

**VOLUME I OF II**

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

---

Certiorari to Orangeburg County

Honorable Maite Murphy, Circuit Court Judge

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SIC: SUPREME COURT

RICHARD LANARD SPRINKLE MAVINS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-001059

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APPENDIX

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<sup>1</sup> Pages 120, 127, and 282 of the trial transcript could not be located.

1 STATE OF SOUTH CAROLINA

CIRCUIT COURT

2 COUNTY OF ORANGEBURG

2011-GS-38-01561-01563

& 2013-GS-38-00287

3  
4 STATE OF SOUTH CAROLINA,

5 -vs-

TRANSCRIPT OF RECORD

6 RICHARD LANARD SPRINKLE,  
7 Defendant.

8 Heard on Monday, April 8,

9 Tuesday, April 9 & Wednesday, April 10, 2013 in

10 Orangeburg, South Carolina

11  
12 BEFORE:

13 THE HONORABLE EDGAR W. DICKSON

14  
15 APPEARANCES:

16 Counsel on Behalf of the State:

17 Sarah A. Ford, Esq.

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JAMES WRIGHT - DIRECT

1 ON APRIL 8TH, 2013, AT 10:33 A.M.:

2 THE COURT: All right. Ms. Ford?

3 MS. FORD: Your Honor, we're here for the pretrial on  
4 the case the State intends to call tomorrow morning, the  
5 State of South Carolina versus Richard Lanard Sprinkle.

6 Mr. Sprinkle has been indicted on multiple  
7 indictments. The first being 2011-GS-38-1561 for armed  
8 robbery; 1562, second count of armed robbery; 1563 and  
9 1564 for attempted murder; and 2013-GS-38-0287 for  
10 burglary in the first degree, Your Honor.

11 We'll be taking up all pretrial motions from the State  
12 and the defense at this time, Your Honor.

13 THE COURT: All right.

14 MS. FORD: Your Honor, if we could start with the Neil  
15 versus Biggers hearing.

16 THE COURT: All right.

17 MS. FORD: The State would call James Wright to the  
18 stand.

19 THE COURT: Mr. Wright, do you mind standing up  
20 first? I need to swear you in first, please, sir.

21 JAMES WRIGHT, having been duly sworn, was examined and  
22 testified as follows:

23 THE COURT: All right. Sit down. And your name  
24 again?

25 THE WITNESS: James Wright.

JAMES WRIGHT - DIRECT

DIRECT EXAMINATION

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BY MS. FORD:

Q. Mr. Wright, you're going to have to speak up because we got the --

A. Okay, okay.

Q. -- our new air-conditioner is going over there and it's a little hard to hear in here. So please make sure you speak up so everyone can hear you. Okay?

Your name is James Wright?

A. James Wright.

Q. Okay. Did you used to live on Myers Road here in Orangeburg?

A. Yes, ma'am.

Q. Who did you live with?

A. Rocky Rumph.

Q. How far did you go in school, Mr. Wright?

A. Third grade.

Q. Okay. All right. Have you ever been the victim of a robbery?

A. Yep.

Q. What happened?

A. They come, they knock on the door.

Q. Let me stop you for one second. You said they. Who is they? How many people?

A. Two.

JAMES WRIGHT - DIRECT

1 Q. Two?

2 A. Two.

3 Q. Okay. What did they look like?

4 A. That one of them right there.

5 Q. Okay. Well, were they men or women?

6 A. Mans.

7 Q. Okay. Were they black or white?

8 A. Black.

9 Q. Okay. What kind of hair did they have?

10 A. He don't have long hair but they come in and rob me  
11 that night, real long hair.

12 Q. Okay. But is it different now?

13 A. Yes.

14 Q. His hair is different now than it was before?

15 A. Yeah. He got it cut now.

16 Q. Okay. So you saw these people that came and knocked  
17 on your door?

18 THE COURT: Hold on one second while we enjoy the  
19 sounds of the city.

20 MS. FORD: The sounds of the city.

21 (Pause.)

22 THE COURT: Ms. Ford, I'm sorry. If you'd continue.

23 MS. FORD: Thank you.

24 BY MS. FORD:

25 Q. So let's go back to what you were saying, Mr. Wright.

JAMES WRIGHT - DIRECT

1 You said two people that came to the house. What happened  
2 next?

3 A. They knocked on the door. And I went and looked  
4 through the curtain at them before I opened the door. And  
5 they tell me, said, tell Rocky he want to make a phone  
6 call because his girl friend stabbed him. And I ran and  
7 tell Rocky, he told me to let them in.

8 Q. So hold on one second. So the people at the door that  
9 knocked on the door?

10 A. Before I opened the door.

11 Q. Okay.

12 A. And after I let him -- let Rocky know they wanted to  
13 make a phone call, Rocky told me to let them in.

14 Q. Okay.

15 A. That's when they start beating me in the head with the  
16 pistol.

17 Q. Okay. Which one beat you in the head with a pistol?

18 A. That one right there. And he bust me in the lip, too.

19 Q. Okay. Did they come inside the house?

20 A. After I opened the door, they come right on in the  
21 house.

22 Q. Okay. And you said one of them had -- did they have a  
23 weapon?

24 A. Yep.

25 Q. What kind of weapon?

JAMES WRIGHT - DIRECT

1 A. All I know it was a pistol but what name of it, I  
2 didn't know.

3 Q. Okay. But you saw it was a gun of some sort?

4 A. Yeah.

5 Q. Okay. Did they say anything to you?

6 A. When I called Rocky, they said, don't say nothing,  
7 don't say nothing. Give me your money. Give me your  
8 money. They had me right there and a pistol in my chest.

9 Q. Did you give them any money?

10 A. Yeah, I give what I had. Right around \$40. I give it  
11 to them.

12 Q. Okay.

13 A. Sure did.

14 Q. Okay. After you gave them the money, what happened  
15 next?

16 A. They make me go into that room and hold up that bed  
17 and mattress telling me, you got more money than that,  
18 man, you got to have more money. Then they went in Rocky  
19 room.

20 Q. Okay. After they all went and --

21 A. They take my wallet and all. They didn't give me none  
22 of that back. They got all of that.

23 Q. Okay. They took your wallet with your money. Yes,  
24 sir.

25 After you said they went in Rocky's room, what

JAMES WRIGHT - DIRECT

1 happened next?

2 A. They ain't done him nothing more to me. They start  
3 fighting Rocky.

4 Q. Fighting Rocky. Okay. And after they did that, did  
5 they stay in the house or what happened?

6 A. No. They went out the back door and take Rocky car  
7 and leave.

8 Q. Okay. All right. You said they took Rocky's car and  
9 left?

10 A. Yes.

11 Q. Did you ever talk to the police about what happened to  
12 you?

13 A. Yeah, five of them come there that night and I told  
14 them before they ever let them come to get me to the  
15 hospital.

16 Q. Okay. You talked with the police officers?

17 A. Right.

18 Q. Did you tell them about the people that came in your  
19 house?

20 A. Yeah.

21 Q. Did you tell them what the people in your house looked  
22 like?

23 A. Yeah.

24 Q. Okay. Did you know any of the people that came in  
25 your house?



JAMES WRIGHT - DIRECT

1 A. Yeah, I told them I know him.

2 Q. Okay. Did you know his name?

3 A. I always called him Ricky. He used to walked the  
4 street all the time.

5 Q. Name of Ricky?

6 A. Ricky. That's all I know; Ricky.

7 Q. Where had you seen him before?

8 A. Right up there on Mingo Street in Orangeburg.

9 Q. Okay. When was the last time you had seen him before  
10 you saw him in your house and he robbed you?

11 A. That Saturday evening. And he come in there and done  
12 that to me that Sunday morning. Saw him right there at  
13 Bojangles.

14 Q. Okay. So right the day before is the last time you  
15 saw this man?

16 A. Right. He come there that same night. He talked to  
17 me that evening some then come right in there that Sunday  
18 morning and robbed me.

19 Q. Okay. Did the police ever show you any pictures of  
20 anybody?

21 A. Yep.

22 Q. Okay. I'm going to show you what's been marked  
23 State's One. What is that?

24 A. That's him right there.

25 Q. Okay. But what is this? Do they have a lot -- is

JAMES WRIGHT - DIRECT

1 this what the police officers showed you that day?

2 A. Yeah.

3 Q. Okay. And do you see the picture of the person that  
4 you said came in your house and robbed you?

5 A. Yep.

6 Q. Okay. Which one is it on here?

7 A. (Pointing.)

8 Q. Okay. That's number?

9 A. Two.

10 Q. Number two. Did you circle that?

11 A. I circled that.

12 Q. Are those your initials?

13 A. Yeah.

14 Q. Okay. Did the police officer tell you which one to  
15 pick?

16 A. No. Sure enough.

17 Q. Did she say --

18 A. After I see the pictures, I knowed which one it was.

19 Q. You knew right away --

20 A. Right away.

21 Q. -- which one it was?

22 A. Yes.

23 Q. And that's the one that you circled here?

24 A. That's right.

25 Q. And put your initials?

JAMES WRIGHT - DIRECT

1 A. That's right.

2 Q. And you called him -- what was the name that you  
3 called him?

4 A. Ricky.

5 Q. Ricky.

6 Your Honor, at this time the State would offer this  
7 into evidence for the purposes of this hearing.

8 THE COURT: Have you seen this picture?

9 MS. ULLMAN: I've seen it.

10 THE COURT: Any objection?

11 MS. ULLMAN: For the purposes of this hearing, no,  
12 Your Honor. No objection.

13 THE COURT: Okay. State's One is in evidence for this  
14 hearing.

15 (Thereupon, State's Exhibit No. 1, photo lineup, was  
16 received into evidence.)

17 BY MS. FORD:

18 Q. Mr. Wright, that person that you circled on that  
19 picture, you said he's here in the courtroom. Is that  
20 person in the courtroom right now?

21 A. Yep.

22 Q. Can you point him out?

23 A. Yep. (Pointing.)

24 Q. That's him seated at the defense table. Okay.

25 Has his appearance changed at all? The way he looks,

JAMES WRIGHT - CROSS

1 does he look the same as that night?

2 A. Yeah, he's changed a little bit. He ain't quite as  
3 black in the face. More light in the face, but that's him  
4 right yonder, but he had the long hair.

5 Q. But without a doubt that's the man that assaulted you  
6 and robbed you?

7 A. That's the man.

8 Q. Okay. Beg the Court's indulgence, Your Honor.

9 THE COURT: Okay.

10 MS. FORD: No further questions at this time, Your  
11 Honor.

12 THE COURT: All right.

13 MS. FORD: Mr. Wright, if you'll just answer any  
14 questions Ms. Ullman has. Okay?

15 THE WITNESS: All right.

16 THE COURT: Ms. Ullman, your witness.

17 MS. ULLMAN: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MS. ULLMAN:

20 Q. Good morning, Mr. Wright.

21 A. Good morning.

22 Q. At the time this happened back in June of 2011, how  
23 long had you lived at the Myers Road address? How long  
24 had you lived at the address on Myers Road back in June of  
25 2011?

## JAMES WRIGHT - CROSS

1 A. How long I live there?

2 Q. Uh-huh.

3 A. About three months.

4 Q. About three months. So you'd just moved in not too  
5 long before this happened?

6 A. Right.

7 Q. And do you work, Mr. Wright?

8 A. Huh?

9 Q. Do you have a job?

10 A. Yeah, I work part-time there with Mr. Frazier Ford.

11 Q. Okay. Now on the night this all happened, you were in  
12 bed and you heard a knock at the door; is that right?

13 A. That's right.

14 Q. It was about two o'clock in the morning?

15 A. No, it was, it was, was about 4:30 or five o'clock  
16 that morning.

17 Q. Okay.

18 A. Yeah.

19 Q. Were you sleeping? Did the knock wake you up?

20 A. I was sleeping. I hear the knock and I get up and  
21 went to the door but I never opened the door. I let my  
22 man I was staying with, somebody want to see him. And he  
23 want to make a phone call. And he tell me to open the  
24 door. When I opened the door, they came in and beat me in  
25 the head with a gun.

JAMES WRIGHT - CROSS

1 Q. Yes, sir. Do you remember what time you went to bed  
2 that night? How long had you been sleeping?

3 A. I was sleeping about four hours. Yeah.

4 Q. Before you went to sleep, had you drank any alcohol?

5 A. Yeah, I sure did.

6 Q. Do you remember how much?

7 A. Probably about half a pint. Yep. I sure did drink.

8 Q. Do you take any medication?

9 A. Not -- now I'm on asthma pills, but I wasn't taking  
10 them then.

11 Q. So back in June, you didn't take any asthma pills?

12 A. No.

13 Q. Okay. Now, you said you heard a knock at the door, it  
14 woke you up?

15 A. Yeah.

16 Q. Were any lights on inside your house?

17 A. No.

18 Q. Did you turn any lights on?

19 A. No, I never. The yard light was on.

20 Q. The yard light was on? And I believe you said you  
21 looked out, was it a hole in the door --

22 A. No.

23 Q. -- or through the curtain?

24 A. Right at the door's got sides around it, and I pulled  
25 the curtain back and I looked right in the face of that

JAMES WRIGHT - CROSS

1 one right there. And back back, come behind the door and  
2 he said his girlfriend stabbed him in the arm and he  
3 wanted to make a phone call. And I went and tell Rocky  
4 about it and Rocky said, let him in, make the phone call.  
5 And that's when he come in there with a pistol in my chest  
6 and around my neck.

7 Q. Does that -- the house you lived in at the time, did  
8 it have a porch where were they standing?

9 A. A porch?

10 Q. Uh-huh.

11 A. No, no, nothing but the step.

12 Q. Okay. So it's just one step? Two steps? How many  
13 steps?

14 A. A little old piece of porch on the front of the  
15 trailer. It wasn't no big porch. If you get off the  
16 step, there's a little porch there.

17 Q. Okay. How many people did you see when you looked out  
18 the window?

19 A. Two.

20 Q. Is it possible there was anybody else out there that  
21 you didn't see?

22 A. No, I ain't seen nobody but them two. And he was up  
23 on the porch then.

24 Q. Okay. And when you opened the door, how many people  
25 came in?

## JAMES WRIGHT - CROSS

1 A. That man there and the bud he had.

2 Q. So two people?

3 A. Two people.

4 Q. And were both of these people men?

5 A. Yep. Mans.

6 Q. Okay. Now when the police arrived, you said there was  
7 maybe five police officers. There was quite a few  
8 different officers out there?

9 A. Yes, ma'am.

10 Q. And you spoke with -- how many did you -- how many  
11 police officers did you speak with before you left to the  
12 hospital?

13 A. Be four of them come there.

14 Q. All four of them that came?

15 A. Yes, ma'am.

16 Q. And when you described the men that came in your  
17 house, you said that one was a little bit taller than you?

18 A. Yeah.

19 Q. Right? And you're about five-six. That's what you  
20 said?

21 A. Yeah.

22 Q. Okay. And the guy that's a little taller than you, he  
23 was slender?

24 A. Yeah, he wasn't heavy.

25 Q. Okay. Wasn't heavy?



## JAMES WRIGHT - CROSS

- 1 A. No, ma'am.
- 2 Q. Okay. And that person who's a little taller than  
3 five-six and slender had a low haircut; is that right?
- 4 A. Yes, ma'am.
- 5 Q. When you say low, what do you mean by that?
- 6 A. Well, ain't cut down low as mine now but it was low.
- 7 Q. So, short?
- 8 A. Yes, ma'am.
- 9 Q. Not hanging like mine is?
- 10 A. No.
- 11 Q. All right. So that's person number one. Then person  
12 number two is a man; correct?
- 13 A. Yes, ma'am.
- 14 Q. And you said that that person was about your height;  
15 is that right?
- 16 A. Yes, ma'am.
- 17 Q. And, again, you're about five-six?
- 18 A. Yes, ma'am.
- 19 Q. And you said the person who's about as tall as you,  
20 that's the person who had the long hair; right?
- 21 A. Yes, ma'am.
- 22 Q. And when you say real long, what do you mean?  
23 Shoulder length or maybe as long as mine?
- 24 A. No, it was to the back of his neck.
- 25 Q. Touched his collar?

JAMES WRIGHT - CROSS

1 A. Yeah. Uh-huh.

2 Q. Okay. All right. Now, and I believe you told me when  
3 they came in the house, was it immediately that you were  
4 hit? How long were these two people in your house before  
5 you got hit in the head?

6 A. When they first come in there they start beating me on  
7 the head.

8 Q. So it was immediately as soon as the door was --

9 A. By the time they walk in, had a hand around my neck.  
10 I tried to call my buddy, don't call him, don't call him,  
11 don't call him.

12 Heard him say, where is he. I say, right there in  
13 bed. And he ran in and jumped on him in his room. And  
14 they were still messing with me, but I never did try to  
15 hit him or nothing. I had no way of knowing if a bullet  
16 was in the gun or not.

17 Q. I understand.

18 A. And I never tussled with him.

19 Q. Okay. And you said you had the gun in your chest and  
20 an arm around your neck?

21 A. Yes, ma'am. At the time, arm around my neck.

22 Q. So was he standing behind you?

23 A. No. He in front me. I ain't said nothing.

24 Q. Okay.

25 A. Give me your money.

JAMES WRIGHT - CROSS

1 Q. Now the person who's doing all of that, was that the  
2 guy, with the short hair or the long hair?

3 A. Long hair.

4 Q. Okay. And you said that you gave your wallet and it  
5 had \$40 and some other stuff in there?

6 A. Yeah, he just take all of that. He carried it.

7 Q. Did you give that to the guy with the long hair or the  
8 short hair?

9 A. Sitting right there. Long hair.

10 Q. Okay. When you gave the person with the long hair  
11 your money, what weapon did that person have?

12 A. Well, all I know it was a pistol.

13 Q. Okay. It was a gun?

14 A. It was a gun.

15 Q. Okay. When that part happened, when he had the gun at  
16 you and you gave him money, where in the house, what room  
17 was that in?

18 A. In the front room.

19 Q. Okay.

20 A. Now when I gave him -- I never give him the money in  
21 the front room because I get up out the bed and went to  
22 the door. They make me go in the room and give them  
23 money.

24 Q. So your money was in your room. You gave it to him in  
25 your bedroom?

JAMES WRIGHT - CROSS

1 A. Right.

2 Q. Okay. Now, as all of this is going on did anybody  
3 turn on any lights?

4 A. Nope. No, sure didn't.

5 Q. Now, I believe you said at some point these two men  
6 start attacking your roommate; is that right, Mr. Rumph?

7 A. Say what?

8 Q. The two men started to attack your roommate --

9 A. Yeah.

10 Q. -- Mr. Rumph? At that time where were you?

11 A. He was, still was messing with me. And I hollered to  
12 my roommate he was coming in his room. And he went in  
13 there and jump on him.

14 Q. Okay. At any time that these two men were in your  
15 house, were you ever alone or was one of them always with  
16 you?

17 A. I don't understand you.

18 Q. Once these two guys came in your house, from the time  
19 they came in --

20 A. Uh-huh.

21 Q. -- until the time they left --

22 A. Uh-huh.

23 Q. -- were you ever alone or was one of them always with  
24 you?

25 A. One of them was with me all the time. That young'un

JAMES WRIGHT - CROSS

1 (inaudible).

2 Q. Okay. Now, I believe you told me you had to go in  
3 your room to get your money?

4 A. Get my money.

5 Q. Is there any time at any point that you then went into  
6 Mr. Rumph's room?

7 A. No. The other fellow's already in Rumph's room.

8 Q. Okay. Did you ever go in there?

9 A. I wait for at the door because he had hold to me. I  
10 wait for at the door. They asked me for the car keys. I  
11 said Rumph's only one with a car. I said go on out get in  
12 your car. He run out the back door and jump in his car  
13 and take off with it.

14 Q. Okay.

15 A. Sure did.

16 Q. How long do you think all of that took from the time  
17 they knocked on the door till the time they ran out the  
18 back door? How long do you think they were there?

19 A. Probably 25 minutes.

20 Q. Twenty-five minutes?

21 A. Yes, ma'am.

22 Q. How many times do you remember that you got hit; do  
23 you remember?

24 A. Got hit?

25 Q. In your head?

JAMES WRIGHT - CROSS

1 A. I remember three times.

2 Q. Three times?

3 A. They hit me. As far as my lip, they cut my lip. Went  
4 to the hospital. They had to stitch my lip up in the  
5 bottom, inside.

6 Q. Did you ever pass out?

7 A. No. Huh-uh.

8 Q. Now I believe Mr. Rumph had some injuries. Did you  
9 see that happen? Did you see Mr. Rumph get hit or cut or  
10 anything else like that?

11 A. No.

12 Q. Okay.

13 A. Never seen none of that.

14 Q. Okay.

15 A. After he come out, they take him to the hospital then  
16 I see that.

17 Q. Okay. So the next day, June 27th, so, Officer  
18 Garrison or Investigator Garrison showed you a lineup;  
19 right? The paper with all those pictures on it.

20 A. Right.

21 Q. How many of those papers did she show you; do you  
22 remember?

23 A. As far as I know it was four.

24 Q. Okay. So you believe she --

25 A. The first one she showed me, they wasn't on there.

JAMES WRIGHT - CROSS

1 Then she bring some more next day and showed me, wasn't on  
2 that on. And then they bring some after that.

3 Q. Okay. Where were you at when you looked at the  
4 pictures? Were you at your house or the hospital? Where  
5 were you?

6 A. I was at the house.

7 Q. At your house?

8 A. At the house.

9 Q. Who else was there?

10 A. Whereabouts?

11 Q. At the house. The officer and you and anybody else?

12 A. Nobody but Mr. Rumph.

13 Q. Mr. Rumph was there?

14 A. Yeah.

15 Q. Okay. Now when she showed you these papers, did she  
16 tell you she -- anybody was -- let me start over.

17 When she handed you the paper, did she say: The  
18 suspect's on here, see if you can pick him?

19 A. Yeah. Yes, ma'am.

20 Q. When she showed you these pictures, did she have you  
21 sign anything?

22 A. Yeah, I signed a paper.

23 Q. Okay. Let me show you this piece of paper. Is that  
24 what you signed when you looked at the pictures?

25 A. Right. Yes, ma'am.

JAMES WRIGHT - CROSS

1 Q. Okay. And that's your handwriting where it says James  
2 Wright?

3 A. Yeah, my handwriting.

4 Q. What about in the body, right here, did you write:  
5 Robbed and assaulted me?

6 A. No, I didn't write that. I write that, then that.

7 Q. So you wrote your name?

8 A. Right.

9 Q. Okay. Mr. Wright, have you ever -- do you have a  
10 nickname? Do you have a nickname?

11 A. No. When I was young coming up they called me Jimmy.

12 Q. They used to call you Jimmy?

13 A. Yes, ma'am.

14 Q. But otherwise it's just James Wright, that's your name  
15 and maybe Jimmy?

16 A. Yeah, James Wright.

17 Q. Now when you were testifying earlier when Ms. Ford was  
18 asking you some questions, I just wanted to clarify. You  
19 said that the man at the Defendant's table has changed a  
20 little?

21 A. Yeah.

22 Q. I understand you're saying that his hair's shorter, he  
23 got his hair cut?

24 A. Right.

25 Q. You also said he looks a little lighter in the face.



JAMES WRIGHT - CROSS

1 What do you mean by that?

2 A. Well, his skin's a little cleaner than it was then.

3 It was more darker.

4 Q. So on the night in question you saw a dark-skinned  
5 gentleman?

6 A. Well, I seen him that day.

7 Q. Okay. What do you mean you saw him that day?

8 A. That Saturday before it happened. I seen him right  
9 there at Bojangles. He talked to me and then he come and  
10 robbed me that Sunday morning. Sure did.

11 Q. Okay. On the night the two men that came in, were  
12 they both dark skin? Light skin? How would you describe  
13 them?

14 A. No. All I can say is that's him right yonder, you  
15 know, the light skin or nothing. One of them was a little  
16 bit lighter than him, the other one. That's the one  
17 saying that he wanted to see Mr. Rocky.

18 Q. Say that again. The one that was lighter wanted to  
19 see Mr. Rocky?

20 A. This one?

21 Q. Repeat what you said. I don't want to put words in  
22 your mouth. What did you say?

23 A. I said, the one that wanted to see Mr. Rocky was a  
24 little bit lighter than him.

25 Q. Okay. How do you know Mr. Rocky, your roommate?

JAMES WRIGHT - CROSS

1 A. I just knew him as a friend years ago. My home in  
2 Hardeeville and I moved up here and I happened to meet him  
3 by Mr. Steve Tyson. I started working -- we started  
4 working together, Mr. Steve Tyson.

5 Q. About how long do you think you've known him?

6 A. Rocky?

7 Q. Uh-huh.

8 A. Hooooooooohhh, about 21 years.

9 Q. A really long time? Okay.

10 A. That's right. That's right.

11 MS. ULLMAN: Beg the Court's indulgence just one  
12 moment.

13 THE COURT: Okay.

14 (Pause.)

15 MS. ULLMAN: Sorry, Your Honor. No further questions.

16 THE COURT: Anything on redirect?

17 MS. FORD: Nothing on redirect, Your Honor.

18 THE COURT: Any other witnesses from the State?

19 MS. FORD: Yes, sir.

20 THE COURT: Okay. You may step down, please, sir.

21 Thank you, Mr. Wright.

22 MS. FORD: State calls Investigator Garrison.

23 LORI ANN LEWIS GARRISON, having been duly sworn, was  
24 examined and testified as follows:

25

LORI ANN LEWIS GARRISON - DIRECT

DIRECT EXAMINATION

BY MS. FORD:

Q. Please state your name for the record.

A. Lori Ann Lewis Garrison.

Q. Where are you employed?

A. Orangeburg County Sheriff's Office.

Q. How long have you been employed by the sheriff's office or in law enforcement?

A. I've been employed at the sheriff's office approximately four years. I've been in law enforcement approximately 15.

Q. Okay. And what are your duties?

A. I am an investigator. I investigate criminal cases.

Q. Did you have the opportunity to investigate an armed robbery, attempted murder that took place June 26 of 2011?

A. Yes, I did.

Q. Okay. What did you learn about that matter, Investigator Garrison?

A. What I learned about that matter is I spoke with both victims that night, Robert Rumph and James Wright. James Wright did state that night that he knew one of the suspects by name as Ricky or Rick, and that he approximately lived in the 1400 block of Goff.

Upon further investigation we did discover that Richard Sprinkle lived at [REDACTED] Goff. From there then

LORI ANN LEWIS GARRISON - DIRECT

1 generated a lineup with Richard Sprinkle.

2 Q. And did you have the opportunity to show those photos  
3 to Mr. Wright?

4 A. Yes, I did.

5 Q. Okay. When did you show him those pictures?

6 A. The next day after the incident.

7 Q. Okay. And where did you show those pictures to him?

8 A. At his house.

9 Q. Okay. Investigator Garrison, can you tell me what  
10 that is?

11 A. This is the photo lineup of the picture of Mr. Richard  
12 Sprinkle.

13 Q. How many photos are on there?

14 A. Six.

15 Q. Okay. What did you say to Mr. Wright regarding the  
16 photos?

17 A. I showed Mr. Wright the photos and I asked him if he  
18 recognized anybody in the picture that assaulted him that  
19 night.

20 Q. Was Mr. Wright able to identify the person who  
21 assaulted and robbed him?

22 A. Yes. He identified picture number two.

23 Q. And who is picture number two?

24 A. Richard Sprinkle.

25 Q. Did Mr. Wright indicate that he chose Mr -- number two

LORI ANN LEWIS GARRISON - DIRECT

1 by anything? Did he circle? Sign?

2 A. Yes, he circled and put his initials.

3 Q. Okay. Did Mr. Wright have any difficulty in picking  
4 out picture number two of Mr. Sprinkle?

5 A. No, he didn't. As soon as he saw the pictures it was  
6 no hesitation.

7 Q. Did you suggest to Mr. Wright who he should pick out?

8 A. No, I did not.

9 Q. Okay. Do you see the person whose photo was selected  
10 in the courtroom, Investigator Garrison?

11 A. Yes, I do; Mr. Sprinkle.

12 Q. Seated at the defense table?

13 A. Yes.

14 Q. Did you show any other lineups to Mr. Rumph?

15 A. Yes, I did.

16 Q. Did you show him the exact same lineup?

17 A. Yes.

18 Q. The exact lineup?

19 A. Oh, not the, the exact same. A similar lineup.

20 Q. And Mr. Sprinkle was in that lineup?

21 A. Yes.

22 Q. Okay. Was Mr. Rumph able to identify Mr. Sprinkle in  
23 that lineup?

24 A. No, he was not.

25 Q. Was he able to give you a description?

LORI ANN LEWIS GARRISON - CROSS

1 A. Yes, he did. He gave me a description that fit the  
2 similar characteristics of Mr. Sprinkle.

3 Q. Which would be what?

4 A. A black male, dark skin with dreads, shoulder length  
5 dreads.

6 MS. FORD: Beg the Court's indulgence, Your Honor.

7 (Pause.)

8 Investigator Garrison, please answer any further  
9 questions that Ms. Ullman might have for you.

10 THE COURT: Ms. Ullman, anything on cross?

11 CROSS-EXAMINATION

12 BY MS. ULLMAN:

13 Q. Investigator Garrison, when you responded you went to  
14 [REDACTED] Myers Road; is that correct?

15 A. Yes.

16 Q. And you spoke with Robert Rumph first?

17 A. I'm not exactly sure who I spoke with first. I did  
18 speak with both individuals.

19 Q. Okay. Give me just a second.

20 When you spoke with -- let's just focus on Mr. Wright.

21 When you spoke with Mr. Wright, you spoke with him the  
22 first time at his house?

23 A. I don't recall that night. I know I spoke with him  
24 that night. It was either at the hospital or at his  
25 house. If I did speak with him at his house, it would

LORI ANN LEWIS GARRISON - CROSS

1 have been briefly.

2 Q. When you went to the hospital, I believe James Wright  
3 had told you he was familiar with one of the people who  
4 had come there; correct?

5 A. Yes.

6 Q. And he told you that he had seen him daily at the  
7 Corner Pocket and could identify him if he saw him again;  
8 is that correct?

9 A. Yes.

10 Q. Did he ever tell you that he had seen him the night  
11 before at the Bojangles, or I guess technically in the  
12 same time frame since this is early morning hours of the  
13 next day?

14 A. I do not recall if he said that at that time.

15 Q. If he had, you would have put it in your report;  
16 correct?

17 A. If he had, I probably would have; yes.

18 Q. Do you recall what time you went to the hospital to  
19 speak with either one of Mr. Wright or Mr. Rumph?

20 A. No, I don't have an actual time of when I went to the  
21 hospital.

22 Q. Okay. Where did you show -- I think you already  
23 testified you showed the lineup to Mr. Wright at his  
24 house; correct?

