

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Benjamin H. Culbertson, Circuit Court Judge

Appellate Case No: 2017-001488

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SC Court of Appeals

THE STATE,

RESPONDENT,

v.

JAMAR ANTONIO HUGGINS,

APPELLANT.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF HORRY) 2013-GS-26-1076, 1077 and 1078

The State,	)	
	)	
Plaintiff,	)	Transcript of Record
	)	
vs.	)	September 15-17, 2014
	)	
Jamar Antonio Huggins,	)	
	)	
Defendant.	)	

B E F O R E :

Honorable Benjamin H. Culbertson
Horry County Courthouse
Conway, South Carolina

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

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Circuit Court Reporter

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1 (On the record, September 15, 2014. The following takes
2 place outside the presence of the jury panel.)

3 THE COURT: What we got?

4 MS. ELDER: Your Honor, it's -- Mr. Long had filed two
5 pretrial motions, and I believe we have resolved those. One
6 was to exclude the testimony of the victim in this case. It's
7 my understanding that Mr. Long is going to withdraw that
8 motion at this point.

9 MR. LONG: That's correct, Your Honor.

10 THE COURT: Okay. So that's withdrawn?

11 MR. LONG: Yes, sir.

12 MS. ELDER: And the second motion was for sequestration
13 of the witnesses. I've informed Mr. Long that the Co-
14 Defendant in this case is currently incarcerated at the
15 Department of Corrections, that she'll be in lockup for the
16 duration of the trial except for her testimony.

17 THE COURT: Okay.

18 MS. ELDER: So I don't plan to have her in the courtroom
19 at any point in time, and the -- he has agreed to a limited
20 sequestration of his family members. The State's in agreement
21 to that as well so that they will not be present -- they will
22 be present for the State's presentation, but they will be
23 sequestered for the Defense's presentation until their
24 testimony.

25 THE COURT: Okay.

1 MR. LONG: That is correct.

2 THE COURT: Can we go, can you give me their names or --

3 MR. LONG: Yes, sir.

4 THE COURT: Okay.

5 MR. LONG: It will be -- it's going to be Willie Dean
6 Whaley.

7 THE COURT: Willie.

8 MR. LONG: Dean W-H-A-L-E-Y.

9 THE COURT: Okay.

10 MR. LONG: And Rontisha, R-O-N-T-I-S-H-A, Huggins.

11 THE COURT: So there's no sequestration except Willie
12 Dean Whaley and Rontisha Huggins will be sequestered if and
13 when the Defense presents a case?

14 MR. LONG: That's correct.

15 THE COURT: Is that correct?

16 MS. ELDER: That is correct, Your Honor.

17 THE COURT: Okay.

18 MS. ELDER: And that would take up all the pretrial
19 matters that I'm aware of.

20 MR. LONG: Yes, sir.

21 THE COURT: All right. So nothing else. We've got the
22 jury coming in at 2:15. So we've got a little while. Do you
23 all have a witness list or a proposed?

24 MS. ELDER: I put it up on the bench, Your Honor.

25 THE COURT: Probably something I stuck over -- yeah.

1 Okay. Jonathan Martin -- oh, gosh, Montgomery, how do you
2 pronounce that?

3 MS. ELDER: Deaungela.

4 MR. LONG: Deaungela.

5 THE COURT: Deaungela Montgomery, Angela Eckler, Mariah
6 Eckler, Frederick Rash and Tyjuan McKiethan; is that correct?

7 MS. ELDER: I call it -- pronounce it Tyjuan, but I don't
8 know if that's --

9 THE COURT: Tyjuan.

10 MR. LONG: I think it's Tyjuan.

11 MS. ELDER: Tyjuan.

12 THE COURT: Tyjuan McKiethan?

13 MS. ELDER: Yes, sir.

14 THE COURT: Okay. (Ms. Elder and Mr. Long confer.)

15 THE COURT: All right. Anything else?

16 MR. LONG: No, sir.

17 MS. ELDER: No, sir.

18 THE COURT: All right. When the jury gets back I guess
19 just go ahead and bring them up and we'll get started with
20 jury selection then.

21 Now, do we want to go through jury selection, get a jury
22 empanelled and then cut them loose and start first thing
23 tomorrow morning or do we want to do any opening charges or --
24 just start everything tomorrow?

25 MS. ELDER: I would prefer that because I have told my

1 victim -- she's working.

2 THE COURT: That's fine.

3 MS. ELDER: So I told her not to come till tomorrow. I'm
4 trying not to get her to take too many days off, Your Honor.

5 THE COURT: Okay. That'll be fine. All right. Well,
6 we'll go ahead and we'll get the jury. Once we get the jury
7 empanelled, we'll swear them today or swear them tomorrow
8 morning?

9 MS. ELDER: I would ask to swear them tomorrow morning,
10 Your Honor.

11 THE COURT: Any objection?

12 MR. LONG: No, sir.

13 THE COURT: Okay. We'll do that.

14 All right. Sounds good. They've got about five more
15 minutes before they have to be here, and I don't know how long
16 it'll take them to get them up from the jury panel room, but
17 if you could go ahead and just let them know when we get the
18 whole panel here to go ahead and bring them up for this trial.
19 Okay. All right.

20 MR. LONG: Thank you.

21 THE COURT: Sounds good.

22 MS. ELDER: Thank you, Judge.

23 THE COURT: Thank you.

24 ***** OFF THE RECORD *****

25 (On the record. The following takes place in the presence of

1 the jury panel.)

2 THE COURT: All right. Ladies and gentlemen, we are
3 getting ready to start the trial of the case of the State of
4 South Carolina versus Jamar Antonio Huggins, and Mr. Huggins
5 has been indicted by the Grand Jury for burglary in the first
6 degree, kidnapping and armed robbery. I'll explain in more
7 detail things about the allegations against him in a minute,
8 but right now before we begin the jury selection process, I
9 have a series of question to go over with you which is
10 commonly referred to as voir dire questioning. This is to
11 determine -- you've been qualified to serve as jurors for this
12 week of court, but these are to determine whether or not you
13 are qualified to serve as jurors on this particular case, and
14 it also gives the attorneys some additional information that
15 assists them in the jury selection process. So just like the
16 jury qualifications, jurors and witnesses, jurors are
17 constantly taking oaths. So if I could please get the panel
18 to stand and raise your right hand.

19 (Jury panel is sworn by Court.)

20 THE COURT: Thank you very much. Please be seated.

21 All right. Is there any member of the jury panel that
22 did not respond to the oath by saying I do? If so, please
23 stand.

24 (No response.)

25 THE COURT: All right. Can everybody hear me all right?

1 All right.

2 Please listen up as I go over these questions, and if any
3 of them are applicable to you, please respond when I direct
4 you to do so.

5 Now, the indictments in this case charge Mr. Huggins, as
6 I said, with armed robbery, kidnapping and burglary in the
7 first degree, the allegations being that on or about December
8 the 20th of 2012 that Mr. Huggins kidnapped, armed -- robbed,
9 while armed with a deadly weapon and burglarized a -- I'm
10 looking for the -- a Ms. Angela Eckler. Where did this
11 allegedly occur, what area of Horry County?

12 MS. ELDER: The Conway Section of Horry County, Your
13 Honor.

14 THE COURT: In the Conway Section of Horry County.

15 MS. ELDER: Correct.

16 THE COURT: Now, is there any member of the jury panel
17 that has heard anything, read anything, discussed anything or
18 knows anything about this case? If so, please stand.

19 (No response.)

20 THE COURT: All right. The Defendant in this case is
21 Jamar Antonio Huggins, and the victim or alleged victim in
22 this case is Angela Eckler, E-C-K-L-E-R. Is there any member
23 of the jury panel related by blood or marriage, have a close
24 personal relationship, business relationship, social
25 relationship or any other type of relationship with either the

1 Defendant or the alleged victim in this case? If so, please
2 stand.

3 (No response.)

4 THE COURT: Yes, sir.

5 MR. LONG: Your Honor, if I may, at the time of the
6 incident Ms. Eckler's last name was Dillon.

7 THE COURT: Dillon, okay. So at the time this allegedly
8 occurred her name was Angela Dillon; is that correct?

9 MR. LONG: Yes, sir.

10 THE COURT: All right. Does that -- does anybody know
11 Ms. Dillon or have any type of relationship with Ms. Dillon?
12 If so, please stand.

13 (No response.)

14 THE COURT: All right. Please listen up as these are the
15 potential witnesses who may testify in this case: Detective
16 Jonathan Martin, Deaungelo Montgomery, Angela Eckler, Mariah
17 or Mariah Eckler, Officer Frederick Rash and Tyjuan McKiethan.
18 Is there any member of the jury panel related by blood or
19 marriage, have a close personal relationship, business
20 relationship, social relationship or any other type of
21 relationship with any of these potential witnesses? If so,
22 please stand.

23 (No response.)

24 THE COURT: All right. Ms. Donna Elder, with the 15th
25 Circuit Solicitor's Office, is prosecuting this case on behalf

1 of the State. Attorney John R. Long is the attorney for the
2 Defendant. What office are you with, Mr. Long?

3 MR. LONG: Thompson and Henry, Your Honor.

4 THE COURT: Thompson and Henry Law Firm here in Conway,
5 South Carolina.

6 Is there any member of the jury panel related by blood or
7 marriage, have a close personal relationship, business
8 relationship, social relationship or any type of relationship
9 with either Ms. Elder or Mr. Long? If so, please stand.

10 (No response.)

11 THE COURT: Has any member of the jury panel ever been
12 represented by either of these attorneys? If so, please
13 stand.

14 (No response.)

15 THE COURT: Has any member of the jury panel ever been
16 involved in any legal action in which either of these
17 attorneys represented another party to that action? If so,
18 please stand.

19 (No response.)

20 THE COURT: Has any member of the jury panel either
21 personally, have a family member or close personal friend
22 employed with the 15th Circuit Solicitor's Office or the
23 Thompson and Henry Law Firm? If so, please stand.

24 Yes, ma'am, you name and number?

25 MS. HARDEE: Barbara Hardee, 194.

1 THE COURT: All right. Ms. Hardee, is this personally or
2 a family member or close personal friend?

3 MS. HARDEE: Family member.

4 THE COURT: Okay. What is the relationship?

5 MS. HARDEE: She is my sister-in-law.

6 THE COURT: Okay. And she is employed where?

7 MS. HARDEE: The Solicitor's Office.

8 THE COURT: Okay. And what is her name?

9 MS. HARDEE: Wanda Collins.

10 THE COURT: Wanda Collins. Do you know what Ms. Collins
11 does for the Solicitor's Office?

12 MS. ELDER: Yes, sir, Your Honor. She is the person that
13 sits up at the front door, the front window and greets people
14 and answers the general line for our office.

15 THE COURT: Okay. Other than that, does she have any
16 involvement in this case?

17 MS. ELDER: Absolutely none, Your Honor.

18 THE COURT: Okay. All right. Ms. Hardee, would your
19 sister-in-law's employment affect your ability to give both
20 the Defendant and the State in this case a fair and impartial
21 trial?

22 MS. HARDEE: No.

23 THE COURT: Okay. Would you be able to disregard your
24 sister-in-law's employment in its entirety and base your
25 decision in this case exclusively on the testimony and

1 evidence in this case?

2 MS. HARDEE: Yes, sir.

3 THE COURT: All right. Thank you, Ms. Hardee, for
4 bringing that to our attention.

5 Anyone else who either personally, has a family member or
6 close personal friend employed with the 15th Circuit
7 Solicitor's Office or the law firm of Thompson and Henry? If
8 so, please stand.

9 (No response.)

10 THE COURT: I neglected to mention that two other
11 possible witnesses in this case are Willie Whaley and Rontisha
12 Huggins. Is there any member of the jury panel related by
13 blood or marriage, have a close personal relationship,
14 business relationship, social relationship or any other type
15 of relationship with either Willie Whaley or Rontisha Huggins?
16 If so, please stand.

17 (No response.)

18 THE COURT: Has any member of the jury panel formed or
19 expressed an opinion about any issue or matter involved in
20 this case? If so please stand.

21 (No response.)

22 THE COURT: Is any member of the jury panel aware of any
23 bias or prejudice towards either the State of South Carolina
24 or the Defendant in this case? If so please stand.

25 (No response.)

1 THE COURT: Is there any member of the jury panel that
2 was a member of the Grand Jury that issued any of the
3 indictments in this case? If so please stand.

4 (No response.)

5 THE COURT: Is there any member of the jury panel who is
6 a member of or a contributor to any group which has as its
7 primary concern the promotion of law enforcement or victims'
8 rights. Now, some of these organizations are Mothers Against
9 Drunk Drivers, commonly referred to as MADD; Students Against
10 Drunk Drivers, commonly referred to as SADD; CASA, also known
11 as Citizens Against Spousal Abuse; and CAVE, Citizens Against
12 Violent Crime or any similar type organization. Is there any
13 member of the jury panel that is a member of or contributor to
14 such organizations?

15 (No response.)

16 THE COURT: Does any member of the jury panel know of any
17 reason whatsoever why he or she should not serve as a juror in
18 this case, with particular emphasis being placed on your
19 ability to be fair and impartial to both the State of South
20 Carolina and the Defendant? If so, please stand.

21 THE COURT: Yes, ma'am, your name and number?

22 MS. BRADLEY: Kanesha Bradley, Number 48.

23 THE COURT: All right. Hold for one second.

24 THE COURT: Kanesha S. Bradley?

25 MS. BRADLEY: Yeah.

1 THE COURT: All right. Ms. Bradley, if you'd come
2 forward, please.

3 (Whereupon, an off-the-record bench conference is held
4 with Juror Number 48, attorney for the State and attorney for
5 the Defendant.)

6 THE COURT: All right. I'm going to excuse Ms. Bradley,
7 Juror Number 48, from this particular case, but stay with us
8 -- Ms. Bradley, just stay with us right now, but thank you.

9 Anyone else know of any reason whatsoever why he or she
10 should not serve as a juror in this case, with particular
11 emphasis being placed on your ability to be fair and impartial
12 to both the State and the Defendant? If so, please stand.

13 (No response.)

14 THE COURT: All right. Any additional questioning from
15 the State?

16 MS. ELDER: No, sir, Your Honor.

17 THE COURT: Any from the Defense?

18 MR. LONG: One, Your Honor. If we may approach?

19 THE COURT: All right. Come on up.

20 (Whereupon, a bench conference is held in the presence
21 but out of the hearing of the jury panel.)

22 THE COURT: Has any member of the jury panel either
23 personally, had a family member or close personal friend that
24 has been the victim of a violent crime? If so please stand.

25 Yes, ma'am. Your name and number?

1 MS. OWENS: 345, Glenda Owens.

2 THE COURT: All right. Ms. Owens, if I could get you to
3 come forward, please.

4 (Whereupon, an off-the-record bench conference is held
5 with Juror Number 345, attorney for the State and attorney for
6 the Defendant.)

7 THE COURT: All right. I'm going to excuse Juror 345.

8 Yes, ma'am, your name and number?

9 MS. ROBINSON: Annette Robinson, Number 391.

10 THE COURT: All right. Ms. Robinson, if you'd come
11 forward, please.

12 (Whereupon, an off-the-record bench conference is held
13 with Juror Number 391, attorney for the State and attorney for
14 the Defendant.)

15 THE COURT: All right. I'm going to excuse Juror 391.

16 All right. Anyone else who either personally, has a
17 family member or close personal friend who was the victim of a
18 violent crime? If so, please stand.

19 (No response.)

20 THE COURT: All right. Any additional questioning from
21 the Defense?

22 MR. LONG: No, Your Honor.

23 THE COURT: All right. Anything further from the
24 State?

25 MS. ELDER: No, sir.

1 THE COURT: All right. Ladies and gentlemen, if you
2 would please listen carefully. The way the selection process
3 works in General Sessions Court is if your name is called you
4 will need to come forward between the two tables here, come
5 almost to the podium, stand and turn and face the attorneys,
6 and the State's attorney is going to look at you and then look
7 at her notes a while and then look back at you and look at her
8 notes a while and decide whether she wants you in this case,
9 and if she wants you then the Defendant's attorney is going to
10 look at you a little while and look at his notes and then look
11 back at you a while and decide if he wants you in this case,
12 and we go through this process until we select our 12 jurors.
13 Now, let's select 12 jurors and one alternate. Is that
14 sufficient?

15 MS. ELDER: Yes, sir.

16 THE COURT: Okay. And we'll do -- follow that process
17 until we get a jury of 12 and an alternate in this case. So
18 if your name is called, please come forward, bring with you
19 any coats, umbrellas, pocketbooks, whatever you might have,
20 face the attorneys, and you'll get further directions from the
21 bailiff.

22 This is a --

23 MS. ELDER: It's five and ten, Your Honor.

24 THE COURT: -- five and ten.

25 MS. ELDER: Yes, sir.

1 THE COURT: That's what I was thinking.

2 THE CLERK: Okay. Juror 212, Karen Holland. What say
3 the State?

4 MS. ELDER: Please present this juror.

5 THE CLERK: Defense?

6 MR. LONG: Please swear the juror.

7 THE CLERK: Please have a seat in the jury box, ma'am.
8 Thank you.

9 Juror 306, Delbert McFadden. What say the State? Note
10 the part that the Judge was saying.

11 MS. ELDER: Please present this juror.

12 THE CLERK: Defense?

13 MR. LONG: Please seat the juror.

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

15 Juror 326, Michael Mount. What say the State?

16 MS. ELDER: Please excuse the juror from this case.

17 THE CLERK: Okay. Please have a seat back, sir. Thank
18 you. Juror 183, Brent Gray. What say the State?

19 MS. ELDER: Please present this juror.

20 THE CLERK: Defense?

21 MR. LONG: Please swear the juror.

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

23 Juror 14, Joanne Bailes. What say the State?

24 MS. ELDER: Please present this juror.

25 THE CLERK: Defense?

1 MR. LONG: Please excuse the juror.

2 THE CLERK: Okay. You can just have a seat. Thank you.

3 Juror 442, Angela Talotta. Have I said that right?

4 MS. TALOTTA: Yes, ma'am.

5 THE CLERK: Well, good. What say the State?

6 MS. ELDER: Please present this juror.

7 THE CLERK: Defense?

8 MR. LONG: Please seat the juror.

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

10 Juror 419, Elishia Simmons. Or is that Elishia?

11 MS. SIMMONS: It's Elishia.

12 THE CLERK: Okay. I'm sorry. What say the State?

13 MS. ELDER: Please excuse the juror from this case.

14 THE CLERK: You can have a seat back, ma'am. Just go
15 ahead and have a seat. Juror 303, William McCann.

16 MR. MCCANN: There's no A in it like --

17 THE CLERK: Okay.

18 MR. MCCANN: I, I should say. It's not McCain. It's
19 McCann.

20 THE CLERK: Okay. I'm sorry. What say the State?

21 MR. MCCANN: McCann.

22 MS. ELDER: Please present this juror.

23 THE CLERK: Defense?

24 MR. LONG: Swear the juror.

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

1 Thank you. Juror 217, Bradley Hooks. What say the State?
2 MS. ELDER: Please present this juror.
3 THE CLERK: Defense?
4 MR. LONG: Please excuse the juror.
5 THE CLERK: Please have a seat, sir. Thank you.
6 Juror 294, Jeanne Martin. What say the State?
7 MS. ELDER: Please present this juror.
8 THE CLERK: Defense?
9 MR. LONG: Please excuse the juror.
10 THE CLERK: Okay. You can have a seat back. Thank you.
11 Juror 82, Gary Clark. What say the State?
12 MS. ELDER: Please present this juror.
13 THE CLERK: Defense?
14 MR. LONG: Swear the juror.
15 THE CLERK: Please have a seat in the jury box, sir.
16 Thank you. Juror 127, Gloria Doran.
17 MS. DORAN: Yes.
18 THE CLERK: What say the State?
19 MS. ELDER: Your Honor, may we inquire as to her
20 occupation prior to retirement?
21 THE COURT: Ms. Doran, where did you work before you
22 retired?
23 MS. DORAN: I was a beauty instructor.
24 THE COURT: All right.
25 MS. DORAN: At a beauty school.

1 THE COURT: Thank you.

2 MS. ELDER: Thank you, Your Honor. Please present this
3 juror.

4 THE CLERK: Defense?

5 MR. LONG: Please excuse the juror.

6 THE CLERK: Okay. Please have a seat back. Thank you.
7 Juror 313, Sondra McNelis. What say the State?

8 MS. ELDER: Your Honor, please present this juror.

9 THE COURT: All right.

10 THE CLERK: Defense?

11 MR. LONG: If I may ask what she's retired, where you're
12 retired from?

13 MS. MCNELIS: Homemaker.

14 MR. LONG: Please seat the juror.

15 THE CLERK: Please have a seat in the jury box, ma'am.
16 Thank you. Juror 113, Albert Dennison. What say the State?

17 MS. ELDER: Your Honor, please excuse the juror from this
18 case.

19 THE CLERK: Please have a seat, sir. Thank you.

20 Juror 172, Janet Glover. What say the State?

21 MS. ELDER: Please present this juror.

22 THE CLERK: Defense?

23 MR. LONG: Swear the juror.

24 THE CLERK: Please have a seat in the jury box, ma'am.

25 Thank you. Juror 98, Robin Crosland. What say the State?

1 MS. ELDER: Please present this juror.
2 THE CLERK: Defense?
3 MR. LONG: Please excuse the juror.
4 THE CLERK: Please have a seat back. Thank you.
5 Juror 220, Timothy Huber. What say the State?
6 MS. ELDER: Please present this juror.
7 THE CLERK: Defense?
8 MR. LONG: Please swear the juror.
9 THE CLERK: Please have a seat in the jury box. Thank
10 you. Juror 196, Lesta Hardee.
11 MS. ELDER: I'm sorry. What number?
12 THE CLERK: 196. What say the State?
13 MS. ELDER: Please present this juror.
14 THE CLERK: Defense?
15 MR. LONG: Please excuse the juror.
16 THE CLERK: Please have a seat back. Thank you so much.
17 Juror 151, Tracy Floyd. What say the State?
18 MS. ELDER: Please excuse the juror from this case.
19 THE CLERK: Please have a seat back. Thank you.
20 Juror 415, Linda Shiflett.
21 MS. SHIFLETT: Correct.
22 THE CLERK: Thank you. What say the State?
23 MS. ELDER: Please present this juror.
24 THE CLERK: Defense?
25 MR. LONG: Please swear the juror.

1 THE CLERK: Please have a seat in the jury box. Thank
2 you. Juror 493, Andrew Wyeth.

3 MR. WYETH: Yes, ma'am.

4 THE CLERK: What say the State?

5 MS. ELDER: Please excuse the juror from this case.

6 THE CLERK: Please have a seat back. Thank you.

7 Juror 175, Donnie Goodall, Goodall. What say the State?

8 MS. ELDER: Please present this juror.

9 THE CLERK: Defense?

10 MR. LONG: Swear the juror.

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

13 Juror 452, Peggy Turnes.

14 MS. TURNES: Turnes.

15 THE CLERK: What say the State?

16 MS. ELDER: Please present this juror.

17 THE CLERK: Defense?

18 MR. LONG: Swear the juror.

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

20 THE COURT: All right. We'll select one alternate. The
21 State gets one strike. The Defense gets two.

22 THE CLERK: Juror 57, Mark Lee Brooks. What say the
23 State?

24 MS. ELDER: Please present this juror.

25 THE CLERK: Defense?

1 MR. LONG: Please seat the juror.

2 THE CLERK: Please have a seat.

3 THE COURT: All right. Ladies and gentlemen, you'll be
4 the jury that will preside over this first case. I'm going to
5 excuse you back to the jury room for just a few minutes while
6 I take up some matters with the attorneys and I release the
7 jury panel in this case. So it'll give you an opportunity to
8 see the jury room, where you'll be when we take breaks. It'll
9 give you an opportunity to stretch your legs or whatever the
10 case may be. I don't think it'll be too long a break, but I'm
11 going to excuse you back to the jury room for just a few
12 minutes. Thank you very much.

13 (Whereupon, the following takes place outside the
14 presence of the jury.)

15 THE COURT: All right. Any challenges to the selection
16 or composition of the jury by the State?

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

18 THE COURT: Any by the Defense?

19 MR. LONG: No, Your Honor.

20 THE COURT: All right.

21 (Remaining jury panel excused with call-back
22 instructions.)

23 THE COURT: All right. Anything further in this case
24 before I cut the jury loose until tomorrow?

25 MS. ELDER: No, sir.

1 THE COURT: All right. Anything further from the
2 Defense?

3 MR. LONG: No, Your Honor.

4 THE COURT: All right. I guess -- what time do you all
5 want to get started tomorrow morning?

6 MS. ELDER: Nine is fine with me, Your Honor, nine or
7 9:30. Wait, you've got to drive. Excuse me. You may like
8 9:30 better than --

9 THE COURT: Well, no. Well, let's, let's do this. Let
10 me get the -- I'll have the jury back in at nine, and I'll try
11 to take the bench as soon after 9:15 as I can. They get them
12 in at nine, that'll give them an opportunity to get a cup of
13 coffee or a doughnut or something of that nature, and I'll try
14 to take the bench as soon after 9:15 as I can. Okay?

15 MR. LONG: Sounds good.

16 THE COURT: All right. Let's go ahead and bring the jury
17 back in.

18 (Whereupon, the following takes place in the presence of
19 the jury.)

20 THE COURT: All right. Ladies and gentlemen, welcome
21 back. You can be seated.

22 As I said earlier, we're getting ready to start the trial
23 of the case of the State of South Carolina versus Jamar
24 Antonio Huggins, but scheduling this with the attorneys, we
25 will not start the trial of the case until tomorrow morning.

1 We won't be starting it this afternoon. So I'm going to
2 excuse you for the remainder of the day, but I'm going to ask
3 that you please be back in the jury panel room downstairs
4 tomorrow morning at 9:00 o'clock, and we'll try to get started
5 as soon after that as we can. They'll have some coffee for
6 you, maybe a biscuit or a doughnut or something of that nature
7 when you get back. So we'll try to get started as soon after
8 9:00 o'clock as we can.

9 Now, when you get back tomorrow morning, if you could do
10 me a favor, and that would be, number one, to select a
11 foreperson for this jury. I understand that you may not know
12 everyone, and if you cannot select a foreperson, don't worry
13 about it. I can appoint someone to serve as foreperson. Many
14 judges select their own foreperson. I like to give the jury
15 the opportunity to select one on their own if they're able to
16 do so.

17 Now, the foreperson has absolutely no more authority, no
18 more importance, no more influence than any other juror. The
19 function of the foreperson is to act as a liaison between the
20 Court and the jury. If the jury has a need, the foreperson
21 lets the Court know. If the jury has a question, the
22 foreperson lets the Court know. When it's time to deliberate
23 the foreperson will preside over the deliberations, but other
24 than that, the foreperson has no more influence, importance or
25 authority than any other juror. The only restriction would be

1 that Mr. Brooks, as the alternate, you would not be eligible
2 to serve as foreperson because you are an alternate at this
3 point in time. So any of the rest of you can serve as
4 foreperson, and if you can select a foreperson, just write his
5 or her name on a sheet of paper, put the jury number, give it
6 to the bailiff and we'll bring you back into the court at that
7 time.

8 Now, when you come back in the courtroom the foreperson
9 will always occupy the first seat on this front row closest to
10 the witness stand. Mr. Brooks, as alternate, you would always
11 occupy the seat where you now sit unless you become a member
12 of the regular jury. The remainder of you can sit in whatever
13 seat you like. If you want to sit in the same seat throughout
14 the trial of the case, you can do that. If you want to
15 alternate seats during the trial of the case, you can do that.
16 The only restrictions that we have is that the foreperson
17 occupies the first seat, and the alternate always occupies the
18 alternate seat.

19 I'm going to release you for the remainder of the day.
20 You don't have to -- you can think overnight who you want to
21 select as foreperson. So I hope everybody has a good evening.
22 I ask you please do not discuss this case even among
23 yourselves at this point in time. It's too early for
24 deliberations. Don't conduct any independent investigations.
25 Don't go looking in the newspaper. Don't go on the internet.

1 Don't try to find out anything about this case. Everything
2 you need to make a decision in this case will be presented to
3 you during the trial of this case, and you're not to be
4 influenced by any outside source. So don't conduct any
5 independent investigations into this matter.

6 I'm going to excuse you for the remainder of the day, and
7 I look forward to seeing you back tomorrow morning. Thank you
8 very much.

9 (Whereupon, the following takes place outside the
10 presence of the jury.)

11 THE COURT: All right. Anything from the State before we
12 recess?

13 MS. ELDER: Your Honor, the only thing I would have is
14 that the Defendant is out on bond. Since we picked a jury if
15 you want to go over --

16 THE COURT: Well ---

17 MS. ELDER: -- instructions regarding him staying out.
18 If he's going to stay out I assume Your Honor is going to --
19 I'm sure the Defense wants him to stay out.

20 THE COURT: I'm going to --

21 MS. ELDER: About not showing up and things like that,
22 it'll go forward.

23 THE COURT: Right. And I, I kind of take the position
24 since the jury has not been sworn I think he's still on bond,
25 and that it doesn't really, jeopardy or anything doesn't

1 attach until we swear the jury. So he's still on bond. So I
2 will let him go this evening, but, Mr. Huggins, I need to let
3 you know that if you do not appear back tomorrow morning the
4 trial will go forward in your absence, and a bench warrant
5 will be issued for your arrest. Okay? Plus whoever went your
6 bond -- what kind of -- is he out on bond? What kind of bond?

7 MR. LONG: It's, it's a property bond, put up property.

8 THE COURT: Okay. All right. So you're still subject to
9 the terms of that bond, and that bond can be estreated if you
10 do not appear at 9:00 o'clock tomorrow morning, okay, or
11 whatever time do you want him back here tomorrow morning?

12 MS. ELDER: It's up to John.

13 MR. LONG: I'll have him -- he'll be here by nine.

14 THE COURT: Okay. All right. All right. Thank you very
15 much. Anything further from the State?

16 MS. ELDER: No, Your Honor.

17 THE COURT: All right. Anything from the Defense?

18 MR. LONG: No, Your Honor. Thank you.

19 THE COURT: All right. We'll stand in recess.

20 ***** OFF THE RECORD *****

21 (On the record, September 16, 2014. The following takes place
22 outside the presence of the jury.)

23 THE COURT: All right. The officer has given me a note.
24 It says Juror Number 82, Gary Clark, is the foreperson.
25 That's who they've selected as the foreperson.

1 All right. Anything from the State before we bring the
2 jury in?

3 MS. ELDER: Yes, sir, Your Honor. As we discussed back
4 in chambers, the State has made a motion to amend 2013-GS-26-
5 1076. That is a true-bill indictment for burglary first
6 degree. The State would ask to amend to include an additional
7 element into the already existing elements in burglary first
8 and that would be to include the nighttime. The Defense has
9 been on notice that this is a nighttime burglary, Your Honor.
10 The allegations and elements contained in the indictment right
11 now include the deadly weapon, the causing of physical injury
12 to a non-participant in the crime, and the State would ask to
13 include and/or the it occurred during the nighttime.

14 THE COURT: All right. Mr. Long, what's the Defendant's
15 position?

16 MR. LONG: Your Honor, the indictment was prepared over a
17 year and a half ago. The State's had plenty of time to, to
18 make those adjustments. Up until a few minutes before court
19 is a little too late.

20 THE COURT: All right. Well, I guess the question is is
21 the Defendant's defense, if it presented a defense, or is the
22 preparation of its case been that this occurred during the
23 daytime or is there a lack of notice as to any of the
24 allegations of this allegedly occurring at night?

25 MR. LONG: No, sir.

1 THE COURT: Okay. Is the -- has the trial preparation
2 been geared exclusively on this being a burglary involving a
3 handgun or does it affect the trial preparation at all with it
4 being -- adding an allegation of this being at night?

5 MR. LONG: No, sir.

6 THE COURT: Okay. All right. Well, then I'm going to --
7 I'm going to allow the amendment then since it doesn't really
8 effect the trial preparation in any regard. Okay. All right.

9 MS. ELDER: Thank you, Your Honor.

10 THE COURT: Anything further?

11 MS. ELDER: No, sir, Your Honor.

12 MR. LONG: No.

13 THE COURT: Anything further from the Defense?

14 MR. LONG: No, Your Honor.

15 THE COURT: All right. Let's go ahead and bring the jury
16 in. When we bring the jury in, we'll place them under oath;
17 is that correct? (To Clerk) You'll place them under oath?
18 Okay. And then I'll do the opening charges, and then we'll
19 start opening statements; is that correct?

20 MS. ELDER: Yes, sir.

21 THE COURT: All right. How do you all want me to write
22 this -- the additional allegation on the indictment? Just put
23 burglary occurred during the nighttime?

24 MS. ELDER: Your Honor, I would ask the dwelling or
25 immediate, immediate flight. Yes, sir.

1 THE COURT: I'm not going to be able to squeeze it into
2 the body. It's going to have to be written after the
3 paragraph.

4 MS. ELDER: Or -- yes, yes, sir -- or occurring in the
5 nighttime.

6 THE COURT: Okay.

7 MS. ELDER: Entering or exit -- entering or immediate
8 flight as in the nighttime.

9 THE COURT: Well, let me see the attorneys for a second.
10 Come up here.

11 (Whereupon, a bench conference is held.)

12 (Whereupon, the following takes place in the presence of
13 the jury.)

14 THE COURT: All right. Ladies and gentlemen, welcome
15 back. I apologize for keeping you back there so long, and I
16 apologize for the delay, but we did have to take up some
17 matters before we brought you in to begin this trial. I hope
18 everybody had a good evening. We are getting ready to start
19 the trial of the case of Jamar Antonio Huggins.

20 Now, I understand -- I just had it -- here we go. Mr.
21 Clark, you have been selected as foreperson; correct?

22 FOREPERSON: Yes, sir, Your Honor.

23 THE COURT: All right. I appreciate you serving in that
24 capacity. If you'd always occupy your seat. Our alternate
25 will always occupy his seat, and as I said, the rest of you

1 are at liberty to sit in whatever seat you like, whether it be
2 in the same seat during the trial of the case, alternating
3 seats during the trial of the case, whatever makes you feel
4 more comfortable.

5 As with jury qualification and voir dire, jurors are
6 constantly taking oaths. So I'll please need you to stand
7 while the Clerk of Court administers the oath for you to serve
8 as jurors on this particular case.

9 (Jury is sworn by clerk.)

10 THE COURT: Any member of the jury that did not respond
11 to the oath by saying, "I do," or affirming?

12 (No response.)

13 THE COURT: Thank you very much.

14 All right, ladies and gentlemen, we're about to begin
15 the trial of the case of Jamar Antonio Huggins. Now, before
16 we begin the trial, I need to go over with you what is
17 expected of you and what you can expect during the trial of
18 this case. I know from watching movies, television shows,
19 reading books and things of that nature for entertainment,
20 trials are often full of a lot of suspense, a lot of action, a
21 lot of anxiety and things of that nature, and while that might
22 be the case in this trial, it probably won't be. The primary
23 function of this trial is a search for the truth to determine
24 what happened. That is often a slow, repetitive, laborious
25 task, the exact opposite of what you might be accustomed to

1 when you watch movies or read books or TV shows for
2 entertainment purposes, but I hope you do find the trial
3 entertaining. I hope you find it educational, and I want to
4 thank you from the outset for your service as jurors in this
5 case.

6 Now, the attorneys appearing before you are advocates for
7 the parties they represent, but first and foremost, they are
8 officers of the court. They're sworn to uphold the integrity
9 and the fairness of our judicial system and to help you in a
10 search for the truth in this case. You can expect them to be
11 professional, competent and ethical in the representation of
12 their clients' interests.

13 Now, what I now say is intended to serve as an
14 introduction to the trial of this case. These remarks are not
15 a charge on the law in this case. I will instruct you on the
16 law applicable to this case at the end of the trial before you
17 retire to consider your verdict. This is merely an
18 explanation of the procedure that we will follow in the trial
19 of this case so that you can better understand what is
20 happening.

21 Now, the Defendant is charged by three indictments, these
22 indictments charging the Defendant with kidnapping, armed
23 robbery and burglary in the first degree. The elements of
24 those crimes I'll explain to you later, but for right now all
25 you need to know is that these indictments are simply the

1 charge by which the case is brought into this court. These
2 indictments are not in any sense evidence of the allegations
3 contained in them. The Defendant has pled not guilty to all
4 of these indictments, and the State, therefore, has the burden
5 of proving the elements of each crime alleged in the
6 indictment beyond a reasonable doubt. It'll be your duty,
7 ladies and gentlemen, to decide whether or not the State has
8 met that burden. Your purpose as jurors is to find and
9 determine the facts of this case. You are the sole judge of
10 the facts of this case. If at any time I make a comment
11 regarding the facts of this case, you must disregard my
12 comments. You are to determine the facts from the testimony
13 you hear and the other evidence introduced during the trial of
14 this case. It'll be up to you to determine the inferences
15 which you feel may properly be drawn from that evidence. It
16 is especially important that you perform your duty of
17 determining the facts in this case diligently and
18 conscientiously, because ordinarily there is no way to correct
19 an erroneous determination of the facts by a jury.

20 Now, on the other hand and with equal emphasis, the same
21 law that makes you the judge of the facts of this case makes
22 me the judge of the law. The law as given by the Court is the
23 only law that you can consider. You must accept and follow
24 the law as I give it to you, even though you may disagree with
25 it. Just as I cannot tell you what the facts of this case

1 are, you cannot disagree with me about the law to be applied
2 in this case. Your job is to take the law as I give it to you
3 and apply it to the facts as you find those facts to be.

4 After doing that, you will then be in a position to
5 render your verdict, a true and just verdict under the solemn
6 oath you just took as jurors. Now, until I advise you to
7 begin your deliberations, you must not discuss this case with
8 anyone, including your fellow jurors or friends or family
9 members or anyone involved in the case. After the case is
10 submitted to you, you can then discuss the case, but only in
11 the jury room with your fellow jurors. The attorneys and
12 parties in this case have been advised that they're not to
13 talk to you at all. So they're not being rude. They're just
14 following the instructions of the Court.

15 Now, during the trial, you are not to read or listen to
16 or watch any news reports about the case if there are any.
17 This includes anything that may be in the newspaper or on the
18 internet or the radio or the television. You must not
19 consider anything you may have read or heard about the case
20 outside of the courtroom, whether or not that is before the
21 trial or during the trial. It's important that you keep an
22 open mind during the trial of this case and not decide any
23 issue in this case until all of the evidence has been
24 presented to you. The parties will then make their closing
25 arguments, and I will instruct you on the law to be applied in

1 the case. It is your solemn responsibility to determine the
2 guilt or innocence of the Defendant, and your verdict must be
3 based solely on the evidence as it is presented to you in this
4 trial and on the law as I instruct you during and at the close
5 of the trial.

