Please restate the question.

20 Q (By Mr. Sowell) You said, not that I recall.
21 Is that one of those things, like, well you can't
22 catch me just so I can say no?

23 MR. SAVAGE: Objection.

24 THE COURT: Sustained, argumentative.
25 Rephrase the question.

1 Q (By Mr. Sowell) Do you know that we have
2 tapes of that interview?

3 A Yes, sir.

4 Q Do you know we are going to look at them?

5 A Yes, sir.

6 Q Now what is your response going to show on
7 that tape when the officer said, what did Sasha want,
8 and you said nothing?

9 A I don't remember what I said in the interview
10 word for word. I might have said that, I'm not sure.

11 Q But you do remember the conversation you had
12 with the police officers?

13 A Yes, sir.

14 Q You do know it was taped?

15 A Yes, sir.

16 Q You do know we have a copy of it?

17 MR. SAVAGE: Asked and answered.

18 THE COURT: Overruled.

19 A Excuse me?

20 Q (By Mr. Sowell) You know we have a copy of
21 it?

22 A Yes, sir.

23 Q You know we are going to look at it?

24 A Yes, sir.

25 Q You know what perjury means?

1 A Yes, sir.

2 Q And do you know what the penalty is for
3 burglary?

4 A Excuse me?

5 Q Do you know what the penalty is for burglary?

6 A Yes, sir.

7 MR. SAVAGE: Objection, vague.

8 THE COURT: Overruled.

9 Q (By Mr. Sowell) And you told this Court that
10 you worked out a deal where you won't get charged for
11 the burglaries?

12 A Yes, sir.

13 Q You will also get the minimum charge for armed
14 robbery?

15 A Yes, sir.

16 Q That's only if you play their game.

17 MR. SAVAGE: Objection, misstating the facts
18 in evidence.

19 THE COURT: Overruled, give him some latitude
20 on credibility.

21 Q (By Mr. Sowell) You understand that if you
22 don't testify the way they want you to, they're going
23 to revoke any agreement that you have for leniency?

24 A Yes, sir.

25 Q You understand that if you were to testify

1 that sasha was threatened, then you would be subject
2 to a full burglary charge and sentence and wouldn't
3 get this light sentence that you worked out. Do you
4 understand that?

5 A Yes, sir.

6 Q You know that you can't testify that sasha was
7 threatened?

8 A Yes, sir.

9 Q You were kind of hesitant about that answer.
10 Do you understand if you stand up here and tell the
11 jury that sasha was threatened, that's the reason she
12 acted the way she did, out of fear, then your
13 agreement with the solicitor's office for lenient
14 sentence would be voided?

15 MR. SAVAGE: Objection, form.

16 THE COURT: Overruled.

17 MR. SAVAGE: Compound.

18 THE COURT: Overruled.

19 Q (By Mr. Sowell) Do you understand that?

20 A Yes, sir.

21 Q So no matter what happens you can't change
22 your story, can you?

23 A No, sir.

24 Q And you were -- you were asked who Miguel
25 Starns (sic) is and you said, he is a friend of

1 Sasha's; is that correct?

2 A He is a friend of Stephen's.

3 Q Pardon me?

4 A Stephen, Sasha boyfriend.

5 Q Well you were his girlfriend, weren't you?

6 A No, sir.

7 Q He was telling everybody you were his
8 girlfriend, wasn't he?

9 MR. SAVAGE: Objection.

10 THE COURT: Basis?

11 MR. SAVAGE: Pitting, Your Honor.

12 THE COURT: That wasn't his testimony so it's
13 not pitting. And he is not asking her to comment on
14 his veracity. He was asking about her present sense
15 impression, and when she was present and what he may
16 have said.

17 You may answer the question to the best of
18 your knowledge.

19 A Can you ask the question again, please?

20 Q (By Mr. Sowell) Were you there when he told
21 the police officers that you were his girlfriend?

22 A No, sir.

23 Q You were sleeping with him, weren't you?

24 A I did.

25 Q How many nights?

1 A One.

2 Q One?

3 A Yes, sir.

4 Q Didn't you sleep with him on Thursday night?

5 A That's one night.

6 Q Pardon me?

7 A Yes, sir, that's one night.

8 Q Didn't you sleep with him on Friday night?

9 A We slept in the same room, yes.

10 Q So I ask you again, didn't you sleep with him
11 on two nights?

12 A Yes, sir.

13 Q And when are you going to tell us the truth
14 and when are you going to tell us a lie?

15 MR. SAVAGE: Objection, argumentative.

16 THE COURT: Ask a question, sustained.

17 Q (By Mr. Sowell) How do we know when you are
18 lying and when you are telling the truth?

19 MR. SAVAGE: Objection.

20 THE COURT: Sustained, rephrase.

21 Q (By Mr. Sowell) How do we know when your
22 telling the truth and when you are lying?

23 MR. SAVAGE: Objection.

24 THE COURT: Sustained. Ask a question, Mr.

25 Sowell.

1 Q (By Mr. Sowell) When I asked you were you
2 sleeping with him and you said, yes, only on one
3 night. The truth of the matter is it was two nights,
4 wasn't it?

5 A Yes, sir.

6 Q The second is the fourth night you ever knew
7 him?

8 A Yes, sir.

9 Q Were you trying to protect him?

10 A No, sir.

11 Q You said that Stephen and Ms. Gaskins changed
12 clothes to go to a party?

13 A Yes, sir.

14 Q Were they going to a party?

15 A They were supposed to be going to a party,
16 yes, sir.

17 Q Pardon me?

18 A They were supposed to be going to a party,
19 yes, sir.

20 Q Were you invited to it also?

21 A Yes, sir.

22 Q So you were invited also then?

23 A I was not going to the party.

24 Q What were you going to do?

25 A Go back to my dorm.

1 Q Why did you go for a ride in the car with them
2 if you were going back to your room?

3 A Because we were going to go get something to
4 eat before they went to the party.

5 Q But the change of clothes was getting ready
6 for the party?

7 A Yes, sir.

8 Q Now did Miguel's mother call you?

9 A Yes, sir.

10 Q And did you discuss bullets in his car?

11 A She did ask me if I had seen bullets in his
12 car.

13 Q Did she ask you to remove them from the car?

14 A Yes, she did.

15 Q Did she tell you that she removed the guns
16 from his mattress?

17 MR. SAVAGE: Objection, hearsay.

18 THE COURT: Rephrase the question.

19 Q (By Mr. Sowell) Did she tell you anything
20 about her removing the guns from his mattress?

21 MR. SAVAGE: Objection hearsay.

22 THE COURT: Overruled, statement of a
23 coconspirator.

24 Ma'am, you may answer the question to the best
25 of your knowledge.

1 MR. SAVAGE: Your Honor, may we approach?

2 THE COURT: You may.

3 (Whereupon, the following conversation was
4 held at the bench.)

5 MR. SAVAGE: The mother is not a
6 coconspirator.

7 THE COURT: You're asking about what his
8 mother said to her?

9 MR. SOWELL: Uh-hum.

10 THE COURT: No, that's hearsay. I'm sorry, I
11 misunderstood the question.

12 MR. SOWELL: I can't ask her about the phone
13 call?

14 THE COURT: You can ask her yes or no, but she
15 can't say what his mother may have said to her. You
16 need to phrase it in a way that she can answer yes or
17 not, otherwise it's hearsay.

18 (In open court.)

19 THE COURT: Proceed.

20 Q (By Mr. Sowell) Did she tell you about her
21 removing the guns from his mattress?

22 A No, sir.

23 Q But she did tell you to dispose of the
24 bullets?

25 A Yes, sir.

1 Q Did she tell you why she wanted that done?

2 A No, sir.

3 Q Did you dispose of the bullets?

4 A No, sir.

5 Q Did you ever see the bullets?

6 A No, sir.

7 Q Do you know what happened to the bullets?

8 A No, sir.

9 Q When did she ask you about disposing of the
10 bullets?

11 A Saturday afternoon.

12 Q So she immediately knew there was an issue of
13 guns and bullets?

14 MR. SAVAGE: Objection.

15 THE COURT: Basis?

16 MR. SAVAGE: Hearsay.

17 THE COURT: Actually it's speculation and
18 foundation because it's not based on her present
19 sense impression. If you want to ask a question, you
20 need to lay the foundation, Mr. Sowell.

21 Q (By Mr. Sowell) He was arrested Saturday
22 morning; is that correct?

23 A Yes, sir.

24 Q And within a short time his mother called you
25 and said get rid of the bullets; is that correct?

1 A It was a few hours, yes, sir.

2 Q What time did she call you?

3 A I don't know the exact time. It was shortly
4 after he was arrested, or he left.

5 Q Shortly after he was arrested?

6 A After he left from where I was. I'm not sure
7 exactly when he was arrested.

8 Q Isn't that exactly what I asked you and you
9 denied that?

10 MR. SAVAGE: Objection, argumentative.

11 THE COURT: Sustained, rephrase.

12 Q (By Mr. Sowell) Didn't I ask you, did she
13 call you shortly after he was arrested, you said it
14 was a long time later?

15 MR. SAVAGE: Objection, argumentative.

16 THE COURT: Sustained. You can't pit yourself
17 against a witness. You need to rephrase the
18 question.

19 Q (By Mr. Sowell) Did she call you a short time
20 after he was arrested and ask you to get rid of the
21 bullets?

22 MR. SAVAGE: Objection, asked and answered.

23 THE COURT: Overruled.

24 A She said something about the bullets a few
25 hours after he had left from where I was.

1 Q (By Mr. Sowell) Do you know if she called a
2 short time after he was arrested?

3 A Yes, sir.

4 Q What would that answer be?

5 MR. SAVAGE: Objection, argumentative.

6 THE COURT: Overruled.

7 A Can you rephrase the question, please.

8 THE COURT: Rephrase, Mr. Sowell. I don't
9 think she understands the question.

10 Q (By Mr. Sowell) Did she call within a short
11 time after he was arrested and ask you to get rid of
12 the bullets?

13 MR. SAVAGE: Objection, asked and answered.

14 THE COURT: Overruled.

15 MR. SOWELL: If she'd answer I'd quit asking
16 it.

17 THE COURT: Do not direct any comments to
18 counsel.

19 Ma'am, you may answer the question.

20 A Yes, sir.

21 Q (By Mr. Sowell) Did she tell you why she was
22 adamant those bullets had to be disposed of?

23 MR. SAVAGE: Objection, hearsay.

24 THE COURT: Please restate the question.

25 Q (By Mr. Sowell) Did she explain that she

1 wanted the bullets removed and why?

2 THE COURT: Overruled. Ma'am, you can answer
3 the question yes or no but you cannot repeat what
4 someone said to you. You can say what you did as a
5 result of the conversation.

6 Do you understand the question?

7 THE WITNESS: No, ma'am.

8 THE COURT: Please restate question for the
9 witness.

10 Q (By Mr. Sowell) Did she explain to you why
11 she wanted those bullets removed?

12 A No.

13 Q Did you understand the importance of those
14 bullets?

15 A No.

16 Q And you don't think that the fact that he had
17 bullets in his car had any impacts on his arrest?

18 A It might have. I'm not sure.

19 Q And you are an A student at Coastal Carolina?

20 A USC upstate.

21 Q Okay. But you can't tell me the importance of
22 those -- of someone charged with these crimes having
23 bullets in their car?

24 MR. SAVAGE: Objection, argumentative.

25 THE COURT: Rephrase the question, please.

1 Q (By Mr. Sowell) Can you explain why you think
2 it was important to remove those bullets?

3 A No.

4 Q Did you think that by removing those bullets
5 you could be charged with accessory after the fact of
6 a crime?

7 A I never went back to the car.

8 Q That's not what I asked you.

9 A Can you ask the question again, please?

10 Q Did you think that by removing those bullets
11 you could be charged as accessory after the fact of a
12 crime?

13 A No, sir.

14 Q What is your major?

15 A Accounting.

16 Q And you said that you were asked if you wanted
17 to go with them, and you didn't have any idea where
18 they were going, you just had a choice on staying in
19 the apartment or going somewhere with them?

20 A Yes, sir.

21 Q Didn't know where they were going?

22 A No, sir.

23 Q Although you've testified they made these
24 plans in front of you?

25 A Not at that time.

1 Q There was no discussion about the plan until
2 you got to Herb's house; is that correct?

3 A Correct.

4 Q So if someone else testified that you all
5 planned at Kickin' Chicken and back at Miguel's, they
6 were wrong?

7 MR. SAVAGE: Objection, Your Honor.

8 THE COURT: Sustained. Speculation unless you
9 can lay the appropriate foundation.

10 Q (By Mr. Sowell) And you said that when you
11 pulled up and they got out of the car to go into
12 Herb's, that Miguel opened the trunk and got a bag
13 out of it; is that correct?

14 A When he got the bag out of the car it wasn't
15 the same time that everybody else got out of the car,
16 no, sir.

17 Q So when did he open the trunk and get the bag
18 out of the car?

19 A When he -- the second time he drove past his
20 house.

21 Q I'm sorry?

22 A The second time he drove past his house.

23 Q So they were on Herb's street, who stopped the
24 car? Who was driving?

25 A Miguel.

1 Q He stopped, went back to the trunk and got
2 something out of the trunk?

3 A Yes, sir.

4 Q The bag?

5 A Yes, sir.

6 Q Containing the guns and the tape?

7 A Yes, sir.

8 Q How do you know that?

9 A I saw him with the bag.

10 Q Pardon me?

11 A I saw him with the bag.

12 Q Did you see inside the bag?

13 A No, sir.

14 Q So do you know the guns and tapes, or how do
15 you know was in it?

16 A I later found out what was in the bag.

17 Q So he got out of the trunk, took the bag, got
18 back in the car?

19 A Yes, sir.

20 Q Now you weren't here earlier when he said he
21 had it on the floorboard all the time.

22 MR. SAVAGE: Objection, Your Honor.

23 THE COURT: Basis?

24 MR. SAVAGE: Pitting.

25 THE COURT: Sustained. You've asked her to

1 comment on what someone else said. You may rephrase
2 the question.

3 Q (By Mr. Sowell) Another question, the bag was
4 in the car until the second trip in front of Herb's
5 house. Miguel got out of the car, opened the trunk,
6 took the bag, got back in the car?

7 A Yes, sir.

8 Q Okay. And when you -- you didn't know what
9 was going on until when?

10 A They bring it out of the house.

11 Q How did you know they weren't joking?

12 A How did I know what?

13 Q Joking?

14 A They could have been.

15 Q If they had been trying to play a joke on
16 Herb, would they have acted any way differently?

17 A I'm not sure.

18 Q So you weren't sure if they were joking or
19 were really going to do a robbery, did you?

20 A No, sir.

21 Q After -- who was driving when the three of
22 them get out of the car?

23 A Miguel was driving up until they got out of
24 the car, and then Stephen drove.

25 Q Are you saying Miguel was driving until he

1 stopped the car and then Miguel, Reggie and Ms.
2 Gaskins got out of the car at that time?

3 A Yes, sir.

4 Q So Miguel drove to Herb's?

5 A Yes.

6 Q And he drove until he got out of the car and
7 went into Herb's house?

8 A Yes, sir.

9 Q You sure about that?

10 A Yes.

11 Q Now then you, and who was it that drove around
12 the neighborhood?

13 A Stephen.

14 Q Who was driving?

15 A Stephen.

16 Q And when Sasha came back to the car she said,
17 this is crazy, they just robbed somebody. Is that
18 what you said?

19 A I don't recall those being her exact words.

20 Q Didn't you say Ms. Gaskins was walking down
21 the road, she got in the car, she said, this was
22 crazy, the girl opened the door they charged in and
23 robbed them. Isn't that what you said?

24 A Verbatim, yes, sir.

25 Q So when she got back she said, this is crazy,

1 they just robbed somebody, what is going on here. Is
2 that what she said?

3 A Yes.

4 Q So she didn't know it was a robbery until
5 after they charged in the house, did she?

6 A I think she knew before.

7 Q How do you think that?

8 A Because they told her to go knock on the door
9 and say that she had car trouble so that they can get
10 inside the house.

11 Q But when she came back to you she said, this
12 is crazy, they are really robbing those people.
13 Didn't she say that?

14 A Verbatim, yes, sir.

15 Q So she is going along with the joke. She goes
16 knocks on the door like the plan was. She comes back
17 to the car and says, hey, this is crazy, they really
18 robbed that guy?

19 MR. SAVAGE: Objection, Your Honor, asked and
20 answered.

21 THE COURT: Overruled.

22 Q (By Mr. Sowell) Is that what happened?

23 A Yes, sir.

24 Q Now did you say that Ms. Gaskins wanted
25 nothing from these robberies?

1 A She wanted the coins from the first robbery.

2 Q But you told the police she wanted nothing,
3 didn't you?

4 A Not that I recall.

5 Q Transcript says you did.

6 MR. SAVAGE: objection, Your Honor.

7 THE COURT: Give her the opportunity to say
8 yes or no, then allow her to use it to refresh her
9 memory if you have something you want her to look at.

10 Q (By Mr. Sowell) Does the transcript show that
11 you said --

12 MR. SAVAGE: objection.

13 THE COURT: You have to show it to her and
14 give her the opportunity to refresh her recollection
15 and then ask her the question again.

16 MR. SAVAGE: Your Honor, may we approach?

17 THE COURT: Uh-hum.

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

20 MR. SAVAGE: He has got to ask a question
21 first.

22 THE COURT: He already asked a question. She
23 said I don't recall, not to the best of my knowledge.

24 MR. SAVAGE: Okay.

25 (In open court.).

1 Q (By Mr. Sowell) Bottom three lines. Does the
2 transcript say, what did Sasha want anything? And
3 you said --

4 MR. SAVAGE: Your Honor, she is reading.

5 THE COURT: Allow her to use it to refresh her
6 memory. And then ask the question again.

7 Q (By Mr. Sowell) Now does the transcript say
8 you told the police --

9 MR. SAVAGE: Your Honor --

10 THE COURT: That's not the way to phrase the
11 question, Mr. Sowell. She's already answered the
12 question, allow her to use it refresh her memory.
13 And then you can question her again. And ask her if
14 that refreshes her memory.

15 Q (By Mr. Sowell) Does that refresh your
16 memory?

17 A No, sir.

18 Q Now you said that they received \$200; Miguel
19 got \$200 out of Herb's ATM machine; is that correct?

20 A No, sir.

21 Q How much did he get?

22 A He didn't get anything out of Herb's. From
23 the first robbery, he didn't get anything from the
24 ATM.

25 Q What money did he get from the ATM machine?

1 A From the second robbery.

2 Q How much did he get from that?

3 A 200-something dollars.

4 Q How much?

5 A 200-something. I don't recall exactly how
6 much it was. It was 2-something.

7 Q And I believe you said that he gave \$40 to
8 Lauren's boyfriend?

9 A Uh-hum.

10 Q How much did he give to you?

11 A He left \$120 on my desk.

12 Q You said he gave Sasha how much?

13 A I don't remember the exact amount he gave
14 Sasha. She asked him for money to get clothes and
15 gas, and he handed her money. What was left on my
16 desk after that was \$120.

17 Q Now truth of the matter is that Miguel gave
18 you \$124, didn't he?

19 MR. SAVAGE: Objection, argumentative.

20 THE COURT: Please restate the question.

21 Q (By Mr. Sowell) Did you tell the police
22 officers that Miguel gave you \$124?

23 A 120. 120.

24 Q I will show you that same transcript, page 89.
25 Ask you to read this to yourself.

1 What was your response to him when he said,
2 what did he give you?

3 MR. SAVAGE: Objection, Your Honor.

4 THE COURT: Basis?

5 MR. SAVAGE: He is reading from the transcript
6 again. Is there a question? He's asked a question.

7 THE COURT: He asked a question, she said
8 something different. He has asked her to refresh her
9 memory. He can ask her a followup question.

10 Ask the question, Mr. Sowell.

11 Q (By Mr. Sowell) Now do you remember he gave
12 you \$124?

13 A Yes, sir.

14 Q How do you know it was \$124? Did you count
15 it?

16 A No, sir.

17 Q Who did?

18 A Sasha counted it.

19 Q Sasha counted it. And did you keep \$124?

20 A Sasha took 60.

21 Q Although you told the police officers she
22 didn't want anything; is that correct?

23 A According to the transcript, not that I
24 recall.

25 Q You said that Sasha wanted coins. What

1 happened to the coins you claim she wanted?

2 A Well when we went to clean up Stephen's room
3 when his dad was supposed to be coming, they were in
4 there.

5 Q Pardon me?

6 A The coin were in the room.

7 Q Did Sasha get them?

8 A They were in the room that her and Stephen
9 lived in, so I'm not sure if her or Stephen got the
10 coins but they were in the room.

11 Q So you're saying that the coins that you are
12 talking about were in her room?

13 A Yes.

14 Q Which room?

15 A The one that her and Stephen lived in on
16 campus.

17 Q You mean Stephen's room?

18 A Yes.

19 Q Sasha had her own room, didn't she?

20 A She didn't live in her room on campus.

21 Q Did she live there part-time?

22 A No, sir.

23 Q How often was she at his house?

24 A Every day.

25 Q Pardon?

1 A Every day.

2 Q How many days a week did you see her?

3 A I didn't see her every day in a week.

4 Q So you are telling this jury just guesses
5 then, aren't you?

6 A It's not a guess.

7 Q You are telling them what you want them to
8 believe even though it's not the truth, aren't you?

9 MR. SAVAGE: Objection, argumentative.

10 THE COURT: I'll give him a little latitude,
11 overruled.

12 A Can you ask the question again, please?

13 THE COURT: Please restate the question, Mr.
14 Sowell.

15 Q (By Mr. Sowell) You told the police officers
16 -- you told this jury what you want them to believe
17 although you have no proof or no evidence that that's
18 true, aren't you?

19 MR. SAVAGE: Objection.

20 THE COURT: Sustained. That's very
21 convoluted, Mr. Sowell. Please restate the question
22 so that the witness can understand it.

23 Q (By Mr. Sowell) Did you know how often she
24 stayed at Stephen's house?

25 A Yes.

1 Q How do you know that?

2 A Because she had taken everything out of her
3 dorm and moved it to his dorm.

4 Q Why would she ever go back to her dorm then?

5 A Because she wanted to stay with her boyfriend.

6 Q But why would she ever go back to her dorm if
7 she had nothing in it?

8 A She didn't go back to her dorm.

9 Q She didn't?

10 A No.

11 Q You didn't meet her at her dorm?

12 A No.

13 Q Now after you met Stephen, you went back to
14 your dorm, and sometime later Miguel came and picked
15 you up; is that correct?

16 A I never met Stephen.

17 Q I'm sorry Miguel.

18 A Yes, sir.

19 Q And Miguel was living there on campus?

20 A Miguel went to the Citadel. He did not live
21 on the College of Charleston campus.

22 Q But you met him and then you -- was there any
23 time after you met him that Stephanie (sic) was not
24 in your presence until Saturday?

25 A Are you talking about Sasha?

1 Q No. Was there any time, from the time you met
2 him until Saturday afternoon, that you were not with
3 him?

4 MR. SAVAGE: Objection, vague.

5 THE COURT: Basis. Please restate the
6 question.

7 Q (By Mr. Sowell) Was there any time from when
8 you first met him until four days later on Saturday
9 that you were not with Miguel?

10 A Yes.

11 Q Was there any time in that period of time when
12 Sasha was not with you?

13 A Yes, sir.

14 Q Okay. So you don't know what interaction
15 Sasha and Miguel had from the time you met him until
16 Saturday afternoon?

17 A No, sir.

18 Q You don't know if they were ever alone; is
19 that correct?

20 A Correct.

21 Q You don't know if he told her things that you
22 don't know about?

23 A Correct.

24 Q And you don't know if he threatened her or you
25 don't know anything he did in interaction with her

1 except when you were with him, do you?

2 A Correct.

3 Q So one night you stay with Miguel at his
4 place, and one night he stayed with you at your
5 place?

6 A Correct.

7 Q You all were having a sexual relationship?

8 A We did.

9 Q Now this note that Sasha left under your door,
10 I will hand this back to you. This is a duplicate to
11 what you saw up there.

12 Show me where on that note she says she's
13 guilty of anything.

14 MR. SAVAGE: Your Honor, if he is going to
15 refer to the actual exhibit, can he use the exhibit?

16 THE COURT: He gave it to her.

17 MR. SAVAGE: He is using a duplicate. The
18 exhibit is up there.

19 THE COURT: Can you give her the actual
20 exhibit?

21 MR. SOWELL: Your Honor, the copy I have is
22 much more readable.

23 THE COURT: Whichever one is more legible.

24 MR. SAVAGE: My only concern about it -- may
25 we approach, Your Honor?

1 MR. SOWELL: I don't mind giving her the
2 original. They're exactly the same.

3 MR. SAVAGE: Okay.

4 Q (By Mr. Sowell) Now show me where in that she
5 says she's guilty of anything?

6 A It doesn't say specifically that she's guilty
7 of anything.

8 Q Show me where in this she says you are guilty
9 of anything?

10 A It doesn't.

11 Q And show me where she has encouraged you to
12 keep a stiff upper lip, it's all going to work out?

13 A She says, you will come out of here with no
14 charges, but I believe I will have one.

15 Q Okay. So she believes the police officers are
16 going to charge her?

17 MR. SAVAGE: Objection.

18 THE COURT: Basis?

19 MR. SAVAGE: It's not what the note says. He
20 is asking about the note.

21 THE COURT: That's exactly what the note says,
22 overruled.

23 MR. SAVAGE: Doesn't say police officers.

24 THE COURT: That's not the question.

25 MR. SAVAGE: That's what was just stated.

1 THE COURT: It is an appropriate inference
2 that can be drawn from the note. Overruled.

3 MR. SAVAGE: Thank you very much.

4 Q (By Mr. Sowell) Was she trying to make you
5 feel more comfortable?

6 A Excuse me?

7 Q Was she trying to make you feel less worried?

8 A Yes.

9 Q Was she trying to warn you that you can't
10 trust the police officers?

11 A Yes.

12 Q Was she trying to warn you that you can't
13 trust these jailhouse snitches, they will say
14 anything just to get a favor from the solicitor?

15 A Yes.

16 Q You know what a jailhouse snitch is?

17 A No, sir.

18 Q You heard people who are in jail with
19 somebody, they'll go to the solicitor's office,
20 whether it's true or not, and say, listen, I can
21 testify about this woman what she admitted to me if
22 you will give me a better deal on my sentence.

23 MR. SAVAGE: Objection, Your Honor.

24 THE COURT: Sustained. Rephrase. Put it in
25 the form of a question.

1 Q (By Mr. Sowell) You understand that a
2 jailhouse snitch is some roommate who works out a
3 deal with the solicitor's office to get a lower
4 sentence by telling lies about something they heard
5 in jail.

6 MR. SAVAGE: Objection, Your Honor.

7 THE COURT: You need to make it into a
8 question, Mr. Sowell.

9 MR. SOWELL: I asked her did she understand
10 that.

11 THE COURT: You didn't put it in the form of a
12 question. You need to put, isn't that correct or
13 isn't that true at the end of your sentence.

14 Okay, thank you, rephrase.

15 Q (By Mr. Sowell) Do you know what a jailhouse
16 snitch is?

17 A Yes.

18 Q Okay. Tell me what a jailhouse snitch is?

19 A Someone who is in jail and basically tells a
20 corrections officer, or someone of other source, what
21 their roommate told them about their crime.

22 Q And do these jailhouse snitches quite often
23 lie about what they heard?

24 A I'm not sure what anyone else does.

25 Q And they tell these things so they'll get a

1 better sentencing agreement; is that correct?

2 A I'm not sure what anyone else does.

3 Q Is that what you are?

4 MR. SAVAGE: Objection, argumentive.

5 THE COURT: Overruled. You may answer the
6 question.

7 A No.

8 Q (By Mr. Sowell) Did you come up here and tell
9 this jury what you just told them because you worked
10 out a deal with the solicitor's office, if you tell
11 them that they will give you a low sentence?

12 A No.

13 Q That's the first thing you testified to when
14 you got here today.

15 MR. SAVAGE: Objection, Your Honor.

16 THE COURT: Put it in the form of a question,
17 Mr. Sowell.

18 Q (By Mr. Sowell) Isn't that the first thing
19 you told this jury when you sat down there today?

20 A Can you ask the question again, please?

21 Q Didn't you work out a deal with the
22 solicitor's office that you'll come up here and
23 testify against Sasha, you'll get a much better deal
24 and much better sentence?

25 A No. I pled guilty to two armed robbery

1 charges.

2 Q What was your agreement with the sentence?

3 A In order to not go to trial, I'd plead guilty
4 to two armed robbery charges.

5 Q And what was your agreement with the
6 solicitor's office? You can remember, this is the
7 first thing you told the jury.

8 MR. SAVAGE: Objection, argumentative.

9 THE COURT: Overruled.

10 Q (By Mr. Sowell) One of the very first things
11 you told this jury was that I worked out a deal with
12 the solicitor's office, if I come testify for them
13 I'll get a low sentence. Isn't that the first thing
14 you told this jury?

15 A The minimum sentence to two armed robbery
16 charges is ten years. So that's not necessarily a
17 low sentence.

18 Q Did you tell this jury that you have worked
19 out a deal with the solicitor's office that if you
20 testify against Sasha you will get a low sentence?

21 THE COURT: You need to rephrase that
22 question, Mr. Sowell, and put it in the context of
23 what the statute requires. It's misleading the way
24 you're asking it. The minimum mandatory is ten years
25 which cannot be suspended. So I need you to rephrase

1 the question.

2 Q (By Mr. Sowell) Did you tell this jury that
3 you worked out a deal with the solicitor's office?

4 A I told them I pled guilty to two armed robbery
5 charges.

6 Q Did you tell this jury that the deal was you
7 would get a minimum sentence for armed robbery if you
8 testified against Sasha?

9 MR. SAVAGE: Objection, Your Honor.

10 THE COURT: Overruled.

11 Ma'am, you may answer the question to the best
12 of your knowledge.

13 A That's not -- it would be recommended, that's
14 not necessarily what I would get.

15 Q But you told this jury you worked out a deal
16 and you will get the low sentence, didn't you?

17 A It will be a recommendation made.

18 Q Now didn't Sasha in the letter to you tell you
19 to be careful of jailhouse snitch because they'll lie
20 in order to get a low sentence with a prosecutor?

21 A That's not what she said in the letter
22 exactly, no.

23 Q Not exactly, but that's what she said, isn't
24 it?

25 MR. SAVAGE: Objection, Your Honor.

1 Mischaracterizing the evidence.

2 THE COURT: Overruled. Let him finish the
3 question.

4 Q (By Mr. Sowell) Did you understand that was
5 what her warning was?

6 A Sure.

7 Q That's exactly what you did, what she warned
8 you about?

9 A No, sir.

10 Q Did you work out a deal with the solicitor
11 that you get a minimum sentence if you'll plead the
12 way they wanted you to against Sasha?

13 A Not against Sasha, no.

14 Q Okay. When you got up here and you testified
15 against the defendant, you testified against her the
16 way they want you to, you'll get the minimum
17 sentence. Is that the deal? Was that it?

18 A Not the way they wanted me to, no.

19 Q Your exact words with the police officer was,
20 in order to get help from us you have to cooperate.
21 Those are his exact words to you, wasn't it?

22 A Not that I recall.

23 Q You remember that interview with those
24 officers?

25 A The interview was a year ago. I do not

1 remember the interview.

2 Q What do you remember then?

3 MR. SAVAGE: Objection, Your Honor.

4 THE COURT: Basis?

5 MR. SAVAGE: Argumentive.

6 THE COURT: Overruled.

7 Q (By Mr. Sowell) You are telling me that you
8 can't answer my questions because you don't remember
9 anything. That's a real convenient -- I'm sorry, I
10 shouldn't say that.

11 Are you telling me that because this all
12 happened a year ago I can't believe a word you said a
13 year ago?

14 MR. SAVAGE: Objection, misstating what she
15 said.

16 THE COURT: Overruled.

17 You may answer the question, ma'am, to the
18 best of your ability. Do you understand the
19 question?

20 THE WITNESS: No.

21 THE COURT: Please restate the question.

22 Q (By Mr. Sowell) Are you telling me that
23 because it has been a year, I can't rely on a thing
24 you told the police officers last year?

25 A No.

1 Q You just pick and choose what you want to
2 remember?

3 A No.

4 Q Did the police officer tell you, if you
5 cooperate you'll get a deal?

6 A Not that I recall.

7 Q I'll show you the transcript page 111 and 112
8 and ask you to read that first paragraph.

9 Now do you remember the police officer's
10 statement to you?

11 A I read the transcript but I don't remember
12 them saying that to me, no, sir.

13 Q If you can't remember what happened a year ago
14 in the most important weekend of your life, why are
15 you here today?

16 A To testify as to what happened during two
17 robberies.

18 Q But apparently you can't remember anything
19 about it?

20 A I can.

21 Q Did you tell the police officer that -- police
22 officer tell you, if you cooperate you'll get a deal?

23 A That's not what the police officer told me,
24 no.

25 Q What did he tell you?

1 A That I need to cooperate.

2 Q And you did cooperate, didn't you?

3 A Can you rephrase the question?

4 Q And you did cooperate the way he wanted you
5 to, didn't you?

6 A I answered the questions that were asked of
7 me.

8 Q You came up here and you testified against
9 Sasha; is that correct?

10 A I am here.

11 Q And you don't remember a lot, but you remember
12 those things you want to remember, is that it?

13 A I don't remember --

14 MR. SAVAGE: Objection, argumentative.

15 THE COURT: Overruled.

16 You may answer.

17 A I don't remember exactly what happened during
18 the interview.

19 Q (By Mr. Sowell) You know, have you ever heard
20 the expression, always tell the truth that way you
21 don't get mixed up about what you said last time?

22 A Yes.

23 Q What does that mean?

24 A The truth doesn't change.

25 Q And you don't have to remember what you said

1 last time. Isn't that what it means?

2 A Yes.

3 Q So in this letter that you read to the jury,
4 Sasha is telling you to keep a stiff upper lip, don't
5 fret, don't worry, and don't talk to jailhouse
6 snitches because they will lie; is that right?

7 MR. SAVAGE: Objection, misstating.

8 THE COURT: I'm sorry, what is the objection?

9 MR. SAVAGE: Misstates the evidence.

10 THE COURT: Be careful, Mr. Sowell. The
11 letter speaks for itself.

12 Q (By Mr. Sowell) What is the importance that
13 you and solicitor want the jury to know, put a lot of
14 impact on this letter? What does this letter say?

15 MR. SAVAGE: Your Honor, may we approach?

16 THE COURT: Yes.

17 (Whereupon, the following discussion was held
18 at the bench.)

19 THE COURT: You can ask her how she interprets
20 certain provisions of the letter. Be very careful of
21 the commentary.

22 MR. SAVAGE: That's what I'm concerned about.

23 THE COURT: You've got to save that for
24 argument.

25 (In open court.)

1 THE COURT: You may proceed.

2 Q (By Mr. Sowell) You wouldn't remember, would
3 you?

4 THE COURT: Do you have any further questions
5 for the witness?

6 MR. SOWELL: Ma'am?

7 THE COURT: I didn't hear you. Did you say --
8 did you ask her a question? I couldn't hear what you
9 just said.

10 MR. SOWELL: I asked her, you wouldn't
11 remember if I asked you anything else, would you.

12 THE COURT: You need to be more specific.
13 That's a very vague question.

14 Q (By Mr. Sowell) Did you ever see Emily in the
15 house?

16 A I don't know who Emily is.

17 Q Pardon me?

18 A I don't know who Emily is.

19 Q Did you ever see a girl at Herb's?

20 A No, sir.

21 Q Did you ever know that anybody did anything
22 bad to her?

23 A No, sir.

24 Q Did you have anything to do with anybody that
25 did anything bad to Emily?

1 A No, sir. I didn't know anything was done to
2 her.

3 Q Do you have any evidence that Sasha did
4 anything bad to Emily?

5 A No.

6 Q Did you or Sasha tie up people at Herb's?

7 A No, sir.

8 Q Did you or Sasha threaten any people at
9 Herb's?

10 A No, sir.

11 Q Did you Sasha threaten to kill them?

12 A No, sir.

13 Q Did you and Sasha do anything to harm those
14 people? Would you have done anything to harm those
15 people?

16 A No, sir.

17 Q Do you know anything at all bad about those
18 people?

19 A No, sir.

20 Q Have you ever heard anything bad about those
21 people?

22 A No, sir.

23 Q This may be repetitious. Tell me when you
24 first realized that not a joke or a robbery was
25 taking place?

1 A I don't know exactly when that was.

2 Q I'm sorry?

3 A I don't know exactly when that was.

4 Q Was it when Sasha came out to the car and
5 said, hey, those guys are crazy, they're really
6 robbing those people. Is that when you first knew?

7 A That a robbery was taking place?

8 Q Yes, ma'am.

9 A I knew that a robbery was going to take place
10 when they got out of the car.

11 Q Did you think it was a joke, or a real,
12 truthful robbery?

13 A I thought it was real.

14 Q But Sasha came back to the car she said, you
15 know what's going on in there, they're really robbing
16 those people is what she stated.

17 MR. SAVAGE: Objection. Is there a question?

18 THE COURT: There is a question. Overruled.

19 A Can you ask the question again, please?

20 Q (By Mr. Sowell) When Sasha got back in the
21 car she said, this is crazy, those people are really
22 being robbed in there. Is that what she said?

23 A Verbatim, yes, sir.

24 Q I'm sorry?

25 A Verbatim, yes.

1 Q I believe you testified earlier that neither
2 you nor Sasha carried any item out of Herb's house?

3 A I did not.

4 Q Didn't you say Sasha didn't either?

5 A She had coins.

6 Q Did you say that neither you nor her took
7 anything out of Herb's house?

8 A I said I didn't.

9 Q I'm sorry, out of coach's house?

10 A Correct.

11 Q So she didn't -- neither you nor her took
12 anything out of coach's house?

13 A Correct.

14 Q Do you have any idea what the total value of
15 the property you all took out of Herb's house was?

16 A I didn't take anything out of Herb's house.

17 Q I'm sorry. Do you have any idea what the
18 total value of the property that was taken out of
19 Herb's house was?

20 A No, sir.

21 Q Do you have any idea the total value of what
22 was taken out of coach's house?

23 A No, sir.

24 Q What you know is two TVs, do you know what
25 those TVs are probably worth?

1 A I don't know the price of TVs.

2 Q And video games, how old was the video games?

3 A I'm not sure.

4 Q And do you know what the value of the video
5 game was?

6 A No, sir.

7 Q Besides the electronic stuff, TVs and a little
8 bit of cash, do you know anything else that was taken
9 from either house?

10 A No, sir.

11 MR. SOWELL: Nothing further, Your Honor.

12 THE COURT: Mr. Foreman, ladies and gentlemen,
13 we are going to take a brief restroom break. During
14 the break please do not discuss the case and please
15 leave your notepads in your seats.

16 If you all do not discuss the case and please
17 leave your notepads in your seats. If you would go
18 with the bailiff for me, please.

19 (Whereupon, the jurors exit the courtroom.)

20 THE COURT: You may take your seats. We will
21 be at ease for ten minutes.

22 (Whereupon, a recess was taken.)