25 A. Yes.

LORI ANN LEWIS GARRISON - CROSS

1 Q. So he had already been to the hospital, treated and  
2 released?

3 A. Right. This was the next day.

4 Q. Okay. So at least 24 hours had passed; is that  
5 correct?

6 A. Yes.

7 Q. Okay. And I believe at some point you actually get a  
8 phone call from Derrick Rumph which is Mr. Rocky's, to use  
9 the nickname, Mr. Rocky's son; is that correct?

10 A. Correct.

11 Q. And he told you that they had some more information  
12 about this case?

13 A. Yes.

14 Q. How many lineups did you show Mr. Wright?

15 A. I believe it was three lineups. One with  
16 Mr. Sprinkle.

17 Q. What were the other two lineups? Was anyone in them?

18 A. Yes. The photo lineups were of Sean Echols.

19 Q. So you had two with Sean Echols and one with Richard  
20 Sprinkle in it?

21 A. If I can recall that day, yes.

22 Q. Who created the lineups?

23 A. One was created by our office which is the one with  
24 Richard Sprinkle and other one was created by SLED.

25 Q. So the lineup that we're actually discussing regarding



LORI ANN LEWIS GARRISON - CROSS

1 James Wright and Richard Sprinkle's pictures in it, that  
2 was created by the sheriff's department?

3 A. Yes.

4 Q. Do you know who?

5 A. At this time I don't recall. It was either one of our  
6 administrators.

7 Q. An administrator?

8 A. Uh-huh.

9 Q. Do you know how the lineups were created?

10 A. They were created based on likeness and physical  
11 characteristics and hairstyles.

12 Q. Did you give them the information to create it?

13 A. Yes.

14 Q. What information did you give them?

15 A. Based on what we had, a photo of Mr. Sprinkle, we  
16 tried to pick similar pictures.

17 Q. So you didn't tell them to generate a lineup based on  
18 the description that Mr. Wright had given you? You told  
19 them to generate it based on Mr. Sprinkle's description?

20 A. Repeat the question.

21 Q. Mr. Wright had told you that a man a little taller  
22 than him, so a little taller than five foot six with  
23 dreads was the man who assaulted him.

24 A. Uh-huh.

25 Q. Is that the information you told the administrator?

LORI ANN LEWIS GARRISON - CROSS

1 A. Right.

2 Q. Obviously the administrator had to know who Richard  
3 Sprinkle was though to put his picture in here, correct?

4 A. Correct.

5 Q. Now, at the time you showed this lineup, I believe you  
6 testified it was the next day?

7 A. That one, yes. Uh-huh.

8 Q. And by this point Mr. Wright and Mr. Rumph had been  
9 talking with other people; correct?

10 A. I'm not sure who they talked with.

11 Q. Well, if Mr. Rumph's son called and said they had more  
12 information, they'd been discussing it; correct?

13 A. I'm not sure if they discussed it. His son called for  
14 him, for Mr. Rumph's.

15 Q. He wouldn't have known to call unless they had been  
16 discussing it; correct?

17 A. I'm not certain.

18 Q. Did Mr. Wright ever describe to you whether the  
19 persons that came in the house were light skinned or dark  
20 skinned?

21 A. He just said two dark males. Uh-huh.

22 Q. Okay. Do you know which order you showed these  
23 lineups to Mr. Wright in?

24 A. At this time, no, I don't.

25 Q. But you did show him three lineups?

LORI ANN LEWIS GARRISON - CROSS

1 A. Yes, I did.

2 Q. Two had Sean Echols, one had Richard Sprinkle?

3 A. Yes.

4 Q. And this happened at Mr. Wright's house?

5 A. Yes.

6 Q. Do you know which room you were in?

7 A. We were outside.

8 Q. You were outside?

9 A. Yes.

10 Q. Who else was around when you were showing these  
11 lineups?

12 A. Investigator Huggins.

13 Q. Anyone else?

14 A. No.

15 Q. When you showed him the lineup, what did you say to  
16 him?

17 A. I said this is a picture, a photo lineup of some  
18 gentlemen. See if you can identify anybody in the picture  
19 that you recognize from that night.

20 Q. Did you tell him that there would be somebody in  
21 there?

22 A. No, I didn't.

23 Q. Did you tell him it was possible that he would pick no  
24 one?

25 A. There was a possibility that no one would be picked;

LORI ANN LEWIS GARRISON - CROSS

1 right.

2 Q. Did you tell him that?

3 A. I don't recall at that time if I said that no one  
4 would be picked.

5 Q. Okay. Now I believe you had testified you decided to  
6 put Richard Sprinkle in this lineup because Mr. Wright had  
7 told you that he knew somebody that was there, possibly by  
8 Ricky, and that he possibly lived at 1440 -- I couldn't  
9 hear what you said.

10 A. 1400 block.

11 Q. 1400 block.

12 A. Uh-huh.

13 Q. I'm sorry. But that's correct, right, he told you  
14 someone named Ricky who possibly lived around the 1400  
15 block would have been one of the people that did this?

16 A. Yes.

17 Q. And when did he tell you this?

18 A. That night that it happened, that same night.

19 Q. At his house or at the hospital?

20 A. I don't recall if it was at the house or the hospital,  
21 but I know it was that same night.

22 Q. Okay. And obviously in your training you've learned  
23 that keeping good records is a good idea; right?

24 A. Yes.

25 Q. But you didn't think to put Mr. Wright knew Ricky and

LORI ANN LEWIS GARRISON - REDIRECT

1 that he lived around the 1400 block in your report from  
2 the night of investigations at the beginning?

3 A. It's in my report that night, for that night.

4 Q. If you don't mind, I'm going to hand you your report.  
5 If you could find in here where you put that, I would  
6 appreciate that. Obviously just flips up.

7 A. (Reviewing documents.) It is right here.

8 Q. And this part of your report actually happened after  
9 they'd gone to the hospital, returned and talked with  
10 other people; correct?

11 A. (Nods head.)

12 Q. Okay. So at the time that this all first happens the  
13 first report that you get is only long hair, possibly knew  
14 him from the Corner Pocket?

15 A. Right.

16 Q. Okay. Beg the Court's indulgence.

17 (Pause.) No further questions, Your Honor.

18 THE COURT: Anything on redirect?

19 MS. FORD: Beg the Court's indulgence, Your Honor.

20 THE COURT: Sure. (Pause.)

21 MS. FORD: Just briefly.

22 REDIRECT EXAMINATION

23 BY MS. FORD:

24 Q. Investigator Garrison, did you know that Mr. Wright  
25 had said that one of the individuals that came in his

1 house assaulted him and robbed him was a man named Ricky  
2 who may have been at the Corner Pocket but he knew before  
3 you showed him that photo lineup?

4 A. Yes.

5 Q. And based on that information, is that how you came up  
6 with the photo lineup?

7 A. Yes.

8 Q. With pictures of five other individuals?

9 A. Yes.

10 Q. Do they all have similar characteristics?

11 A. Yes, they do.

12 Q. Do they have similar haircuts?

13 A. Yes.

14 Q. Similar facial features?

15 A. Yes.

16 Q. Similar facial hair?

17 A. Yes.

18 MS. FORD: No further questions, Your Honor.

19 THE COURT: Anything on recross?

20 MS. ULLMAN: No, sir.

21 THE COURT: Thank you, ma'am. You may step down.

22 Does the State have any other witnesses?

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

24 THE COURT: All right. Defense?

25 MS. ULLMAN: Your Honor, we have no witnesses for the

1 Neil-Biggers purpose.

2 THE COURT: Okay.

3 MS. ULLMAN: I do have a motion, Your Honor.

4 THE COURT: Okay.

5 MS. ULLMAN: Your Honor, obviously Neil-Biggers has to  
6 do with the reliability of an identification coming in.  
7 The first thing you have to look at is whether the lineup  
8 itself is unduly suggestive.

9 Your Honor, I would -- we would argue that, number  
10 one, we have not had any testimony in this courtroom  
11 regarding who actually personally put this lineup  
12 together, what their training and experience is in doing  
13 that.

14 All we've heard is that they're an administrator.  
15 Your Honor, that doesn't even actually tell us if that  
16 person is even in law enforcement. My secretaries could  
17 be administrators and that doesn't mean they have any  
18 experience in the legal field or should be creating  
19 lineups or giving any kind of legal advice.

20 Regarding the pictures themselves, Your Honor, these  
21 are -- it is unduly suggestive. Mr. Sprinkle is number  
22 two. He is the only person who is in a jail uniform.  
23 It's obvious that the shirt he has on is a jail shirt.

24 Two of them are in white T-shirts, another one in a  
25 black T-shirt with red markings on it, another one with a

1 black T-shirt, and another one with a black tank top.

2 Your Honor, all of them are at different levels.

3 There are two of these pictures that are so closely taken  
4 that you can't even see their full face. Number five is  
5 only half of a picture.

6 Your Honor, the print themselves is not very clear.  
7 They're trying to say that facial hair on all of these  
8 people is the same. Number one maybe has a mustache, you  
9 can't really tell. Number three, number five and number  
10 six looks like their beard and their hair are all part of  
11 the same because these are color photos that were not  
12 printed very well.

13 So I believe, Your Honor, that the lineup in and of  
14 itself is unduly suggestive. Just the difference in their  
15 clothing, the difference in the way each one of them  
16 looks.

17 Mr. Sprinkle, in looking at these pictures, is  
18 obviously older than the rest of these people. And I  
19 think that how close they are to their face also relates  
20 to height and how tall the person looking at the lineup  
21 might actually think they are.

22 So regarding the lineup itself, I do believe it's  
23 unduly suggestive.

24 Regarding the factors that Biggers requires you to  
25 look at in the identification itself, Your Honor, the



1 opportunity to witness the person actually committing this  
2 crime.

3 Your Honor, the testimony we have is from James  
4 Wright. He testified that he was asleep for at least four  
5 house, that he had been drinking previously to that, at  
6 least a half pint of liquor. He testified that there was  
7 no lights on in the house. He said there was a light on  
8 outside that he happened -- he just peeked through the  
9 curtain and noticed two males out there.

10 When they came in, Your Honor, he testified that he  
11 was immediately hit in the head at least three times.  
12 Obviously had a weapon in his face and he is certainly in  
13 fear of that and paying attention to the weapon, not the  
14 person.

15 The degree of attention, I believe, would be exactly  
16 the same. On top of that, Your Honor, his attention would  
17 be divided between two people. There was obviously  
18 another person in this house that he was concerned about  
19 hurting him. He's trying to get word to his roommate. So  
20 obviously he has a lot of thoughts going through his mind.

21 The level of accuracy or description from the prior  
22 description compared to the lineup itself, Your Honor,  
23 there really was no prior description. Mr. Wright himself  
24 at the first instance he had to tell the police who did  
25 this to him, he said that a man was a little shorter than

1 him and a man was a little taller than him. He's five-  
2 six.

3 He did not at that time, Your Honor, testify -- or  
4 tell the officers anything about skin tone, hair, or,  
5 excuse me. He said long hair, short hair. He didn't say  
6 anything about the dreads. He didn't describe really  
7 anything but a size and that was to the reporting  
8 officer.

9 When, after having spoken with other people that is  
10 when he is able to tell Investigator Garrison that it was  
11 Ricky who did it and where Ricky lives. That is not  
12 information, Your Honor, that he is relaying to this  
13 officer based on his memory of what happened that night.  
14 The officer testified and Mr. Wright testified --

15 THE COURT: Another moment in Orangeburg.

16 MS. ULLMAN: Yes, sir.

17 (Sirens outside. Pause.)

18 THE COURT: All right. Ms. Ullman, I'm sorry for the  
19 interruption.

20 MS. ULLMAN: Thank you.

21 It wasn't until after Mr. Wright had spoken with other  
22 people and of course street talk and other people accusing  
23 Mr. Sprinkle of doing this is when he finally gave a  
24 better description of, I saw this person -- or, excuse  
25 me. I know this person is Ricky and where he may live.

1 The only identifying information that he gave to  
2 Investigator Garrison from his own knowledge was he  
3 believes he had seen this person at the Corner Pocket.

4 There is no evidence, Your Honor, that -- at all that  
5 Mr. Sprinkle had ever been to the Corner Pocket.

6 Investigator Garrison did not testify that she ever went  
7 there to find out if anyone else knows him or who Ricky  
8 might be or if a dark-skinned man with dreads that's a  
9 little taller than five-six hangs out there often.

10 So the lineup was based on the victim's relaying other  
11 peoples' information. And his identification of  
12 Mr. Sprinkle out of that lineup is based on information,  
13 again, that he has received in the discussions he had with  
14 Mr. Rumph, his son and whomever else in the community may  
15 have been talking about this at that time.

16 So I believe, Your Honor, that not only is the lineup  
17 unduly suggestive but the way that Mr. Sprinkle was picked  
18 out of it is also not appropriate due to the factors that  
19 I've just listed.

20 THE COURT: Thank you. Ms. Ford?

21 MS. FORD: Your Honor, it would be the State's  
22 position that the identification procedure was not unduly  
23 suggestive in any way.

24 Your Honor, there was six individuals. Similar  
25 race -- they were all of the same race. Similar age,

1 similar hair, similar facial features, you know, facial  
2 hair.

3 Your Honor, Ms. Ullman points out the differences in  
4 the clothing. Mr. Sprinkle is in some sort of V neck. It  
5 would be her, the defense's position that's some sort of  
6 jail uniform. I certainly don't think that that is  
7 immediately evident upon looking at this, Your Honor.

8 But as Your Honor is aware, the question is: Was it  
9 unduly suggestive? But Neil versus Biggers doesn't stop  
10 there. If it is unduly suggestive, was it so suggestive  
11 to give rise to the substantial likelihood that the  
12 misidentification, the likelihood of irreparable  
13 misidentification under the totality of the  
14 circumstances.

15 Your Honor, Mr. Wright testified and Investigator  
16 Garrison testified that before this was, this lineup was  
17 created and presented to Mr. Wright and Mr. Rumph who, as  
18 Investigator Garrison pointed out, did not pick out  
19 Mr. Sprinkle, Mr. Wright had given a description of an  
20 individual, let her know that he knew the individual, and  
21 ultimately let Investigator Garrison know that he knew him  
22 as Ricky, knew that he lived in the 1400 block of Goff  
23 Avenue which matched with Mr. Sprinkle.

24 When he was shown this lineup, Your Honor, he picked  
25 him out immediately. And, Your Honor, it would be our

1 position that he picked him out immediately because he  
2 knew him from prior dealings and he knew him from the  
3 night of the incident.

4 Your Honor, it would be the State's position that  
5 this, the identification is reliable. It is not unduly  
6 suggestive. It does not create any likelihood of  
7 irreparable misidentification because Mr. Wright was  
8 familiar with Mr. Sprinkle from prior dealings.

9 And as such, it would be the State's position that  
10 this should be admitted for the jury's consideration, Your  
11 Honor.

12 THE COURT: May I see State's One for identification?

13 MS. FORD: Yes, sir.

14 (Document handed to the Judge.)

15 THE COURT: All right. Well, I have had the pleasure  
16 when I was in private practice of taking a photo ID lineup  
17 case on appeal.

18 And, Ms. Ullman, I've listened to your argument about  
19 the photo lineup and about whether or not it was unduly  
20 suggestive or not. I realize that we don't know exactly  
21 who put it together, but in comparison with the lineup  
22 that I took up and was affirmed, I think they did a  
23 spectacular job of putting this lineup together.

24 To me, I don't find it unduly suggestive at all.  
25 Everyone has essentially the same skin tone, length of

1 hair. And with the exception of one who might have a  
2 mustache, everybody has a goatee, a mustache and a  
3 goatee.

4 So the lineup is not unduly suggestive at all. And I  
5 don't know did this but I'd rather see more lineups this  
6 well than some I've seen. So, I don't think the lineup in  
7 and of itself is unduly suggestive.

8 I've listened to the testimony of the victim,  
9 Mr. Wright, and Ms. Garrison. I do not believe that the  
10 identification process was unduly suggestive, nor was  
11 there any substantial likelihood of misidentification  
12 because he had given a general description of the  
13 Defendant, indicated that he knew where he lived and then  
14 picked him out of this photo lineup.

15 So I find it to be reliable.

16 Okay. What's next?

17 MS. FORD: Thank you, Your Honor. If we can proceed  
18 with the Jackson V Denno hearing.

19 THE COURT: Okay. Could we take a short break?

20 MS. FORD: Yes, sir.

21 (Thereupon, a break was taken from 11:26 a.m., until  
22 11:32 a.m., when the hearing of this matter resumed:)

23 THE COURT: All right. Ms. Ford?

24 MS. FORD: The State would call Investigator Thrower  
25 for purposes of the Jackson V Denno hearing.

## JOHNNY THROWER - DIRECT

1 JOHNNY THROWER, having been duly sworn, was examined  
2 and testified as follows:

3 THE COURT: Please be seated, please, sir.

4 DIRECT EXAMINATION

5 BY MS. FORD:

6 Q. Please state your name for the record.

7 A. Johnny Thrower.

8 Q. Where do you work?

9 A. I'm an investigator with the Orangeburg County  
10 Sheriff's Office.

11 Q. Investigator Thrower, how long have you been there?

12 A. I've been at the sheriff's office for approximately  
13 three years.

14 Q. And what do you do?

15 A. I'm a narcotics investigator with special operations.  
16 I also do criminal investigations.

17 Q. Have you ever met with Richard Sprinkle?

18 A. Yes, ma'am; I did.

19 Q. Okay. Did you meet with him on January 25th of this  
20 year?

21 A. Yes, ma'am; I did.

22 Q. Okay. How did that meeting come about?

23 A. I had received several phone calls and when I would go  
24 to the jail, they would tell me that Mr. Sprinkle wanted  
25 to speak with me.

JOHNNY THROWER - DIRECT

1 Q. Okay. So you had a meeting with him at his request;  
2 is that right?

3 A. Yes, ma'am.

4 Q. Where did this meeting take place?

5 A. It took place out at the office of the criminal  
6 investigative division on Chestnut Street here in  
7 Orangeburg.

8 Q. Okay. Who all was present for the meeting?

9 A. Myself and Investigator John Stokes.

10 Q. As well Mr. Sprinkle?

11 A. Yes, ma'am. And Mr. Sprinkle.

12 Q. Did you advise Mr. Sprinkle of his rights?

13 A. Yes, ma'am. Absolutely.

14 Q. Okay. When you advised him of his rights, did he  
15 appear to be under the influence of drugs or alcohol or  
16 anything that would impair his ability to understand his  
17 rights?

18 A. No, ma'am. Not at all.

19 Q. Did he appear to have any mental or physical defects  
20 or disability that would impair his ability to understand?

21 A. No, ma'am. Not that I was aware.

22 Q. Okay. After you gave the Defendant his rights, did he  
23 wish to speak to you?

24 A. Yes, ma'am.

25 Q. Okay. Did you have him sign a waiver of rights form?



JOHNNY THROWER - DIRECT

1 A. No, ma'am. I didn't.

2 Q. Why not?

3 A. During the time -- I didn't know what he wanted to  
4 talk about. I had no, no dealing with him. Just thought  
5 he wanted to talk.

6 Q. No pending investigation involving him?

7 A. No pending -- absolutely.

8 Q. Okay. Did you threaten or coerce Mr. Sprinkle to meet  
9 with you and talk with you?

10 A. No, ma'am.

11 Q. Okay.. Did you offer him some reward or promise to  
12 talk with you?

13 A. No, ma'am.

14 Q. Did Mr. Sprinkle make any statements during his  
15 meeting with you?

16 A. Yes, ma'am.

17 Q. Well, what did he say?

18 A. In regards to a home invasion which he had been, I  
19 guess, implicated as a suspect in. He said that, you  
20 know, he was present the night during the incident, when  
21 the incident took place. You know, he was there along  
22 with Sean Echols, and Sean Echols' mom. And he was saying  
23 that she was, you know, the third person.

24 He said that he was there but, you know, he was afraid  
25 and at the point of him being afraid as to what was taking

JOHNNY THROWER - DIRECT

1 place he left.

2 Q. Okay. Did he say what was taking place?

3 A. He said that Sean was assaulting a person that was  
4 there. He said the gentlemen's name but I don't recall  
5 what his name was at the time.

6 Q. Okay. Did he say that he was in the house with  
7 Mr. Echols?

8 A. Yes, ma'am. He did.

9 Q. And you said that he indicated that he got scared?

10 A. Yes, ma'am.

11 Q. Did he say anything else?

12 A. Just that, you know, he was a crack head during the  
13 time. And, you know, he was afraid and basically, you  
14 know, he was there at, you know, Sean's request.

15 Q. Okay. Did you ever tell Mr. Sprinkle that he could  
16 ask for a lawyer?

17 A. Yes, ma'am. When I read him his Miranda rights, you  
18 know, you have to let them know that.

19 Q. Did he ever stop -- I'm sorry. I didn't mean to cut  
20 you off.

21 A. No, no. I did.

22 Q. Did he ever stop and ask for a lawyer?

23 A. No, ma'am.

24 Q. Did he ever stop and say that he didn't want to talk  
25 with you?

JOHNNY THROWER - DIRECT

1 A. No, ma'am.

2 Q. Did you interrogate him about this verbal statement  
3 that he made?

4 A. No, ma'am.

5 Q. Okay. Did you even handle the investigation that he  
6 was referencing?

7 A. No, ma'am.

8 Q. Were you aware of what he was referencing?

9 A. I had heard about it, but the details of the case I  
10 wasn't familiar with.

11 Q. You weren't involved in that?

12 A. Absolutely not.

13 Q. Okay. So after Mr. Sprinkle made the statements, what  
14 did you do with it?

15 A. We took him back to the detention center.

16 Q. Okay. Did you notify anybody?

17 A. Well, we spoke with Investigator Garrison, let her  
18 know that, you know, she probably need to speak with him,  
19 you know. But other than that, that was it.

20 MS. FORD: Beg the Court's indulgence.

21 (Pause.)

22 BY MS. FORD:

23 Q. Mr. -- Investigator Thrower, can you go over the rights  
24 that you gave to Mr. Sprinkle?

25 A. Yes, ma'am. I told Mr. Sprinkle that he had the right

JOHNNY THROWER - CROSS

1 to remain silent. Anything he said can and, you know,  
2 will be used against you in a court of law.

3 You have a right to an attorney. If you cannot afford  
4 an attorney one will be appointed to you. I let him know  
5 that during the time that we were questioning him if he  
6 wanted to stop answering questions and seek counseling  
7 that he could stop at that time.

8 And I asked him did he understand the rights that I  
9 said to him. He said he did.

10 MS. FORD: No further questions at this time, Your  
11 Honor.

12 THE COURT: All right. Who's -- Ms. Ullman, anything  
13 on cross?

14 MS. ULLMAN: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MS. ULLMAN:

17 Q. On the day you actually spoke to Mr. Sprinkle, how did  
18 you come to be in contact with him?

19 A. Can you explain that a little further?

20 Q. Sure. He's in the jail obviously?

21 A. Yes, ma'am.

22 Q. So did you go to the jail and ask for him or how did  
23 you get first contact with him that day?

24 A. That particular day was one of those days that he had  
25 requested to talk to me. So that day, you know, I went

## JOHNNY THROWER - CROSS

1 over and, you know, asked could they bring him up front  
2 because he wanted to talk to me.

3 It was at the point of, you know, I guess the  
4 personnel at the jail was like, you know, Thrower, you  
5 really need to talk to this guy.

6 So probably like the third time that I went to the  
7 jail that day they said he wanted to talk to me, so I did.

8 Q. Okay. And you said you had some -- you were aware of  
9 this case. You didn't have details, but you were aware of  
10 it?

11 A. I mean, you know, when things happen in the news, you  
12 know, if you see it, you know, you're aware of it.

13 Q. Right. I understand.

14 A. At that particular time it was about, maybe a year  
15 that had passed.

16 Q. Okay. When they brought him up to you at the jail you  
17 then transported him over to the Chestnut office?

18 A. Yes, ma'am.

19 Q. In your police car?

20 A. That's correct.

21 Q. Was he handcuffed or shackled?

22 A. Yes, ma'am.

23 Q. Both?

24 A. Yes, ma'am.

25 Q. When you got him to Chestnut office --

JOHNNY THROWER - CROSS

1 A. Uh-huh.

2 Q. -- you said you gave him his rights?

3 A. That's correct.

4 Q. And you went over what the rights were here today?

5 A. That's correct.

6 Q. Before you spoke with him, did you ever try to contact  
7 his attorney?

8 A. No, ma'am.

9 Q. You didn't -- did you ever try to contact the  
10 solicitor's office?

11 A. No, ma'am.

12 Q. So nobody knew you were talking to him?

13 A. No, ma'am.

14 Q. Now you said you went over his rights with him but you  
15 didn't have him sign a rights form?

16 A. No, ma'am.

17 Q. And that's because you didn't know what he wanted to  
18 talk about?

19 A. That's correct.

20 Q. But you felt it was important enough to give him his  
21 rights?

22 A. That's correct.

23 Q. Now he starts telling you about a home invasion and  
24 actually admits to you that he was present; correct?

25 A. That's correct.

## JOHNNY THROWER - CROSS

1 Q. But he didn't write that down?

2 A. No, ma'am.

3 Q. You didn't write it down?

4 A. I did not.

5 Q. Investigator Stokes didn't write it down?

6 A. I did not. He did not either.

7 Q. You guys didn't video record it?

8 A. No, ma'am.

9 Q. But you have that ability at Chestnut Street; right?

10 A. Yes, ma'am.

11 Q. Once Mr. Sprinkle started talking, obviously at some  
12 point you realized he was talking about a case he was  
13 involved in or charged with; correct?

14 A. Yes, ma'am.

15 Q. And at that point you didn't stop and have him write  
16 it down?

17 A. I did not.

18 Q. And you didn't stop and have him go over the rights  
19 form again?

20 A. No, ma'am. I did not, because at that time I was  
21 thinking as to what he said. It was already being  
22 investigated and the information that he was giving, the  
23 investigator had to have that information. I don't -- I  
24 didn't think it was anything new that he was telling us.

25 Q. Have you ever before that day, January 25th, had the

JOHNNY THROWER - CROSS

1 opportunity to meet with Mr. Sprinkle?

2 A. No, ma'am.

3 Q. You had never spoken to him about anything ever before  
4 this?

5 A. No, ma'am.

6 MS. ULLMAN: Beg the Court's indulgence. I apologize.

7 THE COURT: Take your time.

8 BY MS. ULLMAN:

9 Q. Investigator Thrower, I believe you just told me you  
10 didn't write any of this down or have Mr. Sprinkle write  
11 any of it down because you didn't think this was anything  
12 new.

13 What do you mean by that?

14 A. The information that he was giving, when I say  
15 anything new, this investigation as far as, you know, it  
16 being handled by Investigator Garrison, you know, at that  
17 time, I just imagined that she already had this  
18 information.

19 Q. So, what he was telling you, you thought Investigator  
20 Garrison already knew that information?

21 A. Yes, ma'am.

22 Q. Did you know if Mr. Sprinkle had ever written a  
23 statement before?

24 A. No, ma'am. I don't.

25 Q. If I can go back just a little bit to what



JOHN C STOKES - DIRECT

1 Mr. Sprinkle was telling you. He told you he was present  
2 with Sean. I believe that's Sean Echols; is that correct?

3 A. Sean Echols. That's correct.

4 Q. And he told you Sean was assaulting a person there.  
5 You said he actually said that person's name but you don't  
6 remember what the name was?

7 A. That's correct.

8 Q. Did he say anything about the assault? Did he say if  
9 Sean had a weapon?

10 A. I don't recall if he did or not.

11 Q. Okay. Did he say where this was happening, the  
12 assault?

13 A. I don't recall.

14 MS. ULLMAN: I have no further questions, Your Honor.

15 THE COURT: Anything on redirect?

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

17 THE COURT: Thank you.

18 THE WITNESS: Thank you, Your Honor.

19 THE COURT: You may step down.

20 MS. FORD: The State calls Investigator John Stokes.

21 JOHN C. STOKES, having been duly sworn, was examined  
22 and testified as follows:

23 THE COURT: Investigator Stokes, you get comfortable,  
24 please, sir.

25 DIRECT EXAMINATION

JOHN C STOKES - DIRECT

1 BY MS. FORD:

2 Q. Please state your name for the record.

3 A. John C. Stokes.

4 Q. Where do you work?

5 A. Orangeburg County Sheriff's Office.

6 Q. How long have you been employed in law enforcement?

7 A. I've been in law enforcement for 11 years. I've been  
8 employed at Orangeburg County nine, going on ten years.

9 Q. What do you do at the Orangeburg County Sheriff's  
10 Office?

11 A. I'm a sergeant in criminal investigations.

12 Q. Have you ever met with Richard Sprinkle before?

13 A. Yes.

14 Q. Okay. Did that happen in January of this year?

15 A. Yes, ma'am.

16 Q. How did that meeting come about?

17 A. I was advised by -- I had knowledge that Mr. Sprinkle  
18 was calling collect calls to the office for sometime about  
19 needing to speak to a investigator. On the day in  
20 question Investigator Thrower advised me that, you know,  
21 that he was going to get Richard Sprinkle and bring him  
22 back to the office to talk to him, see what he wanted.

23 So, once he got him there I came in maybe 15, 20,  
24 maybe 15 minutes after he got -- ahead of me.

25 Q. Okay. Do you know if Mr. Sprinkle was advised of his

JOHN C STOKES - DIRECT

1 rights?

2 A. I believe so. Verbally by Investigator Thrower.

3 Q. Okay. Did Mr. Sprinkle appear to be under the  
4 influence of drugs or alcohol, have any mental or physical  
5 disability that would impair his judgment?

6 A. No.

7 Q. At that time that you came in the room, was  
8 Mr. Sprinkle speaking with Mr. Thrower, Investigator  
9 Thrower?

10 A. They were in the beginning, the process of talking.

11 Q. Okay. And did Mr. Sprinkle make any statements?

12 A. Yeah. Mr. Sprinkle stated that he was with Sean  
13 Echols at a home invasion that took place and a third  
14 person was Sean Echols' mother and that once everything  
15 had start taking place that he had got scared and he ran  
16 out.