6 Now, in just a moment the Solicitor will make what's
7 called an opening statement in which the Solicitor will
8 explain to you the issues in this case or at least what the
9 Solicitor feels the issues in this case are. The attorney for
10 the Defendant may also make an opening statement, although he
11 is not required to do so. What the attorneys tell you during
12 their opening statements is not evidence in this case. It is
13 only their contention as to what the issues in this case are.
14 The evidence in this case will be presented to you by
15 testimony of sworn witnesses from the witness stand and any
16 other exhibits that may be introduced into evidence.

17 Now, in determining what the true facts are in this case,
18 you must decide whether or not the testimony of a witness is
19 believable. It will be my responsibility to rule as a matter
20 of law as to whether certain testimony is admissible at all or
21 not, but once testimony is admitted into evidence, whether or
22 not you believe it is solely for you to determine. In
23 deciding whether to believe a witness, you have the right to
24 consider the interest of any witness, the bias of any witness,
25 the prejudice of any witness, the opportunity for the witness

1 to have seen the matters and things about which the witness
2 may testify and the way the witness acts on the witness stand.
3 You have the right to consider anything that is in the record
4 that will help you evaluate the testimony of these witnesses.
5 That means that it is your duty to pay close attention to the
6 witnesses, to observe them, to listen to them and to pay close
7 attention to the attorneys and the Court. Don't let your
8 thoughts wander, but give strict attention to the testimony in
9 this case so at the end of all the testimony, after the
10 arguments of counsel and a charge on the law by the Court, you
11 will then be in a position to determine what the true facts
12 are and apply the law to those facts and thus render a true
13 and just verdict.

14 All right. Now, is there any challenges or additional
15 charges from the State?

16 MS. ELDER: No, sir, Your Honor.

17 THE COURT: Any from the Defense?

18 MR. LONG: No, Your Honor.

19 THE COURT: All right. Ladies and gentlemen, we'll now
20 begin the trial with the opening statements by the attorneys.
21 As I told you, these opening statements are not evidence. It
22 is simply the attorneys' contention as to what they think the
23 issues in this case are. Ms. Elder.

24 MS. ELDER: If it pleases the Court, Your Honor?

25 THE COURT: Yes, ma'am.

1 MS. ELDER: Good morning. I'm Donna Elder. I didn't
2 get a chance to introduce myself during jury qualifications.
3 I do work for the State of South Carolina, in particular the
4 15th Circuit. We cover Horry and Georgetown Counties, and we
5 bring criminal cases to prosecute for -- on behalf of the
6 State that occurs in one of those two counties.

7 I'm going to take you back to December 20th, 2012. Angela
8 Eckler became a victim that night, something nobody wants to
9 be, certainly not a victim of a violent crime, but she became
10 a victim that night to a burglary, to a kidnapping and to an
11 armed robbery, but what was even worse than becoming a victim
12 was living a mother's worst nightmare. She was at home alone
13 with her 12 year old daughter. They had been watching movies.
14 They were there together on a Wednesday night. Approximately
15 1:15 in the morning there's a knock on her door. She doesn't
16 think anything about it. She doesn't think bad things. She
17 doesn't think anything but, "Somebody's knocking on my door.
18 I need to go and open it. I need to go see who it is."

19 She goes to the front door and there's a woman, and the
20 woman's there and she's asking for somebody named Dre. Angela
21 doesn't know who Dre is. She doesn't know anybody by that
22 name, but she tells her to hold on because she had a chocolate
23 lab, "Hold on. Let me put my dog up." She's talking to --
24 talking through the storm door at that point, a glass storm
25 door.

1 She puts the dog up and goes or tries to put the dog up
2 and unlock the storm door for the woman. She doesn't see
3 anybody else except a female. When she goes and she turns to
4 grab her dog to take it back, let the female in, that female
5 doesn't come in. What comes in are two males. What comes in
6 is this Defendant, Jamar Huggins, with a hood over his face
7 and a gun. There's another individual, another male that
8 comes in with him. That male grabs Angela Eckler, puts her in
9 a choke hold, is holding her from behind. He's pulling her.
10 He's jerking on her, and while that guy's doing that, this
11 Defendant is holding the gun pointing it at her saying,
12 "Where's the money? Where's the money?" She says, "I don't
13 know anything about money. Please don't kill me. My baby is
14 in the other room," and they keep asking for the money. Then
15 when she tells them that her child is in the other room and
16 begging for her life, they say, "Take us to that room." "No,
17 no, no, please don't. My baby is in there."

18 They go to the other room. When they do, they push this
19 mother into the bathroom, separating her from her daughter,
20 and she's in the bathroom. She can't get to her daughter.
21 She's got one person that won't let her out, and she knows
22 that man with that gun is out there with her daughter, with
23 her 12 year old daughter, and she can hear through the door,
24 "Where's the money? Where's the money?"

25 They get \$15 of that little girl's birthday money because

1 that's all she had, and she gave it to them. That's all she
2 had left out of her birthday card. When they get that, they
3 put Mariah, the 12 year old girl, into the bathroom with her
4 mother. They finally let them together, and Angela's going to
5 tell you she's hysterical at this point because not only has
6 she had her life threatened, but again, more importantly to
7 her, her daughter was threatened, seen a gun, was, was
8 confronted by some masked person demanding money and she
9 couldn't do anything about it.

10 She and her daughter then stay in the bathroom, and her
11 response, as anybody would be, would be to, "Let's get out of
12 here," but she waited until they knew or they didn't hear them
13 anymore. They thought they heard a car drive off. So Angela
14 gets up. She gets her daughter. She gets in the car. She
15 goes to the police station. She's getting out of the house.
16 She doesn't know if they're coming back. She doesn't know
17 where they are.

18 This case is about one thing. It's just getting
19 something that you're not entitled to at any cost, and it
20 doesn't have to be a large amount for somebody like Jamar
21 Huggins. He doesn't care. Doesn't have to be televisions and
22 things like that. \$15, and you'll hear some testimony that
23 there was a couple of DVD Wii games that were taken. That's
24 what this about. They went into this woman's house armed with
25 a weapon at night, threatened her, had a gun, threatened her

1 daughter, all for what, for the fun of it? Who knows. Who
2 knows why people do stuff like that, and when you hear all the
3 evidence in this case from the witness stand, you're going to
4 ask yourself, "Who would do that? Who in the world would do
5 that kind of thing? Who behaves like that," and the answer is
6 going to be real clear. It's that man right there, Jamar
7 Huggins.

8 Thank you very much for your attention throughout today.
9 We look forward to working with you, and I appreciate your --
10 all your service here.

11 THE COURT: All right. Mr. Long, does the Defense wish
12 to make an opening statement?

13 MR. LONG: Yes, Your Honor.

14 THE COURT: All right.

15 MR. LONG: May it please the Court?

16 THE COURT: Yes, sir.

17 MR. LONG: That -- Ms. Elder made the case sound very
18 simple. She made the case sound like there's a home invasion,
19 there's evidence to prove that Jamar Huggins was involved in
20 the home invasion and he should be found guilty. As
21 everything in life is, it's not that simple. So I want you to
22 keep an open mind and to listen to all the facts. Listen to
23 the witnesses, analyze what the witnesses are saying and give
24 Jamar a fair chance.

25 Now, my name is John Reuben Long. I'm an attorney in

1 Conway at Thompson and Henry Law Firm. I graduated from law
2 school in 2007. The reason why I went to law school, I had a
3 good job with the federal government. I quit it to go to law
4 school. I -- it seemed like a good idea, but the reason why I
5 went to law school is for cases just like this. In this case
6 you have a Defendant who's been wrongly accused for a crime
7 that he did not commit and he's looking to spend a significant
8 amount of time of his life in jail, and he's accused falsely
9 based on one person's testimony, and you'll hear her today,
10 Deaungela Shanta Montgomery, a convicted felon, a crack head,
11 somebody who has something to gain by testifying. You will
12 not hear testimony from the victim, Angela Eckler, that she
13 saw Jamar Huggins. She cannot identify the people who went
14 into her house. I am not here to convince you that a terrible
15 heinous crime was not committed. I believe without a shadow
16 of a doubt a terrible crime happened. Ms. Eckler's home was
17 invaded. Her daughter and she were traumatized, but don't
18 confuse your emotions and anger with that to point the finger
19 at Jamar Huggins.

20 Now, this case gets kind of technical because there are a
21 lot of names being -- that are going to be thrown around
22 during testimony; and so if you'll indulge me for one second.
23 I'm a very visual type person. You can tell me things all day
24 long and I will not retain it, but if I see it, I'll retain
25 it. So if you're like that, this might help, and if my hands

1 are shaking and if my handwriting is not very good, it's
2 because I'm nervous. I don't mind telling you. This is a big
3 deal. Okay?

4 All right. So I mentioned Deaungela. Her name is also
5 Shanta, and you'll hear Deaungela Shanta Montgomery. This is
6 all the same person. She's the only witness who can -- who is
7 going to testify against Jamar Huggins. Okay?

8 She's addicted to crack cocaine. She'll admit that. She
9 had, for lack of a better word, a sugar daddy, someone who
10 would supply her with crack cocaine and get high with her.
11 His name is Adrian Moore. His nickname is either Dre or
12 Drake. You're going to hear Dre or Drake a lot. So Adrian
13 Moore, the evidence will show, Adrian Moore had a lot of
14 money, comparatively speaking, and he bought crack cocaine so
15 that he and Deaungela Moore [sic] could smoke crack cocaine
16 together.

17 Adrian Moore or Drake was Angela Eckler's boyfriend,
18 live-in boyfriend. I'll put Angela down there. Angela,
19 there's no evidence to show Angela's involved in any type of
20 drugs, not trying to paint that picture at all. I think she's
21 just an innocent victim of this whole thing. Okay?

22 Now, evidence will show that Adrian Moore and Deaungela
23 or Shanta they got their crack cocaine from one guy named
24 Juice. Juice had the crack. As a matter of a fact, the
25 evidence will show that Juice introduced Shanta and Drake. So

1 the three of them knew each other well. They got together.
2 They knew each other's cell phone numbers. Drake, he started
3 getting on hard times and bad health issues. He got behind on
4 the money he owed Juice for some crack cocaine. He owed Juice
5 \$600 for crack cocaine at the time this incident occurred.
6 Then, excuse me, Drake, he goes into the hospital about a week
7 before this home invasion occurred. So he's out of the
8 picture.

9 Deaungela, she's still smoking crack. She doesn't know
10 where Drake is. She's still smoking crack. She's getting it
11 from Juice. Evidence will show that she was hurting for some
12 cocaine. She needed, she needed some money or she needed some
13 cocaine. She knew that Adrian was getting his money from
14 Angela, and so evidence will show that Shanta, Deaungela and
15 Juice went into Angela's house and did the home invasion.
16 You're going to hear that -- you're going to hear that from
17 Shanta. She's going to tell you that Juice had on the mask.
18 Juice got mad at the second guy.

19 Now, about three weeks after the home invasion, Shanta's
20 in jail for another crime. It's armed robbery, burglary.
21 She's involved in a lot of crimes. Evidence will show that.
22 So while she's at J. Reuben Long, the police come to talk to
23 her. Detective Martin talks to her and about this home
24 invasion, and Deaungela, you'll see, that she said, "Oh, it
25 was Junk." Junk is Jamar Huggins, my client. See, now,

1 aren't you glad I'm -- it's technical. Now, that's about
2 three weeks after the crime. Okay?

3 Now, as Shanta is telling this story to the police that,
4 "Junk was involved, Junk did this, Junk did that," she is
5 intermingling the name Juice with Junk. She said, "Junk went
6 into the house and Juice put on his, his mask and Juice got
7 mad," and so she can't keep her story straight. She changes
8 her story three or four times in the last year and a half.
9 Evidence is going to show that.

10 Then just yesterday, you'll see, just yesterday Deaungela
11 changes her story once again and brings in a guy named Tyjuan.
12 That's brand new stuff, never mentioned Tyjuan before. She's
13 mentioned him. Said he wasn't involved. So Shanta is -- she
14 doesn't -- the truth is not in this woman, and as I said,
15 she's the only one who can show, or not show, but the only one
16 who will testify that Jamar Huggins went in that house.

17 Now, the police once they heard about Jamar Huggins and
18 Shanta said, "It was Jamar," even though the police heard her
19 get Juice and Jamar confused, once they got the name Jamar
20 Huggins, they stopped their investigation. They quit. They
21 didn't do anything. They said, "We got our man. We're done."
22 Close this case with Jamar's name on it, never arrested the
23 second guy, never interviewed Juice, never searched Jamar
24 Huggins' house, never, never -- talked to Adrian Moore once.
25 That's it, one time. Never searched Juice's house, never

1 searched Juice's car. They did nothing, nothing.

2 So now we're here today, and I'm here to clear Jamar
3 Huggins' name. Jamar, he comes to this court with a cloak of
4 innocence wrapped around him. He is innocent until proven
5 guilty. It is the State's responsibility to take that robe
6 off of him, that heavy cloak off of him thread by thread to
7 prove that he is guilty beyond a reasonable doubt.

8 Now, what does that mean? That's kind of lawyer talk.
9 The best way I can describe it -- as I said, I'm kind of
10 visual. Beyond a reasonable doubt, if this banister here was
11 doubt, at this end you say there's no way, absolutely not, it
12 never could have happened, it's impossible. This end you say
13 absolutely it happened, "I have no doubt about it." Now,
14 where is reasonable doubt? Nobody knows for sure. It's
15 somewhere down here. It's not here in the middle. Here in
16 the middle is like 50, 50. You say it might have happened, it
17 might not have happened. "I can't tell." Jamar might have
18 been involved, it might have been Juice, "I don't know. I
19 can't tell." That's the middle. That's not reasonable doubt.
20 To get reasonable doubt, you've got to come down here and say
21 is there a nagging feeling in my head maybe Jamar didn't do
22 it? If it is, that's reasonable doubt. That's reasonable
23 doubt, and they have to prove it beyond a reasonable doubt
24 that Jamar Huggins was the person who went into that house.

25 Ladies and gentlemen, I'm sorry to take so long. I thank

1 you for your service. All I'm asking you to do is keep an
2 open mind, use your common sense, which is kind of a rare
3 commodity in the court system at sometimes. Weigh the
4 evidence. Look at the testimony of Shanta Montgomery, and at
5 the end of the day I think you'll find that my client, Jamar
6 Huggins, is not guilty of this home invasion. Thank you.

7 THE COURT: All right. Ladies and gentlemen, we will now
8 begin the evidentiary portion of the trial with the State's
9 case. Ms. Elder, the State can call their first witness.

10 MS. ELDER: We would call Deaungela Montgomery.

11 THE COURT: All right. All right. Ma'am, if you'd
12 please come around.

13 Whereupon, Deaungela Montgomery was called to the stand,
14 duly sworn by the clerk and testified as follows:

15 THE CLERK: Please be seated. State your full name,
16 spell your last name for the Court, please.

17 MS. MONTGOMERY: Deaungela Montgomery, M-O-N-T-G-O-M-E-R-
18 Y.

19 THE COURT: All right. Could you spell your first name
20 as well, please?

21 MS. MONTGOMERY: D-E-A-U-N-G-E-L-A.

22 THE COURT: All right. Thank you. All right. Ms.
23 Elder.

24 MS. ELDER: Thank you, Your Honor.

25 DIRECT EXAMINATION

1 BY MS. ELDER:

2 Q Ms. Montgomery, you obviously are incarcerated currently;
3 is that correct?

4 A Yes, ma'am.

5 Q Okay. And you pled guilty to some offenses a short time
6 ago?

7 A Uh-huh. Yes, ma'am.

8 Q What, what did you plead guilty to?

9 A Two counts of armed robbery.

10 Q Okay. And you are currently in the Department of
11 Corrections; is that correct?

12 A Yes, ma'am.

13 Q And you were brought here today by the State; is that
14 correct?

15 A Yes, ma'am.

16 Q All right. And just to go ahead, and for the jury, have
17 you talked to me before?

18 A No. I don't remember.

19 Q Okay. And have I offered anything to you for your
20 testimony here today?

21 A No, ma'am.

22 Q And without telling us your sentence, you have, in fact,
23 already been sentenced by the Court; is that correct?

24 A Yes, ma'am.

25 Q Okay. And did you get any assistance with that from the

1 State?

2 A No, ma'am.

3 Q One of the armed robberies that you have been convicted
4 for, I want to take you back to the one in December of 2012.

5 A Uh-huh.

6 Q Do you remember that?

7 A Not really.

8 Q Okay. Do you remember going to a house on Lane?

9 A Yes, ma'am.

10 Q And tell me about what happened when you went to that
11 house.

12 A I can't really remember.

13 Q All right. Do you remember giving statements before?

14 A No. I'm on medication now. So I don't -- I can't
15 remember nothing really.

16 Q All right. Do you remember talking to somebody last
17 night, yesterday?

18 A Yes.

19 Q Okay. Well, tell us what you told him about this event.

20 A I told him about me and Tyjuan McKiethan going, planning
21 a robbery and went to, I guess, her name is M.E.

22 Q Uh-huh.

23 A And he called somebody but that -- he don't look like the
24 same guy.

25 Q Do you remember telling him that it was Junk?

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1 A Yeah. I remember the name by Tyjuan but he doesn't look
2 like the same person.

3 Q Do you remember talking to the detective?

4 A Which one?

5 Q This one right here.

6 A No. I don't remember him.

7 Q Do you deny picking out Jamar Huggins back in early
8 January of 2013?

9 MR. LONG: Objection, Your Honor. She says she doesn't
10 recall.

11 THE COURT: She said she didn't recall the incident.
12 This is a different question. I'll allow it. Overruled.

13 A What you said again?

14 Q Do you recall telling this detective that Junk was with
15 you and you picked him out and showed, showed the detective?

16 A After they say -- after they asked me was it Junk. So I
17 assumed that that was Junk. I, I don't remember him. I don't
18 know him.

19 Q I'll have you take a look at State's Exhibit One for
20 identification. Is that the picture they showed you?

21 A No. I don't know.

22 Q Do you recall giving a statement to police at all?

23 A To what police?

24 Q In January, this man right here in January of 2013?

25 A I don't remember him.

1 Q And you -- do you deny that you made a statement?

2 A I probably did because, I mean, I don't know. I don't
3 know. I can't really remember nothing.

4 Q Okay. Did you make a statement to police identifying
5 Junk as the one who went with you and Ty to do an armed
6 robbery?

7 A I remember the name. So, yes, I did make the statement,
8 but what I'm telling you is this is not the same person.

9 Q Okay. Do you recall when you say that Junk went with you
10 that the person you identified as Junk was Jamar Huggins?

11 A I guess because they asked me was it Junk and I assumed
12 that it was Junk by the name. So I said it was him.

13 Q And you described him at that time.

14 A I don't remember describing him.

15 Q Do you deny that you described him as a man between five
16 six and five eight?

17 A I don't remember.

18 Q Do you recall that you described him as long dreds?

19 A I never said if his dreds was long or not. I said he had
20 hair. I never recall any dreds. I just said he had hair.

21 Q You know your statement was recorded at the time?

22 A Uh-huh.

23 Q So are you saying that if we play the recorded statement
24 there would be nothing in there about long dreds?

25 A I don't know. I don't know. I can't remember.

1 Q You also recall saying that he had a grill in his mouth?

2 A Uh-huh.

3 Q Okay.

4 REPORTER: Is that a yes?

5 THE COURT: Is that a yes?

6 A Yes, ma'am.

7 Q And that he was approximately 30 years old?

8 A I don't remember what age I said.

9 Q Okay. Do you recall that you actually gave and described
10 where he lived on Avenue in Conway?

11 A Yes. Because we pulled over across the street from that
12 house. That's why I gave that house.

13 Q And you said that's where he lives?

14 A Yeah.

15 Q And do you recall telling the detective that the car that
16 drove you to Ms. Eckler's house was Jamar Huggins?

17 A Yes, ma'am.

18 Q And that Jamar Huggins was driving the car when you went
19 over to Angela Eckler's house?

20 A Yes, ma'am.

21 Q And that Jamar Huggins had a mask on when he went into
22 Ms. Eckler's house?

23 A Yes, ma'am.

24 Q And he also had a weapon.

25 A Uh-huh.

1 Q Is that a yes?

2 A Yes, ma'am.

3 THE COURT: Excuse me.

4 Q So you do say you --

5 THE COURT: Hold. We've got an objection.

6 MR. LONG: Objection. It's -- I don't understand the
7 forms of her answers. She's saying -- I'm not sure what she's
8 affirming or what the question is. If Ms. Elder could be a
9 little more specific as to what she's actually asking.

10 THE COURT: I think she's asking if in her prior
11 statement this is what she said in her prior statement, but
12 I'll let you address that on cross examination. All right.
13 Go ahead.

14 Q So you do recall telling the detective that he, Jamar
15 Huggins, had a mask and a gun on when he went to Ms. Eckler's
16 house?

17 A Yes, ma'am.

18 Q You also recall that you gave a statement saying that you
19 went to the house and knocked on the door?

20 A Uh-huh. Yes, ma'am.

21 Q And there was another male with you?

22 A Uh-huh. Yes, ma'am.

23 Q Tell me what happened after you knocked on the door.

24 A I turnt -- she -- when I first knocked on the door the
25 victim didn't open her screen door. She opened her first

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- 1 door, and after I asked for Dre she say he wasn't there. So I
2 turned around and walked off. When I walked off she opened
3 her screen door and was hollering at me trying to make me stop
4 so she could tell me where he was at, but I kept on walking
5 and got back inside the vehicle.
- 6 Q What happens next?
- 7 A And the two guys went in.
- 8 Q The two guys being Jamar Huggins and another individual?
- 9 A I guess Jamar Huggins, and yes, another one.
- 10 Q You know you were in his car?
- 11 A Uh-huh.
- 12 Q You described his car as a Cadillac.
- 13 A Uh-huh.
- 14 Q You even described the color.
- 15 THE COURT: Is that a yes?
- 16 A Yes.
- 17 THE COURT: Ma'am, you need to answer yes or no.
- 18 A Yes, ma'am.
- 19 THE COURT: Okay.
- 20 Q You even described the color.
- 21 A Uh-huh. Yes, ma'am.
- 22 Q And how long was it before Jamar came out and got in the
23 car with the other male?
- 24 A I cannot state that. I don't know.
- 25 Q Okay. And do you recall telling the detectives what you

1 saw them come out with?

2 A I can't remember.

3 Q Do you recall why you told detectives that you went over
4 to Angela Eckler's house that night?

5 A No. I can't remember. Most of what I said to the
6 detective was not true because --

7 Q Okay. What about yesterday?

8 A I don't even -- to tell you the truth I don't -- I can
9 only say who went with me. That's all I can say. I really
10 can't even recall that night.

11 Q But you pled guilty to it?

12 A Yes. I pled guilty to it. I was convinced that that was
13 the only deal that I was going to get and if I brought it to
14 trial I can get up to 30 years. So I took the ten.

15 Q So you said that you know the two people you were with?

16 A I know one of them.

17 Q And you identified Jamar Huggins?

18 A I described him the best I could.

19 Q And his vehicle?

20 A And the vehicle. Yes, ma'am.

21 Q And where he lived?

22 A Yes, ma'am.

23 Q And that's the man that you told police had the mask and
24 went in with the gun?

25 A Yes, ma'am.

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1 Q Do you recall telling investigators that you knew Jamar
2 from the neighborhood?

3 A No.

4 Q And that he threatened you?

5 A No.

6 Q About drug money?

7 A No. I never said that.

8 Q Are you denying that you ever said that?

9 A Yeah. I never said that.

10 Q You never said he came to your house and said, "You're
11 giving me the money?"

12 A Oh, yeah, that -- I did say that. I was trying to
13 clarify myself out of it. I didn't know what to say off top.
14 I was scared, but that wasn't true. I said it.

15 Q Well, how did you come to be in Jamar Huggins' vehicle
16 that night?

17 A I was called downstairs by the other Co-Defendant.

18 Q So they came to pick you up?

19 A Well, when he came to my house we both got in the car but
20 I got dropped off at -- back at my house, and I don't know
21 where they went and then I was called downstairs. I walked
22 downstairs and got in the car.

23 Q With the -- with Jamar and the other guy?

24 A Yes, ma'am.

25 Q And is that when you went to Ms. Eckler's house?

- 1 A Yes, ma'am.
- 2 Q And that's when you went up and knocked on the door?
- 3 A Uh-huh. Yes, ma'am.
- 4 Q Why did you go up to the door and ask for Drake?
- 5 A Because I know what I was -- I knew what was going to
- 6 happen. That's the only way I could have got her to open the
- 7 door.
- 8 Q What did you know when you knocked on the door was going
- 9 to happen?
- 10 A That she was going to be robbed.
- 11 Q By who?
- 12 A By Tyjuan McKiethan and his friend.
- 13 Q Who was driving the car?
- 14 A Uh-huh.
- 15 Q Who you've identified as Jamar Huggins?
- 16 A Yes, ma'am.
- 17 MS. ELDER: One moment, Your Honor.
- 18 THE COURT: All right.
- 19 BY MS. ELDER:
- 20 Q Do you recall telling the detectives how you knew Jamar
- 21 Huggins?
- 22 A No. I don't remember.
- 23 Q How you knew him as Junk?
- 24 A No. I don't.
- 25 Q Do you deny that you told him that you saw him every day?

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1 A I'm not going to deny it. I just don't remember. It's
2 been a while.

3 Q Okay. So if I tell you that it's recorded and you, you
4 admitted that?

5 A I mean, if it's recorded it's recorded, but I don't
6 remember is what I'm saying.

7 Q Okay. So is it possible that you told the detectives
8 that you knew him and saw him every day and you knew him as
9 Junk?

10 A Maybe.

11 Q Is it possible that you told an investigator last night
12 that very same thing?

13 A No. I don't think so.

14 Q Do you recall talking to an investigator last night?

15 A I remember.

16 Q Okay.

17 A But I think he was asking about another person.

18 Q Named Junk?

19 A No. Tyjuan.

20 Q Who is Drake?

21 A The victim's boyfriend.

22 Q All right. And were you involved with him?

23 A Yes, ma'am.

24 Q And do you recall telling, telling the detectives who
25 Drake got his drugs from that you all used together?

- 1 A I don't think I stated the correct name when I said it,
2 but I remember talking about it.
- 3 Q Well, who did you tell them that you -- that he got the
4 drugs from?
- 5 A I told them Junk, but it was a lie. We -- I didn't want
6 to say the name that we got it from, and I still don't want to
7 say the name.
- 8 Q But you told them at the time right after this happened
9 that it was Junk?
- 10 A Yes. I did. Yeah. But it was a lie.
- 11 Q Do you recall telling the detectives why Junk or Jamar
12 Huggins was looking for Drake?
- 13 A It was a lie. He wasn't looking for Drake. He don't
14 know who Drake is. He never saw him before.
- 15 Q All right. Well, my question is this. What did you tell
16 the detectives in January --
- 17 A I told --
- 18 Q -- of 2013?
- 19 A I told them that he came to my house ordering for us to
20 pay money that we owe him, but it was a lie.
- 21 Q Okay. And yesterday, what did you tell the detectives
22 about Junk?
- 23 A I didn't tell them nothing. I just said he went with us.
24 That's all I said.
- 25 Q Okay. So was that made up, too?

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1 A Was what made up?

2 Q What you said yesterday.

3 A No, ma'am.

4 Q Okay. So Junk, Jamar Huggins, did, in fact, go with you
5 to Ms. Eckler's house?

6 A Junk went with me, nut what I'm telling you is I don't
7 remember him. I don't know who he is.

8 Q Okay.. So it's possible that he looks substantially
9 different?

10 A Yes. Maybe. It just don't look like the same person
11 that went with me.

12 Q Okay. Were his dreds that long?

13 A No.

14 Q So his hair was different?

15 A Yeah.

16 Q Do you remember telling the detectives that you were
17 scared?

18 A Uh-huh.

19 Q That you were scared of Junk?

20 A I remember telling them that. Yeah. Because I didn't
21 know who he was. I don't know anything about him. So, yeah,
22 I did say it.

23 MS. ELDER: I have no other questions, Your Honor.

24 THE COURT: All right. Mr. Long, cross examination.

25 CROSS EXAMINATION

1 BY MR. LONG:

2 Q Ms. Montgomery, this is not the person who went in that
3 home invasion with you; is it?

4 A No, ma'am. No, sir.

5 Q It is not the person who went in the home invasion with
6 you?

7 A No, sir.

8 Q That's all the questions I have.

9 THE COURT: Redirect?

10 REDIRECT EXAMINATION

11 BY MS. ELDER:

12 Q But that's the person you identified in 2013; is that
13 correct?

14 A I identified Junk.

15 Q As, as Jamar Huggins?

16 A I don't know -- I didn't know his real name until I read
17 my motion of discovery.

18 Q Okay. Well, you knew his name when they showed you a
19 picture?

20 A I just knew him by Junk. I never said his name.

21 Q But you said that is Junk?

22 A Yes. Yes, ma'am.

23 Q Okay. And the detective then told you who that picture
24 was of?

25 A No. They didn't.

1 Q Okay. But the picture -- the person that you pointed out
2 to this detective in January is the person you know as Junk
3 that you're talking about today?

4 A I believe they already had it circled when they showed me
5 the pictures.

6 Q Is that the picture you -- I'm -- my question is, did you
7 identify the person you're referring to as Junk to this
8 detective?

9 A Yes, ma'am.

10 Q And is that the person that you're testifying went into
11 Ms. Eckler's house with a mask and a gun?

12 A I don't know. It's confusing.

13 Q Is that the person who drove you over there in his
14 Cadillac?

15 A That's not the person. That's what I'm saying.

16 MR. LONG: Your Honor, I object. It's been asked and
17 answered now several.

18 THE COURT: Sustained. Asked and answered.

19 Q The person you identified to detectives, is that Junk?

20 MR. LONG: Objection.

21 THE COURT: Sustained. Asked and answered.

22 A Yes, ma'am.

23 THE COURT: Strike the last.

24 MS. ELDER: I have no other questions, Your Honor.

25 THE COURT: All right. You may step down.

1 The State can call their next witness.

2 MS. ELDER: The State would call Angela Eckler.

3 THE COURT: All right.

4 Whereupon, Angela Nichole Eckler Dillon was called to the
5 stand, duly sworn by the clerk and testified as follows:

6 THE CLERK: Please be seated. State your full name,
7 spell your last name for the Court.

8 MS. ECKLER: My name is Angela Nichole Dillon now. It
9 was Angela Nichole Eckler, E-C-K-L-E-R, last name now is
10 Dillon, D-I-L-L-O-N.

11 DIRECT EXAMINATION

12 BY MS. ELDER:

13 Q Ms. Dillon, I want to take you back to December 20th,
14 2012. Where were you living at the time?

15 A We were living on Memory Lane in Conway.

16 Q And you have a daughter?

17 A I do.

18 Q And what's her name?

19 A M Eckler.

20 Q And how old is she now?

21 A She is 13 now.

22 Q She was 12 at the time?

23 A Yes, ma'am.

24 Q Tell me what you recall about that night.

25 A It was a very busy night. It was right before Christmas.

1 Of course, Adrian had been gone for almost a week, just about
2 a week. So the kids and I literally was just trying to get
3 our Christmas tree up and get in our -- they -- we -- my
4 husband and I -- ex-husband and I have shared parenting. So
5 it's one, one -- one week on, one week off. That particular
6 week was not my week for any of my children, but in return
7 because us three were upset with -- I had thought at the time
8 Adrian was just having an affair with someone else. He wasn't
9 answering his phone when I was calling. He literally went to
10 work and never returned back. He does have a child in
11 Michigan, and he had -- knew he had been talking to his baby's
12 mamma. So in return I thought that he had just went back to
13 her.

14 We had put the tree up. A good friend of mine actually
15 bought the Christmas tree for me and went to my ex-husband's
16 to bring the children to me to help me decorate the tree. My
17 son, C and my daughter, M decided to come. My
18 oldest child went to a friend's.

19 We'd put up the Christmas tree. Jessica Hucks was my
20 good friend that had been there literally up until 11:30 that
21 night. We were watching Christmas movies, and I had made
22 dinner for all of us. Her oldest daughter was my daughter's
23 age. So she was actually supposed to spend the night with us
24 that night. Fortunately, she didn't.

25 They left. M and I cleaned up the kitchen. In the

1 middle -- we have a -- had an apartment behind our house that
2 we were renting to another good friend of mine's grandmother.
3 I had spoke to her earlier that day due to the fact that Jenny
4 and her child were in the hospital and the baby had been very
5 sick and Grandma was going. I called her Grandma, but she
6 wasn't my Grandma. She was just a very good friend that I
7 called Grandma, too, also. She had come to house late,
8 probably about 9:30, 10:00 o'clock because we had had company.
9 Jessica was there with the children -- to let me know she was
10 going to go see Jenny and the baby, and I said, "No matter
11 what, when you get back, come and let me know how they're
12 doing."

13 Memory Lane is a dead-end road. We were the youngest
14 couple on the street. Unfortunately, there was many times
15 that we never even locked our doors at night. When Mariah and
16 I went to bed she slept with me, actually. All of Adrian's
17 things had been packed because he'd never returned, and I had
18 had them packed prior to the night of this home invasion and
19 it was in my bedroom. Mariah and I had crawled in bed, and we
20 were watching the movie Elf, and I have a big fat chocolate
21 lab. She's ten years old, but I have had her since she's been
22 about a year and a half old. She's never been one of a dog to
23 bark. She's very well-behaved dog. She always slept in my
24 bedroom. So I was kind of in a sleep and out of a sleep. I
25 thought that I could hear a door, somebody knocking at the

1 door, but I could also hear Chocolate kind of growling
2 underneath her voice, and that's what kind of startled me, and
3 then I heard the knock, and I thought, well, for sure, it was
4 Grandma at the door.

5 I had walked into the living room. All of the house was
6 dark minus my TV on in the bedroom, and we had tea lights in
7 the window. I had opened the front, the big door, and in
8 front of me stood [sic] a very-well dressed, well-put-
9 together, attractive woman, and my first response was really
10 not even what time of the night it was because I was -- it was
11 just -- I was so just focused on it being Grandma and it not
12 being her, knowing that maybe this lady has -- my porch light
13 is on, knowing that Grandma's going to be coming, I thought
14 that she had broken down, and at the time Chocolate's barking,
15 which Chocolate was never a barker.

16 Chocolate starts barking, and she's talking, and I can't
17 hear because there's still the door between me and her, and
18 because Chocolate had never barked, I was trying to get her
19 quiet, and literally, as I went to -- because Chocolate never
20 even wore a collar -- to get her to go back to the room, I had
21 -- there was a -- my daddy's rocking chair was right by the
22 front door. I had just made that turn, and immediately two
23 men came in.

24 As I glanced through, that's when I seen the female
25 running off that quickly. From that point on, it was just a

1 lot of yelling. The one particular man I remember having a
2 really thick jacket on. I wasn't able to see his face because
3 he made sure in the headlock I wasn't able to see him at all,
4 but the first thing I hit was my daddy's rocking chair which
5 was sitting right by the door, being drugged and slung by the
6 hair of my head, by the nape of my neck, and when I was able
7 to look up due to another gentleman yelling and screaming,
8 "Where's the f'ing money?" That's all I kept hearing is,
9 "Where's he at, and where's the f'ing money?" And I just kept
10 saying, "I don't have any money. Please stop." My baby was
11 in the next room. "Please just leave me alone."

12 They kept dragging me. I was there by the couch, and
13 Chocolate was trying to get her nose in between me and this
14 one gentleman, and he was becoming agitated because the dog
15 was trying to come in between us, and I kept saying, "Please,
16 my baby is in the next room. I don't have any money."

17 Then the other gentleman squatted down and put a gun in
18 my face and said, "Where's the f'ing money?" He had gloves
19 on. I wasn't able to see his face. I just seen everything
20 was black. His gloves were black. The gun was black. His
21 face was black, and as soon as I said for the last time,
22 "Please leave me alone. My baby is in my room," he drug me by
23 the hair of my head into the room and made me put my dog in my
24 walk-in closet. I kept telling him because Chocolate wouldn't
25 go, and you couldn't see M because M i was covered in

1 a blanket in my bed, and I even told the man, "She's not going
2 to go unless you let me go and walk in the closet so she'll
3 follow." He did, but by the hair of my head just enough to
4 get her in there, and the gentleman with the gun stood at the
5 foot of the bed, still with the weapon, and in return he
6 pulled me by the hair of my head, the same one that had been
7 aggressive from the beginning, and shut me in the bathroom and
8 held the door shut as I was trying to pull it open because
9 that's when I heard M..., and I knew what they had put me
10 through, and I was so afraid they would touch her like they
11 did me, and I was scared. She had to have been. So I'm
12 pleading through the door, "Just leave her alone," because
13 they're asking her, "Where's the f'ing money," over and over
14 and over again, and all I can hear is M... saying, "We don't
15 have any money. The only money I have is in my purse on the
16 table for my birthday."

17 And I'm still yelling and screaming to let me have her,
18 "Just give her to me." The door opens very quickly, and they
19 push her in it. We had a garden tub, and I was sitting
20 because when she come in here and I just grabbed each other
21 and her and I sat down on the thing and I had had my cell
22 phone in my pocket, and how it stayed in there I don't know.
23 I went to grab it out, and I was the one hysterical, but my 12
24 year old was staying calm, and I went to dial 911, and she
25 said, "Mommy, please don't. Wait till they're gone."

1 I did. I waited until I hear them plundering through the
2 house. I can hear them rustling through stuff, and until we
3 heard nothing more, the only thing I could think of was I
4 didn't want us in there anymore. I wanted to protect her
5 because she was so scared and she just wanted out. So that's
6 when I went to the police department, and I really don't even
7 know how I had the strength to even get in the car to go. I
8 just knew I needed to get somewhere safe, and that's what
9 happened that night.

10 Q Take a deep breath. Now, I'm going to ask you about some
11 particulars of what you just described. Okay?

12 A Yes, ma'am.

13 Q You said one man had a gun?

14 A Yes, ma'am.

15 Q Tell me again what you remember about that man.

16 A He -- I was not able to see his face. He had a hood type
17 of thing on like it was black as well, and I wasn't able to
18 see anything besides literally everything on the top was
19 black. He did have shiny looking gloves on, and the gun was
20 black.

21 Q And tell me about the other guy.

22 A I never even got a chance to see his face because he
23 never gave me the option. He took me from the back
24 immediately, and so he never -- he had me in such a chokehold
25 that literally my neck was bruised for weeks; and so I wasn't

1 able to see him at all.