23 THE COURT: Is the state ready to proceed.

24 MR. SAVAGE: Yes, Your Honor. I still have
25 one question.

1 THE COURT: Please bring in the jury.
2 Defense ready to proceed?

3 MR. SOWELL: Yes, ma'am.

4 (Whereupon, the jurors enter the courtroom.)

5 THE COURT: I hope enjoyed your break, ladies
6 and gentlemen. We will now resume with the witness's
7 testimony.

8 You may proceed with redirect.

9 MR. SAVAGE: Thank you, Your Honor, may it
10 please the Court.

11 THE COURT: Uh-hum.

12 REDIRECT EXAMINATION

13 BY MR. SAVAGE:

14 Q Ms. Bruster, did we ask you to do anything
15 other than tell the truth?

16 A Yes, sir, I have told the truth.

17 MR. SAVAGE: Nothing further, Your Honor.

18 THE COURT: Any objection to the witness being
19 excused from the state?

20 MR. SAVAGE: No, Your Honor.

21 THE COURT: From the defense?

22 MR. SOWELL: No, ma'am.

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

24 You may call your next witness.

25 MR. KIDD: State calls Dustin Turner.

1 MR. DUSTIN TURNER,
2 after having first been duly sworn to state the
3 truth, the whole truth and nothing but the truth,
4 testified on his oath as follows:

5 THE COURT: You may proceed.

6 MR. KIDD: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 BY MR. KIDD:

9 Q Good afternoon, Mr. Turner.

10 A Good afternoon.

11 Q Can you tell the jury where you are employed?

12 A I'm employed with the Charleston County
13 sheriff's office, deputy sheriff, currently assigned
14 to the uniform patrol division.

15 Q How long have you been employed with the
16 sheriff's office?

17 A Since 1997.

18 Q Did you have a chance to get involved with two
19 armed robberies that happened February 24th and
20 February 27th, 2010?

21 A Yes, I did.

22 Q What was your involvement with those armed
23 robberies?

24 A The only one I was really involved with was
25 the James Island portion. And the only thing I did

1 was one of the male victims came in. The case was
2 either not assigned or the lead detective wasn't
3 available, so I took a -- or I witnessed a statement.

4 And several days later, since I didn't have
5 any other involvement, I was presented a couple of
6 photo lineups.

7 Q And did you show a -- did you know anything
8 about who these suspects were in this case?

9 A No, I did not.

10 Q Did you know what they looked like?

11 A No, I did not.

12 Q Where did you get the photo lineup from?

13 A The sheriff's office has a policy that
14 somebody who is not affiliated or a lead detective in
15 the case present the photo lineups for an unbiased
16 witness.

17 So the lead case agent, Detective Wagner,
18 asked me to show a couple of photo lineups to the
19 victims.

20 Q Why would they want someone who doesn't know
21 anything about the case to do that?

22 A Just to, I guess so that I can't make any kind
23 of suggestions or inferences of who may or may not be
24 in the photos. There are no names attached to them.
25 There are six photos.

1 And when he gives me the information, there is
2 a sheet that I fill out. Then there is six
3 photographs and I don't know who is who.

4 Q Do you know where those photographs are put
5 into that lineup come from?

6 A I would have to see it. Generally speaking we
7 get ours from either the detention center or the
8 state law enforcement division.

9 Q I'm going to show you what has been marked for
10 identification purposes only as State's Exhibit 41.
11 Do you recognize those two documents?

12 A Yes, I do.

13 Q What are those documents?

14 A The first one is the report that we fill out.
15 It's filled out in my handwriting as the independent
16 administer of the photo lineup. And the second one
17 is a photo lineup that is attached to it.

18 Q All right. Did you sign that document?

19 A Yes, I did.

20 Q Who did you show that lineup to?

21 A I showed it to Emily Michalak I believe is how
22 you pronounce it.

23 MR. KIDD: Your Honor, at this time State
24 offers State's Exhibit No. 41 into evidence.

25 THE COURT: Any objection?

1 MR. SOWELL: No, ma'am.

2 THE COURT: Marked and admitted without
3 objection.

4 MR. KIDD: Thank you, Your Honor.

5 THE COURT: You're welcome.

6 (Whereupon, State's Exhibit No. 41 is admitted
7 into evidence.)

8 Q (By Mr. Kidd) Was Ms. Michalak able to
9 identify one of the photographs in that lineup?

10 A Yes, she was.

11 MR. KIDD: Court's indulgence.

12 Q (By Mr. Kidd) What sort -- I will give you
13 the exhibit back to refresh your recollection.

14 what sort of advisements do you give the
15 witness who's making the identification prior to her
16 selecting a photograph?

17 MR. SOWELL: Your Honor, we'll stipulate that
18 the Miranda warnings were given and the photo lineup
19 was proper.

20 MR. KIDD: No further questions.

21 MR. SOWELL: I have a couple questions.

22 THE COURT: You can cross-examine the witness.
23 You may proceed.

24 CROSS-EXAMINATION

25 BY MR. SOWELL:

1 Q Officer, your name is Justin Turner?

2 A Dustin with a D.

3 Q I'm sorry. Did you witness the statement
4 given by and in the handwriting of Herbert Butler?
5 Do you remember?

6 A I don't remember, but I did read Detective
7 Wagner's report that I did that. I don't remember
8 doing that.

9 Q I will show it to you. Would that be okay?

10 A Sure. Yes, I witnessed this statement.

11 Q Now by witness the statement, you mean you saw
12 him write it or you just acknowledged his signature?

13 A Since this wasn't my case, generally we sit in
14 the room and we may -- I think Detective Smith was
15 also there -- may or may not have stayed there the
16 entire time.

17 Q Is that him?

18 A That's a female, yeah.

19 Q Where is his name? I assume this is your
20 name?

21 A Yes, mine's the one, my badge number.

22 Q Whose name is this?

23 It's not that important if you don't recognize
24 this.

25 A Like I said I don't remember a whole lot about

1 the statement, but that is mine on the second line.

2 Q You were there in the room when it was
3 prepared?

4 A I would have at least read over it when it was
5 -- after he was done.

6 Q Okay. Now did you see where the red X is?

7 A Yes, sir.

8 Q Can you read that line.

9 MR. KIDD: Objection, Your Honor, hearsay.

10 THE COURT: Please approach.

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

13 THE COURT: Did he prepare the statement?

14 MR. SOWELL: He was there when he read it.

15 THE COURT: Did he prepare the statement, it's
16 his statement?

17 MR. SOWELL: No.

18 THE COURT: Then it's hearsay. Is there any
19 exception it would come within.

20 MR. SOWELL: I can't think of it.

21 THE COURT: Sustained.

22 (In open court.)

23 THE COURT: Sustained, hearsay.

24 Q (By Mr. Sowell) But you did witness Mr.
25 Herbert Butler sign this?

1 A Yes.

2 Q And did you witness him write it?

3 A I couldn't say that I was in the room the
4 entire time, but after he would have been completed I
5 would have read over it with him.

6 Q So you would have read this entire statement
7 to him?

8 A No I would have just read over it, I wouldn't
9 read it back to him. He wrote it was in his own
10 hand, so I would have just gone over it and signed it
11 also. Q When you went over it with him, did you
12 discuss this with him?

13 A Is there a question and answer at the end?
14 No, there is no question or answer so we would have
15 just taken this statement. And, like I said, since I
16 wasn't the case agent I did not go into any further
17 details with him. If it was my case there probably
18 would have been a followup question and answer
19 session.

20 MR. SOWELL: Thank you, nothing further.

21 THE COURT: Any redirect?

22 MR. KIDD: No, Your Honor.

23 THE COURT: Any objection to the witness being
24 excused?

25 MR. KIDD: None from the state.

1 MR. SOWELL: None from the defense.

2 THE COURT: Sir, you are excused.

3 You may call your next witness.

4 MR. KIDD: Thank you. State calls Emily
5 Michalak.

6 THE COURT: Ma'am, if you would come to the
7 witness stand to be sworn.

8 MS. EMILY MICHALAK,
9 after having first been duly sworn to state the
10 truth, the whole truth and nothing but the truth,
11 testified on her oath as follows:

12 THE COURT: You may proceed.

13 MR. KIDD: Thank you, Your Honor.

14 THE COURT: You're welcome.

15 DIRECT EXAMINATION

16 BY MR. KIDD:

17 Q Good afternoon, Emily?

18 A Good afternoon.

19 Q I'm going to start out by, how do you know
20 Herbert Butler?

21 A I met him my freshman year at Bishop England,
22 and we ran cross-county together.

23 Q Do you remember what year that was?

24 A I was going into my freshman year so it would
25 be '04.

1 Q Around 2004?

2 A Yes.

3 Q What was the nature of your all's relationship
4 in February of 2010?

5 A We had been dating for a couple of months. Or
6 I'd say since June of '09.

7 Q And in February of 2010, where did you live?

8 A Hester Street, downtown.

9 Q And were you in school, were you are working,
10 what were you doing at the time?

11 A I had been working at Roper Hospital for five
12 years, and I have been in school ever since I
13 graduated Bishop England in '07. So in school during
14 the day, and working during the night.

15 Q Let me get right to it. On February 24, 2010,
16 in the evening hours, can you tell the jury a little
17 bit about what happened that evening?

18 A Yes. We hadn't -- we had been staying at my
19 house downtown for quite a while and so we ended up
20 going to Herb's house that one night.

21 Q Let me stop you real quick. Where does Herb
22 live? Or where was he living?

23 A James Island, Woodland Shores.

24 MR. SOWELL: I'm sorry.

25 THE COURT: I need you to speak up and I need

1 you to speak directly into the microphone for me,
2 please.

3 A Woodland Shores.

4 Q (By Mr. Kidd) Okay. Thank you. I'm sorry,
5 go ahead.

6 A And we were going to have dinner that night
7 and then just have a couple drinks and go to bed
8 because I had to be up for school in the morning.

9 And I was sitting on the couch while Herb was
10 out back grilling steaks. And there is music
11 playing. And I think I was probably on my phone.

12 And then I hear a knock at the door. And I go
13 out to the kitchen to see if Herb was there because I
14 thought that one of his friends might have been
15 stopping by. But he wasn't there, he was out back.

16 So I went up to the door and I opened it. And
17 there was a young female standing there saying that
18 her car had just broken down down the street and that
19 she needed a cell phone so that she could call for
20 help. So I said --

21 Q Let me stop you real quick. Do you see that
22 female in the courtroom here today?

23 A Yes, sir.

24 Q Can you point to her?

25 A (Whereupon, the witness indicates.)

1 Q What is she wearing?

2 A A purple plaid shirt.

3 MR. KIDD: Your Honor, may the record reflect
4 the witness has identified Ms. Gaskins?

5 THE COURT: Let the record so indicate. You
6 may proceed.

7 MR. KIDD: Thank you.

8 A So I said okay, so I shut the door. But it
9 was an old house so it was one of those doors where
10 the wood swells. So it wasn't necessarily shut where
11 it latched, but it was -- you'd have to give it a
12 good push in order to open it.

13 So I shut the door because my charger was
14 across the room, or my phone was on the charger
15 across the room. So I go to the table stand that it
16 was on. I removed my phone from the charger. And as
17 I turned around I noticed that the defendant was
18 standing in Herb's house. She had pushed open the
19 door. I would say she was about 4 feet inside the
20 house.

21 I got kind of got confused at the time. And
22 right as I hand her the phone, she looks over her
23 right shoulder towards the entry of Herb's house.
24 And within two seconds two big males come in with
25 guns. They were fully masked, they had on gloves and

1 sweat shirts and sweat pants and just demanding us to
2 get on the ground.

3 Q And let me stop you real quick. Do you know
4 anyone, or before this had ever happened, do you know
5 anyone by the name of Reginald Rice?

6 A No.

7 Q Miguel Starks?

8 A No.

9 Q Stephen Francois?

10 A No.

11 Q Breanna Bruster?

12 A No.

13 Q Had you known anyone named Sasha Gaskins?

14 A No, sir.

15 Q So they come in the house and what happens in
16 there?

17 A I go to the kitchen and I run inside the
18 kitchen and Herb had just walked in from outside from
19 the steaks. And I go, there's some people here with
20 guns like what's going on.

21 So he walks out the kitchen door and they just
22 demand us to get on the ground, get on the ground.
23 And Herb keeps saying, what are you guys doing, why
24 are you guys here, what do you want. And they just
25 keep saying, shut up, shut up, get on the ground.

1 And they are pointing guns at us. And then
2 they point us to where we should get on our knees.
3 And to stand like this with our heads down so we
4 couldn't see anything. Then they duct-taped us up.

5 Q Now who was in the house at this time, do you
6 know?

7 How many people are still in the house? Is
8 the defendant still in the house?

9 A Yes, she was. Because I walked back in the
10 kitchen to go get Herb. Then we both walked out and
11 she was still standing by the doorway.

12 And so they duct-tape us up. And then they
13 separate Herb and I. They bring Herb into his room.
14 And they start -- I don't know, they shut the door
15 behind them and all I can hear is just like cussing
16 and like loud words saying like I hear money and just
17 certain key words.

18 And I'm just sitting on the ground like this.
19 And they are speaking in this weird high-pitched --
20 like I don't know that I would say Gullah, but I
21 guess so we wouldn't recognize their voice.

22 And they both just keeping coming in and out
23 of the door, Herb's room, to try to get information
24 out of him. They keep switching.

25 Q Let me slow you down just a little bit. How

1 are you duct-taped up? Your hands in front of you,
2 behind you?

3 A My hands are in front of me like this, and my
4 head is like this. (Whereupon, the witness
5 indicates.) And my legs are duct-taped. And my
6 wrists. And I have duct-tape all over my eyes.

7 Q Let me slow you down for one more moment.

8 MR. KIDD: If I may approach the court
9 reporter, Your Honor?

10 THE COURT: Uh-hum.

11 Q (By Mr. Kidd) I'm going to show you what has
12 been marked for identification purposes as State's
13 Exhibit No. 30. Do you recognize that?

14 A Yes.

15 Q What is that?

16 A That was the jacket I was wearing that night.

17 MR. KIDD: Your Honor, at this time we move
18 State's Exhibit 30 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. 30 is admitted
24 into evidence.)

25 Q (By Mr. Kidd) What are the marks on this

1 jacket?

2 A From the duct tape.

3 Q Where on the jacket are those marks?

4 A Up there, all around. Because in the end they
5 were going untie me, they untied one. At the end
6 they put me one arm free, but around the wrists too.

7 Q So once you get duct-taped up on the floor,
8 are you able to move around or are you tightly
9 constrained?

10 A I'm tightly constrained with my head in my
11 hands like this.

12 Q Is there any duct-tape on your face?

13 A My eyes are duct-taped.

14 Q What happens next?

15 A Like I said, they keep switching going in and
16 out of the room and I just hear a bunch of commotion
17 in there. And one of them comes out and like in a
18 really high tone voice saying, you better tell your
19 boyfriend to shut up or he is going to be in some
20 serious trouble.

21 And I'm not saying anything at that point.
22 I'm just crying like I was in the beginning. And I
23 just hear things like being flipped around. And I
24 think at one point he does leave, one of the guys
25 leaves with Herb's credit card.

1 And I can't remember if it was before or after
2 he left with the credit card, but I guess when he
3 came back one of the guys went into Herb's room. And
4 then the other guy was standing -- came and sat right
5 besides me. I was sitting like on my butt with my
6 knees in front me.

7 Q Was he saying anything to you at that time?

8 A No, he just came and sat right beside me.

9 Q Did he start touching you?

10 A Yes.

11 Q How was he touching you?

12 A He was touching me through my jeans.

13 Q Where was he touching you?

14 A On my vagina.

15 Q Then what happened next?

16 A I kept crying and saying, no, please, why are
17 you doing this. And he just kept telling me to shut
18 up. And then after he had been touching me --

19 Q Did he have a gun?

20 A He had a gun but he wasn't pointing it at me
21 at that point. He was sitting to the left of me and
22 he was touching me I would say like for a minute or
23 so. Then I was just saying, no, please don't do
24 this.

25 And then he undid his pants and then told me

1 to get up. And I couldn't get up because I was
2 duct-taped. So he picked me up and put me on my
3 knees in front of him. And I kept saying, no, why
4 are you doing this. And he had the gun to my head
5 and he is saying, if you don't do this or if you bite
6 it then I'm going to blow your -- I'm going to kill
7 you basically.

8 So then he had one hand on the back of my head
9 and like a gun right here. And then just kept
10 (whereupon, the witness indicates) like forcing it on
11 me. And then that happened for like ten seconds and
12 then another guy came out and told him to stop, this
13 is not why we are here, you don't want to do this.

14 He was like why. He was like, none of them
15 know who we are, it doesn't matter. He was like
16 trust me, I have been there, you don't want to go
17 through this.

18 So after I guess 10 or 15 seconds he stopped.
19 And then --

20 Q And just to be clear, what was he doing?

21 A He inserted his penis in my mouth for like 15
22 seconds. And then I guess the other guy came out and
23 he said, no, this is not what we are here for.

24 Then they both, they kind of just since I was
25 on my knees, they kind of just like pushed me over so

1 I was laying on my side on the other side of the
2 living room now by like this glass table.

3 And after that they both went in the kitchen
4 and I could hear them whispering saying, we are not
5 getting anything. I don't know if they were on the
6 phone or if they were talking to each other but
7 they're saying, no, we are not getting anything out
8 of this robbery. We can't find anything. He is not
9 confessing to anything.

10 And he is like, he is talking to one other guy
11 saying, no, if you come in here they're not going to
12 recognize you. No one can recognize who you are.

13 And after that they had just gone through the
14 whole house. I just hear things like being flipped
15 upside down, and things like falling on the floor and
16 those two were talking to each other.

17 And after that third guy came in and --

18 Q How do you know a third guy came in?

19 A Well there was a guy with a different tone of
20 voice than I had heard the other two. He was in like
21 more of like a screechy, like I don't even know,
22 Jamaican or something. I don't know. It could have
23 been one of the others but he came in just like where
24 is he, where is he.

25 From what I know he just went straight -- that

1 person never talked to me or that tone of voice never
2 talked to me. And he went in I guess to where Herb
3 was and I just heard a bunch of commotion and yelling
4 in there.

5 Then he comes out and just says, take
6 whatever, take whatever we can get. And then at that
7 point I hear, as they're gathering equipment, I hear
8 a girl's voice in the background saying, should I
9 take this? And I guess one of them nodded their
10 heads because I didn't hear an answer.

11 And after that I just heard like footsteps
12 going back and forth between the back door and like
13 the living room and I guess Herb's room. And then --

14 Q We are going through this pretty quickly, but
15 about how long did all this take?

16 A Three hours. Two and a half to three hours.

17 Q At some point did someone go through your car?

18 A Yes.

19 Q How do you know that?

20 A They asked for my keys. They told me that
21 Herb had said I have the money. And I was the one
22 with the credit cards and to go check her car, maybe
23 they're in her car.

24 So my keys were sitting on the table. And
25 they took my keys to go through my car and see if

1 they could find anything.

2 Q At what point did they start to leave?

3 A Once they couldn't find anything or any money
4 I guess or drugs, then they just started taking
5 anything they could get, anything that was of value.
6 Then loading it up and then they left.

7 Q Do you know what they were able to get?

8 A I mean the place was a wreck. But his TV was
9 gone that I noticed, and some DVDs I noticed that
10 were gone.

11 Q Do you know if they got any marijuana?

12 A At one point I heard him say he thought he
13 found like a bag of something up in the attic. But
14 then they asked Herb about it and he said, no, man,
15 that's not what that is, that's not marijuana.

16 Q Was there any other marijuana in the house?

17 A Not that I know of.

18 Q Did -- I'm sorry, I got sidetracked a little
19 bit. Did you know if Herb sold marijuana?

20 A No. I knew that he did it in the past. But
21 in November when he had gotten arrested, I had
22 threatened to break up with him if he didn't stop
23 selling. So he did it behind my back for three or
24 four months I guess. I found out that February night
25 that he was hiding it.

1 Q And what point -- let me get back on track
2 now. At what point do they start to leave? How does
3 that happen?

4 A Like I said after the -- I guess if there was
5 a third guy, the third guy came in and talked to
6 Herb. And then as they were coming out, one of the
7 guys comes up to me and says, I'm sorry for what my
8 friend did.

9 And then he tells his friend to apologize to
10 me. And but during throughout the whole incident
11 they were just talking to me saying, you know, I'm
12 sorry you're here. You weren't supposed to be here.
13 Our intent was to rob Herb.

14 I guess after the third guy had come in and
15 said he couldn't get anything out of Herb, then they
16 decided to get whatever they could. And that
17 probably took about 20 minutes, and then after that
18 they left.

19 Q Did they leave you duct-taped up or how was
20 that?

21 A Well at one point a guy started to unduct-tape
22 me because they said I had been cooperating the whole
23 time, I hadn't said anything, I hadn't moved. And
24 then another guy comes in and says, you don't know
25 what she's capable of. She could undue herself right

1 here and now. We don't know what she's cable of.

2 So he was like, fine. Then tape her -- give
3 her one arm free and tape her back up. So I had one
4 arm was behind my back and they taped me around my
5 whole body with like this arm free. Then they said
6 they left a pair of little scissors on the glass
7 table I was sitting by.

8 Q How did you get free?

9 A I mean at that point -- or once they had left
10 I went like this pretty hard -- (whereupon, the
11 witness indicates.) -- because I was so frustrated.
12 And I kind of like hopped to all the doors and just
13 locked them is the first thing I did.

14 Q Where was -- when you were able to get the
15 duct tape off your face, where did you find Herb?

16 A I kept calling his name because he was nowhere
17 to be found. But I found him in the closet with the
18 closet door shut.

19 Q What did he look like when you found him?

20 A He was naked, and his pants were pulled down,
21 and he had wads of duct tape all along his head, and
22 all in his hair and all over his mouth.

23 Q What did you do then?

24 A I slapped him in the face because I realized
25 that I had just been lied to for three months. Then

1 I was so shaken up I had to go outside and find my
2 dog.

3 Q What had happened to your dog, do you know?

4 A They just let her out. Like right as the door
5 was opened she had gone outside.

6 Q What kind of dog do you have?

7 A She's a black lab mix.

8 Q Did you cut Herb loose?

9 A Yeah.

10 Q Then what do you all do next?

11 A I go outside and try to find my dog for a
12 little bit but I didn't go very far because right as
13 they had left they told me that if they ever saw me
14 out smoking or if they ever caught me doing anything
15 or ever heard of me calling the police or anything of
16 that nature that they were going to come back and
17 find me, no matter where I was, and kill me.

18 Q So what did you do?

19 A I walked the streets once. Then like every
20 time a car came I was ducking because I didn't know
21 if it was them. And I heard my dog yelping in the
22 back, her paw had gotten caught in the fence. So I
23 found out where she was, between the neighbor's
24 house, got her out and we went back to my house
25 downtown.

1 Q You and Herb went back to your house downtown?

2 A Yeah.

3 Q About what time of the night or morning is
4 this?

5 A Almost 2:00 a.m.

6 Q And what do you all do when you get back to
7 your house downtown?

8 A I went to sleep. I had recently been
9 prescribed Klonopin. So at that time I had taken one
10 and just fallen asleep and felt like I was going to
11 deal with it and go to Roper in the morning, and just
12 get away from that house.

13 Q What did you do when you woke up in the
14 morning?

15 A Went to Roper.

16 Q Why did you go to Roper?

17 A Because I felt safe there. I knew when I had
18 talked to my boss that everything, he would have
19 taken care of me and everything would have been okay
20 rather than calling the police and whatnot.

21 Q What did -- after you got to Roper, what did
22 you do then?

23 A My boss took me right down to the ER to get me
24 examined for the sexual assault. Then they called
25 Detective Church and Detective Wagner and they came

1 down.

2 Q And did they take your statement at that
3 point?

4 A Yes.

5 Q Where did you go after Roper?

6 A I went to the North Charleston clinic, the
7 sexual assault and I got a sexual assault kit and
8 everything. Then I went to my family doctor. And
9 then I stayed with my mom.

10 Q Did you have any further interaction with the
11 police over the next few days?

12 A Yeah, the next day.

13 Q The next day.

14 I'm going to show you what has been marked and
15 entered into evidence as State's Exhibit No. 41. Can
16 you look through those two pages.

17 Do you recognize those?

18 A Yes, sir.

19 Q Can you tell the jury what that is?

20 A It's the lineup that I had to pick the
21 defendant out of.

22 Q Were you able to pick a photograph out of that
23 lineup?

24 A Yes.

25 Q Were you sure who it was?

1 A I think I wrote down I was 80 percent sure.

2 MR. KIDD: Court's indulgence.

3 Q (By Mr. Kidd) When you were being shown that
4 photograph, group of photographs, who were you being
5 asked to identify?

6 A Sasha Gaskins, the girl that was at the door.

7 Q Did you know her name at that time?

8 A No.

9 Q So you were just being asked to identify?

10 A The face that I had seen that night.

11 Q And that would be the person who knocked on
12 your door?

13 A Yes.

14 Q Is that who you picked out of that lineup?

15 A Yes.

16 MR. KIDD: Court's indulgence.

17 Q (By Mr. Kidd) Are you and Mr. Butler still in
18 a relationship?

19 A No.

20 Q When did you get out of the relationship with
21 Mr. Butler?

22 A That following week after the robbery
23 occurred.

24 MR. KIDD: I have no further questions, Your
25 Honor.

1 THE COURT: Any cross-examination for the
2 witness?

3 MR. SOWELL: Yes, ma'am.

4 THE COURT: You may proceed.

5 CROSS-EXAMINATION

6 BY MR. SOWELL:

7 Q Emily, do you remember the statement you gave
8 to the police?

9 A Probably not verbatim, but, yes.

10 Q If I were to hand that to you, can you
11 recognize your handwriting?

12 A Yes.

13 Q Now do you remember telling the police that
14 the girl, which would be Sasha, came in and asked for
15 your phone. And then she went outside and you
16 thought that she must be the watch person because she
17 was gone. Do you remember that?

18 A Vaguely, yes.

19 Q And a question was asked of you during your
20 statement, where was the girl when the two men were
21 inside. What is your response there in the yellow?

22 MR. KIDD: Objection, Your Honor.

23 THE COURT: Basis?

24 MR. SOWELL: I'm sorry, Your Honor.

25 Q (By Mr. Sowell) Is this your handwriting?

1 A Yes.

2 Q Did you write all this?

3 A Yes.

4 Q Was it all true?

5 A Yes.

6 Q Okay. Now when the question was asked, where
7 was the girl when the two men were inside, do you
8 remember what you told them?

9 A I mean from what you had just said I said she
10 was the watch girl. She seemed like the watch --
11 yeah.

12 Q Is that what you told them?

13 A That's what I told them.

14 Q Why did you think she was the watch girl,
15 because she left the house?

16 A I mean I didn't know she had left the house
17 but I didn't hear her voice during any of it.

18 Q Well why did you think she was the watch girl
19 just because you didn't hear her voice?

20 A I mean I would think that someone would have
21 the house being watched. If there was any activity
22 outside, to let them know if there was somebody
23 coming.

24 Q You didn't hear her voice and you didn't see
25 her?

1 A I saw her towards the end. I heard her voice
2 towards the end.

3 Q Well this is your statement. Can you tell me,
4 show me where you said that in the statement?

5 A No, it's not in here.

6 Q So you didn't put it in your statement. And
7 you said, she must be the watch girl because you
8 didn't hear her voice. And your statement never said
9 you heard her come back in, did you?

10 A No, I don't believe it's in here.

11 Q Now I know it has been a year, but the fact
12 that she wasn't in the house is what made you think
13 she was the watch girl, right?

14 A Excuse me?

15 Q The fact that she left the house and was not
16 in the house is what made you think she must be the
17 watch girl; is that correct?

18 A That's what made me think she would be the
19 watch girl? Is that what you said?

20 Q Yes, ma'am.

21 A Yes.

22 Q And hearing her in the house would have been
23 real important, wouldn't it?

24 A Excuse me?

25 Q Hearing her voice in the house would have been

1 real important, wouldn't it?

2 A Yes. But I know I made a lot of statements.
3 And I'm pretty sure it might have been in one those,
4 I know I have talked about it before.

5 Q Can you show me any statement, any one, show
6 me any statement where you put that in a statement?

7 A If it's not, then no.

8 Q Now do you think the girl Sasha was present
9 when you were being assaulted?

10 A No.

11 Q And when was the last time you saw her?

12 A At the door. She was standing to the left of
13 the door as they were coming in.

14 Q That's the last time you saw her?

15 A Yes.

16 Q So if I were to tell you that she left
17 immediately as soon as the two guys came in, would
18 you have any information to dispute that?

19 A No.

20 Q Do you have anything to show that she knew
21 anything about any taping?

22 A No.

23 Q Did she know anything about the molesting of
24 you?

25 A I don't know. No.

1 Q Let me see if I understand this. The last
2 time you saw her was right after the guys charged in
3 and she was standing over near the door?

4 A Yes.

5 Q And you didn't see her again?

6 A My eyes are duct-taped so no.

7 Q You didn't hear her voice?

8 A Not until the end. I don't know if it was her
9 voice, I don't know. All I heard was a female voice
10 saying, should I carry this.

11 Q Okay.

12 A Or should I take this.

13 Q How long after she knocked at the door had you
14 heard that voice say something like, should I take
15 this?

16 A Two hours.

17 Q And you have no reason at all -- no -- nothing
18 to show or nothing that would tell you or that would
19 tell us that she was in the house at any other time?

20 A No.

21 Q And the only reason you think she was involved
22 is because she knocked on the door, and you thought
23 she was a watch person because she was not in the
24 house?

25 A I didn't hear her voice so I thought she was

1 in the house, yes.

2 Q You never saw her, never heard her voice. You
3 heard some female at the very end?

4 A Right.

5 Q Everything else was already done, and you
6 heard some female say, should I take this?

7 A Right.

8 Q Okay. I'm sorry for what you have been
9 through.

10 MR. SOWELL: Nothing further, Your Honor.

11 THE COURT: Any redirect of the witness?

12 MR. KIDD: Just briefly, Your Honor.

13 THE COURT: You may proceed.

14 REDIRECT EXAMINATION

15 BY MR. KIDD:

16 Q I'm going to show you that statement that Mr.
17 Sowell was just talking about. When did you give
18 that statement?

19 A The 25th of February.

20 Q And when he was referring to -- if you need to
21 refresh your recollection, please do so. But when he
22 was referring to what made you think that she might
23 be the watch person, and why did you think she might
24 be the watch person?

25 A I mean she had already done the initial -- she

1 was the gateway to open the door for those two people
2 to come in. So basically without her the whole thing
3 couldn't have been done.

4 Q Was there something -- was there ever any
5 warnings given?

6 A That she was --

7 Q Like someone coming or anything of that
8 nature?

9 A Well I heard once I think Herb's roommate had
10 pulled up. But, I don't know.

11 Q I believe the question, the last couple of
12 lines?

13 A Yeah, cause his roommate had come up. And
14 then they -- someone had informed the two that they
15 thought there was a cop outside and they all started
16 freaking out.

17 Q And based on that, is that what made you think
18 someone, who knows who, but someone was a watch
19 person?

20 A Right.

21 Q When you heard that female voice, where were
22 you in the house?

23 A Still in the living room but on the other side
24 that I was duct-taped on.

25 Q Could you tell about how far away that voice

1 was from you? Was it right next to you, across the
2 room?

3 A Well the living room, living room is like
4 this. And I was over here in the beginning, and then
5 they moved me over here and I heard it out of my left
6 ear.

7 Q Let me show you what has been marked as
8 State's Exhibit No. 34, coming up on the screen
9 behind you. Do you recognize that photograph?

10 A Yes.

11 Q What is that?

12 A Herb's living room.

13 MR. SOWELL: I'm sorry, I couldn't understand
14 that?

15 A Herb's living room.

16 Q (By Mr. Kidd) Where in that living room were
17 you located when you heard that voice?

18 A That coach extends all the way over here where
19 there is a glass table, and that's where I was
20 sitting.

21 Q And do you know where about the voice came
22 from in the room?

23 A Right around there I think. Because I heard
24 it out of my left ear.

25 Q Would the person who -- or whoever spoke, that

1 female voice, have been able to see you?

2 A Yes.

3 Q And you were duct-taped up?

4 A Yes.

5 MR. KIDD: No further questions.

6 THE COURT: Any objection to the witness being
7 excused?

8 MR. SOWELL: May I ask a question?

9 THE COURT: Uh-hum.

10 RE CROSS-EXAMINATION

11 BY MR. SOWELL:

12 Q It appears to be a door behind the couch. Was
13 the couch moved after this event?

14 A Excuse me?

15 Q That appears to be the door behind the couch?

16 A No. That's a window.

17 Q okay.

18 MR. SOWELL: Nothing further, Your Honor.

19 THE COURT: Any further questions?

20 MR. KIDD: No, ma'am.

21 THE COURT: Any objection to the witness being
22 excuse from the state.

23 MR. KIDD: No, ma'am.

24 MR. SOWELL: No, ma'am.

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

1 could counsel approach for me, please.

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

4 THE COURT: Who's your next witness?

5 MR. KIDD: We are going to call the next
6 victim, Joshua Harpe.

7 THE COURT: How long is he.

8 MR. KIDD: Going to be about the same thing as
9 the others.

10 THE COURT: You are not calling anybody after
11 that?

12 MR. KIDD: We were going to rest.

13 THE COURT: We can do that in the morning
14 then.

15 (In open court.)

16 THE COURT: Mr. Foreman, ladies and gentlemen,
17 we are going to take advantage of this break in
18 testimony to take our evening recess.

19 During the break, please do not discuss the
20 case among yourselves or with anyone else. Please do
21 not allow yourselves to be exposed to any media
22 coverage about this case; that includes anything
23 that's on the radio, newspaper, television or
24 Internet. And don't do any independent research or
25 any type regarding any issue or matter involved.

1 Please leave your notepads in your seats.
2 You'll return directly to your jury room, we will
3 begin at 9:30. Again, please don't have any contact
4 with anybody in or about the courthouse. We would
5 not want an innocent conversation to be misconstrued.

6 I received your note, but we have to stick to
7 our schedule. The court operates a way for a
8 particular purpose. I do other things other than
9 this case between the hours of 8:30 and 930 so in the
10 morning I have four other hearings unrelated to this
11 case that I'm going to dispose of before I resume the
12 trial.

13 Usually we take a little longer lunch hour
14 because I sit here all day and I have to return phone
15 calls, letters, emails and all that stuff before I
16 actually get a chance to eat. So that's why we do it
17 that way. I know it seems like banker's hours. But
18 actually believe it or not, much to the chagrin of my
19 poor law clerks and the rest of my staff, we rarely
20 get to eat lunch. Our lunches are usually working
21 lunches.

22 So I appreciate you all making the
23 effort to accommodate us. I wanted to give you that
24 by way of explanation so that you can know that while
25 it appears we are ambling around, that we actually

1 use that time for other purposes so that we can make
2 sure the remainder of the Court's business is moving
3 efficiently.

4 We appreciate your time and your attention.
5 Have a great evening. We will see you in the morning
6 at 9:30.

7 (Whereupon, the jurors exit the courtroom.).

8 THE COURT: Is there anything we need to deal
9 with before we break for the evening from the state?

10 MR. KIDD: No, Your Honor.

11 THE COURT: From the defense?

12 MR. SOWELL: No, ma'am.

13 THE COURT: My understanding is the state's
14 next witness is Mr. Harpe; is that correct?

15 MR. KIDD: That's correct, Your Honor.

16 THE COURT: That will be the last witness the
17 state is calling before resting?

18 MR. KIDD: That's the plan.

19 THE COURT: Does the state anticipate any
20 rebuttal testimony?

21 MR. KIDD: Depends on what the defense's case
22 is.

23 THE COURT: You pretty much know their theory.

24 MR. KIDD: I don't know how she is going
25 testify.

1 THE COURT: I'm asking for scheduling.

2 MR. KIDD: I don't plan on it right now.

3 THE COURT: Worst case scenario.

4 MR. KIDD: Worst case scenario is yes.

5 THE COURT: How many?

6 MR. KIDD: I really don't know what to tell
7 you, Your Honor.

8 THE COURT: You can give me an estimate.

9 MR. SAVAGE: Two or three witnesses.

10 THE COURT: That's what I needed, worst case
11 scenario.

12 How many witnesses do you plan to call, Mr.
13 Sowell?

14 MR. SOWELL: The doctor won't be that lengthy,
15 then four or five.

16 THE COURT: You probably need to have Dr. Wade
17 here by about 11:00, 10:30 or 11 o'clock.

18 MR. SOWELL: Yes, ma'am.

19 THE COURT: I'm thinking Mr. Harpe will take
20 an hour. Does Ms. Gaskins have any record that the
21 state would be seeking to introduce impeach her
22 credibility?

23 MR. KIDD: No, Your Honor.

24 THE COURT: Ms. Gaskins, stand up for me,
25 please and raise your right hand to be sworn.

1 (Whereupon, the defendant is placed under
2 oath.).

3 THE COURT: You can put your right hand down.
4 I need you to speak loudly and clearly for me.

5 State your full name for the record.

6 THE DEFENDANT: Sasha Alajawon Gaskins.

7 THE COURT: Ms. Gaskins, I'm going to explain
8 to you certain of your rights. Although we have not
9 yet reached that stage of the trial, I want to
10 explain your rights to you so that you have a full
11 opportunity to discuss the matter with your attorney
12 so that I will not have to take an additional break
13 when we reach that stage of the trial.

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: If you do not understand anything,
16 let me know. If you need me to repeat something, let
17 me know. Do you understand?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Shortly we will reach the stage of
20 the trial where you may present your defense. You
21 have the right to claim the protections given to you
22 by the Fifth Amendment of the constitution, and that
23 amendment states in part: That no person shall be
24 compelled in any criminal case to be a witness
25 against himself. This means that you

1 cannot be required to testify in this case. You have
2 the right to testify in your own behalf, however no
3 one can make you testify. This is a personal right
4 and no one can waive this right except you.

5 If you decide to testify, you will be subject
6 to the same rules that govern other witnesses. And
7 you may be examined and cross-examined on any
8 relevant issue in this case.

9 In addition, if you have any convictions
10 involving dishonesty or false statement, or for
11 crimes punishable by imprisonment for more than one
12 year, and this Court determines that the probative
13 value of admitting this evidence outweighs its
14 prejudicial effect to you, the solicitor will be able
15 to introduce your record to attack your credibility.

16 If you decide to testify, this decision on
17 your part must be made freely, voluntarily and
18 intelligently, with knowledge of the protections
19 given to you by the Fifth Amendment, and the
20 consequences of your decision to testify.

21 If you decide not to testify, I will instruct
22 the jury that they cannot give the fact that you did
23 not testify any consideration whatsoever. And that
24 there is to be absolutely no prejudice to you because
25 you did not testify. In fact, they will be

1 instructed that it cannot be discussed in any manner
2 whatsoever during the course of their deliberations;
3 that you have the constitutional right to remain
4 silent; and the burden remains on the state to prove
5 your guilt beyond a reasonable doubt.