17 Q. Did he elaborate on the -- you said when everything  
18 started taking place. What --

19 A. When the home invasion, assault started taking place  
20 he had gotten afraid and he ran out.

21 Q. Did he say anything else?

22 A. Just that it was a third person that was there and it  
23 was Sean Echols' mother.

24 Q. Okay. Did he say anything about his state of mind  
25 that evening?

JOHN C STOKES - DIRECT

1 A. He said he was on crack and he went there to accompany  
2 Sean Echols.

3 Q. Were you familiar with the investigation that he was  
4 referencing?

5 A. Not really.

6 Q. So you didn't -- weren't involved in that  
7 investigation?

8 A. No.

9 Q. But did you know what he was referencing?

10 A. Yes.

11 Q. Okay. Did Mr. Sprinkle make any other statements?

12 A. Yes, he did. He made a statement about, about being  
13 afraid while he was at the detention center. And he  
14 wished to be moved from Orangeburg County because he was  
15 receiving some type of threats from Mr. Echols.

16 Q. Okay. After Mr. Sprinkle made these statements, what  
17 happened next?

18 A. Well, after we finished talking to him, he said Mark,  
19 his attorney, Mark Wise was his attorney. So I just said  
20 next time you want to talk to us, just make sure Mark  
21 knows, you know, that you want to speak to us for the next  
22 time.

23 Q. Before Mr. Sprinkle said that, did you have any idea  
24 that Mark Wise was his attorney?

25 A. No. Huh-uh.

JOHN C STOKES - CROSS

1 MS. FORD: Okay. No further questions at this time,  
2 Your Honor.

3 THE COURT: Ms. Ullman?

4 MS. ULLMAN: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MS. ULLMAN:

7 Q. I believe you testified you came in about 15 minutes  
8 after Agent, or Investigator Thrower had brought  
9 Mr. Sprinkle; is that right?

10 A. Fifteen, 20 minutes, give or take.

11 Q. So you weren't actually in the room when he gave him  
12 his Miranda lights?

13 A. No, I wasn't.

14 Q. But you knew Mr. Sprinkle was charged with a crime;  
15 correct?

16 A. I knew. Yes, I did.

17 Q. Did you know what the crime was that he was charged  
18 with?

19 A. Yeah.

20 Q. Okay. Now, you said his statement was he was at this  
21 home invasion, third person was Sean's mom, he got scared  
22 and ran out?

23 A. Uh-huh.

24 Q. Did you personally hear that entire statement?

25 A. Yeah, I was there when he said it; yes.

JOHN C STOKES - CROSS

1 Q. Okay.

2 A. He said he was there. At the time he was on crack and  
3 that once everything started taking place he got afraid  
4 and he ran out.

5 Q. Okay. You said once everything started taking place  
6 he ran out. What took place that scared him? Did he  
7 elaborate?

8 A. He didn't elaborate but the home invasion assault took  
9 place. He didn't elaborate exactly what was going on. He  
10 just said he got afraid and he ran out.

11 Q. Did he tell you how long he was present?

12 A. No.

13 Q. You said you've been an investigator with Orangeburg  
14 about nine years; is that right?

15 A. No. I've been employed at Orangeburg about nine, ten  
16 years. Investigator about three years.

17 Q. About three years?

18 A. Yes.

19 Q. So out of your 11 years in law enforcement, only three  
20 years of that has been in investigation?

21 A. Yes, ma'am.

22 MS. ULLMAN: Just one second, Your Honor.

23 THE COURT: Take your time.

24 (Pause.)

25 MS. ULLMAN: No further questions.

## RICHARD LANARD SPRINKLE - DIRECT

1 THE COURT: Anything on redirect?

2 MS. FORD: Nothing on redirect, Your Honor.

3 THE COURT: Thank you, sir. You may step down.

4 Appreciate it. Call your next witness.

5 MS. FORD: No witnesses for the State.

6 THE COURT: All right. Ms. Ullman, any witness for  
7 the defense?

8 MR. WISE: Your Honor, the defense would call Richard  
9 Sprinkle.

10 THE COURT: To the best of your ability, raise your  
11 right hand.

12 RICHARD LANARD SPRINKLE, having been duly sworn, was  
13 examined and testified as follows:

14 THE COURT: Please have a seat, get comfortable.

15 THE DEFENDANT: I'm comfortable.

16 THE COURT: Okay. All right.

17 DIRECT EXAMINATION

18 BY MS. ULLMAN:

19 Q. Mr. Sprinkle, please state your name for the record.

20 A. Richard Lanard Sprinkle.

21 Q. In January of this year, were you trying to get ahold  
22 of the investigators?

23 A. Yes, ma'am.

24 Q. And, why?

25 A. Because I thought Thrower would help me out. I

RICHARD LANARD SPRINKLE - DIRECT

1 thought he was, like, well, you know, I was told -- I was  
2 going to tell him the truth what happened, you know what I  
3 mean. He was like -- so I say, I'm going to talk to  
4 Investigator Thrower to see if he can help me out.

5 Q. So you thought if you told Thrower the truth he'd be  
6 able to help you?

7 A. Right, because I was trying...

8 Q. Now, on the day you spoke to him, did he come call you  
9 up or how did you get to be in contact with him?

10 A. I came for the meeting with Mr., Judge Dickson and  
11 Mr. Wise and Mr. Mellard, that Mr. Mellard was no longer  
12 my lawyer. I went back to the jail house. I seen  
13 Mr. Thrower at the gate. And I looked and I said,  
14 Mr. Thrower, because I didn't remember him like that.

15 He said, yeah. I said, I'm Richard Sprinkle. I need  
16 to talk to him. He said he'll come and get me later on  
17 that night.

18 Q. Okay.

19 A. He never come back. So the next night once he got in  
20 contact with Mr. Stokes, then they came and got me.

21 Q. Okay. So the day after you had your meeting about  
22 your lawyers --

23 A. Right.

24 Q. -- that's the day you spoke to the officers?

25 A. Right.



RICHARD LANARD SPRINKLE - DIRECT

1 Q. Okay. Where did you talk to the officers?

2 A. At 1032 Chestnut.

3 Q. Were you in a closed room?

4 A. Yes, ma'am.

5 Q. Who was in the room?

6 A. Mr. Thrower, Mr. Stokes.

7 Q. Anyone else?

8 A. No, ma'am.

9 Q. Now, when you were talking to them were you under the  
10 influence of anything?

11 A. No, ma'am.

12 Q. When you were talking to them giving this statement,  
13 were you afraid of anyone?

14 A. Yes, ma'am.

15 Q. Who were you afraid of?

16 A. Sean Echols.

17 Q. Why were you afraid of him?

18 A. Because he sent a hit at me before.

19 Q. He sent a hit at you before?

20 A. He had someone knock me out before back there.

21 Q. He had someone knock you out in the jail?

22 A. Right. And he was sending me threatening messages.

23 And I was trying to talk to Investigator Garrison but she  
24 was on some other level, you know what I mean. So that's  
25 why I felt like Thrower could help me.

RICHARD LANARD SPRINKLE - DIRECT

1 Q. Okay. And, had you ever given a statement prior to  
2 this?

3 A. No, ma'am.

4 Q. Had the police tried to get you to give a statement?

5 A. Yes, ma'am.

6 Q. Are you currently housed at the Orangeburg County  
7 Jail?

8 A. No, ma'am.

9 Q. Where are you being housed?

10 A. Bamberg County.

11 Q. When did you get moved?

12 A. It's like two and a half months now, I believe.

13 Q. All right. Let's relate it to when you talked to  
14 these officers. How long after you talked to Investigator  
15 Thrower were you moved?

16 A. Just like a week.

17 Q. So about a week later?

18 A. Right. I don't think it was a full week yet. That's  
19 when I went to Sumter County.

20 Q. Okay. So you were originally moved to Sumter, then to  
21 Bamberg?

22 A. For about a month, month and a half, then came down  
23 here.

24 Q. Now that you're no longer in the Orangeburg County  
25 Jail, are you being threatened?

RICHARD LANARD SPRINKLE - CROSS

1 A. No, ma'am. But it's hard to trust somebody because I  
2 don't know who's who. Like I was telling Mr. Wise, Sean  
3 put me up to it, you know what I mean. Tell them this,  
4 tell him that, you know what I mean.

5 I ain't had no choice but to do what he say because  
6 the officers at the county jail, sergeants, lieutenants,  
7 corporals are the worst ones. The gang members too. They  
8 under him. They got to do what he say do, you know what I  
9 mean.

10 Q. So at the jail you were afraid?

11 A. For my life. So I had to do -- if Sean said do this I  
12 got to do this so I don't know if I'm going to die that  
13 day or what. That's why I got transferred. That's why I  
14 was under protective custody.

15 That's why I asked Ms. Ford to help me get off  
16 protective custody. She's like well, when you get to  
17 prison I can do that for you then. Well I'll be dead  
18 probably by then.

19 MS. ULLMAN: Give me just one second. Okay?

20 THE DEFENDANT: All right.

21 MS. ULLMAN: I have no further questions.

22 THE COURT: All right. Thank you, ma'am. Anything on  
23 redirect on cross, I mean?

24 MS. FORD: Yes, sir.

25

RICHARD LANARD SPRINKLE - CROSS

CROSS-EXAMINATION

BY MS. FORD:

Q. Mr. Sprinkle, you said you thought Mr. Thrower was going to help you out?

A. Right.

Q. What did you want him to help you out with?

A. With my situation.

Q. Your situation. You being locked up for robbery?

A. I didn't rob nobody.

Q. You didn't rob nobody?

A. No, ma'am.

Q. Well you said you were going to tell the truth; right?

A. Right. And I told Mr. Thrower that I was the third person. Like the State witness said. It was three of us. He told Mr. -- Investigator -- Lieutenant Shumpert that it was three of us, right. The third person had no knowledge or no nothing about whatever, what happened.

Once he saw the house he couldn't move. And I told you that before when we was in the conference room downstairs. As I told Mr. Thrower, I was the third person.

Q. You were the third person at the house?

A. Right.

Q. Mr. Rumph's house?

## RICHARD LANARD SPRINKLE - CROSS

- 1 A. Yes.
- 2 Q. And Mr. Wright's?
- 3 A. Mr. Rumph's house, ma'am.
- 4 Q. And Mr. Wright's house?
- 5 A. Right.
- 6 Q. Where they were robbed and beaten in their house?
- 7 A. Right.
- 8 Q. You were the third person there?
- 9 A. I went there to test some drugs for Sean. Right.
- 10 Same thing I told you. Same as I told Mr. Thrower. I
- 11 went there to test some drugs. I was a dope fiend.
- 12 Three o'clock in the morning, I mean, somebody come at
- 13 you for testing drugs, you don't have any, you out there
- 14 enjoying a few, you going to go get it. You know what I
- 15 mean.
- 16 When I went in the house I seen Sean beating the man,
- 17 I left. That's it.
- 18 Q. So you didn't plan nothing?
- 19 A. I didn't have nothing --
- 20 Q. You didn't beat nobody?
- 21 A. No, ma'am.
- 22 Q. You went in these people's houses though at three
- 23 o'clock in the morning; didn't you?
- 24 A. I was in, the last one in the house.
- 25 Q. Oh, okay. You were the last one in the house?

## RICHARD LANARD SPRINKLE - CROSS

1 A. Right. We testing drugs.

2 Q. Oh, you were there to test drugs --

3 A. Right.

4 Q. -- not rob people?

5 A. Right, right. Just testing drugs, not rob people.

6 Q. Oh, okay.

7 A. Right.

8 Q. So the victim that pointed you out, they're wrong?

9 A. Totally wrong.

10 Q. Totally wrong?

11 A. Totally wrong.

12 MS. ULLMAN: Objection, Your Honor.

13 MS. FORD: Because you're a drug fiend.

14 THE COURT: Hold on one second.

15 THE DEFENDANT: Totally.

16 THE COURT: Your objection?

17 MS. ULLMAN: This is a Jackson-Denno hearing. We're  
18 here just to discuss whether his statement was given  
19 voluntarily, not what actually happened that night or  
20 didn't happen.

21 MS. FORD: Your Honor, we didn't --

22 THE COURT: Ma'am, your response?

23 MS. FORD: He testified that he said he wanted them to  
24 help him -- wanted Thrower to help him out. He was going  
25 to tell the truth. I'm asking what did he mean by that.

RICHARD LANARD SPRINKLE - CROSS

1 THE DEFENDANT: I told the truth, Ms. Ford.

2 THE COURT: Ms. Ford, you can ask him what he told  
3 Agent Thrower.

4 THE DEFENDANT: I'm going to tell you the same thing.  
5 I told the truth. I was the third person. The one that  
6 Sean, your State witness said that didn't do nothing, had  
7 no knowledge of nothing.

8 So why do you keep asking the same questions?

9 MS. FORD: I'll keep asking you questions,  
10 Mr. Sprinkle.

11 THE DEFENDANT: All right. No problem. I'm just  
12 going to keep saying the same thing.

13 BY MS. FORD:

14 Q. All right. You said that Sean Echols is threatening  
15 you?

16 A. Right.

17 Q. Sean Echols is testifying against you. Wouldn't it  
18 make more sense for you to threaten Mr. Echols?

19 MS. ULLMAN: Objection, Your Honor. That's not --  
20 whether it would make sense for him to be threatening  
21 someone because they're testifying or whether he's  
22 actually getting threatened, that's an argument. It's not  
23 a question for a defendant to answer.

24 MS. FORD: I'd like him to explain it, Your Honor.

25 THE COURT: You can ask him to explain it.

## RICHARD LANARD SPRINKLE - CROSS

1 BY MS. FORD:

2 Q. Explain that then, Mr. Sprinkle.

3 A. Explain what?

4 Q. You said that Mr. Echols is threatening you.

5 A. Right.

6 Q. Mr. Echols is testifying against you.

7 A. Ms. Ford, listen. You gave Mr. Mellard downstairs in  
8 the office a paper stating blank blank blank blank. If I  
9 were to tell you something about the situation, convict  
10 myself of something I didn't do, then you would give me a  
11 break. All that you talking about is irrelevant. I did  
12 not do it. I did not do it.

13 Q. You were there at the house though?

14 A. I was the third person. Like your State witness say,  
15 remember this is your State witness, the one who was  
16 testifying --

17 Q. I'm asking you, Mr. Sprinkle.

18 A. No, I'm telling you. Listen to what I'm telling you.  
19 I'm saying on behalf of the State, your State witness say  
20 it was a third person that didn't do nothing. And I'm  
21 telling you as I told Mr. Thrower, I was the third  
22 person. Didn't do nothing. Had no knowledge of nothing.  
23 That's why I left.

24 Anything else, ma'am?

25 Q. I'll be the one to finish up when I'm asking



RICHARD LANARD SPRINKLE - CROSS

1 questions.

2 A. That's what I'm asking you.

3 Q. You told that to Investigator Thrower?

4 A. Yes, ma'am.

5 Q. And Investigator Stokes; right?

6 A. Yes, ma'am.

7 Q. You told them that you were the third person there?

8 A. Right.

9 Q. You ran out?

10 A. Right.

11 Q. You were a dope fiend?

12 A. Right.

13 Q. That's what you did.

14 A. We got that part, I'm a dope fiend. So just do  
15 something else. I understand all what you're saying.

16 Q. So that's what you told them?

17 A. Right.

18 Q. You said that you were there?

19 A. Right.

20 Q. You're the one that called them; right?

21 A. Right.

22 Q. You're the one that said, I want to talk to you;  
23 correct?

24 A. Right.

25 Q. And you did?

RICHARD LANARD SPRINKLE - CROSS

1 A. And I did.

2 Q. And that's what you told them.

3 A. I was the third person. I had no knowledge, like your  
4 statements --

5 Q. You were the third person there?

6 A. Right. And I tried to give you the third person,  
7 that's what -- the second person. You tell me, you tell  
8 Mr. Mellard and Ms. Hinds you don't care about that.

9 That's what you say. This one, I had to kept asking you,  
10 well, how can you charge me with something as a third  
11 person. It's another person there.

12 Q. Mr. Sprinkle, you just want to blame somebody else for  
13 your problems; don't you?

14 A. No, ma'am. I going to accept mine, but I didn't do  
15 nothing.

16 Q. Except you were there.

17 A. As a third person. As your State's witness again say,  
18 have no knowledge, no understanding of what was going on.

19 Q. When you called Investigator Thrower --

20 A. Yes, ma'am.

21 Q. -- you said you wanted to talk to him?

22 A. Yes.

23 Q. You got in the room at the investigations?

24 A. Right.

25 Q. Investigator Thrower gave you your Miranda rights?

1 A. I don't believe so, but I'll say yeah. It's hard,  
2 like Ms. Garrison said, I can't recall.

3 Q. You don't believe but you'll say yes?

4 A. I said if. I don't know. I don't recall.

5 Q. Sure. Thank you.

6 A. You're welcome.

7 MS. FORD: No further questions, Your Honor.

8 THE COURT: Anything on redirect?

9 MS. ULLMAN: No, sir.

10 THE COURT: All right. Thank you, Mr. Sprinkle.

11 THE DEFENDANT: All right, sir.

12 THE COURT: You may step down. Any other witnesses  
13 from the defense?

14 MS. ULLMAN: I apologize, Your Honor?

15 THE COURT: Any other witnesses?

16 MS. ULLMAN: No, sir.

17 THE COURT: I'm sorry. All right. Anything?

18 MS. ULLMAN: Your Honor, I would have a motion to have  
19 you find Mr. Sprinkle's statement inadmissible.

20 First, Your Honor, I think the biggest issue here is  
21 the confusion of Fifth Amendment and Sixth Amendment  
22 rights. I understand that Investigator Thrower allegedly  
23 orally gave Mr. Sprinkle his Fifth Amendment Miranda  
24 rights that he had a right to a lawyer, and didn't have to  
25 talk and all of that.

1       The problem is Mr. Sprinkle was charged with a crime.  
2       Investigator Stokes testified that he knew Mr. Sprinkle  
3       was charged with a crime as did Investigator Thrower.  
4       Investigator Stokes actually testified he knew what  
5       Mr. Sprinkle was charged with.

6       I understand that at the beginning of the conversation  
7       obviously the officers would not know what he was about to  
8       say, but as he started to talk and gave an incident  
9       location or the name of Sean Echols, obviously it would be  
10      at that point two things.

11      Number one, they would understand he was giving a  
12      statement regarding an incident that he was accused of;  
13      and, number two, that he was represented by a lawyer.  
14      Both officers knew he had a lawyer.

15      And under the Sixth Amendment, you cannot interrogate  
16      or question a defendant regarding a crime he is charged  
17      with while he is represented by an attorney without that  
18      attorney's knowledge, presence or waiver thereof.

19      At the time of this statement, Your Honor,  
20      Mr. Sprinkle did testify that he also was under duress.  
21      It was not the duress of the officers, but it was the  
22      duress of Mr. Echols.

23      Mr. Echols, Your Honor, is, as Mr. Sprinkle testified,  
24      a gang member. I think more of that will come out at  
25      trial. He is somebody that certainly Mr. Sprinkle should

1 be afraid of. Mr. Sprinkle testified that he had been  
2 asked to be put in protective custody and was.

3 And, Your Honor, when he said he was looking for  
4 Investigator Thrower to help him, that's exactly what  
5 happened. He gave him a statement and within a week he  
6 had been moved. He had been contacting numerous people  
7 about his fear and about his need to be protected and  
8 about his desire to be moved from the Orangeburg County  
9 Jail.

10 It wasn't until he gave this statement, Your Honor,  
11 that he was actually moved. And I would note that he was  
12 moved to Sumter County. This was not an issue of he just  
13 didn't like Orangeburg. I think most inmates who have  
14 been both places would certainly admit Sumter is not a  
15 happier, better place to be.

16 I understand now he's in Bamberg, Your Honor, but that  
17 is just a location issue for this trial.

18 So he contacted the officers looking for help and  
19 that's exactly what he got. And on top of that, Your  
20 Honor, the officers knew he had representation and did not  
21 attempt to notify that attorney.

22 They didn't even actually attempt to notify the  
23 State. Had they tried, they would have been well aware  
24 that they should not speak to Mr. Sprinkle without his  
25 attorney's acknowledge, presence or waiver thereof.

1 That would be it, Your Honor.

2 THE COURT: Thank you, ma'am. Ms. Ford?

3 MS. FORD: Your Honor, Mr. Sprinkle admitted that he  
4 called law enforcement repeatedly. Investigator Thrower  
5 and Investigator Stokes both testified Mr. Sprinkle called  
6 asking for them on a number of occasions. Both of these  
7 investigators testified they had no first-hand knowledge  
8 of the investigation that Mr. Sprinkle is referencing,  
9 Mr -- Investigator Thrower gave Mr. Sprinkle his Miranda  
10 rights. Mr. Sprinkle on cross-examination said maybe,  
11 sure, I'll say yeah, I can't recall whether they gave me  
12 my Miranda rights.

13 But, Your Honor, the test here is voluntariness. The  
14 Defendant, Mr. Sprinkle, called law enforcement  
15 repeatedly. He was advised of his Miranda rights. He was  
16 advised that he had the right to an attorney. He waived  
17 that right, Your Honor, when he decided to speak with law  
18 enforcement. He insisted on talking to law enforcement.

19 Law enforcement didn't ask for him. He asked for law  
20 enforcement. He insisted. He was given his rights. And,  
21 Your Honor, he waived those rights voluntarily, made the  
22 statement that he was at the scene, a self-serving  
23 statement, but made that statement, Your Honor. And as  
24 such he voluntarily admitted his involvement in this  
25 incident.

1 Your Honor, as far as Mr. Sprinkle being moved, I  
2 don't know that that has any bearing on this particular,  
3 this particular motion, Your Honor, however, I think it  
4 would be good for the State and the defense to certainly  
5 put some of that information on the record at a later  
6 time.

7 THE COURT: Okay. Thank you, ma'am.

8 All right. I think the issue before me is  
9 voluntariness. Ms. Ullman, you have made a Sixth  
10 Amendment argument that I want to look into before I make  
11 my rulings. So I'll just hold off on that for a little  
12 while. I'll just double-check some things and I'll get  
13 back to you with my ruling on that. Okay?

14 MS. FORD: Yes, sir.

15 THE COURT: You got anything else before we break for  
16 lunch?

17 MS. ULLMAN: I do have just a couple evidentiary  
18 pretrial issues that I'd like to bring up.

19 THE COURT: Okay. Have you talked to with Ms. Ford  
20 about them?

21 MS. FORD: No, sir.

22 THE COURT: You all haven't had an opportunity to  
23 talk?

24 MS. ULLMAN: No, sir. We haven't had an opportunity  
25 to go over it.

1 THE COURT: Okay.

2 MS. ULLMAN: It's been alluded to that during trial  
3 Sean Echols, co-defendant in this case, will be testifying  
4 against Mr. Sprinkle.

5 We'd just ask the Court to require the State to  
6 disclose to us any sort of deals that have been made due  
7 to this testimony with the State or with the federal  
8 government if they're aware of any. Mr. Echols is  
9 currently charged federally with crimes unrelated to the  
10 charges we're discussing today but obviously in the  
11 federal system testimony within the state court could also  
12 assist. So we would ask that anything of that nature be  
13 disclosed.

14 MS. FORD: Your Honor, everything has been provided to  
15 the defense concerning the pending investigation federally  
16 against Mr. Echols.

17 The State has also provided an expired plea offer to  
18 Mr. Echols. There have been no offers or negotiations or  
19 anything of that nature concerning Mr. Echols' testimony  
20 in this case, Your Honor.

21 THE COURT: Okay.

22 MS. ULLMAN: Your Honor, I've not received a witness  
23 list yet and that's not a complaint. It's just a  
24 statement.

25 A potential witness would be Collins Shuler. He is a



1 confidential informant that led these officers to  
2 Mr. Echols and actually named three different people that  
3 may have been involved with this.

4 I'd ask that if he's going to testify that we also be  
5 given any sort of deals or any kind of agreements that he  
6 may have made as an informant with the sheriff's  
7 department and/or the solicitor's office.

8 MS. FORD: Your Honor, the State will provide the  
9 witness list tomorrow morning and we'll certainly provide  
10 any additional information at that time, per usual custom.

11 THE COURT: Okay. What else?

12 MS. ULLMAN: Obviously, Your Honor, we would ask that  
13 criminal records be given regarding all witnesses,  
14 obviously including the two alleged victims and  
15 Mr. Echols.

16 THE COURT: All right. Ms. Ford?

17 MS. FORD: They'll be provided pretrial, Your Honor.

18 THE COURT: Okay.

19 MS. ULLMAN: Your Honor, there's two issues throughout  
20 the report that, again, I just want to make sure that we  
21 discuss them before possible testimony comes in. One is,  
22 there was a similar incident that police are saying 1891  
23 Myers Road within maybe 30 minutes of this. They went off  
24 and investigated.

25 Mr. Sprinkle or Mr. Echols actually as far as I know

1 have never been charged with anything in regards to that  
2 incident, so I'd ask that --

3 THE COURT: The Myers Road incident?

4 MS. ULLMAN: The 1891 Myers Road incident; yes, sir.

5 So I'd ask that Investigator Garrison and any other  
6 investigator with knowledge of that incident not be  
7 allowed to speak of that. I'm afraid that with them being  
8 called similar incidents, home invasions being so close  
9 together location wise that it could confuse the jury and  
10 cause them to find the Defendant guilty based on the  
11 accusation of numerous things occurring that he hasn't  
12 been charged with.

13 THE COURT: Ms. Ford, is there going to be any  
14 testimony about any other incident? There shouldn't be.

15 MS. FORD: No, sir.

16 THE COURT: Okay. There won't be.

17 MS. ULLMAN: Yes, sir.

18 THE COURT: Okay.

19 MS. ULLMAN: Investigator Garrison also was told that  
20 there were some text messages between Sean Echols and I  
21 believe Collins Shuler, the informant.

22 Your Honor, we do not have those text messages. We  
23 would ask that at this point anything not turned over in  
24 discovery be excluded. Obviously this case is almost two  
25 years old now and we certainly have had time to have

1 discovery.

2 I'm being told we may have those, Your Honor. If so,  
3 I withdraw that motion obviously.

4 MS. FORD: Yes, sir. They certainly do have all  
5 discovery in this case. As always -- Your Honor, they do  
6 have the text messages. As always our office has an open-  
7 file policy which Mr. Mellard actually came and took a  
8 look at my file while he was still on the case.

9 THE COURT: Okay.

10 MS. ULLMAN: And my last favorite motion, Your Honor.  
11 We would ask that all witnesses be sequestered.

12 THE COURT: Except -- who's going to be sitting in  
13 for -- who's the chief investigator?

14 MS. FORD: Investigator Garrison, Your Honor. We  
15 would ask that the two victims in this case and  
16 Investigator Garrison obviously be excluded from that, but  
17 we would ask for reciprocal sequestration of the  
18 witnesses, Your Honor.

19 THE COURT: Okay. Do you have any problem with that?

20 MS. ULLMAN: We obviously agree to that.

21 THE COURT: All right. No problem.

22 MS. FORD: Your Honor, we actually have one motion.

23 MR. BELL: We have one motion in limine. We would  
24 move to exclude any inquiry when Mr. Echols testifies  
25 about a pending investigation. He has no, as far as I'm

1 aware, no charges by the federal government but -- no  
2 convictions.

3 His attorney, Mr. Andrew Brown, is present. He's  
4 informed us that if there is any inquiry that he's  
5 instructing Mr. Echols to take, to not answer under his  
6 Fifth Amendment rights. And I don't believe that they're  
7 allowed to ask that question for him to take those rights  
8 in front of the jury. And that's kind of what what we're  
9 trying to head off.

10 THE COURT: And, Mr. Bell, just to make sure I  
11 understand. As far as you know, Mr. Echols doesn't have  
12 any convictions?

13 MR. BELL: No convictions by the federal government.  
14 I'm not sure about the status of the charges or the  
15 investigation.

16 THE COURT: And what about -- and none from State  
17 government?

18 MR. BELL: He does have State.

19 THE COURT: You're just talking about --

20 MR. BELL: Talking about federal.

21 THE COURT: -- pending federal investigation.

22 MR. BELL: Yeah. That's correct, Your Honor.

23 You know, the appropriate State convictions are fair  
24 game. I mean, I'm not trying to --

25 THE COURT: No, I understand. Since he hasn't been

1 convicted of anything in federal court.

2 MR. BELL: That's correct. And because it would  
3 induce him to plead his Fifth Amendment rights because  
4 we've been informed by his attorney, Mr. Brown, that he's  
5 been so instructed.

6 THE COURT: How nice to have Mr. Brown here.  
7 Mr. wise?

8 MR. WISE: Thank you, Your Honor. Very briefly.

9 I understand exactly what Mr. Bell is talking but  
10 here's the situation. It's a little different.

11 The federal government is -- either has or is  
12 investigating the shooting of a corrections officer. As  
13 part of that investigation they interviewed Mr. Echols.  
14 As part of that interview Mr. Echols made certain  
15 admissions about his involvement in the shooting of that  
16 corrections officer, specifically saying that he shot him,  
17 that he was trying to assassinate him, he was doing it for  
18 money.

19 Certainly I would argue that that's a bad act. That  
20 he should be -- if he testifies he should be allowed to be  
21 cross-examined about it. He hasn't been convicted, I  
22 assume, but when a person says this is what I did, I think  
23 it's appropriate for the jury to use that to evaluate his  
24 credibility.

25 THE COURT: As a prior bad act?

1 MR. WISE: Exactly so, Your Honor.

2 THE COURT: All right. Mr. Bell?

3 MR. BELL: But, Your Honor, that's going to induce the  
4 answer that he has a right to invoke his Fifth Amendment  
5 rights at that point. And it would be extremely  
6 prejudicial to do that in front of the jury.

7 THE COURT: Okay. Well, let me -- that's what I'll  
8 look at. We'll get back to you before Mr. Echols has the  
9 opportunity to get to trial tomorrow morning.

10 MR. BELL: Thank you, Your Honor.

11 THE COURT: Either one of you have any memos on that?

12 MR. BELL: Not at this time but I'll find some.

13 THE COURT: Well, if you got the time to get me  
14 something, the Court always appreciates any memorandum or  
15 case law that you can pass on to me. I will appreciate  
16 that.

17 MR. BELL: I will do that, hopefully before the end of  
18 the day.

19 THE COURT: All right. Anything else we need to go  
20 over?

21 MS. ULLMAN: I have nothing further, Your Honor.

22 THE COURT: All right. Thank you all.

23 MS. FORD: Thank you, Your Honor.

24 THE COURT: The jury's coming in tomorrow?

25 MS. FORD: Yes, sir. At 9:30.

1 THE COURT: Judge --

2 MS. ULLMAN: Cothran.

3 THE COURT: -- Cothran is going to qualify the jury,  
4 pick the jury first and then we'll bring the remaining  
5 jurors up here and pick Mr. Sprinkle's jury. Okay?