2 Q Okay. And when detectives came to talk to you, did you

3 -- they showed you a couple of lineups?

4 A Yes, ma'am.

*5 Q And as you've indicated you couldn't pick out the two

*6 males?

*7 A No, ma'am.

8 Q You did identify the female?

9 A Yes, ma'am. At first I was -- I couldn't because I had
10 -- she -- it -- she -- it kind of was. So I had asked if they
11 had a different picture, and he did, in return, bring me one
12 that -- of her done up, and I was able to that way.

13 Q Okay. And that was the woman who was just in here; is
14 that correct?

15 A Yes, ma'am.

*16 Q Now, you indicated Adrian was someone that was living
*17 with you at that time?

*18 A We were actually engaged to be married.

19 Q Okay. And how long had he been gone from your house
20 prior to this?

21 A Adrian had went to work on a, on a Monday morning. He
22 hadn't returned at all. So it would have been a week prior
23 to, I believe.

24 Q Do you know if Adrian had a street name?

25 A No, ma'am. The only thing I've ever known about Adrian

1 is just the fact that him and I actually went to school
2 together back in elementary and middle school, and his family
3 was good friends with mine, my family. His daddy was a
4 preacher. We remained friends all through childhood and
5 somewhat of an adulthood, through our marriage, through my
6 marriage, just Adrian Maurice Moore.

7 Q And subsequent to this, all of this happening, have you
8 learned that he had another life?

9 A Unfortunately, yes.

10 Q And were you aware of it while he was living there with
11 you?

12 A No. I did not.

13 Q Have you talked with him since that night?

14 A Absolutely not.

15 Q When's the last time you spoke to him?

16 A I actually got a phone call. This is -- that's how I
17 knew where he was at. Prior to him going to work and not
18 coming home, I had gotten a phone call that he was at the
19 Conway Medical Center and had requested to talk to me.

20 Q And since that time, do you have any idea where he is
21 now?

22 A No, ma'am.

23 Q Have you asked anybody where he was --

24 A I --

25 Q -- family members or anything like that?

1 A No, ma'am.

2 Q Do you know if he's still even in the area?

3 A I do not.

*4 Q Now, when you identified Ms. Montgomery, did you -- were
*5 you able to see outside? When she knocked on the door, did
*6 you see --

*7 A My, my porch light was on --

*8 Q Uh-huh.

*9 A -- and my light is right by the door. So, yes, ma'am. I
*10 was able to see her.

*11 Q Okay. Did you see a car?

*12 A No, ma'am.

13 Q And did you see the males, the two males when she knocked
14 on the door?

15 A No, ma'am.

*16 Q What time of day was this again?

*17 A It was at middle of the night. I want to say it was like
*18 2:20 in the morning.

19 Q Okay. And this happened here in Conway?

20 A Yes, ma'am.

21 Q And what did they take out of your house?

22 A At the time, of course, I left. So I didn't know what
23 they had taken, but when I had went back prior to being with
24 the investigators, there was games that my son had said were
25 missing, and of course, I really didn't keep track of the

1 games that they had just because there were so many. There
2 was some games missing. There was a camera missing, and
3 Mariah's money was missing.

4 Q Do you remember how much money that was?

5 A I really do not.

6 Q When they had you separated from your daughter, where
7 were you in the house?

8 A I was in the master bathroom, which is in my bedroom.

9 Q And what prevented you from getting out?

10 A I was trying to pull on the bathroom door, and one of the
11 gentlemen was holding it tight, and I was pulling and he was
12 pulling and I was screaming.

13 Q So you couldn't leave?

14 A No, ma'am.

15 Q And you couldn't get out?

16 A I begged.

17 Q Did your bathroom have a window?

18 A Yes, ma'am. By the shower.

19 Q All right. And why didn't go out the window?

20 A I just wanted Mariah.

21 Q Your daughter was still in another part of the house?

22 A Yes, ma'am.

23 MS. ELDER: I have no further questions, Your Honor.

24 THE COURT: All right. Cross examination.

25 MR. LONG: Yes, sir.

Angela Eckler - Cross by Defense

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CROSS EXAMINATION

BY MR. LONG:

Q Ms. Eckler, I'm sorry you had to go through such a tragic event. Nothing we can do to stop that. You cannot identify the two men who went into your house; can you?

A Unfortunately, no, sir.

Q You cannot identify that Jamar Huggins went into your house; can you?

A No, sir.

MR. LONG: That's all the questions I have.

THE COURT: Redirect?

MS. ELDER: No further questions, Your Honor.

THE COURT: You may step down.

The State can call their next witness.

MS. ELDER: Your Honor, we have a matter we need to address with the Court.

THE COURT: All right. Ladies and gentlemen, I'm going to excuse you back to the jury room while we take up this matter of law with the attorneys, and I tell you why we excuse you back to the jury room. It's not that we're trying to hide anything from you. As I told you at the outset, you and you alone decide the facts of this case. I decide the law to be applied in this case. Well, sometimes when these questions of law come up that I need to discuss with the attorneys, it requires me as the Judge and the attorneys to discuss factual

1 issues. Well, what we say is not evidence, and when we decide
2 the law, when we discuss the facts, we do not want you to be
3 influenced by our discussions in your determination as to what
4 the facts are in this case, and so that's why we excuse you
5 back to the jury room is so that you're not influenced by
6 anything that I might say or that the attorneys might say when
7 we discuss the law to be applied in this case. So I'm going
8 to excuse you back to the jury room for a few minutes, give
9 you an opportunity to stretch your legs, use the restrooms.
10 Do not discuss this case even among yourselves at this point
11 in time. It's too early for deliberations and we'll take a
12 short break. Okay. Thank you very much.

13 (Whereupon, the following takes place outside the
14 presence of the jury.)

15 THE COURT: All right. Ms. Elder.

16 MS. ELDER: Your Honor, two issues that before I called
17 Detective Martin up to the stand I want to address with the
18 Court. One is I didn't foresee it, but after Ms. Montgomery's
19 performance today on the stand, I think it's necessary. Mr.
20 Huggins gave a statement to police at the time of questioning
21 after Miranda. My intent would be to publish that for the
22 jury. So I think we would need to have a, outside the
23 presence of the jury, a hearing regarding his statement and
24 introduction of that statement, Your Honor.

25 THE COURT: All right. Jackson v. Denno, can we do at

1 this point in time?

2 MR. LONG: I'm really not prepared for it to be honest
3 with you. I had no notice that there would be a Jackson v.
4 Denno hearing necessary.

5 MS. ELDER: Your Honor --

6 THE COURT: Was the statement ever provided to you?

7 MR. LONG: Yes, sir.

8 THE COURT: Okay.

9 MS. ELDER: And Your Honor, that hearing can be done at
10 any time. We typically try to do it at, at pretrial, but it
11 can be done at any time.

12 THE COURT: Okay. I don't know. It's always been
13 pretrial. So I don't know, but I mean, if you're going to
14 introduce a statement by the Defendant then, yes, we will need
15 a Jackson v. Denno hearing.

16 MS. ELDER: Yes, sir. The statement's not very long. I
17 know --

18 THE COURT: Okay. Well, let's go ahead and you'll -- are
19 you ready to do it?

20 MS. ELDER: Yes, sir.

21 THE COURT: Okay.

22 MS. ELDER: Well, I need something to play it. I would
23 -- I don't typically play it, Your Honor, but some Judges want
24 to hear it in its entirety. It's up -- you want to do that.

25 THE COURT: Yeah. I think I need to review this.

1 MS. ELDER: Okay.

2 THE COURT: Well, first you're going to have to put up
3 the proof that it was voluntarily made --

4 MS. ELDER: Yes, sir.

5 THE COURT: -- and things of that nature, and then I'll
6 need to review the statement whether it's written or recorded,
7 however.

8 MS. ELDER: It's recorded, Your Honor.

9 THE COURT: It's recorded.

10 MS. ELDER: Yes, sir.

11 THE COURT: Okay. Well, you're going to need to put up
12 your evidence that shows that it was a voluntary statement,
13 and then if I rule that it was voluntary, I'll review the
14 statement and then, and then we'll proceed; okay?

15 MS. ELDER: Okay.

16 THE COURT: All right. So let's take about a five-minute
17 break, get ready and we'll, we'll do that.

18 MS. ELDER: There was a second matter, Your Honor --

19 THE COURT: All right.

20 MS. ELDER: -- I wanted to address so we didn't have to
21 send the jury out and in.

22 THE COURT: All right.

23 MS. ELDER: The -- this detective, Your Honor, when I, I
24 call him to the stand, I believe it is proper based on my
25 questioning of, of Ms. Montgomery to impeach her by allowing

1 the publication of her statement that was taken by this
2 detective.

3 THE COURT: I don't know. She didn't deny making the
4 statement. She just said --

5 MS. ELDER: She denied that it was this Defendant.

6 THE COURT: Yeah. She denied that. So does the
7 statement identify -- she said it was Junk. She said she said
8 Junk. She just said Junk was not this Defendant. So --

9 MS. ELDER: And she also said she -- he didn't show her
10 this, that he showed her a circled picture. He also -- she
11 also said that she don't remember -- she didn't see that, and
12 that's --

13 THE COURT: Well, you never did show -- did you -- yeah,
14 you showed her that.

15 MS. ELDER: Yes, sir. I did. Yes, sir. I did, and it's
16 clear in the recorded statement that this detective showed
17 them, showed her the picture, and she said, "Yes, that is
18 Junk."

19 THE COURT: Well, I mean, I don't know -- you never did
20 play the statement to her. She just --

21 MS. ELDER: Your Honor, I asked her about the -- I asked
22 her about that, she denied it.

23 THE COURT: Yeah. But I mean, how do I know that the
24 statement you're going to play to the Court now is the one she
25 gave if you never played it to her to identify? She said she

1 did not recall.

2 MS. ELDER: Your Honor, I -- I think the rule requires us
3 to let her know the content of the statement, which I did, and
4 she denied saying that -- she denied this picture and said,
5 "No. I didn't, I didn't see that."

6 THE COURT: Yeah. But then at that point in time you
7 need to play the statement to her and say -- I mean, I -- the
8 question is is can you bring it in now, or when she denied it,
9 then you could have used it to impeach her testimony. I don't
10 know that you can get it in with another witness.

11 MS. ELDER: Your Honor, I think that it -- that I could
12 at the very least put the detective up and ask him if he
13 showed Ms. Montgomery this photograph and was she able to
14 identify that individual as Junk because she did specifically
15 --

16 THE COURT: You might be able to -- you might be able to
17 do that. Let me hear from Mr. Long on that.

18 MR. LONG: She -- this -- it's too late. She had the
19 opportunity to refresh her recollection at the time of cross
20 examination.

21 THE COURT: Well, she did show her the photograph when
22 she was on the stand and she denied.

23 MR. LONG: And, and it was asked and answered, and she
24 did -- could not identify this man as Junk, as Jamar Huggins.

25 THE COURT: Well, and I understand that. What she's

1 talking about now is she showed her that photograph, and she
2 denied that that was the photograph where she identified Junk.
3 So the question is now can the officer say this is the
4 photograph I told -- showed her and she did identify him as
5 Junk. Now, that's different than the recorded statement.

6 MS. ELDER: Yes, sir.

7 THE COURT: Where she denied making statements in the
8 recorded statement, I think at that point in time is where you
9 can introduce the prior inconsistent statement.

10 MS. ELDER: Yes, sir.

11 THE COURT: But I don't know that you can get in the
12 prior inconsistent statement with this witness when she is no
13 longer available for cross examination on that issue.

14 MS. ELDER: Yes, sir. Then I'll, I'll focus then on the
15 question that I just presented to the Court.

16 THE COURT: Well, I don't know. Let me, let me take a
17 break.

18 MR. LONG: She -- the --

19 MS. ELDER: Your Honor, the only way to impeach her with
20 that is by the testimony of this individual.

21 THE COURT: On that one, I understand that.

22 MS. ELDER: Yes, sir.

23 THE COURT: Yes.

24 MS. ELDER: That's the only way I can impeach her --

25 THE COURT: On that.

1 MS. ELDER: -- is by putting him up and asking that
2 question specifically.

3 THE COURT: Because that was not written or recorded or
4 that was not referenced in the recorded statement or any
5 written statement where she identified him. That was all
6 unwritten, unrecorded or did she identify him in a recorded
7 statement?

8 MS. ELDER: He said, "I want to show you this picture."

9 THE COURT: That's on the recorded statement?

10 MS. ELDER: Yes. And she said, "Yes, that's Junk," but
11 now she specifically denied that, and that's what the rule
12 requires. he has to specifically deny it.

13 THE COURT: Well, so why didn't you play the recording at
14 that time?

15 MS. ELDER: Well, Your Honor, the photograph, I can't get
16 the photograph in if she's denying it until I put this witness
17 up because it's not a video statement. It's a recorded
18 statement. So I can't possibly say that this is the photo
19 that was shown to her unless I put this witness up because
20 it's not a visual statement. It could have been any
21 photograph.

22 THE COURT: All right. Let me take that under advisement
23 and do some, do some research on that.

24 All right. Mr. Long, anything further before we take a
25 break?

1 MR. LONG: No, Your Honor.

2 THE COURT: All right. Let me take a break, do a little
3 bit of research, go ahead and get your system set up so we can
4 do the Jackson v. Denno. We'll take about a 10-minute break.

5 MS. ELDER: Yes, sir.

6 THE COURT: And then come back.

7 MS. ELDER: Thank you.

8 ***** OFF THE RECORD *****

9 (On the record. The following takes place outside the
10 presence of the jury.)

11 THE COURT: All right. We'll go forward. I am going to
12 allow the Jackson v. Denno hearing to determine the
13 voluntariness of the Defendant's statement, to determine
14 whether or not it's going to be admissible at trial. As to
15 the identification, the photo, the lineup photograph, we have
16 not had a Neil v. Biggers hearing. It's being challenged by
17 the Defendant. So it doesn't come in.

18 MS. ELDER: It wasn't a lineup, Your Honor.

19 THE COURT: It was a photo lineup or --

20 MS. ELDER: Yeah. Well, it was a -- no, it was the DMV
21 photo because she said she knew him. She knew him, and that
22 didn't require a photo lineup.

23 THE COURT: But still, any identification of the
24 Defendant we're still going to need a Neil v., I mean a, yeah,
25 a Neil v. Biggers hearing --

1 MS. ELDER: Then we're prepared to.

*2 THE COURT: -- to determine whether it was overly
*3 suggestive and things of that nature, and I just, I mean, and,
*4 and what -- and she's saying that this is not the Defendant.

*5 MS. ELDER: Today.

*6 THE COURT: Yes.

*7 MS. ELDER: That's not what she said in, in January of
*8 2013.

*9 THE COURT: But you're still offering a photograph to
*10 identify the Defendant without a witness saying that's the
*11 Defendant.

*12 MS. ELDER: But I can use that to -- Your Honor, I have
*13 --

*14 THE COURT: See, there's a question. Even if you use it
*15 to impeach her testimony, you're still offering the photograph
*16 for the truth of the matter asserted, to identify the
*17 Defendant.

*18 MS. ELDER: Yes.

*19 THE COURT: Okay.

*20 MS. ELDER: Well, well, I'm using it to impeach her
*21 initially.

*22 THE COURT: But if it's just for impeachment purposes you
*23 still don't have an identification. If you're offering it for
*24 the truth of the matter asserted, the fact that she identified
*25 that photograph as the Defendant, that's an out-of-court

1 statement, if you're offering it for the truth of the matter
2 asserted it's inadmissible by hearsay.

3 MS. ELDER: It is admissible though. It makes it
4 admissible under the rules if it's for the purpose of
5 impeachment.

6 THE COURT: Okay. If it's solely for the purpose of
7 impeachment and you're not offering it for the truth of the
8 matter asserted, then you don't have an identification.

9 MS. ELDER: But a prior inconsistent statement is a
10 exception to hearsay.

11 THE COURT: Well, I'm, I'm, I'm not going to allow the
12 photograph. We'll go forward with the Jackson v. Denno
13 hearing since it is a statement by the Defendant and we
14 haven't reached that posture at this point in time, but I'm
15 not going to allow the photo because she's, she's saying she
16 never saw that. Well, let me, let me reserve ruling. I'm
17 going to do some more research on that. Let's go ahead and do
18 the Jackson v. Denno hearing.

19 MS. ELDER: Well, Your Honor, that then brings us to the,
20 to the next thing I was going to tell Your Honor. I have
21 decided not to put that --

22 THE COURT: Okay.

23 MS. ELDER: -- into evidence --

24 THE COURT: All right.

25 MS. ELDER: -- his statement, but I would -- I am

1 pursuing the identification.

2 THE COURT: All right. Well, let's go ahead and bring
3 the jury in. I'm going to let them go ahead and break for
4 lunch because I'm going to need to do some more research on
5 this. Okay?

6 MS. ELDER: Yes, sir. And that would not give us an
7 opportunity to present case law after lunch, is that --

8 THE COURT: No. I'm going to do my own research and make
9 a decision --

10 MS. ELDER: Okay.

11 THE COURT: -- because I don't want to -- I, I ought to
12 be able to find something out. I mean, I think we're pretty
13 well -- you were pretty much expecting Ms. Montgomery to
14 identify the Defendant. She didn't do it on the stand. So
15 now you're wanting to use a prior photograph that she
16 identified.

17 MS. ELDER: Well, she did on the stand. She did say,
18 "Yes, I did say he was Junk was Jamar Huggins," and blah,
19 blah, blah, blah, blah, blah.

20 THE COURT: And this is not Junk. That's what -- her
21 testimony, as I recall it, is, "I identified Junk. I
22 identified a photograph. This Defendant is not Junk, and is
23 not the person I identified."

24 MS. ELDER: She says, "This doesn't look like the person
25 that was with me that night." I mean, we've got it on tape.

1 We can hear it.

2 THE COURT: Cross examine, yeah, cross examination he
3 said, "Is this the person," and she said no.

4 MS. ELDER: But I also asked her on direct, "Did you
5 identify Jamar Huggins on Avenue, drives a Cadillac,"
6 describes his long dreds, "as Junk," and she said yes.

7 MR. LONG: Then --

8 THE COURT: But that this is not him.

9 MS. ELDER: And when I showed --

10 MR. LONG: And she also said --

11 THE COURT: I understand what you're saying. She said
12 Jamal [sic], yes.

13 MS. ELDER: Yes.

14 THE COURT: She said that address yes. She said, "I
15 picked out a photograph, yes." She said, "But all of that
16 that I gave is not this Defendant."

17 MS. ELDER: But it is that Defendant. I mean, that is,
18 that is the Defendant. That's the -- that is where he lives.
19 That is his address. That is his description. That is -- and
20 that goes to the photograph she said she never saw.

21 THE COURT: Well, but, but still, I'll do the research on
22 it. We'll decide. I'll do the research, but I still, I still
23 don't think -- my initial inclination is that it doesn't come
24 in.

25 MS. ELDER: Well, Your Honor, and I'm not, I'm not

1 taking to berate the point, but she denies -- the rule
2 requires me to present her --

3 THE COURT: What rule are you going by?

4 MS. ELDER: Rule -- I just had it. I'm sorry, (as
5 read), "Extrinsic evidence is permissible," it says State
6 versus Blalock, it's a 2003 case.

7 THE COURT: That dealt with a prior --

8 MS. ELDER: Inconsistent statement. (As read),
9 "Extrinsic evidence is a -- of a prior inconsistent statement
10 is admissible if the witness is advised of the substance, time
11 and place of the statement, and either denies making the
12 statement, states he does not fully recall or does not
13 unequivocally admit he made it."

14 THE COURT: And what case is that?

15 MS. ELDER: State versus Blalock. It's 357, South
16 Carolina 74. It's also -- there's another case where
17 apparently they put up an inconsistent statement prior to the
18 witness actually taking the stand. They did reverse that
19 indicating that a prior inconsistent statement without first
20 having take the stand and denying making it is, is error, that
21 the declarant has to actually take the stand, deny making it
22 before we can introduce extrinsic evidence to the contrary.

23 THE COURT: Well, and the thing is is here she does not
24 deny making these statements.

25 MS. ELDER: She denied seeing that picture.

1 THE COURT: Well, she did deny seeing that picture. I'll
2 grant you that.

3 MS. ELDER: And that's what I'm focusing on right there,
4 Your Honor. That is the only thing that I'm talking about.
5 She denied, I showed it to her, she said, "No, he didn't show
6 me that," and --

7 THE COURT: He showed her one with a circle around it.

8 MS. ELDER: Some circle around it.

9 THE COURT: All right. Let me do the research on it.

10 MS. ELDER: Yes, sir.

11 THE COURT: But you are offering it as an identification
12 of the Defendant.

13 MS. ELDER: Well, I'm offering it to clear up her initial
14 identification, yes.

15 THE COURT: Okay. All right. Let me bring the jury in
16 and we'll cut them loose for lunch and that'll give me a while
17 to do some research. Okay?

18 MS. ELDER: Yes, sir.

19 THE COURT: All right. Let's bring the jury in.

20 (Whereupon, the following takes place in the presence of
21 the jury.)

22 THE COURT: All right. Ladies and gentlemen, welcome
23 back. These issues that we're dealing with now are going to
24 take a little bit longer, and given the time of day, it's
25 12:30, I'm going to go ahead and let you go to lunch on your

1 own today. So we're going to take a break. Please be back in
2 the jury room at 2:15. That'll give you about an hour and 45
3 minutes to eat lunch and come back. Do not discuss the case
4 even among yourselves at this point in time. Don't conduct
5 any independent investigations into the case. Hope everybody
6 has a good lunch, and we'll see you back at 2:15.

7 (Whereupon, the following takes place outside the
8 presence of the jury.)

9 THE COURT: All right. Anything from the State before we
10 adjourn for lunch?

11 MS. ELDER: Your Honor, are we going to allow the
12 Defendant to remain out at this point?

13 MR. LONG: He's been out on bond for a year and a half,
14 has got \$45,000 surety bond -- his -- based on his
15 grandmother's property. He's not going anywhere. I need him
16 to prepare for this afternoon.

17 THE COURT: Okay. I'm going to allow him to stay out.

18 MS. ELDER: Yes, sir.

19 THE COURT: Okay. All right. Anything from the Defense
20 before we --

21 MR. LONG: No, Your Honor.

22 THE COURT: All right. We'll go ahead and break for
23 lunch. Be back at -- I'll probably take -- I have them coming
24 back at 2:15. So I'll probably take the bench at about 2:20,
25 2:25, something like that. Okay?

1 MR. LONG: Thank you, Your Honor.

2 MS. ELDER: Yes, sir.

3 THE COURT: All right. Thank you.

4 MS. ELDER: Thank you.

5 ***** OFF THE RECORD *****

6 (On the record. The following takes place outside the
7 presence of the jury.)

8 THE COURT: Thank you very much. Please be seated.

9 All right. Ms. Elder, we've done some pretty exhaustive
10 research, and what you're proposing, as I understand, is to
11 call who to testify?

12 MS. ELDER: Detective Martin, Your Honor.

13 THE COURT: To testify that the witness identified that
14 photograph as the person who perpetrated the crime?

15 MS. ELDER: Yes, sir.

16 THE COURT: Okay. And that's being offered as a prior
17 inconsistent statement of Ms. Montgomery's testimony?

18 MS. ELDER: Correct.

19 THE COURT: All right. Rule 613(B), (as read),
20 "Extrinsic evidence of a prior inconsistent statement by a
21 witness is not admissible unless the witness is advised of the
22 substance of the statement," which I think she was, "the time
23 and place it was allegedly made, and the person to whom it was
24 made, and given the opportunity to explain or deny the
25 statement." I don't recall any testimony as to the time and

1 place of the statement.

2 MS. ELDER: Your Honor, I know that I consistently asked
3 her about January in 2013 and pointed out this detective.

4 THE COURT: You said January, yeah, and place, where is
5 the place?

6 MS. ELDER: I don't recall.

7 THE COURT: The only thing I can find is there was, there
8 is a case law and it dealt with prior inconsistent statement
9 and the State proffered testimony, they wanted to call a
10 police officer that said he was present when the witness made
11 a statement on the second floor of the police building in
12 November or December, and the Court held that was not specific
13 as to time, place, person to whom the statement was made, nor
14 was the Defendant given an opportunity. So it made it sound
15 like that you pretty much have to say, cross examine the
16 witness, and even under the rule, you cross examine the
17 witness and say or you examine the witness and say on this
18 date, this place, did you not make this statement to this
19 officer, and if they admit making the statement then it
20 doesn't come in. So I don't think it comes in under, under
21 two scenarios. Number one, we didn't identify a specific
22 place. I think you have to give a more exact time, and as I
23 recall her testimony she said, yeah, she could have, but she
24 was lying. Now, that deals with the other statements. As far
25 as this photograph, she did say, "No, he never showed me this

1 photograph," but unless you can point me to testimony where
2 you said date, time and place, I don't know that it comes in
3 under Rule 613.

4 MS. ELDER: Your Honor, I don't remember -- I listened to
5 her testimony. I don't remember if I said while -- "when you
6 were at the jail." I don't remember -- I don't, I don't know
7 if I asked her that or not.

8 THE COURT: Okay. All right. I don't know what you want
9 to do. I don't recall it coming in, and quite honestly, I
10 don't recall you ever identifying the officer. You may have.
11 I just recall you saying didn't you, did you, have you ever
12 seen this photograph and she said no, and you said didn't you
*13 identify -- I know when you asked didn't you identify the
14 Defendant at this address, the color of the vehicle, that she
15 admitted to doing that, but said she lied. So because she
16 admitted to making that statement it doesn't come in.

17 MS. ELDER: Right. Yes, sir. I understand that. Your
18 Honor, I don't think I said the jail. I mean, I don't have it
19 in my notes that I said the jail. I know I pointed to this
20 officer. So I think, I think that was met during my direct of
21 her, but I don't recall --

22 THE COURT: Okay.

23 MS. ELDER: -- hearing that it was at the jail.

24 THE COURT: All right. And that, and I don't recall it.
25 I don't recall place, and quite frankly, I don't recall

1 testimony as to time either. So I'm going to, I'm going to
2 deny your motion to admit the identification or the prior
3 inconsistent statement on the identification of the
4 photograph.

5 MS. ELDER: Yes, sir.

6 THE COURT: All right. Anything further from the State
7 before we bring the jury in?

8 MS. ELDER: Just a -- no, sir, Your Honor. We're ready.

9 THE COURT: Anything from the Defense before we bring the
10 jury in?

11 MR. LONG: No, Your Honor.

12 THE COURT: All right. Let's bring the jury in.

13 (Whereupon, the following takes place in the presence of
14 the jury.)

15 THE COURT: All right. Ladies and gentlemen, welcome
16 back. I hope everyone had a good lunch. We're now ready to
17 resume the trial of this case. Ms. Elder, the State can call
18 their next witness.

19 MS. ELDER: I'm sorry, Your Honor. Just a moment,
20 please.

21 THE COURT: All right.

22 MS. ELDER: Your Honor, the State would call Detective
23 Martin at this time.

24 THE COURT: All right.

25 Whereupon, Jonathan Martin was called to the stand, duly

1 sworn by the clerk and testified as follows:

2 THE CLERK: Please be seated. State your full name,
3 spell your last name for the Court, please.

4 MR. MARTIN: Jonathan Martin, M-A-R-T-I-N.

5 THE COURT: All right. Ms. Elder.

6 DIRECT EXAMINATION

7 BY MS. ELDER:

8 Q Detective Martin, you're with what department?

9 A I work for the Horry County Police Department.

10 Q In what capacity?

11 A I'm a major crimes detective. It's in the violent crime
12 section.

13 Q How long have you been there?

14 A I've been there a little over three years.

15 Q And have you always been in the detective division?

16 A Before that I was in patrol for approximately five years.
17 I've also served for about six months in crime scene
18 investigation.

19 Q And in December of 2012, January of 2013, did you have an
20 opportunity to be assigned to a case involving the victim,
21 Angela Eckler?

22 A Yes.

23 Q And tell me in general what do you do in the course of an
24 investigation, or in that investigation what did you do?

25 A On this investigation the first thing I did was collect

1 all the incident reports, any background information on Ms.
2 Eckler and then I met her at her residence. I believe that
3 day she hadn't even been back to the house since the incident
4 occurred. She, she met me there like and we went in together.
5 She walked me through the house, showed me kind of what had
6 happened, how that the front door all the way through till
7 where she was in the house. She gave detailed statements
8 about what she remembers about the people, and then we went
9 into some background about her ex-fiancé.

10 Q And how long was this after the incident happened?

11 A I believe it was maybe two days, two, three days.

12 Q And did you do anything else at the scene?

13 A At the scene I took an exterior photo of the house.
14 There wasn't really any damage or anything to photograph since
15 the door had been opened. I did -- she identified -- she
16 hadn't touched anything. She hadn't even gone back to the
17 house since it happened. So I did take two swabs at the house
18 for touch DNA. It'd be at a location where someone maybe just
19 touched, their DNA might still be on the scene, and it was
20 kind of guess, just guessing because she wasn't very certain
21 about where people had touched. She knew she had been held in
22 the bathroom and then also that someone had gone out the front
23 door, you know, after they had come in on her. So she wasn't
24 -- that was about the only two places she could be a hundred
25 percent sure. Everywhere else would have just been swabbing

1 for, you know, you don't know what you got.

2 Q And when you say touch DNA, that's a relatively new term
3 of art in the legal world. What exactly does that mean?

4 A It's, it's -- used to be where DNA would be with blood or
5 semen or spit, very strong DNA. Touch is a lot less quantity
6 and strength. There's new methods of DNA identification where
7 they can actually take a little bit and make it a lot, and
8 from that then they can compare it to a suspect or a victim or
9 anybody else. So when there was touch DNA you may not have a
10 lot. Me touching this table right here doesn't look -- is not
11 going to look like me if I bled all over the counter here. So
12 this little amount right here I can take a swipe of it. They
13 put it in what's called a PCR. It's called polymerase chain
14 reaction. They put -- the scientific -- it's all -- they put
15 a bunch of stuff together, throw it in a machine, heats up,
16 cools down, heats up, cools down and makes lots of copies.
17 With all those copies then they came compare it. It'd be just
18 the same as looking at blood DNA.

19 Q Now, just because I touch something here does that mean
20 I'm going to leave DNA?

21 A You're going off a lot of if it's your hands are oily.
22 If you're wearing gloves there's not going to be DNA there.
23 In this instance she was pretty sure one person was wearing
24 gloves. So she wasn't sure on the other one. That was why I
25 took only two. I wasn't certain where to look or even if

1 there would be a possibility of DNA.

2 Q So if you had gloves on you're not going to leave
3 anything behind --

4 A You're not going to leave DNA.

5 Q -- to collect off of touch DNA?

6 A No.

7 Q And is for that matter fingerprints, would you leave
8 fingerprints through gloves?

9 A No.

10 Q Now, Detective Martin, you showed -- I believe you also
11 -- what else did you do in this, in your investigation?

12 A The next thing I did was I followed up on some
13 information on her ex-fiancé, Adrian.

14 Q Do you know what his street name is?

15 A He, he goes by Dre. Is -- Dre is what he told me. I, I
16 met him at the hospital. He had actually self-admitted
17 himself over at Conway Hospital where he was receiving some
18 medical treatment. He had been there for over a week. I, I
19 went to him with kind of what we had gotten from information
20 from the -- Ms. Eckler, and he was able to identify a couple
21 of people in his life that he had run in circles with that
22 might be able to -- might commit a crime like that.

23 Q And based on that information, did you, subsequent to
24 that interview, did you have occasion to interview anybody
25 else?

1 A Yes. He identified Deaungela -- I can't think right off
2 -- I can't think of her last name right now, Deaungela.

3 Q The lady that was here earlier?

4 A The lady that was up here a little while ago. He had --
5 she had -- he identified her as pretty much the only female
6 that matched the description of the female that had come to
7 the door on the night of the robbery. He said that they hung
8 out.

9 MR. LONG: Objection.

10 THE COURT: Sustained.

11 Q So she was identified at that point in time?

12 A Yes.

13 Q And subsequent to your discussions and interview with
14 Adrian, did you have occasion to interview anybody else after
15 that?

16 A I interviewed Ms. --

17 Q Ms. Montgomery?

18 A Yes. Ms. Montgomery, thank you, or she had several
19 names, Shandre [sic] or yeah.

20 Q And where did you -- when did you interview her?

21 A I interviewed at the J. Reuben Long Detention Center in
22 one of the booking interview rooms. She had actually been
23 arrested on a separate armed robbery subsequent to the one
24 that occurred here.

25 Q And based on that interview, did you do, as a result of

1 her -- of interview with her, did you identify any other
2 individuals to conduct interviews with?

3 A With information she had provided, I had developed Mr.
4 Huggins here as a person that she had identified as an
5 individual named Junk.

6 Q And did she give any type of address or anything like
7 that?

8 A She didn't give the address. She gave -- she said he
9 lived at the intersection of and there was a church
10 right across the street. It was a brick house. She described
11 the vehicle that he drove and described him in detail and the
12 fact he wore a grill in his teeth. He had long hair. He was
13 in his early 30s and a black male. She was very descriptive
14 about the location because I wasn't exactly sure. I don't
15 know Conway that well, but she kept describing caddy-corner to
16 the church, and with that, I was able to locate the house and
17 do some follow-up information that back-tracked me to Mr.
18 Huggins who lived at that residence.

19 Q And did you run vehicles through the Department of Motor
20 Vehicles that he owned at the time?

21 A I did. There was one that came back, and it was a
22 Cadillac. It was also observed on scene.

23 Q I'll have you take a look at what's been marked for
24 State's Identification Number Two. Is that the document that
25 you retrieved from the Department of Motor Vehicles?

1 A It is. I have access to the DMV. So I printed it off of
2 their, their server. It's a DMV form for a customer vehicle,
3 indicates one page, page one of one. So only one vehicle
4 registered, and --

5 Q And who is -- I'm sorry -- who is the owner of that
6 vehicle?

7 A Jamar Antonio Huggins, Ave., Conway.

8 MS. ELDER: Your Honor, I'd like to introduce this into
9 evidence.

10 MR. LONG: No objection.

11 THE COURT: State's Exhibit Number Two admitted into
12 evidence without objection.

13 (State's Exhibit Number Two [DMV Form] admitted into
14 evidence and appropriately marked.)

15 BY MS. ELDER:

16 Q And that was a -- I'm sorry -- what kind of car?

17 A It was a Cadillac Deville.

18 Q And I don't think they have colors listed on the DMV?

19 A They do not identify it on the DMV. That's why when I
20 went to the residence to try to figure out where she was
21 talking about, I observed it was, it was a darkish blue
22 Cadillac.

23 Q And the residence that was describe to you during the
24 course of your investigation, was that, in fact, where Jamar
25 Huggins lives?

1 A Yes. It's the address listed on that DMV form and his
2 driver's license form.

3 Q Okay. And so that we're clear, is that Jamar Huggins
4 that you identified through your investigation the same Jamar
5 Huggins that's sitting here today?

6 A It is.

7 Q All right. Does he look a little different?

8 A I think he lost a little weight, but hair's still pretty
9 long. Other than that, yes.

10 Q Now, during the course of your investigation, you also
11 interviewed another individual; is that correct?

12 A Yes. Oh --

13 Q Did you --

14 A Yes. It was a Tyjuan -- I don't -- his last name, I'm
15 sorry.

16 Q Do you have your case report here with you?

17 A I do have it right there.

18 Q Would it help you to refresh your memory if I ---

19 A It would just mainly for some names and dates if that's
20 okay.

21 MS. ELDER: Your Honor, if I could provide that to him?

22 THE COURT: Any objection?

23 MR. LONG: It's his --

24 A It's my report of investigation.

25 MR. LONG: Just to refresh his memory?

1 MS. ELDER: Yes.

2 MR. LONG: No objection.

3 THE COURT: All right.

4 A Yes. On January 19th, 2013, I interviewed Tyjuan
5 McKiethan at J. Reuben Long. He'd also been arrested on an
6 armed robbery charge with the, the Ms. Montgomery.

7 Q On an unrelated charge?

8 A Unrelated case, yes.

9 Q Subsequent to your initial interview with Adrian or Drake

10 --

11 A Yes.

12 Q -- have you been able to get in touch with him or locate
13 him since that time?

14 A I, I have not. He removed himself from the area, and I
15 think it -- part of it was medical, and we weren't able to
16 locate where he was transferred to because of the medical
17 background.

18 MS. ELDER: I don't have any other questions, Your Honor.

19 THE COURT: All right. Cross examination.

20 CROSS EXAMINATION

21 BY MR. LONG:

22 Q Detective Martin, your interview with Deaungela Shanta
23 Montgomery is what led you to arrest Jamar Huggins; correct?

24 A Yes, sir.

25 Q Solely based on that, on her interviews, after you

1 interviewed Montgomery, you arrested Jamar Huggins?

2 A Yes, sir.

3 Q And you were in the courtroom earlier when you heard
4 that, that Shanta Deaungela Montgomery said Jamar Huggins was
5 not involved? You were in the courtroom; right?

6 A She identified that that man was not involved.

7 Q That's correct.

8 A To me she identified Jamar Huggins was involved.

9 Q And you realize -- you understand that Deaungela
10 Montgomery is a crack addict?

11 A She probably uses drugs. She -- I --

12 Q She told you she was a crack --

13 A She told me she uses drug.

14 Q Are you trying to cover up for her?

15 A No. I just don't know her background as a crack addict.

16 I, I wouldn't --

17 Q You don't know her background as crack addict? You
18 interviewed her and she told you she used crack.

19 A She told me she does use drugs, yes.

20 Q Crack cocaine?

21 A Crack cocaine.

22 Q She told you that.

23 A Yes.

24 Q Okay.

25 A I'm not judging her addiction. I -- or trying to cover

1 for her. I'm just saying.

2 Q I'm not asking you, I'm not asking you that.

3 A Okay. I'm just saying would she --

4 Q I'm just saying ---

5 REPORTER: Judge, they're talking over.

6 THE COURT: Yeah. You --

7 A I'm sorry.

8 THE COURT: -- one talk at a time. Let him ask the
9 question.

10 A Okay.

11 THE COURT: Then you answer it.

12 A I'm sorry.

13 THE COURT: And then you can ask your question. Ask your
14 question.

15 Q And you know that she is a convicted felon?

16 A Yes, sir.

17 Q And you told her when you were interviewing her, you told
18 her that she can help herself by identifying Jamar Huggins;
19 didn't you?

20 A No. I told her she could help herself by identifying the
21 other parties involved.

22 MR. LONG: The Court's indulgence.

23 THE COURT: All right.

24 BY MR. LONG:

25 Q You told Deaungela Montgomery during that interview that

1 the only way she was going to get out of this is if she
2 identifies Jamar Huggins? Do you remember that?