6 You may talk with your attorney, your family
7 members or friends, or anyone else regarding this
8 decision, but the final decision is left entirely up
9 to you.

10 Do you understand your right as I have just
11 explained them to you?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Do you have any questions about
14 what I have just explained to you?

15 THE DEFENDANT: No, ma'am.

16 THE COURT: I'm going to allow you time to
17 discuss the matter with your attorney. And I'll
18 resume questioning at the appropriate time.

19 Is there anything further before we break for
20 the evening recess from the state.

21 MR. KIDD: No, ma'am.

22 THE COURT: From the defense.

23 MR. SOWELL: No, ma'am.

24 THE COURT: Thank you very much. See you in
25 the morning at 9:30.

1 (Whereupon, the proceedings in this matter
2 before the court were adjourned for the evening.)

3 * * * * *

4 THE COURT: State ready to proceed?

5 MR. KIDD: We are, Your Honor. If I could
6 state one thing to build a record.

7 We had testimony yesterday regarding the
8 identification of a photo lineup. And started
9 getting into that procedure and Mr. Sowell consented
10 to that. I just wanted to state for the record that
11 pursuant to the State v. Simmons a Biggers hearing
12 wouldn't be necessary if the defendant didn't
13 challenge the identification procedure.

14 And I just wanted to build the record. And
15 the reason that the Biggers hearing wasn't held

16 THE COURT: I would have to assume since it
17 wasn't requested that it was some strategic reason on
18 defense counsel's part. But in addition to that,
19 there really is no need for an identification
20 procedure because all the people knew her personally.

21 MR. KIDD: Not that victim, Ms. Michalak.

22 THE COURT: Yes, you're correct. I assume --
23 Mr. Sowell, do you want to respond?

24 MR. SOWELL: I'm sorry?

25 THE COURT: Would you like to the respond to

1 the solicitor's comments regarding Biggers? I assume
2 you didn't request one and we didn't need one.

3 MR. SOWELL: That's correct.

4 MR. KIDD: Thank you, Your Honor. We are
5 ready.

6 THE COURT: Is the defense ready to proceed?

7 MR. SOWELL: Yes, Your Honor.

8 THE COURT: Who's the state's next witness?

9 MR. SAVAGE: State is calling Joshua Harpe.

10 THE COURT: Please bring in the jury.

11 (Whereupon, the jurors enter the courtroom.)

12 THE COURT: Ladies and gentlemen, I hope that
13 you had a pleasant evening recess. Before we begin,
14 is there any member of the panel that has been
15 exposed to any media coverage about this case; that
16 includes anything that would be on the radio,
17 television, in the newspaper or on the Internet, if
18 so please raise your right hand.

19 Let the record reflect that there was a
20 negative.

21 We will now resume the testimony. You may
22 call your next witness.

23 MR. SAVAGE: Thank you, Your Honor. The state
24 calls Joshua Harpe.

25 THE COURT: If the witness would come forward

1 to be sworn.

2 MR. JOSHUA SHELTON HARPE,
3 after having first been duly sworn to state the
4 truth, the whole truth and nothing but the truth,
5 testified on his oath as follows:

6 THE COURT: You may proceed.

7 MR. SAVAGE: Thank you, Your Honor, may it
8 please the Court.

9 THE COURT: Yes, sir.

10 DIRECT EXAMINATION

11 BY MR. SAVAGE:

12 Q Good morning, Mr. Harpe.

13 A Good morning.

14 Q How old are you?

15 A 25.

16 Q Where do you live?

17 A I live in West Ashley.

18 Q Could you briefly explain your educational
19 background?

20 A I graduated from a high school in Columbia in
21 2003. I graduated from the Citadel in 2007 at the
22 rank of cadet first lieutenant.

23 Q Back in February of 2010, where were you
24 working?

25 A I was a graduate-assistant football coach at

1 the Citadel.

2 Q Do you remember the day you were robbed?

3 A Absolutely.

4 Q Who is Miguel Starks?

5 A Miguel Starks was the quarterback for the
6 Citadel football team. He is also one of the three
7 armed men that came and robbed me.

8 Q How did you get to meet Miguel Starks?

9 A When you play college football there is a
10 recruiting process. And my relationship with Miguel
11 started on his official visit in January of 2008, I
12 believe.

13 We meet all the prospects, all the coaches
14 meet the prospects. I got to know him. And then he
15 came in as a freshman in August and was a member of
16 the football team.

17 Q So you were constantly -- or were you
18 constantly dealing with him as an assistant coach?

19 A More so towards the end of our relationship.
20 I didn't really have a whole lot to do with the
21 quarterbacks as my position was wide receiver. So I
22 interacted with him, but not every single day.

23 Q How did it change towards the end? What was
24 the relationship difference there?

25 A I had been promoted to the military liaison to

1 the core of cadets for the football team. And Miguel
2 was in danger, he was having trouble, he wasn't going
3 to class, he wasn't going to formation.

4 So as the liaison to the corp, I had to make
5 sure he was going to class. Actually for two weeks
6 had to get up every single morning at 5 o'clock to
7 make sure Miguel was at formation.

8 Q So you are trying to keep him on the straight
9 and narrow when he goes off the path?

10 A Yes, sir. Miguel's biggest problem was
11 immaturity, he wouldn't grow up.

12 Q Who is Reggie Rice?

13 A Reginald Rice, I first met Reggie when he
14 matriculated to the Citadel in 2006. He was a knob
15 of mine. I was the athletic cadre operations
16 officer, which means I coordinated everything with
17 the administration on the details of the training of
18 the freshman. He was on that cadre.

19 Q Was he involved in the football team as well,
20 or just a student?

21 A He was, he was a linebacker on the football
22 team.

23 Q Did he graduate from the Citadel?

24 A He did not.

25 Q Do you know why not?

1 A During the middle of the season, the 2008
2 season, Reggie had gone AWAL, which means he had left
3 when he wasn't supposed to. And had been pulled over
4 by a Charleston police officer who recognized him and
5 the guy he was with as Citadel football players and
6 let the coach know that they were out.

7 And there was some other issues going on with
8 Reggie that I wasn't aware of. And he was -- we
9 pulled the scholarship. We didn't necessarily remove
10 him from the Citadel, but we said, you know, this
11 semester you haven't held up to your end of the
12 bargain, we are going to take your scholarship from
13 you. You can come back in the fall as a walk-on if
14 you want, but we are not going to pay for you to
15 come. So he left after that first semester.

16 Q I want to turn your attention to the week of
17 the robbery, in particular Sunday, February 21st. Do
18 you remember that day?

19 A Yes, sir, I do.

20 Q Did you see any of the codefendants that day?

21 A I saw Reggie Rice.

22 Q Where did you see Reggie?

23 A I saw Reggie Rice at Groucho's on Sam
24 Rittenburg in West Ashley.

25 Q What is Groucho's?

1 A It's a restaurant.

2 Q Who were you there with?

3 A I was there with my best friends, David
4 Morbitzer and Dwight House.

5 Q Did Reggie see you?

6 A Yes, he did.

7 Q Did you talk to him?

8 A I did. Reggie actually, when I got there he
9 came up and gave me a hug and I hadn't seen him in
10 well over a year. He gave me hug and said he was
11 glad to see me and asked me how I was doing.

12 Q Any problems with him then?

13 A Absolutely no.

14 Q No arguments?

15 A No arguments, no.

16 Q You had no beef with him?

17 A Absolutely not.

18 Q Were you aware of any beef he had with you?

19 A No, I was not.

20 Q The next day, Monday, February 22nd, did you
21 talk to Miguel Starks that day?

22 A I did.

23 Q Tell me about that conversation?

24 A We had given Miguel a little bit of room. We
25 had backed my following him around, we backed that

1 down to see if he had grown up any.

2 And Coach Higgins had asked me to e-mail his
3 professors to make sure he was going to class, that
4 he was going to formation, that he was doing what he
5 was supposed to be doing.

6 Q So you take your directions from Coach Higgins
7 as far as what you are doing with Miguel?

8 A Yes, sir.

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

10 A I had been getting e-mails back for several
11 days and I had finally gotten all the e-mails back
12 from the professors. They weren't good at all. He
13 wasn't going to class, he'd actually missed a test.
14 I told him earlier that the professor was willing to
15 let him make the test up, all he had to do was go in
16 and take the test.

17 Q Did you talk to Miguel about this?

18 A I did. I went in Monday and told him that I
19 have to go to Coach Higgins with this. I have to
20 tell -- I have to report back to him on the e-mails
21 that I had received.

22 Q How did he respond to that information?

23 A He pretty much blew it off, he was like okay.

24 Q Did he seem mad at you or anything?

25 A No, he did not.

1 Q Threaten you at all?

2 A He did not.

3 Q When was the next time that you talked to
4 Miguel?

5 A The next time I talked to him was that Friday.

6 Q Okay. At any point between that Friday --
7 when you met with him on Friday was that in person or
8 was it on the telephone?

9 A It was on the telephone.

10 Q Did you have any telephone conversations with
11 Miguel Starks between that Monday and that Friday?

12 A I don't believe so.

13 Q Okay. Did you go out of town at any point
14 that week?

15 A I did.

16 Q Where did you go out of town?

17 A I went to Columbia. My father had eye surgery
18 or was having eye surgery, so I went to Columbia to
19 be with him.

20 Q When you were out of town did you ever talk to
21 Miguel Starks?

22 A I did not.

23 Q Let's go forward to that Friday. How did that
24 conversation come up?

25 A I was at a high school basketball game that

1 was being played at the Citadel. I got a phone call
2 from Miguel and he asked me what time practice was.
3 I told him it was at 8 o'clock.

4 He asked me what I was doing after the game.
5 I said I'm just going to go home and go to bed
6 because we had to be -- practice was at 8:00 which
7 meant we had to be there at 7:00.

8 Q Tell the jury a little bit about that. Was --
9 he's asked you about practice. Is he on the team at
10 this point, off the team, what's going on?

11 A On Tuesday we had, I say we, the coaching
12 staff, had decided to suspend Miguel for spring
13 practice. So Miguel, when we say we suspended
14 Miguel, he could not attend our position meetings, he
15 could not participate in weight-lifting or
16 participate in practice.

17 Q So he is barred from any official capacity
18 under the rules?

19 A Yes, sir.

20 Q When he was contacting you about practice,
21 what capacity is he wanting to participate I guess?

22 A He is asking what time it is so he can
23 participate as a spectator. He said he was going to
24 come out and watch practice. And all of our
25 practices are open.

1 Q What did you tell him?

2 A I thought it would be a good idea. I thought
3 that he was finally growing up. That he's -- the
4 light went on, he is getting it. He realized that he
5 messed up and he is going to try to be around the
6 football team more.

7 Q Describe his attitude towards that
8 conversation. Did he seem mad at you?

9 A No, he did not. It was the same tone that we
10 had in every other conversation.

11 Q What happened next? This was on a Friday
12 night, so what time was that?

13 A This was about 9:00 or 10:00 Friday night.

14 Q What time did you get home that night?

15 A 10:30, 11:00.

16 Q And were you alone when you came home?

17 A I was.

18 Q What did you do for the rest of the night?

19 A I --

20 Q Did you go out?

21 A I do not.

22 Q You stayed in for the evening?

23 A I did.

24 Q Anything unusual happen that evening?

25 A I went to bed around 11:30 I'd say. Around

1 1:15 I woke up to my phone ringing. I have city
2 identification on my phone, so the number came up as
3 a Dallas, Texas number. And I had never seen that
4 number before and I hit the ignore button and figured
5 if it was important then they would call back.

6 Q What happened next?

7 A I tried to get back to sleep and the phone
8 rang again, it was the same number so I figured it
9 was important so I answered the phone call.

10 Q What happened when you answered it? Who was
11 it?

12 A When I answered the phone call there was a
13 young lady's voice on the phone. She said her name
14 extremely fast, it sounded like Ashley to me, but I
15 couldn't be certain what name she said.

16 She said he was Dwight's ex-girlfriend, that
17 her car had broken down in the Lowe's parking lot,
18 and that she had called Tripple A. She knew my house
19 was close would I come get her and let her stay in my
20 condo until Tripple A got there because she was
21 frightened, she said she didn't want to be alone.

22 Q Did you say earlier that Dwight was one of the
23 people, persons you were with that Sunday at
24 Groucho's at the restaurant?

25 A Yes, sir, that's correct.

1 Q And that's the same time when you met Reggie
2 Rice?

3 A Yes, sir.

4 Q And what did the girl want you to do?

5 A She wanted me to come pick her up from the
6 Lowe's parking lot.

7 Q Ashley, did you know who Ashley was?

8 A I did not. But she had my phone number and
9 she said she was Dwight's ex-girlfriend and she was
10 in trouble and I didn't want to leave somebody out
11 there by herself.

12 Q What did you do?

13 A I told her I would be there in 5, 10 minutes.
14 I started getting ready. I put up some sweat pants
15 and a hoodie.

16 Q So did you just blindly go out and go just get
17 some girl you didn't know who it was?

18 A I did not. I called Dwight to confirm that he
19 knew the number and the girl. He answered the phone,
20 but he was at a party and there was some loud music
21 going on. He told me he couldn't hear me, so that I
22 should text him.

23 Q Did you text him?

24 A I was texting him as I was walking to my car.

25 Q And what happened as you were texting him?

1 A A man put a silver revolver in my face.

2 Q Exactly whereabouts did that happen?

3 A It happened in the parking garage underneath
4 the complex.

5 Q Where you live?

6 A Yes, sir.

7 Q What happened next?

8 A They forced me -- they told me to get on my
9 knees. The one with the gun told me to get on my
10 knees. I kind of blanked out for a minute. And he
11 struck me once in the back of the head with the
12 pistol.

13 I went down on my knees and I remember
14 thinking to myself, is that supposed to knock me out.
15 I told them they could take whatever they wanted,
16 that they could have my car, they could have anything
17 in my house as long as they didn't kill me or my dog.

18 Q Did it knock you out?

19 A No, sir, it did not.

20 Q How many did you see down there?

21 A At first there was the one. But as I was down
22 on my knees two more people came from my left.

23 Q Could you see their faces?

24 A I could not.

25 Q Why not?

1 A They had bandanas on. The first man had a
2 bandana covering his eyes. He had a Dickies jacket
3 with the hood up over his head.

4 Q What about the other two, could you see their
5 faces?

6 A I could not see their faces, they were also
7 covered.

8 Q Describe the guns to me?

9 A There was a -- the first one I saw was a
10 silver revolver.

11 Q Like a small handgun?

12 A Yes, sir.

13 Q The second one?

14 A I didn't see it, I just felt it against the
15 back of my head.

16 Q Okay. So you are down on your knees, what
17 happens next?

18 A I get up. They tell me to get up and take me
19 to the elevator to the door outside. And they press
20 me against the wall and put both of the guns to --
21 one to the back of my head, one to the side of my
22 head and ask me if there are any cameras in the
23 building.

24 Q What did you tell them?

25 A I told them there were not. And the gentleman

1 behind me was saying, I swear to God I'm going to
2 blow your ef-ing head off if there are any cameras.
3 Tell me again, tell me again are there any cameras.

4 Q Did you recognize any voices or who they are
5 at this point?

6 A Not at this point. They're disguising their
7 voices in the geechy dialect, so I didn't know.

8 Q So you're at the elevator, what is going on
9 there?

10 A They -- one of them has my keys which has the
11 electronic fob on it that you have to have to be able
12 to get into my building.

13 Q Do they get into the building?

14 A They do.

15 Q How do they do that?

16 A They use the fob that is on my key chain to
17 open the door.

18 Q Do you go up there with them, what happens?

19 A They tell me to open the elevator and press
20 the floor where I live so I did. I was standing in
21 front. The three of them were behind me with the two
22 guns to my back or to my head. I pressed the one
23 button. And since I had a hoodie on, I threw my hood
24 up.

25 MR. SAVAGE: Your Honor, may I approach the

1 witness?

2 THE COURT: You may.

3 Q (By Mr. Savage) Mr. Harpe, I'm showing you
4 State's Exhibit 18. Do you recognize that?

5 A Yes, sir, I do.

6 Q Okay. Mr. Harpe, I am showing you State's
7 Exhibit 18 on the projector there behind you.

8 I'm going to give you a laser pointer here.
9 What I want you to do is sort of show me where you
10 were and where they were when they came down.
11 Explain that to the jury.

12 A May I step around?

13 MR. SAVAGE: Your Honor, may the witness step
14 down?

15 THE COURT: Yes, sir.

16 Q (By Mr. Savage) Go ahead. Where were you
17 when you first saw the first gunman?

18 A I came out of this door right here.

19 Q What is that door?

20 A There is a stairwell that runs beside my house
21 or my condo, so it's actually faster for me to take
22 the stairs down than to walk down the hall and go to
23 the elevator.

24 Q Do you need the security fob to get into the
25 stairwell?

1 A Not into the stairwell, but you have to have
2 the fob to get into the door that leads into the
3 building.

4 Q Okay. Where is the elevator door in this
5 picture?

6 A Right here.

7 Q Can you see your car in this picture?

8 A Yes, sir, I can.

9 Q Where is that?

10 A That's right here.

11 Q That's a grey -- what kind of car is that?

12 A It's a silver, charcoal, mineral grey 2001
13 Ford Mustang.

14 Q Show me where you were when you first faced
15 the first gunman?

16 A I came out of this door right here. I noticed
17 a man standing in a black hoodie or jacket. He was
18 standing looking into the car that was parked in that
19 space. So I attempted to walk kind of around him. I
20 thought he was trying to break into a car and I
21 didn't want any part of that.

22 Q So then you go to that elevator?

23 A I do not. I walk kind of around here. The
24 man takes a step back. And I honestly remember
25 thinking to myself, okay good, he is leaving, he is

1 gone, I just got to lock my door when I get in.

2 I feel someone approaching me. After that I
3 turned around. And when I turned around I'm right in
4 here and that's when the pistol is staring me in the
5 face.

6 Q Thank you. Take a seat.

7 What happens once you get to your apartment?

8 A They asked me while we are outside if there is
9 anybody in the apartment. I say there is not, just
10 my dog, let me get her and you can have whatever you
11 want. They told me that if there was anybody
12 in there that they were going to shoot them.

13 Q What did they do to you?

14 A Once inside the apartment I got my dog, I
15 picked her up, I put her in the bathroom. I actually
16 thought about staying in the bathroom, but one of
17 them came in and yanked me out.

18 They put me down on my knees beside the guest
19 bedroom. And one of them stood behind me and pointed
20 the gun in the back of my head and said, now would be
21 the time to start praying. And I thought it was
22 done.

23 Q What do you mean by you thought it was done?

24 A I thought I was going to die. And I remember
25 thinking that I'm not going to beg, I'm not going to

1 do anything. If the last thing I do on this earth is
2 going to be to die like a man, that's all I can
3 control.

4 Q What happens next?

5 A They begin to duct-tape my hands behind my
6 back. They duct-tape my ankles together. And they
7 put a sock over my eyes and duct-tape that around my
8 head.

9 Q What happens next?

10 A They begin to go through the place and I can
11 hear things breaking. I can hear them moving the TVs
12 and gathering electronics and other valuables.

13 Q Does anyone leave the apartment that you are
14 aware of?

15 A Not at that time, no, sir.

16 Q So what is going on after they're breaking
17 stuff? Does anyone else come in?

18 A No one else has come in, no, sir, not yet.

19 Q Where is your wallet and your keys at this
20 point?

21 A When the revolver was in my face, I put my
22 keys and my cell phone on the guy's chest. And I
23 gave them my wallet I think while I was on my knees.
24 They have it, I don't have it.

25 Q At some point did someone leave your

1 apartment?

2 A Yes, sir. I had been laying there for a while
3 and I heard one of them whisper to the other one, did
4 you make the call. And then I hear another one say,
5 well at least let's make him comfortable.

6 At that time two of them approached me. They
7 asked for my PIN number to my debit card. They told
8 me if I did not give them the right number that they
9 would, excuse my language, cut my balls off. So I
10 gave them the PIN number. They picked me up to move
11 me into the guest bedroom.

12 Q Did they put you on the ground, on the bed,
13 what did they do?

14 A They threw me on the bed. They stood in the
15 doorway and swung and threw me on the bed.

16 Q At this point now that they're sort of talking
17 to you and you are hearing voices, are you starting
18 to recognize any of their voices?

19 A I believe I've recognized Reginald Rice's
20 voice at this point.

21 Q What is he asking you?

22 A He is not really asking me anything, they're
23 talking to each other. And when they're talking to
24 each other they're not doing a very good job of
25 disguising their voices.

1 Q Do you call out his name or say anything at
2 this point?

3 A No, sir.

4 Q Why not?

5 A I am thinking that if I let on that I know who
6 they are, that they have no reason to keep me alive,
7 that they're going to kill me.

8 Q Now that they have got you PIN number, what
9 happens?

10 A I heard a car start that sounded a lot like my
11 Mustang.

12 Q Describe that, describe your Mustang?

13 A It has flood masters on it.

14 Q Is that an exhaust system?

15 A Yes, sir, it is. So it makes a very distinct
16 noise when it's cranked. I have had the car for ten
17 years, so I know what my car sounds like when it's
18 being cranked.

19 Q So you hear a car that sounds like yours
20 leave?

21 A Yes, sir. My window happens to be at the exit
22 of the garage. So every car coming in and out has to
23 go by my window and I heard it go by that window.

24 Q Do you know whether you're alone in the
25 apartment now, or what's going on now?

1 A At this point I can still hear two people in
2 the apartment.

3 Q Males, females, do you know?

4 A They're males.

5 Q Male, okay.

6 A They keep gathering stuff. At one point they
7 stopped, and I could hear cans being opened. They
8 were laughing and having a drink.

9 Q At any point do you hear your car come back?

10 A I do. I don't really know how much later it
11 was, but I did hear by car come back.

12 Q Does anyone else enter the apartment that you
13 are aware of?

14 A I can't say for certain. I hear sets of feet
15 coming back and forth in the apartment and
16 downstairs. They were kind of loud. I could hear
17 multiple sets of feet.

18 Q Do you know if anyone tried to get money out
19 of your bank account?

20 A Not at that time, I didn't. But now yes, they
21 took money out of my debit account.

22 Q Approximately how much?

23 A I think it was \$217 I think.

24 Q Did you have more than that in your account at
25 that time?

1 A No, sir.

2 Q So that's it, they took everything you had?

3 A They took everything I had.

4 Q Was there anything taken from your apartment?

5 A Yes, sir.

6 Q What was taken?

7 A My TV that was in the living room that had a
8 surround sound system with it, that was gone. My
9 laptop was gone. The 18 inch TV in my bedroom was
10 gone. My Citadel ring was gone. My watch was gone.
11 Pretty much everything was gone except for the
12 furniture.

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

14 THE COURT: (Affirmative head shake.)

15 Q (By Mr. Savage) Mr. Harpe, I'm showing you
16 State's Exhibit 42. Do you recognize that?

17 A Yes, sir, I do.

18 MR. SOWELL: Your Honor.

19 THE COURT: Basis?

20 MR. SOWELL: Some of the defense witnesses
21 have come in. I've advised them to go outside.

22 THE COURT: I can tell they just walked in.
23 You may continue.

24 MR. SAVAGE: Thank you, Your Honor.

25 Q (By Mr. Savage) What is State's Exhibit 42?

1 A This is a picture showing the duct tape on my
2 legs and on my arms.

3 Q Where is that photo taken?

4 A This was taken at my condo.

5 Q Is that from that night?

6 A It is.

7 MR. SAVAGE: Your Honor, the state moves
8 Exhibit 42 into evidence.

9 THE COURT: Any objection?

10 MR. SOWELL: No, ma'am.

11 THE COURT: Marked and admitted without
12 objection.

13 (Whereupon, State's Exhibit No. 42 is admitted
14 into evidence.)

15 Q (By Mr. Savage) Mr. Harpe, I'm showing you
16 what is State's Exhibit 42. Can you tell the jury
17 what they're looking at there?

18 A This is a picture of me. This is the duct
19 tape that was around my legs. This is the duct tape
20 that was around my wrist, my arms.

21 Q At some point did the robbers leave your home?

22 A They kept coming back and forth, eventually
23 they left.

24 Q What happened when they left? Did you get
25 free?

1 A Several times I had heard silence in the
2 apartment and I thought they had gone. But one time
3 I actually kind of started to get myself loose and
4 they -- one of them came in and asked me if I wanted
5 my golf clubs and I said, no, you can have them.

6 He popped me on the head with the grip end a
7 couple times. And I don't know how long they were
8 there.

9 Q During those periods of silence, what were you
10 doing?

11 A I was trying to wrestle, kind of getting my
12 hands behind my back and trying to loosen the tape a
13 little bit so that I could at some point get my hands
14 free.

15 Q Tell me about when they finally did leave,
16 what did you do?

17 A I heard my car come back again. One of the
18 attackers came in and turned the light off in my
19 condo, in the room I was in. He shut the door. I
20 heard my front door close. I counted to 100 before I
21 started to try to get myself free.

22 Q Why did you count to 100?

23 A I wanted to make sure that they were gone. I
24 didn't want to escape and then them be standing there
25 when I got out and shoot me. So I didn't want them

1 to know that I had gotten free.

2 Q What did you do once you did get free?

3 A I rolled off the bed because my legs were
4 still bound together, and I was still blindfolded. I
5 rolled to where the door was. I pressed my body up
6 against the door and locked it with my hands. I
7 turned the light on.

8 Q Why did you lock the door?

9 A Just in case they were still there. At least
10 if they were in there then I'm safe in this room for
11 as long as it takes them to get in.

12 Q Okay. And do you end up freeing yourself?

13 A I do. After -- takes me a little bit to pull
14 the duct tape and the sock off my eyes. And then out
15 of sheer force, by this time I'm -- excuse my
16 language again -- but I'm pretty pissed. And I just
17 take my legs and pull them apart and the duct tape
18 broke.

19 Q Where is your dog at this point?

20 A She is locked in the bathroom. They had
21 brought her in with me. One of them had asked me to
22 put her on a leash, which I at the time though was
23 pretty funny since I had my hands duct-taped behind
24 me and I was blindfolded. So that took a while to
25 put her on the leash.

1 Q So you put her on the leash?

2 A I did.

3 Q With your hands tied behind your back?

4 A Yes, sir.

5 Q How did you do that?

6 A She came in and sat down.

7 Q When you say she, are we talking she as in
8 human or she as in dog?

9 A She as in a dog.

10 Q Okay.

11 A She sat down. And I had my hands -- just they
12 tossed it on the bed on me. So I had the leash and I
13 was really trying to just feel around trying to get
14 the little clip on the collar.

15 Q Okay, did you do that?

16 A Yes, sir, I did.

17 Q Do you know what happened to your dog after
18 that?

19 A I had no idea. I honestly when they took her
20 out thought it was the last time I was ever going to
21 see her again.

22 Q Was your dog ever harmed that you're aware of?

23 A Not that I'm aware of.

24 Q Tell me about what your apartment looked like
25 once you were able to free yourself?

1 A It looked like a war zone. There was stuff
2 everywhere. There was broken glass in the living
3 room. My bedroom was destroyed, it was unbelievable.

4 Q You mentioned some of the stuff that was
5 taken, did they take any of your personal valuable
6 items?

7 A They took a couple of watches, they took my
8 citadel ring. That was a big deal that they took my
9 ring.

10 Q Why is that a big deal?

11 A You don't just get a citadel ring, you have to
12 earn it. They don't just give them out. And
13 everybody who has that ring is proud to wear it.

14 Q Did you call the police?

15 A They had my cell phone, so I ran right next
16 door and knocked on my neighbor's door but she was
17 not awake. So I ran down the stairs that I had first
18 come out of and I ran next door to a physical
19 rehabilitation center that's next door and I knocked
20 on the door.

21 Q Did you go inside?

22 A Not at first. Two nurses came, they were
23 pretty apprehensive of me.

24 Q About what time day is this now?

25 A Sometime early in the morning, after 1:15.

1 That's the last time I knew what time it was.

2 Q Roughly how long did the robbery last?

3 A Two and a half hours.

4 Q So the nurses, did they come out?

5 A I tell them that I have just been robbed and
6 that they need to call the police. They call the
7 police and they opened the door with the dispatcher
8 asked to talk to me.

9 Q Do you talk to the dispatcher?

10 A I do.

11 Q What do you tell the dispatcher?

12 A I tell the dispatcher that I have just been
13 robbed by three men. She asked me to describe them. I
14 described them as best I could.

15 Q Where do you go next?

16 A They tell me to stay there. They actually
17 asked me if this had recently happened and I said
18 yes, it had. I waited until the police got there.

19 Q And what happened once the police got there?

20 A After the police got there we took a right out
21 of the rehabilitation center and it struck me as odd
22 because me complex was back to the left.

23 I told the police officer that we were going
24 the wrong way. And she said, well, we may have two
25 suspects in custody, can you identify them if we

1 showed them to you. I said I can identify at least
2 two of them, I don't know who the third guy is.

3 Q At this point as you are going up to make --
4 to look at someone, who do you think is involved in
5 the robbery now?

6 A Reginald Rice and Miguel Starks.

7 Q How certain are you?

8 A I'm 95 percent certain Miguel is involved, and
9 I'm 100 percent certain that Reginald Rice is
10 involved.

11 Q Do you go to a location to look at someone?

12 A We do.

13 Q Tell me about that, what do you see?

14 A They pull the first person out. I didn't
15 recognize his face, however in the brief glimpse I
16 got of him I remembered grey sweat pants and black
17 shoes.

18 When they pulled him out of the police car he
19 was wearing grey sweat pants and black shoes. So I
20 told the officer, I don't know this guy's face, I
21 don't know who he is, but I recognize the grey pants
22 so he may be the third guy.

23 Q Do you know who that person is now?

24 A Yes, sir.

25 Q Who was that?

1 A Stephen Francois.

2 Q Were you shown anyone else?

3 A Reginald Rice was next.

4 Q Where were you at this time? Were you outside
5 the police car, inside the police car?

6 A I was in the back of a police car.

7 Q So Reginald Rice, does he come out of the
8 police car? Where does he come?

9 A They pull Reggie out of the police car. And
10 the second they pull him out, I knew it was him.

11 Q You told the police that?

12 A I did. I said, that's Reginald Rice, that's
13 Reggie.

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

15 Q (By Mr. Savage) Inside the apartment when the
16 robberies are occurring, how many people do you think
17 are in there towards the end?

18 A Towards the end I heard four sets of footsteps
19 which surprised me because I thought Miguel had gone.
20 And by the time we got in the elevator and they got
21 me in the house, I realized that whoever made the
22 phone call was leading me into an ambush.

23 So I figured if there were four sets of
24 footprints that would be three attackers and the
25 person who called.

1 MR. SAVAGE: I have nothing further, Your
2 Honor.

3 THE COURT: Any questions for the witness?

4 MR. SOWELL: Yes, ma'am.

5 THE COURT: You may proceed.

6 MR. SOWELL: Thank you.

7 CROSS-EXAMINATION

8 BY MR. SOWELL:

9 Q Josh?

10 A Yes, sir.

11 Q The picture we've seen.

12 A Which one?

13 Q With you with the duct tape?

14 A Yes, sir.

15 Q This picture.

16 A Yes, sir.

17 Q When was that taken?

18 A That was taken the morning that happened -- I
19 was actually writing my statement. So that was taken
20 right after the incident, right after the police
21 crime scene guy got there.

22 Q So he was the one that took the picture?

23 A Yes, sir.

24 Q How long had you known Reggie Rice?

25 A Like I said, I met Reginald when he

1 matriculated to the Citadel in August of 2006. But I
2 wouldn't say that I knew him well.

3 Q You met him through football?

4 A First I met him through the training cadre.

5 Q I'm sorry?

6 A The training cadre. I was on his cadre. I
7 was in charge of training him. I knew Rice, comma, R
8 and his Citadel identification number. So I knew of
9 him through cadre first.

10 Q I'm not sure what cadre first is?

11 A Cadre is the period of time in which the
12 freshman cadets are taught how to be not only knobs
13 but cadets.

14 Q Now doesn't the football team come a couple
15 weeks, three weeks before the rest of the cadets?

16 A Yes, sir, that's called athletic cadre.

17 Q So you met him through athletic cadre?

18 A Yes, sir.

19 Q How many times do you think you interacted
20 with him?

21 A At the Citadel or out of the Citadel?

22 Q Anywhere.

23 A I would say at the Citadel a couple times a
24 week. I mean, I'd see him every day. But just
25 because I saw him, he was a defensive player, I

1 really didn't have a lot to do with the defensive.
2 So I saw him but I didn't really talk to him every
3 day.

4 Q He played defensive end?

5 A Linebacker.

6 Q Linebackers -- I never played -- but the
7 linebackers are always the big guy. Was he a big
8 guy?

9 A He was pretty stout, yes, sir.

10 Q Did he have a reputation for violence?

11 A He had a reputation of a pretty good temper.
12 He did have a temper, yes, sir.

13 Q Did he retain that temper for a while after he
14 got back?

15 A I guess. Like I said, I didn't really have a
16 lot of interaction. When he would get upset it would
17 be the defensive coaches that were dealing with him
18 while I was off with the offense.

19 Q And did -- if he got mad at someone,
20 threatened someone, did they have reason to be afraid
21 of him?

22 MR. SAVAGE: Objection, speculation.

23 THE COURT: Overruled.

24 A I can't honestly say. I could say yes or no.

25 Q (By Mr. Sowell) Did -- when he was in your

1 condo, had the gun to your head, do you think you had
2 reason to be afraid from him?

3 A I didn't know it was him at the time. But,
4 yes, whoever was pointing the gun at my head, I had
5 reason to be afraid.

6 Q Did you know how big he was?

7 A Not really, he was shorter than me. Like I
8 said, I got a very quick glimpse of kind of all three
9 of them. But he was built, he was built.

10 Q How about Miguel. How do you pronounce his
11 name?

12 A Miguel.

13 Q How often did you see him?

14 A I would say I saw him every day.

15 Q How often did you hear Reggie and Miguel's
16 voice?

17 A Reggie had been gone for over a year so I
18 hadn't heard his voice in a very long time. But I
19 heard Miguel's voice quite often.

20 Q Is there any way possible that anybody planned
21 to break in and rob you and talk in your presence,
22 and you not recognize Miguel and Reggie's voice?

23 A Like I said, they were trying to disguise
24 their voices. But when they had me shut in the room
25 I could hear their voices and I remember thinking to

1 myself, there is no way they could be this stupid.

2 Q My thoughts exactly.

3 MR. SAVAGE: Objection, Your Honor.

4 THE COURT: Overruled.

5 Q (By Mr. Sowell) Tell me, did they threaten to
6 harm you if you were to report this?

7 A No, sir.

8 Q Why did they threaten to harm you?

9 A Why did they?

10 Q Yes.

11 A They wanted what I had.

12 Q How many different times did they threaten to
13 harm or kill you, estimate?

14 A Three or four.

15 Q And did you think you had reason to be afraid?

16 A Yes, sir.

17 Q You waited until you counted to 100 to make a
18 getaway?

19 A Yes, sir.

20 Q Did you do that because you were likewise
21 afraid?

22 A Yes, sir.

23 Q Would a reasonable person who is threatened by
24 those two gentlemen with guns have reason to be
25 afraid of what they might do?

1 MR. SAVAGE: Objection, speculation.

2 THE COURT: Sustained, speculation.

3 Q (By Mr. Sowell) They threatened to kill you
4 if there was a camera, a security camera?

5 A Yes, sir. I believe it was more if I didn't
6 tell them if there were security cameras. But, yes,
7 sir.

8 Q They told you that if there is anyone in the
9 condo that you didn't tell them about they were going
10 to shoot the other person?

11 A They did. While we were standing outside for
12 a quick second they said, is there anyone in here, if
13 there is anyone in here we are going to shoot them so
14 tell us now.

15 Q Did you believe them?

16 A Absolutely.

17 Q Did they tell you, now is the time to start
18 praying?

19 A Yes, sir.

20 Q What did they mean by that? What did you
21 understand them to mean by that?

22 A I understood that to mean that they were about
23 to shoot me in the back of my head.

24 Q You said you didn't let them know you
25 recognized their voices because they would have no

1 reason not to kill you?

2 A That was my logic at the time, yes, sir.

3 Q Golf clubs?

4 A Yes, sir.

5 Q Did the police give those back to you?

6 A Yes, sir.

7 Q And they picked up a golf club and hit you
8 with it?

9 A They were not in the room that I was in. They
10 walked in and one of them had it in his hand. And he
11 said, I believe this his words were, hey, white boy,
12 you want these golf clubs? And popped me on the head
13 a couple of times.

14 Q Pretty violently or just playing with you?

15 A Pretty violently. I was in shock so I didn't
16 feel it, but.

17 Q Did you have any question, within 15 minutes
18 of them getting there, you interacting with them,
19 that that was Reggie?

20 A I can't tell you a frame of time. But after
21 going in the bedroom, I was on that floor, on that
22 hardwood floor facedown it seemed like forever. So
23 at least 30 minutes I didn't know who anybody was. I
24 had a suspicion, but I didn't know.

25 Q How long was it until you recognized Reggie?

1 A I cannot accurately tell you because I was
2 blindfolded and duct-taped, so I don't really have a
3 concept of time.

4 Q Did it take you a long time to recognize his
5 voice?

6 A Wasn't doing a whole lot else so I tried to
7 concentrate on anything that I could hear that was
8 going on.

9 Q You have no question it was Reggie's voice?

10 A Now? No question.

11 Q At the time did you have any question?

12 A Not once I had freed myself and was going over
13 what just happened as I was running to the nursing
14 home, or the rehabilitation facility.

15 Q Until you felt safe you really didn't do much
16 contemplation as to the voice?

17 A Correct.

18 Q How about Miguel? Did you have any problem
19 recognizing him after you thought about it?

20 A Not after I thought about it. When he stuck
21 his head in the door and said, hey, Baba, are you all
22 right? That sent off something that said, hey, this
23 is probably Miguel. This is Miguel.

24 Q Whoever it was knew you?

25 A Yes, sir.

1 Q Whoever it was didn't want to kill your dog?

2 A I'm sorry, I didn't completely hear you.

3 Q Whoever it was didn't want to kill your dog?

4 A At the time I didn't know that, but sure.

5 Q You heard the female who called?

6 A Yes, sir.

7 Q Did you ever hear any female voice inside the
8 condo?

9 A No, sir, I did not.

10 Q But you said you heard four sets of footprints
11 at sometime?

12 A Yes.

13 Q That was just before they left?

14 A Shortly before they left.

15 Q You didn't hear --

16 MR. SOWELL: Nothing further, Your Honor.

17 THE COURT: Any redirect?

18 MR. SAVAGE: No, Your Honor.

19 THE COURT: Any objection to the witness being
20 excused from the state?

21 MR. SAVAGE: No, Your Honor.

22 THE COURT: From the defense?

23 MR. SOWELL: No, ma'am.

24 THE COURT: Sir, you are excused.

25 THE WITNESS: Thank you, Your Honor.

1 THE COURT: You're welcome.

2 You may call your next witness.

3 MR. KIDD: State rests, Your Honor.

4 THE COURT: Mr. Foreman, ladies and gentlemen,
5 the state has rested their case. I have some matters
6 of law I need to take up with the attorneys. It
7 should be fairly brief.