6 MS. FORD: Yes, sir.

7 THE COURT: And here is State's Number One.

8 MR. WISE: Your Honor, I don't believe it would be an  
9 issue but obviously we'd like Mr. Sprinkle to be here for  
10 purposes of qualifications, since he's coming from  
11 Bamberg.

12 THE COURT: Yeah. He should be here. Okay. Thank  
13 Y'all.

14 MS. FORD: Thank you, Your Honor.

15 MR. WISE: There was one issue regarding cross-  
16 examination, potential transcript that we took up in  
17 chambers.

18 THE COURT: Oh, yeah. That's just, Madam Court  
19 reporter, are you going to be able to -- I think they're  
20 concerned about some of the testimony of Mr. Wright.

21 MR. WISE: Yes, Your Honor.

22 (Off-the-record discussion.)

23 THE COURT: The Defendant has requested the cross-  
24 examination from Mr. Wright and the Court has confirmed  
25 that they will pay for that transcript for the cross-

1 examination and that this Court will approve the expedited  
2 costs for that.

3 END OF DAY: 1:23 P.M.

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## SELECTION OF THE JURY

1 ON TUESDAY, APRIL 9, 2013 AT 10:42 A.M.:

2 THE COURT: Ms. Ford, is the State ready to call the  
3 case?

4 MS. FORD: The State is ready, Your Honor.

5 THE COURT: Okay.

6 MS. FORD: Your Honor, the State would call the case  
7 of the State of South Carolina versus Richard Lanard  
8 Sprinkle.

9 He was indicted on Indictment 2011-GS-38-1561 for  
10 armed robbery which is true billed by the grand jury on  
11 October 1st of 2012.

12 Indictment 2011-GS-38-1562, armed robbery also true  
13 billed by the grand jury of Orangeburg County on October  
14 1st, 2012.

15 Indictment 2011-GS-38-1563, an indictment for  
16 attempted murder, true billed by the grand jury, Your  
17 Honor.

18 Indictment 2011-GS-38-1564, indictment for attempted  
19 murder, true billed by the grand jury on October 1st,  
20 2012.

21 And indictment 2013-GS-38-0287, indictment for  
22 burglary in the first degree, indicted by the grand jury  
23 of Orangeburg County, January 30th, 2013.

24 THE COURT: Thank you, Ms. Ford.

25 MS. FORD: May I approach, Your Honor?

## SELECTION OF THE JURY

1 THE COURT: Yes, ma'am.

2 (Document handed to the Court.)

3 THE COURT: Thank ma'am. All right. Ladies and  
4 gentlemen of the jury panel, the State is represented in  
5 this matter by Ms. Sarah Ford and Mr. Harrison Bell.

6 Ms. Ford, would you also identify the other members of  
7 the solicitor's office for me?

8 MS. FORD: Yes, sir. I will.

9 THE COURT: Thank you.

10 MS. FORD: Good morning. I'm Sarah Ford. Along with  
11 Harrison Bell, we'll be prosecuting this case on behalf of  
12 the State of South Carolina.

13 Our chief prosecuting solicitor is David Pascoe.  
14 Other solicitors in our office are Tommy Scott, Don  
15 Sorenson, Rob Clariday, Crystal Chapman, Bryan Jeffries.

16 THE COURT: Is any member of the jury panel related by  
17 blood or marriage or a close personal friend of any of the  
18 attorneys in the solicitor's office or any person that  
19 works in the solicitor's office? Any member of the jury  
20 panel related by blood or marriage or close personal  
21 friend of anyone who -- yes, sir. Your name again,  
22 please, sir?

23 THE JUROR: Donald Hilton.

24 THE COURT: And, Mr. Hilton, you advised me earlier  
25 that your uncle works in the solicitor's office?

## SELECTION OF THE JURY

1 THE JUROR: Yes, sir.

2 THE COURT: The fact that your uncle works in the  
3 solicitor's office, would that affect your ability to  
4 listen to the evidence in this case and render a fair and  
5 impartial verdict?

6 THE JUROR: No, sir.

7 THE COURT: If you'd stay with us please, Mr. Hilton,  
8 I'd appreciate it.

9 All right. Anyone else?

10 All right. The Defendant in this case is represented  
11 by Ms. Jill Ullman and Mr. Mark Wise. If y'all would  
12 please stand.

13 Thank you. They're both with the Orangeburg County  
14 Public Defenders Office.

15 Mr. Wise, would you mind identifying the other members  
16 of the attorneys in your office?

17 MR. WISE: Thank you, Your Honor. If it please the  
18 Court.

19 THE COURT: Yes, sir.

20 MR. WISE: Good morning. My name is Mark Wise.  
21 Seated also at counsel table trying this case is Jillian  
22 Ullman. The supervisor of our office is Ms. Margaret  
23 Hinds. We also have an attorney Douglas Mellard,  
24 M-E-L-L-A-R-D.

25 The First Circuit Public Defender is Mark

## SELECTION OF THE JURY

1 Leiendecker. His office is in Summerville, South  
2 Carolina.

3 THE COURT: Thank you, sir.

4 Any member of the jury panel related by blood or  
5 marriage or a close personal friend of any of the  
6 attorneys that work in the public defenders office or any  
7 members of their staff that work in the public defenders  
8 office? If so, please stand at this time.

9 All right. No one is standing.

10 The Defendant in this case is Mr. Richard Sprinkle.  
11 Mr. Sprinkle, would you mind standing and facing the  
12 jury?

13 THE DEFENDANT: (Complying.)

14 THE COURT: Thank you, sir. You may sit down.

15 Ladies and gentlemen of the jury panel, is any member  
16 of the jury panel related by blood or marriage or a close  
17 personal friend of Mr. Sprinkle? If so, please stand at  
18 this time.

19 All right. No one is standing.

20 Now, ladies and gentlemen, there are a number of  
21 witnesses that may be called in this case. And I will go  
22 through and give you their names, and after each one if you  
23 know these people or if you are related or a close  
24 personal friend of any of these people, I need for you to  
25 stand so I can ask you the same questions I have been

## SELECTION OF THE JURY

1 asking before.

2 I would ask you again, when I'm asking the questions,  
3 if you would just respond to the question that I ask.

4 Okay. Sometimes I know you want to be helpful and like  
5 that, but I need for you just to respond to the questions  
6 that I ask.

7 All right. Deputy McRoy is a possible witness in this  
8 case. Is any member of the jury panel related by blood or  
9 marriage or a close personal friend of Deputy McRoy? If  
10 so, please stand.

11 No one is standing.

12 Deputy Pesesko. Did I pronounce that right?

13 MS. FORD: Pesesko.

14 THE COURT: Pesesko. Deputy Pesesko is a possible  
15 witness in this case. Is any member of the jury panel  
16 related by blood or marriage or a close personal friend of  
17 Deputy Pesesko? If so, please stand at this time.

18 No one is standing.

19 Investigator Garrison may be a witness in this case.  
20 Any member of the jury panel related by blood or marriage  
21 -- thank you, Investigator Garrison for standing. Any  
22 member of the jury panel related by blood or marriage or a  
23 close personal friend of Investigator Garrison? If so,  
24 please stand at this time.

25 Thank you.

## SELECTION OF THE JURY

1 No one is standing.

2 Investigator Huggins may be a possible witness in this  
3 case. Any member of the jury panel related by blood or  
4 marriage or a close personal friend of Investigator  
5 Huggins? If so, please stand at this time.

6 No one is standing.

7 James Wright is a possible witness in this trial. Any  
8 member of the jury panel related by blood or marriage or a  
9 close personal friend of Mr. James Wright? Is he here?

10 MS. FORD: Mr. Wright's in the courtroom, Your Honor.

11 THE COURT: Oh, Mr. Wright's here. Mr. Wright, if  
12 you'd please stand and face the jury panel. You're fine  
13 right there. I just need for you to stand right there.  
14 Thank you, sir.

15 You can be seated. Appreciate it. You can sit down.

16 Any member of the jury panel related by blood or  
17 marriage or a close personal friend of Mr. James Wright?  
18 If so, please stand.

19 No one is standing.

20 Is Robert Rumph --

21 MS. FORD: He is, Your Honor.

22 THE COURT: Mr. Rumph, if you'd also stand and face  
23 the jury panel. Thank you, sir.

24 Any member of the jury panel related by blood or  
25 marriage or a close personal friend of Mr. Robert Rumph?

## SELECTION OF THE JURY

1 If so, please stand.

2 No one is standing.

3 Is Investigator Shumpert here?

4 MS. FORD: No, sir.

5 THE COURT: No. Okay. All right. Any member of the  
6 jury panel related by blood or marriage or a close  
7 personal friend of Investigator Shumpert? If so, please  
8 stand at this time.

9 No one is standing.

10 Sean Echols is not here right now?

11 MS. FORD: No, sir.

12 THE COURT: Any member of the jury panel related by  
13 blood or marriage or a close personal friend of Sean  
14 Echols? If so, please stand.

15 No one is standing.

16 Is any member the jury panel related by blood or  
17 marriage or a close personal friend of Collins Shuler? If  
18 so, please stand at this time.

19 No one is standing.

20 Any member of the jury panel related by blood or  
21 marriage or a close personal friend of Jasper Clark? If  
22 so, please stand at this time.

23 No one is standing.

24 Any member of the jury panel related by blood or  
25 marriage or a close personal friend of Investigator Stokes

## SELECTION OF THE JURY

1 with the Orangeburg County Sheriff's Office? If so,  
2 please stand.

3 No one is standing.

4 Any member of the jury panel related by blood or  
5 marriage or a close personal friend of Investigator  
6 Thrower with the Orangeburg County Sheriff's Department?  
7 If so, please stand.

8 No one is standing.

9 Deputy Asbury is a possible witness?

10 MS. FORD: Yes, sir.

11 THE COURT: Okay. Deputy Asbury, would you turn to  
12 the jury panel, please? Thank you, sir.

13 Any member of the jury panel related by blood or  
14 marriage or a close personal friend of Deputy Asbury? If  
15 so, please stand at this time.

16 All right. No one is standing.

17 Any member of the jury panel related by blood or  
18 marriage or a close personal friend of Investigator Godwin  
19 with the Orangeburg County Sheriff's Department? If so,  
20 please stand.

21 All right. No one is standing.

22 Is any member of the jury panel related by blood or  
23 marriage or a close personal friend of any member of any  
24 law enforcement agency? If so, please stand.

25 All right. No one is standing.



## SELECTION OF THE JURY

1 Has any member of the jury panel ever been employed by  
2 any civilian or military law enforcement agency as a law  
3 enforcement officer, or in any other capacity? If so,  
4 please stand.

5 Yes, ma'am, your name?

6 THE JUROR: Geraldine Manning.

7 THE COURT: Ms. Manning, you're Juror Number 112?

8 THE JUROR: Yes.

9 THE COURT: Okay. And, Ms. Manning, you have been  
10 employed in a civilian or military law enforcement?

11 THE JUROR: Civilian, with the city public safety.

12 THE COURT: With public safety?

13 THE JUROR: Right.

14 THE COURT: The public safety here in Orangeburg?

15 THE JUROR: In Orangeburg.

16 THE COURT: The fact that you were employed with  
17 public safety here in Orangeburg, would that affect your  
18 ability to listen to the evidence in this case and render  
19 a fair and impartial verdict?

20 THE JUROR: No.

21 THE COURT: Okay. If you'd then stay with us, please,  
22 ma'am. Thank you.

23 Anyone else?

24 All right. No one else is standing.

25 Is any member of the jury panel employed by, related

## SELECTION OF THE JURY

1 by blood or marriage to or a friend or, a close friend of  
2 anyone employed by the solicitor's office, the attorney  
3 general's office, or any prosecuting attorney's office?

4 If so, please stand.

5 All right. No one is standing.

6 Has any member of the jury panel ever worked at any of  
7 those agencies in any capacity; the solicitor's office,  
8 the attorney general's office, or any prosecuting  
9 attorney's office? If so, please stand.

10 No one is standing.

11 Now has any member of the jury panel read or heard  
12 anything about this case? If so, please stand.

13 No one is standing.

14 Has any member of the jury panel or a member of your  
15 immediate family or a close personal friend ever been the  
16 victim of a crime? If so, please stand.

17 No one is standing.

18 Is any member of the jury panel, a member of your  
19 immediate family or a close personal friend a member of  
20 MADD, SADD, CAVE, CASA or any other similar organization  
21 which has as its goal the promotion of law enforcement?  
22 If so, please stand.

23 THE JUROR: Could you repeat that question again,  
24 please?

25 THE COURT: Yes, ma'am.

## SELECTION OF THE JURY

1 Is any member of the jury panel or a member of your  
2 immediate family or a close personal friend a member of  
3 organizations such as MADD, SADD, CAVE, CASA, or other  
4 similar organizations which have as their goal the  
5 promotion of law enforcement? If so, please stand.

6 All right. No one is standing.

7 Is there anything in the nature of the allegations of  
8 this case, and you've heard what the charges are, which  
9 would cause any member of the panel any problem with  
10 sitting as an impartial juror in this matter? If so,  
11 please stand.

12 No one is standing.

13 Has any member of the jury panel ever received  
14 assistance from the Victim's Advocacy program? If so,  
15 please stand.

16 No one is standing.

17 Has any member of the jury panel ever contributed to  
18 the election campaigns of David Pascoe, the solicitor, or  
19 the Orangeburg County Sheriff? If so, please stand.

20 No one is standing.

21 Has any member of the jury panel ever been arrested by  
22 a law enforcement agency even if the arrest did not result  
23 in a conviction? And I'm not talking about speeding or  
24 traffic violations like that.

25 Any member of the jury panel ever been arrested by any

## SELECTION OF THE JURY

1 law enforcement agency, even if the arrest did not lead to  
2 conviction? If so, please stand.

3 All right. No one is standing.

4 Does the fact that the Defendant is represented by the  
5 Orangeburg County Public Defenders Office cause any member  
6 of the panel any problem in sitting as an impartial  
7 juror? If so, please stand.

8 No one is standing. All right.

9 Any other questions from the State?

10 MS. FORD: Nothing from the State, Your Honor.

11 THE COURT: Okay. Any other questions from the  
12 defense?

13 MS. ULLMAN: No, sir.

14 THE COURT: All right. Ladies and gentlemen, we are  
15 now getting ready to proceed with picking jurors in this  
16 case. What's going to happen is every one of you who are  
17 presently sitting here name is in the computer. The  
18 computer is going to rearrange your names and put your  
19 names out in a different order.

20 After the computer has done that, the clerk will call  
21 your name. You will need to come up to the front, stand  
22 at this podium right here and if you'll stand and face the  
23 doors out there and then the attorneys will tell me  
24 whether they want you to sit as a juror or whether you are  
25 excused from service as a juror this week.

## SELECTION OF THE JURY

1 Now, when you come up, you know, if you got a  
2 pocketbook or a jacket or something like that, you need to  
3 bring that with you because you might not go back to your  
4 seat. You might go over here and the bailiff's going to  
5 show you where to sit in the jury box.

6 Now it's going to take a minute to do that. And,  
7 again, if you need to stretch your legs, go to the  
8 restroom or something like that, now's the time to do it.  
9 I'd ask you to be back in the courtroom at 11 o'clock.  
10 Okay?

11 Thank you all.

12 THE JUROR: I didn't process the question in time, the  
13 one about being the victim of a crime.

14 THE COURT: First of all, I need to know your name.

15 THE JUROR: Marion E. Robinson, 157.

16 THE COURT: Hold on a second Mr. Robinson, you have  
17 been the victim of a crime?

18 THE JUROR: All this string of robberies that was going  
19 on in Orangeburg.

20 THE COURT: All right. The fact that you have been a  
21 victim of those, would that affect your ability to listen  
22 to the evidence in this case and render a fair and  
23 impartial verdict?

24 THE JUROR: Most certainly would.

25 THE COURT: It would?

## SELECTION OF THE JURY

1 THE JUROR: Yes, sir.

2 THE COURT: Mr. Robinson, then I am going to excuse  
3 you.

4 THE JUROR: I can leave?

5 THE COURT: Yes, sir. Thank you, sir.

6 THE JUROR: Okay.

7 THE COURT: Juror Number 157 is excused. Yes, sir,  
8 your name?

9 THE JUROR: Christopher Reed.

10 THE COURT: Mr. Reed.

11 THE JUROR: On the one when you were talking about the  
12 arresting part, I was arrested a while back. I don't  
13 remember, I'm pretty sure -- I mean, I didn't go to jail  
14 or anything.

15 THE COURT: Okay.

16 THE JUROR: But I just wanted to say I was arrested.

17 THE COURT: The fact that you've been arrested, would  
18 that affect your ability to listen to the evidence in this  
19 case?

20 THE JUROR: No, sir.

21 THE COURT: And render a fair and impartial verdict?

22 THE JUROR: I just wanted --

23 THE COURT: If you'd stay with us. No, no. I  
24 appreciate you doing that. Okay. Mr. Reed, Number 146,  
25 is going to stay with us. Okay. Thank you, sir. Yes,

## SELECTION OF THE JURY

1 ma'am?

2 THE JUROR: Alexis Guinyard, Juror Number 69.

3 THE COURT: Hold on one second. Ms. Guinyard, you  
4 didn't understand one question; right?

5 THE JUROR: I understand the question about CASA.

6 THE COURT: CASA.

7 THE JUROR: I work for CASA Family Systems here in  
8 Orangeburg. And I just wanted to make sure that that was  
9 the agency that you were referring to.

10 THE COURT: Yeah, uh-huh.

11 THE JUROR: I'm also a volunteer victim's advocate  
12 with the sheriff's department. So I just wanted  
13 clarification.

14 THE COURT: That's okay. Would the fact that you work  
15 in any of those places affect your ability to listen to  
16 the evidence in this case, render a fair and impartial  
17 verdict?

18 THE JUROR: No, sir.

19 THE COURT: Okay. Thank you, ma'am. If you'd stay  
20 with us.

21 THE JUROR: No problem.

22 THE COURT: Yes, sir?

23 THE JUROR: Juror 143.

24 THE COURT: Hold on one second. Mr. James Rast.

25 THE JUROR: Yes, sir. Both of those things that you

## SELECTION OF THE JURY

1 spoke about just a minute ago, I have been a victim about  
2 a year and a half, car jacking at gunpoint in Dorchester  
3 County. And I have been involved in the legal system  
4 after that.

5 THE COURT: Mr. Rast, the fact that has happened to  
6 you, would that affect your ability to listen to evidence  
7 in this case and render a fair and impartial verdict?

8 THE JUROR: I'm not sure, sir.

9 THE COURT: Well, I need for you to tell me either yes.  
10 or no.

11 THE JUROR: I would think I could be -- yes, sir, I  
12 think I can.

13 THE COURT: Be fair and impartial?

14 THE JUROR: Yes, sir.

15 THE COURT: Listen to both sides, render --

16 THE JUROR: Yes, sir.

17 THE COURT: If you'd stay with us then, Mr. Rast.  
18 Thank you. Juror Number 143 is staying with us. Yes,  
19 ma'am?

20 THE JUROR: Geraldine Manning, 112.

21 THE COURT: Okay.

22 THE JUROR: My sister was a victim, so I just wanted  
23 to share that.

24 THE COURT: Ms. Manning, would the fact that your  
25 sister was a victim, would that affect your ability to



## SELECTION OF THE JURY

1 listen to the evidence in this case, render a fair and  
2 impartial verdict?

3 THE JUROR: I don't think so.

4 THE COURT: Okay. Then if you'd stay with us, please,  
5 ma'am. Thank you for telling me. Okay. Thank you.

6 All right. Ladies and gentlemen, we're going to get  
7 ready to begin picking a jury in this case. As I  
8 mentioned earlier when the clerk calls your name I need  
9 for you to come forward, stand in front of the podium  
10 right here and turn. If you'll then turn your back to me  
11 and face the attorneys, I'd appreciate it.

12 All right. Madam Clerk, are you ready to call?

13 THE CLERK: Yes.

14 THE COURT: Okay.

15 THE CLERK: Juror Number 126, Tony Mims.

16 (Black male comes forward.)

17 THE COURT: Okay. Mr. Mims, this is the part you show  
18 everybody how to do this right.

19 THE JUROR: I hope so.

20 THE COURT: Come right up here and then turn.

21 THE JUROR: All right.

22 THE COURT: Very good. Thank you, sir. Now y'all see  
23 how it's done. All right.

24 THE CLERK: What says the State?

25 MS. FORD: Please present Mr. Mims, Your Honor.

## SELECTION OF THE JURY

1 THE CLERK: What says the defense?

2 MS. ULLMAN: Please seat the juror.

3 THE CLERK: You may have a seat in the jury box.

4 Juror Number 92, Jamel James.

5 (Black male comes forward.)

6 THE CLERK: What says the State?

7 MS. FORD: Beg the Court's indulgence.

8 THE COURT: Take your time.

9 MS. FORD: Please present Mr. James.

10 THE CLERK: What says the defense?

11 MS. ULLMAN: Please seat the juror.

12 THE BAILIFF: Right here.

13 THE CLERK: Juror Number 31, Marilyn Carter.

14 (Black female comes forward.)

15 THE CLERK: What says the State?

16 MS. FORD: Please present Ms. Carter.

17 THE CLERK: What says the defense?

18 MS. ULLMAN: Please seat the juror.

19 THE CLERK: Juror Number 112, Geraldine Manning.

20 (Black female comes forward.)

21 THE CLERK: What says the State?

22 MS. FORD: Please present Ms. Manning.

23 THE CLERK: What says the defense?

24 MS. ULLMAN: Please excuse Ms. Manning.

25 THE CLERK: You may return to your seat.

## SELECTION OF THE JURY

1 Juror Number 121, Faye Menefee.  
2 (White female comes forward.)  
3 THE CLERK: What says the State?  
4 MS. FORD: Please present Ms. Menefee.  
5 THE CLERK: What says the defense?  
6 MS. ULLMAN: Please seat the juror.  
7 THE CLERK: Juror Number 161, Wryan Sarjeant.  
8 (Black male comes forward.)  
9 THE CLERK: What says the State?  
10 MS. FORD: Please excuse Mr. Sarjeant.  
11 THE CLERK: You may return to your seat.  
12 Juror Number 52, Penny Fulmer.  
13 (Black female comes forward.)  
14 THE CLERK: What says the State?  
15 MS. FORD: Please present Ms. Fulmer.  
16 THE CLERK: What says the defense?  
17 MR. WISE: One moment, Your Honor.  
18 THE COURT: Take your time.  
19 MS. ULLMAN: Please seat the juror.  
20 THE BAILIFF: This way.  
21 THE CLERK: You may have a seat in the jury box.  
22 Juror Number 93, Jacqueline Jamison.  
23 (Black female comes forward.)  
24 THE CLERK: What says the State?  
25 MS. FORD: Beg the Court's indulgence, Your Honor.

## SELECTION OF THE JURY

1 THE COURT: Take your time.

2 MS. FORD: Please present Ms. Jamison.

3 THE CLERK: What says the defense?

4 MS. ULLMAN: Please seat Ms. Jamison.

5 THE CLERK: Juror Number 22, Earl Bruce.

6 (Black male comes forward.)

7 THE CLERK: What says the State?

8 MS. FORD: Please excuse Mr. Bruce.

9 THE CLERK: You may return to your seat.

10 Juror Number 146, Christopher Reed.

11 (White male comes forward.)

12 THE CLERK: What says the State?

13 MS. FORD: Beg the Court's indulgence, Your Honor.

14 THE COURT: Okay.

15 MS. FORD: Please present Mr. Reed.

16 THE CLERK: What says the State -- I'm sorry. What

17 says the defense?

18 MS. ULLMAN: Please seat the juror.

19 THE BAILIFF: This way, sir.

20 THE CLERK: Juror Number Two, Ashley Aimar.

21 (White female comes forward.)

22 THE CLERK: What says the State?

23 MS. FORD: Please Present Ms. Aimar.

24 THE CLERK: What says the defense?

25 MR. WISE: One moment, Your Honor.

## SELECTION OF THE JURY

1 THE COURT: Okay.

2 MS. ULLMAN: Please excuse the juror.

3 THE CLERK: You may return to your seat.

4 Juror Number 84, Kenya Hubbard.

5 (Black female comes forward.)

6 THE CLERK: What says the State?

7 MS. FORD: Please present Ms. Hubbard.

8 THE CLERK: What says the defense?

9 MS. ULLMAN: Please excuse the juror.

10 THE CLERK: You may return to your seat.

11 Juror Number 34, Blondell Colter.

12 (Black female comes forward.)

13 THE CLERK: What says the State?

14 MS. FORD: Please present Ms. Colter.

15 THE CLERK: What says the defense?

16 MS. ULLMAN: Please excuse the juror.

17 THE CLERK: You may return to your seat.

18 Juror Number 72, Harold Hailey.

19 (Black male comes forward.)

20 THE CLERK: What says the State?

21 MS. FORD: Please present Mr. Hailey.

22 THE CLERK: What says the defense?

23 MS. ULLMAN: Please excuse the juror.

24 THE CLERK: You may return to your seat, sir.

25 Juror Number 71, Rachel Haddock.

## SELECTION OF THE JURY

1 (White female comes forward.)

2 THE CLERK: What says the State?

3 MS. FORD: Please present Ms. Haddock.

4 THE CLERK: What says the defense?

5 MS. ULLMAN: Please seat the juror.

6 THE CLERK: Juror Number 143, James Rast.

7 (White male comes forward.)

8 THE CLERK: What says the State?

9 MS. FORD: Please present Mr. Rast.

10 THE CLERK: What says the defense?

11 MS. ULLMAN: Please excuse the juror.

12 THE CLERK: Juror Number 17, Stephanie Brant.

13 (White female comes forward.)

14 THE CLERK: What says the State?

15 MS. FORD: Please present Ms. Brant.

16 THE CLERK: What says the defense?

17 MR. WISE: One moment, Your Honor.

18 MS. ULLMAN: Apologize, Your Honor. Please seat the  
19 juror.

20 THE CLERK: Juror Number 125, Edward Miller.

21 (Black male comes forward.)

22 THE CLERK: What says the State?

23 MS. FORD: Please present Mr. Miller.

24 THE CLERK: What says the defense?

25 MS. ULLMAN: Please seat the juror.

## SELECTION OF THE JURY

1 THE CLERK: You may have a seat now, sir, in the jury  
2 box.

3 Juror Number 101, Shannon Johnson.

4 (Black male comes forward.)

5 THE CLERK: What says the State?

6 MS. FORD: Please present Mr. Johnson.

7 THE CLERK: What says the defense?

8 MS. ULLMAN: Please seat Mr. Johnson.

9 THE CLERK: Juror Number 195, Tillman Williams.

10 (White male comes forward.)

11 THE CLERK: What says the State?

12 MS. FORD: Please present Mr. Williams.

13 THE CLERK: What says the defense?

14 MS. ULLMAN: Please excuse the juror.

15 THE CLERK: You may return to your seat.

16 Juror Number 182, Erica Tyler.

17 (Black female comes forward.)

18 THE CLERK: What says the State?

19 MS. FORD: Please present Ms. Tyler.

20 THE CLERK: What says the defense?

21 MR. WISE: Could I have one moment, Your Honor?

22 MS. ULLMAN: Please seat the juror.

23 THE COURT: All right. According to my calculations  
24 we now have a jury. We'll pick two alternates. The first  
25 alternate will be, the strikes are one and two.

## SELECTION OF THE JURY

1 THE CLERK: Yes, sir. Juror Number Four, Gloria  
2 Allen.

3 (White female comes forward.)

4 THE COURT: Did we skip Miss --

5 THE CLERK: Erica.

6 THE JUROR: No, no.

7 THE CLERK: No. Go back.

8 THE JUROR: I'm sorry. Okay. Sorry.

9 THE CLERK: What says the State?

10 MS. FORD: Please present Ms. Allen.

11 THE CLERK: What says the defense?

12 MS. ULLMAN: Your Honor, we'd ask that the juror be  
13 excused.

14 THE COURT: All right.

15 THE CLERK: Juror Number 58, Randy Garrett.

16 (White male comes forward.)

17 THE CLERK: What says the State?

18 MS. FORD: Please present Mr. Garrett.

19 THE CLERK: What says the defense?

20 MS. ULLMAN: Please seat the juror.

21 THE COURT: All right. Now, pick the second  
22 alternate.

23 THE CLERK: Juror Number 14, Ollie Boyd.

24 (Black female comes forward.)

25 THE CLERK: What says the State?



1 MS. FORD: Please excuse Ms. Boyd.

2 THE CLERK: Juror Number 69, Alexis Guinyard.

3 (Black female comes forward.)

4 THE CLERK: What says the State?

5 MS. FORD: Please present Ms. Guinyard.

6 THE CLERK: What says the defense?

7 MR. WISE: One moment, Your Honor.

8 MS. ULLMAN: Please excuse the juror.

9 THE CLERK: Juror Number 67, Angela Gray.

10 (Black female comes forward.)

11 THE CLERK: What says the State?

12 MS. FORD: Please present Ms. Gray.

13 THE CLERK: What says the defense?

14 MS. ULLMAN: Please seat the juror.

15 THE COURT: All right. We now have a jury and two  
16 alternates. Any issues from the State regarding jury  
17 selection?

18 MS. FORD: Nothing from the State, Your Honor.

19 THE COURT: Anything from the defense regarding jury  
20 selection?

21 MS. ULLMAN: No, sir.

22 THE COURT: Okay. Ladies and gentlemen, those of you  
23 who were not chosen to serve, I appreciate y'all being  
24 willing to serve as jurors.

25 As I mentioned earlier, we only have one case to try

## JUDGE'S INTRODUCTORY COMMENTS TO THE JURY

1 this week. So, y'all are now excused from jury service.  
2 If y'all would quietly leave the jury room -- courtroom.

3 (Jury pool exits courtroom at 11:32 a.m.)

4 THE COURT: Congratulations. Appreciate y'all being  
5 willing to serve. I appreciate the fact that y'all will  
6 be serving.

7 Let me just mention a couple of things. First of all,  
8 it's -- there are some matters I need to take up with the  
9 attorneys before we can actually start the trial. And  
10 since it's getting close to lunchtime, what I will do is  
11 I'm going to let y'all go to lunch. And it's going to  
12 be -- it's sort of an extended lunchtime because we have  
13 some things to take care of.

14 The most important thing I need to tell you is you  
15 cannot talk with anyone about this case. You cannot do  
16 any investigation about this case. You know how you can  
17 go on the Internet now and find out almost anything you  
18 want to? Don't go on the Internet. Don't do any  
19 investigation about this case or anything like that.

20 Everything you're going to need to know to decide this  
21 case you're going to hear right here in this courtroom.  
22 Okay?