3 A To identify him as the person that committed the crime or
4 to ID him.

5 Q That's correct.

6 A No.

7 Q You don't remember that?

8 A I do not remember ever pointing out anybody for her to
9 identify. She identified Jamar Huggins as a suspect.

10 Q And you interviewed her on January -- what was the date?
11 January 11th, 2013?

12 A You mind if I look? It was January 11th, 2013. Yes. I
13 interviewed her twice that day.

14 Q About what time of day was that?

15 A The first one is about 9:40 in the morning, and the
16 second time was about 1 p.m. when I returned with DMV
17 information based on the information she had provided me.

18 Q And you later told her -- she said -- you said, "I'm
19 going to close this case with your name on it." Do you
20 remember that?

21 A I don't remember saying that exactly, but it is possible.

22 Q Okay. And you showed -- when you talked to Deaungela
23 Montgomery you showed her a photographic lineup of herself;
24 correct?

25 A I did.

1 MR. LONG: If I may approach?

2 THE COURT: All right.

3 A Yes, sir.

4 Q Is that what you showed her?

5 A That's a copy of it, yes.

6 Q I don't have the original? And on this picture is that
7 Deaungela's picture that's circled?

8 A Number three, yes.

9 Q And by that it says, "This is lady who robbed me. She
10 knocked on my door and asked for Dre," and it's got some
11 initials by it.

12 A Uh-huh.

13 THE COURT: Is a that a yes?

14 A Oh, I'm sorry. That's a yes.

15 THE COURT: All right.

16 A I'm sorry.

17 Q And you told Deaungela that the, that the victim, Angela
18 Eckler wrote that; didn't you?

19 A I told her she was identified, yes.

20 Q And you, you told her that --

21 A I showed her that photo, yes.

22 Q But you wrote that?

23 A I did.

24 Q You wrote that?

25 A I did.

- 1 Q You said, "This is the lady who robbed me." Did
2 Deaungela Montgomery rob you?
- 3 A No. I used what's called police deception.
- 4 Q "She knocked, she knocked on my door." Did she knock on
5 your door?
- 6 A No. She did not.
- 7 Q "And asked for Dre." Did she ask you for Dre?
- 8 A No.
- 9 Q So this is a lie?
- 10 A It's deception.
- 11 Q It's deception. You operate in deception a lot?
- 12 A Sometimes when we're doing interviews with individuals
13 everyone's not always forthcoming with the truth. Sometimes
14 they have to believe there's more information on our side than
15 we actually have at that time.
- 16 Q And so you interviewed a grand total of five people for
17 this investigation, Deaungela Montgomery, Angela Eckler, Jamar
18 Huggins, Tyjuan McKiethan, and Adrian Moore?
- 19 A Yes, sir.
- 20 Q Let's talk about what you did not do. You did not get
21 DNA analysis from the house; correct?
- 22 A Those items were sent off.
- 23 Q But you never got anything back?
- 24 A We did not have anything to compare them to.
- 25 Q You did not conduct a search warrant on one single

1 vehicle; did you?

2 A No, sir.

3 Q You did not conduct a search warrant on one house; did
4 you?

5 A No, sir.

6 Q The victim testified that there was a gun involved.
7 You never looked for that gun.

8 A I never located the gun, no.

9 Q The victim said there was a mask involved. Never found
10 the mask?

11 A No, sir.

12 Q Once you arrested Jamar Huggins you stopped your
13 investigation?

14 A Actually after him I believe I interviewed Ty McKiethan
15 also.

16 Q But you never made another arrest.

17 A No.

18 Q There were two people -- two men went in that house?

19 A Yes, sir.

20 MR. LONG: The Court's indulgence.

21 THE COURT: All right.

22 BY MR. LONG:

23 Q And the victim told you that she could not identify the
24 perpetrators of this crime; correct?

25 A Yes, sir.

1 Q That's all the questions I have. Thank you.

2 THE COURT: Redirect?

3 MS. ELDER: Thank you, Your Honor.

4 REDIRECT EXAMINATION

5 BY MS. ELDER:

6 Q When you interviewed Ms. Montgomery she had not yet been
7 convicted of a felony; is that correct?

8 A I'm unaware of her -- at that time if I knew her criminal
9 history or not. I knew she had been arrested on a felony
10 charge.

11 Q She was being held?

12 A She was being held at J. Reuben Long Detention. Yes.

13 Q But had not been convicted of that yet?

14 A Of this crime or others?

15 Q Of the armed robbery.

16 A Of that -- this armed robbery. No. No She was still in
17 detention.

18 Q Or the other one?

19 A NO.

20 Q And when you identified or you identified -- you
21 testified you've identified two people that you could have
22 identification of, Jamar Huggins and Deaungela Montgomery.

23 A Yes.

24 Q And you got warrants for both of those individuals?

25 A Yes.

1 Q Did anybody ever prior to that day or that day or shortly
2 thereafter, anybody ever give you a statement or has anyone
3 ever given you a statement that identifies the third Co-
4 Defendant?

5 A Yes. There was information provided about Tyjuan
6 McKiethan.

7 Q Did they tell you that he did the robbery?

8 A No.

9 Q Did they tell you who was in this house?

10 A No.

11 Q Did they tell you they went -- that he went to Ms.
12 Eckler's house?

13 A No.

14 Q So you didn't have anybody saying that this third person,
15 whoever that may have been, went into Ms. Eckler's house?

16 A No. It was more information that put him up to that
17 point but not going in.

18 Q Okay. So you didn't have enough to get warrants for him?

19 A No. There was not enough probable cause on the third
20 person.

21 Q So you got warrants for the two people that you had
22 developed leads on?

23 A Yes.

24 Q And when Mr. Long was asking you, you go to the police
25 academy; is that correct?

1 A Yes.

2 Q And you go there's certain training about interviewing
3 and things like that?

4 A Yes.

5 Q And is it permissible or do they train law enforcement
6 officers to use deceptive tactics when trying to gain
7 admissions --

8 A Yes.

9 Q -- on parties and witnesses?

10 A Through training and the academy we're told the Supreme
11 Court's ruled that we're allowed to use certain deceptive
12 practices most times because people who commit crimes aren't
13 going to just come out and say, "I did it." They need to
14 believe that we have some information on them that helps them
15 along to tell the truth.

16 Q And when Mr. Long was asking you if you told Ms.
17 Montgomery, "You've got to say that Jamar Huggins did this
18 crime," did you say that? Did you tell her to pick Jamar
19 Huggins by name?

20 A I, I, I hadn't heard the name Jamar Huggins before she
21 provided me the information to develop Jamar Huggins. I never
22 heard his name before in my life before that investigation
23 started. What I did was I told her that she needed to provide
24 the other parties who were involved in the crime or she
25 probably was going to be the one that stood to try for, to

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1 stand for it all. Without her information we weren't going
2 to develop any, anybody else.

3 Q So you weren't asking her for this particular person, you
4 were just asking her for the other two individuals?

5 A Yes.

6 MS. ELDER: I have no further questions, Your Honor.

7 THE COURT: All right. You may step down.

8 A Thank you.

9 THE COURT: All right. The State can call their next
10 witness.

11 MS. ELDER: Your Honor, at this time the State of South
12 Carolina would rest.

13 THE COURT: All right. All right. Ladies and gentlemen,
14 the State has rested their case. So now is the time of the
15 trial where I need take up some matters of law with the
16 attorneys. So as I did before, I'm going to excuse you back
17 to the jury room for just a few minutes and we'll bring you
18 back out shortly. Do not discuss the case even among
19 yourselves at this point in time. Thank you very much.

20 (Whereupon, the following takes place outside the
21 presence of the jury.)

22 THE COURT: All right. Motions.

23 MR. LONG: I have a motion for a directed verdict, Your
24 Honor.

25 THE COURT: All right. What have we got in evidence as

1 far as identification?

2 MS. ELDER: Your Honor, I went back and listened to the
3 testimony of Ms. Montgomery, and she consistently said, "He
4 doesn't look like the same person." She described him. She
5 even described him today on the stand as the guy who lives on

6 Avenue who drives the Cadillac who -- she's -- I don't
7 think she said anything about the size, but she did describe
8 and connect him to what I have put in evidence through
9 Detective Martin, that being his vehicle and the location of
10 his residence.

11 She also indicated in her testimony when I listened to
12 it, she described his car and color. She described him --
13 this is her statement, describe, "I described him to
14 Detective," the best she could, where he lived and the car,
15 which was confirmed by the detective's testimony just then.
16 She said that she did -- she indicated that it was Junk that
17 was with them that robbed, that was driving, that had the
18 mask, that he was driving his car that had the gun --

19 THE COURT: I mean, what evidence do we have that the
20 Defendant is Junk?

21 MS. ELDER: Your Honor, in opening statement they said
22 he's referred to as Junk.

23 THE COURT: Opening statements aren't evidence.

24 MS. ELDER: Well, she also said Junk.

25 THE COURT: No. She said this is not Junk.

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1 MR. LONG: That's right.

2 MS. ELDER: Well, she did today, but that goes to, that
3 goes to credibility, Your Honor. The fact that she changed
4 her statement goes to her credibility.

5 MR. LONG: The prior --

6 MS. ELDER: The jury --

7 MR. LONG: Sorry.

8 THE COURT: Go ahead.

9 MS. ELDER: The jury can believe her prior statement
10 where she admits vividly that she said Junk and that when I
11 asked her, because Mr. Long objected and said or wanted
12 clarification of what she was admitting, it was to my question
13 of, "You described the car that was Jamar's, Jamar was
14 driving, Jamar had the mask, Jamar had the gun," and she
15 answered yes, yes, yes to each of those questions. So she
16 admitted that she told the detectives that Jamar Huggins was
17 the one doing all those things. Now, the fact that she
18 changed today goes to her credibility. A jury can believe her
19 former statement that she admitted making and has now changed.
20 They can believe the statement in court and disregard and say,
21 "Yes, she was lying before," but that's for them to determine.
22 That goes to the weight and credibility of this witness.

23 THE COURT: All right.

24 MS. ELDER: She also says when I ask -- I did ask her --
25 she said, "Yes, Junk went with us," and I asked, I believe, is

1 it possible, and she says, "It's possible, but these don't
2 look like the same person." That is not -- I know she
3 answered him, Mr. Long, as that's not the same guy, but then
4 she went back again and said, "Well, it's possible, but he
5 doesn't look like the same person," because I started asking
6 about, "Maybe he looks a little different. Maybe his hair's a
7 little different." "Yeah. Yeah." "Is it possible?" "Yes."
8 Again, that goes to the credibility of this witness, and they
9 can believe, Your Honor, based on that that she's not
10 credible. They can believe that she's lying today or that she
11 was hesitant today. They can believe that she didn't pick him
12 out, but it goes to her credibility, which has clearly been
13 held in the province of the jury.

14 THE COURT: All right. Anything in reply?

15 MR. LONG: Yes, Your Honor. There -- I would submit
16 that the prior statements of Ms. Montgomery, they're not into
17 evidence. There's no evidence showing that.

18 THE COURT: Well, I mean, you've got her testimony where
19 she said, "Yeah, I did say that."

20 MR. LONG: But --

21 THE COURT: "I did say he lived here. I did say he drove
22 a blue car. I did say this, but that's not him."

23 MR. LONG: And she said she was lying when she said those
24 things.

25 THE COURT: Well, but I mean --

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1 MR. LONG: But even if, even if --

2 THE COURT: Right.

3 MR. LONG: -- as you know, the -- we are entitled to a
4 directed verdict when the evidence merely raises a suspicion
5 of guilt. At best, I mean, not that I concede, but at best
6 Ms. Montgomery's testimony raises a suspicion of guilt. She
7 said she was lying, "Possibly it was the same guy, doesn't
8 look like him, confused, I was lying, I was on crack." So at
9 best there's a mere suspicion, but when I asked her point
10 blank the one question I asked her, "Is Jamar Huggins involved
11 in this home invasion," she said no. The -- to me that
12 cancels out all other mere suspicions. So even if it is a
13 mere suspicion, that's not enough for the State to overcome
14 the directed verdict, and that is the only shred of evidence
15 they have. Angela Eckler, the victim, she can't identify the
16 perpetrators. She specifically said she cannot identify Jamar
17 Huggins as the person who went into her house. So all we're
18 left with is Deaungela Montgomery's testimony, and it's so all
19 over the board, and I would say it's not even just goes to her
20 weight because she -- her evidence is not even credit worthy.
21 So I would say that we're entitled to a directed verdict. We
22 just ask that you give us a directed verdict based on the fact
23 they don't have enough evidence to prove their case.

24 THE COURT: All right. I'm going to take a short recess.
25 Let me go look at one something. So I'm going to take that

1 under advisement. Anything else?

2 MR. LONG: No, Your Honor.

3 THE COURT: All right.

4 MS. ELDER: No, sir.

5 THE COURT: Let me go ahead and question your client on
6 his right to testify at this time in the event I deny your
7 motion. I don't -- I need to -- I want to go check one thing
8 before I make a decision, but let me go ahead and question him
9 and then I'll ask him as -- when we come back, if I deny your
10 motion, I'll ask him whether or not he wishes to testify in
11 this case. Let's place him under oath, please.

12 (Defendant sworn by clerk.)

13 THE COURT: All right. Sir, your name is Jamar Antonio
14 Huggins?

15 MR. HUGGINS: Yes, sir.

16 THE COURT: All right. Mr. Huggins, we have now reached
17 the stage of the trial where you may present a defense, if you
18 choose to do so. So at this time I'm going to explain to you
19 certain rights that you have. If you do not understand
20 anything I say please let me know; okay? If you want me to
21 explain anything in more detail, let me know. Do you
22 understand that?

23 MR. HUGGINS: Yes, sir.

24 THE COURT: All right. We've reached the stage of the
25 trial where you may present your defense. You have the right

1 to claim protections given to you by the Fifth Amendment to
2 the United States Constitution, which states in part that no
3 person shall be compelled in any criminal case to be a witness
4 against himself. This means that you cannot be required to
5 testify in this case. You have the right to testify on your
6 own behalf. However, no one can make you testify. This is a
7 personal right, and no one can waive this right except for
8 you. If you decide to testify, you will be subject to the
9 same rules that govern other witnesses, and you may be
10 examined and cross examined on any relevant issue in this
11 case. In addition, if you have any convictions involving
12 dishonesty or false statement or for crimes punishable by
13 imprisonment for more than one year and this Court determines
14 that the probative value of admitting the evidence outweighs
15 its prejudicial effect to you, the Solicitor will be able to
16 introduce your record to attack your credibility.

17 Does the State know of any prior criminal convictions or
18 bad acts that they would be using to attack his credibility?

19 MS. ELDER: No, Your Honor. We've talked to -- Mr. Long
20 and I have talked about this. He has a prior -- it's a
21 juvenile conviction, but it places him on the adult registry,
22 and we've talked back and forth about that, but I'm not
23 seeking to try to introduce that because I think it's -- I
24 can't find anything that really says yes or no that it would
25 be admissible, and we'd just rather not risk that.

1 THE COURT: All right. All right. So at this time
2 they're saying that there is no prior criminal convictions
3 that they would introduce to attack your credibility.
4 However, you can be examined and cross examined on any
5 relevant issue in this case just like any other witness. Do
6 you understand that?

7 MR. HUGGINS: Yes, sir.

8 THE COURT: All right. If you decide to testify, this
9 decision on your part must be freely, voluntarily and
10 intelligently made, with knowledge of the protections given to
11 you by the Fifth Amendment of the United States Constitution
12 and the consequences of your decision to testify. If you
13 decide not to testify, I will instruct the jurors that they
14 cannot give the fact that you did not testify any
15 consideration whatsoever and that there is to be absolutely no
16 prejudice to you because you did not testify. It's left
17 entirely up to you whether or not you testify. You may talk
18 with your attorney, your family and friends or anyone else,
19 but the final decision will be left entirely up to you. So do
20 you understand what I've explained to you or do you have any
21 questions about what I've explained to you?

22 MR. HUGGINS: No, Your Honor.

23 THE COURT: All right. I'm going to take a short recess.
24 I've going to give you an opportunity to talk to your attorney
25 some more. As I said, the final decision is left up to you,

1 and when I come back, if I deny this motion for a directed
2 verdict, I'll then ask you whether or not you wish to testify
3 in this case; okay?

4 MR. HUGGINS: Yes, sir.

5 THE COURT: All right. Let's take a short recess. I'll
6 be right back.

7 MS. ELDER: Thank you, Your Honor.

8 THE COURT: Thank you.

9 ***** OFF THE RECORD *****

10 (On the record. The following takes place outside the
11 presence of the jury.)

12 THE COURT: Thank you very much. Please be seated.

13 All right. Mr. Long, I've looked over some case law, and
14 as I understand, a motion for directed verdict, it's kind of
15 hard to understand in a criminal case. It says that I just
16 look for the existence of evidence and not the weight or that
17 the evidence must raise more than the suspicion. So there is
18 testimony from Ms. Montgomery where she admitted to making
19 these prior statements. She said she lied, but I think that
20 creates a jury issue as to whether or not to believe her
21 former statement or to believe her testimony here at trial.
22 So I'm going to deny your motion for a directed verdict. All
23 right.

24 MR. LONG: Thank you, Your Honor.

25 THE COURT: Anything further?

1 MR. LONG: No, Your Honor. Thank you.

2 THE COURT: All right. Let's get your client to please
3 stand.

4 (Complies with request.)

5 THE COURT: All right. Mr. Huggins, you recall the
6 information I provided you regarding your protections and
7 rights under the Fifth Amendment to the United States
8 Constitution and your right to testify?

9 MR. HUGGINS: Yes, sir.

10 THE COURT: All right. Have you had an ample opportunity
11 to discuss your right to testify with your attorney, your
12 family, your friends and whoever else you want to discuss it
13 with?

14 MR. HUGGINS: Yes, sir.

15 THE COURT: All right. And do you wish to testify in
16 this case?

17 MR. HUGGINS: No, sir.

18 THE COURT: Okay. Anything further you want placed on
19 the record?

20 MR. LONG: No, Your Honor.

21 THE COURT: Anything further the State wants placed on
22 the record in that regard?

23 MS. ELDER: No, sir, Your Honor.

24 THE COURT: All right. Will the Defendant be presenting
25 any witnesses or any testimony?

1 MR. LONG: No, Your Honor.

2 THE COURT: Okay. All right. So we'll just go into
3 closing arguments and jury charges?

4 MR. LONG: Yes, sir.

5 THE COURT: Okay. I, I got to work on some charges. Do
6 we want to do that first thing in the morning?

7 MS. ELDER: Your Honor, that's fine with me. Of course,
8 I would rather not split it up. I don't think that's ever a
9 good idea --

10 THE COURT: Yeah.

11 MS. ELDER: -- to split closing and charging up.

12 THE COURT: What I'm going to do is come on -- bring them
13 back in and say we're ready to proceed. Ask you if the
14 Defendant wishes to present a defense. You can say no, and
15 then I'll just recess them for the day and we will bring them
16 back tomorrow morning for closing arguments and jury charges.
17 How does that sound?

18 MR. LONG: Sounds good.

19 THE COURT: That sound agreeable?

20 MS. ELDER: Yes, sir.

21 THE COURT: All right. All right. Anything from the
22 State before we bring the jury in?

23 MS. ELDER: No, sir, Your Honor. I assume once we
24 release the jury we'll again have the discussion about
25 releasing the Defendant tonight?

1 THE COURT: Yeah. I'm inclined since there is no more
2 evidence to be presented in this case, bond no longer
3 attaches. So he'll need to stay with us tonight.

4 MR. LONG: Is there, is there any way we could go ahead.
5 I guess there's no way we -- I hate to see him spend a night
6 in jail based on this.

7 THE COURT: And I understand what you're saying.

8 MR. LONG: I mean, this, this.

9 THE COURT: I really do. Well, let me ask this. Does
10 the State want him held tonight? I generally do when there's
11 no more evidence to be presented and the only thing left is
12 closing arguments and deliberations, but I'll leave -- I mean,
13 and so that's unless the State agrees for him.

14 MS. ELDER: Your Honor, I can't, I can't agree to that.
15 My -- I understand Mr. Long. I certainly sympathize with
16 that, but the bond isn't attached anymore, clearly by law it's
17 not attached, and although, you know, I will, for the Court's,
18 he has shown up when we've required him to show up. However,
19 this is an extremely serious case, and he knows that the Court
20 has ruled on his directed verdict motion, and it is going to
21 the jury, which gives him more --

22 THE COURT: Right.

23 MS. ELDER: -- incentive not to appear.

24 MR. LONG: This, but this scintilla of evidence that we
25 have before us is he is --

1 THE COURT: And I agree with you. I agree with you on
2 that, but the fact remains is that there's no more evidence.
3 It simply goes to the weight to be considered by the jury.
4 There's nothing else to be presented. So I'm going to have to
5 have him held tonight. I wish there was some other way, but
6 the law -- if the law said that he was still on bond, I would
7 agree with you, and I would let him go, but there's nothing
8 that compels his return tomorrow.

9 MR. LONG: Does it make any difference at all that he has
10 realty bond, that he has property put up?

11 THE COURT: As I understand, once the trial, that the
12 sole purpose of bond is to compel his appearance at trial.

13 MR. LONG: Thank you.

14 THE COURT: Once he appears, once the trial starts, then
15 the bond is released, and I think the general consensus is the
16 bond is released because the Court generally does order them
17 held pending the final decision, the, the final jury verdict.

18 MR. LONG: Yes, sir.

19 THE COURT: You know, and, and I apologize, Mr. Huggins,
20 but the law is what the law is, and we're just going to have
21 to do that tonight. You're just going to have to stay
22 tonight. I wish there was some other way, but I don't know of
23 any other way to do it. So we're going to have him held
24 tonight. All right. Let's bring the jury back in, please.

25 (Whereupon, the following takes place in the presence of

1 the jury.)

2 THE COURT: Ladies and gentlemen, welcome back. I
3 apologize for keeping you so long in the jury room. As I
4 stated before you left, the State has completed their case in
5 chief. Now is the time where the Defense can present a
6 defense if the Defendant chooses to do so. Mr. Long, does the
7 Defendant wish to present a defense in this case?

8 MR. LONG: No, Your Honor.

9 THE COURT: All right. Ladies and gentlemen, the Defense
10 has rested and chooses not to present any defense in this
11 case, which they're not required to do because the State bears
12 the burden in this case.

13 So the only thing left is for the attorneys to make their
14 closing arguments and for me to charge you with the law to be
15 applied in this case. Now, ordinarily, we'd go straight into
16 that, but that might take some time, and with it being almost
17 a quarter till four, I don't like to send a jury out for
18 deliberations after 4:00 o'clock, and it would be well after
19 four before you would begin your deliberations. So I think
20 we're going to go ahead and break for today. I'm going to ask
21 that you please be back in the jury room tomorrow morning at
22 9:15, and we'll resume the trial of the case at that point in
23 time with the closing arguments and a charge on the law.
24 Until you receive those closing arguments and until you
25 receive a charge on the law, it is still too early for you to

1 begin your deliberations. So do not discuss the case with
2 anyone, even among yourselves. Don't conduct any independent
3 investigations. We'll see you back tomorrow morning at 9:15
4 and we'll wrap this up at that time. Thank you very much.

5 (Whereupon, the following takes place outside the
6 presence of the jury.)

7 THE COURT: All right. Anything from the State before we
8 recess?

9 MS. ELDER: No, Your Honor. We going to talk about
10 charges or you want to --

11 THE COURT: I'm going to -- if you've got any proposed
12 charges, you can go ahead and hand them up. I'll prepare
13 charges tonight and let you take a look at them tomorrow
14 morning before we -- before you do your closing arguments, and
15 you can raise any objections then if you want to. Do you have
16 anything specifically?

17 MS. ELDER: No, Your Honor. The burg first, the
18 kidnapping, the armed robbery, I was going to request a, a
19 strong arm robbery as a lesser included.

20 THE COURT: Any objection?

21 MR. LONG: No objection.

22 THE COURT: All right. I'll do that.

23 MS. ELDER: The other one is the, the hand of one charge,
24 but I would assume Your Honor would give that in a Co-
25 Defendant case?

1 THE COURT: Yeah. All right. Anything further?

2 MR. LONG: Credibility and weight of the evidence.

3 THE COURT: I was going to do prior and I was going to
4 charge on prior inconsistent statement, where they can believe
5 the prior statement or the witness's testimony here at trial,
6 prior criminal record of the Defendant as to credibility,
7 things of that nature. I can't recall off the top of my head.
8 I'll have to take a look, but I'm sure there's something else
9 in there we're going to put in. All right.

10 MR. LONG: Very good.

11 MS. ELDER: Do you want us to be here at nine?

12 THE COURT: Well, I'll have -- the jury'll get back in at
13 9:15. It'll take them probably about 10, 15 minutes to drink
14 a cup of coffee, eat a doughnut or a biscuit or something and
15 then we'll bring them in. So I'll have the jury charges ready
16 for you at 9:00 o'clock tomorrow morning for you to look over.
17 So you can get here whenever you want, but please be here by
18 9:15. If you want to get here about 15 minutes early I'll
19 have it ready for you to review at that time.

20 MS. ELDER: Yes, sir, Your Honor.

21 THE COURT: All right.

22 MR. LONG: Thank you.

23 THE COURT: Thank you.

24 ***** OFF THE RECORD *****

25 (On the record, September 17, 2014. The following takes

1 place outside the presence of the jury.)

2 THE COURT: All right. We've met in chambers and gone
3 over some of the challenges and changes to the jury charge and
4 the verdict form. I made the changes that we discussed in
5 chambers. Any further challenges from the State at this time?

6 MS. ELDER: No, sir, Your Honor.

7 THE COURT: Any from the Defense?

8 MR. LONG: No, Your Honor.

9 THE COURT: All right. And as I told you, I'll give you
10 another opportunity to raise any objections or challenges
11 after I charge the jury because sometimes the charges do sound
12 different when you hear them read versus when you read them on
13 the paper. So I'll give you another opportunity at that time.

14 MS. ELDER: Yes, sir.

15 THE COURT: All right. So I understand now that we're
16 ready to go forward with the closing arguments and then
17 charges and then deliberations; correct?

18 MS. ELDER: Yes, sir.

19 MR. LONG: Yes, sir.

20 THE COURT: All right. Anything from the State before we
21 bring the jury in?

22 MS. ELDER: No, sir.

23 THE COURT: Anything from the Defense?

24 MR. LONG: No, Your Honor.

25 THE COURT: All right. Let's bring the jury in.

1 (Whereupon, the following takes place in the presence of
2 the jury.)

3 THE COURT: All right. Ladies and gentlemen, welcome
4 back. Hope everyone had a good evening. I appreciate your
5 being on time this morning, and I apologize for keeping you
6 back in the jury room for so long, but we are now ready to
7 proceed in the trial of this case.

8 We've reached the stage of the case where the attorneys
9 will make their closing arguments to you. Now, just like
10 their opening statements, these closing arguments are not
11 evidence in this case. It is simply the attorney's contention
12 as to what they think the evidence in this case has shown and
13 what they think the facts are and what they think the law to
14 be applied in this case is. If at any time an attorney makes
15 reference to a factual matter that is different from the facts
16 as you find them to be or references the law that is different
17 from the law as I will charge you at the end of their
18 arguments, then you're to disregard that portion of their
19 closing arguments because these closing arguments are not
20 evidence. It's just their contention as to what the evidence
21 has shown in this case.

22 All right. With no defense the State wish to close?

23 MS. ELDER: May it please the Court, Your Honor?

24 THE COURT: Yes, ma'am.

25 MS. ELDER: Good morning. We've reached the stage as the

1 Judge has indicated, that he's about to give you the law in
2 this case, what South Carolina says and the elements of the
3 law that I have to prove to find the Defendant or get you to
4 find the Defendant guilty, and he's going to give you several
5 charges. One of them is burglary first degree. One of them
6 is armed robbery and a lesser included offense of robbery, and
7 the third one is kidnapping.

8 Now, typically this is the time in closing that I would
9 go over the evidence, and I would go over the elements of the
10 crime or the crimes in this case, but I'm going -- not going
11 to spend a lot of time on the elements because they're un-
12 contradicted. There's no doubt that a burglary happened.
13 There's no one that's given any evidence to the contrary. We
14 know a burglary happened. We know a burglary happened at
15 night. We know a burglary happened while one of the three
16 individuals had a weapon, and we know that weapon was
17 presented to the victim.

18 Armed robbery, again, there's not a lot of time --
19 there's not a lot of reason for me to spend on that. Again,
20 the only testimony that you have to consider is that of the
21 victims, nothing contradicts that, in fact, three people came
22 to her house that night, two went in. They had a weapon and
23 they took some of her belongings, un-contradicted.

24 Kidnapping, again, the only person that told you about
25 what happened in the house is the victim. Nobody said

1 anything to the contrary. Those two men came into her house.
2 One of them had a gun. One of them grabbed her from behind,
3 pulled her around the house and then put her in the bathroom
4 and prevented her from getting out to get to her daughter.
5 That is, in fact, kidnapping. Even in his opening Mr. Long
6 indicated, they have no doubt that these crimes happened.

7 The Judge is also going to give you a charge that we call
8 hand of one, hand of all, and basically that means that when
9 you go and you participate in a crime you are as guilty as the
10 next person beside you. For example, Deaungela Montgomery,
11 you heard her part even from the victim that she played in
12 this offense. She didn't have the weapon. She didn't even go
13 into the house, but because she was an active participant, she
14 went up on that door, knocked on it, got Angela to come to the
15 door so that the other two Co-Defendants could go in, that she
16 knew what they were going there for, she was as guilty under
17 hand of one, hand of all as the one who went into the house
18 and pointed the gun at Angela. That's the theory of hand of
19 one, hand of all.

20 Now, the only question left really that is at issue is
21 was that Defendant one of the three people that went to Angela
22 Eckler's house that night, and the evidence clearly shows that
23 he was. Deaungela Montgomery gave a statement in January of
24 2013. This was about a month, the month proceeding this,
25 subsequent to this home invasion. At the time, as you heard,

1 she had been arrested on an unrelated charge. She had not
2 been convicted. She was not a felon. She was in jail. She
3 described what happened at that house. She decided -- which
4 was consistent, by the way, with the victim. She described
5 how she got to the house, the type of car she was riding in,
6 who that car belonged to, that it belonged to a man that she
7 knew as Junk, that that was his street name. She described
8 who was driving the car, and she gave a physical description
9 of the man she knew as Junk. She said it was a Cadillac, that
10 it was Junk's Cadillac, and that she didn't know this guy's
11 real name, she only knew him by his street name, but what does
12 she do? She gives this detective not the house address, but
13 description of how to get to his house. You go down this
14 road. You go down that road. It's across from the church.
15 Detective Martin told you how he found Junk's house, and when
16 he went to the house based on the directions that Ms.
17 Montgomery gave him, he found the Cadillac that she also
18 described.

19 Now, the detective, Detective Martin got on the stand and
20 there was some questions about who -- whether he told her to
21 pick out Jamar. He told you he didn't know who Jamar was when
22 he first talked to Deaungela. He had no idea who the other
23 two individuals were that went into this house. She tells him
24 somebody with a street name Junk. He has to go out, use her
25 directions, find the house on Ninth Avenue, find the Cadillac,

1 which he does. He runs the DMV registration for that
2 Cadillac, that it's registered to Jamar Antonio Huggins at
3 Ninth Avenue in Conway. He then goes back to the jail
4 and talks to Deaungela again to make sure this is the same guy
5 she was talking about.

6 Now, she came in here yesterday and testified, and on one
7 question that Mr. Long asked her on cross examination she
8 says, I wrote it down, that the Defendant, this person right
9 here sitting in the courtroom, was not the same person that
10 she identified as Junk, Jamar Huggins, in January of 2013.
11 Now, that was over two years ago when she did that, but upon
12 my questioning and pushing her a little bit more about her
13 prior statement, she says, "Well, it's possible. He just
14 doesn't look the same," and I tell you that because that's,
15 that's what I heard her say, and I know she told me that, but
16 if you have any question about it while you're back there
17 deliberating and one person remembers it one way and one
18 person remembers it another, you can ask the Judge to rehear
19 her testimony. The lady right there took down and recorded
20 every testimony, every word that was said during the course of
21 this trial, and that is available for you should you have any
22 questions.

23 Now, when Detective Martin was on the stand, Mr. Long
24 kind of got into him a little bit about police techniques, and
25 that Detective Martin, almost to the point that it was a bad

1 thing, for Mr. Martin to go to the jail, question Ms.
2 Montgomery about her two Co-Defendants. Wouldn't you expect
3 the police to go out and try to identify the two men who went
4 into this woman's house at night with a gun and jerked her
5 around her house, terrorized her daughter? Wouldn't you
6 expect him to go to the jail and question her about that?
7 Absolutely. It is not some sinister plot to arrest Jamar
8 Huggins because remember he didn't even know who Jamar Huggins
9 was. He had no idea until he talked to her. Yes. He told
10 her, "Don't take these charges by yourself," because guess
11 what, she wasn't by herself. There's no doubt that she wasn't
12 by herself. "Don't go down for something that two other
13 people were involved in," and think about her part in this.
14 Yes. She is as guilty as they are, but when you look, when we
15 look at cases and we look at Defendants and we say who's more
16 culpable, who's the bad one in this threesome? She's the
17 least culpable. She knocked on the door. She got them in,
18 but she turned around and left. So, of course, he's going to
19 tell her, "Don't go down for this by yourself," absolutely.

20 Mr. Long indicated in his opening that once they got
21 Jamar Huggins that was it, this officer was done, this
22 detective was done, that's all he cared about, making the
23 arrest, that's it. He never interviewed anybody else. Who
24 else is there to interview? How many people were there that
25 night? He interviewed Ms. Eckler. He interviewed Deaungela,

1 told you he interviewed Jamar, and he told you after Jamar he
2 went and interviewed somebody named Tyjuan. How many people
3 is that? The victim, and one, two, three, four people. Now,
4 again, if he was the kind of officer that just wanted to close
5 a case by arrest, why didn't he rush out and get warrants
6 against all of them? He didn't. He got warrants against two
7 people, two of the three because although he may have had
8 suspicions about that third individual and who that may have
9 been, that it may have been Ty, he didn't feel that he had
10 enough evidence against that person because nobody described
11 him, nobody pointed him out, wasn't his car. So he did the
12 right thing. He didn't rush to arrest anybody. He arrested
13 the two people that he -- his investigation led to. That is
14 responsible police work.

15 There was, when Deaungela was up there and she was being
16 cross examined, there was some question about maybe she just
17 gave them a name to make the police happy. Well, let's think
18 about that. If she was just giving them a name to make police
19 happy, to get them off her back and she was pulling it out of
20 the air, why not pull two people out of the air because we all
21 know we're looking for two other guys. So if one would make
22 the police happy, two would certainly make them even happier
23 with her. She didn't do that. The reason she didn't do that
24 is because she could describe and she knew one person and that
25 was the one she described as Junk and that is Jamar Huggins,

1 and a lot of times in cases like this when we have Co-
2 Defendants like we do in this case, that's what we call them,
3 Co-Defendants, one oftentimes will come and try to, to get
4 themselves some help, who wouldn't, and Ms. Montgomery talked
5 to Detective Martin in January of 2013, and I'm sure she
6 wanted to cooperate, and I'm sure she was hoping that that
7 would help her.

8 Now, you're looking at a very serious charge. Don't you
9 think she has all the incentive and motivation in January of
10 2013 when she identified Jamar Huggins to tell the truth, when
11 it was fresh in her mind to tell the truth, because lying was
12 certainly not going to help her and lying to a police officer
13 about a felony would have resulted in even more charges. She
14 would have gotten in even more trouble had she made it all up.
15 She told the truth to this detective about who was involved.

16 MR. LONG: Objection, Your Honor.

17 THE COURT: What ground?

18 MR. LONG: She's misstating the evidence. The witness
19 admitted lying to the police.

20 THE COURT: Sustained.

21 MS. ELDER: In January of 2013, she told the detective
22 what happened that night. Mr. Long wants you to believe that
23 you can't believe anything she says because as he called her,
24 an addicted crack head. There is absolutely no evidence,
25 nothing, that she was an addict or that she was a crack head.

1 He asked Mr. Martin if she admitted that she had done crack in
2 the past, and he said, yes, she did admit that, but he had no
3 idea, and yes, crack is bad. People shouldn't do it, but to
4 label her as an addicted crack head without any evidence to
5 support that is just not, it's just not the case. It's just
6 not appropriate, and remember, when she gave her statement in
7 January of 2013 she was not out on the street. She was in
8 jail.

9 Now, Deaungela only became hesitant when she walked into
10 this courtroom, and think about her testimony, and you can re-
11 listen to it, the parts that she was hesitant about. The only
12 thing that she was hesitant about was identifying the man that
13 sat in front of her. She talked to detectives in January of
14 2013. She provided descriptions, cars, directions,
15 everything. We know that's not a lie because the detective
16 said, "That's the only way I found him was what she told me in
17 January of 2013," and again, when she took that stand, she did
18 say some of things that she said in January 2013 was not
19 truthful and that some of them obviously leads you to believe
20 that her testimony was some of them were, some of them
21 weren't, but what the victim told you and what she told on the
22 stand about what happened that night it matched. You know
23 that wasn't a lie. It's the same thing she told them in
24 January of 2013. The only problem she had was coming in here
25 and telling you what she told the detectives.

1 MR. LONG: I object, Your Honor. Speculation.

2 THE COURT: Sustained.

3 MS. ELDER: She had a problem on the stand with
4 identifying the Defendant, and think about why that would be
5 the case, why it might be difficult for someone to come in and
6 take the stand and sit across from a man and point the finger
7 and say that's the man who would go into somebody's house at
8 night with a gun and point it at a 12 year old child, take \$15
9 in cash and go on like nothing ever happened. Why would that
10 be difficult?

11 Mr. Long told you a few things in his opening that some
12 of them came in through trial and some of them we never heard
13 about. One of them was that you did hear a street name, Junk,
14 and he said that his client goes, that's -- client goes by or
15 is referred to as Junk. He said that you hear about some guy
16 named Juice, that somebody was going to stand up there and say
17 that it was actually Juice that went into the house. There is
18 nobody that got on that stand and said that some guy named
19 Juice went into the house with a mask and a gun. Junk, Junk,
20 Junk, Junk, that's the only name you heard.

21 You -- told you that you weren't going to be able to
22 believe the person we were putting on the stand because she
23 was an addicted crack head, except for now the part, just the
24 small part, the one question he wants you to believe, no,
25 that ain't the man right there. Now, you disregard everything

1 else because she's an addicted crack head, but he wants you to
2 hold on to that.