8 During the break please do not discuss the
9 case and please leave your notepads in your seats.
10 If you would go with the bailiffs for me, please.

11 (Whereupon, the jurors exit the courtroom.)

12 THE COURT: You may be seated.

13 The state has rested, are there any motions?

14 MR. SOWELL: Yes, ma'am.

15 THE COURT: You may proceed.

16 MR. SOWELL: The defendant would move for a
17 verdict of not guilty, a directed verdict on the
18 grounds the state has failed to prove a prima facie
19 case.

20 THE COURT: Would the state like to respond?

21 MR. KIDD: Your Honor, just that the
22 appropriate standard of viewing in the light most
23 favorable -- viewing the evidence in the light most
24 favorable to the state, I think there has been a
25 plethora of evidence regarding the burglary first

1 degree and armed robbery. There is
2 obviously testimony from the victims and the
3 codefendants that there was entry into the residences
4 without consent at night with the intent to commit a
5 crime, or taking property from the presence of others
6 while armed with deadly weapons.

7 And I think under the law of accomplice
8 liability in South Carolina I think all the elements
9 of those crimes -- at least there is evidence to each
10 of those elements of those crimes sufficient to
11 submit the case to the jury.

12 THE COURT: Anything further from the defense?

13 MR. SOWELL: No, ma'am.

14 THE COURT: Considering the evidence in the
15 light most favorable to the state, the Court is
16 concerned with the existence or nonexistence of
17 evidence and not it's weight.

18 There must only be direct evidence or
19 substantial circumstantial evidence reasonably
20 tending to prove the guilt of the accused. The state
21 does not have to prove that -- and the court does not
22 have to find that the evidence infers guilt to the
23 exclusion of any other reasonable hypothesis.

24 The evidence of course must raise above that
25 of a mere suspicion of the defendant's guilt.

1 However, if the state presents any evidence which
2 reasonably tends to prove the defendant's guilt, the
3 case must go to the jury.

4 And without belaboring the point, because we
5 have all been here, we have all listened to the
6 testimony, there is certainly direct evidence as well
7 as substantial circumstantial evidence reasonably
8 tending to prove the defendant's guilt, that being
9 under the theory of accomplice liability; that being
10 the hand of one is the hand of all.

11 And the direct testimony that she acted as a
12 lure or an enticement of the crimes. Therefore, the
13 motion is denied.

14 Is there anything further before we proceed
15 with questioning her regarding her right to testify?

16 MR. SOWELL: No, ma'am.

17 THE COURT: Ms. Gaskins, if you would stand
18 for me. I will remind you that you are still under
19 oath. Do you have any questions regarding your
20 advisement of your rights to testify?

21 THE DEFENDANT: No, ma'am.

22 THE COURT: Have you discussed with your
23 lawyer whether you should or should not testify?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Do you need to speak with him any

1 further at this time?

2 THE DEFENDANT: No, ma'am.

3 THE COURT: Ma'am, do you wish to testify?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: You may take your seat.

6 Are you ready to proceed?

7 MR. SOWELL: Yes, ma'am.

8 MR. KIDD: Your Honor, may we take a quick
9 break?

10 THE COURT: Yes, absolutely.

11 MR. KIDD: Thank you.

12 (Whereupon, a recess was taken.)

13 THE COURT: Is the state ready to proceed?

14 MR. KIDD: We are.

15 THE COURT: Is the defense ready to proceed?

16 MR. SOWELL: Yes, Your Honor.

17 THE COURT: Please bring in the jury.

18 MR. SAVAGE: Your Honor, I think we have a
19 matter of law we need to discuss.

20 THE COURT: Close that door, please.

21 Yes, sir.

22 MR. SAVAGE: Defense counsel has handed me a
23 document that he has given to his doctor and what
24 he's going to testify to. I'm going to object to
25 anything he's going to testify based on what is in

1 this document. It's inaccurate.

2 THE COURT: I have no idea what is in the
3 document and I think I already gave you very clear
4 instructions as to what the parameters of his
5 testimony is.

6 MR. SAVAGE: I think he's gone outside those
7 parameters, Your Honor.

8 THE COURT: Well I don't know, I haven't see
9 it.

10 Mr. Sowell, what's the doctor going to testify
11 to?

12 MR. SAVAGE: Would you like to see the
13 document, Your Honor?

14 THE COURT: Sure.

15 MR. SAVAGE: May I approach?

16 THE COURT: Uh-hum. Is this what he's going
17 to testify to, Mr. Sowell, or did you just provide
18 this to the state as the information that you
19 provided to the doctor?

20 MR. SOWELL: She will provide that testimony.

21 THE COURT: She is going to testify?

22 MR. SOWELL: She will testify to all those
23 facts. He is answering a hypothetical.

24 THE COURT: He can't answer hypothetical about
25 what she could have done, would have done or is

1 capable of doing. He can only testify in general as
2 to human behavior, and the effects of fear on the
3 human being generally situated.

4 He cannot say what she -- because the laws
5 says that he cannot -- no expert can testify as to
6 the propensity for someone to do something, past or
7 future, except in SVP cases we have testimony about
8 propensity in the future because that's one of the
9 elements of that civil commitment which is, is a
10 person likely to do something in the future. That's
11 the only time that type testimony is appropriate.

12 Otherwise, it's prohibited by the rules
13 civilly and in the civil rules of procedure -- not
14 civil rules of procedure, evidence, evidence rules,
15 and there is case law that indicates -- and usually
16 this comes up in, at least the cases that I have
17 read, it's come up in the context of a criminal
18 sexual conduct or like case where someone would want
19 to come in and testify that the person was not
20 capable of doing this on that particular date. And
21 that's not permissible. That's a jury question.

22 He can testify in general as to what he does
23 for a living; his expertise; that he evaluates
24 people; and that from his experience the effects
25 generally of fear on a person.

1 I don't know if I'm using the right term fear,
2 coercion, duress, whatever terms that you would use,
3 I guess I'm using them interchangeably, but he cannot
4 say he examined her and in his professional opinion
5 she didn't do it on this date, or that she doesn't
6 have the capacity to do it in the future because
7 that's off limits.

8 Now she can testify that she didn't do it and
9 that she was fearful and all of that. But that would
10 be the extend of the parameters of his testimony.

11 MR. SAVAGE: And his testimony can't be based
12 on anything that was provided before?

13 THE COURT: Mr. Sowell didn't say he was going
14 to, he said his client was going to testify to that.
15 He provided that to you as a courtesy so that you
16 would know what she is going to testify to.

17 MR. SAVAGE: Yes, Your Honor.

18 THE COURT: Are we ready?

19 MR. SOWELL: Yes, Your Honor. One more
20 question. I had hoped to present this hypothetical
21 to him.

22 THE COURT: You can't do a hypothetical if
23 it's going to have him say what she could have done
24 or what she would do. That's a jury question.

25 MR. SOWELL: Yes, ma'am.

1 THE COURT: You can always argue to the jury
2 that, you know, of the effects of fear, and that you
3 presented an expert as to the effect of fear, duress
4 and coercion on a person. It's up to the jury to
5 draw that conclusion.

6 The jury is the ultimate fact-finders whether
7 something took place or didn't take place. But you
8 can't have an expert supplant that and say that I
9 think that they didn't do it or that they did do it
10 or that they have the capacity to do it. That's off
11 limits.

12 MR. SOWELL: I will do my best to stay within
13 those parameters.

14 THE COURT: Okay.

15 (Whereupon, the jurors enter the courtroom.)

16 THE COURT: You may be seated. Ladies and
17 gentlemen, I hope you all had a good break. We will
18 now resume with testimony.

19 The defense may proceed.

20 MR. SOWELL: Your Honor, we call Dr. Randolph
21 Waid.

22 THE COURT: Dr. Waid, if would you come to the
23 stand to be sworn.

24 DR. LEWIS RANDOLPH WAID,
25 after having first been duly sworn to state the

1 truth, the whole truth and nothing but the truth,
2 testified on his oath as follows:

3 THE COURT: You may proceed, Mr. Sowell.

4 And, Doctor, if you could speak directly into
5 the microphone for us that would be helpful.

6 THE WITNESS: Sure.

7 DIRECT EXAMINATION

8 BY MR. SOWELL:

9 Q Dr. Waid, where do you practice?

10 A My current practice is in Mount Pleasant. And
11 I also remain on the faculty at the Medical
12 University of South Carolina in the Department of
13 Psychiatry and Neurology.

14 Q I believe Mount Pleasant is the wonderful town
15 over across the bridge, South Carolina?

16 A It is indeed.

17 Q And where did you go to college?

18 A I got my bachelor's degree in psychology from
19 Temple University in Philadelphia. I got a master's
20 degree in psychology from the University of Richmond
21 in Richmond, Virginia.

22 I attained the doctoral degree in clinical
23 psychology from the University of North Texas. That
24 followed an internship here here at the Medical
25 University of South Carolina in 1980 and '81. I

1 returned to Charleston and joined the faculty in 1983
2 at the Medical University of South Carolina.

3 Q So you're a member of the faculty at the
4 Medical University?

5 A Yes, I have been on the faculty since 1983.

6 Q Do you know my brother, Dr. Sowell, from
7 Charlotte?

8 A I do know Dr. Sowell, of him. I know some
9 people in Charlotte, and he's certainly one of the
10 group of psychiatrists I know there.

11 Q What certificates or certifications do you
12 have in the field of psychiatric?

13 A Well I am in many divisions and certificates.
14 My specialties are in forensic psychology, which is
15 assessment of psycho-legal issues. In the criminal
16 world that would have to do with state of mind
17 issues, competency issues, insanity issues or
18 mitigating factors.

19 I do sexual predator evaluations. I also do a
20 great deal of probate court, civil commitment also as
21 well as civil court because I also have a specialty
22 in neuropsychology which has to do with the pathology
23 affecting the brain; head injury, dementia, and so
24 forth.

25 Q And how long have you been practicing in this

1 field?

2 A I have been in this field and doing that type
3 of work since 1983. At the Medical University I was
4 the director of the assessment center, so we were
5 greatly involved in evaluations of people for a
6 variety of reasons, including psycho-legal issues and
7 courtroom issues.

8 Q How much experience do you have involving an
9 individual in fear?

10 A A lot. It's certainly a state of mind issue.
11 involves at times fear, fear or retaliation and so
12 forth.

13 So ultimately that's a question that does come
14 up sometimes as a mitigating factor for why actions
15 or certain criminal actions might have taken place.

16 MR. SOWELL: Your Honor, I would present Dr.
17 Waid as an expert.

18 THE COURT: Any objections or questions?

19 MR. SAVAGE: Just a couple, Your Honor.

20 VOIR DIRE EXAMINATION

21 BY MR. SAVAGE:

22 Q Dr. Waid, have you ever been admitted as an
23 expert?

24 A Yes, sir.

25 Q Have there ever been occasions where you have

1 been denied being admitted as an expert?

2 A Not over 30 years, in multiple states.

3 Q Never been denied?

4 A Never been denied.

5 Q In what courts have you been admitted in?

6 A I have been admitted in South Carolina,
7 Georgia, North Carolina. And courts, civil courts
8 and federal court and also military court.

9 Q Have you ever prosecuted -- have you ever
10 testified for the prosecution before?

11 A Yes, sir.

12 Q Where is that?

13 A I have done some work even here and some work
14 in Greenville.

15 Q For the prosecution here?

16 A Yes.

17 Q Who was that for?

18 A I'll get her name wrong, Deborah Lang-Trip in
19 the sexual predator. I have done some witnessing for
20 her.

21 MR. SAVAGE: May we have a brief moment, Your
22 Honor.

23 THE COURT: Uh-hum.

24 MR. SAVAGE: Nothing further, Your Honor.

25 THE COURT: Any objection?

1 MR. SAVAGE: No, Your Honor.

2 THE COURT: So admitted.

3 You may proceed, Mr. Sowell.

4 MR. SOWELL: Thank you, ma'am.

5 THE COURT: You're welcome.

6 Q (By Mr. Sowell) Dr. Waid, give me a rough
7 estimate of how many trials, court trials you have
8 testified in as an expert in the field of psychology,
9 psychotherapy?

10 A Well I actually testify more in criminal
11 courts because civil courts tend to be deposition and
12 they get resolved seemingly at the last moment.

13 I was in court last week. I will tell you
14 that I have 40 to 50 depositions in a year. And I
15 would say I'm in court about 10 to 15 times a year.

16 Q Is that civil and criminal?

17 A That is civil and criminal.

18 Q Have you assisted both defense and
19 prosecution?

20 A Yes, in terms of plaintiffs and defendants I
21 have been involved in both of them, that is correct.

22 Q And I believe you said you have a lot of
23 experience in the field of fear?

24 A I do have. Obviously my greatest experience
25 is involved with psychiatric disturbance and

1 psychological disturbance, and the ultimate role it
2 may play in terms of criminal action.

3 But, indeed, I have dealt with people under
4 fear or duress or entrapment in terms of their
5 involvement in a criminal behavior.

6 Q In your field, can you offer testimony
7 concerning the effect of fear on someone's propensity
8 or acceptance or willingness to commit a crime?

9 A That is correct. I have done that on occasion
10 in the work that I have done.

11 Q Can you tell me how fear affects someone so
12 that they would agree to commit a crime they would
13 otherwise never commit?

14 A Well basically the classic example of fear or
15 duress is the absolute threat of loss of life to
16 either you or another individual or to family
17 members. And this is the classic example --

18 Q You said this?

19 A -- of duress or fear. That you have a fear
20 for your own life, or a fear for someone other that
21 they're threatening that's close to you or family
22 members.

23 This happens in a variety of types of cases,
24 even sexual predator cases. So ultimately that is a
25 level of duress or fear that may impact on the

1 decision to engage in a behavior or not, even a
2 criminal behavior or not.

3 Q Could fear result in a otherwise completely
4 normal, reasonable, non-criminal person, could fear
5 force them to commit a crime, such as a burglary or
6 armed robbery?

7 A Yes, it can. And ultimately it's considered
8 something of duress or fear that would be so -- would
9 be such for any reasonable person. So there is no
10 need to kind of asses whether they have a psychiatric
11 problem, that most of us would consider this a
12 reasonable fear or reasonable threat in which it
13 would impact on a person to maybe make them -- render
14 them to make a decision to violate -- do a behavior
15 that violates the law.

16 Q Would a -- would having a gun placed against
17 your head and threatened that you either commit this
18 crime or I'm going to kill you --

19 MR. SAVAGE: Objection, Your Honor.

20 THE COURT: Rephrase the question. Keep it
21 within the instructions, Mr. Sowell.

22 MR. SOWELL: Yes, ma'am.

23 Q (By Mr. Sowell) If you could explain how a
24 threat of bodily injury or death would affect someone
25 to the degree that they would commit the crime of

1 burglary?

2 A Yes. Again from a psycho-legal point of view,
3 it's the more there is a reasonable belief that the
4 only way to avoid imminent threat, death or the
5 danger, then that certainly can mediate why you would
6 engage in conduct that is in violation of a criminal
7 law.

8 So obviously the more the manner in which the
9 threat presents itself will certainly heighten that
10 for all of us. Obviously somebody having a gun
11 available to them, or in their midst, or pointed
12 towards someone obviously raises the ante that it's a
13 reasonable threat.

14 MR. SAVAGE: Your Honor, I'm going to object.

15 THE COURT: Basis of the objection?

16 MR. SAVAGE: May we approach?

17 THE COURT: Uh-hum. Yes.

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

20 MR. SAVAGE: He has starting to talk about
21 pointing a gun. His testimony is about the note he
22 has been provided from the defense counsel.

23 THE COURT: He is talking in general. He
24 isn't talking about pointing some gun to the head.

25 MR. SAVAGE: That's exactly what he was asked.

1 THE COURT: Stay away from the facts.
2 Proceed.

3 (In open court.)

4 THE COURT: Proceed.

5 Q (By Mr. Sowell) Let me make sure I understand
6 you, Dr. Waid. If someone had a reasonable, normal
7 cause to be afraid for their life or immediate death
8 or bodily injury --

9 MR. SAVAGE: Objection, Your Honor.

10 THE COURT: I haven't heard the whole
11 question.

12 Q (By Mr. Sowell) Could that person be -- would
13 it be reasonable for that person to submit to a
14 demand to commit a crime?

15 A Yes.

16 MR. SAVAGE: Objection, Your Honor.

17 THE COURT: I'll give you a little latitude.
18 But you need to rephrase the question, Mr. Sowell,
19 and stop the leading. Keep it general.

20 Q (By Mr. Sowell) Maybe I didn't fully
21 understand or didn't hear what you said earlier.
22 Explain to me how a fear can cause someone to commit
23 a crime?

24 A Basically fear or being -- having a threat of
25 one's life is -- forces an individual to make choice

1 of evils. And choosing the lesser evil in their
2 mind, if they believe that the threat of harm or
3 death is real, choosing the lesser evils, which in a
4 case might be to participate in some action, whether
5 it be a robbery or something like that, is how fear
6 or duress acts on individuals.

7 There is absolutely a tendency for such an
8 individual with those two, being confronted with
9 those two evils, to then act criminally in order to
10 avoid a more greater evil, or greater threat in this
11 case, of whether or not that is a legitimate threat
12 of harm or death to them.

13 Q How long after a threat of harm would this
14 propensity or this result of committing a crime --
15 how long -- does it have to be a real short period of
16 time from the threat to the crime, or can it be a
17 longer period of time?

18 A A period of time in which an individual may
19 continue to engage in behavior or not comport with
20 the behavior has to do with the continuing period of
21 time in which they feel there is a continuing threat,
22 either to them or to family members.

23 Obviously there are prototype cases in sexual
24 abuse where the perpetrator has threatened to do harm
25 to the family and so forth, often leading that person

1 not to come forward for extended periods of time,
2 years, with regard to what really occurred.

3 So it really has to do with an individual case
4 where you evaluate that and try to assess the degree
5 of threat that continues to persist and has
6 reasonable -- and it's reasonable. So if a person
7 thinks, if I do come forward and they will harm me,
8 or they will harm my family, then it can be
9 perpetuated until that fear, or that reasoning
10 dissipates and goes away.

11 MR. SOWELL: Nothing further, Your Honor.

12 THE COURT: Any questions for the witness?

13 MR. SAVAGE: Yes, Your Honor.

14 THE COURT: You may proceed.

15 MR. SAVAGE: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. SAVAGE:

18 Q Dr. Waid, when were you first hired in this
19 case?

20 A I was first contacted this past weekend.

21 Q And who hired you?

22 A The counsel hired me.

23 Q Have you met with the defendant in this case?

24 A I have not.

25 Q You have not?

1 A I have not.

2 Q Have you met with any police officers?

3 A I have not.

4 Q Have you meet with any victims?

5 A I have not.

6 Q Have you met with any codefendants?

7 A I have not.

8 MR. SAVAGE: Your Honor --

9 THE COURT: Be careful. You are about to open
10 a door you don't want to open.

11 A I have not.

12 Q (By Mr. Savage) Are you forming an opinion at
13 all in this case?

14 A No, I'm talking hypothetically about duress
15 and the impact it can have on a person. I have not
16 evaluated anybody, and that would be necessary for me
17 to offer a specific opinion about this case.

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

19 THE COURT: Uh-hum.

20 MR. SAVAGE: Nothing further, Your Honor.

21 THE COURT: Any redirect of the witness?

22 MR. SOWELL: One Moment, Your Honor.

23 Nothing further, Your Honor.

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

1 MR. SAVAGE: No, Your Honor.

2 THE COURT: From the defense?

3 MR. SOWELL: No, ma'am.

4 THE COURT: Sir, you are excused.

5 THE WITNESS: Thank you.

6 THE COURT: You may proceed.

7 MR. SOWELL: Defense called Ms. Barksdale.

8 MS. ALVENES BARKSDALE,

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

12 THE WITNESS: First of all, I am a Christian.

13 THE COURT: Ma'am, I need you to tell us your
14 name.

15 THE WITNESS: My name is Alvenes Rice
16 Barksdale.

17 THE COURT: Spell your last name for us.

18 THE WITNESS: B-A-R-K-S-D, as in dog, A-L-E.

19 THE COURT: Can you spell your first name for
20 us as well.

21 THE WITNESS: My first name is spelled A-L-V,
22 as in Victor, E-N-E-S.

23 THE COURT: Thank you.

24 You may proceed.

25 DIRECT EXAMINATION

1 BY MR. SOWELL:

2 Q Ms. Barksdale, are you over 21 years old?

3 A Yes, sir.

4 Q Do you mind telling us how old you are?

5 A I'm 83 years old.

6 Q 83?

7 A 84.

8 Q Congratulations.

9 A Thank you.

10 Q Do you work?

11 A I am a retired educator.

12 Q Retired?

13 A More specifically -- I am a retired educator,
14 more specifically a guidance counselor.

15 Q And when did you retire?

16 A I retired June 11th, 1988. So it has been a
17 while.

18 Q Your memory is holding up real well. Where do
19 you live?

20 A I live in Clinton, South Carolina.

21 Q Where in Clinton?

22 A South Livingston Street.

23 Q And do you know Sasha?

24 A Yes, I do.

25 Q And do you live near her?

1 A In the neighborhood.

2 And Clinton is small, so almost everybody
3 knows almost everybody else.

4 Q And how long have you known her?

5 A All of her life. As a matter of fact, her
6 mother and the mother's siblings were my students at
7 one time or another at Bell Street High School.

8 Q In Laurens?

9 A In Clinton, yes.

10 Q That's Laurens County?

11 A Yes, it is.

12 Q And how did you meet Sasha?

13 A I met Sasha through the church. I was at the
14 time a member of Hebron Baptist Church in Clinton.
15 Since that time, of course, I have changed
16 memberships, I joined another church out of the area.

17 She was a little working girl in the church
18 having sung on the church junior choir, having been a
19 usher, and every other capacity that she could serve
20 she did.

21 My sorority also chose her, along with some
22 other young ladies from the Clinton -- well from the
23 Laurens County area as specifically choice young
24 ladies of reputation from Clinton. These young
25 ladies participated in something similar to a

1 debutant cotillion where they were presented to
2 society. That was at her senior year.

3 Q Were you ever a guidance counsel in her
4 school?

5 A I was not a guidance counsel in her school, I
6 was retired long before she got to my school.

7 Q Had you not retired, you would have been her
8 guidance counselor?

9 A Yes, I would have.

10 Q Do you have any idea you would need to give
11 her counseling?

12 A It depends on what type counseling.

13 MR. SAVAGE: Objection.

14 THE COURT: Basis?

15 MR. SAVAGE: Leading.

16 A I'm sorry?

17 THE COURT: I'm going to give him a little
18 latitude, overruled.

19 Ma'am, you may answer the question.

20 Q (By Mr. Sowell) Ms. Barksdale, if this
21 gentlemen gets up and says something, he's trying to
22 tell the judge I have done something wrong, and that
23 happens sometimes. So if he stands up and says
24 something, you wait until the Judge responds and
25 tells you to go forward.

1 A I thought I had done something wrong.

2 THE COURT: No, ma'am, not at all. You may
3 answer the question.

4 THE WITNESS: Okay. All right.

5 Q (By Mr. Sowell) Now I think my last question
6 was, do you anticipate ever having to give her any
7 type of guidance, sasha guidance?

8 A Well I did indicate that she was not as a
9 school counselor because I was retired long before
10 she got to any of the schools where I was employed.
11 However, with my having known her and having worked
12 with her through the sorority as we were preparing
13 our young ladies for their major presentation, we did
14 talk on occasions.

15 Q What was your opinion of her?

16 A Beautiful young lady. Reputable, highly
17 reputable. Very good manners. Highly thought of.
18 And I could not think of any negatives that I could
19 use for her at this time.

20 Q Are you familiar with her reputation in the
21 community?

22 A Yes, I am. Very much similar to mine.

23 Q Tell me, does she have a good reputation for
24 honesty?

25 A Yes.

1 Q Among the community?

2 A Yes.

3 Q Before these charges, did you ever hear
4 anything at all that she had done wrong?

5 A No, sir, I did not.

6 Q Can you imagine her doing anything wrong at
7 any time?

8 A Indeed not. No.

9 Q She about the nicest little girl in town?

10 A One of the nicest, that's why she was chosen

11 --

12 MR. SAVAGE: Objection, Your Honor.

13 THE COURT: Basis.

14 MR. SAVAGE: Leading.

15 THE COURT: Overruled.

16 Q (By Mr. Sowell) You can respond to that
17 question now.

18 A She was, that's why she was chosen by my
19 sorority because we all thought highly of her
20 reputation.

21 MR. SOWELL: Thank you, ma'am.

22 Your Honor, I have no further questions.

23 THE COURT: Any cross-examination of the
24 witness?

25 MR. SAVAGE: Yes, Your Honor.

1 THE COURT: You may proceed.

2 CROSS-EXAMINATION

3 BY MR. SAVAGE:

4 Q Ms. Barksdale, do you know Stephen Francois?

5 A Sir?

6 Q Do you know Stephen Francois?

7 A No.

8 Q Do you know Miguel Starks?

9 A No.

10 Q Do you know Reginald Rice?

11 A No.

12 Q And do you know Breanna Bruster?

13 A No.

14 Q Where did the defendant go to college?

15 A College of Charleston.

16 Q Did you ever come down and visit her while she
17 was at the College of Charleston?

18 A No, I did not come down to visit her. I
19 chatted with her from time to time when she made her
20 visited home, but I never visited her at the College
21 of Charleston.

22 Q Did you know she was dating Stephen Francois
23 at the time?

24 A I didn't know she was dating anyone, no.

25 MR. SAVAGE: Nothing further, Your Honor.

1 THE COURT: Any redirect?

2 MR. SOWELL: No, ma'am.

3 THE COURT: Any objection to the witness being
4 excused from the state?

5 MR. SAVAGE: No, Your Honor.

6 THE COURT: From the defense?

7 MR. SOWELL: No, ma'am.

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

9 THE WITNESS: Thank you.

10 THE COURT: You're welcome, ma'am.

11 You may call your next witness.

12 MR. SOWELL: William DeLaine, Your Honor.

13 MR. SAVAGE: Your Honor, I'm going to object.
14 This person isn't on the witness list.

15 THE COURT: It's a scriveners error. It's no
16 basis to exclude the witness. It is unlikely --

17 MR. SAVAGE: A gender scriveners error?

18 THE COURT: Pardon me?

19 MR. SAVAGE: A gender scriveners error from a
20 Wanda to a William?

21 THE COURT: Please do not debate with the
22 Court. It's a scriveners error.

23 Is there any member of the panel that is
24 related by blood or marriage to, or has any close
25 personal, social or business relationship with

1 William DeLaine, if so please raise your right hand.

2 Let the record reflect that there was a
3 negative response.

4 Sir, if you would come forward to be sworn.

5 MR. WILLIAM EUGENE DELAINE, III,
6 after having first been duly sworn to state the
7 truth, the whole truth and nothing but the truth,
8 testified on his oath as follows:

9 THE COURT: Sir, if you would speak directly
10 into the microphone for me, please. Thank you.

11 You may proceed, Mr. Sowell.

12 MR. SOWELL: Your Honor, for correction show
13 that this gentleman was listed as Number N in my
14 responses.

15 THE COURT: We will deal with that later, I
16 have already ruled on it. Proceed.

17 DIRECT EXAMINATION

18 BY MR. SOWELL:

19 Q Mr. DeLaine, where do you live?

20 A Applehouse Road, Clinton, South Carolina.

21 Q That's Laurens County?

22 A Yes, sir.

23 Q And do you know Sasha Gaskins?

24 A Yes, sir.

25 Q Do you live near her?

1 A Live in the same town. She is probably two
2 miles from my home.

3 Q That's all the way across town, isn't it?

4 A Yeah.

5 Q How do you know her?

6 A She is a good friend of my stepdaughter.

7 Q And as such, do you have interaction with her
8 also?

9 A Yes. She spent considerable amount time at
10 our home spending the night, we work together at
11 church, she sung in the choir that I played for also.

12 Q How long have you known her?

13 A Eight years.

14 Q And you said she is also a friend of your
15 daughter's?

16 A Yes, sir.

17 Q And is your daughter outside waiting to come
18 in?

19 A Yes, sir.

20 Q And what is your opinion about her honesty?

21 A She is extremely honest.

22 Q Are you familiar with her reputation in the
23 community?

24 A Yes, sir.

25 Q Tell me what the general community thinks

1 about Sasha?

2 A She is the highest of standards. Sasha is a
3 very intelligent young lady, very smart, very
4 courteous, very kind. She attends church regularly.
5 The community thinks of lot of sasha.

6 Q Does she do things around the community to
7 help the elderly?

8 A Yes, sir.

9 Q Does she help the dogs?

10 A Yes, she helped my dog. She's good with my
11 dogs. You said dogs?

12 Q Yes, sir.

13 A Yes, she is good with my dogs, yes.

14 Q Are you familiar with her reputation in the
15 community for her honesty?

16 A Sir, I want to say around me she has been
17 extremely honest. Around the church she has been
18 extremely honest, and as far as other people.

19 Q Have you ever heard anything bad said about
20 her?

21 A No. No.

22 Q Have you ever heard anything good said about
23 her?

24 A Yes. Good things -- on.

25 Q I'm sorry?

1 A I was going to say the good things that I
2 heard about Sasha is that everybody put Sasha to be
3 more to succeed, primarily because she is very smart.
4 And she is also willing to help the church a lot,
5 help the elderly people at the church like you said
6 earlier.

7 she also brought a lot of social activity at
8 our church.

9 Q And is she a member of the choir?

10 A Yes.

11 Q Can you ever imagine her getting involved in a
12 crime without force upon her?

13 A No.

14 MR. SOWELL: Nothing further.

15 THE COURT: Be careful, Mr. Sowell, stick
16 within 608(B).

17 Anything from the defense? Any questions from
18 the defense?

19 I'm so sorry. Any questions from the state?

20 MR. SAVAGE: I understand.

21 THE COURT: You may proceed when you are
22 ready.

23 CROSS-EXAMINATION

24 BY MR. SAVAGE:

25 Q Mr. DeLaine, do you know Stephen Francois?

1 A No.

2 Q Do you know Miguel Starks?

3 A No.

4 Q Breanna Bruster?

5 A No.

6 Q Do you know that she lives up near your area?

7 A I'd heard but no, I don't know her.

8 Q So you have heard from her?

9 A Heard from her? No, I haven't heard from her.

10 Q You heard about her?

11 A I heard about this when I read it in the
12 papers.

13 Q No my question was were you aware that she
14 lived up in your area?

15 A I heard that she was from Greer.

16 Q And that's near where you live?

17 A No, sir, that's about 40-some miles away.

18 Q How long away?

19 A 30 to 40 miles away.

20 Q Did you know that Ms. Gaskins was attending
21 the College of Charleston at the time of these
22 crimes?

23 A Yes, sir.

24 Q Who was she dating at the time?

25 A I don't know.

1 Q Would it surprise you to find out she was
2 planning on dropping out of school?

3 A Would it surprise me?

4 Q Yes.

5 A Yes.

6 Q It would.

7 MR. SAVAGE: I have nothing further, Your
8 Honor.

9 THE COURT: Any redirect of the witness?

10 MR. SOWELL: No, ma'am.

11 THE COURT: Any objection to the witness being
12 excused from the state?

13 MR. SAVAGE: No, Your Honor.

14 THE COURT: From the defense?

15 MR. SOWELL: No, ma'am.

16 THE COURT: Sir, you are excused.
17 You may proceed.

18 MR. SOWELL: We call Sa'datrius Alston.

19 MS. SA'DATRIUS ALSON,
20 after having first been duly sworn to state the
21 truth, the whole truth and nothing but the truth,
22 testified on her oath as follows:

23 THE COURT: You may proceed.

24 DIRECT EXAMINATION

25 BY MR. SOWELL:

1 Q Sa'datrius, where do you live?

2 A Currently I live in Ladson, South Carolina but
3 I was born and raised in Clinton, South Carolina.

4 THE COURT: I'm going to need you to speak up
5 a little bit more than that for me.

6 A I currently live in Ladson, South Carolina,
7 but I'm from Clinton, South Carolina.

8 Q What are you saying?

9 A Ladson.

10 Q Ladson?

11 A Yes, sir.

12 Q And how old are you?

13 A 19.

14 Q Was that your dad that came in, your
15 stepfather that came in a minute ago?

16 A Yes, sir.

17 Q And do you know Sasha Gaskins?

18 A Yes, sir.

19 Q How do you know her?

20 A I met her when we were probably about six or
21 seven through mutual friends. We have gone to school
22 together since about sixth grade.

23 Q And where did you all go to school?

24 A Martha Dendy Middle School, Bell Street Middle
25 School and Clinton High School.

1 Q Did you continue in your education after you
2 finished high school?

3 A Yes, sir.

4 Q Where are you in school?

5 A Charleston Southern University.

6 Q Are you currently there?

7 A Yes, sir.

8 Q What is your major?

9 A Right now it's communications.

10 Q And are you familiar with Sasha's reputation
11 in the community?

12 A Yes, sir.

13 Q Now are you familiar with her reputation in
14 the community for honesty?

15 A Yes, sir.

16 Q Can you expand on that, please?

17 A Sasha has always been known to be honest,
18 straightforward, you can even go as far as to say
19 blunt. But she has always been respected for her
20 honesty.

21 Q Did you go to church with her?

22 A Yes, sir.

23 Q And what church was that?

24 A Hebron Baptist Church.

25 Q Did you sing in the choir with her?

1 A Yes, sir.

2 Q Do you all do things around the community to
3 help the elderly people?

4 A Yes, sir.

5 Q What do you all do?

6 A There was a particular gentleman, we would go
7 in and help him clean his house and everything. We
8 would run errands for other --

9 MR. SAVAGE: Objection, Your Honor.

10 THE COURT: Basis?

11 MR. SAVAGE: Relevance.

12 THE COURT: I'm going to give him a little
13 latitude.

14 MR. SAVAGE: Specific incidents, Your Honor.

15 THE COURT: I'm well aware of how the rule is
16 articulated. I said I'm giving him some latitude.

17 Overruled, you may proceed.

18 Q (By Mr. Sowell) What is your opinion of her?

19 A Sasha is one of the best people I have known.
20 She has become my best friend over the years that I
21 have known her. There is probably no other person I
22 would trust with my life as much as I do her. That's
23 how caring she is.

24 Q Can you ever imagine her being involved in a
25 crime?

1 A No, sir.

2 MR. SOWELL: Nothing further, Your Honor.

3 THE COURT: Any questions for the witness?

4 MR. SAVAGE: Yes, Your Honor.

5 THE COURT: You may proceed.

6 MR. SAVAGE: Thank you, Your Honor.

7 THE COURT: You are welcome.

8 CROSS-EXAMINATION

9 BY MR. SAVAGE:

10 Q Ms. Alston, were you ever Facebook friends
11 with Ms. Gaskins?

12 A Yes, sir.

13 Q Would you ever describe her as being
14 untouchable?

15 A If you are referring to her middle name on
16 Facebook at one point --

17 Q Would you ever describe her as being
18 untouchable?

19 MR. SOWELL: Your Honor.

20 THE COURT: Rephrase the question within the
21 context of the facts.

22 A Untouchable as how? It's just a word,

23 THE COURT: Ma'am, I have instructed him to
24 rephrase the question. Rephrase the question.

25 Q (By Mr. Savage) Have you ever referred to her

1 as being untouchable?

2 A Have I personally, no, because I don't
3 understand.

4 Q Have you ever heard of anyone refer to her as
5 being untouchable?

6 A No, sir.

7 Q Never heard of anyone else refer to her as
8 being untouchable?

9 A If you are referring to a Facebook name,
10 that's the only time I have seen that. So.

11 Q So have you heard of anyone else refer to her
12 as being untouchable?

13 A I guess herself.

14 Q Herself. She refers to herself as being
15 untouchable?

16 A At that time, yes, sir, I guess.

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

18 Nothing further, Your Honor.

19 THE COURT: Any redirect.

20 MR. SOWELL: No, ma'am.

21 THE COURT: Any objection to the witness being
22 excused from the state?

23 MR. SAVAGE: No, Your Honor.

24 THE COURT: From the defense?

25 MR. SOWELL: No, ma'am.

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

2 You may proceed.

3 Mr. Sowell, you may proceed.

4 MR. SOWELL: Call Ms. Gaskins to the stand,
5 please.

6 THE COURT: Ma'am, if you would come to the
7 witness stand to be sworn.

8 THE COURT: Could counsel approach for me.

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

11 THE COURT: Did you plan to call any of these
12 other witnesses?

13 MR. SOWELL: No.

14 THE COURT: Okay.

15 (In open court.)

16 MS. SASHA ALAJAWON GASKINS,
17 after having first been duly sworn to state the
18 truth, the whole truth and nothing but the truth,
19 testified on her oath as follows:

20 THE COURT: You may proceed, Mr. Sowell.

21 DIRECT EXAMINATION

22 BY MR. SOWELL:

23 Q Sasha, how old are you?

24 A I'm 19 years old.

25 Q When is your birthday?

1 A 1991.

2 Q Where were you born?

3 A I was born in Laurens County.

4 Q Laurens County?

5 A Yes.

6 Q Have you lived in Laurens County all your
7 life?

8 A Yes. I came here for school. And I went to
9 school in Columbia. So I've lived in Columbia for a
10 little while.

11 Q Where did you go to school in Columbia?

12 A Columbia College this past fall.

13 Q This past fall, just three or four months ago?

14 A Yes.

15 Q Where did you go to high school?

16 A Clinton High School.

17 Q And what kind of grade did you make at Clinton
18 High School.

19 A I was in the Beta Club and different types of
20 organizations. I made A's and B's, I've never made a
21 C. So pretty great grades.

22 Q What school activities were you involve in?

23 A I played basketball for about five years. I
24 was in the Beta Club, Pep Club, weight training, I
25 ran track for four years. Teacher cadet, also taught

1 at other elementary schools, other schools, I was
2 part of that. That's all I can remember right now.

3 Q Were you involved in Junior ROTC?

4 A No, sir.

5 Q Did you go to Laurens High School?

6 A Clinton High School.

7 Q Clinton high school?

8 A Yes.

9 Q Are you member of any church, are you an
10 active member of any church?

11 A Of course.

12 Q Where?

13 A Hebron Baptist Church in Clinton, South
14 Carolina.

15 Q Did you grow up in that church?

16 A Yes.

17 Q Is that the first church you ever remember
18 attending?

19 A No, sir, I did attend Mount Zion AME church
20 with my grandmother when I was younger, three or
21 four. But I went to Hebron and I got baptized two
22 years ago.

23 Q And what church activities are you involved
24 in?

25 A I'm on the Hebron Ensemble choir, usher board,

1 and just like a lot of organizations, a lot of tips
2 and things that we do.

3 Q Church things?

4 A Yes, sir.

5 Q Have you ever been in trouble at any time in
6 your life except for this situation?

7 A No, sir.

8 Q And when you finished high school at Clinton
9 High, what did you do that summer after you
10 graduated? Let's back up a little bit. When did you
11 graduate from high school?

12 A I graduated in May 2009.

13 Q And were you in the college prep section of
14 the high school?

15 A I got accepted into Spectra, Spectra at
16 College of Charleston is kind of a minority program.
17 You have to get accepted to if you write a letter.