23 Now the other thing is, until I tell you you can begin  
24 your deliberations at the end of the case, you can't even  
25 talk among yourselves about what the testimony is. So

1 when we start taking testimony, we'll probably have a  
2 witness on the stand, if it takes a while we'll take a  
3 break, y'all will get to go back into the jury room but  
4 you can't talk about the testimony that you've just heard.

5 You cannot begin discussing this case even among  
6 yourself until the end of the trial. The reason for that  
7 is we want you to hear everything before you start voicing  
8 any kind of opinions or how y'all take anything about the  
9 case.

10 Now, the final thing I want to tell you before you  
11 break for lunch is that if you will follow the bailiff  
12 back she'll show you where the jury room is. I'll ask  
13 y'all to be back in the jury room at a quarter to two. At  
14 1:45.

15 When y'all get back into the jury room, members of the  
16 jury panel, I need for you to elect a foreperson. The  
17 foreperson's duty is to fill out the verdict form at the  
18 end of the case, to write down any questions that the jury  
19 may have when you begin your deliberations, and to preside  
20 over the deliberations in the jury room once the case goes  
21 to you to be decided.

22 So when y'all come back at 1:45 the first thing that  
23 y'all are going to do to see how well y'all work  
24 together. Pick a jury foreperson.

25 Now you've got an extended lunch. I know you've got

1 to contact people and tell them that you're going to be on  
2 jury duty this week. This will give you some time to do  
3 this, eat lunch. If you'd all be back in the jury room at  
4 1:45. The bailiff will show you where to go to get back  
5 in to serve.

6 And thank y'all for being willing to serve. Thank  
7 you.

8 (Jury panel exits courtroom at 11:35 a.m.)

9 THE COURT: Did y'all have any new matters before I  
10 start getting into the old matters, from the State?

11 MS. FORD: No, sir.

12 THE COURT: Ms. Ullman, did y'all have any new matters  
13 before I get into the rulings?

14 MS. ULLMAN: At this time, no, sir.

15 THE COURT: What I will do is, let me just go over --  
16 we had that Jackson V Denno hearing. And I've got two  
17 rulings that I want to read into the record regarding the  
18 Jackson V Denno and for the testimony of the co-defendant,  
19 a couple issues that y'all brought up yesterday.

20 Regarding the Jackson V Denno, I find that the Sixth  
21 Amendment right to counsel had undoubtedly attached at  
22 this point in the Defendant's criminal proceedings. When  
23 the Sixth Amendment right to counsel has attached, if  
24 police initiate interrogation after a defendant's  
25 assertion at an arrangement or at other similar

1 proceedings of his right to counsel any waiver of the  
2 defendant's right to counsel for that police-initiated  
3 interrogation is invalid unless the defendant initiates  
4 the contact himself.

5 Quoting from State versus Council, 335 South Carolina  
6 One, I find that the Defendant initiated the  
7 interrogation. Investigator Thrower and the Defendant  
8 both testified that he attempted to contact Investigator  
9 Thrower numerous times to speak to him. The Defendant  
10 testified that he was in fear for his safety and thought  
11 Investigator Thrower could help him out and thus contacted  
12 him.

13 I also find that the Defendant's waiver of his right  
14 to counsel was voluntarily, knowingly and intelligently  
15 waived. Investigator Thrower testified that he gave the  
16 Defendant his Miranda rights orally and the Defendant did  
17 not appear to be under the influence of any substance or  
18 appear to suffer from any diminished mental capacity and  
19 no evidence was presented by the Defendant to the  
20 contrary.

21 I find that the State has proven beyond a  
22 preponderance of the evidence that the Defendant  
23 understood that he had a right to counsel, a right for his  
24 counsel to be present and chose to waive that right.

25 Additionally I find that the Defendant did not invoke

1       Therefore were the testimony sought otherwise  
2 admissible, I feel that any invocation of the Fifth  
3 Amendment privilege against self-incrimination would  
4 clearly take precedence there over.

5       However, I also find the evidence inadmissible under  
6 the South Carolina Rules of Evidence. The Defendant  
7 apparently seeks to admit the evidence under Rule  
8 608(b)(1). However evidence admissible thereunder is only  
9 evidence of the witness's character for truthfulness or  
10 untruthfulness.

11       These specific instances of misconduct are limited to  
12 those that are clearly probative of thoughtfulness or  
13 untruthfulness such as forgery, bribery, false pretenses  
14 or embezzlement, quoting from State V Kelsey, 331 South  
15 Carolina 50.

16       I find that the crime about which this testimony is  
17 apparently sought, which is attempted murder, is not a  
18 specific instance of conduct that is probative for the  
19 Defendant's truthfulness or untruthfulness and is thus  
20 inadmissible under the South Carolina Rules of Evidence.

21       Additionally I find that allowing defense counsel to  
22 question Mr. Echols regarding this matter and requiring  
23 him to invoke the privilege from the witness stand could  
24 cause the jury to draw an inference therefrom contrary to  
25 the purpose of the Fifth Amendment.

1 his right to counsel by mentioning that Mr. Wise was his  
2 attorney at the conclusion of the interrogation. The  
3 invocation of the right to counsel must be unambiguous.  
4 And finally I find that based on the totality of the  
5 circumstances, the Defendant's statement itself was made  
6 voluntarily. While the interrogation took place at the  
7 Orangeburg County Sheriff's Office, all the evidence  
8 presented showed that the interrogation took place at the  
9 Defendant's request.

10 Furthermore, there was nothing presented tending to  
11 show any compulsive or otherwise unduly coercive factors  
12 involved in the Defendant's giving the statement himself  
13 and since the interrogation was conducted at the  
14 Defendant's request and his rights were waived freely and  
15 voluntarily, I find that the statements made therein are  
16 admissible.

17 Regarding the testimony of the co-defendant and his  
18 Fifth Amendment issues, I'm granting the State's motion to  
19 exclude the testimony of the co-defendant's federal  
20 investigation. It is a well-settled matter of law that  
21 the United States Constitution which certainly trumps  
22 matters of state law, quoting from Jameson versus Ford  
23 Motor, if a state statute, administrative rule or common  
24 law cause of action conflicts with a federal statute, it  
25 is uncontestable that the state law has no efficacy.

1       Therefore were the testimony sought otherwise  
2       admissible, I feel that any invocation of the Fifth  
3       Amendment privilege against self-incrimination would  
4       clearly take precedence there over.

5       However, I also find the evidence inadmissible under  
6       the South Carolina Rules of Evidence. The Defendant  
7       apparently seeks to admit the evidence under Rule  
8       608(b)(1). However evidence admissible thereunder is only  
9       evidence of the witness's character for truthfulness or  
10      untruthfulness.

11      These specific instances of misconduct are limited to  
12      those that are clearly probative of truthfulness or  
13      untruthfulness such as forgery, bribery, false pretenses  
14      or embezzlement, quoting from State V Kelsey, 331 South  
15      Carolina 50.

16      I find that the crime about which this testimony is  
17      apparently sought, which is attempted murder, is not a  
18      specific instance of conduct that is probative for the  
19      Defendant's truthfulness or untruthfulness and is thus  
20      inadmissible under the South Carolina Rules of Evidence.

21      Additionally I find that allowing defense counsel to  
22      question Mr. Echols regarding this matter and requiring  
23      him to invoke the privilege from the witness stand could  
24      cause the jury to draw an inference therefrom contrary to  
25      the purpose of the Fifth Amendment.



1 It is desirable the jury not know that a witness has  
2 invoked the privilege against self-incrimination since  
3 neither party is entitled to draw any inference from such  
4 an invocation.

5 It has been recognized that neither the State nor the  
6 Defendant should be allowed to call witnesses who either  
7 side knows will invoke the Fifth Amendment in front of the  
8 jury and then be subject to inferences in form -- in a  
9 forum not subject to cross-examination. Cite: State  
10 versus Hughes, 328 South Carolina 146.

11 Therefore I'm granting the State's motion to exclude  
12 and order that no testimony regarding Mr. Echols' federal  
13 attempted murder charge be elicited by either party in  
14 this case.

15 All right. Anything, Mr. Wise?

16 MR. WISE: Very briefly, Your Honor.

17 THE COURT: Yes, sir.

18 MR. WISE: The Court's last ruling, I recognize what  
19 the Court's ruling is.

20 THE COURT: Yes, sir.

21 MR. WISE: Normally when the Court rules on a motion  
22 in limine --

23 THE COURT: It's only in limine if it comes up in  
24 trial. You can -- you will need to preserve it at that  
25 time.

1 MR. WISE: Okay. So I will -- the reason I'm raising  
2 this now is, the way I'd have to preserve it is to go  
3 directly against this Court's ruling which I don't want  
4 the Court to think I'm trying to be obstinate.

5 THE COURT: No, no, no. You've got to do that to  
6 preserve your objection.

7 MR. WISE: Okay. Thank you.

8 THE COURT: We'll handle it without, hopefully without  
9 disturbing the jury or anything like that.

10 MR. WISE: Very good. Thank you.

11 MR. BELL: Your Honor, I think it would be incumbent  
12 upon us to raise it when we call him as a witness, I think  
13 is what the procedure would be and raising it before any  
14 testimony.

15 THE COURT: Whichever way -- we'll talk about it a  
16 little bit more. He's not going to be the first witness  
17 called, I assume?

18 MR. BELL: No, Your Honor.

19 THE COURT: All right. Now, I believe y'all told me  
20 we don't have any other witnesses, any other things to go  
21 over right now?

22 MS. FORD: No, sir.

23 THE COURT: If y'all will be prepared to get started  
24 at quarter till two, that will give y'all some time to  
25 talk some more, hopefully.

1 And we'll come back. We'll swear in the jury. I'll  
2 charge them. And then, Ms. Ford, you're going to open for  
3 the State?

4 MS. FORD: Actually Mr. Bell is going to be opening  
5 for the State.

6 THE COURT: You finally got Mr. Bell to do something?

7 MS. FORD: Yes, sir. I wanted to spread it around.

8 THE COURT: Ms. Ullman, you're opening?

9 MS. ULLMAN: Yes, sir.

10 THE COURT: I'll try to remember that. We'll see  
11 y'all back at quarter till/unless you all need to talk me  
12 sooner. Quarter till two. Thank y'all.

13 MR. WISE: Thank you, Your Honor.

14 THE COURT: Thank you.

15 (Thereupon the luncheon recess was taken at 11:45 p.m.  
16 At 1:59 p.m., the hearing of this cause resumed as  
17 follows:)

18 THE COURT: Ms. Menefee has been elected the forelady  
19 of the jury. Mark that Court's One. Okay. Court's One.

20 (Thereupon, the note of the jury's election of  
21 foreperson was marked and received into evidence as  
22 Court's Exhibit No. 1.)

23 THE COURT: Is the State ready to proceed?

24 MS. FORD: We are, Your Honor.

25 THE COURT: Defense ready?

1 MR. WISE: We are, Your Honor. Thank you.

2 THE COURT: All right. Bring the jury on out.

3 THE BAILIFF: Yes, Your Honor.

4 THE COURT: Thank you, ma'am.

5 (Jury enters courtroom at 2:02 p.m.)

6 THE COURT: Good morning -- afternoon, ladies and  
7 gentlemen. I hope y'all had a good lunch. We're getting  
8 ready to start the trial.

9 Before we can start the trial, the first thing we've  
10 got to do is swear y'all in as the jury in this case. So  
11 if y'all don't mind standing and raising your right hand,  
12 the clerk is going to swear y'all in.

13 (Jury impaneled.)

14 THE COURT: Please be seated.

15 MR. WISE: Your Honor, before we begin can we approach  
16 the bench one moment?

17 THE COURT: Sure.

18 (Off-the-record discussion.)

19 THE COURT: Ladies and gentlemen, oftentimes I think I  
20 have taken care of everything before we get started.  
21 There's one other thing I was reminded that I need to take  
22 care of before we can begin this.

23 So what I'm going to do is excuse y'all to go back  
24 into the jury room for just a minute while I take care of  
25 another matter, and then I'll bring you back out. Thank

1 you.

2 (Jury exits courtroom at 2:04 p.m.)

3 THE COURT: All right. Mr -- Ms. Ullman?

4 MS. ULLMAN: Your Honor --

5 THE COURT: Uh-huh.

6 MS. ULLMAN: -- before we got started I wanted to  
7 bring up a jurisdictional issue that I was reviewing and  
8 kind of found that I wanted to put on the record.

9 THE COURT: Okay.

10 MS. ULLMAN: First, obviously we're aware there are  
11 five indictments in this case; two for armed robbery, two  
12 for attempted murder and one for burglary first degree.  
13 The burglary first degree. -- let me stop for a second,  
14 start back.

15 The grand jury process itself, Your Honor, I believe  
16 violates the South Carolina and the United States  
17 Constitution the way we run it here in South Carolina. The  
18 United States Constitutional Amendment Five requires due  
19 process and indictment by the grand jury. Amendment Six  
20 requires a public trial.

21 Your Honor, the founding fathers put that in as the  
22 Bill of Rights because in England nothing was public and  
23 people were being accused of something without anybody  
24 else deciding whether there was even any evidence whether  
25 that person could be brought to trial. So they wanted to

1 grand jury about whether they are related to the officer  
2 that's going to testify at that hearing. They're not  
3 questioned as to whether they know the Defendant, they  
4 know the victim. And this goes for all cases and  
5 certainly Mr. Sprinkle's.

6 So at the grand jury meeting that determined his  
7 indictments, a potential member of the victim's family, a  
8 member of law enforcement's family, somebody who knew  
9 about this case, read about it in the newspaper, somebody  
10 who already had ideas could have been on this jury.

11 And there's no way for to us know that. There are  
12 state requirements that at a preliminary hearing the  
13 investigating officer testifies so that it could be  
14 personal knowledge. We don't know in a grand jury who  
15 actually shows up, if it is even the investigating  
16 officer or if it's just one officer per agency.

17 As an officer of the Court, I'm obviously in general  
18 sessions every time we have general sessions. And until  
19 this year, grand jury meetings were held during a term of  
20 general sessions. It was usually on Wednesday. As an  
21 officer of the Court, I would relay that often would see  
22 the foreperson of that grand jury come in here 10:30, 11,  
23 11:30 in the morning having heard 20, 30, 40 different  
24 indictments in less than a two-hour period.

25 Again there's no oversight. We have absolutely no

1 put protections in there for the citizens of this country  
2 to make sure public hearings were held and that somebody  
3 other than the accuser felt that there was enough  
4 information to at least come to court.

5 South Carolina obviously through the 14th Amendment  
6 has the same issues with the Bill of Rights. Also in our  
7 own Constitution Section Three requires due process,  
8 Section Nine requires public trials. Again obviously the  
9 creators of this State felt that a person's liberty and  
10 life were important enough to protect it and put it in our  
11 own Constitution.

12 In this State, Your Honor, the grand jury hearings are  
13 not public hearings. The defendant is not aware that the  
14 grand jury is going to hear his case. The defendant's  
15 attorney is not aware that the grand jury is going to hear  
16 the defendant's case.

17 We pick the grand jury at the beginning of the year.  
18 We pick 18 people, Your Honor. At that time there is no  
19 inquiry into the members of the potential jury panel about  
20 bias. When the grand jury meets once a month, Your Honor,  
21 they are put numerous indictments in front of them.  
22 Obviously we don't get a list of how many are there but we  
23 do get the returns and it's double digits; 20, 30, 40.

24 At that hearing itself, Your Honor, there is no way --  
25 there's -- there's no oversight. Nobody questions the

1 grand jury about whether they are related to the officer  
2 that's going to testify at that hearing. They're not  
3 questioned as to whether they know the Defendant, they  
4 know the victim. And this goes for all cases and  
5 certainly Mr. Sprinkle's.

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7 indictments, a potential member of the victim's family, a  
8 member of law enforcement's family, somebody who knew  
9 about this case, read about it in the newspaper, somebody  
10 who already had ideas could have been on this jury.

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13 investigating officer testifies so that it could be  
14 personal knowledge. We don't know in a grand jury who  
15 actually shows up, if it is even the investigating officer  
16 or if it's just one officer per agency.

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18 sessions every time we have general sessions. And until  
19 this year, grand jury meetings were held during a term of  
20 general sessions. It was usually on Wednesday. As an  
21 officer of the Court, I would relay that often would see  
22 the foreperson of that grand jury come in here 10:30, 11,  
23 11:30 in the morning having heard 20, 30, 40 different  
24 indictments in less than a two-hour period.

25 Again there's no oversight. We have absolutely no



1 idea what's discussed in the grand jury meetings. They  
2 could be talking about what they had for dinner and stamp  
3 every one of them true billed. We have no idea as to  
4 what's happening.

5 The Constitution of this State and the United States  
6 requires public hearings just for this purpose.

7 So, that argument, Your Honor, is actually in regards  
8 to all five indictments because that process, the way the  
9 grand jury's picked and the way these hearings are held is  
10 true for all of them.

11 Taking the burglary indictment that actually was put  
12 forth in 2013 out of this argument, Your Honor, the four  
13 2011 indictments were actually held in front of the grand  
14 jury October 1st, 2012 where they did find true bills.

15 Your Honor, the 2012 grand jury was made up of,  
16 obviously, 18 people. Two of those people on the grand  
17 jury itself had reported to the Court that a person was  
18 sleeping often, pretty much always through the grand jury  
19 meetings and other jurors felt it important enough to  
20 bring it to the Court's attention.

21 Another member of that jury worked, I believe, for DSS  
22 and was part of monthly meetings where DSS, law  
23 enforcement, solicitors get together and talk about how to  
24 assist and prosecute abuse-type cases and help the victims  
25 in those situations. That person was also on the grand

1 jury.

2 Now obviously I cannot tell the Court that I know for  
3 sure those two people were on the grand jury that  
4 determined Mr. Sprinkle's case, but that's, again, because  
5 we have no idea of knowing who was there. Eighteen people  
6 are called, but all they need is 12 on that day.

7 So on October 1st it is very likely or possible that  
8 there were only 12 grand jurors and that two of those  
9 grand jurors are the ones that the Court was aware of  
10 having problems with. I believe the DSS worker, Your  
11 Honor, actually was released from the grand jury once that  
12 was brought to the Court's attention and that person was  
13 no longer on the grand jury for the rest of the year.

14 So that is my argument, Your Honor, regarding lack of  
15 jurisdiction. I do not believe the grand jury process is  
16 in accords with due process or the guarantee of public  
17 hearings.

18 And specifically regarding the 2011 indictments again  
19 I don't -- I believe the grand jury was tainted and  
20 there's no way to disprove that unfortunately because they  
21 are closed hearings with no record. The officers are not  
22 under oath and there's just no oversight at all.

23 That's one jurisdictional argument, Your Honor.

24 The other issue I have is in regards solely to the  
25 attempted murder indictment, the 2011 GS-38-1563 and 64.

1 Your Honor, I understand that indictments are notice  
2 documents but they do confer jurisdiction to the Court.  
3 Obviously without a true bill or a waiver the Court could  
4 not hear these cases.

5 In both attempted murder indictments, Your Honor, I  
6 believe that the State has failed to notice the Defendant  
7 or the grand jury as to what attempted murder actually  
8 requires them to look into, what the elements are.

9 If I might read the attempted murder Indictment 1564,  
10 it says in Orangeburg County on or about June 26, 2011,  
11 the Defendant did enter the residence armed with a knife  
12 and a gun causing multiple injuries to the victim by  
13 cutting the victim, James Wright, beating him with a  
14 pistol causing lacerations, as a result violated 163-329.  
15 I do admit, obviously, that is the statute to attempted  
16 murder.

17 The issue I have, Your Honor, is to properly notice we  
18 would need that -- something more along the lines of, he  
19 entered the residence with the intent to kill and did  
20 attempt to kill Mr. Wright by beating him with a pistol,  
21 you know, causing lacerations with a knife, something to  
22 that effect.

23 We have absolutely no notice of malice aforethought,  
24 intent to kill or attempt to kill. To be honest, I would  
25 take this as notice of a burglary first degree, entering a

1 residence armed with a weapon causing injuries. That in  
2 my experience would be the necessary requirement for  
3 burglary first degree.

4 And those are my indictment issues.

5 THE COURT: Okay. All right. Mr. Bell? Ms. Ford?

6 MS. FORD: Just briefly, Your Honor. The State would  
7 stand on the true billed indictments that were processed  
8 by the grand jury in 2012 on the two attempted murder, and  
9 two armed robbery indictments as well as the indictment  
10 that was true billed in the grand jury of this year, Your  
11 Honor, Your Honor.

12 As Your Honor is obviously aware, only 12 out of the  
13 18 people are required to return a true bill in this  
14 instance.

15 It would further be the State's position that making  
16 this motion at this time would be improper under State  
17 versus Gentry, Your Honor. That this motion should have  
18 been made prior to the swearing of the jury which would  
19 attach the jurisdiction, Your Honor.

20 Concerning the indictment for burglary, I believe it  
21 was the armed robbery or the attempted murder, Your Honor.

22 THE COURT: Attempted murder.

23 MS. FORD: The attempted murder indictments, Your  
24 Honor. As Ms. Ullman said, the indictment is simply a  
25 notice document. The facts are alleged in there on both

1 the face and in the actual wording, the body of the  
2 indictment. It indicates what the violation is, what  
3 statute it's under, and clearly notices both Mr. Sprinkle  
4 and his attorneys what he's being charged with, the nature  
5 of those which would be sufficient for the notice of him  
6 going to trial on the attempted murder indictments, Your  
7 Honor.

8 Beg the Court's indulgence, Your Honor.

9 THE COURT: Take your time.

10 MS. FORD: And, Your Honor, as far as the notice of a  
11 public hearing. Your Honor, we're here for the purposes  
12 of a public trial which would certainly be sufficient to  
13 protect Mr. Sprinkle's rights under both our federal and  
14 state constitutions on that matter.

15 THE COURT: Thank you, ma'am. Anything in response?

16 MS. ULLMAN: Just, the only the response I'd make,  
17 Your Honor, is jurisdiction is an issue that can be  
18 brought up at any time. Even on appeal, Your Honor. If a  
19 defendant's attorney does not raise that issue it's  
20 actually the only issue in this State that can still be  
21 raised on appeal without being preserved so that would be  
22 my only response.

23 THE COURT: Thank you, ma'am.

24 MS. ULLMAN: And I can after a break provide the Court  
25 any case law with regards to that. I have it in my

1 office.

2 THE COURT: You mean in regard to the --

3 MS. ULLMAN: The jurisdictional issue being --

4 THE COURT: My question is: Do you have any South  
5 Carolina case law on your first argument?

6 MS. ULLMAN: Regarding the grand jury process?

7 THE COURT: Yeah.

8 MS. ULLMAN: No.

9 THE COURT: All right. Ms. Ullman, regarding your  
10 grand jury argument, I'm going to deny your motion. I am  
11 aware of some of the issues that you have brought up about  
12 whether or not either one of those people, either one of  
13 those two out of the 18 grand jurors was on the grand jury  
14 at that time. I don't have any record of it. You've not  
15 produced any record of it.

16 If there were 16 of them there and you only need 12,  
17 it would still be valid. Okay.

18 And I, you know, just as I tell the jurors now when  
19 they make their termination and like that, I can't -- they  
20 can't make any decisions based on conjecture, suspicion.  
21 They've got to do it on the facts. And I haven't been  
22 given, other than your allegations about whether or not  
23 something was improper with the makeup of the grand jury  
24 at that time, I don't have anything with which to base my  
25 ruling. Okay.

1 Now, with regard to whether or not it's a public  
2 hearing or not, as you argued the way that the grand jury  
3 has been handled is, in Orangeburg County and in this  
4 state. This is the way the grand jury's been handled ever  
5 since I can remember.

6 And so I'll note your objection to my ruling and  
7 hopefully it's preserved for the record. That motion is  
8 denied.

9 And with regard to the sufficiency of the attempted  
10 murder indictments, the indictments are notice documents.  
11 The indictment tells Mr. Sprinkle the date the incident  
12 occurred, who claimed that he injured, the date in which  
13 it happened, and it refers to the code for attempted  
14 murder.

15 So I'm going to deny that motion as well. And, again,  
16 preserve your objection for the record so that you can  
17 have that if you need it.

18 MS. ULLMAN: Yes, sir.

19 THE COURT: Okay. Anything else?

20 MR. WISE: Before we can begin, can you order  
21 witnesses sequestered during the trial?

22 THE COURT: Yeah, we did except for we have the  
23 investigator and --

24 MS. FORD: Your Honor, the only people in here who  
25 would still be on our witness list would be our two

1 victims and our chief investigator, Garrison. Everybody  
2 else has been removed.

3 THE COURT: Everybody else has been sequestered.

4 MR. WISE: Maybe this unique to the facts of this  
5 case. One of the things I would like to do is sequester,  
6 remove one complaining witness when the other one is  
7 testifying because they are -- I would prefer they not  
8 have the benefit of -- the number two person not having  
9 the benefit of the testimony of the number one person.

10 They can, after the second one testifies come back in  
11 and that's fine. But I think in this situation when two  
12 people are going to testify to roughly what happened in an  
13 incident, I think it would be good that they be, at least  
14 one of them not be present when the other one is  
15 testifying.

16 MS. FORD: Your Honor, I understand that would be  
17 Mr. Wise's preference, however as a victim of a crime they  
18 have a right to be here for the entirety of the trial  
19 against the person who is accused of crimes against them.

20 THE COURT: Aren't they both victims? Aren't they  
21 roommates?

22 MS. FORD: Yes, sir; they are.

23 THE COURT: Okay. I'm going to let both victims stay  
24 in here. This is their trial just like it's  
25 Mr. Sprinkle's trial.



## JUDGE'S INTRODUCTORY COMMENTS TO THE JURY

1 I understand what you're getting at. I do understand  
2 that. I mean, it's not that I don't understand what  
3 you're getting at, but I think as victims they have that  
4 right.

5 So, I'll deny your motion. Again, note your  
6 objection.

7 MR. WISE: Okay.

8 THE COURT: Okay. Hopefully it will be preserved for  
9 the record. Okay.

10 Anything else?

11 MR. WISE: That's all we have, Your Honor.

12 THE COURT: Okay. State ready?

13 MS. FORD: We're ready to proceed, Your Honor.

14 THE COURT: Then we'll start back. Thank y'all.  
15 Okay. Bring them back in.

16 THE BAILIFF: Yes, Your Honor.

17 (Jury enters courtroom at 2:20 p.m.)

18 THE COURT: We're getting ready to get started. This  
19 is the case of the State of South Carolina versus Richard  
20 Lanard Sprinkle.

21 What I'm going to do now is give you an introduction  
22 into what's going to happen in this case. I'm not  
23 charging you on the law at this time. I will not -- the  
24 last thing that happens in this case before you begin your  
25 deliberations is that I will instruct you on the law.

## JUDGE'S INTRODUCTORY COMMENTS TO THE JURY

1       What I'm going to do now is give you an idea of the  
2 procedure, how things are going to happen today so that  
3 you will have kind of a general idea of what's going on.

4       As you may remember when Ms. Ford called the case,  
5 Mr. Sprinkle had been charged by indictments filed with  
6 this Court of the crimes of two counts of attempted  
7 murder, two counts of armed robbery and one count of  
8 burglary in the first degree. All of the elements of  
9 those crimes will be explained to you later.

10       These indictments are simply the charges by which this  
11 case is brought to court, and is not in any sense of the  
12 word evidence of any of the allegations that it contains.

13       The Defendant has pled not guilty to these indictments  
14 and the State therefore has the burden of proving each of  
15 the elements of each indictment beyond a reasonable doubt.

16       And it will be your duty, ladies and gentlemen, to  
17 decide whether the State has met that burden. Your job as  
18 jurors is to find and determine the facts in this case.  
19 You are the sole judges of the facts.

20       If at any time during this trial I make any comment  
21 regarding the facts, you must disregard my comment. You  
22 are to determine the facts from the testimony that you  
23 hear in this courtroom and any other evidence that is  
24 introduced in court. It is up to you to determine the  
25 inferences which you feel may be properly drawn from this

## JUDGE'S INTRODUCTORY COMMENTS TO THE JURY

1 evidence.

2 It is especially important that you perform your duty  
3 of determining the facts diligently and conscientiously  
4 because ordinarily there's no way to correct an erroneous  
5 determination of facts by a jury.

6 The law that makes you the judges of the facts also  
7 makes me the judge of the law. The law as given by this  
8 Court is the only law you may consider. You must accept  
9 and follow it even though you may disagree with it. I  
10 cannot tell you what the facts are, and you cannot  
11 disagree with me about what the law is or should be. Your  
12 job is to take the law as I give it to you and apply it to  
13 the facts as you find them from the testimony of the  
14 witnesses and other evidence that is introduced.

15 After doing that you will render your verdict, a true  
16 verdict under the solemn oath that you just took as  
17 jurors. Until I advise you to begin your deliberations  
18 you must not discuss this case with anyone including your  
19 fellow jurors, friends, family members or anyone involved  
20 in this case. After this case is submitted to you, you  
21 must discuss it only in the jury room with your fellow  
22 jurors.

23 The attorneys and parties in this case have been  
24 advised that they are not to talk to you at all. So if  
25 you see anyone in the halls and they don't speak to you or

## JUDGE'S INTRODUCTORY COMMENTS TO THE JURY

1 even say hello, they are not being unfriendly. They're  
2 just following my instructions.

3 During the trial do not read, listen to or watch any  
4 news reports about this case. Don't go on the Internet  
5 and find out anything about this case. This includes  
6 anything that may be in the newspapers, radio,  
7 television. You must not consider anything you may have  
8 read or heard about this case outside the courtroom  
9 whether before or during the trial.

10 It is important that you keep an open mind and not  
11 decide any issue in this case until all of the evidence  
12 has been presented, the parties have made their closing  
13 arguments and I have instructed you on the law in this  
14 case.

15 It is your solemn responsibility to determine the  
16 guilt or innocence of the Defendant and your verdict must  
17 be based solely on the evidence as it is presented to you  
18 in this trial and on the law as I instruct you during and  
19 at the close of the trial.

20 In just a moment the solicitor will make what is  
21 called an opening statement in which he will explain to  
22 you the issues that the solicitor believes are important  
23 to this case. After that the attorney for the Defendant  
24 will make an opening statement. What the attorneys tell  
25 you during their opening statements is not evidence, it is

## JUDGE'S INTRODUCTORY COMMENTS TO THE JURY

1 only their contention as to what the issues are.

2 The evidence in this case will be presented to you by  
3 the testimony of sworn witnesses from this witness stand  
4 which is right close to you, right there, and by any  
5 exhibits that may be introduced into evidence.

6 From time to time during the trial the attorneys may  
7 have a question of law or you may see them approach the  
8 bench as they have already done so or sometimes I might  
9 myself find it necessary to excuse you from the courtroom  
10 for a short while so the attorneys and I can discuss a  
11 matter of law.