3 You're going to have to determine if you believe what
4 Deaungela told the detective outside the presence of the
5 Defendant in January. You're going to have to -- the Judge is
6 going to give you a charge about why -- what you may consider
7 as to why she may have testified differently, she had a motive
8 to testify differently, she had a bias, coercion, those types
9 of things. He's also going to tell you that you can fully
10 believe her prior statement and disregard some, all or part of
11 what she said on the stand because of those biases or motives.

12 You were placed on this jury and are asked to use your
13 common sense and your life experiences to figure out and to
14 see through what is really going on here, and to see why and
15 why, what motive Deaungela had and her hesitation in court in
16 specifically identifying Jamar Huggins.

17 On December 19th, 2012, a mother and her children enjoyed
18 the spirit of Christmas, the season. They put a tree up.
19 They watched a movie, never realizing the terror that was
20 literally right outside their door, that the peace and joy and
21 their security would be completely shattered and that the
22 innocence of that season, the innocence of her child would be
23 taken away in a couple of hours. She never saw that coming,
24 and all, that was all taken by three people who got \$15, a
25 camera and some video games. That's what it's for. There's

1 nothing you can do today that is going to restore that
2 security or that innocence, nothing.

3 I wanted to leave you with this. Mr. Long told you in
4 his opening that why he became a lawyer. He became a lawyer
5 to protect the rights of people like Jamar Huggins, and I've
6 been doing this for a very long time, and I started thinking
7 about why 20 some years ago I chose this path, and I thought
8 it was interesting when I saw the date today, September 17th.
9 225 years ago today the United States Constitution was
10 created, and by its subsequent ratification and amendments, we
11 or every citizen of the United States was given inalienable
12 rights, and one of those rights is to feel secure in their
13 homes, that every citizen, that Angela Eckler, that the
14 victims who come, came before Angela, and unfortunately, the
15 victims that will come after, that they all have a right to be
16 secure in their homes from people like Jamar Huggins, and
17 that's why I became a lawyer.

18 MR. LONG: Ms. Elder just spent about 15 minutes trying
19 to mold and shape and explain to you what her star witness
20 said and why she said it, what she may have meant and this and
21 that. I'm just going to stick to the facts as they have been
22 presented to you because you are the finder of fact; okay?

23 Deaungela Montgomery, the State's witness, the first
24 witness that was called, she said, I asked her one question,
25 as you may recall, was Jamar Huggins involved in the home

1 invasion that night? Her answer, no. One question, one
2 answer. He was not involved. She said she -- when she was
3 initially interviewed by the police a year and a half ago she
4 said, yeah, she implicated Junk. She told the police that
5 Junk was involved, but then she later said she lied to the
6 police during those interviews, none of that stuff was true.
7 She said they were twisting her words around. She was
8 confused. She's on medication. She was smoking crack at the
9 time. She doesn't remember. She said, "But that guy right
10 there is not Junk." So she does not implicate Jamar Huggins.
11 Jamar Huggins, she said, she looked at that man right there
12 and said, "He was not involved in this crime." That's
13 testimony under oath. All her previous statements to the
14 police were not under oath. This was a sworn statement she
15 gave yesterday and you heard it.

16 Now, as I said, the police were satisfied when they
17 arrested Jamar Huggins. I want you to make sure you
18 understand that an arrest, the Judge is going to tell you, an
19 arrest does not equal guilty. You can arrest somebody and
20 them not be guilty. You can indict somebody, and they were
21 not guilty just because they're indicted, and they are -- he
22 admitted, that Detective Martin admitted that he arrested
23 Jamar Huggins for this crime solely based on the testimony of
24 -- I'm sorry, not the testimony, but the statements of
25 Deaungela Montgomery. He got that arrest warrant the next day

1 after he talked to Deaungela Montgomery because the only
2 evidence he had to arrest Jamar Huggins was her statement. So
3 he did rush out and arrest. They -- he knew at the time that
4 she was on crack cocaine. He knew that she had other pending
5 felony charges at that time, but solely based -- with all that
6 knowledge he still took that only bit of information and
7 arrested Jamar Huggins, and no other information has been
8 obtained since.

9 I asked Detective Martin, I said, "Let's talk about what
10 you did not do." He did not get a search warrant for anyone's
11 house. He did not get a search warrant for anyone's car. He
12 knew that there was a gun involved, a mask involved, gloves
13 involved. He didn't look for any of that stuff. They got DNA
14 swabs but he never followed up. He said he never got results
15 from the SLED lab. This is a CSI world just like you see on
16 TV. There is technology out there that if somebody is guilty
17 of a crime they can catch that guy. We got no hard evidence.
18 There's no exhibits. Oftentimes in a trial you've got
19 exhibits stacked up here, one after another. In this case
20 you've got words. You've got words of a woman who admitted
21 she lied, but, but then she under testimony she says, "That
22 man right there, Jamar Huggins, didn't do it. He wasn't
23 involved in this crime." They never arrested a second person.
24 They say two men went in there, but they only arrested one
25 person, and they arrested the wrong guy. They stopped their

1 investigation. They closed that case.

2 Ms. Elder mentioned Juice, and I talked about Juice
3 during my openings statements. If you remember, Deaungela
4 Montgomery said that there was a person that she was involved
5 with in this, but she would prefer not to give his name. I'll
6 leave that to you. Jamar Huggins, as what the witness said,
7 Deaungela Montgomery, was not involved in this crime. He
8 comes into this courtroom, as I said, wearing a cloak of
9 innocence, just like this coat, innocent. For him to be
10 proven guilty, the State has to take off that robe of
11 innocence, prove him guilty beyond a reasonable doubt of each
12 and every element of each and every crime. That's a very high
13 standard. As I said yesterday, if you look at this banister
14 here, and if this is absolutely no doubt, not guilty, and you
15 come down here, this is absolutely no doubt guilty, you've got
16 to start down here, okay, because you've got this cloak of
17 innocence. Then you walk down this way to get to guilty
18 beyond a reasonable doubt, a reasonable doubt, that thing in
19 your head that makes you hesitate and go, wait a minute, maybe
20 that's not right, that hesitation, that moment of hesitation.
21 That's doubt. So to get beyond any hesitation to decide,
22 you've got to be down here.

23 So let's look at the evidence. Let's start down here
24 because he's innocent till proven guilty beyond a reasonable
25 doubt. All right. The first witness, you've got Deaungela

1 Montgomery. Under oath she looked at you, and she said, "That
2 man, Jamar Huggins, was not involved in this crime." So based
3 on her testimony, can we take a step forward? No.

4 The next witness was the victim, Angela Eckler. I hate
5 what happened to her. It's not right. People should not be
6 subjected to that. I agree with Ms. Elder, you have the right
7 to be protected in your home, but does that mean we're going
8 to send an innocent man to jail based on what terrible thing
9 happened to Ms. Eckler? I hope we don't do that.

10 Now, based on Ms. Eckler's testimony, I asked her, "Can
11 you identify Jamar Huggins as the man who went into your house
12 during that home invasion?" She said, "No." We can't take a
13 step forward. We cannot get there. Now, then we had
14 Detective Martin, he wasn't in the home. He wasn't an
15 eyewitness. He didn't see it. He didn't collect any hard
16 evidence. Can we state -- can you take a step forward based
17 on his statements? No. So how are we going to get from here
18 to here? How you going to get there? What evidence are you
19 going to base this long walk on? What if you got in the
20 middle? That's loud. That'll wake you up. What if you got
21 in the middle? What if you said, "Man, I don't know.
22 Deaungela, she lied. She said she's telling the truth, but
23 she's lying. I don't know what to believe." I mean, you
24 know, what if you said, "Well, she did give the police a
25 nickname. She did give the police an address, and she did

Closing Argument by Defense

1 give the police a description of a car. Maybe, maybe that's
2 enough." Look, I know about a hundred people in Conway right
3 now if based on that information I could arrest them. I could
4 make up anything. I know John Smith lives at Street
5 driving a blue Cadillac. Go to the police and make up a story
6 on him. You got to have more than that. That's not enough.
7 So we're looking right here, "Well, maybe he did. Maybe he
8 didn't." Kind of look at the scales of justice 50-50, "Maybe,
9 maybe not. I don't know. I don't know." That's not enough.
10 You've got to take three or four more steps to get past that,
11 and I submit to you you can't get there. If you've got a
12 doubt whether or not Jamar Huggins was involved in this crime,
13 you cannot find him guilty. You're going to -- as Ms. Elder
14 said, we're kind of on the same wavelength in this, normally
15 we talk about the elements of each crime, and go, you've got
16 to make sure they're guilty beyond a reasonable doubt, each
17 and every element, go over each and every element of the
18 crime, but in this case it, it is the important thing, and
19 you're going to hear the Judge instructions, the important
20 thing in this case is the identity of the Defendant. You have
21 to be proven, proven beyond a reasonable doubt down here that
22 Jamar Huggins was involved in this home invasion. You've got
23 to get down here, start down there, end up down here. The
24 testimony you heard you can't get there from here, and also,
25 you're going to hear a charge from the Judge about credibility

1 of the witnesses. I don't have to explain that to you when it
2 comes to Deaungela Montgomery. That's common sense. You can
3 look at her credibility. Ask yourself, did these witnesses
4 prove beyond a reasonable doubt Jamar Huggins invaded that
5 home?

6 I made some notes here as Ms. Elder was talking, so. Ms.
7 Elder talked about me getting on Detective Martin about using
8 deceptive tactics. It is true. I don't like people to lie.
9 I'm not -- I make no bones about it. I don't think it's
10 necessary in law enforcement. I don't have a problem with him
11 going and interviewing people. You've got to interview
12 people, but when you start writing statements and putting
13 initials, circling the suspect's picture and writing a
14 statement by it and putting the initials of the victim, that's
15 a problem. I got a problem with that. He's not -- Detective
16 Martin is not on trial here today, don't intend to be, but I
17 just want to show you this whole investigation is messed up,
18 very non-typical, honestly. This is non-typical
19 investigation, and so you've got, you've got people using
20 deceit. Deaungela Montgomery, she admitted she lied to the
21 police. The police officer, Detective Martin, he admitted he
22 lied to her.

23 Now, I looked this up. I found a proverb. Proverbs
24 20:17 says, "What you get by dishonesty you may enjoy like the
25 finest food, but sooner or later it will be like a mouthful of

1 sand." Now, when Deaungela Montgomery and Detective Martin,
2 when they used that dishonesty, they enjoyed it, like a
3 mouthful of the finest food. They said, "Man, this
4 dishonesty, this is going to get me what I want, and it's
5 good," but today they got a mouthful of sand. So I just ask
6 you use your common sense, remember what Deaungela Montgomery
7 said, Jamar Huggins did not do it. Remember what the victim
8 said, Angela Eckler, she could not identify the person went
9 into her house. Thank you for your, your cooperation and your
10 time and I thank you.

11 THE COURT: All right. Ladies and gentlemen, all of the
12 evidence in this case has been presented to you. The
13 attorneys have made their closing arguments, and now is the
14 time of the trial where I will charge you with the law to be
15 applied in this case.

16 The indictments in this case allege several different
17 offenses against the Defendant. The charges against the
18 Defendant in this case are burglary in the first degree,
19 kidnapping, and armed robbery. Each indictment charges a
20 separate and distinct offense. You must decide each indictment
21 separately on the evidence and the law applicable to it,
22 uninfluenced by your decision as to any other indictment. The
23 Defendant may be convicted or acquitted on any or all of the
24 offenses charged. You will be asked to write a separate
25 verdict of guilty or not guilty for each indictment.

1 I remind you that the fact the Defendant was arrested,
2 charged and indicted in this case is not evidence in this case
3 and cannot be considered by you as evidence of guilt in this
4 case, nor does the Defendant's arrest, charge or indictment
5 create any presumption or inference of guilt. These
6 indictments are simply the formal written instruments which
7 contain the charges made against the Defendant. They are the
8 formal documents by which this case is brought into this court.

9 The Defendant pleads not guilty to these indictments.
10 That plea puts the burden on the State to prove the Defendant
11 guilty. A person charged with committing a criminal offense in
12 South Carolina is never required to prove his innocence. I
13 charge you that an important rule of the law is that the
14 Defendant in a criminal trial, no matter what the seriousness
15 of the charge may be, will always be presumed to be innocent of
16 the crime for which the indictment was issued unless guilt has
17 been proven by evidence satisfying you of that guilt beyond a
18 reasonable doubt.

19 This presumption of innocence does not end when you begin
20 your deliberations, but it accompanies the Defendant
21 throughout the trial until you reach a verdict of guilt based
22 on evidence satisfying you of that guilt beyond a reasonable
23 doubt. The presumption of innocence is like a robe of
24 righteousness placed about the shoulders of the Defendant
25 which remains with the Defendant until it has been stripped

1 from the Defendant by evidence satisfying you of the
2 Defendant's guilt beyond a reasonable doubt. The presumption
3 of innocence is not a mere legal theory. It is not just a
4 legal phrase. It is a substantial right to which every
5 Defendant is entitled unless you, the jury, are satisfied from
6 the evidence of the Defendant's guilt beyond a reasonable
7 doubt.

8 Now, what is a reasonable doubt in the law? A reasonable
9 doubt is the kind of doubt that would cause a reasonable
10 person to hesitate to act. Proof beyond a doubt is proof that
11 leaves you firmly convinced of the Defendant's guilt. We know
12 very few things in this world with absolute certainty, and in
13 criminal cases the law does not require proof that overcomes
14 every possible doubt. If, based on your consideration of the
15 evidence, you are firmly convinced that the Defendant is
16 guilty of the crime charged, you must find the Defendant
17 guilty. If on the other hand you think a real possibility
18 exists that the Defendant is not guilty, you must give the
19 Defendant the benefit of that doubt and find him not guilty.

20 I remind you that, during this trial, you and I have
21 certain duties to perform. As the trial judge, my
22 responsibility is to preside over the trial of this case. I
23 also have the duty to rule on the admissibility of evidence
24 offered during the trial of this trial. You are to consider
25 only the competent evidence before you. If any testimony was

1 ordered stricken from the record in this case during the
2 trial, you must disregard that testimony. You are to consider
3 only the testimony which has been presented from the witness
4 stand, any exhibits which have been made a part of the record
5 in this case and any stipulations of counsel.

6 I have the additional duty to charge you the law
7 applicable to this case. As the presiding judge, I am the
8 sole judge of the law in this case. Your duty as jurors is to
9 accept and apply the law as I now state it to you. If you
10 have any idea as to what the law is or what the law ought to
11 be and your idea is different from what I now tell you the law
12 is, you must disregard your idea of what the law is or ought
13 to be because you are sworn to accept the law and apply the
14 law exactly as I state it to you.

15 In every case tried in this court before a jury, the jury
16 is the sole and exclusive judge of the facts in a case. A
17 trial judge cannot intimate, state, comment on or make any
18 statement to a trial jury about the facts in a case. Since
19 you, the jury, are the sole judge of the facts in this case,
20 you are not to infer from what I have said during the progress
21 of this trial in ruling upon the admissibility of evidence, or
22 otherwise, or anything that I say now during the course of
23 this instruction to you, that I have any opinion about the
24 facts in this case. The law does not allow me to have an
25 opinion about the facts in this case. This is a matter solely

1 for you, the jury, to determine. As jurors, your duty is to
2 determine the effect, value, weight and truth of the evidence
3 presented during this trial.

4 Now, two types of evidence are generally presented during
5 a trial, direct evidence and circumstantial evidence. Direct
6 evidence is the testimony of a person who claims to have
7 actual knowledge of a fact, such as an eyewitness.
8 Circumstantial evidence is proof of a chain of facts and
9 circumstances indicating the existence of a fact. The State
10 has the burden of proving the Defendant guilty beyond a
11 reasonable doubt. This burden rests solely with the State
12 regardless of whether the State relies on direct evidence,
13 circumstantial evidence or some combination of the two.
14 However, the law makes absolutely no distinction between the
15 weight or value to be given to either direct or circumstantial
16 evidence, nor is a greater degree of certainty required of
17 circumstantial evidence than of direct evidence. You should
18 weigh all of the evidence in this case. After weighing all of
19 the evidence, if you are not convinced of the guilt of the
20 Defendant beyond a reasonable doubt, you must find the
21 Defendant not guilty.

22 Necessarily, you must determine the credibility of
23 witnesses who have testified in this case. Credibility simply
24 means believability. Your duty as jurors is to analyze and
25 evaluate the evidence and determine which evidence convinces

1 you of its truth. In determining the believability of
2 witnesses who have testified in this case, you may believe one
3 witness over several witnesses or several witnesses over one
4 witness. You may believe a part of the testimony of a witness
5 and reject the remaining part of the testimony of that same
6 witness. You may believe the testimony of a witness in its
7 entirety or reject the testimony of a witness in its entirety.
8 You may consider whether any witness has exhibited to you any
9 interest, bias, prejudice or other motive in this case. You
10 may also consider the appearance and manner of the witness
11 while on the witness stand.

12 Evidence has been presented that a witness made prior
13 statements which are not consistent with the witness' present
14 testimony. You may use this evidence to decide whether to
15 believe the witness. You may also use evidence of the earlier
16 contradictory statements to determine the truth of those
17 statements. You are to decide whether to believe the earlier
18 statements or the testimony given at trial. If a witness is
19 shown to have knowingly testified untruthfully concerning any
20 material matter, you may consider this in determining whether
21 to trust the witness' testimony as to other matters. You may
22 reject all of the testimony of that witness or give all or a
23 part of the testimony the weight you think it deserves.

24 One of the witnesses in this case has a criminal record.
25 A person who has a past criminal record is competent to

1 testify during a trial. A past record does not affect the
2 ability of that witness to testify. The past record may only
3 be considered by you, if at all, in determining the witness'
4 believability. Remember, you are the sole judges of the facts
5 in this case and the believability of any or all of the
6 witnesses.

7 I instruct you and emphasize that the fact that the
8 Defendant did not testify in this case is not a factor to be
9 considered by you in any way in your deliberations and in your
10 consideration on the question of the guilt or the innocence of
11 the Defendant. The Defendant's failure to testify must not be
12 considered by you in any manner whatsoever. A Defendant has
13 the constitutional right to remain silent, and the assertion
14 of this right must not be considered by you in your
15 deliberations. I repeat, under your oath, you are to draw no
16 conclusion whatsoever from the fact that the Defendant in this
17 case did not testify. The fact that this Defendant did not
18 testify should not even be discussed in the jury room.
19 The burden of proof, as I have stated to you, is on the State
20 to prove the Defendant's guilt beyond a reasonable doubt. The
21 Defendant is not required to prove his innocence. The burden
22 of proof remains on the State to prove the Defendant's guilt
23 beyond a reasonable doubt.

24 Now, if a crime is committed by two or more people who
25 are acting together in committing a crime, the act of one is

1 the act of all. A person who joins with another person to
2 commit an unlawful act is criminally responsible for
3 everything done by the other person which happens as a
4 probable or natural consequence of the acts done in carrying
5 out the common plan and purpose. For example, two people can
6 be guilty of killing another person when only one of the two
7 had a gun, only one bullet was used and only one of the two
8 people fired the shot that caused the death. If two or more
9 people are together, acting together, assisting each other in
10 committing the offense, the act of one is the act of all or as
11 is sometimes said, "The hand of one is the hand of all."
12 Prior knowledge that a crime is going to be committed, without
13 more, is not sufficient to make a person guilty of that crime.
14 Mere knowledge that another person is going to commit a crime,
15 even if the Defendant is present when the crime is committed,
16 is not sufficient to convict the Defendant as a principal.
17 Guilt as a principal is shown by actual or constructive
18 presence at the scene as a result of a prior arrangement.
19 Therefore, a finding of a prior arranged plan or common scheme
20 is necessary for a finding of guilt as a principal.
21 The State must prove beyond a reasonable doubt by competent
22 evidence the theory of the hand of one is the hand of all.

23 A principal in a crime is one who either actually commits
24 the crime or who is present aiding, abetting or assisting in
25 committing the crime. When a person does an act in the

1 presence of and with the assistance of another, the act is
2 done by both. Where two or more, acting with a common plan or
3 intent, are present at the commission of a crime, it does not
4 matter who actually commits the crime. All are guilty. The
5 hand of one is the hand of all. Present at the commission of
6 a crime means to be sufficiently near to aid and abet and
7 assist in the commission of the crime. However, mere presence
8 at the scene of a crime is not sufficient to convict one as a
9 principal on the theory of aiding and abetting. Intent is
10 also a necessary element, for there must have been a common
11 design or intent to commit the crime and the crime must have
12 been committed pursuant to the common design or intent with
13 the person aiding and abetting by some overt act.

14 Intent means intending the result which actually occurs,
15 not accidentally or involuntary. Intent may be shown by acts
16 and conduct of the Defendant and other circumstances from
17 which you may naturally and reasonably infer intent. The
18 State must prove these elements beyond a reasonable doubt.

19 Now, in order to establish criminal liability, criminal
20 intent is required. For example, the mental state required to
21 be proven by the State for a particular crime might be
22 purpose, intent, knowledge, recklessness or criminal
23 negligence. Criminal intent must be proven by the State
24 beyond a reasonable doubt. Criminal intent is always a matter
25 that must be determined by the jury from the circumstances

1 surrounding the situation. No way exists to prove intent to a
2 mathematical certainty. Medical science cannot dissect a
3 person's brain and determine what the person had in mind, so
4 the law says that criminal intent may be inferred from the
5 circumstances shown to have existed. This is how you make a
6 determination of whether or not the element requiring intent
7 is present. Intent does not have to be established by direct
8 and positive evidence. Intent may be established by inference
9 in the same way as any other fact, by taking into
10 consideration the acts of the parties and all the facts and
11 circumstances of the case. Criminal intent is a mental state,
12 a conscious wrongdoing. You must determine what the Defendant
13 intended to do based on the circumstances shown to have
14 existed. Criminal intent can arise from action or a failure
15 to act. It may arise from negligence, recklessness or an
16 indifference to duty or to consequences that is considered by
17 the law to be the equivalent of criminal intent.

18 Now, an issue in this case is the identification of the
19 Defendant as the person who committed the crime charged. The
20 State has the burden of proving identity beyond a reasonable
21 doubt. You must be satisfied beyond a reasonable doubt of the
22 accuracy of the identification of the Defendant before you may
23 convict the Defendant. Identification testimony is an
24 expression of belief or impression by a witness. You must
25 determine the accuracy of the identification of the Defendant.

1 You must consider the believability of each identification
2 witness in the same way as any other witness. Once again, I
3 instruct you the burden of proof is on the State and extends
4 to every element of the crime charged, and is specifically
5 this includes the burden of proving beyond a reasonable doubt
6 the identity of the Defendant as the person who committed the
7 crime. If, after examining the testimony, you have a
8 reasonable doubt as to the accuracy of the identification, you
9 must find the Defendant not guilty.

10 As I have previously advised you, the Defendant is
11 charged with first degree burglary, kidnapping and armed
12 robbery. To prove the Defendant guilty of first degree
13 burglary, the State must first prove beyond a reasonable doubt
14 that the Defendant entered a dwelling without consent. A
15 dwelling is any building or portion of a building in which a
16 person ordinarily sleeps. A building constructed as a
17 dwelling that has never been occupied cannot be considered a
18 dwelling for purposes of burglary, but a building is a
19 dwelling even if the residents are temporarily absent from the
20 building.

21 In order to prove that the Defendant entered the
22 dwelling, the State does not have to show that the Defendant's
23 entire body entered the dwelling. The smallest entry is
24 sufficient. It may be any part of the body, such as a hand or
25 foot or even an instrument, such as a hook or other

1 instrument. Excuse me, in addition, the State does not have
2 to prove that force was used to gain entry. If a person
3 enters a building by using deception, artifice, trick or
4 misrepresentation to get consent to enter, this is an entry
5 without consent.

6 Next, the State must prove beyond a reasonable doubt that
7 the Defendant intended to commit a crime, either a felony or a
8 misdemeanor, at the time of the entry. The mere entry into a
9 dwelling without consent is not burglary. If the intent to
10 commit a crime is formed after the entry, it is not burglary.
11 On the other hand, if the Defendant intended to commit a crime
12 at the time of the entry, it is a burglary even if the intent
13 was abandoned after the entry. It does not matter that the
14 intended crime was not completed. Intent may be shown by acts
15 and conduct of the Defendant and other circumstances from
16 which you may naturally and reasonably infer intent.

17 Finally, the State must prove beyond a reasonable doubt
18 at least one of the following, but need not prove all of the
19 following: one, when entering, while in the dwelling or when
20 fleeing, the Defendant or an accomplice was armed with a
21 deadly weapon or explosive. A deadly weapon is any article,
22 instrument or substance which is likely to cause death or
23 great bodily harm. Whether an instrument has been used as a
24 deadly weapon depends on the facts and circumstances of each
25 case.

1 The following are examples of instruments which may be
2 deadly weapons: a pistol, a shotgun, a rifle, a dirk, a
3 dagger, a knife, a sling shot, metal knuckles, a razor,
4 gasoline, a fire bomb or Molotov cocktail and lighter fluid.
5 A gun may be a deadly weapon even if it is not operating.

6 Two, when entering, while in the dwelling, or when
7 fleeing, the Defendant or an accomplice displayed what was or
8 appeared to be a knife, a pistol, a revolver, a rifle, a
9 shotgun, a machine gun or other firearm, or three, that the
10 Defendant entered or remained in the dwelling in the
11 nighttime. Nighttime is the period between sunset and sunrise
12 during which there is not enough daylight to recognize a
13 person's face except by artificial light or moonlight.

14 The Defendant is also charged with kidnapping. To
15 convict the Defendant of kidnapping, the State must prove
16 beyond a reasonable doubt that the Defendant knowingly and
17 unlawfully seized, confined, inveigled, decoyed, kidnapped,
18 abducted or carried away another person without authority of
19 law. To do a thing unlawfully is to do it willfully against
20 the law. Knowingly means with knowledge, consciously, not
21 accidentally. Seize means to take hold of suddenly or
22 forcibly. Confine means to limit, restrict or enforce [sic]
23 within bounds, imprison or shut or keep in. Inveigle means to
24 lure, entice or lead astray by false representations, promises
25 or other deceitful means. Decoy means to lure by, or as if

1 by, a decoy. A decoy is something to entice a person into a
2 trap. Kidnap is to remove a person against his will by
3 unlawful force or by fraud. Abduct means to carry off
4 secretly or by force or by an illegal purpose. Carry away
5 means to remove.

6 The State does not have to prove that the Defendant did
7 all of these things. Instead, if you find beyond a reasonable
8 doubt that the Defendant did any of these things, you may find
9 the Defendant guilty of kidnapping. Something done without
10 authority of law is something which the law does not sanction,
11 permit, allow, condone or provide justification for. The
12 kidnapping does not have to be for any personal or monetary
13 gain or for any illegal purpose, but it may be for any reason
14 whatsoever.

*15 The Defendant is also charged with armed robbery. In
*16 order to prove this offense, the State must first prove beyond
*17 a reasonable doubt that the Defendant took personal property
*18 from the person or presence of another person. Property is in
19 the presence of a person if it is within the person's reach,
20 inspection, observation or control so that the person could,
21 if not overcome with violence or prevented by fear, keep
22 possession of the property. The State must also prove beyond
23 a reasonable doubt that the Defendant carried the property
24 away intending to permanently deprive the owner of the
25 property and to keep the property for the Defendant's own use.

1 The slightest removal of the property or the complete
2 possession of the property, even for an instant, by the
3 Defendant is sufficient to show a taking and carrying away of
4 the property. The taking and carrying away of the property
5 must have been done with violence or by putting the owner of
6 the property in fear of violence.

7 Finally, the State must prove beyond a reasonable doubt
8 that the Defendant was armed with a deadly weapon during the
9 robbery. A deadly weapon is any article, instrument or
10 substance which is likely to cause death or great bodily harm.
11 Whether an instrument has been used as a deadly weapon depends
12 on the facts and circumstances of each case. The following
13 are examples of instruments which may be deadly weapons: a
14 pistol, a shotgun, a rifle, a dirk, a dagger, a knife, a sling
15 shot, metal knuckles, a razor, gasoline, a fire bomb or
16 Molotov cocktail and lighter fluid. A gun may be a deadly
17 weapon even if it is not operating.

18 Also included within the offense of armed robbery is the
19 lesser offense of robbery. Therefore, if you find that the
20 State has failed to prove that the Defendant was armed with a
21 deadly weapon, you may then consider whether the State has
22 proved beyond a reasonable doubt that the Defendant committed
23 robbery. In order to prove robbery, the State must prove
24 beyond a reasonable doubt all of the elements that I have just
25 explained for armed robbery, except the required element that

1 the Defendant was armed with a deadly weapon. In other words,
2 the State must prove beyond a reasonable doubt that the
3 Defendant took the personal property from the person or
4 presence of another person, without that person's consent, and
5 carried it away. Like armed robbery, property is in the
6 presence of a person if it is within the person's reach,
7 inspection, observation or control so that the person, if not
8 overcome with violence or prevented by fear, retain possession
9 of the property. The State must also show that the Defendant
10 carried the property away with the intent to permanently
11 deprive the owner of the property and to convert the property
12 to the Defendant's own use, and the taking and the carrying
13 away of the property must have been done with violence or by
14 putting the owner of the property in fear of violence.

15 Now, as to the charges for first degree burglary and
16 kidnapping, there are two possible verdicts for each
17 indictment. As to the charge of armed robbery, you may find
18 one of three possible verdicts. No significance whatsoever is
19 to be given to the order in which I state these possible
20 verdicts to you. I simply must state one first, one second
21 and so forth. On the charge of first degree burglary, your
22 possible verdicts are "guilty" or "not guilty." On the charge
23 of kidnapping, your possible verdicts are "guilty" or "not
24 guilty." On the charge of armed robbery, your possible
25 verdicts are "guilty of armed robbery," "guilty of robbery,"

1 or "not guilty."

2 Ladies and gentlemen, your verdicts must be unanimous.
3 Now, you will be given these verdicts forms. When the jury
4 agrees on a verdict, Mr. Clark, you will check the appropriate
5 verdict for each indictment, sign your name and then knock on
6 the door and tell the bailiff that the jury has reached a
7 verdict.

8 I'm going to excuse you back to the jury room for just a
9 few minutes, but please do not begin your deliberations at
10 this point in time. I need to check with the attorneys to see
11 if they have any challenges to my charges. If they have some
12 challenges and I deem them appropriate I'll bring you back in
13 and make whatever additional charges or corrections I need to
14 make. If there are none or if I deem there are none, I'll
15 send these verdict forms with the indictments and the evidence
16 back to the jury and the bailiff or officer will tell you you
17 can begin your deliberations, but please do not begin your
18 deliberations until you're told to do so.

19 All right. I'll excuse you back to the jury room at this
20 time.

21 (Whereupon, the following takes place outside the
22 presence of the jury.)

23 THE COURT: All right. Any exceptions or challenges to
24 the charges by the State?

25 MS. ELDER: No, sir.

1 THE COURT: Any by the Defense?

2 MR. LONG: No, Your Honor.

3 THE COURT: All right. Let's make sure --

4 (Exhibits reviewed and approved by attorney for the State
5 and the attorney for the Defense.)

6 THE COURT: Let's go ahead and bring Mr. Brooks out.

7 (Alternate dismissed by Court with call-instructions.)

8 THE COURT: All right. Here are the indictments. These
9 are the verdict forms, and I've got the indictments, the
10 verdict forms. We got that exhibit. Let's go ahead and take
11 them back to the jury room and tell the jury they can begin
12 their deliberations. Okay?

13 (Deliberations begin at 11:05 a.m.)

14 THE COURT: All right. Anything from the State before we
15 recess?

16 MS. ELDER: No, sir.

17 THE COURT: Anything from the Defense?

18 MR. LONG: No, Your Honor.

19 THE COURT: All right. We'll all stand at ease until we
20 get a verdict; okay?

21 MR. LONG: Your Honor?

22 THE COURT: Yes, sir.

23 MR. LONG: Mr. Huggins, can he come back in the
24 conference room with me and talk with his family briefly?
25 He's got an ankle monitor on.

1 THE COURT: Okay. For security he's got an ankle monitor
2 on and you're going to be back there?

3 MR. LONG: Yes, sir. I'll make sure he's --

4 THE COURT: All right.

5 MR. LONG: Thank you.

6 MR. HUGGINS: Thanks.

7 THE COURT: How long do you think you'll be?

8 MR. LONG: Ten minutes.

9 THE COURT: Okay. All right. For ten minutes, then
10 he'll need to come back out.

11 MR. LONG: Okay.

12 THE COURT: We'll do it that way.

13 ***** OFF THE RECORD *****

14 (Jury has lunch at 1:05 p.m. On the record. Whereupon,
15 the following takes place outside the presence of the jury.
16 Question from jury at 1:25 p.m.)

17 THE COURT: Thank you very much. Please be seated. I
18 apologize for keeping you so long. The jury has come out with
19 a question. "Judge Culbertson, we want to know the first date
20 the Investigator Martin interviewed Ms. Montgomery, Gary
21 Clark." If we can stipulate, we can stipulate, or I can just
22 say that's a question of fact that the jury has to decide.
23 And I don't recall whether it'd be -- quite honestly, I don't
24 recall if that is even in evidence.

25 MR. LONG: I asked, I asked Detective Martin. He

1 answered January 11th of 2013.

2 THE COURT: Well, how do you all want me to answer it? I
3 can, I can do one of two things. As I said, I can -- I could
4 say it's a question of fact that they have to decide. We can
5 replay testimony for them or something that that's -- that may
6 not be in dispute. If you all want to stipulate to it I don't
7 have a problem stipulating to it.

8 MR. LONG: I, I don't mind stipulating to it.

9 MS. ELDER: Your Honor, he's -- the detective's testified
10 it was the first one was it January 11th, 2013, at 9:41, and
11 the second was at 1, one p.m., the same day.

12 THE COURT: They just said for the first date, so.

13 MS. ELDER: It was, okay, it was the same day. Yeah.

14 THE COURT: Well, what do you want me to do? If you all
15 can agree, fine. If you can't agree, I'll just say it's a
16 question of fact that you have to decide, that the jury has to
17 decide.

18 MS. ELDER: Can -- I, I don't have any objection. The
19 question is the first -- is -- what was the question the first
20 day?

21 THE COURT: It says we want to know the first date. It
22 says the, I'm assuming that, the first date the Investigator
23 Martin interviewed Ms. Montgomery.

24 MS. ELDER: I don't have any objection for January 11th,
25 2013, at 9:41 a.m.

1 MR. LONG: That's fine.

2 THE COURT: All right. All right. January -- what is
3 it?

4 MS. ELDER: 11th.

5 THE COURT: 2000?

6 MS. ELDER: 13, at 9:41 a.m.

7 THE COURT: Is that agreeable for me to just write on
8 here January 11th of 2013 at 9:41 a.m.?

9 MR. LONG: Yes, sir.

10 THE COURT: All right. All right. Let's mark this
11 Court's Exhibit One. You all come up and take a look at it
12 and see if this is agreeable to you.

13 (Court's Exhibit Number One [Question from Jury]
14 appropriately marked and counsel for State and Defense
15 review.)

16 THE COURT: Is that agreeable?

17 MS. ELDER: Yes, sir.

18 THE COURT: All right. You can take that back into them.
19 Thank you, sir. All right. Anything further from the State?

20 MS. ELDER: No, sir, Your Honor.

21 THE COURT: Anything further from the Defense?

22 MR. LONG: No, sir.

23 THE COURT: All right. We'll stand in recess till we
24 hear something back from the jury.

25 MS. ELDER: Yes, sir.

1 ***** OFF THE RECORD *****

2 (On the record. Whereupon, the following takes place
3 outside the presence of the jury. Verdict reached at 3:14
4 p.m.)

5 THE COURT: Thank you very much. Please be seated.
6 All right. I understand the jury has reached a verdict.
7 Anything from the State before we bring the jury in?

8 MS. ELDER: No, sir.

9 THE COURT: Anything from the Defense?

10 MR. LONG: No, Your Honor.

11 THE COURT: All right. Let's go ahead and bring the jury
12 in. All right. Ladies and gentlemen, I just want to let you
13 know whatever the verdict is make sure there's no outbursts or
14 from anybody that's here in the courtroom. I don't want to
15 threaten you, but you'll need to excuse yourself if you're not
16 going to be able to control your emotions.

17 (Whereupon, the following takes place in the presence of
18 the jury.)

19 THE COURT: All right. Ladies and gentlemen, welcome
20 back. Mr. Clark, I understand the jury has reached a verdict.
21 Is that correct?

22 FOREPERSON: Yes, sir.

23 THE COURT: Have you completed the verdict forms?

24 FOREPERSON: Yes, sir.

25 THE COURT: All right. If you'd please hand those to the

1 bailiff.

2 (Complies with request and Court reviews.)

3 THE COURT: Thank you, sir. All right. I'll ask the
4 clerk if she'd please publish the verdicts.

5 THE CLERK: Court of General Sessions, 15th Judicial
6 Circuit, Indictment 2013-GS-26-1076, the State of South
7 Carolina, County of Horry, State of South Carolina versus
8 Jamar Antonio Huggins, first degree burglary, we, the jury,
9 find the Defendant, Jamar Antonio Huggins, guilty of first
10 degree burglary, signed by foreperson, Gary Clark, September
11 17th, 2014.

12 The Court of General Sessions, 15th Judicial Circuit,
13 Indictment 2013-GS-26-1077, the State of South Carolina,
14 County of Horry, State of South Carolina versus Jamar Antonio
15 Huggins, kidnapping, we, the jury, find the Defendant, Jamar
16 Antonio Huggins, guilty of kidnapping, signed by foreperson,
17 Gary Clark, September 17th, 2014.

18 The Court of General Sessions, 15th Judicial Circuit,
19 Indictment 2013-GS-26-1078, the State of South Carolina,
20 County of Horry, State of South Carolina versus Jamar Antonio
21 Huggins, armed robbery, we, the jury, find the Defendant,
22 Jamar Antonio Huggins, guilty of armed robbery, signed by
23 foreperson, Gary Clark, September 17th, 2014.

24 Ladies and gentlemen of the jury, if this is your verdict
25 so signify by raising your right hand.

1 (All jurors raise right hand.)

2 THE COURT: All right. Let the record reflect that all
3 jurors raised their right hand. Any polling of the jury by
4 the Defense?

5 MR. LONG: Yes, Your Honor.

6 THE COURT: All right. All right. Ladies and gentlemen,
7 we are going to poll the jury at this time. What will happen
8 is when the clerk calls your jury number if you would please
9 stand and she's going to ask you two questions. She's going
10 to ask if these are your verdicts and then she's going to ask
11 you if these are still your verdicts, and you'll need to
12 respond to those questions.