18 Q I'm talking about in high school, taking this
19 in chronological order. Did you ever get involved in
20 any activities like that in high school?

21 A I don't understand.

22 Q Did your high school have a general diploma
23 and a college prep diploma?

24 A Oh, yes. They had an English 101 and 102. I
25 took English 101, 102 and a teach cadet class which

1 gave me college credits.

2 Q So when you finished high school you had
3 college credits?

4 A I came in with six credits, yes, sir.

5 Q And the summer after you finished high school,
6 what did you do then?

7 A I got accepted into the Spectra Program. Like
8 I said --

9 Q What is that?

10 A It's a program for minorities to kind of get
11 you ready for school, and gives you the opportunity
12 to earn more credits. And just kind of stay ahead in
13 school. Learn the downtown area and college of
14 Charleston where your resources are and things of
15 that nature.

16 And I had to leave early because I wanted to
17 continue actually with AKA, so I had to leave so I
18 didn't get to make it for that but I did go to the
19 Spectra.

20 Q That was in the Fall of 2007?

21 A That was the spring -- that was in the summer
22 actually.

23 Q And what did you do that Fall?

24 A I went to school there.

25 Q Where?

1 A The College of Charleston.

2 Q And that was in the Fall of 2007?

3 A 2009.

4 Q Okay. And was -- when you came to Charleston
5 College, was this your first time you ever lived away
6 from home?

7 A First time.

8 Q And did you meet a gentleman named Stephen?

9 A I did, I met him in September, or either
10 August or September.

11 Q And --

12 A October.

13 Q October?

14 A I met him in October and we started dating in
15 September.

16 Q And how long did you date him?

17 A I dated him for about seven months.

18 Q And where was his hometown?

19 A His hometown was in Georgia, I don't remember
20 the exact town.

21 Q Did he have any connections with the Citadel?

22 A Not that I knew of at that moment.

23 Q And in February, near the end of February of
24 the next year, did you happen to meet -- when did you
25 meet a guy named Miguel?

1 A I had before the incident I met him maybe a
2 month earlier. He just came to the room quickly to
3 speak to Stephen.

4 Q Slow down and speak louder.

5 A I'm sorry. I met him maybe a month before the
6 incident happened. He came to the -- to Stephen's
7 room, dorm room, I met him --

8 Q Stephen is your boyfriend?

9 A Yes. And he came there a quick second just to
10 talk to Stephen. I spoke to him and that was it.
11 That was my first time meeting him.

12 Q Did he have anything to do with the Citadel?

13 A He told me that he went to the Citadel and he
14 played football there.

15 Q Did he tell you he was quarterback?

16 A Yes, he did.

17 Q So you met him sometime in January?

18 A Sometime in January, yes, sir.

19 Q Okay. And what discussions, interactions did
20 you have with him over that next month?

21 A None.

22 Q How often would he come to Stephen's room?
23 Did you all live in a room or a condo?

24 A A dorm. It's kind of like apartment style but
25 we had two other roommates.

1 Q A little efficiency?

2 A Sir?

3 Q Like a little efficiency?

4 A Yes, sir.

5 Q How often would Miguel come to Stephen's room?

6 A Since I had met him? He didn't come as often.

7 He didn't come at all actually except for the
8 incident.

9 Q Now where did you meet him?

10 A I met him at the dorm.

11 Q And how long did you speak with him the first
12 time you met with him?

13 A Maybe two minutes. I had to go to class so I
14 really didn't talk with him.

15 Q Did you see him anytime during that next
16 month?

17 A No, sir. Towards the end of the month.

18 Q I'm sorry?

19 A Toward the end of month in February, yes, I
20 did see him.

21 Q Now do you remember where you met Reggie Rice?

22 A Yes.

23 Q Where did you meet him?

24 A I met him in the dorm room.

25 Q Who's dorm room?

1 A Stephen's dorm room February 24th. It was a
2 Wednesday.

3 Q So when all this happened you had known him
4 one day?

5 A Yes.

6 Q And did he also play football at the Citadel?

7 A From my understanding he had played football
8 for the Citadel but he went back home.

9 Q Did the two of them, Miguel and Reggie, did
10 they try to act like they were big men on campus?

11 A Not that I know of.

12 Q Did they try to act like they were muscular
13 and tough.

14 MR. KIDD: Your Honor, I object to leading.

15 THE COURT: Sustained, leading.

16 Q (By Mr. Sowell) What type of appearance did
17 Reggie and Miguel portray?

18 A They both were big. I know I didn't want to
19 mess with them, but they were big.

20 Q When did you meet Reggie?

21 A I met him at the apartment, he was kind of
22 like the jokey type.

23 Q When did you meet him?

24 A When? At the apartment, at Stephen's
25 apartment, the dorm room.

1 Q What month did you meet him?

2 A February.

3 Q Near the end?

4 A Yes.

5 Q So you had just met Miguel and Reggie when all
6 this happened?

7 A Yes.

8 Q And you said someone was jovial like, who was
9 that?

10 A Reggie was kind of always joking, laughing,
11 had this crazy laugh. Miguel was just kind of -- he
12 joked around, too, but he joked around a lot.

13 Q So met both Miguel and Reggie just a couple
14 days before all this happened?

15 A The same day actually.

16 Q The same day?

17 A Yes, sir.

18 Q What day was that?

19 A Wednesday.

20 Q Wednesday?

21 A Yes, sir.

22 Q Which was the 24th of February, 2010?

23 A I believe so, sir.

24 Q And tell me about some trick or some prank
25 they were going to play?

1 A Sir?

2 Q Did they tell you anything about a trick of a
3 prank they were going to play on somebody?

4 A They were just saying that they wanted to go
5 play this trick on this guy that they knew, didn't
6 know the guy's name, whatever. Then they started
7 bringing out papers and describing the house. Just
8 that they wanted to play a trick on this guy.

9 Q And how did you get involved?

10 A I was there. I didn't stay long, left the
11 room to change because me and Stephen had just woke
12 up from a nap. But they were just like, we want you
13 to do something with us. We want you to help play a
14 trick on the guy. I was like, no.

15 Later on I asked Stephen, were they playing or
16 were they serious. He was like, no, they were just
17 playing, they play like that all the time. So I just
18 left it alone, went to class. Well after I
19 introduced them to Bree I left and went to class.

20 Q Do you have a friend named Breanna?

21 A Yes, she was my friend.

22 Q And that's the girl that came in here
23 yesterday?

24 A Yes.

25 Q And did you -- did you introduce her to

1 Reggie?

2 A To Miguel, yes, sir.

3 Q You introduced her to Miguel?

4 A Yes, sir. He said he wanted to meet one of
5 our friends because he thought I was cool, so he went
6 to see what the type of friends I hung around with.

7 And I told him I think I have the perfect
8 person for him. And after Stephen left and went to
9 his meeting, I introduced the two.

10 Q Speak up a little more.

11 A When Stephen went to his meeting, I introduced
12 the two.

13 Q Where did they meet?

14 A They met at the caf.

15 Q Cafeteria?

16 A Yes.

17 Q At the College of Charleston?

18 A Yes.

19 Q And how long were you with them before the
20 group separated?

21 A Maybe five minutes, probably not even that
22 long because I was pushing time to make it to class
23 on time.

24 Q Were they talking and getting together, or did
25 you join the conversation or what were you guys

1 talking about?

2 A I just kind of sat there and let them both
3 talk. They exchanged numbers and kind of talk a
4 while and he told her who he was. I really didn't
5 engage, just kind of looked down and smiled.

6 Q So five minutes later you left to go back to
7 class?

8 A Yes.

9 Q And did you have class, choir practice that
10 night?

11 A I had three classes actually that night before
12 I went to this class.

13 Q What classes did you have?

14 A Sociology, and then me and Stephen had math
15 together, and then me and Stephen also had choir
16 practice together after math.

17 Q So you were in the choir at the College of
18 Charleston?

19 A Yes.

20 Q You didn't get any college credits for that,
21 that's just extracurricular activity?

22 A I think it was one credit. It was just an
23 extra class that I wanted to take because I wanted to
24 be a part of the choir.

25 Q You have been a part of the choir all of your

1 life at home?

2 A Yes.

3 MR. SAVAGE: Objection, Your Honor, leading.

4 THE COURT: Sustained, leading.

5 Q (By Mr. Sowell) After you got out of choir
6 practice, what happened?

7 A Stephen said that Miguel had -- he wanted us
8 to go eat with him. I was like, okay, that's fine.
9 He and Bree wanted to go eat out, I was like okay.
10 Me and Stephen dropped our books off.

11 Q Speak louder.

12 A He said he wanted to go eat with us -- wanted
13 us to go eat with them. Me and Stephen went to our
14 room, well his room, and dropped our books off and
15 got in the car with them.

16 Q Where did you go eat?

17 A Kickin' Chicken.

18 Q Okay. What is the deal with the party later
19 that night?

20 A We were supposed to go to a party, we get our
21 clothes and things to change for the party.

22 Q So you were going to the chicken place to eat
23 and then what?

24 A Then supposed to go to our friend, Cheyenne,
25 had a birthday party. And Stephen also was going to

1 go promote there.

2 Q Stephen was going to promote?

3 A Yes.

4 Q He was part of the organization?

5 A Yes, sir.

6 Q And how did you get from -- to your apartment
7 of Stephen's condo apartment over to the Kickin'
8 Chicken?

9 A Miguel drove this blue car. Later I found out
10 it was a Yaris.

11 Q So the five of you get in the little Yaris and
12 go to the chicken place?

13 A Yes, sir.

14 Q When you left the chicken place, who was
15 driving?

16 A Miguel.

17 Q Okay. Now at this point did you know very
18 much about downtown Charleston?

19 A I knew about downtown, but nowhere else.

20 Q How did you know about downtown?

21 A I lived there. I knew around my school, but
22 other than that.

23 Q So you knew the immediate area of the city
24 around the College of Charleston?

25 A Yes, I did.

1 Q And did you know anything at all about James
2 Island?

3 A No, sir, I've never heard of James Island.

4 Q And when you left the chicken restaurant, did
5 you think you were going to the party?

6 A I did. I was getting ready to change at
7 Miguel's apartment, but I didn't have everything that
8 I needed. And I told Bree, asked Bree for it and
9 told her, could I change at her apartment and she was
10 like yeah. So I thought we was going back to the
11 apartment.

12 Q So you thought you were going to her apartment
13 to change clothes and then to the party?

14 A Yes.

15 Q Now did you know where Miguel was driving to?

16 A No, sir. I thought he was driving to the
17 party but obviously not.

18 Q And do you remember crossing over a bridge, a
19 drawbridge?

20 A Yes.

21 Q Had you ever gone over that bridge before?

22 A No, sir.

23 Q And when you got across the bridge, did you
24 realize now that you were in James Island?

25 A I didn't know I was in James Island, but I

1 eventually found out.

2 Q Now when Miguel was driving across the bridge
3 and you got to James Island, did you stop at any
4 house?

5 A Yes.

6 Q And Miguel was driving, he stopped at a house.
7 What house?

8 A He didn't stop exactly in front of the house,
9 he rode by the house first. And then he went and
10 parked on the side street, kind of close to the
11 house, maybe two houses away.

12 Q Did you know what was going on?

13 A At that point they were pointing at this house
14 and describing it, but, no, I don't know what was
15 going on.

16 Q And you said you went up and down back in
17 front of the house?

18 A Sir?

19 Q You drove -- Miguel drove up and back in front
20 of the house a couple of times?

21 A He rode past the house.

22 Q Past the house. And did he return to the
23 house?

24 A Yes, he did.

25 Q When he stopped what happened?

1 A He didn't stop at the house, that's when he
2 got out.

3 Q How far did he stop from the front of the
4 house?

5 A Maybe like 100 feet.

6 Q So in front of the neighbor's house?

7 A Yes.

8 Q And what did he do when he stopped at the
9 neighbor's house?

10 A He stopped. He said to Stephen, get in the
11 front seat. And I want you -- when I get out I want
12 you to drive to the end of the road.

13 Q To the end of the road?

14 A Yes, that's what he tells me.

15 Q What did he do?

16 A And then he told me to get out.

17 Q Miguel is the one that told you that?

18 A Yes.

19 Q So did Reggie remain in the car, did he get
20 out?

21 A He got out also.

22 Q Did they go in the trunk of the car?

23 A Yes, they did.

24 Q Did they bring out a bag?

25 MR. KIDD: Objection, Your Honor, leading.

1 THE COURT: Sustained, leading.

2 Q (By Mr. Sowell) what did they do when they
3 opened the trunk?

4 MR. KIDD: Objection, Your Honor, leading.

5 THE COURT: Sustained, leading.

6 Q (By Mr. Sowell) what did they do when they
7 got out of the car?

8 A He opened the trunk already and he pulled out
9 a bag and shut the trunk. And that's when Stephen
10 drove off.

11 Q what were you doing at this time?

12 A Just standing there looking at them.

13 Q Were they telling you what was going on?

14 A No, not at that moment.

15 Q When they -- what was the next thing that they
16 did?

17 A I just looked at them and said, what's going
18 on? He said, come on. So I'm like, okay. walked
19 across the street with both of them.

20 Q was he touching you at any point?

21 A He was grabbing my arm.

22 Q And is he dragging you somewhere?

23 A To this house.

24 Q And when you got to the house, did he take
25 something out of the bag.

1 MR. KIDD: Objection, Your Honor, leading.

2 THE COURT: Sustained, leading.

3 Q (By Mr. Sowell) When you got to the house
4 what did he do?

5 A He was taking guns and things out of the bag.

6 Q And what did he do with those guns?

7 A He gave one on to Reggie, and Reggie got
8 behind a bush. And he grabbed me to walk to the
9 porch. And he said, I want you to go knock on this
10 door. And a guy's going to come to the door and I
11 want you to tell him that you need to use his cell
12 phone.

13 I said I don't want to. He said, you are
14 going to do it. If you don't do it I will kill you.
15 I will kill you or I'll kill Stephen and I know where
16 you guys stay.

17 Q And did you knock on the door?

18 A I did.

19 Q Did someone come to the door?

20 A Yes, a girl came to the door.

21 Q And what did you ask her?

22 A I --

23 MR. KIDD: Objection, Your Honor, leading.

24 THE COURT: Sustained.

25 Q (By Mr. Sowell) What did you do? Did you

1 have a conversation with her?

2 A Yes, I did. I asked her could I use her
3 phone. I told her that my car had broke down just as
4 he told me to. She said okay.

5 Q And what happened next?

6 A As I was coming in for her to give me her cell
7 phone, Miguel rushed in, kind of pushed me out of the
8 way, and start cursing and told her to get down. And
9 at that time I heard a guy in the back that said, you
10 know, what the hell is going on.

11 Q Did you recognize that person as Emily?

12 A Now I do.

13 Q The girl that was here yesterday?

14 A Yes, now I do.

15 Q And the person that came in the backdoor, did
16 you recognize him today or yesterday,

17 A I didn't see him at all. This was my first
18 time seeing him.

19 Q You never saw him?

20 A Yes, sir, I never saw him.

21 Q So you heard Herb come in the backdoor and
22 what happened?

23 A I heard the man, he said that, I turned around
24 to leave, I was scared. Reggie came to the door,
25 came through the door. Me and him kind of bumped

1 against each other.

2 I had to open the door, because Miguel had
3 shut it, open the door and me and Reggie collided
4 with each other. And that's when the dog came behind
5 me and the dog ended up going outside.

6 Q And so you and the dog went outside?

7 A Yes.

8 Q And what did you do when you got outside?

9 A Didn't know what to do. I just took off
10 running, ran. That's when I saw the car, I saw
11 Stephen and Breanna and I got in the car with them.

12 Q What did you tell them when you got in the
13 car? Q I was just like, you all, I was like
14 begging Stephen. I was like, your brother is crazy.
15 I was like, they're really in there robbing those
16 people.

17 Q What did you mean by brother?

18 A That's what I called Miguel to him because
19 they both grew up together. And he always told me it
20 was like his brother so I called him his brother.

21 Q And why didn't you tell Stephen, let's get the
22 devil out of here?

23 MR. KIDD: Objection, Your Honor, leading.

24 THE COURT: Sustained, leading.

25 Q (By Mr. Sowell) Why didn't you tell Miguel --

1 I'm sorry, why didn't you tell Stephen to do
2 something?

3 MR. KIDD: Objection, Your Honor, leading.

4 THE COURT: Sustained, leading.

5 Q (By Mr. Sowell) What did you do next?

6 A I just -- I told them I wanted to leave. And
7 that's when we rode around a little bit. And Miguel
8 called and told them to come back. I'm like, I don't
9 know what I'm going to do because I don't want to
10 hurt Stephen at all so I just kind of sat there.

11 Q When you got -- when you all drove back to the
12 house, what did Stephen do?

13 A Miguel told him to get out and let him drive.
14 Bree got in the back with me and Stephen got in the
15 front seat and we drove to an ATM.

16 Q And what happened at the ATM?

17 A He was trying to get money out of the ATM.
18 And I was just telling him that he was stupid for it.

19 Q What was your state of mind at the time?

20 A I was just kind of distraught at the time. I
21 didn't know what to think. I was mad at the same
22 time. I felt like I didn't know what to do.

23 Q Did you know what your options were?

24 A I didn't have any options at that point. The
25 only option I had was just to do it or I died, or

1 Stephen died.

2 Q And when you left the ATM, what did you do?

3 A We went to gas station.

4 Q Why?

5 A I think the car was running out of gas.

6 Q And did you buy -- is that where you all
7 bought the gas in the gas can?

8 MR. KIDD: Objection, Your Honor, leading.

9 THE COURT: Sustained, leading.

10 Q (By Mr. Sowell) Did you buy gas at the gas
11 station?

12 A Yes. Miguel told me to give him some money.
13 I can't remember if I gave him my debit card or cash,
14 but I did give him money and I asked him could he
15 please buy me a Black and Mild.

16 Q What is a Black and Mild?

17 A It's a cigar. That's what I smoked at the
18 time.

19 Q What happens next?

20 A I gave it to him. And he put gas in and then
21 he gave me the cigar back.

22 Q He gave you what?

23 A A cigar.

24 Q And what happened next?

25 A I think we went to another ATM, but I can't

1 remember. But I'm pretty sure we probably did.

2 Q And did you get anything from that second ATM?

3 A No, sir. He ended up calling Reggie on the
4 phone and Reggie asked him what was taking so long.
5 He said that the account was in the negative. So
6 Reggie told him that he needed to come back to the
7 house because he had been gone for like an hour.

8 Q And what did you all do?

9 A We went back to the house.

10 Q When you got back to the house, what did you
11 do?

12 A I sit in the car for a little bit. Just
13 sitting there really.

14 Q Who was in the car?

15 A Me, Breanna, and Stephen.

16 Q And did you go to the house anytime after
17 that?

18 A Yes, I did.

19 Q When?

20 A I needed a lighter. Me and Breanna had been
21 sitting there. Stephen said he would go get one. He
22 had been calling Miguel, telling him that he needed
23 to come on.

24 So Stephen went inside and me and Breanna sat
25 outside. Then a car pulled up. Well, Breanna said

1 she thought she saw a car. That's when she called
2 Miguel and Miguel came outside and looked -- kind of
3 looked behind past the driveway. And he didn't see a
4 car so he went back inside.

5 Q What did you do?

6 A I just sat there and tried to call Stephen.

7 Q Did you go back in the house at any time?

8 A Yes, I did. I didn't have a lighter at the
9 time. And I thought about it and I'm like, okay,
10 these people are actually robbing these people and I
11 touched this door.

12 So I went in the inside and I told Stephen
13 that I touched the door, that I opened the door. I
14 was like, and these people right here are robbing,
15 you know, Miguel is robbing these people. I don't
16 want to have anything to do with it. So Stephen
17 wiped the door for me. I asked him for a lighter, he
18 gave me a lighter.

19 Q Did you hear either Miguel or Reggie threaten
20 to kill those people?

21 MR. KIDD: Objection, Your Honor, hearsay.

22 THE COURT: Basis -- overruled.

23 MR. KIDD: Not hearsay, leading.

24 THE COURT: Sustained, leading.

25 Q (By Mr. Sowell) Did you hear any conversation

1 from the people in the house and Reggie and Miguel?

2 A No, sir.

3 Q Now after you went in the house, what was your
4 state of mind at that time?

5 A I think I was more focussed on just lighting
6 my cigar and just trying to relax but I couldn't. I
7 just couldn't relax. I was so scared of him I didn't
8 want -- him and Stephen had been arguing because
9 Stephen wanted to leave and he wanted to stay. So I
10 just -- I didn't want to say anything to him.

11 Q And what happened next?

12 A As I was leaving the house he gave me a box
13 and told me to carry the box outside.

14 Q Did you do that?

15 A I looked at Stephen first, Stephen didn't say
16 anything so I did.

17 Q And where did you take the box?

18 A To the car and I sat in the passenger side.

19 Q I'm sorry?

20 A I took it to the car and I sat on the
21 passenger side.

22 Q Where was the box?

23 A Sitting on my lap.

24 Q What was in that box?

25 A I want to say like DVD's, maybe games.

1 Q And how long was it after that that the three
2 guys came out?

3 MR. KIDD: Objection, Your Honor, leading.

4 THE COURT: Sustained, leading.

5 Q (By Mr. Sowell) What happened next?

6 A Me and Breanna was just sitting there. She
7 was getting really, really frustrated. I was just
8 kind of sitting there, I ended up lighting my cigar.
9 She said she saw a car pull up again.

10 So we told the boys to -- they needed to come
11 on, you know, this just wasn't right. And they ended
12 up coming maybe after 20 minutes after that.

13 Q And when they boys did finally come, what did
14 you all do?

15 A We left.

16 Q Where did you go?

17 A To Miguel's apartment.

18 Q And what did you do when you got to Miguel's
19 apartment?

20 A Just told everybody to pick something up and
21 carry it. And I had the box in my lap, so that's
22 what I carried.

23 Q And where did you carry it?

24 A To his apartment.

25 Q What do you all do next?

1 A We went inside the apartment and kind of just
2 sat there. I looked at --

3 Q Did you all divide the items from the robbery?

4 A No, sir.

5 Q What did you all do next?

6 A Kind of just sat there, hung out maybe for
7 about an hour. And I told Stephen to tell Miguel
8 that I was ready to go home because I had a project
9 the next day, due the next day. And I just didn't
10 want to be there.

11 Q Did you get anything from that robbery?

12 A No, sir.

13 Q Did you want anything from that robbery?

14 A No, sir. I didn't want to have anything to do
15 with it.

16 Q Did you even know that there was going to be a
17 robbery going on?

18 A No, sir.

19 Q When you went home that night, did you go to
20 your place or to Stephen's?

21 A I went to Stephen's.

22 Q How did you get there?

23 A Miguel.

24 Q Miguel drove you?

25 A Miguel, Reggie, Breanna and me, Stephen.

1 Q And Stephen?

2 A Yes.

3 Q Where did you all stop first?

4 A He dropped us off first.

5 Q And this was what night?

6 A This was Wednesday night, Thursday morning.

7 Q And later that next day on Thursday, what did
8 you all do?

9 A Well I went to class. After I got out of
10 class Stephen had told me that Miguel wanted us to
11 come with him, wanted to hang out. I told him I
12 didn't want to go. And Stephen was just like, well
13 just come anyway. So he came and picked us up.
14 Everyone was in the car.

15 Q All five of you?

16 A Yes, sir.

17 Q Where did you go?

18 A We went to Zaxby's, I hadn't eaten, just got
19 out of class, I hadn't eaten. I think Breanna bought
20 me, her and Reggie food from Zaxby's.

21 Q And when you left Zaxby's, where did you go?

22 A To Miguel's apartment.

23 Q And then what happened next?

24 A Kind of just sat there and chilled and smoked
25 and watched -- I think it was Cat Williams, the

1 Longest Yard, one of the two movies.

2 Q Did anyone discuss the robbery?

3 A Not at that point.

4 Q Anyone discuss a future robbery?

5 A No, sir.

6 Q And after the movie was over, what did you do?

7 A Well Breanna -- me and Stephen was actually
8 just watched the movie. Breanna and Miguel was just
9 kind of sitting off to the side. We ended up leaving
10 and going back to College of Charleston.

11 Q And what time was this?

12 A Kind of late maybe Thursday night, Friday
13 morning.

14 Q And did anyone threaten you that night?

15 A Yes, they did.

16 Q Who?

17 A It was just me, Miguel, Stephen and Breanna in
18 the car, Reggie had stayed back. He dropped Breanna
19 off first and then he dropped me and Stephen off.

20 I was in the backseat. And as Stephen was
21 getting out of the car he kind of whispered my name
22 and I turned around.

23 Q Who is he?

24 A Miguel. I turned around and he had the gun
25 pointed kind of under in between the seats. He was

1 just like, don't mess this up. If you do you know I
2 will kill you. I just got out of the car.

3 Q Were you scared?

4 A Very scared.

5 Q Were you afraid if you refused to do what he
6 said --

7 MR. KIDD: Objection, Your Honor, leading

8 THE COURT: Sustained, leading.

9 Q (By Mr. Sowell) Why did you do what he said
10 to do?

11 A I felt like if I didn't then someone will get
12 killed. If not me Stephen or someone else.

13 Q And after you and Stephen got out of the car,
14 Breanna had already been taken home, you and Stephen
15 got home next at Stephen's, what did you all do?

16 A Just went in the room. I started on my
17 project and I started crying. Stephen was talking to
18 me and telling me it will be okay. I just told him I
19 didn't want to go. I didn't want to do anything
20 anymore. And he just kind of said.

21 Q Speak louder.

22 A I said he didn't say too much.

23 Q What did you all do next?

24 A We laid down, took a nap.

25 Q What time of day or night was this?

1 A It was Friday morning, it was before class.

2 Q Did you go to class the next day?

3 A No -- yes, I did go to class that day on
4 Friday.

5 Q And when did you complete classes that day?

6 A I honestly don't remember what time I
7 completed classes.

8 Q When you get out of class, what did you do?

9 A Miguel came and picked us up.

10 Q And who did he pick up?

11 A All of us. Me, Stephen, Breanna, and Reggie
12 was in the car. But he didn't pick up Breanna,
13 Breanna was already in the car.

14 Q So was Reggie already in the car, too?

15 A Yes, sir.

16 Q So the three of them came to pick up you and
17 Stephen?

18 A Yes, sir.

19 Q Where did you all go?

20 A We went to, I think, Miguel's apartment.

21 Q And what did you talk about?

22 A Sitting there. He was just like that he
23 wanted to do a robbery. At the other robbery, he
24 said that he needed one of us to make a phone call,
25 either me or Breanna. I kind of looked over at Bree

1 and she was just, I'm not making it.

2 I didn't say anything. He was like, Sasha,
3 why don't you make this phone call. I said, okay. I
4 was like, what do you want me to say? He told me
5 what to say.

6 Q what did -- did anyone -- do you know who the
7 second robbery was against? Who the victim was?

8 A He didn't say. He just said -- I just know it
9 was a guy named Harpe because he had called him
10 earlier. He said he was going to call him and see if
11 he's at home. And I remember him calling him asking
12 him about football practice.

13 Q And after that conversation between Miguel and
14 Harpe, what happened?

15 A He just said -- well him and Breanna went in
16 the room. And me and Stephen stayed out in the
17 living room just kind of sat there. Reggie was kind
18 of sick and he asked me would I make him some tea and
19 I said sure. I made him some tea. And basically
20 sitting there maybe two or three hours.

21 Q Speak louder, more clearly.

22 A Just sitting there about two or three hours I
23 think. Made Reggie some tea and waited on Breanna.

24 Q Waited on Breanna, where was Breanna?

25 A In the bedroom with Miguel.

1 Q And what happened next?

2 A Miguel kept coming back and forth to talk to
3 Reggie and back to the bedroom. Then he was just --

4 Q Could you hear what they were talking about?

5 A No, I didn't.

6 Q And what happened next?

7 A He just said, let's go.

8 Q Who is he?

9 A Miguel.

10 Q And who went where?

11 A All of us got in the car. He told Breanna to
12 get in the driver's side. Told me to get in the
13 passenger side. And the boys got in the back.

14 Q And where did you all go?

15 A We drove to McDonald's at first. Then Miguel
16 told Breanna to take him across the street, directed
17 her where to go.

18 Q So Breanna was driving?

19 A Yes, she was driving. We got to this parking
20 lot. I couldn't tell what parking lot it was, but it
21 was like abandoned. And he just told her to stop
22 there that, they were going to get out.

23 And he told me to go to this specific gas
24 station to make the phone call. He said, I will be
25 calling Breanna to make sure the phone call was made.

1 Q And did you make the phone call?

2 A Yes, I did.

3 Q Why did you make it?

4 A Because he told me to. And I felt like, you
5 know, Stephen was with him so if I didn't make the
6 phone call then he had Stephen.

7 Q So you made the phone call. Who gave you the
8 number?

9 A He did.

10 Q Who is he?

11 A Miguel.

12 Q Did he write it down for you, did he tell you,
13 what?

14 A He actually put it in Breanna's phone? Put in
15 one of our phones.

16 Q Did you call from that phone?

17 A I called from the pay phone. He instructed me
18 to use the pay phone.

19 Q So you read the number out of the cell phone
20 and used the pay phone to call him?

21 A Yes, sir.

22 Q And when you called him, what did you tell
23 him?

24 A I told him exactly what Miguel told me. I
25 can't remember the name, but I was supposed to be

1 Dwight's ex-girlfriend, and that I needed him to come
2 get me, that my car had broken down.

3 I was waiting for Triple A to come get me.
4 And I was in this particular parking lot. And asked
5 him to come get me to wait for Triple A.

6 Q After you made the phone call, what did you
7 do?

8 A Breanna was already on the phone with Miguel
9 at that time and she said that I had made the phone
10 call.

11 Q What happened next?

12 A Breanna was just like, she wanted to leave,
13 she wanted to go back to College of Charleston. She
14 said she asked Miguel to use his car and he said yes.
15 So we went in the store to see if they had a gas can
16 because we remembered that Miguel didn't have any gas
17 for his car. So we went to another gas station to
18 get gas.

19 Q Then what?

20 A We went back to the apartment complex.

21 Q And what did you do when you got back to the
22 apartment complex?

23 A We was trying to put gas in the Nitro, but I
24 couldn't figure out how to pull -- it's like a new
25 gas tank, I couldn't figure out how to open it to put

1 gas in it.

2 I saw this guy walking his dog and I asked him
3 could he help us. And he came over to help us.

4 Q And is this when you took -- I'm sorry.
5 What's this got to do with the film we saw yesterday
6 about some gas can?

7 A Yes, my phone was a blackberry. And easy user
8 it kind of has a light on the side which you can use
9 while you are recording, you can get a light that you
10 can use to see things.

11 Q That's what you used to light the gas?

12 A Yes.

13 Q Then what happened?

14 A Breanna had got a phone call, Miguel had said
15 don't go anywhere that he was coming. I'm like,
16 okay, what is he going to pull up in, clearly both of
17 the cars are here. Less than two minutes later he
18 pulls up in this Mustang.

19 Q What happens next?

20 A He tells us to get inside, don't touch
21 anything. And I think he took some golf gloves out
22 and put them in his Nitro.

23 Q What happened next?

24 A I got in the car and he drove off and went to
25 a couple of ATM's, told us just to wait.

1 Q And what happened next?

2 A We went back to the apartment, he told us to
3 get into the Yaris and follow him.

4 Q Where did you all go?

5 A We went to -- up the street from his house, we
6 went to this --

7 Q What do you mean his house?

8 A Up the street from Miguel's house, we went to
9 this apartment complex.

10 Q And do you know what that address is?

11 A No, sir, I don't.

12 Q Do you know what complex it is?

13 A No, sir, I don't.

14 Q So you went to this apartment, what happened
15 then?

16 A Sat in the car for a little while, he was back
17 and forth in this guy's car. Then he says, tells us
18 to get out, to get out of Yaris and come with him.
19 So we did.

20 Q And what happened next?

21 A He uses this fob to get inside the, I guess it
22 was the elevator door. Got in the elevator and went
23 up the elevator and followed him into this apartment
24 building, one apartment.

25 Q And when you got in the apartment, what did

1 you see?

2 A Just stuff was like broken. Everything was
3 pulled out. It was a mess.

4 Q Did you see the person that lived there?

5 A No, sir.

6 Q Did you see a dog?

7 A No, sir.

8 Q What did you do?

9 A I just stood in the kitchen, just stood there.

10 Q The entire time you were in the house, did you
11 touch anything?

12 A No.

13 MR. KIDD: Objection, Your Honor, leading.

14 THE COURT: Sustained, leading.

15 Q (By Mr. Sowell) Did you do anything while you
16 were in the house?

17 A No, sir, I just stood there.

18 Q And when you got ready to leave what happened?
19 Why did you get ready to leave?

20 A They had bags already like packed up. He just
21 kind of gave me a bag, me and Breanna a bag.

22 Q What did you do with that bag?

23 A He told us to go to the car. We went to the
24 Yaris and sat in the car.

25 Q Did you get in the car?

1 A Yes, I got in the car.

2 Q How long was it before the guys came back?

3 A They kept going back in.

4 Q Why?

5 A Bringing other stuff down.

6 Q What happened next?

7 A We went back to the apartment.

8 Q Whose apartment?

9 A Miguel's apartment, excuse me.

10 Q What happened then?

11 A We were just sitting there. Breanna was
12 pretty pissed. She was saying how stupid they were,
13 and I was kind of agreeing with her.

14 Q What was your emotional state at that time?

15 A I was just so shocked. I was just sitting
16 there, just sitting there.

17 Q What happened next?

18 A Reggie said he wanted to go to Walmart to use
19 the debit card they had gotten from whosever house it
20 was. Miguel was like, no, that's stupid, I don't
21 think you guys need to go, that's stupid. This is
22 someone else's card, you're trying to go to Walmart
23 with it.

24 I guess they refused so he gets the keys and
25 he tells Stephen to come with him to drive for him

1 because he had been drinking. So Stephen gets the
2 keys and he drives for him. And maybe not even like
3 five minutes after that Stephen calls me and he tells
4 me that they have been pulled over. The cops said
5 that they were --

6 MR. KIDD: Objection, Your Honor, hearsay.

7 MR. SOWELL: Present sense impression, Your
8 Honor.

9 THE COURT: I'm not sure it's being offered
10 for the truth. I'm going to give her a little bit of
11 latitude.

12 You may answer the question.

13 A Stephen called and he said that he had been
14 arrested and that the cops said that they were
15 suspects in a robbery that just happened.

16 Q (By Mr. Sowell) Did you ever benefit a single
17 penny from either of these two robberies?

18 MR. KIDD: Objection, Your Honor, leading.

19 THE COURT: Sustained, leading.

20 Q (By Mr. Sowell) What did you get from these
21 two robberies?

22 MR. KIDD: Objection, Your Honor, leading.

23 THE COURT: Sustained, leading.

24 Q (By Mr. Sowell) What happened to the items
25 you all took from these two robberies?

1 A Most of the items were still in Miguel's
2 apartment. And later I found out a TV had been
3 taken. But other than that I never saw anything
4 taken out of the house.

5 Q Did you have plans to move in with Erica?

6 MR. KIDD: Leading, Your Honor.

7 THE COURT: Basis?

8 MR. KIDD: Leading.

9 THE COURT: Sustained, leading.

10 Q (By Mr. Sowell) Where did you live at the
11 time?

12 A I lived in McConnell Dorm. But I kind of
13 moved most of my stuff to Stephen's because me and
14 him were getting closer, we were dating in our
15 relationship. And he had just moved to George Street
16 Apartments from CSU. Sp I stayed with him most of
17 the time.

18 Q And tell me about the air force?

19 A I planned to go to the air force. I had
20 already been sworn in. Kind of getting myself
21 together. Had got sworn in. I had made arrangements
22 to take my exams early because I had been doing
23 pretty good that semester.

24 I didn't do good last semester because of some
25 other reasons, but doing good in school, getting

1 ready to take my exams early. Had to get kind of get
2 our teacher to sign for that to take your exams
3 early.

4 I was planning to go into the air force, do my
5 basic training. I was supposed to have left May 4th,
6 done it up until July basic training, and up until
7 that point. And I was going to come back to the
8 college of Charleston, had to sign a paper that said
9 I was going to come back in the fall. But I just
10 wasn't going to go to summer school, but I definitely
11 was coming back.

12 Q How were you going to come back to the college
13 of Charleston if you were in the air force?

14 A Actually it was the air force reserve. I was
15 doing reserve. I was going to work at the base while
16 I was going to school.

17 Q Now after you finished school, were you
18 supposed to do active duty with the air force?

19 A No, sir. I asked about it already. He said I
20 could attend school and keep going to school. I told
21 him that I wanted to be a Jaguar in the military.
22 And we kind of started working on that.

23 Q You were supposed to go active duty after you
24 finished, graduated College of Charleston?

25 A Yes, sir, I was going to go active. I had

1 planned to for a little while.

2 Q What was your emotional state from the time
3 that you realized the first robbery was a real
4 robbery and until after the second robbery?

5 A Can you repeat the question?

6 Q What was your emotional state when you first
7 realized the first robbery was a real robbery and
8 until after the completion of the second robbery?

9 A Kind of felt like Miguel needed me. And the
10 reason why he threatened me because he knew no one
11 else would do it. He needed me because I was
12 Stephen's girlfriend. I was just, I was just scared.

13 Q Were you afraid for your life?

14 A Yes.

15 MR. KIDD: Objection, Your Honor, leading.

16 THE COURT: Sustained, leading.

17 Q (By Mr. Sowell) Tell me what you mean by you
18 were scared?

19 A I was definitely afraid for my life and
20 Stephen's and anyone else's.

21 Q What affect did that fear have on your ability
22 to say no?

23 A A lot. I felt like I had to say yes. If I
24 didn't, I was going to be killed.

25 Q Have you ever done anything wrong before?

1 A Never.

2 Q Did you know this was a crime that you were
3 committing?

4 A Yes, sir, I did know it was a crime.

5 Q Did you know your involvement was the lesser
6 of the two evils?

7 MR. KIDD: Objection, Your Honor, leading.

8 THE COURT: Sustained, leading.

9 Q (By Mr. Sowell) If you had known anyone was
10 going to get hurt, what would you have done?

11 MR. KIDD: Objection, Your Honor, leading.

12 THE COURT: Sustained leading.

13 Q (By Mr. Sowell) If you had known the end
14 result was going to be as it was, what would you have
15 done?

MR. KIDD: Same objection.