12 You are excused because you are the judges of facts in  
13 the case. And sometimes when I am discussing matters of  
14 law with the attorneys it may be necessary for me to make  
15 some comment as to the facts.

16 Now since you are the only people that can decide the  
17 facts, I will excuse you from the courtroom while these  
18 discussions take place so that you will not be influenced  
19 in any way by anything that I might say or do in  
20 connection with my comments on the facts during these  
21 arguments. In determining what the true facts are in this  
22 case you must decide whether or not the testimony of a  
23 witness is believable.

24 My responsibility is to rule as a matter of law as to  
25 whether certain testimony is admissible or not but once

## OPENING STATEMENTS ON BEHALF OF THE STATE

1 the testimony is admitted whether or not you believe it is  
2 solely for you to determine.

3 In deciding whether to believe a witness you have the  
4 right to consider the interest of any witness, the bias of  
5 any witness, the prejudice of any witness, the opportunity  
6 for the witness to have seen the matters and things about  
7 which the witness may testify, and the way the witness  
8 acts on the witness stand.

9 You have a right to consider anything that is in the  
10 record that will help you evaluate the testimony of the  
11 witnesses. That means that it is your duty to pay close  
12 attention to them, to observe them, to listen to the  
13 witnesses and to pay close attention to the attorneys and  
14 the Court.

15 Please give strict attention to the testimony in this  
16 case so that at the end of all the testimony, after the  
17 arguments of counsel, and after the charge on the law by  
18 me you will then be in a position to determine what the  
19 true facts are and apply the law to those facts and thus  
20 render a true verdict. All right.

21 Mr. Bell?

22 MR. BELL: If it please the Court, Mr. Wise,  
23 Ms. Ullman, madam forelady, ladies and gentlemen of the  
24 jury.

25 Easy money. That's why we're here today. Easy money.

## OPENING STATEMENTS ON BEHALF OF THE STATE

1 Back on the early morning hours of June 26, 2011,  
2 Mr. Robert Rumph and Mr. James Wright were at the  
3 residence, they're roommates, on Myers Road. On that  
4 early morning a knock came to the door. They knew one of  
5 the fellows, a Sean Echols. They opened the door. They  
6 asked, Sean asked to use a phone, something about a  
7 girlfriend. And they came in. Sean Echols and the  
8 Defendant, Mr. Richard Sprinkle, came into the residence,  
9 produced a pistol and a knife and asked these gentlemen  
10 for their money. They took one, Mr. Wright into the  
11 room. I think Mr. Sprinkle took Mr. Wright into the room.  
12 Mr. Echols went back to Mr. Rumph and they took money from  
13 Mr. Wright and then brought him back in the room, got  
14 money from Mr. Rumph and then they beat them and stabbed  
15 the gentlemen and left. They took Mr. Rumph's car.

16 We know it was these two gentlemen, ladies and  
17 gentlemen, because after all this happened the police were  
18 called. They were arrested for these crimes, charged with  
19 the crimes that you've heard. And at some point Sean  
20 Echols admitted to his involvement.

21 And that's why we're here, ladies and gentlemen.  
22 We're here because Richard Sprinkle is charged with five  
23 different charges. You've heard; one count of burglary in  
24 the first degree, two counts of attempted murder and two  
25 counts of armed robbery.

## OPENING STATEMENTS ON BEHALF OF THE STATE

1        These men were elderly, living by themselves and were  
2 known to have money. That's why I said this is about easy  
3 money. They thought they could get in and get it with  
4 little fuss and muss, get the money and for added benefit  
5 for some reason they beat them and stabbed them for no  
6 good reason.

7        Ladies and gentlemen, as you heard, my name's Harrison  
8 Bell and along with Susan Ford we represent -- Sarah Ford,  
9 I'm sorry. We represent the State of South Carolina.  
10 We're the prosecutors. We have the burden of proving  
11 these charges against Richard Sprinkle.

12        We have the burden of proving each and every element  
13 of these charges against Richard Sprinkle to your  
14 satisfaction in order to find and convict him of these  
15 charges, for you to find him guilty.

16        We have the burden of proof. We must prove these  
17 charges beyond what's called all reasonable doubt. All  
18 reasonable doubt. We must prove a person guilty beyond  
19 all reasonable doubt. That's an important concept in the  
20 law.

21        What it doesn't mean is that the State doesn't have to  
22 prove a person guilty beyond all doubt or 100 percent  
23 guilty or beyond a shadow of a doubt. We don't have to go  
24 that far. We have to go a pretty good distance but we  
25 don't have to go all the way to certainty because there's



## OPENING STATEMENTS ON BEHALF OF THE STATE

1 nothing certain in this world except death, and taxes  
2 unfortunately.

3 What the law says is proof beyond all reasonable doubt  
4 is proof that leaves honest jurors earnestly seeking the  
5 truth firmly convinced of a defendant's guilt.

6 That's the standard. That's the standard you must  
7 use.

8 Now, what must we prove? Well, as I said, we have a  
9 number of charges. And I want to briefly go over them.

10 The first one I have is burglary in the first degree.

11 Burglary in the first degree is defined and these are the  
12 elements; that there is an unlawful entry into the  
13 dwelling of another without consent with the intent to  
14 commit a crime therein.

15 And there's several circumstances of aggravation that  
16 makes it burglary in the first degree. And we're saying  
17 A, that these individuals were armed with a deadly  
18 weapon. And it can be any participant, not just -- it  
19 doesn't have to be both of them. Just one participant in  
20 the crime has to be armed, or causes physical injury to a  
21 non participant in the crime. In this case, the victims.

22 We will really -- the law also says as to consent,  
23 consent can be gained or consent is not gained if you use  
24 artifice or trickery or misrepresentation such as saying I  
25 need to use the phone and then go in and present a

## OPENING STATEMENTS ON BEHALF OF THE STATE

1 weapon. That's without consent. By gaining entry through  
2 artifice, trickery or misrepresentation.

3 The next crime we have is armed robbery. Armed  
4 robbery is the taking and caring away of another's  
5 personal property with the intent to deprive them of  
6 possession, him or her of possession. This is just simple  
7 stealing, larceny. Taking somebody's property with the  
8 intent to deprive them of permanent possession. That's  
9 what the larceny is. But then you add using force,  
10 threats or intimidation, that makes it robbery, by using  
11 force, threats or intimidation.

12 And finally when you're armed with a deadly weapon  
13 such as a knife or a pistol, that makes it armed robbery  
14 or even a representation of a deadly weapon. So that's  
15 what armed robbery is. It's basically taking something  
16 from another with force, intimidation and you're armed  
17 with a deadly weapon.

18 And finally, ladies and gentlemen, we have attempted  
19 murder. Attempted murder is the intent to kill another  
20 person. With intent to kill. They intend to kill another  
21 person with malice aforethought, either express or  
22 implied. Have to have the intent to kill, you try to kill  
23 somebody, you don't kill them. With malice aforethought  
24 either express or implied.

25 Now malice is a term of art in here. You've got to

## OPENING STATEMENTS ON BEHALF OF THE STATE

1 have malice aforethought. And malice aforethought means  
2 that malice must exist at any time before you shoot  
3 somebody, stab them, hit them or whatever. That's all  
4 that means, at any time. It could be a millisecond  
5 before.

6 Malice is defined as hatred or ill will or hostility  
7 towards another person. It's the intentional doing of a  
8 wrongful act without just cause or excuse and with the  
9 intent to inflict an injury or under circumstances that  
10 the law will infer an evil intent.

11 It may be inferred from conduct showing a total  
12 disregard for human life, and it may also arise when the  
13 deed is done with a deadly weapon. That is, using a  
14 deadly weapon you can confer malice exists while  
15 committing the attempted murder.

16 Those are what the elements the State must prove  
17 beyond all reasonable doubt.

18 Now how do we do that? We do it several ways.  
19 Notably and most importantly we present testimony from the  
20 witness stand. And that's, the victims will testify.  
21 We're going to have five or six people testify during the  
22 course of this trial. We're going to have the  
23 Defendant -- I mean, the victims. We're going to have  
24 some police officers and we're going to have Sean Echols,  
25 the co-defendant is going to testify against

## OPENING STATEMENTS ON BEHALF OF THE STATE

1 Mr. Sprinkle.

2 What we ask you to do, ladies and gentlemen, is to  
3 listen carefully to the testimony up here. As His Honor,  
4 Judge Dickson, told you, you are the judges of the facts,  
5 the sole judges of the facts. He's the judge of the law.

6 When he tells you about the law at the end of this  
7 case, when he charges, you must take -- you just took an  
8 oath that says I will follow the law. Even if you don't  
9 like the law it can't enter into it because you must  
10 follow the law that he charges.

11 And you, ladies and gentlemen, are the judges of the  
12 facts. You listen to testimony up here. There may be  
13 exhibits presented. You look at those carefully. And  
14 what you do, ladies and gentlemen, is you take the facts  
15 as you find them up here, you take any exhibits, and you  
16 take the law that he will charge you, Judge Dickson will  
17 charge you at the end of the trial and you put them  
18 together and you deliberate and reach a verdict.

19 Now you will be asked from this witness stand to  
20 determine the credibility of witnesses. As His Honor,  
21 Judge Dickson, told you a few minutes ago, called the  
22 believability. Do you believe him or not. And you're  
23 probably going, well how do I do that? How do I do that?

24 Well, nobody can tell you how to do that. I can  
25 suggest this. I can suggest that you do it like you do it

## OPENING STATEMENTS ON BEHALF OF THE STATE

1 every day of your life. You talk to your friends, you  
2 talk to your family, you talk to strangers. When somebody  
3 tells you something you know you have a feeling just based  
4 on your life experiences, based your knowledge of that  
5 person or the way they talk, the way they act, on whether  
6 they're telling the truth or whether they're feeding you a  
7 line.

8 You use that same, that same calculation, that same  
9 common sense, if you will, your same life experiences to  
10 determine the credibility of witnesses up here.

11 You didn't check anything at the door when you came in  
12 the courtroom today. You brought your common sense. You  
13 brought your life experience with you. Use those, ladies  
14 and gentlemen.

15 And again, I ask you to listen. And observe anything  
16 that's entered into evidence. Listen to the testimony  
17 very carefully.

18 Because it is an important day. It's an important day  
19 for the Defendant. He's on trial. It's an important day  
20 for the State because we're here to enforce the laws and  
21 to seek justice for the victims in this case.

22 And I will tell you one other thing, one other  
23 important concept of law. It goes with the State's burden  
24 of proof. As I said, the State has the sole burden of  
25 proving the charge in this case. The Defendant does not

## OPENING STATEMENTS ON BEHALF OF THE DEFENSE

1 have to prove anything. He is under no obligation to  
2 prove anything. He sits there innocent. He sits there  
3 innocent until the State proves him guilty to your  
4 satisfaction.

5 And that's a fundamental part of the law of the State  
6 of South Carolina. It's a fundamental part of the law of  
7 the United States. It's a basic part of our law.

8 But, ladies and gentlemen, I do tell you, after you  
9 listen to all the testimony, after you observe any  
10 exhibits that may be entered into evidence, the State will  
11 present you with more than enough evidence where you will  
12 find Richard Sprinkle guilty of two counts of armed  
13 robbery, two counts of attempted murder and burglary in  
14 the first degree.

15 Thank you.

16 THE COURT: Thank you, Mr. Bell. Ms. Ullman?

17 MS. ULLMAN: Good afternoon.

18 I agree with Mr. Bell that one of the most important  
19 parts of our criminal justice system is the presumption of  
20 innocence. Throughout life you always hear from pretty  
21 much everyone in the community that our system is the  
22 best. Our country has the best legal system.

23 I've heard it all my life. I've heard it all the time  
24 in law school. That's all they ever talked about in law  
25 school; we've got the best system. I never really

## OPENING STATEMENTS ON BEHALF OF THE DEFENSE

1 honestly thought about why. Why is ours the best system?

2 Recently in the news there was a case out of Italy and  
3 that case made me realize what makes our system the best.  
4 There was an American student studying in Italy. She was  
5 accused of a crime. She did not have American protections  
6 just because she was a citizen. She was under Italy's  
7 law. In Italy you're guilty until proven innocent. You  
8 have the burden to prove yourself innocent.

9 And what I learned in science class is proving a  
10 negative is almost impossible. To prove something didn't  
11 happen, someone didn't say something is almost impossible  
12 to do.

13 And that's why in this country the defense doesn't  
14 have a burden because you can't prove it didn't happen.  
15 The State must prove to you beyond a reasonable doubt that  
16 it did happen.

17 Part of them proving that -- don't let them take your  
18 job away from you. Mr. Bell called Mr. Wright and  
19 Mr. Rumph victims. It's your job to determine if they  
20 are. You have to decide here today if anything actually  
21 happened. They're saying that they were robbed and that  
22 they were assaulted.

23 Maybe that's not true. You have to decide that today.  
24 You'll hear from them and then you will determine if you  
25 even believe them. That's your job. They're not victims

## OPENING STATEMENTS ON BEHALF OF THE DEFENSE

1 until you decide that something actually happened.

2 Mr. Bell called Mr. Sprinkle the Defendant. These are  
3 all just titles. They mean nothing. Mr. Sprinkle just  
4 like everybody else in this courtroom is a citizen of  
5 Orangeburg County. That's what he is. He's a citizen.  
6 He's currently accused of something.

7 We've all been accused of something. Maybe not in the  
8 criminal system, but growing up your brother accused you  
9 of breaking something that he actually broke, or your  
10 sister or your family member. I don't know if you have  
11 brothers and sisters, but you get the point. Growing up  
12 at some point in your life you've been accused of  
13 something that you knew you didn't do.

14 You're a citizen of this county as he is. They've  
15 titled him the Defendant. That means nothing. He's a  
16 citizen accused of something. That's it.

17 So thankfully in this country we are not like Italy.  
18 It's not his job to prove himself innocent.

19 Part of the reasoning again for that, if you look at  
20 who's here today, we have the State and a citizen of this  
21 county. The State. Think of what that means. What does  
22 that mean? They have almost unlimited resources between  
23 the sheriff's department, public safety, their own  
24 investigators that work within their own office. A  
25 handful of lawyers that work in our office. They have



1 unlimited monetary resources.

2 A citizen of Orangeburg County, he doesn't have that.  
3 The sheriff's department isn't working for him. Public  
4 safety's not working for him. He doesn't have unlimited  
5 resources. That's why he's innocent until they prove  
6 otherwise.

7 The State is here today asking you to find  
8 Mr. Sprinkle guilty, asking you to take from him his life  
9 and his liberty. That's why they have the burden before.

10 For anybody in this country to lose their life,  
11 liberty and pursuit of happiness, you must find beyond a  
12 reasonable doubt that the State did their job.

13 The American citizen in Italy was convicted. And  
14 thank God for her she had a mother who loved her and  
15 fought for her and helped her win an appeal. And that's  
16 what mothers do. That's a mother's love. A mother always  
17 believes you didn't do it. That's what moms do.

18 I'm not asking you to be Mr. Sprinkle's mom, but I am  
19 asking you to have that belief that he's innocent.

20 Thank you.

21 THE COURT: Ladies and gentlemen, my court reporter  
22 just advised me that we have an equipment malfunction and  
23 since everything has -- she has to keep the record  
24 straight with everything that's said and done in the  
25 courtroom, I'm going to need to excuse y'all to go back

1 into the jury room for just a minute while we make sure we  
2 get the equipment working properly.

3 Remember, you can't talk about the case. All you've  
4 heard so far is just opening statement. Thank you.

5 (Jury exits courtroom at 2:44 p.m., break taken.)

6 THE COURT: State ready to proceed?

7 MS. FORD: We are, Your Honor.

8 THE COURT: Defendant's ready?

9 MS. ULLMAN: We are. Thank you.

10 THE COURT: Okay. Bring the jury back out, please,  
11 ma'am.

12 (Jury enters at 2:53 p.m.)

13 THE COURT: Ladies and gentlemen, the Court  
14 appreciates your patience. We have the machine  
15 malfunction in order now, and my understanding is the  
16 State's ready to call its first witness.

17 MS. FORD: Thank you, Your Honor. May it please the  
18 Court.

19 THE COURT: Yes, ma'am.

20 MS. FORD: The State calls James Wright to the stand.

21 THE COURT: Okay. Mr. Wright.

22 JAMES WRIGHT, having been duly sworn, was examined and  
23 testified as follows:

24 THE CLERK: You may have a seat

25 MS. FORD: Have a seat right up there.

JAMES WRIGHT - DIRECT

1 THE COURT: On the witness stand, please.

2 THE CLERK: Please state your name for the record,  
3 Mr. Wright.

4 THE COURT: Mr. Wright, would you state your name one  
5 more time on the record?

6 THE WITNESS: The one that hit me?

7 THE COURT: Sir?

8 THE WITNESS: My name is James Wright.

9 THE COURT: That's what I want you to say. You did  
10 Good. Okay.

11 DIRECT EXAMINATION

12 BY MS. FORD:

13 Q. All right. Mr. Wright, I'll make sure that I speak  
14 loudly. Can you hear me?

15 A. Yes, ma'am.

16 Q. Okay. Am I talking too loudly?

17 A. Good. Good.

18 Q. Mr. Wright, how far did you go in school?

19 A. Probably about third grade.

20 Q. About third grade. Did you used to live on Myers Road  
21 here in Orangeburg?

22 A. Yes, ma'am.

23 Q. Who did you live with at the Myers Road house?

24 A. Mr. Robert Rumph.

25 Q. Mr. Robert Rumph. Were you ever robbed before?

JAMES WRIGHT - DIRECT

1 A. No.

2 Q. Did anyone ever come in your house, Mr. Wright?

3 A. No.

4 Q. And rob you?

5 A. Yes, that, that, that night.

6 Q. That night?

7 A. (Nods head.)

8 Q. Okay. Let's talk about that night.

9 A. Okay.

10 Q. What happened that night?

11 A. They knock on the door and asked me if Mr. Rock was  
12 home. I said, yeah. They wanted to make a phone call.

13 Q. Let me stop you for one second, Mr. Wright. I just  
14 want to make sure I understand. How many people came to  
15 the house?

16 A. I know they were knocking on the door. I didn't see  
17 no car or nothing.

18 Q. How many people knocked on the door?

19 A. It was two of them.

20 Q. Two of them. Was it men or women?

21 A. Man.

22 Q. What did they look like?

23 A. That's only one of them, like with him. I (inaudible)  
24 after they bring me the paper, but I didn't see in any of  
25 them yet.

JAMES WRIGHT - DIRECT

1 Q. Okay. All right. Were they white men or black men?

2 A. Black man.

3 Q. What did their hair look like?

4 A. That man had long hair on his neck, his hair.

5 Q. One of them had long hair?

6 A. Yes, ma'am.

7 Q. And what about the other one?

8 A. The other one wasn't quite as long as his but he had  
9 hair on his head.

10 Q. He had hair on his head?

11 A. Yes, ma'am.

12 Q. Okay. And you said the two people knocked on the  
13 door?

14 A. Yes.

15 Q. Tell me what happened.

16 A. They knocked on the door, asked me about Mr. Rumph. I  
17 telled them Mr. Rock home. Tell him that the other fellow  
18 want to make a phone call, he call him uncle.

19 And he said, let him in. When I let them in he came  
20 in and put that pistol in my chest and grabbed me around  
21 the neck.

22 Q. You said he did. Who are you talking about?

23 A. That one right there.

24 Q. That one right there?

25 A. Yes, ma'am.

JAMES WRIGHT - DIRECT

1 Q. Did you know him?

2 A. I saw him that Friday. I know him. I was seeing him  
3 all the time walking the street.

4 Q. You had seen him before he came in your house?

5 A. Yes, ma'am.

6 Q. Okay. Did you know his name?

7 A. Yeah, I just called him Ricky.

8 Q. You called him Ricky?

9 A. I didn't know his last name.

10 Q. Okay. And that was one of the people that came in  
11 your house?

12 A. Yes, ma'am.

13 Q. After they came in your house, what happened?

14 A. That when I start calling Rocky. He said, shut up,  
15 shut up. I want your money.

16 And the other boy said, yeah, Rocky the one I want to  
17 see. And he went on down in Rocky room. He make me went  
18 to my bed, pulled up my mattress. I had more money in  
19 there and I tell him I never.

20 Q. So he asked for your money?

21 A. More money. I pulled the mattress up. I was bleeding  
22 like I don't know what. I told him I ain't have no more  
23 money.

24 Q. You said you were bleeding. Why were you bleeding?

25 A. Because he beat me in the head.

JAMES WRIGHT - DIRECT

- 1 Q. Beat you in the head?
- 2 A. Yeah.
- 3 Q. With what; do you know?
- 4 A. With a pistol, but I didn't know what kind of pistol.
- 5 Q. Did you see the pistol?
- 6 A. I seen it, but I didn't know what the name of the
- 7 pistol.
- 8 Q. That's okay. That's okay.
- 9 After you went in your room and lifted up, you said
- 10 you lifted up the mattress?
- 11 A. Yeah.
- 12 Q. What happened next?
- 13 A. That when he, he make me went down to Rocky room with
- 14 the other fellow. Both of them's in Rocky room.
- 15 Q. When you say he, who are you talking about?
- 16 A. The other boy be with him.
- 17 Q. Okay. So you went into Mr. Rumph's room, Rocky?
- 18 A. After they left they led me out of my room and went to
- 19 Mr. Rocky room.
- 20 Q. What happened in Mr. Rocky's room?
- 21 A. Well, the other one cut Rocky, I know.
- 22 Q. Cut him with what?
- 23 A. All I know with a knife and make Rocky open the
- 24 closet, get his pocketbook out of his pocket.
- 25 Q. Okay.

JAMES WRIGHT - DIRECT

1 A. And out the door. I went on back in my room and they  
2 take Rocky car and leave.

3 Q. They took Rocky's car and left?

4 A. And leave.

5 Q. Okay. Did you ever talk -- is that the end? Did they  
6 leave the house and they took the car?

7 A. They take the car and drive it out the yard.

8 Q. Okay. Did you call the police or did you ever talk to  
9 the police?

10 A. Rocky brother called the police but they was done  
11 gone.

12 Q. Right. Okay. Did you talk to the police?

13 A. I talked with them before the ambulance come and pick  
14 us up.

15 Q. So you had to go to the hospital?

16 A. Yes, ma'am.

17 Q. Did you tell the police what the people looked like?

18 A. No, I never tell them what they looked like but I tell  
19 them I had know him.

20 Q. That you had known him?

21 A. Yes.

22 Q. Did you tell him you knew one of them?

23 A. That one that right there because he did talk to me  
24 that Saturday evening.

25 Q. Where did he talk to you that Saturday evening?



JAMES WRIGHT - DIRECT

- 1 A. Bojangles.
- 2 Q. Okay. So you had seen him. This happened the day  
3 before or the day after?
- 4 A. No. That was after. Early that Sunday morning  
5 because that was that Saturday evening.
- 6 Q. Okay. So you had recently seen --
- 7 A. Yeah.
- 8 Q. -- this one right here?
- 9 A. Right there.
- 10 Q. Before he came in your house and robbed you?
- 11 A. Right.
- 12 Q. And beat you?
- 13 A. (Nods head.)
- 14 Q. Okay. Mr. Wright, can you take a look at that for  
15 me? What is that?
- 16 A. That's the picture with my circle around.
- 17 Q. That's the picture you circled around. Did the police  
18 show you that? Did one of the police officers show you  
19 that piece of paper?
- 20 A. No. When the lady came, right there.
- 21 Q. She showed you that piece of paper.
- 22 A. Yes, ma'am.
- 23 Q. Okay. And what's on that paper?
- 24 A. I was robbed. I know that.
- 25 Q. What are those pictures of? Do you know anyone in any

JAMES WRIGHT - DIRECT

1 of those pictures?

2 A. Yep.

3 Q. Which one?

4 A. I know that one right there but I ain't seen nothing  
5 on there, but I circled another picture.

6 Q. We'll talk about that in a second. Who's that a  
7 picture of?

8 A. This one?

9 Q. (Nods head.)

10 A. (Pointing.)

11 Q. You pointed --

12 A. That's his picture.

13 Q. Okay. And you said you circled it?

14 A. Yes.

15 Q. What is that? Are those your initials?

16 A. Initials.

17 Q. Okay. And you -- this was -- you said that lady right  
18 there is the one that showed you this?

19 A. Yes, ma'am.

20 Q. And you picked this, circled this one out?

21 A. Sure did. Yes, ma'am.

22 Q. Okay. How long did it take you to pick out that  
23 picture?

24 A. Well she brought me pictures three different days till  
25 I find the boys in there. I circled that same one there

JAMES WRIGHT - DIRECT

1 that day.

2 Q. Okay. Is this the person that robbed you and beat you  
3 in your house?

4 A. Yeah.

5 Q. That is the same person that's seated right there?

6 A. Right there.

7 Q. Mr. Wright, does he look the same now as he did then?

8 A. Well, he looked different then. He more stouter now.

9 He had all that hair on his head.

10 Q. Say that again. I want to make sure --

11 A. I say his face more heavier now but he was walking the  
12 street, it was a little face on the street now, but he  
13 take all that hair off his head.

14 Q. You said cut the hair off his head?

15 A. I mean, the long hair he had on, you take that off and  
16 it ain't long now.

17 Q. I'm going to show you one more thing, Mr. Wright. Can  
18 you take a look at this for me? What is that?

19 A. That's the other one.

20 Q. When you say that's the other one, what do you mean?

21 A. That's the other boy that be with him.

22 Q. That came in your house?

23 A. Come in the house.

24 Q. Okay. Which one is that?

25 A. Two.

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1 Q. Okay. Did you circle that?

2 A. Yeah, I circled that.

3 Q. Are those your initials on that?

4 A. Yes, ma'am.

5 Q. Thank you, Mr. Wright. How many people came in your  
6 house that night?

7 A. Two.

8 Q. Two. And one of them's in the courtroom right now?

9 A. Yes, ma'am.

10 Q. And which one is it?

11 A. That one right there (pointing).

12 Q. That one right there. Are you sure, Mr. Wright?

13 A. Yes, ma'am.

14 Q. You're sure. Beg the Court's indulgence, Your Honor.

15 THE COURT: Okay.

16 MS. FORD: Just a couple more questions, Mr. Wright.

17 BY MS. FORD:

18 Q. Do you mind if I ask how old you are?

19 A. Ma'am?

20 Q. How old are you, Mr. Wright?

21 A. Seventy-four.

22 Q. Seventy-four. Okay. Let me ask you one more

23 question. You said you knew this fellow, you called him  
24 Ricky. Did you know where he lived?

25 A. No.

## JAMES WRIGHT - CROSS

1 Q. You didn't know where he lived?

2 A. No.

3 Q. But you knew him from around?

4 A. Yeah.

5 MS. FORD: No more questions, Your Honor, at this  
6 time. Please answer any questions that Mr. Wright may  
7 have. Okay, Mr. Wright?

8 THE WITNESS: All right.

9 THE COURT: Mr. Wise, your witness.

10 MR. WISE: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. WISE:

13 Q. Mr. Wright, how are you? How are you?

14 A. All right, sir.

15 Q. Okay. Mr. Wright, I don't have a lot of questions.  
16 These two men came to your house that night?

17 A. Yes, sir.

18 Q. Somebody knocked on the door?

19 A. Yes, sir.

20 Q. Do you know which man knocked on the door?

21 A. Yes. That one right there (pointing).

22 Q. He knocked on the door?

23 A. He knocked on the door.

24 Q. Okay. And when he spoke to you, what did he say to  
25 you?

JAMES WRIGHT - CROSS

1 A. He asked me where was Mr. Rock, called Uncle Rocky. I  
2 said Rocky in the bed. I asked Rocky, I said, Rocky,  
3 these boys out there know you. And I said, they want to  
4 make a phone call. And Rocky said, let them in.

5 Q. So he came to the door, he knocked on the door and he  
6 asked for Rocky?

7 A. Yes, sir.

8 Q. Did he say Rocky or Rock?

9 A. Rocky.

10 Q. Rocky. Okay. And then you went back and you spoke to  
11 to Mr. Rumph. He said okay. And you let them in?

12 A. He said, okay, let them in.

13 Q. Okay. Very good.

14 Okay. When you -- when he knocked on the door and you  
15 looked out there and you saw him, did you say Rick or  
16 Ricky, what are you doing here this time of morning?

17 A. He say, tell Rocky he wanted to make a phone call and  
18 Rocky said to let them in.

19 Q. What time was this when he knocked on the door?

20 A. I don't know exactly what time, but I came in late  
21 that night myself.

22 Q. So you don't know?

23 A. I had done gone to bed.

24 Q. So you came in late, you went to bed. You're not sure  
25 what time it was?

JAMES WRIGHT - CROSS

1 A. It was late. I don't know exactly what time.

2 Q. Okay. Well, do you remember testifying yesterday in  
3 this case? You remember that; right?

4 A. Yes, sir.

5 Q. Do you remember yesterday when you testified you said  
6 it was about 4:30, five o'clock in the morning?

7 A. That's what I said, but I didn't know exactly what  
8 time it was but I said that time.

9 Q. So you said something yesterday that you weren't sure  
10 about?

11 A. Because I never know exactly what time. I know I had  
12 come in late and I had no watch on my arm to find out what  
13 time, but I wasn't looking for that to happen.

14 Q. Okay. So yesterday when you came to court you took an  
15 oath like you did today. You swore to tell the truth.  
16 When you said that you weren't lying; were you?

17 A. No.

18 Q. No. You just made a mistake?

19 A. Yep.

20 Q. You thought you remembered something that you didn't  
21 remember?

22 A. Right.

23 Q. When you said that you were convinced that you right

24 --

25 MS. FORD: Objection, Your Honor. He's -- asked and

JAMES WRIGHT - CROSS

1 answered. He's answered the question.

2 MR. WISE: Well, I just have one last question.

3 THE COURT: Okay. Let him finish.

4 BY MR. WISE:

5 Q. When you said that, though, you were wrong?

6 A. I just couldn't remember exactly what time it was.

7 Q. Okay. When you went to Rocky's room and said that  
8 somebody's at the door, did he get up and come to see who  
9 it was?

10 A. Who that?

11 Q. Rocky.

12 A. No. Rocky told me to open the door because he called  
13 Rocky, Uncle Rock. And Rocky said, open the door and let  
14 them in there. When he come in there he grabbed me around  
15 the neck and put the pistol in my chest. And I hollered  
16 back to Rocky telling him he had a gun.

17 Q. He called him Uncle Rocky?

18 A. That's what he called him. He started beating me on  
19 the head with a pistol, left a mark on top of my head now.