13 THE CLERK: Okay. Juror Number 82, is this your verdict?

14 MR. CLARK: It is.

15 THE CLERK: Is it still your verdict?

16 MR. CLARK: Yes.

17 THE CLERK: Okay. You can be seated.

18 Juror 212, is this your verdict?

19 MS. HOLLAND: Yes.

20 THE CLERK: Is it still your verdict?

21 MS. HOLLAND: Yes.

22 THE CLERK: Juror 306, is this your verdict?

23 MR. MCFADDEN: Yes.

24 THE CLERK: Is it still your verdict?

25 MR. MCFADDEN: Yes.

1 THE CLERK: Juror 183, is this your verdict?
 2 MR. GRAY: Yes.
 3 THE CLERK: Is it still your verdict?
 4 MR. GRAY: Yes.
 5 THE CLERK: Juror 442, is this your verdict?
 6 MS. TALOTTA: Yes.
 7 THE CLERK: Is it still your verdict?
 8 MS. TALOTTA: Yes.
 9 THE CLERK: Juror 303, is this your verdict?
 10 MR. MCCANN: Yes.
 11 THE CLERK: Is it still your verdict?
 12 MR. MCCANN: Yes.
 13 THE CLERK: Juror 172, is this your verdict?
 14 MS. GLOVER: Yes.
 15 THE CLERK: Is it still your verdict?
 16 MS. GLOVER: Yes.
 17 THE CLERK: Juror 220, is this your verdict?
 18 MR. HUBER: Yes.
 19 THE CLERK: Is it still your verdict?
 20 MR. HUBER: Yes.
 21 THE CLERK: Juror 415, is this your verdict?
 22 MS. SHIFLETT: Yes.
 23 THE CLERK: Is it still your verdict?
 24 MS. SHIFLETT: Yes.
 25 THE CLERK: Juror 175, is this still your verdict?

1 MS. GOODALL: Yes.

2 THE CLERK: Is this your verdict?

3 MS. GOODALL: Yes.

4 THE CLERK: Juror 452, is this your verdict?

5 MS. TURNES: Yes.

6 THE CLERK: Is it still your verdict?

7 MS. TURNES: Yes.

8 THE CLERK: Juror 313, is this your verdict?

9 MS. MCNELIS: Yes.

10 THE CLERK: Is it still your verdict?

11 MS. MCNELIS: Yes.

12 THE CLERK: Thank you.

13 THE COURT: All right. Ladies and gentlemen, I want to
14 thank you for your service in this case. That will conclude
15 your services in this case. I don't know if we have any other
16 trials this week. So I will excuse you for the remainder of
17 the day. You should have been given a number for the Clerk of
18 Court's Office. You'll need to call that number after six
19 p.m. -- well, we already have our jury panel for the next one;
20 don't we?

21 MS. ELDER: Yes, sir.

22 THE COURT: Okay. All right. So that would conclude
23 your service as jurors for the remainder of the week because
24 while you were deliberating we had a panel pulled for the next
25 case we have. So I want to thank you for your services not

1 only in this case but for your services this week as jurors.
2 You're free to go at this time and thank you very much.

3 (Jury exits courtroom.)

4 THE COURT: All right. Any post-trial motions at this
5 time?

*6 MR. LONG: Yes, Your Honor. As -- make a motion for you
*7 to exercise your discretion as the 13th juror based upon the
*8 facts that I alluded to as the -- during the motion for
*9 directed verdict. I know you were very close to, to awarding
*10 the directed verdict. The, they sole witness that could
*11 possibly identify my client admitted that she lied to the
*12 police originally. Under sworn testimony she said that she
*13 lied to the police. Then under sworn testimony she identified
*14 my client was not involved in the crime.

*15 The only other witness who could have possibly identified
*16 was the victim, and she testified she could not identify the
*17 Defendant as being involved in the crime. So there is
*18 absolutely no evidence for the jury to base their conviction
*19 upon.

20 THE COURT: All right. What's the State's position?

21 MS. ELDER: Your Honor, my, my position would be that
22 which I argued at directed verdict stage. After the State
23 closed their case, there was a -- obviously, as Your Honor
24 knows, there was a question about inconsistent statements, and
25 I believe the charge was correct. It is the jury's province

1 to determine whether or not or how much of her statement from
2 the stand they're going to believe and they've got to take
3 into consideration why she may be testifying today differently
4 than what she gave a statement to before. That's the whole
5 reason that we have the rule on prior inconsistent statements
6 to allow the jury to weigh those out. Also in your charge,
7 Your Honor, it's very clear that the, that the courts have
8 indicated that the jury has the right to consider a prior
9 inconsistent statement in deliberating and granting, finding
10 guilt, Your Honor. That's in the charge that was given to the
11 jury. That's what they did. They stayed out for over four
12 hours. They had all that information. They had those
13 charges, and I think that they determined the credibility of
14 that witness in what they chose to believe and what they chose
15 not to believe.

16 THE COURT: All right. I'm pretty sure I know how I'm
17 going to rule, but I do want to check one case before I do so.
18 I'm going to take it under advisement. I'm going to -- Mr.
19 Long, we're going to have to hold your client for tonight, and
20 I'll come back tomorrow morning and let you know my decision
21 or let's wait. Let me go take a look. It's only 3:30. I was
22 thinking a little bit later. So, let's, let's, let's stand
23 down for just a minute while I take this under advisement.
24 Okay?

25 MR. LONG: Thank you.

1 THE COURT: Any other motions?

2 MR. LONG: No, sir.

3 THE COURT: Okay. All right. I'm going to take it under
4 advisement. I'll be back out. Don't go anywhere. I'll be
5 back out in just a minute. Okay?

6 ***** OFF THE RECORD *****

7 (On the record.)

8 THE COURT: Thank you very much. Please be seated.

9 All right. Mr. Long, I'm going to deny your motion.
10 Just like directed verdict, I go with whether or not the
11 existence of evidence to justify the jury's verdict, and they,
12 they just believed Ms. Montgomery's prior statement and didn't
13 believe her testimony at trial. So I think there is evidence
14 to justify the jury's verdict. So I'm going to deny your
15 motion. Anything else?

16 MR. LONG: Nothing. I would submit formal notice of
17 appeal, but I would like to state for the record we will be
18 appealing the motion for direct verdict that was denied.

19 THE COURT: And I understand, and that is a close call,
20 and you may very well prevail on that. I just have to make a
21 ruling the way I, the way I read it.

22 MR. LONG: Yes, sir.

23 THE COURT: And it's -- as I see, it's existence.

24 MR. LONG: No disrespect to you.

25 THE COURT: Yeah. And I understand that and it's --

1 whether evidence -- all I do is look to see if there is any
2 evidence in the record, and then it's up to the jury to draw
3 the conclusions they want to draw. So I'll agree with you one
4 hundred percent, it is a very close call, and, and I don't
5 know what an Appellate Court will do with it. So they may
6 very well say I committed legal error and should have granted
7 a directed verdict or I should have granted a new trial on the
8 13th juror doctrine because it was tenuous. I agree, but I'm
9 going to deny your motion. Any reason we can't go ahead and
10 impose sentence at this time?

11 MS. ELDER: No, sir, Your Honor. We're prepared to go
12 forward.

13 THE COURT: Anything from the Defense?

14 MR. LONG: No, sir.

15 THE COURT: All right. Have you got the sentencing
16 sheets?

17 MS. ELDER: Yes, sir.

18 THE COURT: Your Honor, I never know if they require the
19 State and everybody to sign. You want me to have them sign?

20 THE COURT: You can do whatever you want. I can tell you
21 generally when it's a jury trial --

22 MS. ELDER: I don't --

23 THE COURT: -- a lot of times they don't do it. On a
24 plea they do.

25 All right. Mr. Long, anything in mitigation?

1 MR. LONG: Yes, Your Honor. Just ask that you take into
2 consideration that, that a lack of record of my client, Jamar
3 Huggins, and also I think most importantly I'd like for his
4 grandmother, Ms. Whaley, Willie Dean Whaley, to address the
5 Court.

6 THE COURT: All right. I'll hear from your client and/or
7 anybody that wants to speak on his behalf. If you would just
8 hold that back there for her, please. Ma'am, your name?

9 MS. WHALEY: Willie Dean Whaley.

10 THE COURT: All right. Ms. Whaley, what would you like
11 to say?

12 MS. WHALEY: I would like to say that Jamar is not, did
13 not do those things. Now he takes care of me, and that when
14 they had him lock up first time I put everything that I work
15 all my life for, \$145,000, get him on the ground because I
16 didn't have any higher. He did those things, and I, I, I just
17 don't think that he did anything wrong. I think they have
18 made the wrong implication and I'm now 91. I've had heart
19 surgery. I've had cancer surgery, and I've had three
20 different surgeries on my eyes, and Jamar stays home with me.
21 He's not a street boy. He stays home with me. He takes care
22 of me and I need him. He takes care of me. He's there for
23 me. His room is right across the hall from me, and every time
24 I had a -- I passes out, I may pass out standing here now, and
25 every time I pass out he was there for me to call, to call to

1 get help. I can feel those things coming. I get hot. My
2 heart starts beating, and I get shortness of breath, and I
3 just sweat all over, and then when it's over I just get cold,
4 and they take me to the hospital, but they have to wrap me up
5 in warm blankets. I need Jamar, and Jamar is not a street
6 boy. He never runs out in the street or go no place. If he
7 went anyplace it's right to the store and his house, my house
8 is right, if you -- it don't take five minutes to go to the
9 store. He would go there and he come right back. He'll say,
10 "Granny, I'll be right back," and he comes right back. That's
11 Jamar. Jamar, Jamar, Jamar.

12 THE COURT: Thank you, ma'am. All right.

13 MR. LONG: And Your Honor, this is, this is a very
14 difficult situation obviously for everybody involved. I, I
15 believe the jury made a mistake. I think the evidence shows
16 that, that they were not -- they should not have found him
17 guilty beyond a reasonable doubt. His lack of a record, the
18 testimony that you heard indicates he's not culpable of this
19 crime, and so I'd just ask and he would like to speak on his
20 behalf you're welcome to.

21 THE COURT: All right. As I said, I'll hear from Mr.
22 Huggins and anyone that wants to speak on his behalf. Yes,
23 sir.

24 MR. HUGGINS: Your Honor, I did not commit this crime. I
25 gave up my life after me and my wife got divorced in 2008 when

1 my grandma got sick and couldn't stay by herself. I made
2 sure my grandma did not have to go in no home. This is not my
3 mamma blood, but she took my mamma in when she was little
4 because she was getting molested. This woman raised me since
5 I been a little child. I sit at the house with her almost all
6 the time. I barely go anywhere else. I got to the store, get
7 me a beer, something like that and I come right back. If I go
8 outside I'm sitting right there in the truck and I tell her,
9 "Grandma, I'm right outside if you need me." You know how
10 many times I came in the room just to ask my grandma, "Is you
11 okay," because I want to make sure she's breathing. Oh God, I
12 did not do this, man, and I don't understand how they can find
13 me guilty of something I did not do. That girl lied in the
14 beginning, but she came in and she told the truth. That girl
15 told them that I was not the one to go in that house. She
16 came in here and said that, and she pointed -- I haven't
17 talked to this girl, heard nothing from her since this whole
18 thing happened, and then she said I intimidated her. How can
19 I intimidate somebody I have not even talked to, speak no
20 words with, nothing. I did nothing wrong, Your Honor. All I
21 ask, please, if it's anything you can do, something where -- I
22 know you're going to give me something, but I'm saying if it's
23 something, if I can be on house arrest at my grandma's house
24 doing time like that, staying at the house with her, I, I will
25 be fine, no problem. If I can't even leave out the door I

1 wouldn't care long as I'm there to take care of that woman.
2 That's it.

3 THE COURT: All right, sir. Thank you. Anyone else?

4 MR. LONG: No, Your Honor.

5 THE COURT: All right. Does the victim wish to say
6 anything?

7 MS. ELDER: Your Honor, I do have a letter. She doesn't
8 want to address the Court. If I can read that, it's from the,
9 the minor child in this case.

10 THE COURT: All right.

11 MS. ELDER: Your Honor, she indicates that she's writing
12 this letter to explain how the incident on December 20th
13 affected her life. (As read) "That night I was awoken by my
14 mom getting up to answer the door. I thought she was going to
15 turn off the air conditioning because it was cold. Then all
16 of a sudden I heard my mom scream and I saw a guy tackle her,
17 and after that I just pulled a blanket over my head and
18 started whispering, 'Oh, my God, this isn't happening right
19 now. Everything will be okay.' Then I plugged my ears because
20 I still -- but I still heard them tell my mom to put
21 Chocolate, my dog away. I could just hear by her voice that
22 she was scared. Then they told her to get in the bathroom.
23 They threw her in there. Then I came out of the covers, and I
24 saw a man with a gun, Jamar Huggins, then the other guy that
25 was with him ask me, 'Where's the money?' I replied, 'We

1 don't have any money. The only money we have is the \$15 I
2 have left from my birthday.' He asked, 'Where is it?' I
3 said. 'It's in my purse on the kitchen table.' I was so
4 scared. I was about to start crying, but then I thought to
5 myself, no, you've got to be strong for mommy. Then they told
6 me to get up and go in the bathroom, and all I kept hearing
7 was, 'Stop, my baby is in there,' from my mom's voice. Then
8 when I was in the bathroom my mom had her phone and she was
9 about to call 911, and I told her to just wait until they
10 left. They were plundering through Adrian's stuff that my mom
11 packed. After they left I tried so hard not to cry because my
12 mom was crying. I thought for sure Jamar was going in to
13 shoot my mom. I'm so glad that he didn't. I love my mommy,
14 and I was trying so hard to protect her. After they left, we
15 came out of the bathroom and we grabbed everything. I went
16 into my purse to see if they really did take my money, but
17 they, they took some of it. I and my mom got out of the house
18 as quick as we could get and got my dog and left the house and
19 headed for the police station. I was shaking so bad that when
20 I had to fill out the police report my handwriting looked that
21 way. I just wish that he will get as most years as possible
22 in jail for what he did to not only me and my mom but for
23 affecting my entire life. I also hope that he will run --
24 that he will give up the other guy who did this to us as well.
25 I hope he learns a lesson from this. I hope that he feels bad

1 about what he did. I hope he gets as many years as possible.
2 I have confidence that you will do just that. From M
3 Eckler."

4 THE COURT: All right.

5 MS. ELDER: Your Honor, insofar as the State's
6 presentation on the sentencing, Your Honor, I understand the
7 arguments that have been made for directed verdict, and I
8 understand the arguments that Mr. Long's making at this point
9 after the verdict. However the verdict is what it is. He has
10 been determined to be guilty, and as such, we have to look at
11 the facts that the jury found him guilty of, and Your Honor, a
12 home invasion, a true home invasion, in the middle of the
13 night, with a weapon, and holding somebody at bay while they
14 then took their child around the house to collect money is one
15 of the most heinous things a parent or any other individual
16 could experience. I know the mandatory minimums in this case
17 are ten years on the armed robbery and 15 on the burglary, but
18 I would ask the Court to consider something more than the
19 minimum because of the facts upon which he was convicted of.
20 The sentence is not based on the weight. It's based on what
21 he has been convicted of, and he has, in fact, been convicted
22 on this set of facts.

23 Your Honor, what the jury didn't hear during the course
24 of this investigation, Mr. Huggins did give a post-miranda
25 interview. He did readily admit that he knew Deaungela

1 Montgomery. So we know, in fact, that she was lying when she
2 said, "I don't know this man." He readily admitted that he
3 knew her. He also knew Ty. He indicated that his story at
4 the time was that sometime in December they came and got his
5 car and that that must have been when all this happened.

6 Your Honor, we also in attempts to do this, I know that
7 the jury can't consider this, but I do think it's appropriate
8 for sentencing, we did allow Mr. Huggins to undergo a
9 polygraph.

10 MR. LONG: Your Honor, I, I object to that.

11 THE COURT: Okay. I'm not going to consider that. Go
12 ahead.

13 MS. ELDER: Your Honor, this --

14 THE COURT: So you're telling me -- well, let me back up.
15 You're telling me if he had passed a polygraph you would have
16 dismissed all charges against him?

17 MS. ELDER: No, Your Honor. I would have considered it.
18 Yes, sir.

19 THE COURT: Okay. Well, then I'm not going to consider
20 it then. If it's an all or nothing, you either believe the
21 polygraph or you don't believe it.

22 MS. ELDER: Yes, sir.

23 THE COURT: So if he'd passed it and you would have
24 dismissed it, then I might have considered it, but go ahead.
25 I'm not going to consider that then.

1 MS. ELDER: Your Honor, in addition to that, when the
2 detective interviewed Adrian Moore, the person that's called
3 Drake --

4 MR. LONG: I'm going to object to hearsay.

5 MS. ELDER: Your Honor, this is not a trial. This is
6 sentencing.

7 THE COURT: Okay. I'll give you an opportunity to
8 respond then, but I -- I'll take it that it is hearsay,
9 unchallenged, not subject to cross examination, but with it
10 not being in front of the jury, I can give it the weight that
11 I think it probably deserves. Go ahead.

12 MS. ELDER: Thank you, Your Honor. Your Honor, the way
13 this case came about is this, this detective talked to Adrian
14 Moore, who was in the hospital, and he testified to that, that
15 he, that's where he interviewed this guy named Drake. At the
16 time he identified two individuals that he had been involved
17 with as far as selling and in debt to for drugs. That's how
18 he got to Deaungela. That's how he got to Jamar. Deaungela
19 in her first statement at the jail said that this Defendant
20 came to her house, threatened her with a gun, and said,
21 "Either you're giving me the money or Drake's giving me the
22 money for the drugs I fronted," and she said that's why she
23 took them over to Ms. Eckler's house because she was scared
24 and she took them to where she knew Drake to have lived in the
25 past. So this is not as simple as we're just going to pull

1 something out of the air.

2 This Defendant has a prior conviction in 2003, an
3 unlawful carrying of a pistol. He has a 2009 controlled
4 substance violation, and he has a 1996 conviction as a
5 juvenile that requires him to register on the sex offender
6 registry. So he has not led a -- completely the life that Mr.
7 Long has indicated free from being involved with the police.

8 Again, Your Honor, we would ask that he be sentenced in
9 excess of the mandatory minimum on burglary, armed robbery and
10 the kidnapping, Your Honor.

11 MR. LONG: Your Honor --

12 THE COURT: Well, now, since we're getting into this
13 extraneous information, was he offered probation for a guilty
14 plea?

15 MS. ELDER: Your Honor, he was offered a period, a small
16 period of incarceration locally, probation if he would proffer
17 against the Co-Defendant.

18 THE COURT: Okay.

19 MR. LONG: Your Honor, that's, that's no accurate.

20 THE COURT: All right.

21 MR. LONG: He was offered burglary third with time
22 served of 40 days and probation.

23 THE COURT: Okay. All right.

24 MS. ELDER: That --

25 MR. LONG: That's -- I have an e-mail if we need to pull

1 it out.

2 THE COURT: That's fine.

3 MR. LONG: And also, Your Honor, I'd like to go back to
4 the -- what Ms. Elder talked about with the interview with
5 Adrian Moore, she said that Adrian Moore implicated Jamar
6 Huggins. That's not in this report. If she wants to -- if
7 she'll identify where she sees his name, that Adrian Moore
8 identified Jamar Huggins, I'd like to hear it.

9 THE COURT: Well, I mean, if it's inculpatory or
10 exculpatory then that might and it wasn't just turned over.

11 MR. LONG: It's not in here. His name --

12 MS. ELDER: Your Honor, I didn't say that.

13 THE COURT: Well, that -- I'm not going to make a
14 decision on that at this point in time.

15 MS. ELDER: That's how we got her.

16 THE COURT: If it's -- if, if --

17 MR. LONG: I just don't want you to be misled.

18 THE COURT: -- if that was evidence that they felt --
19 okay. And I understand that. All right. Go ahead. Anything
20 else?

21 MR. LONG: No, Your Honor.

22 THE COURT: All right. All right. Mr. Huggins, the jury
23 has found you guilty of these three charges. On the charge of
24 burglary in the first degree, the sentence of the Court is
25 that you be confined to the State Department of Corrections

1 for 15 years. On the charge of armed robbery the sentence of
2 the Court is that you be confined to the State Department of
3 Corrections for ten years. On the charge of kidnapping the
4 sentence of the Court is that you be confined to the State
5 Department of Corrections for 15 years. The finding of the
6 Court is that the kidnapping did not include a sexual offense.
7 The sentences will run concurrently. You'll be given credit
8 for any time served.

9 MS. ELDER: Thank you, Your Honor.

10 THE COURT: All right. Thank you.

11 (Adjourned.)

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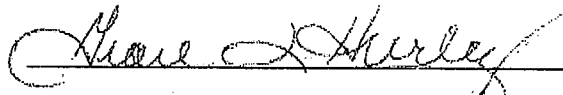
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C E R T I F I C A T E

I, the undersigned, Grace L. Hurley, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the trial held in the case of The State versus Jamar Antonio Huggins, held in the Court of General Sessions for Horry County, Horry County Courthouse, Conway, South Carolina, on September 15-17, 2014.

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



Grace L. Hurley, CVR-CM-M

Official Reporter

December 15, 2014.

ARREST WARRANT

M-976497

STATE OF SOUTH CAROLINA

FILED
HORRY COUNTY☒ County/☐ Municipality of

Horry

2013 JAN 23 AM 11:01

THE STATE

against

Jamar Antonio Huggins

MELANIE RUGGINS
CLERK OF COURT

Address:

Conway, SC 29527-5428

Phone:

SSN:

Sex: M Race: B Height: 5 9 Weight: 160

DL State: SC DL #:

DOB: Agency ORI #:

Prosecuting Agency: Horry County Police Department

Prosecuting Officer: Jonathan Martin - 5571

Offense: Burglary / Burglary (After June 20, 1985) - First degree

Offense Code: 0079

Code/Ordinance Sec: 16-11-0311

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant

on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
PO Box 677
1301 2nd Avenue
Conway, SC 29528

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Horry

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

Personally appeared before me the affiant Jonathan Martin

who

being duly sworn deposes and says that defendant Jamar Antonio Huggins

did within this county and state on or about 12/20/2012

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Horry)

in the following particulars:

DESCRIPTION OF OFFENSE Burglary / Burglary (After June 20, 1985) - First degree

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

At approximately 0115 on 12/20/12 at Memory Lane in the Conway section of Horry County there was a home invasion during which a black female lured the victim to open the door of her residence at which time two black males forcefully entered the residence with a gun looking for money and a male named "Drake". During the incident the adult victim was assaulted and she and her minor daughter were confined without the ability to leave. It was later determined that "Drake" was previously a resident at the incident location. A co-conspirator positively identified one male suspect who goes by the name "Junk" as Jamar Huggins. It was identified that Huggins was the suspect in possession of the handgun during the incident and his vehicle was used during the crime.

CASE#12123508

R/O J MARTIN

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Horry

Affiant's Address 2560 N. Main Street
Conway, SC 29526-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 12/20/2012 defendant Jamar Antonio Huggins

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Horry) as set forth below:

DESCRIPTION OF OFFENSE: Burglary / Burglary (After June 20, 1985) - First degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 1/12/2013

Signature of Issuing Judge

Aaron C. Butler

Judge Code: 5022

Judge's Address J. Reuben Long Detention Center
Conway, SC 29526-1071

Judge's Telephone (843)915-5145

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

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WITNESSES

Jonathan Martin Horry County Police Department

DOCKET NO. 2013-GS-26-

1076

The State of South Carolina

County of Horry

Heather von Herrmann
13H00429

COURT OF GENERAL SESSIONS

MARCH, 2013 TERM

ARREST WARRANT NUMBER

M976497

CDR: 0079 16-11-0311

DOA: 1/19/2013

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

THE STATE

vs.

Jamar Antonio Huggins
B/ M

ATTORNEY: Taylor, R. Paul

**Indictment for
BURGLARY 1ST DEGREE**

Jimmy A. Richardson, II, Solicitor

FILED
Horry County
2014 SEP 17 PM 4:44
CLERK OF COURT
COURT DATE
PLED GUILTY/TRIAL

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on MARCH 28, 2013, the Grand Jurors of Horry County present upon their oath:

BURGLARY, FIRST DEGREE

CDR: 0079 16-11-0311

That Jamar Antonio Huggins did in Horry County, on or about December 20, 2012 enter the dwelling of Angela Eckler without consent and with the intent to commit a crime therein and when in effecting entry or while in the dwelling or in immediate flight, was armed with a deadly weapon, he or another participant in the crime, caused physical injury to non-participant in the crime, in violation of Section 16-11-0311(A), S. C. Code of Laws, 1976, as amended.

and/or occurred during nighttime.
(MHC)

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

State of South Carolina)

vs.)

Jamar Antonio Huggins,)

Defendant.)

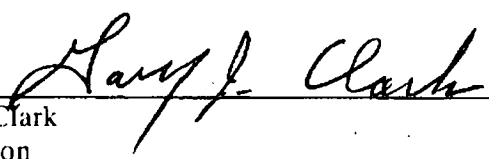
(Check one)

COURT OF GENERAL SESSION
FIFTEENTH JUDICIAL CIRCUIT
INDICTMENT # 2013-GS-26-1076

VERDICT
RE: FIRST DEGREE BURGLARY

☒ We, the jury, find the defendant, Jamar Antonio Huggins, **guilty**
of **first degree burglary**.

☐ We, the jury, find the defendant, Jamar Antonio Huggins, **not guilty**
of **first degree burglary**.



Gary J. Clark
Foreperson

September 17, 2014

HORRY COUN
2014 SEP 17 PM 4:47
CLERK OF COURT

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Horry

VS.

Jamar Antonio Huggins

AKA:

Race: BLACK

Sex: M

Age:

DOB:

SS#

Address:

City, State, Zip: Conway, SC 29527-5428

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Burglary / Burglary (After June 20, 1985) - First degree

in violation of § 16-11-0311

of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS(CSC
w/minor 1st or Lewd Act)☐ §17-25-45The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

SCB64230

Elder, Donna E.

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,☐ County Detention Center,for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed X yearsand/or to pay a fine of \$ X; provided that upon the service of X days/months/years and/or paymentof \$ X; plus costs and assessments as applicable*; the balance is suspended with probation for X

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-25 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCJA Surcharge)

3% to County (if paid in installments)

TOTAL

\$

\$

\$100

\$

\$100

\$

\$12

\$

\$25

\$

\$500

\$

\$25

\$

\$150

\$

\$50

\$

\$40/ea

\$

\$5

\$

\$

\$

\$

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS2601076

A/W#: M976497

Date of Offense: 12/20/2012

S.C. Code § : 16-11-0311

CDR Code #: 0079

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

SPECIAL CONDITIONS:

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCJA Surcharge)

3% to County (if paid in installments)

TOTAL

\$

\$

\$100

\$

\$100

\$

\$12

\$

\$25

\$

\$500

\$

\$25

\$

\$150

\$

\$50

\$

\$40/ea

\$

\$5

\$

\$

\$

\$

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

ARREST WARRANT

M-976498

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Horry

2013 JAN 23 AM 11:09

THE STATE

against

Jamar Antonio Huggins

Address:

Conway, SC 29527-5428

Phone: _____ SSN: _____

Sex: M Race: B Height: 5 9 Weight: 160DL State: SC DL #: _____

DOB: _____ Agency ORI #: _____

Prosecuting Agency: Horry County Police DepartmentProsecuting Officer: Jonathan Martin - 5571Offense: Kidnapping / KidnappingOffense Code: 0095Code/Ordinance Sec: 16-03-0910

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant Jamar Huggins
on 1/18/13
Edwards
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
PO Box 677
1301 2nd Avenue
Conway, SC 29528

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Horry

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518Personally appeared before me the affiant Jonathan Martin whobeing duly sworn deposes and says that defendant Jamar Antonio Hugginswithin this county and state on or about 12/20/2012 violate the criminal laws of theState of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Horry)

in the following particulars:

DESCRIPTION OF OFFENSE Kidnapping / KidnappingI further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

At approximately 0115 on 12/20/12 a Memory Lane in the Conway section of Horry County there was a home invasion during which a black female lured the victim to open the door of her residence at which time two black males forcefully entered the residence with a gun looking for money and a male named "Drake". During the incident the adult victim was assaulted and she and her minor daughter were confined without the ability to leave. It was later determined that "Drake" was previously a resident at the incident location. A co-conspirator positively identified one male suspect who goes by the name "Junk" as Jamar Huggins. It was identified that Huggins was the suspect in possession of the handgun during the incident and his vehicle was used during the crime.

CASE#12123508

R/O J MARTIN

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Horry

Affiant's Address 2560 N. Main StreetConway, SC 29526-

Affiant's Telephone _____

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 12/20/2012 defendant Jamar Antonio Huggins

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Horry) as set forth below.DESCRIPTION OF OFFENSE: Kidnapping / Kidnapping

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 1/12/2013Signature of Issuing Judge
Aaron C. ButlerJudge Code: 5022Judge's Address J. Reuben Long Detention CenterConway, SC 29526-1071Judge's Telephone (843)915-5145Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

WITNESSES

Jonathan Martin Horry County Police Department

The State of South Carolina

County of Horry

Heather von Hermann
13H00429

COURT OF GENERAL SESSIONS

MARCH, 2013 TERM

ARREST WARRANT NUMBER

M976498
CDR: 0095 16-03-0910
DOA: 1/19/2013

THE STATE

vs.

Jamar Antonio Huggins
B/ M

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date: MAR 28 2013

VERDICT

ATTORNEY: Taylor, R. Paul

Indictment for

KIDNAPPING

Jimmy A. Richardson, II, Solicitor

Foreperson of Petit Jury
Date:

FILED
HORRY COUNTY
2014 SEP 17 PM 4:47
CLERK OF COURT
COURT DATE
PLED GUILTY/TRIAL

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on MARCH 28, 2013, the Grand Jurors of Horry County present upon their oath:

KIDNAPPING

CDR: 0095 16-03-0910

That Jamar Antonio Huggins did in Horry County on or about December 20, 2012, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one Angela Eckler, without authority of law, in violation of Section 16-03-0910, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

COURT OF GENERAL SESSION
FIFTEENTH JUDICIAL CIRCUIT
INDICTMENT # 2013-GS-26-1077

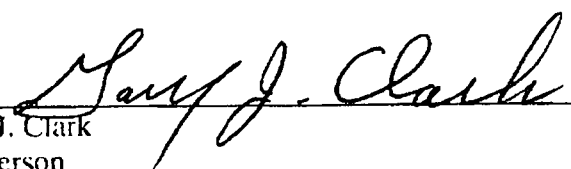
State of South Carolina)
vs.)
Jamar Antonio Huggins,)
Defendant.)

VERDICT
RE: KIDNAPPING

(Check one)

☒ We, the jury, find the defendant, Jamar Antonio Huggins, **guilty**
of **kidnapping**.

☐ We, the jury, find the defendant, Jamar Antonio Huggins, **not guilty**
of **kidnapping**.



Gary J. Clark
Foreperson

September 17, 2014

FILED
Horry County
2014 SEP 17 PM 4:47
CLERK OF COURT

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Horry

VS.

Jamar Antonio Huggins

AKA:

Race: BLACK

Sex: M

Age:

DOB:

Address:

City, State, Zip: way, SC 29527-5428

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Kidnapping / Kidnapping

INDICTMENT/CASE#: 2013GS2601077

A/W#: M976498

Date of Offense: 12/20/2012

S.C. Code §: 16-03-0910

CDR Code #: 0095

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

SCB64230

Elder, Donna E.

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 15 days/months/~~years~~ or ☐ under the Youthful Offender Act not to exceed X years
and/or to pay a fine of \$ X; provided that upon the service of X days/months/years and/or payment
of \$ X; plus costs and assessments as applicable*; the balance is suspended with probation for Xmonths/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 9/17/2014
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 25-13-13Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-63 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 3.90
TOTAL:		\$ 133.90

_____ days/hours Public Service/Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ 25.00 beginning 10/17/2014

\$ _____ paid to Public Defender Fund

Other:

- Did not include sexual offense☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code: 2148

Sentence Date: Sept. 17, 2014

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

ARREST WARRANT

M-976500

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Horry

THE STATE

against

Jamar Antonio Huggins

Address:

Phone: _____ SSN: _____
Sex: M Race: B Height: 5 Weight: 160DL State: SC DL #: _____

DOB: _____ Agency ORI #: _____

Prosecuting Agency: Horry County Police DepartmentProsecuting Officer: Jonathan Martin - 5571Offense: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weaponOffense Code: 0139Code/Ordinance Sec: 16-11-0330(A)This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant Jamar Huggins
on 1/18/13E. Orlando

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
PO Box 677
1301 2nd Avenue
Conway, SC 29528

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Horry

Personally appeared before me the affiant Jonathan Martin who
being duly sworn deposes and says that defendant Jamar Antonio Huggins
did within this county and state on or about 12/20/2012 violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Horry)
in the following particulars:DESCRIPTION OF OFFENSE Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weaponI further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:At approximately 0115 on 12/20/12 at Memory Lane in the Conway section of Horry County there was a home invasion
during which a black female lured the victim to open the door of her residence at which time two black males forcefully entered the
residence with a gun looking for money and a male named "Drake". During the incident the adult victim was assaulted and she and
her minor daughter were confined without the ability to leave. It was later determined that "Drake" was previously a resident at the
incident location. A co-conspirator positively identified one male suspect who goes by the name "Junk" as Jamar Huggins. It was
identified that Huggins was the suspect in possession of the handgun during the incident and his vehicle was used during the crime.
CASE#12123508
R/O J MARTIN

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Horry

Affiant's Address 2560 N. Main Street
Conway, SC 29526

Affiant's Telephone _____

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 12/20/2012 defendant Jamar Antonio Huggins
did violate the criminal laws of the State of South Carolina (or ordinance of
☒ County/ ☐ Municipality of Horry) as set forth below:DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weaponHaving found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before meon 1/12/2013

Signature of Issuing Judge

Aaron C. Butler

Judge Code: 5022Judge's Address J. Reuben Long Detention Center
Conway, SC 29526-1071Judge's Telephone (843)915-5145Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

WITNESSES

Jonathan Martin Horry County Police Department

The State of South Carolina

County of Horry

Heather von Herrmann
13H00429

COURT OF GENERAL SESSIONS

MARCH, 2013 TERM

ARREST WARRANT NUMBER

M976500

CDR: 0139 16-11-0330(A)

DOA: 1/19/2013

THE STATE

vs.

Jamar Antonio Huggins
R/ M

ATTORNEY: Taylor, R. Paul

Indictment for

ARMED ROBBERY

Jimmy A. Richardson, II, Solicitor

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

2014 SEP 17 PM 4:47
COURT DATE
PLED GUILTY/TRIAL

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

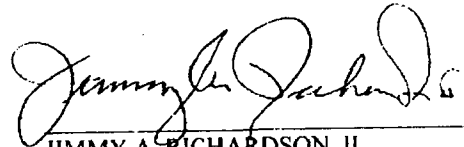
At a Court of General Sessions, convened on MARCH 28, 2013, the Grand Jurors of Horry County present upon their oath:

ARMED ROBBERY

CDR: 0139 16-11-0330(A)

That Jamar Antonio Huggins did in Horry County on or about December 20, 2012, while armed with a deadly weapon, to wit: HANDGUN, take and carry away personal property of Angela Eckler from or in the immediate presence of Angela Eckler with intent to deprive Angela Eckler of possession by use of force, threats or intimidation, in violation of Section 16-11-0330(A), S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

COURT OF GENERAL SESSION
FIFTEENTH JUDICIAL CIRCUIT
INDICTMENT # 2013-GS-26-1078

State of South Carolina)

vs.)

Jamar Antonio Huggins,)

Defendant.)

VERDICT
RE: ARMED ROBBERY

(Check one)

- ☒ We, the jury, find the defendant, Jamar Antonio Huggins, **guilty** of **armed robbery**.
- ☐ We, the jury, find the defendant, Jamar Antonio Huggins, **not guilty** of **armed robbery** but, we find the defendant **guilty** of **robbery**.
- ☐ We, the jury, find the defendant, Jamar Antonio Huggins, **not guilty** of **armed robbery** and **robbery**.

Gary J. Clark
Foreperson

September 17, 2014

FILED
-ORRY COUN.
2014 SEP 17 PM 4:47
CLERK OF COURT

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Horry
 STATE VS.
Jamar Antonio Huggins
 AKA: _____
 Race: BLACK Sex: M Age: _____
 DOB: _____
 Address: _____
 City, State, Zip: Conway, SC 29527-5428
 DL#: _____ SID#: _____

INDICTMENT/CASE#: 2013GS2601078
 A/W#: M976500
 Date of Offense: 12/20/2012
 S.C. Code §: 16-11-0330(A)
 CDR Code #: 0139

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

SCB64230

Elder, Donna E.

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed X years
 and/or to pay a fine of \$ X; provided that upon the service of X days/months/years and/or payment
 of \$ X; plus costs and assessments as applicable*; the balance is suspended with probation for X

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-13

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-20 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114 (BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$ 133.90

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ 25.00 beginning 10/17/2013

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Melanie Huggins Ward
Grace Hurley

Presiding Judge

Judge Code: 2148

Sentence Date: Sept. 17, 2014

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

RECEIVED

Appeal from Horry County

JUL 16 2015

Benjamin H. Culbertson, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JAMAR ANTONIO HUGGINS,

APPELLANT

APPELLATE CASE NO. 2014-002022

FINAL BRIEF OF APPELLANT

ROBERT M. PACHAK
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the trial court erred in refusing to grant a directed verdict to the charges against appellant when the state failed to present any substantial evidence beyond a reasonable doubt as to the identity of appellant as the suspect because the only witness to testify as to identity was not credible and could not positively identify appellant as the suspect?

STATEMENT OF THE CASE

Appellant was convicted of burglary in the first degree, kidnapping and armed robbery after a jury trial held before the Honorable Benjamin H. Culbertson on September 15 – 17, 2014, in Horry County. Respective sentences of fifteen years, fifteen years, and ten years were imposed. J. Reuben Long, III, Esquire, represented appellant. Donna Elder, Esquire, was the assistant solicitor.

This appeal follows.

ARGUMENT

The trial court erred in refusing to grant a directed verdict to the charges against appellant when the state failed to present any substantial evidence beyond a reasonable doubt as to the identity of appellant as the suspect because the only witness to testify as to identity was not credible and could not positively identify appellant as the suspect.

Appellant was charged with the burglary, kidnapping and armed robbery of Angela Eckler at her residence on December 20, 2012. Deaungela Shanta Montgomery was used as a decoy that evening so two male suspects could get into the victim's home. The suspect alleged to have been appellant had a hood covering his face and the victim could not identify him.