16 THE COURT: Sustained, leading.

17 MR. SOWELL: Nothing further, Your Honor.

18 THE COURT: Any cross-examination of the
19 witness?

20 MR. KIDD: Yes, Your Honor.

21 THE COURT: You may proceed.

22 MR. KIDD: Thank you. Court's indulgence one
23 moment.

24 CROSS-EXAMINATION

25 BY MR. KIDD:

1 Q Good morning, Ms. Gaskins.

2 A Good morning.

3 Q Where did you hide the two pistols?

4 A I didn't hide the two pistols.

5 Q When you were first arrested, did you make a
6 statement to police?

7 A Yes, sir, I did.

8 Q Did you lie to the police?

9 A Yes, sir, I did.

10 Q Why did you lie?

11 A Because I felt like my life depended on it.

12 If --

13 Q Were the police threatening your life?

14 MR. SOWELL: Your Honor, I think she has got
15 the right to answer.

16 THE COURT: She does. She answers yes or no
17 then she may explain. But she completed her answer
18 then hesitated.

19 Ma'am, have you completed your answer to the
20 first question?

21 THE WITNESS: I believe so.

22 THE COURT: You may continue.

23 Q (By Mr. Kidd) Were the police threatening
24 your life?

25 A Not really, but they were very, very

1 disrespectful.

2 Q When you were making that statement to police,
3 where was Miguel Starks?

4 A At that time I had dropped him off, he told me
5 to drop him off at the Citadel, that he needed to
6 talk to someone there so I did. I dropped him off
7 there.

8 Q You knew he was in custody at this point,
9 didn't you?

10 A No, I didn't.

11 Q What about Stephen?

12 A I knew Stephen and Reggie were.

13 Q You knew Stephen and Reggie were in custody?

14 A I knew they were arrested because Stephen had
15 called me and told me that.

16 Q So their lives weren't in danger, were they?

17 A But mine were.

18 Q Your life in danger while you were in the
19 interview room with the police officers?

20 A Miguel was still out. I didn't know what he
21 was going to do.

22 Q Was he going to kill you in the interview room
23 with the police officers?

24 A He could kill my parents. I just didn't know
25 what to do. I was just so scared.

1 Q Did Miguel know where your parents lived?

2 A I don't know if he knew where my parents
3 lived.

4 Q How well did you know Miguel?

5 A Not well.

6 Q So how would he know where your parents lived?

7 A I wouldn't know that. We just -- kind of
8 plenty of ways to find that out.

9 Q In that first interview with the police
10 officers they were only questioning you about the
11 Joshua Harpe robbery; is that correct?

12 A Yes, sir.

13 Q Through that entire interview did you ever
14 mention anything about the Herbert Butler robbery
15 that happened on the 24th?

16 A I believe what I was telling them is the joke,
17 I kind of got them mixed up, yes, sir.

18 Q You did mention something about it?

19 A No, I didn't. I was kind of telling him that I
20 thought that the call was a joke, but I kind of got
21 that mixed up.

22 Q Right. And the call was referring to the
23 Joshua Harpe robbery, correct?

24 A Yes.

25 Q And that robbery occurred on Thursday night,

1 early Friday -- excuse me, Friday night early
2 Saturday morning the 27th?

3 A Yes, sir.

4 Q And the Herbert Butler robbery occurred on the
5 24th, right?

6 A Wednesday, yes, sir.

7 Q Wednesday the 24th. When you were arrested
8 and making that statement to the police, that was on
9 the 27th, right?

10 A I believe so, Saturday?

11 Q Well let's go through it.

12 A It was Saturday.

13 Q It was Saturday the 27th?

14 A Yes.

15 Q Which is the same day that the Joshua Harpe
16 robbery occurred, right?

17 A Friday night, Saturday morning.

18 Q Right, so Friday night, Saturday morning. And
19 then you were arresting Saturday a little bit later
20 in the morning, in the afternoon?

21 A In the afternoon yes, sir.

22 Q On Saturday. So you had a -- you were
23 arrested Saturday afternoon, a number of hours after
24 the Joshua Harpe robbery occurred; is that correct?

25 A Yes, sir.

1 Q And at that point were the police officers
2 asking you anything at all about the Herbert Butler
3 robbery?

4 A Not that I can remember.

5 Q But they were asking you about a robbery,
6 right?

7 A Yes, they were.

8 Q And when they were questioning about that
9 robbery, you didn't mention anything at all about the
10 Herbert Butler robbery, did you?

11 A Not that I remember.

12 Q And in fact you were pretending like you
13 didn't know anything about the Joshua Harpe robbery,
14 correct?

15 A Yes, I was scared, didn't know what to do. I
16 didn't know whether to tell them or whether to not
17 tell them or what to say. I just didn't feel safe at
18 all. They were cursing at me. I actually --

19 Q They were cursing at you? Are you sure about
20 that?

21 A Yes, it's not in the statement. I actually
22 was in the room by myself at first. I went to the
23 police station, I took a taxi there, went to the
24 police station. They came and got me down and brung
25 me upstairs to the room.

1 And they were just asking me questions, did I
2 know I was there. And I was like no. I was like,
3 well, do you know why you are here? And I was like,
4 no I don't. I was like, I would like to leave. I've
5 not been arrested, I would like to leave.

6 Q So you told them you didn't know why you were
7 there?

8 A That's what I told them, yes, I did.

9 Q Later when they confronted you with a little
10 more information, you told them why you -- you told
11 them why you thought you were there?

12 A Could you repeat the question?

13 Q Once they confronted you with a little more
14 information that they already knew of, you told them
15 your reasoning why you thought you were there?

16 A They arrested me because I had -- they
17 wouldn't let me leave. Kept telling me that I had to
18 talk to them, I better talk to them, and cursing at
19 me and telling me that I had to pay the cab fare.

20 And I'm like, no, because I'm leaving in that
21 cab. And they were like, no, you're not, you're
22 going to stay here. You can't make me stay here. So
23 at the time I started crying and I called my dad,
24 tell him that I'm here and that Stephen had just been
25 arrested. They said he was a suspect in a robbery,

1 that I was scared and I didn't know what to do.

2 And that's when the cops came, well, he said
3 he would make some phone calls and he was actually
4 coming. So that's when they came in and said I would
5 be detained. So later they put me in another room
6 and that's when they're like they already know, don't
7 lie to them. And all kinds of stuff.

8 Q And then when they started saying they already
9 know don't lie to them, did you tell the truth at
10 that point?

11 A I think it was towards the middle of the
12 conversation. I felt like I told it just a little
13 bit because I felt like I didn't know what to do,
14 either to trust them or what.

15 Q Did you ever tell the officers in that
16 interview that you were threatened?

17 A No, sir, I didn't.

18 Q Did you ever tell them you were in fear for
19 your life?

20 A No, sir, I didn't.

21 Q Did you ever tell them Stephen Francois was
22 threatened?

23 A Not that I recall. But I did later tell
24 another set of police that I was threatened and
25 that's in the statement also.

1 Q During that first statement you told them that
2 you thought you were playing a joke on Joshua Harpe,
3 didn't you?

4 A That's what I told them, yes, sir.

5 Q But based on your testimony just a few minutes
6 ago you knew you weren't playing a joke on Joshua
7 Harpe, didn't you?

8 A Yes, sir. I was definitely scared when I gave
9 that statement, didn't know who to trust, didn't know
10 who to believe, in fear for my parents, my life, a
11 lot of things.

12 Q If anyone in the world could have helped
13 dispel that fear, wouldn't it have been the police?
14 Who else would you go to?

15 A My parents.

16 Q Your parents are better equipped to deal with
17 a threat toward your life than the police are?

18 A I just didn't know what to think at that time.

19 Q After the Butler robbery, you get dropped off
20 at Stephen's dorm room, correct?

21 A After --

22 Q I mean much later in the night. You all go
23 back to Starks' house, but eventually Starks drops
24 you and Stephen off at his dorm?

25 A Yes.

1 Q And is Starks staying with you there that
2 night?

3 A No, he didn't.

4 Q So you spend the night in that dorm room, and
5 who's in that dorm room?

6 A Just me and Stephen.

7 Q Just you and Stephen. Did you tell Stephen
8 your life had been threatened?

9 A No, because I felt like if I said something to
10 him he would probably say something to Miguel and
11 Miguel probably would kill him or kill me. And I
12 just didn't want to risk that so I didn't say
13 anything. I just was crying to him.

14 Q What were you crying about?

15 A I was crying. I was scared.

16 Q So your boyfriend of seven months, six, seven
17 months, who you were living with at this time, you
18 wouldn't tell him that his friend just threatened
19 your life?

20 A No, sir, I didn't tell him.

21 Q And you just testified earlier that on
22 Thursday you went to class, right?

23 A Yes, I went to class later in the afternoon.
24 Yes, sir.

25 Q And then later that afternoon on Thursday --

1 no robbery takes place Thursday, does it?

2 A No, sir.

3 Q You go over to the guy's house who just
4 threatened your life, threatened your family's life,
5 put a gun to your head, to hang out? That's what
6 your testimony is?

7 A What was I going to do if -- I felt like, what
8 was I going to do if I didn't go? What would he do
9 to me if I didn't go? What would he do to Stephen?

10 I knew he was going to call Stephen probably
11 talk to Stephen so I'm like, what do I do? Do I stay
12 or do I go? And to help myself and make sure I
13 wasn't killed or Stephen I left and I went with him.

14 Q And you are a smart girl, A's and B's, right?

15 A Yes, sir.

16 Q And it's safer to go to the house where
17 someone has threatened your life than it is to not
18 go? Is that what you're saying?

19 A I felt like if I didn't go he would come. He
20 knew where I stayed with Stephen most of the time.

21 Q He was going to kill you for not hanging out
22 with him?

23 A Just for not going with him. He told me he
24 called so I'm pretty sure he told me, don't do
25 anything to mess it up, to mess anything up. So I

1 felt like I had to do whatever he said. If he said
2 come -- if he said jump, I would jump.

3 Q Where did you spend the night Thursday night?

4 A Thursday night, I think spent the night at his
5 apartment. I think he took us home later.

6 Q Did you spend the night there, did he take you
7 home the next day?

8 A Most times we left it was after 12:00, so I
9 mean I don't know whether to say spend the night or
10 what because it was after 12:00.

11 Q Did you sleep there?

12 A No, sir, I never slept there.

13 Q So he takes you home the next day?

14 A That morning.

15 Q Next morning. You go to class again?

16 A When is this?

17 Q Friday.

18 A Friday, yes, I believe so.

19 Q During any of this time did you ever call the
20 police?

21 A No, sir.

22 Q Have you told a single soul on the face of
23 this planet that you have been threatened?

24 A I actually did.

25 Q Who did you tell?

1 A Thursday in one of my classes, Thursday after
2 the first robbery I ended up telling this girl. I
3 don't even know why I told her, I just felt
4 comfortable with her. We were talking about our
5 Wednesday and what we both had done. And I just told
6 her what had happened that day.

7 Q Who is this girl?

8 A Her name is Natalie Endorino (phonetic).

9 Q Where is she at?

10 A I don't know where she is now but I know she
11 attends the College of Charleston. We actually tried
12 to get her here today.

13 Q So you go back again to Miguel Starks house on
14 Friday?

15 A Yes, sir.

16 Q And you know there is going to be a robbery
17 that night, right?

18 A I don't think I knew right then.

19 Q Wasn't the robbery discussed at the end of the
20 Butler robbery?

21 A No, sir, it wasn't.

22 Q You had no idea there was another robbery
23 being planned?

24 A No, sir. No, sir, I didn't.

25 Q So you go back on Friday?

1 A Yes, sir.

2 Q Miguel comes and picks you up again?

3 A Yes, sir.

4 Q Do you have a car?

5 A Yes, sir, I have a car. It was parked -- my
6 car is parked at the old abandoned church. It's on
7 George Street, but it's maybe like a mile and a half
8 way. And it's only like six parks there, so
9 definitely I rarely moved the car not wanting to lose
10 my parking spot because it's like \$600 to park under
11 the school's parking garage.

12 So just to save money that's where I park my
13 car and I leave it there most of the time unless I am
14 going somewhere where I need to go.

15 Q And so you go back to Miguel Starks' house
16 even though he has now threatened your life how many
17 times?

18 A At that moment --

19 Q Twice?

20 A Twice, yes. But I felt threatened plenty of
21 times.

22 Q Never called the police?

23 A No, sir, I didn't.

24 Q Told your parents?

25 A Later I did, yes, sir.

1 Q When did you tell your parents?

2 A After I got out I ended up telling them
3 everything. Well, no, actually when I was locked up
4 I told them what happened.

5 Q You told them what happened when you were
6 locked up?

7 A Yes.

8 Q You told them you were threatened when you
9 were locked up?

10 A Yes, sir, I did.

11 Q Do you remember a phone call that you made to
12 them from the jail?

13 A Do I remember the phone call?

14 Q Uh-hum.

15 A Do I remember what phone call?

16 Q Do you know your phone calls from the jail
17 were recorded?

18 A Yes, sir.

19 Q And do you remember the phone call you made to
20 your parents from the jail?

21 A I don't remember the exact phone call.

22 Q Would it surprise you that you didn't mention
23 being threatened in that phone call?

24 A It was --- I either told them when they came
25 to see me or I told them on the phone, one of the

1 two. But I ended up telling my parents because my
2 dad is like, he is kind of a tell-me-what-happened
3 type of guy.

4 And I tell him what happened. But I don't
5 recall, but I want to say I did tell my dad. But I
6 don't recall. I don't remember if I told him on the
7 phone or told him in person but, yes, I did tell my
8 parents.

9 Q But in that phone call from the jail, you
10 didn't tell your parents you were threatened, did
11 you?

12 A I don't remember.

13 Q Do you remember that video we played earlier
14 of you all putting gas in the car?

15 A Yes, sir, I do.

16 Q Is that your voice in that video?

17 A I hear my voice a couple times, but most of
18 the time it's kind of Breanna. She is kind of louder
19 than me. But, yeah, I talk a little bit. Trying to
20 act as normal as possible.

21 Q And that somewhat answers my next question.
22 Do you think you sounded scared on that video?

23 A I usually talk a lot, actually. But I was
24 scared, trying to be as normal as possible around
25 this guy. He was pretty nice.

1 MR. KIDD: Court's indulgence.

2 Q (By Mr. Kidd) You testified on direct that on
3 the way to the first robbery in the car you didn't
4 know what was going on; is that correct?

5 A Excuse me?

6 Q You testified on your direct examination a few
7 minutes ago that when the five of you all were in the
8 Toyota Yaris on the first robbery on the way to the
9 house that you didn't know what was going on?

10 A I really didn't know what was going on. I
11 kind of knew that they were going to play a joke on
12 someone. But they kept driving by his house and they
13 pointed out the house like this is the house, but
14 they never said anything direct.

15 Q What kind of joke was that that they were
16 going to play?

17 A I don't know they just said that they knew
18 this guy, some guy Reggie knew. And I ended up
19 thinking that it was a joke because.

20 Q But you had already discussed in your dorm
21 room this, sketched it out on a napkin and everything
22 earlier that day?

23 A And actually I really didn't get to see that
24 diagram, but I knew that he had wrote something on a
25 napkin. But I really didn't get to see it.

1 Like I said, I was kind of in a rush for class
2 and I kept going to the restroom. But he did mention
3 that he wanted me to do something with him. But I
4 asked Stephen about it, Stephen said he is just
5 playing, leave it alone, don't take him serious.

6 Q Well that conversation was on the Tuesday
7 meeting in the dorm room, right?

8 A No, sir, it was actually Wednesday.

9 Q Wasn't there also a meeting on Tuesday in the
10 dorm room?

11 A On Tuesday it was just Miguel and --

12 Q Miguel, Stephen and you, right?

13 A Yeah, and he really didn't say too much.

14 Q He didn't discuss the robbery then, too?

15 A Not that I can recall but -- not that I
16 remember at this moment.

17 Q Not that you remember? Don't you think you'd
18 remember a conversation about committing a home
19 invasion?

20 A If I thought it was real, I think I would
21 remember it.

22 Q Well after you commit a home invasion the next
23 night, that would make you think back about the
24 Tuesday conversation, wouldn't it?

25 A I don't know. It was a year ago. I don't

1 know exactly.

2 Q That was a pretty important week, wasn't it?

3 A It was a very, very stressful week. I didn't
4 know who to trust, who to believe. I was just so, so
5 scared. I had never been in that predicament before
6 so I didn't know how to react or what to do. I
7 didn't know, just to stay alive and to survive just
8 do it, do whatever he said.

9 THE COURT: Counsel approach for me, please.

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

12 THE COURT: How many questions do you have?

13 MR. KIDD: A good bit.

14 THE COURT: Okay.

15 (In open court.)

16 THE COURT: Mr. Foreman, ladies and gentlemen,
17 we are going to take this opportunity to break for
18 lunch, we will break until 2:15.

19 During the break, please do not discuss the
20 case among yourselves or with anyone else. Please do
21 not have contact with anyone in or about the
22 courthouse. Please leave your notepads in your
23 seats. And please be especially diligent and do not
24 allow yourselves to be exposed to any media coverage
25 regarding this case.

1 We will see you at 2:15, have a good lunch.
2 We appreciate your patience.

3 (Whereupon, the jury exits the courtroom.)

4 THE COURT: Anything before we break for lunch
5 from the state?

6 MR. KIDD: Just Ms. Gaskins not discuss her
7 testimony.

8 THE COURT: I will handle that.
9 Anything further from the state.

10 MR. KIDD: No, Your Honor.

11 THE COURT: From the defense.

12 MR. SOWELL: No, ma'am.

13 THE COURT: Ms. Gaskins, during the luncheon
14 recess please do not discuss your testimony. You can
15 of course speak with your attorney, but do not talk
16 about the details of the testimony as you are in the
17 process of cross-examination.

18 Do you all have any requests for instruction
19 that you are going to be wanting to be submit?

20 MR. KIDD: Your Honor, if I can take lunch to
21 review this.

22 THE COURT: I have already done my
23 instruction. If you want something, if you have a
24 theory of something.

25 MR. KIDD: I don't want anything out the

1 ordinary, the hand of one.

2 THE COURT: I don't mean cut you off or tell
3 you that I won't consider it, I will. I don't want
4 you to go to extra work because I generally use my
5 standard instructions.

6 MR. KIDD: Can you tell me which duress charge
7 you're using?

8 THE COURT: I'm using the standard one from
9 case law. I have three cases on point from the
10 Supreme Court and I use the exact language from those
11 instructions.

12 MR. SAVAGE: I guess, Your Honor, the problem
13 I would have with the duress charge is --

14 THE COURT: I'm not going to have charge
15 conference right now. There is sufficient evidence
16 in the record of coercion. We have been using the
17 term coercion and duress interchangeably, they are
18 not interchangeable.

19 South Carolina law talks in terms of coercion
20 which is demonstrated by certain forms of duress.
21 They are not interchangeable. The defense is
22 coercion. She has no burden in that. The only
23 burden is proving necessity by a preponderance of the
24 evidence.

25 Case law does not say that about coercion.

1 And coercion contemplates third party by using
2 duress, forcing you to take action or to damage
3 someone else's property or commit a crime against
4 someone else.

5 It's a very short instruction, it's three
6 paragraphs and it's articulated in three separate
7 cases. Actually, there are five cases; three from
8 the Supreme Court, two from the Court of Appeals.

9 I just need to know if you wanted to submit
10 anything so I could read it at lunch so I can make
11 sure that if you have a concept you want covered that
12 I can make sure its covered. Because I anticipate we
13 will complete Ms. Gaskins' testimony. And if there
14 is no rebuttal testimony that we will move forward
15 with charge conference and instruction.

16 Yes, sir.

17 MR. SOWELL: With that in mind, you don't need
18 to waste your time and read mine.

19 THE COURT: I will mark them. I always mark
20 them as a Court's exhibit. Lawyers tend to be
21 advocates in their instruction and mine is a global
22 statement, very neutral statement of the law.

23 If you have a concept you want covered you
24 need to tell me and I will make sure it's covered.
25 In anticipation of Ms. Gaskins' testifying, already

1 knowing the theory of the defense's case, I worked on
2 that last night and completed it this morning.

3 MR. SOWELL: Thank you.

4 THE COURT: You're welcome.

5 Is there anything the state wants me look at
6 over lunch?

7 MR. KIDD: No, Your Honor.

8 THE COURT: Have a good lunch. See you at
9 2:15.

10 (Whereupon, a recess was taken.)

11 THE COURT: Anything before we resume
12 testimony from the state?

13 MR. KIDD: No, Your Honor.

14 THE COURT: From the defense?

15 MR. SOWELL: No, Your Honor.

16 THE COURT: Ms. Gaskins, if you would retake
17 the stand. I will remind you that you are still
18 under oath.

19 MR. SOWELL: Your Honor, I would like to
20 request the right to call Brenda Ligon as a defense
21 witness.

22 THE COURT: You can call any other witness
23 that you'd like.

24 MR. SOWELL: She was not listed on the list.

25 THE COURT: Who is she? Is that another

1 character witness?

2 MR. SOWELL: Yes, ma'am.

3 THE COURT: What's her name?

4 MR. SOWELL: Brenda Ligon. I believe the
5 solicitor has already run her social security number.

6 MR. KIDD: Your Honor, my position would be
7 that if it's a character witness who is going to
8 testify to the same thing we have already heard, I
9 think at this point it's cumulative.

10 THE COURT: I'll think about it. I'll give
11 him some latitude.

12 (Whereupon, the jurors enter the courtroom.)

13 THE COURT: You may be seated. You may resume
14 your cross-examination of the witness.

15 MR. KIDD: Thank you, Your Honor.

16 THE COURT: You're welcome.

17 Q (By Mr. Kidd) All right, Ms. Gaskins, I want
18 to talk a little bit more about this jail phone call.
19 Isn't it true that you told your parent you didn't
20 have anything to do with the robberies during that
21 phone call?

22 A I don't remember. But I do remember telling
23 my parents exactly what happened. I spent four hours
24 telling them what happened.

25 Q I'm not talking about a four-hour

1 conversation, I'm talking about a 15-minute phone
2 call from the jail?

3 A I don't remember.

4 Q Would it refresh your recollection to hear
5 that phone call?

6 A It may.

7 MR. KIDD: Your Honor, may I play that?

8 THE COURT: Any objection?

9 MR. SOWELL: No, ma'am.

10 THE COURT: You may proceed.

11 (Whereupon, the audiotape is played in open
12 court.)

13 Q (By Mr. Kidd) So on that phone call you told
14 your parents you didn't know what happened, didn't
15 you?

16 A Yes, I also told them I was forced.

17 Q You told them you were forced?

18 A Yes, I told them they had a gun. It clearly
19 says that.

20 MR. KIDD: Your Honor, may I play the tape
21 again?

22 THE COURT: Sure.

23 MR. SOWELL: Your Honor, the tape has been
24 played, it's in evidence. I don't think he needs to
25 keep playing it all day.

1 A I didn't say it in those exact words that I
2 was forced, but I said plenty of times that Stephen
3 was and I also said that I was. I said they made me
4 do it. I clearly said that also.

5 And it's a phone call and I had 15 minutes so
6 I had to kind of talk to my parents really, really
7 fast. Half the stuff I couldn't barely hear anyway.

8 And, yeah, basically kind of rushed through
9 everything, kind of telling them everything right
10 then because my Mama is kind of an adamant person,
11 you tell me right now. So I just tell her. And when
12 she starts yelling, don't like when my Mama yells, I
13 just said, okay, Mama, I didn't do nothing.

14 But when they got there I definitely explained
15 everything later and talked to them about it. But
16 clearly in there I did say that he made me do it.
17 And clearly said that I was threatened.

18 Q (By Mr. Kidd) You also said you didn't know
19 anything, right?

20 A Yes, I said a lot of other things as my Mama
21 was yelling because my Mama yells at me. And when
22 she yells at me I said something, but then I did
23 explain it later. Because when we are face-to-face,
24 I don't lie to them at all, can't. I don't have no
25 choice but not to because when they look at me, they

1 look at me and they will know if I'm lying or not.

2 Q So you can lie to them on the phone but not in
3 person?

4 A Actually we was kind of -- you could say that
5 was a lie, but I ended up, you know, telling them
6 anyway. Those are my parents. They're going to know
7 everything that happens anyway. And also I felt like
8 -- I don't think I said it all at one time, but I
9 told the police what happened and wagner is sitting
10 right there.

11 I also told him I was forced also and it's
12 actually in all of my statements.

13 Q When was that? When did you make that
14 statement?

15 A That was afterwards.

16 Q So that was a few days later?

17 A The next day.

18 Q March 1st, wasn't it?

19 A I don't remember. I went to the bond hearing
20 and I was getting ready to get out actually. And
21 they had a hold on me and that's when wagner came to
22 pick me up and I talked to him.

23 Q You had been -- I'm sorry, go ahead.

24 A I think I had been in there for maybe a day,
25 maybe a day.

1 Q So you had been in there a couple days, and
2 then you told the police you were threatened?

3 A I told him what happened on the first one,
4 yes, how it started.

5 Q That's when those officers came and got you to
6 talk about the first robbery, right?

7 A Yes.

8 Q And until they confronted you with that first
9 robbery, you never mentioned it, did you?

10 A I mean who was I going to tell? I was locked
11 up, who was I going to tell?

12 Q Could have told your parents.

13 A I didn't tell my parents -- I didn't talk to
14 my parents again after they told me they would be
15 there that next morning with the lawyer. You know,
16 don't talk to nobody, I will be there the next
17 morning.

18 So I wasn't just going to go volunteer
19 information until I was --

20 Q Because you didn't want to get caught?

21 A No, that's not it.

22 Q You didn't tell your parents your life was in
23 danger, did you?

24 A No, I didn't tell them my life was in danger
25 because they were on their way here. I knew that

1 Reggie had been arrested by then because I was locked
2 up. And I overheard their conversation about the
3 guns at a bond hearing, so I knew that he was locked
4 up at that point.

5 Q So you weren't scared anymore at that point?

6 A A little bit. But I was just trying keep my
7 composure. And I was around maybe 50 other people,
8 girls that I didn't know.

9 Q And you were lying to your parents about
10 living with GZ, weren't you?

11 A I actually wasn't living with Stephen. Well,
12 you could maybe if you wanted to say that, you could
13 say that if you want to, but I definitely could go
14 back to my dorm if I wanted to.

15 And I did invited him, they knew I was there,
16 I talked to my parents almost everyday.

17 Q They were okay with that?

18 A Yes. I even took Stephen to Clinton to meet
19 my parents. He met my parents. He went, my parents
20 met Chris and Lauren. And we, instead of them
21 staying at my house, we all got a room and then came
22 and ate dinner with my parents. So, yes, my parents
23 knew.

24 Q When you told your parent you really didn't
25 know what was going on, that was a lie, wasn't it?

1 A Yes. I was kind of just saying stuff right
2 then because I couldn't explain four days worth of
3 stuff right then, but I ended up telling them exactly
4 what happened.

5 MR. SOWELL: Your Honor, can we approach?

6 THE COURT: Yes.

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

9 MR. SOWELL: This may cause the parents to be
10 witnesses.

11 THE COURT: Have them leave.

12 (In open court.)

13 THE COURT: You may proceed.

14 Q (By Mr. Kidd) You also told your parents in
15 that phone call you were honest with the police,
16 didn't you?

17 A Yes.

18 Q And that was a lie?

19 A You could say yes, but they were very, very
20 disrespectful to me, very disrespectful. And I told
21 my parents they were very disrespectful cursing me
22 out.

23 Q And that interview is videotaped, isn't it?

24 A Yes, it was videotaped.

25 Q Would it surprise you if there were no curse

1 words used in that entire videotape?

2 A When they cussed at me I was definitely in
3 another room. When I was in the other room before
4 that, I wish they had that tape. I wish we could get
5 that.

6 Q So you're going to the air force?

7 A Yes, sir, I was air force reserve.

8 Q Is that an easy thing to get involved in?

9 A No, sir. I actually had to go through certain
10 steps. I had kept going to meet my recruiter. First
11 I knew that that's what I wanted to do, but first I
12 went to kind of talk to him.

13 Went to meet him. Talk to him about it. Told
14 him what I wanted to do. I had to take the A-S --
15 the ASVAB tests. I ended up getting -- I told Mr.
16 Delaney about it, he sent me a pamphlet to study. I
17 studied, took the test, got in.

18 Q What kind of person --

19 A Drug tests. I went through all -- went to
20 Columbia, did all that.

21 Q So you passed a drug test?

22 A Passed a drug test. Did the blood. I took
23 off all my clothes and they examined me basically.

24 Q You were doing drugs this week, though,
25 weren't you?

1 A Yes, I did smoke this week.

2 Q Does a strong person, kind of person who
3 enters the army or the air force, what kind of
4 character would a person who enters the armed
5 forces --

6 MR. SOWELL: Your Honor --

7 THE COURT: Sustained, rephrase.

8 Q (By Mr. Kidd) You are a smart girl, right?

9 A Yes, sir.

10 Q Athlete?

11 A Yes, sir.

12 Q How many opportunities did you have to get
13 away from those guys?

14 A I had a lot of opportunities but I felt like I
15 couldn't.

16 Q When Reggie and Miguel are inside Herbert
17 Butler's house, why didn't you leave?

18 A I don't know, just so scared. And they are --
19 I'm 5'1" and they're 6'5", 220 pounds. There is
20 clearly nothing I could do with either one of them.

21 Q But you, your boyfriend and your friend Bree
22 are all in the car, Reggie and Miguel are in the
23 house, why didn't you leave?

24 A I don't know why they didn't pull off. At
25 that moment as I told you they were actually in there

1 robbing those people and I'm scared. My mind just
2 went blank. I just sit there and I say nothing.

3 Q You didn't tell Francois, they just pulled a
4 gun on me let's get you of here?

5 A No, I didn't tell they just pulled a gun on
6 me. I just said, baby, I was like, your brother is
7 very, very crazy. I was like, they are in there --
8 they're robbing those people, and I'm scared. But,
9 no, I didn't tell him they pulled a gun on me.

10 Q And you didn't tell anyone that you were
11 threatened before you were locked up except for some
12 girl that we can't find?

13 A Yes. She goes to the College of Charleston,
14 but trying to get in touch with her, the public
15 defender said we wouldn't be able to use her anyway.
16 so they kind of just gave up. And that's when I
17 retrieved an attorney.

18 Q The Sasha Gaskins who smokes marijuana, smokes
19 Black and Mild, is hanging out with these three
20 football players, that's not the same Sasha Gaskins
21 in Clinton, South Carolina, is it?

22 A Actually I smoked Black and Mild for a while.
23 But as far as marijuana, no, I didn't smoke marijuana
24 back home. I started when I got to school kind of a
25 little after I met Stephen.

1 So I'm not saying he kind of started me, but I
2 started like maybe right before this incident when
3 this stuff happened. The first beginning of the
4 year, stressing over a lot.

5 Q Stephen was a pretty big guy, wasn't he?

6 A Yes, but to me he was kind a like a big
7 teddy-bear.

8 Q He played football in college, didn't he?

9 A He did, but I don't think he played anymore.
10 He didn't play anymore when he came to College of
11 Charleston.

12 Q Where did he play football at?

13 A CSU.

14 Q Do you know what position he played?

15 A No, sir, I don't.

16 Q You like the idea of hanging out with these
17 three athletes, didn't you?

18 A I didn't really thing Reggie was an athlete.
19 Stephen wasn't playing football anymore. But at
20 first they seemed okay, but I usually don't hang out
21 with a lot of people. I hang out with -- usually
22 it's not with three boys, usually it's girls.

23 Q You liked the idea of hanging out with these
24 three kind of big men on campus, didn't you?

25 A You said did I like the idea?

1 Q Yeah.

2 A I don't understand the question. No, I didn't
3 like it.

4 Q Well then why are you hanging out with them?

5 A I introduced him to Breanna. No, I didn't
6 know that they were going to do those other things or
7 even threaten me. But I mean I wouldn't say I liked
8 the idea. I wouldn't say that.

9 Q You obviously thought enough of Miguel at that
10 time to introduce him to Breanna, right?

11 A Yeah. I mean he played football. He seemed
12 like a nice guy. He was like real, real jokey. So
13 I'm like, okay, he is jokey. Bree kind of liked
14 those type of guys so I introduced them.

15 Q And you had already been in your dorm room on
16 that Wednesday and had a plan of a home invasion laid
17 out before you introduced him to your friend Bree,
18 didn't you?

19 A No, sir. I kept going -- like I went to the
20 restroom. I don't know exactly what was talked
21 about. But definitely overheard a conversation and
22 definitely saw a map with a plan laid out.

23 But I asked Stephen about it, he said it was
24 just a -- I said, is he playing or is he being
25 serious? He is like, no, he is joking, that's what

1 he does. He left it like that.

2 I didn't say nothing because Stephen didn't
3 press the issue so I left it alone. Then I
4 introduced him to Breanna. I already told him that I
5 was going to introduce him to Breanna the day before
6 actually.

7 Q You knew Miguel's gun was broken, didn't you?

8 A No, sir. I never saw the guns until the day
9 of the robbery as I was walking to the house.

10 Q Didn't you tell officers in that second
11 interview that the gun was broken?

12 A Yes..

13 Q So you were threatened by a broken gun?

14 A I didn't find out it was broken until later.

15 Q When did you find out?

16 A I don't remember exactly when I found out it
17 was broken. I don't remember exactly when. But I
18 later found out it was broken.

19 Q So the gun Miguel --

20 A I don't know which one he had. I just know
21 one of the guns was broken and one of them was
22 loaded. I wasn't trying to figure out which one.

23 Q In your statement to Detective Church on March
24 1st, didn't you say that the gun Miguel had was small
25 and it was silver with a rusted end like it was

1 broken?

2 A Yes.

3 Q So you saw the gun Miguel had and you knew
4 which gun he had, right?

5 A The gun at the time I don't remember what time
6 I'm telling them about the gun. But it was dark the
7 first night when I saw the gun, so I clearly couldn't
8 tell him that it was rusted then.

9 But I must have saw it later again when he had
10 it and ended up telling them what type of gun it was
11 or what kind of gun it was.

12 Q So you felt like your life was threatened by a
13 broken gun? Like he was going to shoot you with a
14 broken gun?

15 A Later I found out.

16 MR. SOWELL: Your Honor, he's gone over --

17 THE COURT: Overruled.

18 A Later I found out that the gun was broken.
19 But the other one was loaded. I knew the other one
20 was loaded. I actually saw the bullets in the gun so
21 didn't know which one was broken and which one was
22 not. And I was not trying to find out.

23 Q (By Mr. Kidd) Well in your direct testimony
24 earlier you never said that Reggie threatened you?

25 A I didn't say that he threatened me.

1 Q Well Reggie had the other gun, didn't he?

2 A There are two guns. I'm pretty sure they can
3 switch up. I don't know if they switched up the
4 guns. I don't know which one was which.

5 Like I just said, I knew that one of them was
6 broke afterwards. That statement was on March the
7 1st. I knew that afterwards and that's when I told
8 them where the guns were when I was locked up, bond
9 hearing, overheard a conversation with them about the
10 guns. And I told him the exact thing.

11 Q The second time that you testified that Miguel
12 threatened you, you said he whispered it to you in
13 the car; is that right?

14 A He just told me, yeah, told me I better not
15 interfere with nothing or better not say anything.

16 Q Is that the words he used, interfere?

17 A I actually don't know the exact words, but
18 basically that's what he said.

19 Q Don't you think a threat like that would stick
20 out in your mind where you could remember those
21 words?

22 A I just feel like it's a threat no matter, you
23 know, I can't remember the exact words but I took it
24 as a threat.

25 Q Don't you think you'd remember those exact

1 words?

2 A I mean I don't -- I really can't say that I
3 would remember or not, remember the exact words. But
4 it was a threat.

5 Q And no one else was able to hear that threat,
6 were they?

7 A No. It seemed later thinking about it, it
8 seemed like I felt like he knew he needed me. I feel
9 like that's why he got in touch with Stephen to --
10 got in touch with Stephen because he knew that I -- I
11 felt like he knew he could say or say anything to
12 Stephen and then he knew that Stephen had a
13 girlfriend, so who else was he going to use?

14 And he knew that he could keep me quiet. I'm
15 small and he knew I loved Stephen.

16 Q So you love Stephen?

17 A No one else -- I loved Stephen. No one else
18 would make the phone call. So he probably knew that
19 I would make it. I don't know why me. I don't know.

20 Q Did Stephen love you?

21 A I don't know, you have to ask him that.

22 MR. KIDD: Court's indulgence a moment.

23 Q (By Mr. Kidd) After this second robbery had
24 taken place, Stephen and Reggie are arrested, what
25 are you doing that night?

1 A The house -- in Miguel's apartment with Miguel
2 and Breanna.

3 Q Then where do you all go?

4 A In his car. Me and Breanna are like we are
5 going to leave. So we left and go to his car and
6 five minutes later he is running out too jumping in
7 the backseat.

8 So I'm like, okay, I'm going to have to call
9 Lauren. I call Lauren and tell Lauren to come get
10 me. I call her and she comes.

11 Q And then you all go to that gas station,
12 right?

13 A I was getting ready to get out and get in the
14 car with Lauren. He jumps in the car with Lauren.
15 Went to the gas station and I was getting ready to
16 get out with Lauren and Lauren took off. And I asked
17 him I said, I was like why did Lauren took off? He
18 was like, I just told her that Stephen and Reggie
19 just robbed somebody.

20 I was like, why did you tell her that? So I
21 called her and I tried to -- I asked her why she
22 left. And she just went off on me and hung up and I
23 didn't call her back.

24 Q You all followed Lauren to the gas station,
25 right?

1 A I don't know who followed who.

2 Q All right. You all end up at the gas station
3 together, right?

4 A Yes.

5 Q Then what happens?

6 A Miguel pays for gas and he gets in the car and
7 tells me to go to the C of C.

8 Q So now he is back in his Dodge Nitro with you
9 and Bree, right?

10 A Yes.

11 Q You didn't try to get in Lauren's car then?

12 A Lauren had took off before I even got a chance
13 to get out of the car and go see. She took off. He
14 got out of the car, she took off.

15 Q At this point you know there has been two
16 armed robberies, two home invasions, right?

17 A Yes.

18 Q And you drop Bree and Miguel off at Bree's?

19 A I actually go inside and I'm like freaking out
20 saying, you know, I need to go find Stephen, at that
21 moment not knowing what to do just I need to find
22 Stephen. Yes, I get ready to call to try to find a
23 way there and he just said, take my car.

24 Q So the guy who had been threatening your life
25 gave you his car?

1 A Gave me the keys to his car.

2 Q And you did?

3 A Yes, I was looking for my boyfriend.

4 Q Then you went back to Miguel's apartment,
5 right?

6 A No, sir, I never went back there. I don't
7 even know my way there.

8 Q You have been living in Charleston for how
9 long?

10 A At the time maybe since June. Yes, since
11 June.

12 Q Little under a year?

13 A Yes, sir.

14 Q And you had a car, right?

15 A Yes, sir.

16 Q Why didn't you take your car?

17 A It was actually broke at the time.

18 Q Did you need money to get your car fixed?

19 A No, my parents were coming to get it to pay
20 for it to get it fixed. They were getting it towed,
21 it actually hadn't gotten it towed.

22 Q Then you cleaned out Miguel's apartment with
23 the guns, right?

24 A No, I never went back to his apartment.

25 Q You cleaned out his car, didn't you?

1 A No, I didn't clean out his car like he asked
2 me to do. I didn't do it.

3 Q What did you do with his car?

4 A Bree was in the car with me then. We both
5 just like --

6 Q I thought you just said you left Bree and
7 Miguel at Bree's place?

8 A You asked me what did I do with his car.

9 Q Right. Well I'm not quite there yet.

10 A Okay.

11 Q So you don't go to the police?

12 A I went to the police station to look for
13 Stephen, but I didn't know whether to say something
14 because Miguel was still out. What am I going to
15 tell the police? What am I supposed to say?