20 Q. All right. Now, when you opened the door it's your  
21 testimony that that man took you to your bedroom; is that  
22 correct?

23 A. No, he done beat me in the head before he came into my  
24 bedroom because the other fellow asked where Rocky. I  
25 said, Rocky right in his bed. Both of them -- one of them



JAMES WRIGHT - CROSS

1 went to Rocky room. He make me hold up my bed and  
2 mattress see if I had more money in there.

3 Q. Okay. So it's your testimony he comes in, he has a  
4 gun in his hand?

5 A. Yeah.

6 Q. And he hits you in the head with the gun?

7 A. Right.

8 Q. And then he takes you to your bedroom?

9 A. Yeah.

10 Q. Okay. Okay. And when he takes you to your bedroom,  
11 the other person goes into Rocky's bedroom?

12 A. To Rocky's bedroom and he walk behind me in Rocky room  
13 too. Me and him.

14 Q. Okay. So the only -- just so I'm clear. Was there  
15 one person or two people with you in your bedroom?

16 A. In my bedroom?

17 Q. Yes.

18 A. Wasn't nobody but me.

19 Q. Okay. When this thing happened, when your mattress  
20 was turned over, was there one person or two people with  
21 you in your bedroom?

22 A. One.

23 Q. Just one. Okay. Okay. When you were in your bedroom  
24 and your mattress was being turned over, did you yell to  
25 your roommate, hey Rock, there's trouble?

JAMES WRIGHT - CROSS

1 A. No. Wasn't -- he make me hold the mattress up.

2 Wasn't nobody in there but me and him.

3 Q. And did you yell for your roommate?

4 A. Yeah, yeah, the other one went on down to Rocky room.

5 Q. I'm sorry. The mattress gets held up. And did you  
6 ever yell to let Rock know what was going on?

7 A. No, sir. Because he was done in the house. I doubt  
8 Rocky know he was in there.

9 Q. Okay. Okay. The two people who were in your house,  
10 one person had a gun. Did the other person have a weapon?

11 A. Had a knife.

12 Q. Other person had a knife?

13 A. Yes.

14 Q. So there was one gun and one knife?

15 A. One knife.

16 Q. And it's your testimony that he had the gun and the  
17 other person had the knife?

18 A. Yep. He might have got it after he got in the room  
19 but I didn't know.

20 I was bleeding so, wiping blood off of my face, but I  
21 didn't know whether he had the gun or not.

22 Q. Now, Mr. Wright, do you remember telling the police  
23 that both of these guys followed you into your room? Do  
24 you remember telling the police that?

25 A. The police, no.

JAMES WRIGHT - CROSS

1 Q. I'm trying again. There came a time when you spoke to  
2 the police about what happened; didn't there?

3 A. Well them boys were done gone.

4 Q. They were gone?

5 A. And the police come up and they called an ambulance.

6 Q. So you spoke to the police that night?

7 A. Yep.

8 Q. And you also spoke to Investigator Garrison?

9 A. (Nods head.)

10 Q. Okay. Do you remember her writing a statement for you  
11 about what happened that night? Do you remember that?

12 A. I don't remember that.

13 Q. Okay.

14 MS. FORD: May we approach?

15 (Off-the-record discussion.)

16 BY MR. WISE:

17 Q. Okay. Mr. Wright, there came a point when you spoke  
18 to Investigator Garrison. Do you remember that?

19 A. Yes, sir.

20 Q. And then when you spoke to her she wrote out what you  
21 told her and then you signed your name at the bottom?

22 A. Yes.

23 Q. Do you remember that?

24 A. Yes, sir.

25 Q. Okay. And when you -- when she wrote this statement

JAMES WRIGHT - CROSS

1 for you, did she read it to you before you signed it?

2 A. That paper there?

3 Q. Yes. Yes, sir.

4 A. Yeah.

5 Q. She read it to you?

6 A. (Nods head.)

7 Q. Okay. So, what's in this statement is an accurate  
8 statement of what you told her; is that right?

9 A. Right.

10 Q. Okay. Okay. But you didn't read it before you signed  
11 it, she just read it to you?

12 A. Right. I can't read.

13 Q. Okay. My father couldn't read. Okay. Do you  
14 remember telling her that both of these guys went with you  
15 into your room?

16 A. Yeah.

17 Q. Do you remember telling her that?

18 A. Yes, sir.

19 Q. You did tell her that?

20 A. Yes, sir.

21 Q. Okay. But when you told her that, was that -- that  
22 wasn't accurate. That wasn't correct, was it, when you  
23 told her that these two guys followed you into your room?

24 A. No, the other guy went to Rocky room and he the one  
25 that followed me in my room, make me hold up my mattress

JAMES WRIGHT - CROSS

1 and then he followed me to Rocky room.

2 Q. So when she wrote that down, that wasn't right. That  
3 wasn't accurate. That wasn't correct. That didn't  
4 happen.

5 A. Well, she never wrote that down until after it  
6 happened.

7 Q. Okay. Okay. All right. Now, Ms. Ford showed you  
8 what's been marked as State's Exhibit Number Two. That is  
9 a picture of six people, one of which has their head  
10 circled and your initials; correct?

11 A. Yep. I did that.

12 Q. You did that. The person who has their head circled,  
13 do you know that person's name?

14 A. Nope.

15 Q. Okay. When you circled that, you also signed your  
16 name to another piece of paper; isn't that correct?

17 A. Yep.

18 Q. And on this piece of paper it has your name at the  
19 bottom?

20 A. Yeah.

21 Q. What's written in here beneath where your name is  
22 written and above where it's signed, Investigator Garrison  
23 wrote that for you; correct?

24 A. Yeah.

25 Q. Correct?

JAMES WRIGHT - CROSS

1 A. (Nods head.)

2 Q. Okay. And in this piece of paper it says that this  
3 person, the person circled on State's Exhibit Number Two,  
4 hit me with a gun about the face and head.

5 Do you remember signing that piece of paper?

6 A. Yeah, I signed that paper. Now I know I signed that  
7 paper, but he the one that hit me with a gun.

8 Q. So even though this piece of paper says --

9 MS. FORD: Objection, Your Honor. Mr. Wright has  
10 testified that he can't read or write so whatever that  
11 paper says, he doesn't know whether it says that or not.  
12 He's testified and that should be sufficient, Your Honor.

13 THE WITNESS: But he the one that beat me in the head.

14 THE COURT: Hold on just one second. He was just  
15 asking him if he remembered that. I'm going to let him  
16 complete the answer to that. He's already testified that  
17 he cannot read.

18 So, Mr. Wise, if you can continue.

19 MR. WISE: Okay.

20 Q. So, let me back up. The piece of paper that you  
21 signed says, number two hit me with a gun about the face  
22 and head area. Do you remember signing that piece of  
23 paper?

24 A. Yes, sir.

25 Q. Okay. And, just so we're clear. You would agree

JAMES WRIGHT - CROSS

1 with me that number two is not that man who's sitting  
2 right there?

3 A. That's the one that beat me with a gun.

4 Q. But that man isn't the man who's in this picture with  
5 his face circled as number two.

6 A. No, but another paper there.

7 Q. Yes, there is. Okay. Okay. So I want to make sure I  
8 understand this. It's your testimony that this person  
9 took your money and the other person took Rock's money; is  
10 that -- am I correct?

11 A. Yes, sir. That's, that's true. That's true. He the  
12 one that take my money. My wallet and all, everything  
13 being in my wallet. I had to go back, get papers and  
14 everything back over.

15 Q. Now you left your bedroom and then you went to Rock's  
16 room, correct, that night?

17 A. Yeah. He the one that lead me to Rocky room because  
18 the other fellow been ahead of us.

19 Q. So the other fellow was already in Rock's room and  
20 then you said he led you to Rock's room?

21 A. Right.

22 Q. Okay. And when you walked into Rock's room, obviously  
23 the other guy was already there, the other person was  
24 there before you got into Rock's room?

25 A. Yeah, he was in that room ahead of me now.

JAMES WRIGHT - CROSS

1 Q. Okay. When you walked in, what did you see? What was  
2 happening?

3 A. I never said nothing but he tell Rocky, he was cutting  
4 Rocky on the leg and foot. He telling Rocky to give him  
5 his money. Rocky said well he ain't had no money, make  
6 Rocky open the closet and there was Rocky pocketbook and  
7 all in his closet and he take all that and went out the  
8 back door and take Rocky car.

9 Q. So when you walked in, what was the first thing you  
10 saw when you walked into Rock's room?

11 A. He was done cutting Rocky and ask Rocky about his  
12 money and Rocky gave him what money he had in his britches  
13 pocket. And he go, no, you got more money that. Make  
14 Rocky open his closet. Rocky got his britches, he made  
15 him get his pocketbook out there, but I didn't know how  
16 much money was in it.

17 Q. So when you walked into Rock's room, Rock had already  
18 been cut by the person --

19 A. Right.

20 Q. -- that was in his room?

21 A. Right, right.

22 Q. Okay. You did not see Rock getting cut; did you?

23 A. Nope.

24 Q. Okay. All right. And just so we're clear. You said  
25 there was one gun and one knife. You didn't see any other



## JAMES WRIGHT - CROSS

1 weapon that night; did you?

2 A. No.

3 Q. Okay. Now, Mr. Wright, you told the police that the  
4 man who -- you knew who did this, you described him as  
5 dark skinned; didn't you?

6 A. What do you say?

7 Q. You told the police that the man who did this, the man  
8 who -- the man with the dreads, you --

9 A. Yeah.

10 Q. -- told the police he was dark skinned. That was the  
11 word you used; right?

12 A. Right.

13 Q. Okay. And you are -- you're referring to him?

14 A. That's him.

15 Q. You described him as dark skinned?

16 A. That's him.

17 Q. Okay. Okay. Now, the night this happened, you went  
18 to the hospital?

19 A. Yep.

20 Q. Okay. When you left the house to go to the hospital,  
21 did the police take you or did you go by ambulance?

22 A. Go by ambulance.

23 Q. Okay. Did you and Rocky go together to the hospital?

24 A. Yes, sir.

25 Q. Okay. In one ambulance?

JAMES WRIGHT - CROSS

1 A. Yes, sir.

2 Q. Okay. And when you came back from the hospital, did  
3 you come back together?

4 A. Yes, sir.

5 Q. Okay. Did you come back by ambulance?

6 A. No, sir.

7 Q. How did you get back?

8 A. His daughter.

9 Q. Okay. So his daughter --

10 A. Picked us up after he called her. She come and she  
11 waited for us to come out there that day.

12 Q. Do you know how long you were at the hospital?

13 A. No, sir. I don't.

14 Q. Okay. Do you have any idea what time you left the  
15 hospital?

16 A. No, sir.

17 Q. Okay. When these guys came into the house, they  
18 immediately split you and -- they immediately split off.  
19 One went with you, and other went straight to Rock's room?

20 A. No. Both of them. After he beat me he asked about  
21 Rocky. I said Rocky in the bed. He walked right on down  
22 in Rocky room. Yeah, that's the one I want to see and  
23 left me.

24 After that he make me hold up my bed mattress say I  
25 had more money and I never. Then he lead me on down to

JAMES WRIGHT - CROSS

1 Rocky room.

2 Q. Okay. Are you doing okay, Mr. Wright? Do you want  
3 some water?

4 A. No. I don't want nothing now.

5 Q. Okay. The night this happened, did you have anything  
6 to drink, any alcoholic beverage?

7 A. Yeah. Because I had went down home to my sister then  
8 when I come back from Harleyville up here I had me a drink  
9 earlier that night.

10 Q. About how much did you have to drink?

11 A. About a half of a half a pint.

12 Q. About a half pint?

13 A. Liquor.

14 Q. Now you're showing --

15 A. I have a pint bottle in there. I drink half of that.

16 Q. Okay. That would be half a pint?

17 A. No, it wasn't quite half a pint. I said half out of a  
18 half a pint.

19 Q. When this happened, were the lights on in your house?

20 A. No.

21 Q. Okay. And you never turned them on?

22 A. I never turned them on because the city streetlight  
23 was out there, and I could look through the glass and see,  
24 see their face.

25 Q. And once these guys were in your house, the lights

JAMES WRIGHT - CROSS

1 never got turned on --

2 A. No.

3 Q. -- correct? Okay. Do you remember how many police  
4 officers you spoke to before you went to the hospital?

5 A. It was four.

6 Q. Four?

7 A. But I don't know their names. It was four.

8 Q. That's okay. When the person who had the gun left the  
9 house, did he still have the gun with him?

10 A. Yeah, he carried that when he leave.

11 Q. So he came in, you say he hit you --

12 A. Yep.

13 Q. -- went to, took the gun, went to Rock's room, Rock  
14 was with the other guy, and then the same person had that  
15 gun and then they left the house?

16 A. Left out the back door.

17 Q. He had the same gun when he left as he had when he  
18 came in?

19 A. Right.

20 Q. And had it the whole time?

21 A. Yeah. Brought it in the house when he come in the  
22 door.

23 Q. Brought it in when he came in, took it out when he  
24 left?

25 A. (Nods head.)

## JAMES WRIGHT - CROSS

1 Q. Okay. And how many times were you hit that night?

2 A. What that?

3 Q. How many times were you hit that night?

4 A. How many time he hit me with the gun?

5 Q. Yes.

6 A. Three times up there and bust me on the lip there and  
7 had to put stitches inside my lip, four times.

8 Q. Four times. Three times in the head, once to the  
9 mouth?

10 A. Right.

11 Q. Okay. You testified that Investigator Garrison showed  
12 you some papers like this?

13 A. Yeah.

14 Q. Okay. But this piece of paper, State's One, was not  
15 the first one she showed you; is that right? This isn't  
16 the first piece of paper she brought to you?

17 A. Right.

18 Q. She brought some others to you before?

19 A. She brought some more, but I couldn't pick nobody out  
20 on that one there.

21 Q. Okay. All right. And did you say she brought three  
22 to you?

23 A. Sir?

24 Q. She brought three of these pieces of paper to you  
25 before this one, or four?

JAMES WRIGHT - CROSS

1 A. She brought three different days at the top. Nobody  
2 on the one she showed me at first.

3 Q. So she brought them on three days?

4 A. Yes, sir.

5 Q. One each day?

6 A. Every day she bring different ones. I find then that  
7 man over there.

8 Q. Okay. And these -- Mr. Wright, do you know somebody  
9 named Shakira Harrison?

10 A. Who that?

11 Q. Shakira Harrison. Do you know that name?

12 A. No.

13 Q. Never heard that name before?

14 A. No.

15 Q. Mr. Wright, have you ever had a problem before this  
16 night with Mr. Sprinkle?

17 A. No. No, sir.

18 Q. Never had any conflicts with him?

19 A. No, sir.

20 Q. No conflicts about some woman?

21 A. No, sir. Never did.

22 Q. Never did?

23 A. Nobody else since I moved to Orangeburg.

24 MR. WISE: All right. Your Honor, may I have one  
25 moment?

## JAMES WRIGHT - REDIRECT

1 THE COURT: Sure.

2 BY MR. WISE:

3 Q. When you were in Rock's room, did you hear the other  
4 person speaking?

5 A. Yeah. He was talking to Rocky.

6 Q. He was talking to Rocky. And did you hear the other  
7 person say this: I killed once and I'll kill again?

8 A. What that?

9 Q. Did you hear the other person say: I killed once and  
10 I'll kill again? Did you hear that other person say that?

11 A. No, I never heard him say that; no.

12 MR. WISE: Okay. Mr. Wright, thank you.

13 THE COURT: Anything on redirect?

14 MS. FORD: Just briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY MS. FORD:

17 Q. Just a couple more questions, Mr. Wright. Okay?

18 A. All right.

19 Q. Mr. Wright, can you get to Mr. Rocky's bedroom -- now,  
20 we're talking about the house. Can you get to Mr. Rocky's  
21 bedroom without going by your bedroom?

22 A. Nope -- yeah, you can. It was a back door to the  
23 trailer. They come in through the front.

24 Q. Okay. Are the bedrooms close by?

25 A. No. Mine's in the middle of the trailer and Rocky was

1 on the end.

2 Q. Okay. But it wasn't one was on one end and one was on  
3 the other?

4 A. Right.

5 Q. Are they off the same hallway?

6 A. Yes, ma'am.

7 Q. And tell me, Mr. Wright, how much money did he get  
8 from you?

9 A. Well all I can estimate be in my pocket was about \$40.

10 Q. And that's what was taken from your whole pocketbook  
11 you called it?

12 A. Yeah. They took everything.

13 Q. Everything. No further questions.

14 THE COURT: Anything on recross?

15 MR. WISE: No, Your Honor. Thank you.

16 THE COURT: Thank you, sir. All right.

17 Mr. Wright, you may step down. Thank you, sir.

18 THE WITNESS: All right.

19 THE COURT: Be careful stepping down.

20 THE WITNESS: All right.

21 THE COURT: State ready to call its next witness?

22 MS. FORD: We are, Your Honor.

23 THE COURT: Okay.

24 MS. FORD: State would call Robert Rumph.

25 ROBERT PRESTON RUMPH, having been duly sworn, was



ROBERT PRESTON RUMPH - DIRECT

1 examined and testified as follows:

2 THE WITNESS: My name is Robert P. for Preston Rumph  
3 R-U-M-P-H.

4 THE CLERK: Thank you, sir.

5 THE COURT: Ms. Ford, your witness.

6 MS. FORD: Thank you, Your Honor.

7 THE COURT: Yes, ma'am.

8 DIRECT EXAMINATION

9 BY MS. FORD:

10 Q. Mr. Rumph, did you used to live off of Myers Road here  
11 in Orangeburg?

12 A. Yes.

13 Q. Who did you live with?

14 A. I was the owner of a trailer, me and James Wright  
15 lived together.

16 Q. Have you ever been the victim of a robbery?

17 A. Yes.

18 Q. Did that happen back in June of 2011?

19 A. Yes.

20 Q. What happened?

21 A. What happened is about that night, James Wright come  
22 to my bedroom and said two boys out there want to use the  
23 phone. One call you uncle. I said, let them in. He let  
24 them in. But then I was in my bed and I was asleep. I  
25 didn't know nothing about them in the trailer at the time.

ROBERT PRESTON RUMPH - DIRECT

1 Q. Okay. When did you learn something was going on?

2 A. The young man was, came down to my room. He had a gun  
3 pointed at me. He said, give me your money. I said, I  
4 don't have no money. Give me your money.

5 When I look up I said, the money, it was on the  
6 dresser right there.

7 Q. About how much money was on your dresser?

8 A. It was about 50, 50-some-odd dollars.

9 Q. And did he take that?

10 A. He took that. He said, that's not all of it.

11 Q. Okay. What else happened?

12 A. He said, he made the statement to me, give me the  
13 money, man. Don't make me kill you over this little bit  
14 of money.

15 Q. Okay. At this point, how many people are in your  
16 room? Are you still in your bedroom?

17 A. I was still in my bedroom.

18 Q. Okay. How many people were in your bedroom?

19 A. Me, and that one person.

20 Q. Okay. At any point, did other people come in your  
21 bedroom?

22 A. Yes.

23 Q. Tell me about that.

24 A. That was James Wright. And the young man that was the  
25 short hair came down to the room and then when they came

ROBERT PRESTON RUMPH - DIRECT

1 down to my room the young man with the dreads on his hair,  
2 he was in the room.

3 Q. Okay. What happened when everybody was all in the  
4 room together?

5 A. I give them the money from out of my closet. He  
6 cocked the gun and say that, don't make me kill you over  
7 this little bit of money. I said, okay.

8 Q. So --

9 A. So I give him the money.

10 Q. Okay. Did they ever hurt you?

11 A. Yes.

12 Q. What happened? How did they hurt you?

13 A. Cut me.

14 Q. With what?

15 A. A knife.

16 Q. Who cut you with a knife?

17 A. The one with the dreads.

18 Q. Okay. Did the one with the dreads always have a  
19 knife?

20 A. No. When he came in my bedroom, he had the pistol.

21 Q. The one with the dreads had the pistol?

22 A. Yes.

23 Q. Okay. How did he get the knife?

24 A. Him and the other boy changed weapons.

25 Q. Okay.

ROBERT PRESTON RUMPH - DIRECT

1 A. And he said, make him talk.

2 Q. Who said, make him talk?

3 A. The one with the short hair. That would be Vivian's  
4 son.

5 Q. So you knew the boy with the short hair?

6 A. Yes.

7 Q. How did you know him?

8 A. Me, his mother was socializing together.

9 Q. So you'd seen him around before?

10 A. A time, once or twice. As a matter of fact, I loaned  
11 him some money.

12 Q. So you knew the one with the short haircut then?

13 A. Yes.

14 Q. And let's go back to what you just said about one of  
15 them said, make him talk. Can you explain that for me?

16 Who said what?

17 A. The one with the short hair which was Vivian's son  
18 told the other one with the dreads to make him talk.

19 Q. Meaning you?

20 A. (Gestures.)

21 Q. What happened then?

22 A. Well, he started cutting on me.

23 Q. Okay. Where did you get cut, Mr. Rumph?

24 A. In the side of my stomach, on my leg, on my arm and on  
25 my foot.

ROBERT PRESTON RUMPH - DIRECT

1 MS. FORD: (Showing document to defense counsel.)

2 Q. Mr. Rumph, after you got cut, what happened?

3 A. When they was getting ready to leave out the back  
4 door, and the one with the short hair made a statement to  
5 me, don't you never disrespect my mama because I will be  
6 back.

7 Q. Okay. Did they take anything else from you?

8 A. My car, and my money, my pants and a hat.

9 Q. Your pants?

10 A. My pair of pants, a black pair of pants and a hat.

11 Q. And you said that they took your car?

12 A. Yes.

13 Q. What kind of car was that?

14 A. Buick Roadmaster.

15 Q. How did they get your car though? Did they ask you  
16 for your keys?

17 A. Yes.

18 Q. Did you give it to them?

19 A. I told them the key was in the car.

20 Q. And then what happened to them? Did they leave?

21 A. As far as I know they leave.

22 Q. In your car?

23 A. In my car.

24 Q. Okay. After they left, did law enforcement come to  
25 the house?

ROBERT PRESTON RUMPH - DIRECT

1 A. Yes.

2 Q. Did the ambulance come to the house?

3 A. When -- yes, the ambulance came.

4 Q. Because you were injured; right?

5 A. Right.

6 Q. Okay. I'm going to show you some pictures that have  
7 been marked State's Exhibit Four, Five, Six, Seven and  
8 Eight. You take a look and see if you know what those  
9 things are.

10 A. Number Eight is when I put -- my cut on my foot.

11 Number Seven where he cut me in the side of my, my  
12 side and my stomach.

13 Six is they cut me on my leg.

14 Seven where he cut me on my arm.

15 Four is another one on my foot.

16 Q. Thank you, Mr. Rumph. Did you talk to the police?

17 A. Yes.

18 Q. Okay. Did you tell them what happened?

19 A. Yes.

20 Q. Did you tell them about the people that were in your  
21 house?

22 A. Yes.

23 Q. How many people were in your house, Mr. Rumph?

24 A. Two.

25 Q. Did you tell the police that you knew one of them?

ROBERT PRESTON RUMPH - DIRECT

1 A. Yes.

2 Q. Okay. Did you tell the police how you knew them?

3 A. Yes.

4 Q. Okay. Did the police officers ever show you any  
5 pictures?

6 A. Yes.

7 MS. FORD: (Document shown to defense counsel.)

8 Q. Mr. Rumph, I'll show you what's been marked State's  
9 Exhibit Three. Did any police officer ever show you that  
10 before?

11 A. Yes.

12 Q. What is that of?

13 A. This is a picture of Vivian's son.

14 Q. Okay. Vivian's son being one of the people that was  
15 in the house?

16 A. In my house.

17 Q. Is this the one with the longer hair or the short  
18 hair?

19 A. Short hair.

20 Q. Okay. Did you put your initials on there?

21 A. Yes, I did.

22 Q. And you circled that?

23 A. Yes, I did.

24 Q. Did the police officer show you any other lineups?

25 A. Yes.

ROBERT PRESTON RUMPH - DIRECT

1 Q. Did you pick anyone out?

2 A. No.

3 Q. Okay. Did you give the police a description of the  
4 other person?

5 A. Yes.

6 Q. What did you tell the police?

7 A. Black guy with long dreads on his hair.

8 Q. Okay. Mr. Rumph, you said there were two people in  
9 your house?

10 A. Yes.

11 Q. One that you knew; right?

12 A. Yes.

13 Q. And the other with dreads?

14 A. Right.

15 Q. And those people stole your pants?

16 A. Pants, my car, and my money.

17 Q. And your money?

18 A. And a hat.

19 Q. And your hat. Okay.

20 Beg the Court's indulgence, Your Honor.

21 THE COURT: And, Ms. Ford, before you ask and get -- I  
22 believe when he was looking at State's Five --

23 MS. FORD: Yes, sir.

24 THE COURT: -- the cut on the arm, he indicated it  
25 was, the second time he said Seven. Is State's Five, the



ROBERT PRESTON RUMPH - DIRECT

1 cut on the arm?

2 MS. FORD: Yes, sir.

3 THE COURT: And I just want to clarify that. That is  
4 State's Five, and that is the cut on the arm?

5 MS. FORD: Take a look at that, Mr. Rumph.

6 THE COURT: Is that the cut on your arm?

7 THE WITNESS: Yes.

8 THE COURT: Okay. And that is State's Five?

9 MS. FORD: Yes, sir.

10 THE COURT: I may have misheard but I wanted to make  
11 sure that was correct on the record.

12 MS. FORD: Yes, sir.

13 THE COURT: All right.

14 BY MS. FORD:

15 Q. Mr. Rumph, just one more thing. Did anybody else come  
16 inside the house the night that you got robbed other than  
17 those two people?

18 A. No.

19 Q. Just two people?

20 A. Just them two people.

21 Q. That's all you saw?

22 A. That's all.

23 MS. FORD: No further questions at this time.

24 Mr. Rumph, if you'll just answer any questions that

25 Mr. Wise or Ms. Ullman may have for you. Okay?

ROBERT PRESTON RUMPH - CROSS

1 THE WITNESS: Okay.

2 MS. FORD: Thank you, sir.

3 THE COURT: Your witness, Mr. Wise.

4 MR. WISE: Thank you, Your Honor.

5 THE COURT: Yes, sir.

6 CROSS-EXAMINATION

7 BY MR. WISE:

8 Q. Mr. Rumph, how are you?

9 A. I'm fine.

10 Q. Good. Mr. Rumph, what I want to do first is I want to  
11 make sure that we understand everybody that's involved in  
12 this case.

13 You mentioned a woman named Vivian Johnson; correct?

14 A. Right.

15 Q. Is that your girlfriend?

16 A. That was a lady I was socializing with.

17 Q. Okay. You and she kept company sometimes?

18 A. Yes.

19 Q. And Ms. Johnson knew that you kept a lot of money in  
20 your house; correct?

21 A. Right.

22 Q. Now Sean Echols, do you know that name? You know that  
23 name?

24 A. Yes.

25 Q. That's her son?

ROBERT PRESTON RUMPH - CROSS

1 A. Yes.

2 Q. Okay. And you said that you knew him before this  
3 thing happened?

4 A. I loaned him some money.

5 Q. Okay. How long have you known him?

6 A. I didn't know him. I didn't -- I don't know him a  
7 whole lot. I know of him.

8 Q. Okay. You said you loaned him money. How many times  
9 did you loan him money?

10 A. Once.

11 Q. One time. Okay. And when did you meet him?

12 A. Matter of fact I, if I'm not mistaken he was the one  
13 in jail or in prison.

14 Q. How long ago did you meet him?

15 A. I don't recall.

16 Q. Years?

17 A. No. About two or three months.

18 Q. Two or three months before this happened?

19 A. Yeah.

20 Q. Okay. Okay. And before this night had he ever been  
21 to your house?

22 A. No.

23 Q. He knew -- did he know where you lived before this  
24 night?

25 MS. FORD: Objection.

ROBERT PRESTON RUMPH - CROSS

1 THE WITNESS: I don't, I don't know.

2 MS. FORD: Objection, Your Honor.

3 THE COURT: He --

4 MS. FORD: He answered the question, he doesn't.

5 THE COURT: Okay. He already answered that he didn't  
6 know.

7 BY MR. WISE:

8 Q. And obviously James Wright is your roommate?

9 A. Yes.

10 Q. Now do you sometimes call James Peg?

11 A. Yes.

12 Q. Is that like a nickname he goes by?

13 A. Right.

14 Q. But on the night this thing happened, you didn't know  
15 Richard Sprinkle?

16 A. (Shakes head.)

17 Q. Never seen him before?

18 A. Not as I can remember.

19 Q. Okay. Now you said I think on direct examination

20 Mr -- the night this happened, Mr. Wright came in to you  
21 and he said two boys want to use the phone. Is that what  
22 he said to you?

23 A. That what he said.

24 Q. Okay. And you said okay, said it was okay?

25 A. I said it was okay.

ROBERT PRESTON RUMPH - CROSS

1 Q. Okay. All right. Do you remember what time this  
2 happened?

3 A. I don't recall exactly what time. I think it was  
4 between two and three.

5 Q. Okay. All right. Now you said you're in your bed and  
6 you wake up and there's a guy in your bedroom with a gun;  
7 is that right?

8 A. Right.

9 Q. Pointing it at you; right?

10 A. Yes.

11 Q. Okay. Did he wake you up when he came to the room?  
12 Did he say, wake up, Mr. Rumph?

13 A. No.

14 Q. You were already awake?

15 A. I was, I was asleep. And undoubtedly he must have cut  
16 the light on in my bedroom. My TV, I don't never cut it  
17 off. My TV I leave on in my house 24-7 in my bedroom.

18 Q. Did you hear anything going on before he came into  
19 your room?

20 A. No.

21 Q. Okay. You never heard any commotion out of  
22 Mr. Wright's room before?

23 A. No.

24 Q. So Mr. Wright comes in, he wakes you up, says he wants  
25 to use the phone. You go back to sleep. Next thing you

ROBERT PRESTON RUMPH - CROSS

1 know a man's in your room?

2 A. Right.

3 Q. Now I want to talk about this incident. Earlier in  
4 the evening of the day this happened, did Sean Echols call  
5 you to tell you he was coming over to your house?

6 A. He called me and tell me on Friday he was bringing me  
7 my money I loaned him.

8 Q. Okay. And did you tell Investigator Garrison that it  
9 was the small guy who hit you with -- who hit Mr. Wright  
10 with the gun. Do you remember saying that?