The only witness to attempt to identify appellant as the suspect was Montgomery who was a crack addict who had little memory of the evening of December 20. She was currently incarcerated on two counts of armed robbery. (R. p. 13, lines 2-9.) She said she could not remember anything. She said appellant did not look like one of the suspects. She said she did not remember him and did not know him. (R. p. 14, line 8 – p. 15, line 18.) She said he was not the same person. She repeatedly said she could not remember or recall through her direct examination. (R. p. 16, line 7 – p. 25, line 22.) On cross-examination, she said appellant was not the person who went in the home invasion with her. (R. p. 26, lines 2-7.) On redirect, she again said appellant was not the person who drove her over to the victim's house. (R. p. 27, lines 10-15.)

At the conclusion of the state's case, defense counsel moved for a directed verdict to the charges because based on Montgomery's testimony a jury could only speculate as to appellant's guilt. (R. p. 79, lines 3-23.) The trial court denied the motion. (R. p. 80, lines 13 – 22.) After the jury returned their verdicts, defense counsel said he would be appealing the decision to deny the directed verdict motion. The trial court admitted it was a close call and that defense counsel may

prevail on that issue. (R. p. 104, lines 4-19; R. p. 106, lines 9-21.) The trial court's decision to deny the directed verdict motion was in error.

Due process as guaranteed by the Fourteenth Amendment requires "that no person shall be made to suffer the onus of a criminal conviction except upon sufficient proof—defined as evidence necessary to convince a trier of fact beyond a reasonable doubt of the existence of every element of the offense." Jackson v. Virginia, 443 U.S. 307, 316, 99 S.Ct. 2781, 2787 (1979).

Our Court has held:

[T]he trial judge is concerned with the existence or non-existence of evidence, not with its weight; and, although he should not refuse to grant the motion where the evidence merely raises a suspicion that the accused is guilty, it is his duty to submit the case to the jury if there be any substantial evidence which reasonably tends to prove the guilt of the accused, or from which his guilt may be fairly and logically deduced. [Emphasis added].

State v. Littlejohn, 228 S.C. 324, 89 S.E.2d 924, 926 (1955); State v. Edwards, 298 S.C. 272, 379 S.E.2d 888 (1989), cert. denied, 493 U.S. 895, 110 S.Ct. 246 (1989).

In applying this standard, our Court has held that evidence which is "sufficient to raise a strong suspicion of the guilt of the accused" is not sufficient to constitute "any evidence from which the guilt of the accused may be fairly and logically deduced." State v. Totherow, 263 S.C. 275, 210 S.E.2d 228, 230 (1974). See, also, State v. Turner, 117 S.C. 470, 109 S.E. 119, 120 (1921). The motion for a directed verdict should be granted, therefore, "where evidence merely raises a suspicion of guilt, or is such to permit the jury to merely conjecture or to speculate as to the accused's guilt." State v. Brown, 267 S.C. 311, 227 S.E.2d 674, 677 (1976), citing State v. Matarazzo, 262 S.C. 662, 207 S.E.2d 93,

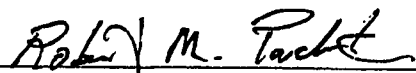
cert. denied, 420 U.S. 945 (1974). “If the evidence is consistent with both innocence and guilt it cannot support a conviction.” United States v. Varoz, 740 F.2d 772, 775 (10th Cir. 1984); United States v. Ortiz, 445 F.2d 1100, 1103 (10th Cir 1971). Guilt is only to be found when there is a “rationally supportable state of near certitude.” Evans-Smith v. Taylor, 19 F.3d 899, 906 (4th Cir 1994).

In this case, the burden upon the state was to prove beyond a reasonable doubt the identification of appellant as the person who committed the crimes. Gibbs v. State, 403 S.C. 484, 496, 744 S.E.2d 170, 176 (2013). Montgomery’s testimony on identification fell far short of meeting the State’s burden in this case.

CONCLUSION

A directed verdict should be granted on all of the charges appellant was convicted of.

Respectfully submitted,


Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT

This 16th day of July, 2015.

ORIGINAL

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY

Court of General Sessions

Benjamin H. Culbertson, Circuit Court Judge

RECEIVED

JUL 14 2015

SC Court of Appeals

Appellate Case No. 2014-002022

THE STATE,

Respondent,

v.

JAMAR ANTONIO HUGGINS,

Appellant.

FINAL BRIEF OF RESPONDENT

ALAN WILSON
Attorney General

JENNIFER ELLIS ROBERTS
Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

JIMMY A. RICHARDSON
Solicitor, Fifteenth Judicial Circuit

Post Office Drawer 1276
Conway, SC 29526
843-915-5460

ATTORNEYS FOR RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

The trial court properly denied Appellant's motion for a directed verdict where the State presented substantial direct and circumstantial evidence from which the jury could fairly and logically find Appellant guilty of each charge.

STATEMENT OF THE CASE

An Horry County Grand Jury indicted Appellant for first-degree burglary, armed robbery, and kidnapping. (R 109-114.) On September 15-17, 2014, Appellant proceeded to a trial before the Honorable Benjamin H. Culbertson and a jury. John Reuben Long, III, Esquire, represented Appellant, and Assistant Solicitor Donna Elder, Esquire, represented the State. The jury found Appellant guilty of all charges, and Judge Culbertson sentenced him to fifteen years' imprisonment for first-degree burglary, fifteen years' imprisonment for kidnapping, and ten years' imprisonment for armed robbery, to be served concurrently. (R. 103, 107.)

On September 18, 2014, Appellant filed a Notice of Appeal.

STATEMENT OF FACTS

On December 20, 2012, Angela Eckler (Victim) heard a knock at her door in the middle of the night. (R. 28, lines, 13-14; R. 30, lines 5-12; R. 30, line 25-R. 31, line 1.) Thinking it was a friend she calls Grandma, she opened the door to find a well-dressed woman. (R. 31, lines 5-15.) As she turned to quiet her dog, two men entered the house as the woman ran off. (R. 31, lines 16-25.) The two men demanded money and held her captive in her bathroom. (R. 32, line 8-R. 33, line 16.) From the bathroom, she could hear her daughter telling the men the only money she had was her birthday money in her purse on the table, and then the men pushed her daughter into the bathroom. (R. 33, lines 11-19.) After the men left, Victim drove herself and her twelve-year-old daughter to the police department. (R. 34, lines 1-9.) She was unable to identify the men but was able to identify the woman. (R. 35, lines 2-12.) The police also talked to Victim's fiancé, who identified the woman who came to the door based on the description given. (R. 60, line 12-R. 61, line 8.) That woman, Deaungela Montgomery, then led the police to Appellant and he was arrested and charged with first-degree burglary, armed robbery, and kidnapping. (R. 61, line 16-R. 62, line 22; R.109-114.)

At trial, the State called Deaungela Montgomery. (R. 12, lines 13-21.) At the time of her testimony, she was incarcerated for two counts of armed robbery. (R. 13, lines 2-9.) She testified she was not offered anything from the State to testify at Appellant's trial, nor did she receive assistance from the State when sentenced for the crime in this case. (R. 13, line 19-R. 14, line 5.) When asked whether she recalled telling a detective that a man named Junk was with her during the crime and picking him out in a photograph, she stated that she assumed it was Junk but did not know him. (R. 15, lines 14-18.) When asked about giving a statement to police, she testified she probably did but

did not know because she "can't really remember nothing." (R. 15, line 22-R. 16, line 3.) Then she testified, "I remember the name [Junk]. So, yes, I did make the statement, but what I'm telling you is this is not the same person." (R. 16, lines 4-8.) Montgomery testified she did not remember describing Junk to police as far as his height and the fact that he had long dreads, but she did recall saying he had hair and a grill in his mouth. (R. 16, line 13-R. 17, line 2.) She testified she recalled describing where Junk lived and telling police the car they drove to Victim's house belonged to Appellant and that Appellant drove it there and then went into Victim's house wearing a mask and carrying a weapon. (R. 17, lines 9-25.) She recalled giving a statement that she went to Victim's house and knocked on the door. (R. 18, lines 18-20.) Montgomery testified that when Victim opened the door, she asked if Dre was there and Victim answered that he was not. (R. 18, line 24-R. 19, line 1.) Montgomery stated she walked back to the car and the two men, Appellant and another man, went into the house. (R. 19, lines 1-9.)

Montgomery stated that Junk went with her to Victim's house, but that Appellant did not look like the same person because his hair was different. (R. 25, lines 4-15.) On cross-examination, defense counsel asked Montgomery if Appellant was not the person who invaded the home with her, and she said no. (R. 26, lines 2-7.) On redirect, she clarified that she identified Junk as the person but did not know Junk's real name. (R. 26, lines 12-20.) When asked whether she identified the person in a picture a detective showed her as Junk, she testified she believed the picture was already circled when it was shown to her. (R. 27, lines 1-5.) However, she did agree she had identified that person as Junk. (R. 27, lines 6-9.) On the other hand, she then stated she did not know whether that was the person who went into Victim's house, and when asked whether he was the person who drove the car to Victim's house, she said he was not. (R. 27, lines 10-15.)

Nevertheless, she then once again testified the person she identified to the detectives was Junk, and the trial court struck the answer as asked and answered in response to an objection by Appellant. (R. 27, lines 19-23.)

Outside the presence of the jury, the State asked to impeach Montgomery by allowing publication of her statement taken by a detective who was about to testify. (R. 40, line 23-R. 41, line 2.) The trial judge expressed doubt that the State could now bring in the statement with another witness, indicating it should have done so while Montgomery was on the stand. (R. 42, lines 6-10.) The State then asked if it could at least ask the detective if he showed Montgomery the photograph and whether she identified the person as Junk. (R. 42, lines 11-14.) After much discussion, the trial court did not allow the statement to come in because Montgomery admitted to making the statement. (R. 55, lines 8-16.)

Detective Jonathan Martin with the Horry County Police Department testified he met with Victim at her home a few days after the incident. (R. 58, lines 1-11.) He spoke to Victim's fiancé, Adrian (also known as Dre and Drake), who identified Montgomery. (R. 60, line 10-R. 61, line 2.) He interviewed Montgomery and developed Appellant as a suspect. (R. 61, line 13-R. 62, line 5.) Montgomery identified Appellant as Junk and described him in detail—long hair, early 30s, black male, grill in his teeth—and also where he lived and the vehicle he drove. (R. 62, lines 3-14.) By the description of the house, Detective Martin was able to locate it and connect both the house and the vehicle to Appellant. (R. 62, lines 15-18.)

On cross-examination, Detective Martin testified Montgomery told him she uses crack cocaine, but he did not know she was a crack addict. (R. 66, lines 9-23.) He stated that he told Montgomery she could help herself by identifying the other parties involved

but did not mention Appellant. (R. 67, lines 17-21.) He testified he had not heard Appellant's name until Montgomery provided the information. (R. 74, lines 20-23.) He further stated he never pointed out anybody for her to identify and that she was the one who identified Appellant as a suspect. (R. 67, line 25-R. 68, line 9.)

After the State rested, Appellant moved for a directed verdict, arguing the evidence merely raised a suspicion of guilt. (R. 75, lines 23-24; R. 79, lines 3-6.) He argued Montgomery stated she was lying and testified Appellant was not involved in the crime. (R. 79, lines 7-11.) The State argued she described Appellant to detectives even though she now testified he did not look like the same person. (R. 76, lines 2-18.) Further, the State emphasized that Montgomery's credibility would be up to the jury to determine when weighing her testimony. (R. 77, line 9-R. 78, line 13.) After a brief recess, the trial court denied the directed verdict, basing it on his duty to look for the existence of evidence rather than weight. (R. 80, lines 13-23.) He noted that Montgomery admitted to making the prior statements and determined that the fact that she testified she lied was a jury issue. (R. 80, lines 17-23.)

Ultimately, the jury found Appellant guilty of all charges, and the trial court sentenced him to fifteen years' imprisonment for first-degree burglary, fifteen years' imprisonment for kidnapping, and ten years' imprisonment for armed robbery, to be served concurrently. (R. 103, 107.)

ARGUMENT

The trial court properly denied Appellant's motion for a directed verdict where the State presented substantial direct and circumstantial evidence from which the jury could fairly and logically find Appellant guilty of each charge.

Appellant argues the trial court erred in refusing to grant a directed verdict, claiming the State failed to present substantial evidence beyond a reasonable doubt as to his identity because the identity witness was not credible. On the contrary, the trial court properly denied Appellant's motion for a directed verdict because direct evidence existed that identified Appellant as one of the intruders. The trial court correctly submitted the case to the jury for its resolution, and this Court should affirm its decision.

"When ruling on a motion for a directed verdict, the trial court is concerned with the existence or nonexistence of evidence, not its weight." State v. Weston, 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006). When reviewing a denial of a directed verdict, an appellate court views the evidence and all reasonable inferences in the light most favorable to the State. Id. "If there is *any direct evidence* or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused, this Court must find the case was properly submitted to the jury." Id. at 292-93, 625 S.E.2d at 648 (emphasis added). The trial court should grant a directed verdict when the evidence merely raises a suspicion that the accused is guilty. State v. Hernandez, 382 S.C. 620, 625-26, 677 S.E.2d 603, 605-06 (2009). A defendant is entitled to a directed verdict when the State fails to produce evidence of the offense charged. State v. Ladner, 373 S.C. 103, 120, 644 S.E.2d 684, 693 (2007).

After a trial court properly has determined a witness is competent, the resolution of the credibility of the witness is within the province of the jury. State v. Ingram, 266

S.C. 462, 468, 224 S.E.2d 711, 713 (1976) overruled on other grounds, State v. Torrence, 305 S.C. 45, 406 S.E.2d 315 (1991). “[T]his Court has more than once held that the jury is the judge of which contradictory statement of the witness is the truth.” Soulios v. Mills Novelty Co., 198 S.C. 355, 364, 17 S.E.2d 869, 874 (1941).¹

In State v. Needs, the prosecutor and the appellant questioned a witness extensively about conflicting statements she had given. 333 S.C. 134, 144, 508 S.E.2d 857, 862 (1998) modified, State v. Cherry, 361 S.C. 588, 606 S.E.2d 475 (2004). The witness testified “she lied in her initial statement to police; she lied when she modified her August 1993 statement to say appellant had been speaking ‘hypothetically’; and her testimony at trial directly conflicted with her testimony at the June 1994 pretrial hearing.” Id. However, the witness told jurors she was testifying truthfully at the trial. The Court found that “[w]hile Ms. Smith’s credibility conceivably was in shreds, it was for the jury to decide whether to believe her testimony after the trial judge properly ruled she was competent to testify.” Id.

Appellant argues the trial court erred in denying his motion for a directed verdict because “the only witness to testify as to identity was not credible and could not positively identify appellant as the suspect.” (App.Br.5.) However, this argument is without merit because credibility goes to the weight of evidence, not its existence, and therefore would not have affected the court’s ruling on Appellant’s motion for a directed

¹ The trial court gave the traditional jury charges on witness credibility, emphasizing the jurors could believe some, all, or none of a witness’s testimony and including the following charge: “Evidence has been presented that a witness made prior statements which are not consistent with the witness’ present testimony. You may use this evidence to decide whether to believe the witness. You may also use evidence of the earlier contradictory statements to determine the truth of those statements. You are to decide whether to believe the earlier statements or the testimony given at trial.” (R. 100, line 22- R. 102, line 6.)

verdict. State v. Condrey, 349 S.C. 184, 190, 562 S.E.2d 320, 323 (Ct. App. 2002) (“When ruling on a motion for a directed verdict, the trial court is concerned with the existence or non-existence of evidence, not its weight.”). As to whether the witness could positively identify Appellant, she was inconsistent in her responses. She testified she identified Appellant as Junk but stated it was not the same person. (R. 16, lines 4-12.) She testified she told police where he lived and described his car. (R. 17, lines 9-14; R. 19, lines 10-21.) She admitted she told the detective Appellant was the one who drove her to Victim’s house and walked into the house wearing a mask and carrying a weapon. (R. 17, lines 15-25.) She then testified most of what she told the detective was not true and that she really could not even recall that night. (R. 20, lines 3-10.)

When specifically asked if she recalled telling detectives she knew Appellant and knew him as Junk, Montgomery testified she could not remember. (R. 22, lines 20-24.) She clarified that she would not deny it but rather she just did not remember it and admitted it was possible she told the detectives she knew him, saw him every day, and knew him as Junk. (R. 23, lines 1-10.) She testified she lied to detectives when she told them Appellant was looking for Drake. (R. 24, lines 3-20.) She finally admitted she told detectives the day before trial that Junk went with her and stated she did not make that up. (R. 24, line 21-R. 25, line 3.) However, she explained he looked different and that his hair was different. (R. 25, lines 4-15.) She also testified she told detectives she was scared of Junk. (R. 25, lines 16-22.)

The inconsistencies of Montgomery’s testimony as outlined above demonstrate why the credibility of witnesses is an issue for the jury. As long as there is any direct evidence reasonably tending to prove Appellant’s guilt, this Court must find the case was properly submitted to the jury. Montgomery gave some direct testimony that Appellant

was involved in the crime, even though other parts of her testimony indicated she may have lied to the police about his involvement. Merely because inconsistencies occurred in her testimony does not mean the evidence did not exist, and that is all that is required to submit the case to the jury. See Soulios, 198 S.C. at 364, 17 S.E.2d at 874 (holding the jury is the judge of which contradictory statement of the witness is the truth); Ingram, 266 S.C. at 468, 224 S.E.2d at 713 overruled on other grounds, State v. Torrence, 305 S.C. 45, 406 S.E.2d 315 (1991) (stating the resolution of the credibility of witnesses is within the province of the jury). Additionally, direct evidence by Detective Jonathan Martin also existed when he testified Montgomery identified Appellant as Junk and described him in detail—long hair, early 30s, black male, grill in his teeth—and also where he lived and the vehicle he drove. (R. 62, lines 3-14.) Therefore, regardless of what she testified to at trial, the information she provided led Detective Martin to locate the house and car and connect them to Appellant. (R. 62, lines 15-18.)

The cases Appellant cites for the proposition that a directed verdict should be granted when the evidence merely raises a suspicion of guilt are all based on circumstantial cases. This is not a circumstantial evidence case and, thus, the cases Appellant cites do not specifically apply. However, the State certainly agrees with Appellant that the case law is clear that mere suspicion of guilt is not enough. Here, direct evidence exists, albeit from a witness who admittedly had several inconsistencies in her testimony, that demonstrates Appellant drove the car to Victim's house and entered the house wearing a mask and carrying a gun. Because the standard of review mandates this Court view the evidence and all reasonable inferences in the light most favorable to the State, direct evidence by Montgomery and Detective Martin exists reasonably tending to prove Appellant's guilt. Furthermore, in its denial of the directed verdict, the trial

court noted that Montgomery admitted to making the prior statements and properly determined that the fact that she testified she lied was a jury issue. The trial court correctly denied Appellant's directed verdict motion and sent the case to the jury for its resolution, and this Court should affirm its decision.

CONCLUSION

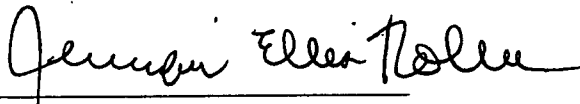
For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

ALAN WILSON
Attorney General

JENNIFER ELLIS ROBERTS
Assistant Attorney General

JIMMY A. RICHARDSON
Solicitor, Fifteenth Judicial Circuit

BY: 
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ATTORNEYS FOR RESPONDENT

July 14, 2015

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Jamar Antonio Huggins, Appellant.

Appellate Case No. 2014-002022

Appeal From Horry County
Benjamin H. Culbertson, Circuit Court Judge

Unpublished Opinion No. 2016-UP-146
Submitted January 1, 2016 – Filed March 30, 2016

AFFIRMED

Appellate Defender Robert M. Pachak, of Columbia, for
Appellant.

Attorney General Alan McCrory Wilson and Assistant
Attorney General Jennifer Ellis Roberts, both of
Columbia; and Solicitor Jimmy A. Richardson, II, of
Conway, for Respondent.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following
authorities: *State v. Weston*, 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006)
("When ruling on a motion for a directed verdict, the trial court is concerned with

the existence or nonexistence of evidence, not its weight."); *State v. Lewis*, 403 S.C. 345, 353, 743 S.E.2d 124, 128 (Ct. App. 2013) ("This court may reverse the trial court's denial of a motion for a directed verdict only if there is no evidence to support the trial court's ruling."); *Weston*, 367 S.C. at 292-93, 625 S.E.2d at 648 ("If there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused, the [appellate c]ourt must find the case was properly submitted to the jury."); *State v. Hale*, 284 S.C. 348, 356, 326 S.E.2d 418, 423 (Ct. App. 1985) ("It is the function of the jury, not an appellate court, to judge the credibility of witnesses and the weight to be given to their testimony.").

AFFIRMED.¹

FEW, C.J., and KONDUROS and LOCKEMY, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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April 15, 2016

The Honorable Melanie Huggins-Ward
PO Box 677
Conway SC 29528-0677

REMITTITUR

Re: The State v. Jamar A. Huggins
Lower Court Case No. 2013GS2601076, 2013GS2601077, 2013GS2601078
Appellate Case No. 2014-002022

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Alan McCrory Wilson, Esquire
Robert M. Pachak, Esquire
Jennifer Ellis Roberts, Esquire
Jimmy A. Richardson, II, Esquire

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF HORRY) FIFTEENTH JUDICIAL CIRCUIT
Indictment: 2013GS2601076-78

The State of South Carolina,
Plaintiff,

vs.

Jamar Antonio Huggins,
Defendant.

M976497, 498, 500

NOTICE OF MOTION AND MOTION
FOR A NEW TRIAL BASED ON
AFTER DISCOVERED EVIDENCE

COMES NOW THE DEFENDANT, by and through the undersigned counsel, moving this Court for an Order granting the Defendant a new trial in the above-caption matter. The Defendant moves for a new trial pursuant to South Carolina Rule of Criminal Procedure 29(b). The grounds for this motion are that Defendant has discovered the following evidence that was not discovered and could not have been discovered through the exercise of due diligence at the time of trial: the co-defendant has now identified a newly disclosed suspect and has denied Mr. Huggins involvement in the crime. See Attached Affidavit from Co-Defendant Deaungela Shanta Huggins.

Therefore, Mr. Huggins respectfully requests that this Court convene a hearing regarding this evidence and grant Mr. Huggins a new trial.

Respectfully Submitted,



Natasha M. Hanna, Esq., Attorney for the Defendant
Law Office of Natasha M. Hanna, P.C.
4712 Jenn Drive, Ste. A
Myrtle Beach, SC 29577
Phone: [843] 839-8002
Fax: [843] 839-8011

Myrtle Beach, South Carolina

2016 SEP 27 AM 9:06
CLERK OF COURT
JAMAR HUGGINS-WA.



Office of:
J. Brant Phillips
Private Investigator/Retired Police Detective

Location: Leath Correctional Facility

Witness: Deaungela Shanta Huggins ^{Montgomery} PM
DOB:

Date: March 12, 2016 at 1:30 PM

This is a True Statement from Miss Deaungela Shanta Huggins ^{Montgomery} provided to Private Investigator Joseph Brant Phillips. Transcribe from field notes during interview.

December, I was doing drugs at the time, taking crack cocaine and heroin. It is Hard to remember exact date. It was Myself and Tyjuan McKeithan. I called first, him Jamar Huggins about using his car, told me no. Tyjuan called Next, he told him yes. Tyjuan did not tell Junk Jamar Huggins what was going on. Junk never knew what happened.

Tyjuan was driving and we picked up another guy. I can't say who the other guy was. We went straight to the house. I knocked on the door and asked for Drake.

Drake was getting high with me, he prostituted me out. He was taking care of me. I didn't know his girlfriend. We thought Drake would be there; the plan was not to go in the house. as We wanted to get Drake to ride with me. We were going to take him off and rob him. Drake had money. The girlfriend said Drake was in the mental hospital. I started to walk off, and they went inside. They came out with money and drugs with them as they came from the house. Jamar Huggins (Junk) was not present during the robbery.

We only used his car to go see Drake. After they took money and drugs we took the car that belonged to Junk back to his house, which was his grandmother's house. We never told Jamar about the robbery. Junk was sleeping. We gave him his keys and walked back to your house. About a few weeks' later, police began looking for me. I had place myself into detox. I turned myself into the police.

They picked me up, and I went straight to jail. Then, two days later, the detective came to see me. I told them I didn't want to talk to the detectives, Detective Martin was yelling and spitting in my face. His face was red. He said, 'Do you have kids?' I told him I did, and he threatened my kids. He showed me a picture with a circle around it. To keep him from yelling at me and scaring me about my kids, I picked the circled picture. The picture that was circled was Jamar Huggins.

Page 1 Signature:

Deaungela Shanta Huggins Date: 8/15/16



Jamar Huggins has never sold drugs. I never said, he had! The police made this up! I was trying to get the police to leave me alone. They were supposed to release me, they said that I would not be charged.

Then he said I lied and Detective Martin charged me anyway. Detective Martin is very mean and very intimidating. He made me think I was going in for 30 years. I feel like he was being crooked. At trial, Detective Martin was looking real mean at me when I said Jamar Huggins was not at the robbery. I could tell he got real mad.

Jamar is a calm, cool guy, laid back. Jamar just hangs out. I have never known Jamar to get in trouble.

Today, I feel bad that I got him into trouble. I beat myself up for getting him in trouble. I feel like it was personal that's he was found guilty.

I don't have an issue coming to court to testify for Jamar Huggins.

Police used old pictures in the line-up. Jamar has long dreads.

Drake was paying me and everybody for sex. He was robbing her (girlfriend Angela Eckler). He is the reason why we knew where she lives.

Drake was with me a whole week in a motel room. Angela Eckler took Drake back in. Drake was sitting behind me during the whole trial. I felt weird during the trial.

I feel like the case was handled wrong.

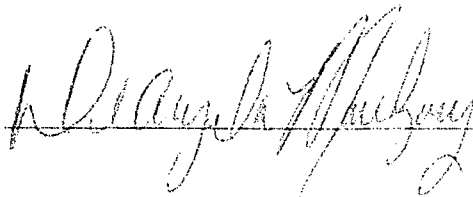
On March 13, 2016

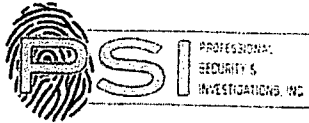
Investigator decided to call Leath Correctional facility and speak with Deaungela Montgomery again. Investigator felt like he had gain same confidence from Miss Montgomery. The investigator wanted to find out the two people that were with her during the robbery.

Investigator spoke to Deaungela Montgomery by phone. Miss Montgomery stated that Tyjuan McKeithan and Jasmine Mitchell were the two guys with her on December 20, 2012. Jasmine Mitchell was wearing the mask during the robbery. Jasmine Mitchell threaten her if she told anyone he was involved. She is afraid of Jasmine Mitchell; he is known to commit violent crimes. Afraid that Jasmine Mitchell would come after her and harm her or her family. She was reluctant to tell the police his name. Miss Montgomery did tell the police that Tyjuan McKeithan was with her but he was never charged.

Typed statement of interview with Deaungela Shanta Montgomery by Private Investigator J. Brant Phillips.

Page 2 Signature:

 Date: 8/15/16



I affirm that all of the foregoing is true and correct. I affirm that I am competent to make this Affidavit. I hereby affix my own signature to all of the affirmations in this entire document with explicit reservation of all my inalienable rights and my specific right not to be bound by any "contract" or "obligation" which I have not entered into knowingly, voluntarily, intentionally, and without misrepresentation, duress, or coercion.

The use of notary below is for identification only, and such use does **not** grant any "jurisdiction" to anyone.

Subscribed and sworn, without prejudice, and with all rights reserved.

(Printed Name:) DeAngela Montgomery

Signed: DeAngela Montgomery

Date: 8/15/16

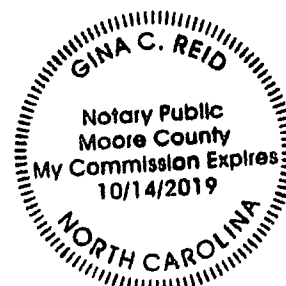
On this 15th day of August, 2016, before me, the undersigned, a Notary Public in and for North Carolina, personally appeared the above-signed, known to me to be the one whose name is signed on this instrument, and has acknowledged to me that s/he has executed the same.

Signed: Gina C. Reid

Printed Name: Gina C. Reid

Date: 8-15-16

Address: PO Box 1413, Carthage, NC
28327



STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
STATE OF SOUTH CAROLINA,)
v.)
JAMAR ANTONIO HUGGINS,)
Defendant.)

IN THE COURT OF GENERAL SESSIONS
CASE NUMBER: 2013GS2601076-78

MEMORANDUM IN SUPPORT OF
DEFENDANT'S MOTION FOR NEW TRIAL

This Court should grant Defendant Jamar Huggins a new trial because recently discovered evidence shows that Huggins did not commit the crime for which he was convicted.

On December 19, 2012, Deaungela Montgomery committed a burglary with Tyjuan McKiethan and a third burglar. When confronted by police, Montgomery told detectives that Jamar Huggins was the third burglar. But at trial, Montgomery recanted her identification of Huggins. And nobody else identified Huggins. Nonetheless, Huggins was convicted.

After Huggins' conviction, Montgomery positively identified a man named Jasmine Mitchell as the third burglar. Montgomery's post-trial identification of Mitchell as the third burglar instead of Jamar Huggins is the basis of this motion, which is addressed to this Court's sound discretion. State v. Harris, 391 S.C. 539, 544-45, 706 S.E.2d 526, 529 (Ct. App. 2011). As described below, the identification of Jasmine

Mitchell positively exculpates Huggins, and it constitutes after-discovered evidence that warrants a new trial.

LEGAL ANALYSIS

The two key questions before this Court are as follows:

- I. “Why should this Court accept Montgomery’s post-trial identification of Mitchell as the third burglar, instead of her pretrial identification of Huggins?”
- II. “If this Court does accept Montgomery’s identification of Mitchell as credible, is Rule 29(b) satisfied such that a new trial should be granted.”

I. This Court should accept Montgomery’s post-trial identification of Jasamine Mitchell as the third burglar because it is objectively more credible than her initial (and subsequently disavowed) identification of Huggins.

Clearly, Montgomery has lied at least once. However, “[e]ven pathological liars sometimes tell the truth.” State v. Looney, 294 N.C. 1, 240 S.E.2d 612 (1978). It is for this Court to determine whether Montgomery is telling the truth now, or was telling the truth when she first spoke with detectives. See State v. Harris, 391 S.C. 539, 545, 706 S.E.2d 526, 529 (Ct. App. 2011) (holding that “The credibility of newly-discovered evidence is for the trial court to determine.”). The record shows that it is far more likely that Montgomery is telling the truth now (and told the truth at trial).

A. The pretrial identification is not credible.

Montgomery’s initial identification of Huggins to police lacks credibility for many reasons. To begin with, it is inconsistent with the facts, as virtually nothing else points toward Huggins. It is also flatly contradictory to her own sworn testimony at trial. (Transcript pp. 52, 61-63 (attached in pertinent part as Exhibit A). Indeed, when shown Jamar Huggins at trial, Montgomery said:

**“What I’m telling you is this is not the same person”
(Transcript p. 52, line 8);**

**“It just don’t look like the same person”
(Transcript p. 61, lines 10-11); and**

**“That’s not the person. That’s what I’m saying.”
(Transcript p. 63, line 15).**

Finally, In addition, Montgomery was on crack cocaine at the time she identified Huggins, and she told Detective Martin so. (Transcript, pg. 104). Moreover, Detective Martin deceived the drug-abusing Montgomery into believing that that the victim had identified her as one of the burglars out of a photo array. (Transcript, pp. 107-08). In fact, no such identification had occurred. ((Transcript p. 108, lines 9 – 10) (“Q: So [what you showed Montgomery] is a lie? A: It’s deception.”)).

Finally, Detective Martin – who knew that Montgomery was a convicted felon in addition to being a crack user – used his knowledge along with the bogus photo identification to pressure Montgomery into identifying Huggins. See Transcript, pg. 105-06. Detective Martin specifically told Montgomery that “the only way you’re gonna get kept out of this is to ID these boys,” otherwise Detective Martin was “gonna close this case with your name on it.” (Recorded Interview of Montgomery; Transcript pp. 105-06). As a result, Montgomery had plenty of reason to say what Detective Martin wanted her to say, whether or not it was true.

B. The post-trial identification of Jasmine Mitchell is highly credible.

In contrast, Montgomery’s post-trial identification of Jasmine Mitchell is highly credible. As an initial matter, Montgomery’s identification of Mitchell agrees with *all* the

other facts, including the victim's testimony¹. Perhaps more importantly, Montgomery's identification of Mitchell agrees with her sworn trial testimony that Jamar Huggins was "not the person that went in that home invasion with [her]." (Transcript p. 62, lines 2-4). When placed under oath at trial, Montgomery disavowed her prior unsworn statement to Detective Martin that Huggins was the third burglar, stating "I told them Junk, but it was a lie" and "Most of what I said to the detective was not true." (Transcript pp. 60 and 56 respectively). Moreover, at trial Montgomery testified at least three times, under penalty of perjury, that Huggins was *not* one of the people who participated in the burglary (See Section I (A) above).

Finally, Montgomery is no longer using crack cocaine or other drugs, since she is currently incarcerated as a result of her conviction for the burglary at issue. And a further result of Montgomery's conviction is that Detective Martin's leverage over her – i.e. identify Huggins or go to jail – no longer exists. As a result, Montgomery now has no reason say anything but the truth.

II. A new trial is warranted, because all five State v. Harris elements are satisfied.

In order to warrant a new trial based on after-discovered evidence, Huggins must show that the evidence:

- 1) "is such as will probably change the result if a new trial is granted;
- 2) has been discovered since the trial;
- 3) could not have been discovered before the trial by the exercise of Due Diligence;

¹ See Transcript p. 75, lines 3-9 ("Q: You cannot identify the two men who went into your house; can you? A: Unfortunately, no, sir. Q: You cannot identify that Jamar Huggins went into your house; can you? A: No, sir.")

- 4) is material to the issue; and
- 5) is not merely cumulative or impeaching.”

State v. Harris, 391 S.C. 539, 545,
706 S.E.2d 526, 529 (Ct. App.
2011).²

Here, elements two, three, and four do not appear to be in serious question.³ This leaves elements one and five at issue.

Element one is satisfied because Montgomery’s post-trial positive identification of Jasamine Mitchell as the third burglar will probably change the result if a new trial is granted, because no trial testimony pointed toward Huggins – only the pretrial statement that Montgomery later disavowed. This court recognized the paucity of evidence when, although denying Huggins motion for a directed verdict, the Court noted that it was a “close call” as to whether the evidence would support a conviction, and Huggins might very well prevail on the issue on appeal. (Transcript, pg. 176). In light of the new evidence – in which the only eye witness who saw the third burglar’s face now says it was Jasamine Mitchell, not Jamar Huggins – the issue can no longer be a “close call.” As a result, if this Court grants a new trial, the result will probably be different.

Element five is satisfied because the new evidence is neither cumulative nor impeaching. Nor is it a recantation. To “recant” is “to withdraw or renounce.” (Black’s Law Dictionary (10th ed. 2014)). Here, Montgomery is *adding* to her trial testimony, not

² In addition – but not at issue here – the motion for a new trial must be made within one year of the date on which the evidence was actually discovered (or would have been discovered by the exercise of due diligence). Rule 29(b), SCRCrimP.

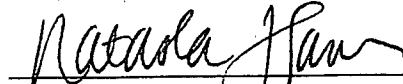
³ Element two is satisfied because Montgomery did not identify Mitchell as the third burglar until after Huggins’ trial. Element two is satisfied because Montgomery revealed that she did not identify Mitchell before or during the trial as a result of Mitchell’s threats to kill her if she did so, and Huggins’ due diligence could not overcome Mitchell’s threats in order to discover the evidence (Montgomery is no longer worried about these threats as she is locked away in a women’s prison). Element four is satisfied because Mitchell being the third burglar is material to the issue of whether Huggins was the third burglar – since it could not be both of them.

withdrawing or renouncing it. Montgomery's post-trial identification of Mitchell rather than Huggins as the third burglar is neither impeaching nor a recantation of her trial testimony. Instead, it is entirely consistent with her trial testimony, wherein she testified twice that Huggins was not one of the burglars. (Transcript, pg. 62). Likewise, the new evidence is not merely cumulative because it is the only evidence showing that Mitchell is the third burglar. As a result, the evidence is neither merely cumulative nor impeaching.

CONCLUSION

Jamar Huggins is serving a 15 year sentence for a crime that this new evidence shows he probably did not commit. The elements that allow this Court to grant a new trial are satisfied. It is now entirely within this Court's discretion to grant one. Defendant is mindful of the resources required to try this case again. However, Defendant prays that after weighing the cost to the State of a short trial against the cost to a potentially innocent man spending 15 years in jail, that this Court will exercise its discretion and grant a new trial.

RESPECTFULLY SUBMITTED,



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June 13, 2017

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF HORRY) 2013-GS-26-1076 through 1078

State,)
)
Plaintiff,) Transcript of Record
)
vs.) June 13, 2017
)
Jamar Huggins,)
)
Defendant.)

B E F O R E:

Honorable Benjamin H. Culbertson
Horry County Courthouse
Conway, South Carolina

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

Jimmy A. Richardson, II, Esquire
Attorney for Plaintiff

Natasha M. Hanna, Esquire
Attorney for Defendant

Grace L. Hurley, CVR-CM-M
Circuit Court Reporter

1 (There were no exhibits marked during the hearing.)
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1 (On the record, June 13, 2017.)

2 MR. RICHARDSON: And Your Honor, while he's getting
3 seated there, we have been in constant contact with the
4 victim. She isn't here today. We talked with her yesterday,
5 said that she didn't know if she'd be able to come or not. So
6 she is not present.

7 THE COURT: All right. All right. This is case 2013-GS-
8 26-1076 through 1078. The matter is before the Court on the
9 Defendant's motion for a new trial. What was he convicted of?

10 MR. RICHARDSON: Your Honor, kidnapping, burglary first
11 and armed robbery.

12 THE COURT: All right. All right. Ms. Hanna, you
13 represent the Defendant, Jamar Antonio Huggins?

14 MS. HANNA: Yes, sir, I do, Your Honor.

15 THE COURT: All right. Let me hear from you.

16 MS. HANNA: Thank you, Your Honor, and I do have a
17 presentation that I would like to have the screen pulled down.
18 I can certainly say my argument, but a picture is worth far
19 more.