16 I didn't really know what to say. I figured
17 if I said anything they would probably lock me up. I
18 didn't know what to say or how to say it or what.

19 Q You're a smart girl, couldn't you have told
20 the police that there has just been two home
21 invasions and Miguel Starks did it and has threatened
22 me and they need to lock him up and he is at my
23 friend Bree's house?

24 A I could have, but I didn't. I was just
25 scared. I didn't know what to do, like I said.

1 Q But you could have?

2 A I could have but I can't -- at that moment I
3 just couldn't. I didn't do it. I was so shaken up
4 and I just couldn't do it.

5 Q Because you didn't want to get in trouble for
6 those two home invasions, did you?

7 A No, I didn't want to get in trouble for those
8 home invasions.

9 Q Because you were involved in them, weren't
10 you?

11 A No, I wasn't involved in it. Well I was
12 involved in it, but unwillingly.

13 Q Then later that day you take Miguel's car and
14 you go pick Miguel up from Bree's house, don't you?

15 A Yes. He tells me to come get him. He tells
16 me he needs to be dropped off at the Citadel and to
17 take his car back to Bree.

18 Q So the guy who has threatened your life twice
19 now, whose car you have, who has just committed two
20 home invasions, duct-taped people up, pulled guns on
21 people, you go pick him up?

22 A Yes, I have his car.

23 Q And that car --

24 A So, yes, I go pick him up.

25 Q And that car is more important than your life?

1 A I feel like if I didn't pick him up, you know,
2 he can do anything, put out an APB, I can get locked
3 up for having his car, he can try to come back and
4 kill me, try to figure out where I am, anything, I
5 don't know.

6 Q You didn't have to keep his car.

7 A I didn't keep his car.

8 Q But you went and picked up the guy who had
9 been threatening your life?

10 A Yes, he told me to come get him and take him
11 to the Citadel, yes.

12 Q That's what you did?

13 A I took him. And then he told me to take his
14 car to Bree and I took -- well went and got Bree.

15 Q Then you and Bree started driving around,
16 right?

17 A Yes. At that time Stephen's parents is
18 calling me, crying, I don't know what to say to them.
19 Talking to them. She's on -- his parent, his mom
20 called her, talking to her so both of us are on the
21 phone on the ride downtown.

22 And then she tells me that his mom says for
23 her to clean out his car and get out some bullets.
24 And her Mama tells him to take -- bring the car to
25 the police station after she do that.

1 And she said, Sasha, I'm done with this. I'm
2 not taking his car nowhere. So we just parked the
3 car somewhere and we walk.

4 Q So you just abandon the car on a strange
5 street? Where did you leave it?

6 A I don't remember the street.

7 Q Was it downtown, North Charleston?

8 A It was downtown. We ended up walking back to
9 Bree's.

10 Q How long a walk was that?

11 A Pretty, pretty long walk. Felt like -- felt
12 like they were.

13 Q Were the police asking you to bring that car
14 to them?

15 A They never asked me, but Bree later told me
16 that his mom wanted her to take the car to the police
17 station.

18 Q So you knew the police wanted the car?

19 A Not really. I'm guessing that they wanted the
20 car because the mom wanted him -- her to take the car
21 to the police station. But I don't exactly know for
22 sure.

23 Q And you knew that the police wanted the car,
24 you also knew that Miguel was arrested, didn't you?

25 A Like I said, I didn't exactly know that the

1 police wanted the car, I just know that the mom told
2 her to take them.

3 Q Miguel's mom?

4 A Yes, Miguel's mom.

5 Q So Miguel's mom would want this because Miguel
6 has been arrested, right?

7 A At this point I didn't know if Miguel was
8 arrested or not.

9 Q When did you find out Miguel was arrested?

10 A After I make my statement, the first statement
11 they arrested me and I leave out of the room to sit
12 and wait for someone to come get me and he walks by.
13 Well they bring him in. He is in handcuffs.

14 Q After -- I apologize for jumping around a
15 little bit. During that first robbery, what did you
16 do with the cell phone that Emily Michalak gave you?

17 A Reggie took it from me.

18 Q When did he take it from you?

19 A I can't remember when he took it from me but
20 he took it from me and threw it in the river. I
21 think it was the river.

22 Q And you've lived in Charleston for 9, 10
23 months?

24 A About 9, 10 months, yes, sir.

25 Q You are saying you didn't even know what James

1 Island was?

2 A I didn't know what James Island was, I had
3 never been there, but I knew what West Ashley was.
4 But I didn't know my way around. I didn't travel
5 much like around Charleston. I mostly went to North
6 Charleston and downtown. Never went to those other
7 places.

8 Q Why didn't you insist on calling the police
9 at any point during these three days?

10 A Scared.

11 Q When you finally realized they were robbing
12 someone, why didn't run next door, run to another
13 house, why didn't you do that?

14 MR. SOWELL: Objection, Your Honor.

15 THE COURT: Basis?

16 MR. SOWELL: Asked and answered 15 times.

17 THE COURT: I'm going to allow you this last
18 question, but it has been asked and answered.

19 Ma'am, you may answer the question.

20 A Because I was scared. He had just pulled a
21 gun out on me and at that point I was just trying to
22 survive, trying to stay alive, trying to do exactly
23 whatever he said to do.

24 Q You knew what you were doing was wrong, didn't
25 you?

1 A Yes, but I had to stay alive like I said.

2 Q From the broken gun?

3 A I didn't know if it was broken until later.

4 Q It was a thrill for you, wasn't it?

5 A No, it wasn't a thrill at all.

6 Q When you're sitting in the back of the car
7 behind Herbert Butler's house you were more concerned
8 about getting a lighter than anything else?

9 A That was one of the things that I asked for,
10 but most of the time I was just sitting there just
11 scared, just thinking and trying to figure out what
12 to do.

13 Q Not one time during any of your testimony
14 today or anytime else have you expressed any sympathy
15 for the victims, have you?

16 A I said that I didn't want anyone to get hurt.
17 I also said that I didn't want to get killed and I
18 didn't want anyone else to get killed also. I said
19 that.

20 And to them, I apologize to them but I don't
21 know them. I have never seen Herb, I have never seen
22 the coach but I've seen Emily. But until this day I
23 could never tell you what she looked like until I saw
24 her today. I couldn't look back and remember what
25 she looked like, anything.

1 Q And you know without you none of this would
2 have happened, would it?

3 A I feel like if I wouldn't have done it, if I
4 wouldn't have went to the door like they made me do
5 it, I feel like they would have either found another
6 way to get in, or probably killed them.

7 Q But you were sure to wipe those fingerprints
8 off the door, weren't you?

9 A I didn't wipe those fingerprints off the door.

10 Q But you made sure they were, weren't you?

11 A I just said something about them. I actually
12 don't know if he did it or not.

13 Q So you just went inside for a lighter?

14 A I went inside for a lighter. And then that's
15 when Stephen and them were arguing. And I told him
16 about, you know, the fingerprints. I was like,
17 they're in there robbing these people.

18 And they get to arguing. I try to calm both
19 of them down and say I'm ready to go, and that's when
20 they tell me to get the box. I went back in there
21 once. I never went back in there again.

22 Q And you said, what should we take?

23 A No, I didn't say that at all.

24 Q So you went into a house where there was a
25 home invasion taking place, where people were taped

1 up?

2 A I didn't know they were taped up at that
3 moment either.

4 Q Well you went into a house where you knew
5 there was a home invasion taking place, right?

6 A Yes, and I didn't go there willingly either.

7 Q But no one forced you out of the car when it
8 was just you and Bree in the car, did they?

9 A What do you mean?

10 Q When you went in for a lighter, you went into
11 a house where a home invasion was taking place for a
12 lighter?

13 A I mean they were already in there. I wanted
14 them to hurry up, I wanted to leave. But I also
15 wasn't going to try to -- I mean, I was going to try
16 to rush them as sweetly as I could because I didn't
17 want them to kill me.

18 Q In fact you were looking out for the guys,
19 weren't you?

20 A I actually wasn't looking out for the guys.
21 Actually Bree said she saw a car. I wasn't looking
22 out for anyone.

23 Q So you were helping by looking out?

24 A No, sir, I wasn't.

25 Q You were helping by knocking on the door?

1 A That probably helped them, but I wasn't doing
2 it intentionally.

3 Q You were helping by carrying stuff out of the
4 house?

5 A Not intentionally. I didn't do it willingly
6 either.

7 Q You were helping by calling Josh Harpe?

8 A I didn't do it willingly.

9 Q You were helping by carrying stuff out of that
10 house?

11 A I didn't do it willingly.

12 Q And in your own words in direct testimony you
13 said after that first robbery we hung out?

14 A I just say hung out just when a whole group of
15 people is together and they're just sitting there,
16 that's how I say hung out. But I can act elaborate
17 on it if you want me to.

18 Q Why didn't you call any one of these people
19 who testified earlier who were so impressed with your
20 character and your honesty, why didn't you call any
21 one of those people you impressed and tell them what
22 happened?

23 A Scared.

24 Q Isn't that your safety net?

25 A You can say that.

1 Q Your family?

2 A You can say that.

3 Q Those are the people you trust?

4 A Yes, sir.

5 Q Those are the people when something bad
6 happens you call, right?

7 A And they're also two hours away and I'm in
8 Charleston by myself with my boyfriend. With someone
9 that I don't know who's threatening me. I feel like
10 that's hard, I didn't know -- like I said, I didn't
11 know what to say. My mind was racing, didn't know
12 what to do, crying.

13 Q You were so distraught after that first armed
14 robbery that you could work on a project and go to
15 class and take a nap?

16 A Actually I ended up starting a project but
17 didn't finish it.

18 Q You were so broken up over this armed robbery
19 you were able to sit through class.

20 A I did. I just sat in class, I sat there.

21 Q Wasn't a big enough deal to skip class?

22 A I just sit there in class, didn't even
23 participate but I went.

24 Q Didn't tell the teacher?

25 A I didn't tell the teacher.

1 Q Now on direct you said that first Miguel asked
2 Breanna to make the phone call; is that right?

3 A Yes, I think I remember saying that.

4 Q She said no?

5 A She said she wasn't doing it.

6 Q Did he threaten her?

7 A No. He said, Sasha, you're going to make the
8 phone call. I already knew that he was going to ask
9 me anyway.

10 Q When you are putting gas in the car outside of
11 Miguel's house and that guy is helping you, you
12 didn't ask him for help, did you?

13 A I asked him to help us put the gas in the car
14 because I couldn't figure out how to get the top off
15 to put gas in it.

16 Q Right. But you didn't ask him for help out of
17 the situation you were in?

18 A No, sir. Just scared, just trying to stay
19 out, trying to make sure I do exactly what he said.

20 Q Because you were in it with the others, right?

21 A No, sir.

22 Q One for all, all for one?

23 A No, sir.

24 MR. KIDD: Court's indulgence.

25 Q (By Mr. Kidd) You had a cell phone with you

1 this whole time, right?

2 A Not the whole time. Sometimes he took the
3 cell phone.

4 Q Who took your cell phone?

5 A Miguel. Sometimes he had my cell phone.

6 Q That's the first time we're hearing about
7 that, isn't it?

8 A Yeah. But I mean it kind of doesn't matter if
9 I had it or not.

10 Q Well it does matter. If you had your cell
11 phone you could have called the police at any time,
12 couldn't you?

13 A I could have but I didn't. As I said I was
14 scared. What was I going to tell them? What was I
15 going to do?

16 I felt like, you know, no one else was in that
17 situ -- I feel like unless you are in that situation,
18 you can't really say what -- people can tell you what
19 you should have done, but until you are in that
20 situation, until they know exactly how you feel then
21 people really can't come in and tell you, you know,
22 you should have done this or they would have done
23 something different because you never really know
24 until you are in that situation.

25 I was just trying to stay alive and keep

1 Stephen alive and do whatever he said.

2 Q Breanna is a small girl, too, isn't she?

3 A She is bigger than me, but she is kind of
4 small.

5 Q She is not near the size of Miguel or Reggie
6 or Stephen, is she?

7 A No, sir.

8 Q She wasn't scared of Miguel, was she?

9 A Oh, I don't know.

10 Q She said no to him, didn't she?

11 A Yes. I'm not her.

12 Q There were no consequences to her for that,
13 were there?

14 A I don't think she was threatened. I was.

15 Q Let's talk a little bit about this note you
16 wrote to Bree in jail. Do you remember writing that
17 note?

18 A Yes, sir.

19 Q Why do you tell her to flush these notes down
20 the toilet?

21 A Because of the girl -- a girl just told me
22 that a lot of people around there just tell on
23 people, snitches a lot. And she was like, they
24 search your room, you know, you just don't want to
25 get no one to try to talk against you or anything

1 like that, so.

2 Q Well if you did all this unwillingly, what do
3 you have to hide?

4 A I don't have anything to hide, that's why I
5 didn't say anything when she gave it to you guys. I
6 don't have anything to hide. And I feel like nothing
7 that I said in the letter is bad really.

8 Q What about when you said, I hope you didn't
9 talk to the cops?

10 A Yes. I hope she didn't.

11 Q That's not bad?

12 A No, I hope she didn't because the cops that I
13 talked to were very, very disrespectful to me. And
14 just trying to help her out about it too.

15 Q What about the officers you met with on March
16 1st, were they disrespectful to you?

17 A No, he was very, very nice to me. Wagner was
18 very nice.

19 But he -- when I told him that I overheard the
20 conversation about where the guns were he said he
21 would help as much as he can. Then later me and my
22 public defender went to see him, and he later said he
23 wouldn't talk to me and just kind of left it like
24 that. But other than that he was very, very nice to
25 me.

1 Q When you say, don't say too much to no one,
2 because you don't want anyone to find out anything
3 about what you did, right?

4 A No. Like I said a lot of people in jail they
5 talk, they'll kind of will do anything and tell lies
6 and say anything to kind of compromise your case or
7 either just try to get you in trouble or just try to
8 get less time for themselves. A lot of people do
9 that and I kind of felt that out.

10 Q The truth of the matter is Miguel never
11 threatened you, did he?

12 A He did threaten me.

13 Q Reggie never threatened you?

14 A Reggie never threatened me. I was scared of
15 him, but Miguel did threaten me.

16 Q Stephen never threatened you?

17 A No, he didn't.

18 Q You entered into these crimes willingly,
19 didn't you?

20 A No, sir. Also later I found out that Stephen
21 was threatened later. Ended up reading the statement
22 and I found out that he was threatened when I wasn't
23 there.

24 Q Stephen was threatened?

25 A Yes. I later found out in his written

1 statements that he was threatened. Yes, later I
2 found that out.

3 Q I wonder why that didn't come up when he was
4 testifying.

5 THE COURT: Be very careful, close to pitting.
6 Do not answer, ma'am.

7 Q (By Mr. Kidd) You are here today testifying
8 like you just, like you say in this letter, because
9 you think the shit can be beat?

10 A I think hers can be beat, yes, that's what I
11 told her, I was talking to her. Because Bree
12 actually didn't do anything. And I don't understand
13 why she testified things against me. But I don't
14 understand why, but she did.

15 Q And that's because you are Sasha Untouchable
16 Gaskins, right?

17 MR. SOWELL: Your Honor, objection.

18 THE COURT: Be very careful. Sustained,
19 character.

20 MR. KIDD: No further questions.

21 THE COURT: Any questions in redirect?

22 MR. SOWELL: Yes, ma'am.

23 THE COURT: You may proceed.

24 REDIRECT EXAMINATION

25 BY MR. SOWELL:

1 Q Was it safer to joke at Miguel's apartment or
2 to have him think you turned on him?

3 MR. KIDD: Objection, Your Honor, leading.

4 THE COURT: Sustained, leading.

5 MR. SOWELL: Can I give her a choice?

6 THE COURT: It's leading, sustained.

7 Rephrase.

8 Q (By Mr. Sowell) Question was asked of you
9 what kind of person joins the air force. Do you know
10 some nice people in the air force?

11 A Yes, sir.

12 Q Do you know if an air force recruiter came and
13 told the solicitor what kind of person joins the air
14 force?

15 A I believe he did.

16 Q Do you think someone should tell the solicitor
17 what kind of people risk their life to take him in
18 the air force?

19 A Sir?

20 Q Do you think the solicitor needs to find out
21 what kind of people would risk their life to protect
22 him through air force service?

23 A Yes, sir.

24 Q What does hung out mean?

25 A I kind of just say hung out just blatantly,

1 like I just say it. Basically just like of group of
2 people just sitting around or doing whatever, just
3 say hung out, just kind of said it.

4 Q Like visit?

5 A You could say that, just something you say.

6 Q Did you feel like you could discuss your
7 entire defense to your parents over a jailhouse phone
8 when they're taping your conversations?

9 MR. KIDD: Objection, Your Honor, leading.

10 THE COURT: I'll give him a little latitude,
11 overruled. You may answer the question.

12 A I knew not to say much on the phone. I knew
13 not to say much and I didn't want to say anything to
14 incriminate myself. But I ended up telling my
15 parents what happened.

16 Q And in that tape we listened to you say, I was
17 scared, real scared. Who were you talking to?

18 A In the tape? To my parents?

19 Q Yes, ma'am.

20 A Yes, I was talking to my parents.

21 MR. SOWELL: Nothing further, Your Honor.

22 THE COURT: Ma'am, you may step down.

23 THE COURT: Defense have any further
24 witnesses.

25 MR. SOWELL: Yes, ma'am

1 THE COURT: Proceed.

2 MR. SOWELL: I would call Brenda Ligon.

3 THE COURT: We'll take a very brief restroom
4 break. During the break please do not discuss the
5 case and please leave your notepads in your seats.
6 Please go with the bailiffs.

7 (Whereupon, the jurors exit the courtroom.)

8 MR. KIDD: Your Honor, for planning purpose do
9 you expect to close and charge today?

10 THE COURT: I may. It depends on how quickly
11 you all move. I probably might.

12 MR. SAVAGE: Excuse me, Your Honor, I don't
13 know if we discussed this next witness or not.

14 THE COURT: I told him I was going to give him
15 a little latitude. He can call as many character
16 witnesses as he'd like.

17 MR. SAVAGE: Thank you, Your Honor.

18 (Whereupon, a recess was taken.)

19 THE COURT: Is the state ready to proceed?

20 MR. KIDD: Yes.

21 THE COURT: Is the defense ready to proceed?

22 MR. SOWELL: Yes, ma'am.

23 THE COURT: Please bring in the jury.

24 (Whereupon, the jurors enter the courtroom.)

25 THE COURT: You may be seated.

1 You may proceed, Mr. Sowell.

2 MR. SOWELL: Thank you, Your Honor, may it
3 please the Court.

4 THE COURT: Call your witness, Mr. Sowell.

5 MR. SOWELL: Brenda Ligon.

6 MS. BRENDA LIGON,
7 after having first been duly sworn to state the
8 truth, the whole truth and nothing but the truth,
9 testified on her oath as follows:

10 THE COURT: You may proceed.

11 DIRECT EXAMINATION

12 BY MR. SOWELL:

13 Q Ms. Ligon, how old are you?

14 A I'm 51.

15 Q Where do you live?

16 A I live in Laurens, South Carolina.

17 Q What is that, in Clinton County?

18 A It's in Laurens County. It is about ten miles
19 from Clinton, South Carolina.

20 Q Do you know Sasha?

21 A Yes, I do.

22 Q How do you know her?

23 A I know her from high school. My son and her
24 were good friends. And we all became to be friends.
25 We watched sports and they've both played sports.

1 And we spent a lot of time with Sasha in my home. My
2 son and her were good friends, you know, and had some
3 meals together.

4 Q Where do you work?

5 A I work, I own a business, Preset Staffing, and
6 also Sasha worked for me in my business.

7 Q Is that in your home?

8 A No, it's not. It's in front of the new
9 courthouse in Laurens, Hillcrest Drive. Preset
10 Staffing and Advanced Drug Testing Services.

11 Q Do you find jobs for job applicants?

12 A Yes, I do. And I do drug testing for our
13 companies.

14 Q How long have you been in business?

15 A 12 years.

16 Q Okay. And how long have you known Sasha?

17 A About 8.

18 Q Do you know her well enough to tell me what
19 her character is like?

20 A Yes. Sasha -- shall I proceed? Yes, Sasha is
21 a great individual. I love her like my own daughter.
22 She is very smart, intelligent.

23 She was also one of the ushers at one of my
24 business functions, a very prestigious business
25 functions. She was selected from the high school to

1 usher the business leaders to their seats and hand
2 out programs.

3 She worked for me. She handled confidential
4 documents in my office pertaining to my businesses
5 and clients. And she was very smart. And I just,
6 you know, I try to mentor girls like Sasha to teach
7 them about business during the summers.

8 Q Can you judge her honesty?

9 A Oh, yes. She never broke confidentiality
10 dealing with some very, I would say, confidential
11 documents. And she is just a smart girl.

12 Q Would you trust her with your bank account?

13 A Oh, yes. She did some bookkeeping for me.
14 She went through some receipts for me. And I didn't
15 try to -- I didn't feel threatened in any way with
16 her working there with my personal documents in the
17 office.

18 Q Are you familiar with her reputation around
19 the community?

20 A Yes, it is good. Like I said, my son was real
21 good friends with her and we wouldn't have taken with
22 her if she was not a good person because I'm
23 particular about my children and who they deal with.

24 So she is good. She even helped my son with
25 his work in school because she's very intelligent.

1 And my son was an A student, but she was able to help
2 him.

3 Q Do you know anything at all bad about her?

4 A No, I do not. I wouldn't be here today if I
5 did.

6 Q Has she ever gotten in trouble with anything?

7 A I don't know anything Sasha has done negative.

8 Q Can you think of anything else about her you
9 haven't told me about already?

10 MR. SAVAGE: Objection, Your Honor,
11 cumulative.

12 THE COURT: Overruled.

13 A What was the question?

14 Q (By Mr. Sowell) Can you tell me anything good
15 about her that you haven't already told me?

16 A Well, I know that I trust Sasha. And if she
17 got in any kind of trouble she had to have been under
18 some kind of serious duress. She's just been too
19 good of a person, sweet, smart, helpful, great
20 personality, she's a loving person.

21 And I can't see her doing anything that she
22 has been accused of, not without being under serious
23 duress. That's my opinion.

24 MR. SOWELL: Nothing further.

25 THE COURT: Any questions for the witness?

1 MR. SAVAGE: Yes, Your Honor.

2 THE COURT: Proceed.

3 CROSS-EXAMINATION

4 BY MR. SAVAGE:

5 Q Ms. Ligon, let's talk a little bit about your
6 business. It's a staffing company?

7 A Staffing.

8 Q And it's drug testing?

9 A Yes.

10 Q Would you employ someone to do drug testing
11 who takes drugs?

12 A Not knowingly, no.

13 Q You talked about what a good person is. Would
14 you describe someone who smokes a lot of marijuana as
15 a good person?

16 A I would say the person has some bad habits.
17 I don't --

18 Q Would you allow your son --

19 MR. SOWELL: Your Honor --

20 THE COURT: Let her finish her answer, Mr.
21 Savage.

22 MR. SAVAGE: Yes, Your Honor.

23 A I can't determine if a person is good, I can
24 say that their habits may be bad.

25 Q (By Mr. Savage) Well would you employ them to

1 work with you?

2 A If they smoked marijuana?

3 Q Yes, in drug testing.

4 A Not knowingly, no.

5 Q Have you talked to the defendant at all about
6 her defense?

7 A No, not -- I mean not too much. I think she
8 said that she was innocent. And she said there is a
9 lot of things that people don't know. But I did not
10 go into it with her because I really didn't want to
11 hear it.

12 Q You mentioned about some of the work that she
13 was handling, she was handling confidential
14 documents. What kind of confidential documents?

15 A Drug testing results that we have to send out
16 and file. And also applications with people's
17 records. We have to take up background checks. So
18 she had to deal with their records, and also social
19 security numbers, addresses and phone numbers which
20 are all confidential.

21 Q Do you have any legal training?

22 A Me?

23 Q Yes.

24 A I worked at the probation/parole office for
25 about three years and I learned a lot about the legal

1 system, but I do not have any legal training per se.
2 I have signed documents for the probation/parole
3 office.

4 Q You mentioned twice in your direct examination
5 the term duress. Where did you learn that?

6 A I am 51 years old. I have been around and I
7 know words. So I worked for the probation/parole
8 office for three years, so I'm not ignorant.

9 Q Specifically in relation to your direct
10 testimony to this defendant's defense twice you
11 mentioned duress. Where did you learn about the
12 defense?

13 A Well I'm saying, this is what I'm saying, if
14 she did anything wrong she couldn't -- she couldn't
15 -- she had to have been in a -- not in her right mind
16 and be afraid of being scared of what she was doing
17 because that's what I feel.

18 Q Okay, but that wasn't my question. My
19 question was, where did you learn about the defense
20 duress in relation to this case?

21 A Well, Sasha may have told me she didn't do it.
22 But I'm saying --

23 Q That's not what I'm asking. My question is
24 where did you learn --

25 THE COURT: Approach.

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

3 THE COURT: You are not going to get the
4 answer you're looking for. And you're
5 mischaracterizing it. She didn't put it in the
6 context of a defense of
7 duress --

8 MR. SAVAGE: I understood --

9 THE COURT: Listen to what I said. She said,
10 if she did it she would have had to have been forced
11 or under duress. You're using it in a legal point,
12 she is using it in a common sense point. If you want
13 to rephrase it, do it that way.

14 But do not mix the common sense terms because
15 you're not going to get the answer. She doesn't
16 understand what you are asking.

17 MR. SAVAGE: She might, she got cut off.

18 THE COURT: She doesn't. Move on.

19 (In open court.)

20 THE COURT: Rephrase.

21 Q (By Mr. Savage) When was the last time you
22 saw the defendant?

23 A About a week ago.

24 Q Tell me about that.

25 A Well we were helping her come up with the

1 money to hire an attorney to help defend her. So I
2 had some money to give her. And I had some money
3 that other people had given me to give her, some
4 churches and whatnot.

5 Q Okay, so what happened from there?

6 A She picked the money up and we talked about
7 her nice outfit and she left.

8 Q Did you know that Sasha went to the College of
9 Charleston?

10 A Excuse me?

11 Q Did you know that the defendant went to the
12 College of Charleston?

13 A Oh, yes.

14 Q Did you ever come to visit her at the College
15 of Charleston?

16 A No, I hadn't. Did not get an opportunity. My
17 son was in college also so he was in Greenville at
18 North Greenville University and she was down here.

19 Q Did you ever see her during that time period
20 when she was at the College Charleston?

21 A Maybe once or twice she would pop into the
22 office and speak when she was home.

23 Q Are you guessing or are you saying she
24 definitely visited you?

25 A I'm sure I saw her once. She dropped in I'm

1 sure once to see me.

2 Q Tell me about that time. When was it?

3 A I don't remember. It would be she was in the
4 neighborhood. Her grandmother or one of her
5 grandparents lived in Laurens and she was on her way
6 over there to see them and she just stopped in to say
7 hello. And I just hugged her and she talked and she
8 left.

9 Q Let's talk about that. What month?

10 A I don't remember.

11 Q Don't even remember what month? what season?

12 A I think it was in the summer.

13 Q In the summer?

14 A I'm not sure. I don't remember what day or
15 what month.

16 Q I'm just asking what season. We've got four
17 seasons a year.

18 A I don't remember the season. I'm a very busy
19 woman. I run a business. I see so many people
20 everyday. I try to give everyone equal time and then
21 I'm off to the next task, so I don't remember.

22 Q So you are very busy you can't remember what
23 season, but you are testifying truthfully that you
24 know positively without a doubt in your mind that she
25 came and visited you while she was at the college of

1 Charleston?

2 A I have seen her since she has been in college
3 I'm sure. One time I know.

4 Q You just cannot remember what season it was?

5 A No, sir, I do not remember the season.

6 MR. SAVAGE: Nothing further, Your Honor.

7 THE COURT: Any redirect of the witness?

8 MR. SOWELL: No, ma'am.

9 THE COURT: Any objection to the witness being
10 excused from the state?

11 MR. SAVAGE: No, Your Honor.

12 THE COURT: From the defense?

13 MR. SOWELL: No, ma'am.

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

15 Defense may proceed.

16 MR. SOWELL. Thank you, ma'am. Call Roseitta
17 Nance.

18 THE COURT: Please approach.

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

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

23 THE COURT: Is this the defendant's mother?
24 okay. I just wanted to make sure it wasn't another
25 character witness.

1 MR. SOWELL: No, ma'am.

2 (In open court.)

3 MS. ROSEITTA GASKINS NANCE,
4 after having first been duly sworn to state the
5 truth, the whole truth and nothing but the truth,
6 testified on her oath as follows:

7 MR. SAVAGE: Your Honor, may we approach
8 briefly?

9 THE COURT: You may.

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

12 MR. SAVAGE: I'm trying to figure out how we
13 are going to go through this testimony when she has
14 been in the courtroom the whole time.

15 THE COURT: You brought it into evidence when
16 you started asking her about whether she reported it
17 to her mother. You ran that risk when you opened
18 that door. I'm not going to restrict them from
19 asking them about whether she said it to them.

20 They have been in here. They've heard it.
21 You can question her about having heard it, but it's
22 unlikely that -- if they contrived it they contrived
23 it long before now. You live with it.

24 MR. KIDD: This is my only concern. She is on
25 the witness list yet she has been in the courtroom.

1 THE COURT: Apparently he decided not to call
2 her until you all brought it into evidence. When you
3 did, he asked that they be excused from the
4 courtroom.

5 MR. SAVAGE: The problem is, she is on the
6 witness list.

7 THE COURT: I'm done with it. He had already
8 made the decision not to. The door was opened.

9 (In open court.)

10 THE COURT: Thank you, you may proceed.

11 DIRECT EXAMINATION

12 BY MR. SOWELL:

13 Q (By Mr. Sowell) Mrs. Nance, how old are you?

14 A 39.

15 Q Where do you live?

16 A Clinton, South Carolina.

17 Q How long have you lived in Clinton, South
18 Carolina?

19 A All my life.

20 Q That's in Laurens County?

21 A Yes, sir.

22 Q Right outside of Greenville County?

23 A Yes.

24 Q Are you the mother of Sasha?

25 A Yes.

1 Q Would you do nearly anything that was not
2 criminal to try to help her?

3 A Yes.

4 Q Would you lie for her?

5 A No.

6 Q If I ask you something today you will tell me
7 the truth?

8 A Yes.

9 Q Do you work?

10 A Yes.

11 Q Where do you work?

12 A Walmart distribution.

13 Q What do you do there?

14 A A little bit of everything.

15 Q And where did you go to school?

16 A Clinton High.

17 Q Did you graduate?

18 A Yes.

19 Q Have you taken any courses since then?

20 A Online courses.

21 Q And are you working toward an Associates
22 Degree?

23 A Yes.

24 Q What college would be offering that course?

25 A Colorado Tech.

1 Q Do you have any other children?

2 A Yes.

3 Q Which ones?

4 A I have a son named Roderick Gaskins, he is 21.

5 Q Where does he live?

6 A He is in Afghanistan right now.

7 Q He is in the Air Force?

8 A Yes, in the Army Reserve.

9 Q What kind of person would join the Army?

10 MR. SAVAGE: Objection, Your Honor.

11 THE COURT: Sustained, not relevant. Next
12 question, Mr. Sowell.

13 A My son is very smart, strong-minded.

14 MR. SAVAGE: Your Honor, objection.

15 THE COURT: Ma'am, the objection was
16 sustained.

17 Ask your next question, Mr. Sowell.

18 Q (By Mr. Sowell) Do you have any other
19 children?

20 A Yes.

21 Q Who?

22 A Roderick Gaskins and Sierra Nance.

23 Q How old are they?

24 A Roderick is 21 and Sierra is 12.

25 Q Okay. Now all of those are full-blooded.

1 children?

2 A Yes, sir.

3 Q You have a different last name than Sasha, how
4 is that?

5 A I got married after I had Sasha.

6 Q And do you remember the night she got in
7 trouble?

8 A Yes.

9 Q Tell me about Sasha's upbringing. Has she
10 ever gotten in trouble ever before?

11 A Never, never been in trouble.

12 Q What is her reputation around the community?

13 A Very good child. Respectful.

14 Q Is she smart?

15 A Yeah, very smart.

16 Q Does she engage extracurricular activities
17 when she was in high school?

18 A Yes.

19 MR. SAVAGE: Objection, leading.

20 THE COURT: I'm go to give him a little
21 latitude in the interest of time.

22 You may continue.

23 Q (By Mr. Sowell) Did she engage in
24 extracurricular activities in high school?

25 A Yes, basketball, she was an assistant teach

1 fourth grade. Lots of stuff.

2 Q I didn't understand that, she was what kind of
3 teacher?

4 A Like an assistance teacher, a teacher's aid.

5 Q Did she -- is she member of the church?

6 A Yes.

7 Q Does she engage in activities at the church
8 besides listening to the sermons?

9 A The choir.

10 Q How much members are in that choir?

11 MR. SAVAGE: Objection, Your Honor,
12 cumulative. THE COURT: Mr. Sowell, I will
13 give you some latitude but you need to move along.

14 Q (By Mr. Sowell) Do you remember when she had
15 gotten arrested here in Charleston?

16 A Yes.

17 Q And she called home?

18 A Yes.

19 Q Did she tell you any details about what had
20 happened?

21 A All I wanted -- when she called, that's -- I
22 just wanted to know what happened, did she have
23 anything to do with it. That's all I wanted to know.

24 I was just kind of upset when she called her
25 father the first time. The first time she called her

1 father, he told me about it, I was kind of upset.

2 Q Did she discuss with you her emotional state

3 --

4 MR. SAVAGE: Objection, leading.

5 THE COURT: I'm going to give him a little
6 latitude. Overruled.

7 A I think it was two to three days later.

8 Q (By Mr. Sowell) what do you mean?

9 A She discussed some of it over the phone, but
10 she -- I didn't hear everything that she said. After
11 we went to the bond hearing I didn't get to see her.
12 So I think it was like a few days later after I came
13 to the county to visit her, then she told me
14 everything that happened and how scared she was.

15 MR. SOWELL: Your Honor, I believe the door
16 has been opened.

17 THE COURT: Excuse me?

18 MR. SOWELL: I believe that door has been
19 opened.

20 THE COURT: You've lost me. Approach.

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

23 THE COURT: What are you referring to?

24 MR. SOWELL: She was getting ready to tell us
25 everything Sasha has told her about what happened

1 THE COURT: That doesn't eliminate it from
2 being hearsay and self-serving. She can say what she
3 told her, and that's it. She can't repeat what she
4 said. I'm not aware of any hearsay exception.

5 MR. SOWELL: The solicitor opened that door
6 about that's what she told her parents.

7 THE COURT: The solicitor opened the door for
8 you to have her come in and say that she told her
9 everything. But it doesn't open the door to her
10 repeating everything she said. That's still hearsay.

11 (In open court.)

12 THE COURT: You may proceed.

13 Q (By Mr. Sowell) You were in the courtroom
14 during most of this trial?

15 A Yes.

16 Q And you heard all of the testimony?

17 A Yes.

18 Q Did Sasha's statement to you about she was
19 telling what happened, did that match what you heard
20 today?

21 MR. SAVAGE: Objection, Your Honor.

22 THE COURT: Please approach for me.

23 (Whereupon, the following discussion was held
24 at the bench.)

25 THE COURT: Actually, there is a rule that

1 once you opened the door and implied that she
2 fabricated that he can use extraneous evidence to
3 rehabilitate his witness.

4 MR. KIDD: That doesn't allow hearsay.

5 THE COURT: Yeah, it does. I just need to
6 look at the rule right quick. Because I got reversed
7 one time. I know exactly because I wouldn't let
8 somebody testify, the Court of Appeals -- matter of
9 fact it wasn't even preserved. They took it up on
10 there own and told me I messed up because I wouldn't
11 let him rehabilitate the witness through hearsay and
12 extraneous evidence.

13 MR. SAVAGE: Judge, I'm not disagreeing with
14 you. One little thing, he can't ask a leading
15 question. He's going to have her questions. He
16 can't tell her what to say.

17 THE COURT: I agree with that. But in the
18 interest of time, we can get through this quick, it's
19 the same result.

20 MR. SAVAGE: Not if he can't ask the question
21 properly.

22 THE COURT: I say whether the question is
23 asked properly, and whether it was framed probably.
24 You might want to color in the lines because you are
25 sort of getting out of your lane.

1 MR. SAVAGE: I wasn't referring to you, Your
2 Honor.

3 THE COURT: Uh-hum, thank you.

4 (In open court.)

5 THE COURT: Bear me one moment please.

6 Before you ask another question, Mr. Sowell, I
7 need you to wait a second.

8 He will be allowed to rehabilitate his
9 witness, however watch the leading, Mr. Sowell. And
10 it is limited to any charge of expressed or implied
11 recent fabrication of evidence.

12 You may proceed.

13 MR. SOWELL: Thank you, ma'am.

14 Q (By Mr. Sowell) Mrs. Nance, can you tell me
15 what Sasha told you on the phone the night she was in
16 jail, and what she told you when you first met her
17 after she was released from jail, with special
18 emphasis on why she did what she did.

19 MR. SAVAGE: Objection, hearsay.

20 THE COURT: Sustained, leading. It is not
21 hearsay to the extent he can rehabilitate his
22 witness. But that's overly broad the way you asked
23 that question. It has to be far more specific and
24 limited.

25 Q (By Mr. Sowell) Can you tell me what she told

1 you the night you spoke to her on the phone when she
2 was in the jail, and what she told you --

3 THE COURT: Approach please.

4 (Whereupon, the following discussion was held
5 at the bench.)

6 THE COURT: What she said on the telephone is
7 self-evident. She never told her anything. She
8 can't now come in here and say she told her anything,
9 that she was threatened. Because there's no -- your
10 witness has admitted that, so there is no
11 rehabilitation.

12 She said that she told her mother later during
13 a subsequent conversation. You need to confine our
14 questions to that subsequent conversation. And not
15 everything that was said because that doesn't come
16 within the ambit of rehabilitation.

17 The only thing you get to rebut is their
18 allegation that she reasonably fabricated this
19 duress.

20 MR. SOWELL: What about she was scared about
21 threats.

22 THE COURT: She never said anything about
23 threats on the phone.

24 MR. SOWELL: No, when she met with her mother.

25 THE COURT: You want to ask that question?

1 Do you have any objection to that? It does
2 cut to the chase.

3 MR. KIDD: Hearsay.

4 THE COURT: You questioned his witness and
5 implied that she recently fabricated it, and that she
6 never told her mother. Under the rules he can
7 provide extraneous proof to rehabilitate his witness.
8 In other words that it was not recently fabricated.

9 MR. KIDD: We never alleged that she didn't
10 tell her mother eventually, we just alleged not on
11 the phone call.

12 THE COURT: That's not the way you questioned
13 her. She said, I told her later, and you questioned
14 her credibility. You may not remember but I have got
15 a transcript right here. I just don't have time to
16 look it up. I listened very intently --

17 MR. KIDD: I don't doubt you do, Your Honor.

18 THE COURT: -- because I knew he was going to
19 call them as witnesses. Because he had already told
20 me he wasn't calling them as witnesses. He had
21 already eliminated them.

22 MR. KIDD: As long as we limit it to the
23 subsequent conversation.

24 THE COURT: Period.

25 MR. KIDD: If we can make sure it's the

1 question.

2 THE COURT: This is a very pointed question, I
3 think that's why he is asking. Do you have any
4 exception to asking it that way because it eliminates
5 the rest of the conversation. Is that acceptable?

6 MR. KIDD: It is.

7 THE COURT: Proceed.

8 (In open court.).

9 THE COURT: You may proceed, Mr. Sowell.

10 MR. SOWELL: Thank you, ma'am.

11 Q (By Mr. Sowell) During your conversation,
12 face-to-face, that you had with Sasha after you came
13 down to Charleston when she got out of jail, what did
14 she tell you about why she did what she did?

15 MR. SAVAGE: Objection, Your Honor, may we
16 approach?

17 THE COURT: Yes.

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

20 MR. SAVAGE: He said when she got out of jail.

21 THE COURT: She's already testified that
22 that's when she talked to her.

23 MR. SAVAGE: I thought he said when she first
24 met her mother at the jail. I'm trying --

25 THE COURT: There is some confusion because

1 they didn't get to talk to her at the bond hearing,
2 she saw her a few days after at the jail. That would
3 be the first conversation.

4 He is not limited to the first conversation,
5 it can be any conversation where she told her mother
6 that. You all waived it.

7 MR. SAVAGE: I thought that's what your ruling
8 was, to limit it to that.

9 THE COURT: Limit it to subsequent
10 conversations. I don't know whether it was the first
11 one, the second one or the third one. But she
12 testified when she saw her in jail, she said she --
13 how scared she was.

14 So that really implies that that's the first
15 time she told her, Mr. Sowell. She has already
16 testified to that. She didn't see her at the bond
17 hearing, but a few days later she saw her at the jail
18 and she told her how scared she was.

19 MR. SOWELL: I'm trying to make sure I
20 followed your orders right. And I asked her what she
21 told you concerning about why she did what she did.

22 THE COURT: why are you leading? why don't
23 you just ask her, what did your daughter tell you
24 when you first saw her at the jail. what did she
25 tell you.

1 MR. SOWELL: I'm trying to remember.

2 THE COURT: Okay.

3 (In open court.)

4 MR. KIDD: Note our objection for the record.

5 THE COURT: Already been noted and overruled.

6 You may proceed.

7 Q (By Mr. Sowell) Mrs. Nance, when you saw
8 Sasha after the bond hearing, what did she tell you?

9 A She told me what happened with both of the
10 robberies. And she was made to do it.

11 Q What do you mean by that?

12 A She was threatened.

13 Q By whom?

14 A By Miguel.

15 MR. SOWELL: Your Honor, is this examination
16 limited --

17 (Whereupon, the following discussion was held
18 at the bench.)

19 MR. SOWELL: Is this examination limited to
20 just telling --

21 THE COURT: It's your witness, you told me you
22 weren't calling them at all. And the only reason you
23 wanted to call them is to rehabilitate your client.

24 So I assume that's the purpose for which you
25 called the witness since they were in the courtroom

1 the whole time and not subject to sequestration.

2 MR. SOWELL: My point is if I stop at this
3 time, and they go into --

4 THE COURT: I don't know what they're going to
5 go into. That's why they have redirect.

6 MR. SOWELL: If they are going to go into --

7 THE COURT: I don't know, I'm not clairvoyant.
8 I don't know what they're going to go into. That's
9 why you have redirect examination.

10 MR. SOWELL: I want to rehabilitate my client.

11 THE COURT: You limited yourself when you said
12 you weren't going to call them as witnesses and they
13 were in here for all the testimony. What else would
14 they testify to? They weren't an eyewitness. You've
15 already had them testify to character. You've
16 already had them rehabilitate your witness. What
17 else would they testify to?

18 MR. SOWELL: I don't know. I'm not sure what
19 they're going to go into.

20 THE COURT: Whatever they ask you have
21 redirect examination. Isn't that what it's designed
22 for?

23 MR. SOWELL: Yes, ma'am.

24 (In open court.)

25 THE COURT: Proceed.

1 MR. SOWELL: Nothing further, Your Honor.

2 THE COURT: Any cross-examination of the
3 witness?

4 MR. SAVAGE: Nothing, Your Honor.

5 THE COURT: Any objection to the witness being
6 excused from the state?

7 MR. SAVAGE: No, Your Honor.

8 THE COURT: From the defense?

9 MR. SOWELL: No, ma'am.

10 THE COURT: Ma'am, you may step down.
11 You may proceed.

12 MR. SAVAGE: Your Honor, may we approach?

13 THE COURT: Uh-hum.

14 MR. SAVAGE: Court's indulgence, Your Honor, I
15 think there has been a problem.

16 THE COURT: Please don't make an extraneous
17 comments in the presence of the jury, and I would ask
18 that you approach.

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

21 MR. SAVAGE: I'm sorry, I didn't know they
22 were coming.

23 THE COURT: Mr. Sowell, do you have any
24 witness?

25 MR. SOWELL: No.

1 THE COURT: Are you about to rest?

2 MR. SOWELL: All right.

3 THE COURT: What are you going to tell me.

4 MR. SAVAGE: The problem is the detective
5 heard the mother talking outside the courtroom about
6 what questions were going to be asked and as to their
7 testimony.

8 THE COURT: Well I can find her in contempt
9 and fine her. If they were going to contrive stuff,
10 they would have contrived it long before now. She
11 was sitting in here. She heard the questions you all
12 asked.

13 MR. SAVAGE: She clearly --

14 THE COURT: You know what, this is getting
15 real personal and I'm not getting in the mud with you
16 all. Stand back.

17 MR. SAVAGE: Okay. All right.

18 (In open court.)

19 THE COURT: Defense may proceed.

20 MR. SOWELL: Defense rests, Your Honor.

21 THE COURT: Motions will be reserved. Does
22 the state have any rebuttal witnesses?

23 MR. KIDD: No, Your Honor.

24 THE COURT: Does the state rest?

25 MR. KIDD: Yes, Your Honor.

1 THE COURT: Mr. Foreman, ladies and gentlemen,
2 I have some matters of law to take up with the
3 attorneys. During this break, please do not discuss
4 the case. Please leave your notepads in your seats.

5 I am going to give you the opportunity to
6 discuss something while you are in your jury room and
7 then I will have the foreman answer this question for
8 me when you return.

9 The next part of the process is closing
10 arguments and the Court's instructions. I would
11 imagine that that process would take, conservatively,
12 an hour to an hour-and-a-half, after which you would
13 be allowed to deliberate, and then go home if you'd
14 like and return in the morning to continue your
15 deliberation.

16 I want you all to discuss whether you would
17 like to proceed this evening, or whether you would
18 like to break and start in the morning at 9:00 with
19 closing argument and instruction.

20 If you all would discuss that among
21 yourselves, and when I bring you back after dealing
22 with these matters of law, I will get an answer from
23 your foreperson regarding that.

24 If you would go with the bailiff, please.

25 (Whereupon, the jurors exit the courtroom.)

1 THE COURT: Now that the defense has rested,
2 are there any motions?

3 MR. SOWELL: Yes, ma'am.

4 THE COURT: You may proceed.

5 MR. SOWELL: Defense moves for a directed
6 verdict or dismissal based on the state's failure to
7 prove the inference beyond a reasonable doubt.

8 THE COURT: Would the state like to respond?

9 MR. KIDD: Just, Your Honor, that's not the
10 appropriate standard for a directed verdict motion.
11 The standard is an any evidence standard as to each
12 element of the crime.

13 And viewing the evidence in the light most
14 favorable to the state, there is direct and
15 circumstantial evidence as to each element of the
16 crime and should be submitted to the jury.

17 THE COURT: The Court will stand by its
18 earlier ruling. There is substantial direct -- there
19 is direct evidence as well as substantial
20 circumstantial evidence reasonably tending to prove
21 the defendant's guilt. And any factual determination
22 regarding that guilt is appropriately left to the
23 jury.

24 The evidence rises above more than a mere
25 suspicion. And the Court does not have to determine

1 that her guilt is inferred beyond, or to the
2 exclusion of any other reasonable hypothesis.
3 Therefore, the motion is denied.

4 Now how long -- is the state going to open and
5 close?

6 MR. KIDD: I am, Your Honor.

7 THE COURT: How long do you think both of
8 those will take?

9 MR. KIDD: Open on the law is going to be
10 short, five minutes. Closing 30.

11 THE COURT: So about 35 minutes?

12 MR. KIDD: It's my best guess, Your Honor.

13 THE COURT: Mr. Sowell, how long do you expect
14 your closing argument to be?

15 MR. SOWELL: 35 minutes, Your Honor.

16 THE COURT: Okay. We will abide by the jury's
17 decision. However, I was absolutely right on target,
18 I said an hour and 30 minutes and that's exactly how
19 long it would take which would take us to 6 o'clock.
20 But it's up to them.

21 I had a note from the jury earlier this week
22 indicating some of them had other obligations on
23 Friday, and willingness to stay late and start early
24 because they wanted to be done basically.

25 So if they tell us they want to stay and do

1 it, that's what we will do. If they tell us they
2 want to go home and start in the morning that's what
3 we will do.

4 Is there any exception from the state?

5 MR. KIDD: No, Your Honor.

6 THE COURT: From the defense?

7 MR. SOWELL: No, Your Honor.

8 THE COURT: I will give the jury a general
9 instruction regarding their responsibility and my
10 responsibility. How they are to judge witness
11 credibility and believability. That they are to
12 follow the law as the Court instructs and not set up
13 an arbitrary standard as to what they believe the law
14 is or what the law should be.

15 I will give them a general instruction as to
16 how they are to judge witness credibility and
17 believability. A general instruction regarding prior
18 record of a witness, as there have been witnesses who
19 have testified who have criminal records, which bears
20 on credibility only.

21 I will give a general instruction regarding
22 expert witness testimony, as well as identification
23 testimony. I will give a general instruction
24 regarding punishment, because there has been a great
25 deal of talk about that, and instructing the jury

1 that that has no bearing on their determination of
2 arriving at a fair and impartial verdict regarding
3 the guilt or the innocence of the defendant.

4 I will give a general instruction regarding
5 direct and circumstantial evidence from State versus
6 Grippon. As well as a general instruction regarding
7 the fact that the charge, the arrest and the
8 indictment are not evidence, as well as the
9 presumption of innocence.

10 I will instruct Victor versus Nebraska on
11 reasonable doubt. Then I will charge 16-11-330 on
12 armed robbery, and only those applicable
13 circumstances which the state has to proof, one
14 and/or all of those circumstances which is -- give
15 the elements of armed robbery from 16-11-330. And
16 the testimony is that a gun was used, pistols were
17 used.

18 So there will be no other instruction
19 regarding for example fists or ordinary objects as
20 being deadly weapons since there has been no
21 testimony that would rise to that level regarding
22 that.

23 MR. KIDD: Your Honor, I'm sorry to interrupt
24 you. But there was a knife slash sword.

25 THE COURT: That's in the instruction on

1 deadly weapon.

2 MR. KIDD: I thought you were saying you
3 weren't going to charge --

4 THE COURT: No, I just give examples and I
5 will tell them, I'm not going to charge like ordinary
6 objects like their fists, where there is no gun or
7 knife, where an ordinary object can be a deadly
8 weapon.

9 But within the statute there is an example, a
10 list of examples of deadly weapons which includes
11 knives, daggers, pistols, et cetera, et cetera.
12 Which of course is only an evidentiary fact for the
13 jury to consider and give it the weight they deserve
14 it should receive.

15 I will then charge the elements of burglary in
16 the first degree from 16-11-311. And only those
17 circumstances which are applicable which is
18 Subsection 1 -- bear with me one second. I will
19 instruct Subsection 1 (A)(B)(C)(D), and Subsection 3
20 as there is no record of a prior conviction of
21 burglary so that would not be relevant or germane to
22 the case.

23 Within that context I may instruct ordinary
24 objects due to testimony regarding the use of duct
25 tape, and whether that was used to inflict serious

1 bodily harm. Again I will instruct they're simply
2 evidentiary facts to be considered, and for the jury
3 to give it the weight they think it deserves.

4 I will instruct accomplice liability, which is
5 the hand of one is the hand of all. I'll also
6 instruct the defense of coercion, which has been
7 alleged by the defendant or raised in the defendant's
8 defense. Which are from State versus Robinson, State
9 versus Benjamin, State versus Holiday, State versus
10 Rocheille. And those elements are of course that a
11 person makes another commit a crime against someone
12 else's person or property by threat of immediate
13 physical violence; that there has been to be
14 well-grounded fear of death or serious bodily harm if
15 the act is not done; fear of injury must be
16 reasonable; and it's not a defense if there is any
17 reasonable way, other than committing the crime, for
18 the defendant to escape the threat of harm.

19 I will then instruct on multiple indictments, which
20 is that each are separate and distinct. And the
21 defendant may be convicted or acquitted on all, but
22 they have to consider them each separately and
23 independent on the evidence and the law instructed
24 regarding each. Then I will instruct on the form of
25 the verdict.

1 Are there going to be any requests for any
2 lesser-included offenses from the state?

3 MR. KIDD: No, Your Honor.

4 THE COURT: From the defense?

5 MR. SOWELL: No, Your Honor.

6 THE COURT: Are there any exceptions to the
7 charges proposed from the state?

8 MR. KIDD: Your Honor, I'm under the belief
9 that there is -- pardon me. I'm under the belief
10 that there is a character evidence charge that must
11 be charged. I don't want it to be charged, but I
12 think it has to be.

13 THE COURT: I don't believe so. Just because
14 they gave character testimony? I'm not aware of any.
15 I have never given one in the past. I would perceive
16 that as an impermissible comment on the facts and on
17 the testimony.

18 MR. KIDD: I'm just kind of reading off the
19 notes on one of my rule books, Your Honor. It says,
20 generally we are requested, when there is evidence of
21 good character, the defendant is entitled to an
22 instruction to the effect that evidence of good
23 character and good reputation may in of itself create
24 doubt as to guilt should be considered by the jury
25 along with other evidence to determine the guilt or

1 innocence.

2 THE COURT: I think that's about the
3 admissability, not about an instruction. I have
4 never given an instruction on character testimony or
5 any particular testimony. Nor is there one that we
6 have that is crafted, or that I'm aware of that has
7 ever been used.

8 I will look, but I don't have one, nor have I
9 ever done it. I think it might border on being an
10 impermissible comment on the facts as to how the jury
11 is to weigh the testimony.

12 I think in giving the general instruction
13 regarding how they're to weigh the testimony and
14 witness credibility and believability, I think it's
15 within their ambit when you start talking about -- I
16 guess without belaboring it, I'm just not aware.

17 If he requested it, and he hasn't at least at
18 this point. But I'd have to look but I have never in
19 15 years given an instruction on character testimony.

20 MR. KIDD: Thank you.

21 THE COURT: I'm not aware of one. And I can
22 look through my books again and see, but I have never
23 seen one.

24 Any further exceptions to the instruction.

25 MR. KIDD: None from the state.

1 THE COURT: Any from the defense?

2 MR. SOWELL: I'd like to have the instruction
3 on appearance, Your Honor.

4 THE COURT: Pardon me.

5 MR. SOWELL: Appearance.

6 THE COURT: Appearance in what context?

7 MR. SOWELL: Appearance --

8 THE COURT: I saw that in your request. That
9 is in self-defense. That is not appropriately
10 charged within coercion. There is no case law that
11 supports that.

12 The time you charge right to act on appearance
13 is going to the reasonableness of the behavior is in
14 self-defense, which means that the person has the
15 right to act on appearances, and the person doesn't
16 have to get the drop on them to act in self-defense.
17 That's the only time I have seen that language
18 instructed. And the case that is cited is from a
19 self-defense case.

20 None of the case law on coercion cites that.
21 The only time I have ever seen the right to act on
22 appearances is in the self-defense context.

23 Yeah, State versus Starns. That's a
24 self-defense case.

25 Are there any further exceptions to the

1 instructions from the defense?

2 MR. SOWELL: No, ma'am.

3 THE COURT: If you all give us a moment, we
4 will print the verdict forms so that you can look at
5 them. Then we will see what the jury wants to do.

6 (Whereupon, a recess was taken.)

7 THE COURT: You can come up and look at the
8 verdict forms.

9 MR. SOWELL: Your Honor, I don't see the
10 necessity to include the indictment.

11 THE COURT: I just staple those to the back.
12 It will also help them keep which ones are straight,
13 they will be able to look at which date is associated
14 with which indictment. Otherwise they will come back
15 asking me which date goes with which offense.

16 Is there any exception to the forms of the
17 verdict from the state?

18 MR. KIDD: No, Your Honor.

19 THE COURT: From the defense?

20 MR. SOWELL: No, ma'am.

21 THE COURT: Thank you so much.

22 Please bring in the jury.

23 (Whereupon, the jurors enter the courtroom.)

24 THE COURT: You may be seated.

25 Mr. Foreman, what is the jury's preference?

1 A JUROR: We'd like to deliberate tomorrow.
2 Get closing statements tomorrow.

3 THE COURT: Okay, then we will break for the
4 evening and we will resume in the morning with
5 closing arguments and instructions.

6 During this break, please do not discuss the
7 case in -- I'm sorry, yes?

8 MR. SAVAGE: It was a premature standing up.

9 THE COURT: That was funny, okay.

10 We are going to break for the evening, we will
11 resume in the morning at 9:00. During the break do
12 not discuss the case in any manner whatsoever. I
13 know it might seem very innocent to discuss what
14 you've already heard, but to do that by its very
15 nature is deliberations because it requires you to
16 process what you have heard, and to draw conclusions
17 based upon what you have heard.

18 You are not allowed to do that until you have
19 heard closing arguments and the Court's instruction,
20 and then you can only do that among your 12 in the
21 deliberative process in the privacy of the jury room.

22 So again please be very careful and guard
23 yourselves during this evening's recess. I know
24 there have been media reports in the paper and on
25 television, I don't know about radio but I'm certain

1 on the Internet.

2 So please again be especially diligent to
3 guard yourselves and do not allow yourselves to be
4 exposed to any media coverage about this case.

5 And as tempting as I know the Internet can be,
6 please don't do any independent research on the
7 Internet, that would be improper as well. You are
8 bound by your oath to decide this case based on the
9 sworn testimony of the witnesses and the other
10 evidence that has been introduced during the course
11 of this trial.

12 Please don't have any contact with anyone in
13 or about the courthouse. And please leave your
14 notepads in your seats. You will return directly to
15 your jury room, and we will begin promptly 9:00.
16 Have a wonderful evening. See you in the morning.

17 (Whereupon, the jurors exit the courtroom.)

18 THE COURT: You may take your seats.

19 Anything before we adjourn for the afternoon
20 from the state?

21 MR. KIDD: No, ma'am.

22 THE COURT: From the defense?

23 MR. SOWELL: No, ma'am.

24 THE COURT: Have a wonderful evening.

25 (Whereupon, the proceedings in this matter

1 before the Court were adjourned for the evening.)

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1 THE COURT: Is the state ready to proceed?

2 MR. KIDD: We are, Your Honor.

3 THE COURT: Is the defense ready to proceed?

4 MR. SOWELL: We are, ma'am.

5 THE COURT: Please bring in the jury.

6 (Whereupon, the jurors enter the courtroom.)

7 THE COURT: Good morning, ladies and
8 gentlemen, I hope that you all had a restful evening.
9 Before we begin, is there any member of the panel
10 that has been exposed to any media coverage about
11 this case, that includes anything that could have
12 been on the radio, television, newspaper or Internet,
13 if so please raise your right hand.

14 Let the record reflect there is a negative
15 response. We have now reached the stage of the trial
16 where we will hear closing arguments and the Court's
17 instruction on the law. I would ask that you give
18 the attorneys your undivided attention.

19 You may proceed.

20 MR. KIDD: Thank you, Your Honor, may it
21 please the Court, Mr. Sowell.

22 THE COURT: Yes, sir.

23 MR. KIDD: Ladies and gentlemen of the jury,
24 this is my opportunity to talk with you a little bit
25 about the law of the case. I'm going to address you

1 briefly, talk about the law, then Mr. Sowell is going
2 to have his closing remarks to you, then you get to
3 hear from me one last time before you begin your
4 deliberations.

5 So all I'm going to talk to you now is about
6 the law, about a few legal principles that we are
7 going to discuss. I'm not quite up on the screen
8 yet. But the first legal principle that you need to
9 be aware of in dealing with this case is reasonable
10 doubt.

11 Reasonable doubt, that's my burden of proof,
12 and I accept it with open arms. And that is I must
13 prove my case beyond a reasonable doubt in order for
14 you to find the defendant guilty.

15 What is a reasonable doubt? Reasonable doubt
16 does not mean beyond all doubt. There are very few
17 things in this world that are absolute certainties.
18 Beyond a reasonable doubt is that which leaves you
19 firmly convinced of the defendant's guilt. If you
20 are firmly convinced the defendant is guilty, I have
21 proven my case beyond a reasonable doubt. Just know
22 it's not beyond all doubt.

23 Now I want to talk a little bit about the
24 crimes she is charged with. She is charged with two
25 counts of armed robbery and she's charged with two

1 counts of burglary in the first degree. Now what is
2 burglary in the first degree? Well burglary is the
3 unlawful entry into a dwelling. What's a dwelling?
4 It's a house, a home, where someone lives. The
5 unlawful entry into a dwelling without consent, with
6 the intent to commit a crime therein. It's the entry
7 into a dwelling, without consent, with the intent to
8 commit a crime therein.

9 Now what makes it burglary in the first degree
10 is an aggravating factor. It can be one of a handful
11 of aggravating factors which make that burglary a
12 first degree. One of those factors would be that it
13 happens at nighttime. If you enter a dwelling,
14 without consent, with the intend to commit a crime
15 therein, and you do so at night, then it's burglary
16 first degree.

17 Another factor that you can use to make it a
18 first degree burglary is if you are armed with a
19 deadly weapon. If you enter a dwelling, without
20 consent, with the intent to commit a crime therein,
21 and you do so while armed with a deadly weapon, then
22 it's first degree.

23 I'm going to talk a little bit about armed
24 robbery. What is armed robbery? It's a little more
25 commonsensical. What is robbery? Robbery is a

1 larceny, taking, stealing, taking property from
2 someone and using force. What's armed robbery?
3 Doing so with a deadly weapon. It's the taking of
4 property from another person or in the presence of
5 another person while armed with a deadly weapon.
6 It's armed robbery.

7 Now I'm going to get to the screen. We have a
8 law in South Carolina, it's accomplice liability. We
9 refer to it as the hand of one is the hand of all.
10 Just like it says on the screen, what is the hand of
11 one is the hand of all? Well when one who joins with
12 another to accomplish an illegal purpose is
13 criminally liable for everything done by their
14 confederates incidental to the execution of a common
15 design or purpose.

16 Now I know that's a little odd to read, but
17 this is how it works in practice. Say Mr. Savage and
18 I decide to commit an armed robbery at a gas station.
19 I'm the wheelman, Mr. Savage is the triggerman.
20 We're going to rob this gas station, we drive up, Mr.
21 Savage jumps out, pulls a gun on the clerk and robs
22 him. Comes back, jumps in the car, we drive off.

23 I never had a gun, I never entered the gas
24 station, but I'm guilty of armed robbery. We entered
25 this criminal enterprise together, I assisted, I'm

1 guilty of armed robbery.

2 Now let's take it one step further. We are
3 robbing this gas station, we drive up, Mr. Savage
4 jumps out, something goes wrong inside of the gas
5 station, Mr. Savage shoots and kills the clerk, I'm
6 guilty of murder. I never held a gun, I never pulled
7 the trigger, all I do was drive the getaway car.

8 Under accomplice liability, the hand of one is
9 the hand of all. Your codefendants, your
10 confederates which you have entered into a criminal
11 enterprise with, you are responsible for all actions
12 that they do. You're criminally liable under the law
13 of South Carolina.

14 Now I want to talk to you a little bit about
15 duress. What is the law of duress? Well duress is a
16 defense that, if proved by the defense, would negate
17 criminal responsibility. What is duress?

18 You can only assert, successfully assert a
19 defense of duress, if the only means of avoiding the
20 greater harm is for the defendant to engage in
21 illegal conduct resulting in the lesser harm.

22 In order to excuse a criminal act, the degree
23 of coercion must be present, must be imminent, and of
24 such a nature as to induce a well-grounded
25 apprehension of death or serious bodily harm if the

1 act is not done. Coercion is no defense if there is
2 any reasonable way, other than committing the crime,
3 to escape the threat of that harm.

4 Any reasonable means of escape, duress cannot
5 be asserted. And the fear of that injury must be
6 reasonable. Now that's about all we are dealing with
7 in this case. We have two crimes, one defense,
8 reasonable doubt.

9 It's relatively simplistic, but the facts are
10 long. I ask you to pay attention to Mr. Sowell as he
11 addresses you. And I look forward to talking to you
12 again before you begin your deliberations. Thank
13 you.

14 THE COURT: Mr. Sowell.

15 MR. SOWELL: Ladies and gentlemen, my name is
16 Ken Sowell.

17 This is my speech to you. My intent is to
18 present to you our version of what you heard from
19 that witness stand. I will also comment on what I
20 think Judge Jefferson is going to tell you what the
21 law is.

22 If I'm wrong what the law is, she will
23 undoubtedly correct me real quickly. If I tell you
24 something that you didn't think you heard from that
25 witness stand, or something you can't draw

1 conclusions thereon based on what you've heard, then
2 ignore what I'm telling you, let's go with what you
3 heard. I'm not trying to mislead you, I'm just
4 trying to bring out the points we think are relevant
5 in the testimony you heard.

6 This is most important decision of your life.
7 You are going to decide, each and every one of you,
8 is going to decide if that sweet little girl over
9 there, her life. It is not a question what the jury
10 votes, it's a question of what you individually vote.

11 When this case is over, when the jury is asked
12 how they vote, the judge is going to poll you. And
13 each one of you is going to have to stand up and say,
14 yes, I voted in the minority then I voted she was
15 guilty. So it's not the situation where you show
16 somebody, well we're going to try to get you to
17 change your vote. No one can make you change your
18 vote.

19 If this ends up as a hung jury, Judge
20 Jefferson will bring you back in here and she will
21 tell you, consider your fellow voters, your fellow
22 jurors, consider what their opinions are.

23 And if you can do so without violating your
24 conscious, then consider it, put your other jurors to
25 the vote, especially if you are in the minority. But

1 do not violate your conscious. If this vote is 12-1,
2 I mean 12-0, 11-1, 1-11 you're -- each one of you can
3 determine what happens today, not 12. Only one of
4 you, each one of you have the right to determine what
5 happens today, how the jury vote turns out.

6 Now you have been apprised of what the burden
7 of proof and doubt means. I disagree with the
8 solicitor's office with what reasonable doubt means.
9 But the Judge will tell you what the reasonable doubt
10 means. It used to be, and I have been practicing law
11 for 37 years, used to be that every time we had a
12 trial, we had to fight and decide what the Supreme
13 Court meant about reasonable doubt.

14 Then a few years ago they came up with this
15 miraculous discovery and said that reasonable doubt,
16 this point forward, reasonable doubt means what a
17 reasonable person can hang his hat on. A reasonable
18 doubt is that doubt that causes a reasonable person
19 to hesitate to act.

20 If you are not sure about this vote, then you
21 have sworn on that bible to testify not guilty. This
22 case is not whether you think she did or didn't do
23 anything wrong. This case is about if you are firmly
24 convinced beyond any reasonable doubt. Because if
25 you have any reasonable doubt about her guilt, you

1 have promised to vote not guilty.

2 Now we don't contest that a crime was
3 committed. We contest a bunch of crimes were
4 committed. I mean we admit a bunch of crimes were
5 committed. The only thing we are contesting is why
6 Sasha was involved in those crimes.

7 You saw the list of crimes. We admit all of
8 those things were done. We admit we were in either
9 there or outside or somewhere close every time one of
10 those horrendous acts occurred. What we do contest
11 is why we were there.

12 Now if you remember each one of these
13 defendants gave a story. And each one of these
14 defendants think they have bought their mercy. In
15 fact one of them even sat there and told you, yes,
16 the solicitor's office has told me, promised to me if
17 I come up here and testify against Sasha, I'm going
18 to get the minimum sentence for armed robbery.

19 What she forgot to tell you is that they're
20 also going to drop two burglary charges which could
21 result in life in prison. So she thinks that -- she
22 even testified. And they didn't put up anyone to
23 deny what she said.

24 She said, the solicitor's office has promised
25 me if I come up here and tell you Sasha did all those

1 bad things, and Sasha was not scared, and Sasha was
2 not threatened, they promised me if I come up here
3 and tell you that, then I get a minimum sentence on
4 one charge. And the other three charges, that I can
5 go to jail for the rest of my life from, are going to
6 go away.

7 Ladies and gentlemen, I know very few people,
8 I don't even think my minister would refuse a deal
9 where he was going to get life in prison on the one
10 hand, and he's going to say that this person was not
11 scared he is going to get the minimum sentence, I
12 can't think of anybody that wouldn't take that deal.

13 These people that stood here in front of you
14 and testified that Sasha was not scared, every one of
15 them has bought either a promise that they won't
16 spend the rest of their life in jail, or they think
17 that's what's going to happen, they think they're
18 buying their mercy.

19 Based on that, I don't see how anybody who
20 ever wanted to have a daughter, who ever wanted to
21 have a grandchild, anybody who ever wanted to go to
22 Mama's house, wouldn't take that deal and change
23 their story to whatever it took to convince you that
24 she was not scared.

25 Reggie, Miguel, no question they spent time

1 and time and time and time threatening their victims.
2 If you don't tell me where the money is; if there's
3 anybody at the house; if you don't tell me about the
4 burglar alarm, security system; if you don't give me
5 your money; if you don't do what I tell you to do,
6 I'm going to kill you. And they spent time talking
7 about how they were going to cut off his own body
8 members.

9 They all admitted that Reggie Rice and Miguel
10 Starns (sic) were violent people. And they all
11 admitted that anybody who got threatened by Miguel
12 and Reggie had reason to fear for their life. Each
13 one of them, every one of them admitted, if he
14 threatened you, you had good reason to fear for your
15 life. They even told her, it's now time for you to
16 start praying. How does that make you feel.

17 I need to check my notes. I didn't have two
18 years to prepare for this. I've got to make sure I
19 don't leave out anything. And there are going to be
20 things I'm going to leave out. Because I can't go
21 over four days of testimony in 30 minutes and give
22 you a good synopsis of what is going on and what
23 happened. I am trying to give you my opinion about
24 what is most important.

25 Now all your life you have heard the violent

1 argument, when you and your brother got into a fight,
2 you always want to be the last one to say, Mama, he
3 hit me first. He who argues last, argues strongest.

4 Now when I finish today, I have to go sit over
5 there and be real quiet and sweet and nice and just
6 sit there. But the solicitor's office is going to
7 come back and say, Kenny made a mistake on this, and
8 Kenny made a mistake on that.

9 Our version is that, no, they tell you what
10 their version is, I will contest it, that's tough. I
11 don't get to come up and tell you our response to
12 their version.

13 The only thing that can at least make this
14 half-way fair is if they come up here, stand here and
15 tell you things that you know are in dispute, please
16 try to imagine in your mind what I would say if I
17 could come back up here.

18 And please try to remember what you heard. I
19 can't refresh your memory on everything, I can't
20 possibly do that in 30 minutes from four days. But
21 try to remember some of the things that you've heard
22 that I didn't tell you about.

23 Sasha tells that Miguel, on two different
24 occasions, pointed a gun at her and threatened to
25 kill her if she messed this up. I will tell you what

1 happened, this is my version, and I'm going to tell
2 you this. Based on what I have heard and what I have
3 seen, it appears that Reggie and Miguel thought they
4 had two easy marks. They didn't want the police to
5 come search their house.

6 And how stupid, they must be stupid. They
7 thought they could break into their coaches house,
8 who they talked to 24 hours a day, 7 days a week for
9 a year and a half. A quarterback, quarterbacks talk
10 to coaches all the time. They thought they break
11 into these houses, rape this woman, threaten to kill
12 everybody, steal everything, and nobody is going to
13 recognize their voice.

14 But the stupidest thing they did was they
15 talked to Stephen and said, bring your girlfriend
16 over, I want to talk to her. And they laid out the
17 entire plan to her. Of course she and Stephen
18 thought this was a joke. And at the time, it might
19 have been.

20 But the more they got talking about it, the
21 more Reggie and Miguel are saying, this ought to be a
22 good deal, this is going to be an easy mark. But no
23 one in their right mind would think these guys are
24 possibly serious. No one would possibly think
25 they're going to get away with this. This is stupid.

1 so they ignored it. Reggie and Miguel had
2 already told their plan to Sasha and Stephen.
3 Regardless of whether they thought they were joking
4 or not, when they told them their plan they had to do
5 one thing, either give up the plan, or make sure that
6 Sasha joined with them and helped them.

7 Because if Sasha said, I'm not going to do it
8 and she walked out the door, then she reads in the
9 paper the next day that this happened, she is going
10 to call the police. So Miguel wanted an option;
11 either give up on this easy mark, they thought was an
12 easy mark, or force Sasha to help us and keep her
13 mouth shut.

14 That's where they made a mistake. They should
15 have never told Sasha unless they had her in their
16 camp first. After they told her, they only had two
17 choices, either go back to the Atlanta, do their deal
18 in Atlanta, or force Sasha to help them. And she
19 didn't have to help them, but they had to force her
20 to keep her mouth shut. And that's exactly what
21 happened.

22 Well judging from the first night, and the
23 first night she had walked up to the house at first
24 she thought this is going to be a joke. She goes
25 over to the house. They yank her out of the car and

1 say, come with us. She still thinks it's a joke.
2 she's getting ready to walk up the steps Miguel puts
3 a gun to her head and says, don't mess this up,
4 woman. She thought she was probably going to end up
5 dead.

6 But the testimony, she didn't have time to do
7 anything. So do what she thought would keep her from
8 get killed. She knocked on the door.

9 After she knocked on the door, there is some
10 discrepancies that she went in the house, turned
11 around and went right back out. There is no
12 question, everybody says she went back out and got in
13 the car and told her boyfriend and her girlfriend,
14 these guys are crazy, they are really robbing those
15 people. That's what she said.

16 Everybody testified to that except Starns
17 (sic) and Rice. So she didn't know this was a
18 robbery until it was too late. Then at that point
19 she was threatened. Don't mess this up or I will
20 kill you.

21 We all heard Reggie was the meanest SOB at the
22 Citadel. He would kill somebody if they pissed him
23 off. That's the exact words that were used. He even
24 told us that he had threatened people with a gun,
25 threatened people with their lives, he told us.

1 And that's what happened. That's exactly why
2 she was afraid for her life. The law of coercion,
3 I'm going to tell you, requires three things.
4 Present, imminent danger; somebody put a gun to my
5 head, that's pretty darn dangerous.

6 Number two, got to cause the victim, the
7 person being threatened, to fear for her life or
8 imminent danger of bodily injury. And number three,
9 she has got to have no way of escaping.

10 Now this is two different incidents. So we
11 are talking about two ways of escaping. When she is
12 sitting there at the front door and he puts the gun
13 to her and says, I'm going to kill you, and she knew
14 he meant it, she had no way to escape except for
15 knocking on the door.

16 Now the second night, a little more -- take a
17 little more explanation. But the second night she
18 was afraid to do anything. She didn't call the
19 police because he had threatened to kill her or her
20 parents. All she did was knock on the door, but she
21 didn't know what he's got down the street.

22 He had already threatened to kill her. If she
23 gets killed by one of Reggie's buddies, there is no
24 witnesses against her, she just disappears. She was
25 afraid, she didn't know what to do.

1 She was 18 years old. She had never been away
2 from home. She was the sweetest, nicest girl in
3 town, everybody said. She was sweet, she was nice,
4 she was helpful, she was generous with her time and
5 everything she could spare, tried to save her life.
6 Second day she was afraid, she didn't know what to
7 do.

8 And Miguel said, come back over to my place.
9 She is young. She had not -- he would have been
10 afraid she was going to tell Miguel something. She
11 couldn't have him think she was turning him in so she
12 went to his apartment like he demanded.

13 There is somebody talking about going back and
14 forth, back and forth to another restaurant, to
15 another restaurant, giving people's apartments and
16 condos. She was never alone except that night when
17 Miguel had some -- the second night and Miguel takes
18 her to her house. Instead gets out of the car and
19 Miguel leans over her and whispers, mess this up and
20 I will kill you.

21 She had no choice. If she was a 35-year-old
22 muscular football player, if she was a 35-year-old
23 lady who knew all about the ins and outs of life, she
24 could have done something else. But she wasn't. She
25 was a 18-year-old girl, afraid for her life, didn't

1 know what to do, didn't know who to call, she was
2 hoping this would go away.

3 18-year-olds do that. They don't think about
4 what to do, they just think how to stay alive.
5 Especially when somebody with a gun threatens to kill
6 them.

7 Now the solicitor has also made a big deal
8 about who had what gun, how did you get threatened
9 with a gun that didn't work? Five minutes he kept
10 saying, how did you get threatened by a gun that
11 didn't work? If you are threatened with your life
12 that somebody is going to kill you, you don't look at
13 them and say, let me see your gun, which gun do you
14 have, do you have the good one or bad one?

15 She knew she had been threatened. She knew
16 the guys had two guns. There is some question about
17 whether she knew it was the bad gun or not. But I
18 don't know which gun he had. She doesn't know. But
19 she is not so stupid to say, you don't worry me, you
20 got the bad gun. Or show it to me which gun you have
21 so that I know you are really truthful.

22 This is a little 18-year-old girl who didn't
23 know what to do. Scared for her life. Scared for
24 her life for two straight days. I'm sorry, but she
25 didn't go to the cops after the first one. She was

1 an 18-year-old girl who had never been away from
2 home, never hurt anybody in her entire live.

3 Now the solicitor's office tried to make a big
4 deal of it. This is not a good girl, she smokes
5 marijuana. Ladies and gentlemen, I don't smoke
6 marijuana. I bet you go down to the high school and
7 the students will tell you the truth, there's a large
8 percentage of them smoke marijuana, and there a large
9 percentage of them are nice people.

10 Kids are stupid. 18-year-old, 19-year-old kids
11 are stupid. College kids are stupid. They think
12 marijuana is okay. And even the guy who used to be
13 our state treasurer, one of the big wheels here in
14 Charleston, gets on national TV and tells everybody
15 he thinks that marijuana should be legalized. That's
16 a stupid thing to think about.

17 My point is just because a 19 or 18-year-old
18 kid smokes marijuana does not mean that they're a bad
19 person. And except the stupidity of smoking
20 marijuana, that little girl over there has never done
21 anything wrong in her entire life, except for what he
22 had her do when she was trying to save her life.

23 Her mother says, call home first. Don't call
24 the police, you always come home first. You heard
25 her yelling. Call home first. She didn't know what