20 THE COURT: All right.

21 MS. HANNA: So if I may submit that.

22 THE COURT: All right. Do the lights automatically go
23 off?

24 MR. RICHARDSON: Yes.

25 MS. HANNA: Okay. Well, and are you able to see this,

1 Your Honor, from your standpoint?

2 THE COURT: Yes. I can see it.

3 MS. HANNA: Okay. Okay. Your Honor, thank you. If it
4 can please the Court, I do represent Jamar Huggins, who on
5 September 17th, 2014, Jamar Huggins was convicted of armed
6 robbery, kidnapping and burglary first, and Your Honor may
7 remember the specific trial as you were the presiding judge.

8 THE COURT: Unfortunately I do not. I apologize. It
9 happened this was back in 2014?

10 MS. HANNA: Yes, sir, September.

11 THE COURT: I don't remember anything about it.

12 MS. HANNA: Thank you, Your Honor.

13 THE COURT: You're going to need --

14 MS. HANNA: This was a very short trial where the State
15 only presented two witnesses, where the only evidence
16 connecting Jamar Huggins to the crime was the testimony of
17 Deaungela Montgomery, and in that trial I want to go over
18 briefly what she testified to. When she was asked, and of
19 course, you cannot -- wait a minute -- let me try to focus
20 this a little bit better. At the trial she testified after
21 whether it was Jamar Huggins that was with her at this
22 robbery, and by way of background, Your Honor, let me tell you
23 a little bit about, about what he was actually accused of.
24 There was a man by the name of Adrian Moore who lived with a
25 woman by the name of Angela Eckler. They lived here in

1 Conway. On an evening in December 2013, the -- Jamar Huggins
2 was accused of being one of two people, along with a lady by
3 the name of Deaungela Montgomery, of going up to Angela
4 Eckler's house. They first sent Deaungela Montgomery up to
5 the door. She knocked on the door where Angela Eckler
6 answered the door. She, Deaungela Montgomery did not have a
7 mask on, and shortly thereafter, two men got out of a car,
8 approached the house with masks on, broke into the home,
9 robbed Ms. Eckler and her 12-year old daughter. That's what
10 he has been accused of being one of those two people. After
11 this crime occurred, Ms. Montgomery was arrested. She was
12 detained at first, and during the course of her interview with
13 Detective Martin, she eventually revealed that, that a man by
14 the name of Junk, at no time did she ever say Jamar Huggins
15 was with her. She said two things, "Tyjuan McKeithan was with
16 me and Junk was with me." Then when she got to trial, and
17 Junk being this gentleman right here, Jamar Huggins, when she
18 got to trial she recanted her testimony, and this is what she
19 said, when she asked, "Do you recall telling the detective
20 that Junk was with you and you picked him out and showed,
21 showed the detective?" Answer, "Well, after they say, after
22 they said it was Junk I assumed that that was Junk. I, I
23 don't remember him. I don't know him." Deaungela Montgomery
24 got in that, in that chair right there, pointed to him, and
25 she said, "I don't know this guy. This ain't Junk." Then

1 she goes on when she's asked again, "Okay. Did you make a
2 statement to police identifying Junk as the one who was with
3 you," and she said, "Yeah. I remember the name. I remember
4 that, but what I'm telling you is this is not the man that was
5 with me." They asked her again, "Okay. So Junk, Jamar
6 Huggins did, in fact, go with you to Ms. Eckler's house," and
7 she said, "Junk went with me, but what I'm telling you I don't
8 remember him. I don't remember this man." She positively
9 states on the witness stand that this man wasn't with her that
10 night, and the reason that's so important, Your Honor, is
11 because that is the only evidence that connected Jamar Huggins
12 to that crime. There was no other evidence presented by the
13 State. In fact, there were only two witnesses, Deaungela
14 Montgomery, who told the detective when she was arrested that
15 Junk was with her, and then at trial she says he wasn't and
16 that it was not him. She didn't tell us who was with her.
17 She simply said it's not him. The jury convicted Mr. Huggins,
18 and he is now serving a sentence of 15 years for armed robbery
19 and kidnapping and burglary first.

20 The second testimony that the jury heard was from Ms.
21 Eckler, the victim. When asked, Ms. Eckler, "I'm sorry you
22 had to go through such a tragic event, nothing we can do to
23 stop that. You cannot identify the two men who went into your
24 house. Can you?" Answer, "Unfortunately not. No, sir."
25 "You cannot identify that Jamar Huggins went into your home;

1 can you?" Answer, "No, sir." So, again, I point back that
2 the only testimony at trial was Deaungela Mongtomery. So now
3 we're here on a motion for a new trial based on after-
4 discovered evidence. I have submitted a motion to the Court
5 along with an affidavit of Deaungela Montgomery. Her new
6 testimony is this, and this is not recantation testimony.
7 That's every important for the Court to distinguish. This
8 absolutely is not recantation. She is not changing her story.
9 In fact, her testimony today, this new evidence confirms and
10 corroborates exactly what she said on that witness stand when
11 she said, "This man, it's not him." Now the new evidence, and
12 we have an affidavit that we've submitted to the Court, Tyjuan
13 McKeithan and Jasmine Mitchell were the two guys who were
14 with her on December 20th, 2012. Jasmine Mitchell was wearing
15 the mask during the robbery. Jasmine Mitchell threatened her
16 if she told anyone he was involved. She's afraid of him.
17 He's known to commit violent crimes. He would come after her
18 or harm her family. So two years later after she's sober,
19 after she's no longer under police deception, which the
20 detective willingly admitted at trial, after she's sober,
21 after she no longer feels threats, she has now come forward
22 and said who was with her.

23 Your Honor, under the case of State v. Harris the Court
24 has to look at five things, and this is completely up to you,
25 your trial discretion, the discretion of the Court, but there

1 is this, she tells the detective, "If you can find some
2 pictures now I know how Junk looks, if you can find some
3 pictures." So the detective says to her, Detective Martin
4 says this, "I'm going to bring you back pictures. It's the
5 only way you're going to get kept out of this." So an hour
6 and a half goes by. Deaungela leaves the room. She comes
7 back for interview number two, and this is what happens.
8 Detective Martin slides a picture across the table to
9 Deaungela Montgomery, a picture from a driving record that is
10 five years before the time of the crime. This is the picture,
11 slides it across the table, and Detective Martin says, "Do you
12 know who this is?" And she says, "Yeah. That's him," never
13 says Jamar Huggins, only says Junk. That may not seem like
14 that big of a deal, but here is the connection, Your Honor.
15 This is Junk, and this is the person that she has now
16 identified. They almost look identical. So that's one bit of
17 evidence. Add to it, Your Honor, at the time of the crime at
18 the night in question and several years before and all the way
19 up to the day of trial this is what Jamar Huggins looked like.
20 Jamar Huggins had dreads all the way down his back. So
21 there's some confusion in who she is actually identifying.
22 She points to somebody, says, "Yeah. That's him," but
23 ironically he looks exactly like the picture of the man that
24 she is now identifying. That's one thing, but don't take that
25 by itself standing alone.

1 Now, this is going to look like a mess, but just hang
2 with me because at the end I want to show you. We've got five
3 players, Adrian Moore, Angela Eckler. Angela Eckler was a
4 victim where she resided in the home where this crime
5 occurred. Her boyfriend is Adrian Moore. Adrian Moore was
6 living a double life. Adrian Moore had several acquaintances.
7 He admittedly in his statement said that he does drugs and
8 he's -- he was actually in the hospital at the time of this
9 crime. So what happens is Deaungela Montgomery goes to the
10 house, knocks on the door, two masked men come in. Now, I
11 want to point this out as an aside, Your Honor. Two masked
12 men come in. One thing that the record is silent on is long
13 dreads. Angela Eckler, the victim, didn't mention anything
14 about anybody having long dreads down their back. Even if Mr.
15 Huggins or anybody else with long dreads had a mask on, those
16 dreads would be hanging low. More importantly, if he would
17 have wrapped those dreads up in a mask, then his head would
18 have been the size of two basketballs, which leads you to
19 believe that the record is silent. Therefore, it couldn't
20 have been Jamar Huggins.

21 Going on, so Adrian Moore is in the hospital at the time
22 of this crime. He's the boyfriend of the victim, Angela
23 Eckler. So Detective Martin says, you know, "What's going
24 on?" Angela Eckler says, "They came here asking for Dre. I
25 assume that's Adrian Moore, my boyfriend." Detective Martin

1 goes to the hospital and interviews Adrian Moore. When he is
2 asked who could have possibly been knocking on your door
3 demanding that you pay the money, who could that have been, he
4 names two people, one, Tyjuan McKeithan, he owes him money,
5 and two, Jasmine Mitchell. Based on the new evidence that
6 Deaungela Montgomery is now telling you she has identified
7 Tyjuan McKeithan and Juice, Jasmine Mitchell as being with
8 her that night. That is corroborated by the initial interview
9 that took place within a few days or maybe even the next day,
10 I don't remember the date, of the crime when he goes to the
11 hospital says, "Who do you owe money to?" "Tyjuan McKeithan,
12 Jasmine Mitchell." In addition to that, he said, "Who else
13 you been hanging out with?" Boom, "Deaungela Montgomery."
14 But don't just take that. Nowhere does he mention Jamar
15 Huggins or anybody named Juice, but don't just take that, his
16 statement, couple it with the phone records that the
17 detectives found. The detectives went and got everybody's
18 phone records, everybody that was mentioned or named, went and
19 got the phone records, and this is what the phone records
20 show, Adrian's calling Deaungela Montgomery. Adrian's calling
21 Jasmine Mitchell. Tyjuan is calling Adrian. Deaungela is
22 calling Jasmine. Jasmine's calling Deaungela Montgomery.
23 Nobody is calling Jamar Huggins. It's all of these people who
24 are connected that she has now named as being a part of that
25 crime.

1 It keeps going. Angela Eckler, the victim, told the
2 detective, "You know, somebody came to my house that day
3 knocking on my door looking for Dre, didn't really understand
4 who Dre was at the time, but they rolled up in a gold, silver
5 car." Well, when Detective Martin went to the hospital and
6 asked Dre, "Who do you owe money to and what kind of car do
7 they drive," boom, he ends up saying Jasmine Mitchell. The
8 new evidence points to him. He owns the car that was found at
9 the crime or that was at the scene of the crime that day.

10 Again, going back to her trial testimony, Your Honor, she
11 says, "That's not him. That's not the person. That's what
12 I'm saying," when asked, "This is not the person who went in
13 that home invasion with you; is it?" "No, ma'am. No, sir,"
14 and Your Honor, I know you indicated that you don't remember
15 this trial, I have the trial transcript that I'd like to
16 provide to you at the end of this hearing, but your own words
17 were this is a close call when there was a motion for a
18 directed verdict, this is a close call. So what I say to you
19 is that this new evidence takes that close call away. Going
20 back to the elements of the crime, we have to prove that it
21 would change the outcome of the trial. Based on the fact that
22 it was a close call because one person, one person, no DNA, no
23 evidence, no video, no crime, no victim ID, one person by the
24 name of Deaungela Montgomery said, "This man did it," before
25 the trial. At the trial she said it wasn't him. So if the

1 jury would hear today that she is now identifying somebody who
2 was with her, who was also identified by the victim's
3 boyfriend that owed money to two guys, if they also hear that
4 there is -- there was a car that rolled up that matched the
5 description of the person that she is now identifying, if the
6 jury hears all of this information, Your Honor, it would
7 result in a different outcome.

8 THE COURT: So at the trial she said it was not Mr.
9 Huggins.

10 MS. HANNA: Yes, sir.

11 THE COURT: But you're saying there was a pretrial
12 statement she gave police that said it was.

13 MS. HANNA: On her initial interview while she's under
14 the influence of crack cocaine and under the influence of
15 police deception while he tells her, "If you don't name
16 somebody you're going down and it's the only way you're going
17 to get out of this is if you name somebody," so she names
18 somebody. She names a nickname. She points at a picture.
19 She never says Jamar Huggins in that initial interview.

20 THE COURT: And then that came in at trial?

21 MS. HANNA: Well, it really didn't come in, Your Honor.
22 There was a question about it, and, and I, I personally think
23 there were some issues on the way it was objected to, but her
24 testimony, the only evidence presented was, "It's not him."
25 Now, what Donna Elder, the Prosecutor, attempted to do was

1 impeach her own witness. She called Ms. Montgomery as her own
2 witness, as a State's witness.

3 THE COURT: All right.

4 MS. HANNA: She attempted to impeach her with her prior
5 inconsistent statement. That's the only thing that came in,
6 Your Honor.

7 THE COURT: Okay. So that's still going to be the case.

8 MS. HANNA: I'm sorry?

9 THE COURT: That's still going to be the case --

10 MS. HANNA: Yes, sir.

11 THE COURT: -- if there's a new trial, you're still going
12 to impeach her with her prior inconsistent statement.

13 MS. HANNA: The State may do that, Your Honor. Yes.

14 THE COURT: Okay.

15 MS. HANNA: But what is so evident now is that, you know,
16 this, this pretty much sums it up, "It's not him. It's him."

17 THE COURT: Okay.

18 MS. HANNA: She's not saying he had on blue tennis shoes
19 and now he has on white tennis shoes. She's not saying,
20 "Well, we stopped here first and then we went there first."
21 She is absolutely providing information that exculpates him,
22 that, that says it's not him because it's this man over here,
23 and Your Honor, I understand that motions for a new trial are
24 challenging, I understand that, but we're not asking you to
25 find this man innocent. We're not asking that at all. We're

1 asking for him to have a second chance based on this new
2 evidence that absolutely could not have been obtained prior to
3 the time that Deaungela Montgomery agreed to release it or
4 voluntarily released it and she has confirmed this with
5 Solicitor Richardson. He talked with her on the phone, and
6 she confirmed that it was, indeed, Tyjuan McKeithan, and
7 Jasmine Mitchell.

8 THE COURT: But I mean, the only difference between now
9 and then is going to be she's going to name somebody, whereas
10 then she just said, "I didn't know who it was," and then --

11 MS. HANNA: And I'm not telling you.

12 THE COURT: -- and then the -- oh, she said, "I'm not
13 telling you"?

14 MS. HANNA: She would not release that information.

15 THE COURT: So did -- I mean, there's a difference
16 between her testifying, "I don't know who it was," and, "I
17 know who it was, but I'm not going to tell you who it was."

18 MS. HANNA: Oh, she knew who it was. She refused to tell
19 because she even says it in her affidavit, Your Honor, and
20 I'll go back to that.

21 THE COURT: Find just her -- what does the trial
22 transcript say she said at trial? What did she say at trial?

23 MR. RICHARDSON: That's the trial transcript.

24 MS. HANNA: Yeah. She said, "I, I don't want to say his
25 name."

1 THE COURT: All right. And the Court didn't make her?

2 MS. HANNA: No, sir.

3 THE COURT: So at trial she said she knew who it was but
4 wouldn't give the name so she could still do that in a new --
5 so it's -- I mean, is it actually new discovered evidence if
6 at that time --

7 MS. HANNA: Absolutely.

8 THE COURT: How? Because she knew at that time who it
9 was and she just wouldn't give the information.

10 MS. HANNA: Your Honor, under the elements it can't be
11 obtained at the time of trial. We couldn't obtain it --

12 THE COURT: Why couldn't it?

13 MS. HANNA: -- because she refused to provide it, and
14 this is what she says during the trial on page 60, "I told him
15 that Junk, but it was a lie. We -- I didn't want to say the
16 name that we got it from and I still don't want to say the
17 name," so her continued refusal, continued refusal to finally
18 identify who was with her that night. Now she has, it's new
19 evidence, and Your Honor, it won't cost the State hardly
20 anything to try this case again. It can be tried in a day.
21 All they have is two witnesses. That's it, and so my plea to
22 you, Your Honor, is isn't it better to have a one-day trial
23 than to have this man sit in prison for 13 and a half years
24 when the State could have got it wrong. Again, we're not
25 asking you to release him and set him free. We're simply

1 asking for a new trial based on newly discovered evidence, and
2 the elements of State v. Harris have been met. Thank you, and
3 I'll be happy to answer any questions.

4 THE COURT: All right. All right. All right. What's
5 the State's position?

6 MR. RICHARDSON: Your Honor, we don't believe that it's
7 newly discovered evidence. We believe that everything that
8 Ms. Hanna has brought up has already been tried. The photo
9 lineup that was presented to the jury, the stuff about Dre,
10 that was presented to the jury or was available way
11 beforehand, and the phone records were available way
12 beforehand, wasn't presented. Now, of course, there for Mr.
13 Huggins or anyone else to get a new trial there's three ways
14 to do it; Appellate Court, which has upheld the jury's
15 verdict; then there's PCR, which is still pending; and then
16 this Hail Mary way of doing it is to come in and ask for a new
17 trial based on newly discovered evidence. Your Honor, of
18 course you know it's every disfavored, and I passed up some
19 cases on that. This is really is the Hail Mary to try to, to
20 get a new trial, and some of those cases that I passed up
21 saying that if the evidence that was submitted that Ms. Hanna
22 just gave you was submitted today that there was a probability
23 that it would change the result. Your Honor has already hit
24 on this. Ms. Deaungela Montgomery took the stand and said
25 over and over and over again, "That isn't the guy. That isn't

1 the guy." The jury got to hear that, for her to say, "That
2 isn't him," and, and we've passed up the transcript so you'll
3 see. Now what you won't see in the transcripts is up until
4 that point she was a cooperating witness with the State. When
5 she took the stand that day she tried to recant and say, you
6 know, "The statements that I gave against Junk in the past,
7 that just wasn't true." She started off saying, "You know,
8 I'm a drug user. I don't -- you can't believe me. Don't
9 believe all of these other statements," but the jury heard all
10 of that and they still believed her, and some of the -- the
11 only thing that has changed today because you'll see in the
12 transcript she did mention Tyjuan -- I can't think of his last
13 name right now. She did say, "Me, Junk and Tyjuan." She said
14 that throughout. She picked Junk or Jamar Huggins out of a
15 six-pack lineup, said, "That's the guy." Now, all of that
16 other stuff about ten-year driving record, that was available
17 and could have been brought up at trial and may be brought up
18 at a PCR hearing in the future, failure to do that, but really
19 the only thing that we've got new today is this name Jasmine
20 Mitchell which I don't have, I've still yet to find Jasmine
21 Mitchell. The County Police have looked. They can't find
22 him. The Defense can't find him. So we've got a name, and I
23 believe that the person exists and I believe that he is a
24 black male, but what you'll see in looking at that transcript
25 as you go over it she said that, "I know Junk. I've known

1 Junk for several years. I interact with him every day." She
2 says, "I know him to be between five foot six and five foot
3 eight." When I say she I'm talking about Montgomery. She
4 says, "Junk wears a grill in his mouth. I can tell you where
5 Junk lives. I can tell you where we went and got the car that
6 was used in this robbery. It was at Junk's house. It is a
7 Cadillac car. The three of us went and, and did this, did
8 this robbery." Now, four years later she's given us a name,
9 and I would submit that it may be, it may be something to this
10 Court if this new person, Jasamine Mitchell happened to wear a
11 grill or live at the address that she took them to or was
12 picked out of a lineup. Ms. Hanna said that Mitchell looks a
13 lot like Huggins. I don't know what Mitchell looks like, but
14 all of these things were put in front of a jury and they, of
15 course, and Your Honor was the judge at the time, found that,
16 that, that Jamar Huggins is, in fact, guilty of these charges.
17 In addition to that, what we've got is recantation. It's her
18 changing her testimony at this point. She is supplementing
19 her testimony or taking out Junk's name and putting in Juice's
20 name is, is basically what's happening. So if we filled in
21 that whole thing with her -- the cross exam -- not cross exam
22 but direct exam of her prior statements, she filled in and
23 pointed directly at Jamar Huggins, told where he lived, told
24 what he drove, told what vehicle was used in the robbery. She
25 did all of that.

1 In addition to it being recanted testimony at this point,
2 you also have the issue of third-party guilt and under Hayden
3 versus State, which I passed up, you also have to consider if
4 the evidence made available today if that is new evidence, a
5 name, if that would even be allowed to be put in at trial, and
6 simply saying, "Not me, somebody else," or, "Not him, somebody
7 else," without anything else isn't enough. She can't just say
8 -- she could have said John Doe. We still haven't -- we don't
9 have an affidavit from this other guy. I did talk with
10 Deaungela Montgomery. She's still in jail, and I think she
11 submitted an affidavit which I have seen, and that's basically
12 what she told me, but I also called this Tyjuan Mitchell -- is
13 that his last name --

14 MS. HANNA: McKeithan.

15 MR. RICHARDSON: McKeithan, and he said, "Look, I wasn't
16 there. I know nothing from nothing. I don't know Junk. I
17 don't know Juice. I don't know any of that." Now, if they've
18 got a separate statement from him, but simply a statement from
19 Ms. -- excuse me, Ms. Montgomery restating the same thing she
20 stated at trial I don't believe is a new trial, reason for a
21 new trial. I think it is everything that they brought up has
22 been prior evidence, and it has gone through. A lot of this
23 stuff, you know, I wasn't there as Your Honor was and the
24 jury, but there's something to be said for this system that
25 we've got where a jury makes the call. Your Honor and the

1 jury were able to sit here through the trial itself and watch
2 the Defendant and watch the witnesses, especially Deaungela as
3 she testified and gauge her credibility from that time, and
4 that's why there's such a high precedent on the trial court
5 decision. After that, you know, if there were DNA and, and
6 there is none. So I'm, I'm not -- the Defense couldn't have
7 come up with that, but that's the sort of new evidence. It's
8 not just recanting because she recanted on the stand. She
9 recanted the whole time she was up there. So the only thing
10 that we have heard new this time has been Jasmine Mitchell,
11 and I would submit to the Court that that is not enough for a
12 new trial. There is a ton of case law on this issue. I've
13 passed up parts of it. The other part of it is during her
14 testimony, which you'll read over, she gives you the, the name
15 Junk as being the dealer for Dre. Dre is Angela, the victim's
16 boyfriend. She says Junk was his dealer and that he owed him
17 money. So all of that is in the paperwork that has been
18 passed up to you, her testimony. You can see the whole thing
19 and see it, refresh your memory from the trial itself.
20 That's, that's all of it. I would ask you to look over that,
21 the case law that disfavors a new trial, and Your Honor, I
22 just -- there is a new name out there, but it's always been
23 Deaungela Montgomery and two black males. She said, "Me, Junk
24 and Tyjuan." Now she's saying, "Me, Tyjuan and this Jasmine
25 Mitchell", so.

1 THE COURT: All right. Thank you. Anything in reply?

2 MS. HANNA: Yes, Your Honor. Solicitor Richardson's
3 comments are exactly why there should be a new trial. He
4 indicated that Deaungela Montgomery was a cooperating witness
5 until she got on that witness stand, the first time she had
6 seen Jamar Huggins. When she got on that witness stand she,
7 in her mind, is thinking it's these -- one of these guys and
8 not this guy with long dreads that's sitting at this table.
9 It's clearly a case, Your Honor, where she has indicated that
10 it was Junk, never Jamar Huggins, and Your Honor, I cannot say
11 this enough, and I've provided -- I've got a memo along with
12 supporting case law, this is not a recantation case. She is
13 not recanting her testimony at all. In fact, she is further
14 corroborating her testimony at trial. The only evidence that
15 was admitted, and Your Honor, this might be a different case
16 if the State had DNA, if they had videos of the car. They
17 don't have that. They've got one testimony.

18 THE COURT: Yeah. But the question I've got or the
19 problem I've got is that information was available at the time
20 of trial.

21 MS. HANNA: And I would say, Your Honor, how is it
22 available when we have somebody that says, "I'm not telling
23 you because I'm afraid for my life."

24 THE COURT: Well, then they ask the Court --

25 MS. HANNA: "I'm afraid somebody's going to kill me."

1 THE COURT: -- they ask the Court, "Direct the witness to
2 say who it is."

3 MS. HANNA: Your Honor, she refused to disclose it, and
4 it's in --

5 THE COURT: She could have been held in contempt until
6 she testified.

7 MS. HANNA: And, and Your Honor, you were the trial
8 judge.

9 THE COURT: I'll have to -- I'm going to have to read --

10 MS. HANNA: Yes, sir.

11 THE COURT: -- I'm going to have to read the transcript,
12 but if was a case of she said, "Look. It wasn't him. It was
13 somebody else." "Well, who was it?" "Well, I'm not going to
14 tell you," then it's not newly discovered evidence, if that's
15 the extent of her testimony and it ended right there because
16 that's pointing to third-party guilt without even giving a
17 name. So it has to be more than she said, "It's not him. It
18 was somebody else." "Well, do you know who else it was?"
19 "Yeah. I do, and I'm not going to tell you," that's not and
20 it's dropped at that, then the fact that it comes out now is
21 not newly discovered evidence.

22 MS. HANNA: It was repeatedly asked, Your Honor, and I've
23 got a copy of the entire transcript, and I would also say that
24 I don't recall her ever naming Junk as her dealer. I don't
25 ever recall her saying that or that Adrian naming Junk as his

1 dealer.

2 THE COURT: Well, you all are going to make me read the
3 entire transcript then to find out.

4 MR. RICHARDSON: It's a quick --

5 MS. HANNA: Yes, sir.

6 MR. RICHARDSON: -- it's a quick read.

7 THE COURT: Okay.

8 MS. HANNA: And it was a very quick trial, but this is
9 what I'm asking, Your Honor, when is there ever a reason for a
10 new trial if when somebody finally names the real person that
11 was with them? I mean, we might as well just throw the whole,
12 the whole thing in the trash, the whole rule in the trash
13 because there could never be anything better and greater than
14 when somebody finally says, "I'm telling you it's not him,
15 it's him."

16 THE COURT: Well, the difference is is whether or not
17 it's newly discovered evidence. That's the critical -- what
18 this turns on is was that something that could have been
19 discovered at the time of trial. What you're telling me is
20 that that witness is the only person that knew that
21 information and that there was no way the defense could have
22 gotten that information but through her testimony, and
23 therefore, it's newly discovered evidence. If it was
24 discoverable, it's not newly discovered evidence. If it was
25 available or could have been made available then it's not

1 newly discovered evidence. It's only when something
2 subsequent to the trial has occurred that was not available at
3 the time of trial.

4 MS. HANNA: And Your Honor, there's only three people
5 that know who were there that night, Deaungela Montgomery,
6 she's already told us, and if she's correct then it's Jasmine
7 Mitchell and Tyjuan McKeithan. Tyjuan McKeithan is sitting in
8 prison right now for another armed robbery. So you take all
9 the facts that have been presented to support Deaungela
10 Montgomery's statement, you look at State v. Harris, which
11 sets forth the elements, and I think all the cases on
12 recantation don't even apply here because it's not
13 recantation. You look at that. You look at the credibility
14 of her testimony, Your Honor, and it is newly discovered
15 evidence because there's absolutely no way that that
16 information could have been obtained until Deaungela
17 Montgomery decided to release it. Thank you.

18 THE COURT: So it's because of her, she dictates what
19 evidence is discoverable and not discoverable.

20 MS. HANNA: Well --

21 THE COURT: The fact that she says, "I'm not going to
22 tell you," that makes it newly discovered evidence?

23 MS. HANNA: It does, Your Honor, because she's the only
24 one with the information.

25 THE COURT: No. You got two other -- you said you got

1 two other people out there that had the information, and the
2 problem I've got is that this information has already been
3 presented to a jury.

4 MS. HANNA: But it hasn't, Your Honor. That absolutely
5 is not true. They have never heard anything about Jasmine
6 Mitchell. They've never heard anything about Juice, those
7 names never came in.

8 THE COURT: But you're not going to be able to just throw
9 out Jasmine Mitchell's name. You're going to have to have
10 some other corroboration.

11 MS. HANNA: And I've presented that, Your Honor, in
12 showing the phone records that connect to these five people
13 that don't connect to Jamar, showing the statement of Adrian
14 Moore, when he says, "Hey, who do you owe money to?" "Well,
15 these two guys over here, not Jamar Huggins." That's why I
16 provided this additional evidence so that you could weigh the
17 credibility of the new evidence.

18 THE COURT: Okay.

19 MS. HANNA: But I would just ask Your Honor to take it
20 under advisement. I have a memorandum with supporting case
21 law and a copy of the entire transcript.

22 THE COURT: Well, the fact of the matter is is if it is a
23 new trial she's going to take the testimony, and the only -- I
24 mean, she's going to take the stand and the only difference is
25 she's going to -- in addition to saying it's not Mr. Huggins,

1 it's this other person, whereas the last time she said it's
2 not Mr. Huggins it's somebody else and, "I'm not going to tell
3 you who it is," and under both situations the State's going to
4 impeach her with her prior statement.

5 MS. HANNA: It's not that simple, Your Honor. With all
6 due respect to the attorney that tried this case, a lot of the
7 facts that we've presented to you the jury never heard.

8 THE COURT: But what is the newly discovered evidence?

9 MS. HANNA: The newly discovered evidence is just Tyjuan
10 McKeithan and Jasmine Mitchell, but if you combine all of
11 these supporting facts then it could easily change a jury's
12 mind and say, "Wait a minute," and, and Your Honor, going back
13 to credibility, he indicated a jury believed her, that's all
14 they had to do is they either -- she either lied when she gave
15 the detective his -- her statement and said it was Junk or
16 she's lying on the stand. So how does a jury even get to the
17 point of believing what she's saying, but you don't just
18 believe her testimony. You don't do that. You look at the
19 underlying facts that support her testimony, which is why we
20 presented this.

21 THE COURT: Well, to me it, it's sounding more like it is
22 a PCR issue, ineffective assistance of counsel is what you're
23 saying is that the Defense didn't present evidence that they
24 should have presented.

25 MS. HANNA: That's a completely different issue, Your

1 Honor, and I think -- I won't comment on that, but I think
2 that there is absolutely enough evidence for a motion for a
3 new trial based on newly discovered evidence, and I ask you
4 this, Your Honor, one day, that's all we ask for, one day to
5 make sure that this man doesn't sit in prison.

6 THE COURT: Well, I've still got to follow the law.

7 MS. HANNA: And the law supports it.

8 THE COURT: I mean, I can't just grant --

9 MS. HANNA: Yes, sir.

10 THE COURT: Regardless of what I thought, I even said
11 it's a close call.

12 MS. HANNA: Yes, sir.

13 THE COURT: But that's why we have a jury that's of your
14 peers that makes the decision. I don't make the call, the
15 State doesn't make the call, the jury, 12 people unanimously
16 decide.

17 MS. HANNA: Yes, sir.

18 THE COURT: And that's why we have the system, but I'll
19 take a look at the transcript and the testimony and I'll let
20 you know my decision.

21 MS. HANNA: Thank you, Your Honor.

22 MR. RICHARDSON: Thank you, Your Honor.

23 THE COURT: All right. Thank you.

24 (Adjourned.)

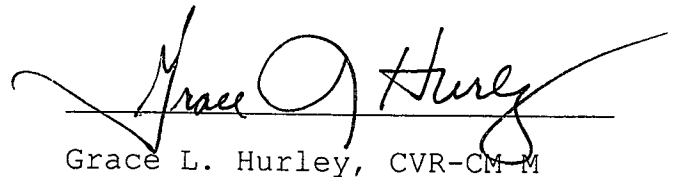
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C E R T I F I C A T E

I, the undersigned, Grace L. Hurley, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the Hearing held in the case of State versus Jamar Antonio Huggins, held in the Court of General Sessions for Horry County, Horry County Courthouse, Conway, South Carolina, on June 13, 2017.

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

A handwritten signature in black ink, appearing to read "Grace L. Hurley", is written over a horizontal line.

Grace L. Hurley, CVR-CM-M

Official Reporter

June 29, 2017.

STATE OF SOUTH CAROLINA
COUNTY OF HORRY
IN THE COURT OF GENERAL SESSIONS

ORDER IN A CRIMINAL CASE
WARRANT(S):
INDICTMENT(S): 2013-GS-26-1076
2013-GS-26-1077
2013-GS-26-1078

State of South Carolina

Jamar Antonio Huggins
DEFENDANT(S)

This form order submitted by: Benjamin H. Culbertson
Presiding Judge

Attorney for : ☐ State ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE

- ☐ **DECISION BY THE COURT AFTER HEARING.** This action came to a hearing before the court. The issues have been heard and a decision rendered. ☐ See below for additional information.
- ☐ **DECISION BY THE COURT AFTER STATUS CONFERENCE.** This case came for a status conference before the court. The status of this case and pending issues in this case were discussed and a decision rendered. ☐ See below for additional information.
- ☒ **MOTION: Defendant's Motion for New Trial**
- ☐ GRANTED ☒ DENIED ☐ CONTINUED ☐ WITHDRAWN
- ☐ WITHDRAWN BY MOVING PARTY: _____
Signature of Moving Party
- ☐ OTHER: _____

IT IS ORDERED AND ADJUDGED: ☒ See Order of the Court below ☐ See attached order
☐ Formal Order to follow; to be prepared by: ☐ State ☐ Defendant ☐ Other: _____

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

Defendant's Motion for New Trial due to newly discovered evidence is DENIED.

At trial, Deaungela Montgomery testified that the defendant was not the person who committed the crimes with her and that she did not want to identify the true co-perpetrator. Her testimony was impeached with her inconsistent prior statements given to law enforcement where she identified the defendant as a co-perpetrator of the crimes.

The Defendant's Motion for a New Trial is based upon Deaungela Montgomery's identification of another person as the co-perpetrator after the defendant's conviction at trial. She states in an affidavit that she is no longer scared of the co-perpetrator and, therefore, identifies him by name (which she refused to do at trial).

Such evidence is merely cumulative since, at trial, Deaungela Montgomery testified that the defendant was not the true co-perpetrator and that someone else committed the crimes with her. Also, the evidence could have been discovered prior to trial with due diligence. When Deaungela Montgomery refused to identify the true perpetrator at trial, the defendant did not press her on that issue or ask that she be required to identify who committed the crime with her. (At the time of Deaungela Montgomery's testimony at the defendant's trial, she had already pled guilty and been sentenced to one of the crimes in this case).

See Hayden v. State, 278 S.C. 610, 278 S.E.2d 610 (1983) and Rule 29(b), SCRCrimP.

Morgan T. Culbertson
Circuit Court Judge

2148
Judge Code

June 14, 2017
Date

FILED
2017 JUN 14 AM 7:59
CLERK OF COURT
JULY 17, 2017

For Clerk of Court Office Use Only

This judgment was entered on the 15th day of June, 2017 and a copy mailed first class or placed in the appropriate attorney's box on this 15th day of June, 2017 to attorneys of record or to parties (when appearing pro se) as follows:

Jimmy Richardson

Natasha Hanna

ATTORNEY(S) FOR THE STATE

ATTORNEY(S) FOR THE DEFENDANT(S)

Rene Ellis
CLERK OF COURT

Court Reporter: Grace Hurley

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

Jamar Huggins, 361445,)

Plaintiff,)

vs.)

State of South Carolina)

Defendant.)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT

CASE NO.: 2017-CP-26-1766

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney:
Tricia A. Blanchette, Bar No. 74904
Address:
PO Box 2147
Leesville, SC 29070
Phone: 803-908-3266 Fax _____
E-mail: Blanchettelaw@gmail.com Other: _____

Defendant's Attorney:
Johnny James, Bar No. _____
Address:
PO Box 11549
Columbia, SC 29211
Phone: 803-734-3737 Fax _____
E-mail: _____ Other: _____

- ☒ **MOTION HEARING REQUESTED** (attach written motion and complete **SECTIONS I and III**)
☐ **FORM MOTION, NO HEARING REQUESTED** (complete **SECTIONS II and III**)
☐ **PROPOSED ORDER/CONSENT ORDER** (complete **SECTIONS II and III**)

SECTION I: Hearing Information

Nature of Motion: Abeyance

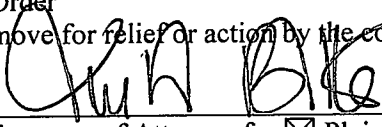
Estimated Time Needed: 10 minutes

Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

- ☒ Written motion attached
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.


Signature of Attorney for ☒ Plaintiff / ☐ Defendant

March 26, 2018
Date submitted

SECTION III: Motion Fee

- ☐ PAID - AMOUNT: \$ _____
☒ EXEMPT: (check reason)
☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☒ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter: _____
☐ Other: _____

JUDGE'S SECTION

- ☐ Motion Fee to be paid upon filing of the attached order.
☐ Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

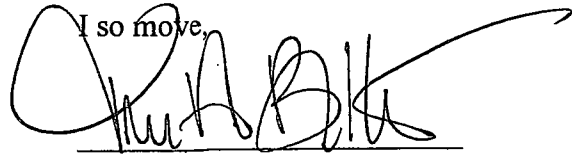
- ☐ MOTION FEE COLLECTED: \$ _____
☐ CONTESTED - AMOUNT DUE: \$ _____

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY	)	FIFTEENTH JUDICIAL CIRCUIT
	)	
Jamar Huggins, 361445,	)	2017-CP-26-1766
Applicant,	)	
v.	)	
	)	MOTION FOR ABEYANCE
State of South Carolina,	)	
<u>Respondent.</u>	)	

This matter comes before the Court pursuant to an Application for Post Conviction Relief filed on March 16, 2017. Respondent filed a Return on July 6, 2017. Undersigned counsel was substituted in as counsel on November 9, 2017.

At the present time, Applicant has a direct appeal stemming from the denial of a Rule 29(b), SCRCrimP, pending in the South Carolina Court of Appeals (App. Case No. 2017-001488). Undersigned counsel represents Applicant on his direct appeal and has recently filed the Initial Brief and Designation of Matter to be Included in the Record on Appeal. The State has requested a thirty day extension for filing the Respondent's Initial Brief and Designation of Matter to be Included in the Record on Appeal. Applicant, through counsel, submits that if the lower court's reasoning and ruling is upheld on appeal, there will be a resulting issue that will need to be raised on post conviction relief. On the other hand, if Applicant's appeal is successful the request for a new trial through post conviction relief will be rendered moot.

Therefore, Applicant is respectfully requesting that his pending Post Conviction Relief Application be held in abeyance until such time as a final decision is rendered on Applicant's pending appeal.

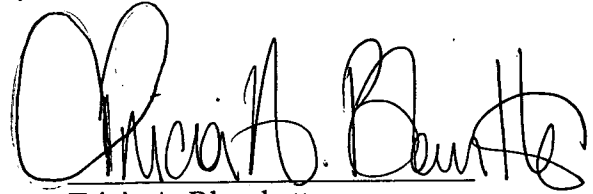
I so move.


Tricia A. Blanchette
Attorney at Law
Bar #74904
PO Box 2147
Leesville, SC 29070

March 26 2018

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



Tricia A. Blanchette
Bar #74904
PO Box 2147
Leesville, SC 29070
Attorney for Appellant

May 24, 2018

RECEIVED
JUN 01 2018
SC Court of Appeals