11 A. Yes.

12 Q. Okay. The small guy hit Wright with the gun?

13 A. Right.

14 Q. Okay. And the tall guy is the guy that cut you?

15 A. Yes.

16 Q. The small guy hits Mr. Wright, the tall guy cuts you?

17 A. (Nods head.)

18 Q. When the person who came into your room with the gun  
19 got the money, did he say, I got it? Did he yell that  
20 to --

21 A. The other guy?

22 Q. Yes.

23 A. Yes.

24 Q. So he got the money from you and then said, I got it?

25 A. Yes.

ROBERT PRESTON RUMPH - CROSS

1 Q. And then the other guy came in?

2 A. Both of them.

3 Q. Both of them came in. When you say both of them, you  
4 mean the other guy and Mr. Wright?

5 A. Yeah.

6 Q. Okay. And I think you testified that the other person  
7 said -- Sean said, because we know who it is, something  
8 about, don't make me kill you over this little bit of  
9 money?

10 A. Not Sean. The other, the other one with the dreads.

11 Q. The dreads said that?

12 A. Yes.

13 Q. Okay. Sean said, don't disrespect my mama, I'll be  
14 back?

15 A. Yes.

16 Q. Did he also say, I killed once, I'll kill again? Did  
17 he say that to you?

18 A. I can't recall.

19 Q. You can't recall. Mr. Rumph, just bear with me just  
20 one second. (Pause.)

21 Mr. Rumph, do you remember writing a statement for  
22 Investigator Garrison?

23 A. I can't write.

24 Q. You can't write? Okay. Do you remember this  
25 statement?

ROBERT PRESTON RUMPH - CROSS

1 A. If you read it. Can you read it for me?

2 Q. I can read you the whole thing but --

3 A. Read it.

4 Q. -- I just have a question about one of it. But, do  
5 you --

6 A. Read it. If you read it, I'll answer you what you  
7 want me to answer.

8 Q. You'll answer. When you spoke to Investigator  
9 Garrison, do you remember telling her that the person  
10 said, I killed once, I'll kill again?

11 A. I, I can't recall that.

12 Q. Okay. All right. You went to the hospital with  
13 Mr. Wright?

14 A. Yes.

15 Q. Do you remember how long you were there?

16 A. About two hours.

17 Q. Two hours. Okay. Now I asked you about Vivian. The  
18 night this happened, she called you twice; didn't she?

19 A. Yes.

20 Q. Okay. Earlier in the evening, and then she called  
21 back later to ask if she could come over; is that right?

22 A. That's right.

23 Q. And when Vivian called you later in the evening, did  
24 you tell her that her son had robbed you? Did you tell  
25 her that?



ROBERT PRESTON RUMPH - CROSS

- 1 A. When?
- 2 Q. After these guys left the house, did there come a time
- 3 that night when you spoke to Vivian Johnson and told her,
- 4 your son robbed me?
- 5 A. No.
- 6 Q. You never told her that?
- 7 A. That happened on that Sunday morning.
- 8 Q. Okay.
- 9 A. Vivian called me. I told her, your son come in and
- 10 robbed me.
- 11 Q. Okay. And when you had that conversation with her,
- 12 did she ask you if Mr. Wright knew that it was her son who
- 13 did that?
- 14 A. She asked did I told anybody.
- 15 Q. Right. And what did you say?
- 16 A. Yes.
- 17 Q. Okay. And she asked you?
- 18 A. Not to tell.
- 19 Q. Not to tell?
- 20 A. Not to tell anybody that it was her son.
- 21 Q. Okay. And there came a point after you got back from
- 22 the hospital that Vivian came back to your house?
- 23 A. Yes.
- 24 Q. How long had you been home before Vivian got there?
- 25 A. I don't recall.

ROBERT PRESTON RUMPH - CROSS

1 Q. Was it more than an hour?

2 A. I can't remember.

3 Q. Okay. Do you remember telling Investigator Garrison  
4 that it was right after you came home that she came  
5 there? Do you remember using that expression?

6 A. It might have been.

7 Q. Okay. All right. And Mr. Rumph, are you employed?

8 A. No.

9 Q. And how do you support yourself?

10 A. I get -- on Disability.

11 Q. How much money was taken this night?

12 A. A little over a thousand dollars.

13 Q. Okay. In cash?

14 A. In cash.

15 Q. Okay. And obviously that was your cash that they  
16 took?

17 A. Yes.

18 Q. And how much do you get on Disability?

19 A. I make my money playing cards. I play cards. I  
20 gamble.

21 Q. Okay. I assume if you can have a thousand dollars in  
22 cash you are a good gambler?

23 A. Excuse me?

24 Q. If you have a thousand dollars in cash in your home  
25 you are a good gambler. You do well. You win.

ROBERT PRESTON RUMPH - CROSS

- 1 A. Not really.
- 2 Q. Okay. So having a thousand dollars, that's not good?
- 3 A. It's not?
- 4 Q. No. It was a question. It was a question. That's
- 5 okay. I'll withdraw it.
- 6 Were you playing cards the night this happened?
- 7 A. Yes.
- 8 Q. How much earlier had you been playing cards before
- 9 this happened?
- 10 A. Let me rephrase something. Also in my house where I
- 11 play cards at, I make money on cutting a game.
- 12 Q. What does that mean?
- 13 A. We play cards. You got to give the house a cut.
- 14 Q. So I'm going to back up. The night this happened, was
- 15 there a card game at your house?
- 16 A. Yes.
- 17 Q. How many people?
- 18 A. I don't know.
- 19 Q. Two? Three? Ten?
- 20 A. Might be six or seven.
- 21 Q. Six or seven people. What kind of card game do you
- 22 play?
- 23 A. Skin.
- 24 Q. Skin. And how long had this game been going on?
- 25 When did it start? When did it end?

ROBERT PRESTON RUMPH - CROSS

1 A. I can't recall.

2 Q. Do you remember how long it lasted? An hour? Two  
3 hours? Five hours?

4 A. Might have been three hours.

5 Q. And so people are playing skin and every time they bet  
6 on a hand, the house gets so much, you get so much money?

7 A. Yes.

8 Q. Okay. Were you playing?

9 A. Yes.

10 Q. Okay. So you're making money from the card game but  
11 you're also making money from the house cut?

12 A. Right.

13 Q. Okay. Did you win money that night playing skin?

14 A. I can't recall.

15 Q. Okay. Do you remember at what point the card game  
16 ended? Do you remember what time that was?

17 A. I can't recall that.

18 Q. Okay.

19 A. But then I can recall Vivian calling me asking me  
20 about coming over. I told her I was in the bed.

21 Q. Okay. Had the card game been over for an hour, two  
22 hours, three hours before this thing happened?

23 A. Maybe about two hours.

24 Q. Okay. While the person was in your room, did you tell  
25 him to go to your brother's house because your brother had

ROBERT PRESTON RUMPH - CROSS

1 more money that belonged to you?

2 A. Yes.

3 Q. Was that true?

4 A. No.

5 Q. Okay. So you sent them to your brother's house but  
6 your brother did not have any more money?

7 A. They didn't go to my brother's house.

8 Q. But you told them to go there for more money?

9 A. No. I tell them, let me go over there and get more  
10 money from my brother.

11 Q. Okay. You had more money at your brother's house?

12 A. No.

13 Q. Okay. You testified that the person -- a person said,  
14 make him talk. Do you remember saying that?

15 A. Yes.

16 Q. The person that said, make him talk, was that Sean?  
17 Did Sean say those words?

18 A. Sean said them words.

19 Q. Okay. And that was after the money was found; is that  
20 right?

21 A. Yes.

22 Q. Okay. So the person finds the money. Yells, I got  
23 it. And then Sean says, make him talk?

24 A. Yes.

25 Q. Okay. All right. When Sean walked into the bedroom,

ROBERT PRESTON RUMPH - REDIRECT

1 your bedroom that night and you looked up, you knew right  
2 away that was Sean; didn't you?

3 A. Sean, I didn't know him. I didn't know he was in the  
4 house until he came down afterwards. The guy with the  
5 dreads was in my bedroom. I didn't know Sean was in there  
6 during the time.

7 Q. There came a point when Sean came into your room?

8 A. Yes.

9 Q. And when he came into your room and you looked up and  
10 you saw him?

11 A. Yes.

12 Q. And you knew him when you saw him?

13 A. Right.

14 MR. WISE: Could I have one moment?

15 THE COURT: Sure.

16 MR. WISE: Just give me one second.

17 (Pause.)

18 MR. WISE: Mr. Rumph, thank you.

19 THE COURT: Anything on redirect, Ms. Ford?

20 MS. FORD: Yes, Your Honor.

21 THE COURT: Okay.

22

23 REDIRECT EXAMINATION

24 BY MS. FORD:

25 Q. Mr. Rumph, why did you tell the two boys that were

1 robbing you in your house to let you go to your brother's  
2 house to get more money?

3 A. That was before I give them the money out of my coat  
4 pocket in the closet.

5 Q. Okay.

6 A. Matter of fact, I was telling them about my brother  
7 next door to me and about, got to him he would have  
8 brought his shotgun out where he would have probably  
9 killed them.

10 Q. So, that's why you said to let you go there?

11 A. Yes.

12 MS. FORD: Thank you, Mr. Rumph.

13 THE COURT: Anything on recross?

14 MR. WISE: No, Your Honor. Thank you.

15 THE COURT: All right. Mr. Rumph, you may step down.

16 Ladies and gentlemen, y'all have been listening  
17 attentively and patiently. We're going to take about a  
18 ten-minute break, let you stretch your legs, go to the  
19 restroom if you need to.

20 Remember, you cannot begin talking about the testimony  
21 that you've heard. Okay? Thank y'all.

22 (Jury exits courtroom at 4:06 p.m. A break was taken  
23 until 4:18 p.m., and the trial resumed:)

24 THE COURT: State ready to proceed?

25 MS. FORD: We are.

DAVID McROY - DIRECT

1 THE COURT: Defense ready to proceed?

2 MS. ULLMAN: We are.

3 (Jury enters courtroom at 4:18 p.m.)

4 THE COURT: All right. Ladies and gentlemen,  
5 appreciate your attention. We're going to continue with  
6 the State's case now.

7 Ms. Ford?

8 MS. FORD: Thank you, Your Honor. State calls Deputy  
9 McRoy.

10 DAVID McROY, having been duly sworn, was examined and  
11 testified as follows:

12 THE CLERK: Thank you. You may have a seat. Please  
13 state your name for the record.

14 THE WITNESS: David McRoy.

15 DIRECT EXAMINATION

16 BY MS. FORD:

17 Q. Deputy, where do you work?

18 A. The Orangeburg Sheriff's Department.

19 Q. How long have you been working in law enforcement?

20 A. Twenty years.

21 Q. What do you do as a deputy?

22 A. I'm a road deputy. Answer calls.

23 Q. Were you working the night of June 26, 2011?

24 A. Yes, ma'am.

25 Q. Did you respond to a call at 2180 Myers Road?



DAVID McROY - DIRECT

1 A. Yes, ma'am.

2 Q. Is that here in Orangeburg County?

3 A. Yes, ma'am.

4 Q. What did you find out about the incident at that  
5 location?

6 A. I responded probably two o'clock in the morning, met  
7 with two victims. The victim stated that the car had been  
8 stolen and the wallets had been stolen.

9 MR. WISE: I'd object to the hearsay as to what he was  
10 told.

11 THE COURT: Okay. I'm going to overrule the  
12 objection. Let him testify, not for the truth of the  
13 matter asserted, just what he was told, the reason why he  
14 was there. Go ahead.

15 BY MS. FORD:

16 Q. Continue.

17 A. And they said that one of the victim's cars was stolen  
18 and both victims had been assaulted.

19 Q. Okay. You said assaulted. How had they been  
20 assaulted?

21 A. One victim had a cut across his chest. One was cut on  
22 his foot, his left foot. And one I think had a cut on his  
23 forearm. The other one had a big old gash on the top of  
24 his head.

25 Q. The one with the cuts, was that the same victim?

DAVID McROY - DIRECT

1 A. There were two victims.

2 Q. Two victims?

3 A. Yes, ma'am.

4 Q. Okay. Can you describe what the scene looked like  
5 when you got there?

6 A. When we got there it was a lot of blood. So we knew  
7 it was something big so the detectives were called and  
8 everything.

9 So we didn't -- I went into the first part of the  
10 house. There was a lot of blood there. And one of the  
11 victims came out on the front porch, and there was a lot  
12 of blood. His foot was bleeding bad, but it was pretty  
13 bloody the first part of the house.

14 I didn't go in the back house or anything because I  
15 knew the crime scene guys were coming.

16 Q. Okay. Did you ask the victims about the suspects?

17 A. Yes, ma'am. They said that they were two black males,  
18 one was about five-ten, medium build. One was about six  
19 foot, medium build. They said they both had black clothes  
20 on, dark clothes.

21 Q. Did you ask the victims a lot of questions about the  
22 suspects?

23 A. No, ma'am. I knew the detectives were on the way so I  
24 just secured the scene and cleared the scene for EMS.

25 Q. Okay. What was your priority that evening when you

DAVID McROY - CROSS

1 responded to that call?

2 A. To make sure nobody trampled all over the scene  
3 because there was a lot of blood and stuff.

4 Q. And did you call EMS?

5 A. Well, when something big like this happens the  
6 detectives were called out and the supervisors come,  
7 everybody came. So it was a crime scene so the detectives  
8 did that.

9 Q. Were you there when EMS came and took the victims?

10 A. Yes, ma'am.

11 Q. Did you follow up this investigation or did you turn  
12 it over to someone else?

13 A. No, ma'am. It just goes to a detective if it's a big  
14 case.

15 Q. All right. Thank you, Deputy McRoy. Please answer  
16 any further questions from counsel.

17 THE COURT: Anything on cross?

18 MR. WISE: Thank you, Your Honor.

19 THE COURT: All right.

20 CROSS-EXAMINATION

21 BY MR. WISE:

22 Q. Deputy McRoy, how are you?

23 A. Good. Thank you.

24 Q. Okay. Deputy McRoy, you responded to the scene that  
25 night and you spoke to Mr. Wright and Mr. Rumph and then

DAVID McROY - CROSS

1 you filled out an incident report; correct?

2 A. Yes, sir.

3 Q. And just explain to the jury what an incident report  
4 is.

5 A. I basically document what I've been told by the two  
6 victims.

7 Q. Okay. And when you say document, you write down?

8 A. Yes, yes.

9 Q. Okay. Why do you do incident reports?

10 A. For court purposes or to start the report, I guess, on  
11 a case.

12 Q. Okay. And incident reports are important; aren't  
13 they?

14 A. Yes, sir.

15 Q. Okay. One of the reasons you do an incident report is  
16 so that you don't forget something?

17 A. Yes.

18 Q. Okay. Very good. I want to ask you a few questions  
19 about your incident report. Let me ask you this. You  
20 were told that this happened at about 2:20 in the morning;  
21 correct?

22 A. Yes.

23 Q. Do you have your incident report with you?

24 A. No, sir.

25 Q. Would you like to see it?

DAVID McROY - CROSS

1 A. Please.

2 Q. Okay.

3 MR. WISE: May I approach the witness, Your Honor?

4 THE COURT: You may.

5 BY MR. WISE:

6 Q. (Document handed to witness.) And that is your  
7 incident report from that night?

8 A. Yes, sir.

9 Q. Okay. Now, your incident report does not show any  
10 forced entry; correct?

11 A. No, sir.

12 Q. Okay. And where it says, was there forced entry, you  
13 checked no?

14 A. Yes, sir.

15 Q. Okay. Very good. And you don't have any names of  
16 people who were involved in this?

17 A. No, sir.

18 Q. No Ricky, no Sean, no Richard, no nothing?

19 A. No, sir.

20 Q. Okay. One is described actually as unknown?

21 A. Yes, sir.

22 Q. And the other space for the suspect is just left  
23 blank?

24 A. Yes, sir.

25 Q. Okay. And where on the incident report you are asked

DAVID McROY - REDIRECT

1 if the subjects have been identified, you checked no?

2 A. Yes, sir.

3 Q. Okay. You do have descriptions for the height and the  
4 weight, the hair, the eyes, the race, the sex, the age and  
5 the clothes; correct?

6 A. Yes, sir.

7 Q. You have all of that information?

8 A. Yes, sir.

9 Q. But no names?

10 A. Yes, sir.

11 Q. Okay. So when you left the house that night you were  
12 looking for two unknown individuals?

13 A. Yes, sir.

14 MR. WISE: Thank you.

15 THE WITNESS: Thank you.

16 THE COURT: Anything on redirect?

17 MS. FORD: Beg the Court's indulgence, Your Honor.

18 THE COURT: Yeah. Take your time.

19 MS. FORD: Just briefly.

20 REDIRECT EXAMINATION

21 BY MS. FORD:

22 Q. Deputy McRoy, did you inquire of these victims  
23 anything other than a general description?

24 A. No, ma'am.

25 Q. And why not?

DAVID McROY - RECROSS

1 A. Like I said, it was a big case. And I knew the  
2 detectives were coming. And one of them had a big old  
3 gash on his head, one was bleeding out of his foot so I  
4 didn't want to aggravate them. And I just knew the  
5 detectives were coming and were going to follow up on it.  
6 So I just got the basic initial stuff I needed for the  
7 report and --

8 MS. FORD: Thank you, Deputy.

9 THE COURT: Anything on recross?

10 MR. WISE: Just one question.

11 RECROSS-EXAMINATION

12 BY MR. WISE:

13 Q. Deputy, you didn't want to aggravate them. Did you  
14 think finding out who did this to them would aggravate  
15 them?

16 A. Did I think it would aggravate them?

17 Q. Yeah.

18 A. No, sir.

19 MR. WISE: Thank you.

20 THE COURT: All right. Thank you, sir. You may step  
21 down. Appreciate it. Be careful stepping down.

22 THE WITNESS: All right.

23 THE COURT: Who's next?

24 MS. FORD: The State would call Investigator Lori  
25 Garrison.

LORI GARRISON - DIRECT

1 LORI ANN LEWIS GARRISON, having been duly sworn was  
2 examined and testified as follows:

3 THE CLERK: Thank you. You may have a seat. State  
4 your name for the record.

5 THE WITNESS: Lori Ann Lewis Garrison.

6 DIRECT EXAMINATION

7 BY MS. FORD:

8 Q. Good afternoon, Investigator.

9 A. Good afternoon.

10 Q. Where are you employed?

11 A. I'm employed with the Orangeburg County Sheriff's  
12 Office.

13 Q. How long have you been in law enforcement,  
14 Investigator?

15 A. I've been in law enforcement for approximately 15  
16 years.

17 Q. Okay. What do you do as an investigator, generally?

18 A. We investigate criminal offenses.

19 Q. Okay.

20 A. Major crimes.

21 Q. Yes, ma'am. Did you investigate an incident that took  
22 place on June 26 of 2011?

23 A. Yes, I did.

24 Q. Where did that incident take place?

25 A. 2180 Myers Road.



LORI GARRISON - DIRECT

1 Q. And what did you learn about that incident? What  
2 happened?

3 A. What I learned about that incident is that two black  
4 males came into that residence with -- under the pretense  
5 of using a phone based on an assumption.

6 MR. WISE: Your Honor, can we interject the same  
7 objection as to hearsay?

8 THE COURT: Hearsay?

9 MR. WISE: Yes.

10 THE COURT: And I'm going to overrule that objection.  
11 It's being introduced not for the truth of what she's  
12 saying. It's just what she was told while she was  
13 investigating the scene.

14 Okay. Thank you.

15 MR. WISE: Thank you, Your Honor.

16 BY MS. FORD:

17 Q. Please continue.

18 A. Two black males entered the residence with the  
19 pretense of using the telephone from the victims, Robert  
20 Rumph and James Wright.

21 Upon them entering the home, the victims were brutally  
22 assaulted. There was blood all over the residence from  
23 the, from the starting point all the way into the  
24 bedrooms.

25 In Mr. Rumph's bed there was also a pool of blood and

LORI GARRISON - DIRECT

1 pools of blood throughout the hall.

2 Q. Okay. So obviously you learned that the victims were  
3 assaulted?

4 A. Yes.

5 Q. Did anything else happen to the victims?

6 A. The victims were robbed. And Robert Rumph's car was  
7 taken at that time.

8 Q. Did you know what they had been robbed of or what had  
9 been stolen from them?

10 A. At the time it was money.

11 Q. Okay. Did you meet with the victims that night?

12 A. Yes. I spoke to them briefly at their home. Because  
13 of their injuries we wanted to make sure that they were  
14 taken care of, so the ambulance was called in. They went  
15 straight to the hospital.

16 Q. What types of injuries did the victims have,  
17 Investigator?

18 A. Okay. Mr. Wright had several deep lacerations to his  
19 head, bumps and bruises to his head. Mr. Rumph had  
20 several cuts to his foot, his arm, his legs and his  
21 abdomen.

22 Q. Investigator, did you go to the Regional Medical  
23 Center?

24 A. Yes, I did.

25 Q. Okay. Did you happen to take any pictures of the

LORI GARRISON - DIRECT

1 victims and their injuries?

2 A. Yes, I did.

3 MS. FORD: Your Honor, may I approach?

4 THE COURT: You may.

5 BY MS. FORD:

6 Q. Investigator, I'm going to show you what's been marked  
7 State's Exhibit Nine, Ten, 11 and 12. Can you identify  
8 these for the Court?

9 A. This is a picture of Mr. Wright at the hospital.  
10 Trying to depict his lip, but you can't see it really  
11 good. It was a deep laceration to his lip.

12 This is also Mr. Wright, his head. Had injury to his  
13 head. After he'd been cleaned up some from the hospital.

14 Also Mr. Wright, his head, another head injury. All  
15 of these are Mr. Wright's head injuries at that time which  
16 had been cleaned up since the time that I saw him at the  
17 house.

18 Q. Did they look like that at the house?

19 A. No. They were -- it was blood everywhere. It was  
20 blood all over them, so they had to get cleaned up.

21 Q. Did you take these pictures, Investigator?

22 A. Yes, I did.

23 Q. And do these pictures accurately depict what the  
24 victim, Mr. James Wright, looked like after they were  
25 cleaned up at the hospital?

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1 A. Yes, ma'am.

2 MS. FORD: Your Honor, at this time the State would  
3 offer into evidence State's Exhibit Nine, Ten, 11 and 12  
4 which have been pre-marked, Your Honor.

5 THE COURT: Any objection?

6 MR. WISE: No objection, Your Honor.

7 THE COURT: State's Nine, Ten, 11 and 12 are in  
8 evidence without objection.

9 (Thereupon, State's Exhibit Nos. 9, 10, 11 and 12,  
10 photographs, were received into evidence.)

11 BY MS. FORD:

12 Q. Did you happen to take any other pictures that  
13 evening, Investigator Garrison?

14 A. Yes, I did. I also took pictures of Mr. Rumph.

15 Q. Investigator, I'm going to show you what's been marked  
16 State's Four, Five, Six, Seven and Eight. Can you  
17 identify these for the Court?

18 A. This is Mr. Rumph's foot after it was -- stitches.

19 Mr. Rumph's arm after stitches.

20 This is his leg after it has been cleaned.

21 His abdomen.

22 Q. Investigator, can I stop you? Can you refer based on  
23 the numbers --

24 A. Oh, I'm sorry.

25 Q. -- what each -- that's okay. Just refer to the number

LORI GARRISON - DIRECT

1 and what you're describing, please.

2 A. Okay. This is picture Number Eight. This is  
3 Mr. Rumph's foot after it has --

4 MR. WISE: Your Honor, until these are moved into  
5 evidence, I think she should not publish them to the jury.

6 THE COURT: First of all, Investigator Garrison, what  
7 she wants to know is can you identify them.

8 THE WITNESS: Yes. Uh-huh.

9 THE COURT: And then she's going to ask you another  
10 follow-up question. And then after that if everything's  
11 in order, then you can publish them to the jury.

12 THE WITNESS: Okay.

13 THE COURT: I'm sorry.

14 THE WITNESS: Number Eight is a picture of Mr. Rumph's  
15 foot after it has been cleaned up and stitches by the  
16 hospital.

17 His abdomen area that has been cut.

18 BY MS. FORD:

19 Q. And what number was that, Investigator?

20 A. I'm sorry. Number Seven.

21 Q. Okay.

22 A. Number Four, picture of the foot, Mr. Rumph's.

23 Picture of Mr. Rumph's legs that was cut.

24 Q. And what number was that, Investigator?

25 A. I'm sorry. Number Six.

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1 Q. Thank you.

2 A. And this is picture Number Five, a picture of  
3 Mr. Rumph's arm after it has been cleaned up and stitched  
4 from the hospital.

5 Q. Investigator, do these pictures marked State's Four,  
6 Five, Six, Seven and Eight accurately depict the injuries  
7 sustained by Mr. Rumph on the night of June 26, 2011?

8 A. Yes.

9 Q. And you also took these pictures?

10 A. Yes, I did.

11 MS. FORD: Your Honor, at this time the State would  
12 move into evidence what's been marked State's Five, Six,  
13 Seven, Eight and Four, Your Honor.

14 THE COURT: Any objection?

15 MR. WISE: Can I see these, Your Honor?

16 MS. FORD: (Documents handed to defense counsel.)

17 MR. WISE: Your Honor, as to State's Exhibit Five, can  
18 I voir dire this witness very briefly?

19 THE COURT: You can ask her about it.

20 MR. WISE: Yes. Just ask her before --

21 THE COURT: What, I'll do is I'll hold that out until  
22 you get a chance to cross-examine.

23 MR. WISE: No objections to the rest of them.

24 THE COURT: Four, Six, Seven and Eight are in without  
25 objections, and we'll come back to Four (sic) after your

LORI GARRISON - DIRECT

1 cross-examination.

2 MS. FORD: Yes, sir. Thank you, Your Honor.

3 THE COURT: Thank you.

4 (Thereupon, State's Exhibit Nos. 4, 6, 7 and 8,  
5 photographs, were received into evidence.)

6 BY MS. FORD:

7 Q. Investigator, did you get the opportunity to talk with  
8 the victims about what happened to them that night?

9 A. Yes, I did.

10 Q. What did you learn from the victims?

11 A. As stated, what I learned from the victims that two  
12 black males entered their home and assaulted them to the  
13 point where they needed medical attention from the  
14 hospital.

15 Q. Did they give you a description of the subjects?

16 A. Yes, they did. Both described as dark-skin male.

17 Mr. Wright stated that one subject was a little taller  
18 than him, clean cut. The other subject was shorter, a  
19 little shorter than the other subject and he had long  
20 dreads, shoulder-length dreads.

21 Q. Okay. Did either of the victims know the subjects?

22 A. Yes. Mr. Wright stated that he knew the subject from  
23 frequenting a place called the Corner Pocket.

24 Q. Which one? The one --

25 A. Mr. Wright.

LORI GARRISON - DIRECT

1 Q. Okay. And which subject did he say that he knew from  
2 the Corner Pocket?

3 A. Oh. He said that he knew the subject by frequenting  
4 the Corner Pocket, and the name he said was Rick or Ricky.

5 Q. Was this the one with the dreads or --

6 A. With the dreads --

7 Q. -- or shorter hair?

8 A. -- uh-huh.

9 Q. Okay. Did Mr. Rumph know either of them?

10 A. Yes. Mr. Rumph stated that he was seeing a lady named  
11 Vivian and that the other subject was her son, Sean  
12 Echols.

13 Q. Based on that information that you received from the  
14 victims, what did you do?

15 A. Based on that information I went and obtained a photo  
16 lineup. And from there I showed it to Mr. Wright and  
17 Mr. Rumph.

18 Q. Investigator, I'm going to show you what has been  
19 marked State's Exhibit One.

20 A. Okay.

21 Q. Can you identify that?

22 A. This is the photo lineup of Mr. Sprinkle, Richard  
23 Sprinkle.

24 Q. Okay. And who did you show that to?

25 A. I showed it to both victims.



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1 Q. That one in particular?

2 A. Not the same -- similar pictures to both victims.

3 Q. That one in particular, was that shown to Mr. Wright  
4 or was that shown to Mr. Rumph?

5 A. This was shown to Mr. Wright.

6 Q. Okay. When -- when did you show that to Mr. Wright?

7 A. The next day.

8 Q. Okay. And where did you show it to him?

9 A. At his house.

10 Q. How many photos are in that lineup, Investigator?

11 A. There are six photos in the lineup.

12 Q. And what did you say to Mr. Wright regarding that  
13 lineup?

14 A. I showed Mr. Wright the lineup. I asked him, I asked  
15 him to look at the pictures carefully and see if he  
16 recognized anybody in the photo.

17 Q. Okay. And was Mr. Wright able to identify anyone in  
18 the photo?

19 A. Yes. Immediately he identified picture number two.

20 Q. Picture number two. Did you suggest that he should  
21 pick --

22 A. No, ma'am.

23 Q. -- picture number two?

24 A. No, ma'am. I didn't; no, ma'am.

25 Q. And whose photo was selected?

LORI GARRISON - DIRECT

1 A. Richard Sprinkle.

2 Q. Is that person in the courtroom, Investigator?

3 A. Yes, ma'am, he is.

4 Q. Can you point him out?

5 A. He's right there.

6 Q. You said that Mr. Wright immediately picked --

7 A. Immediately.

8 Q. -- picture two?

9 A. Yes, ma'am.

10 Q. Did you show Mr. Wright any other photo lineups?

11 A. Yes, ma'am.

12 I showed Mr. Wright a photo lineup that contained a  
13 photo of Mr. Sean Echols.

14 Q. Okay.

15 MS. FORD: Your Honor, at this time the State would  
16 move into evidence what's been marked State's Exhibit One,  
17 photo lineup.

18 MR. WISE: No objection, Your Honor.

19 THE COURT: State's One is in evidence without  
20 objection.

21 (Thereupon, State's Exhibit No. 1, photo lineup, was  
22 received into evidence.)

23 BY MS. FORD:

24 Q. Investigator, can you identify what's been marked  
25 State's Exhibit Two?

LORI GARRISON - DIRECT

1 A. It is a photo lineup with a picture of Sean Echols in  
2 it.

3 Q. And what did you say regarding that lineup,  
4 Investigator?

5 A. The same as before; to look at the pictures carefully  
6 and determine if he can identify anybody in the picture.

7 Q. And was he able to identify anyone?

8 A. Yes. Picture number two which is Sean Echols.

9 Q. And did he circle that?

10 A. Yes, he circled that and he initialed.

11 Q. Thank you, Investigator.

12 MS. FORD: Your Honor, at this time the State would  
13 move into evidence as State's Exhibit Two.

14 MR. WISE: No objection.

15 THE COURT: No objection, State's Two is in without  
16 objection, in evidence without objection.)

17 (Thereupon, State's Exhibit No. 2, photo lineup, was  
18 received into evidence.)

19 BY MS. FORD:

20 Q. So, Investigator, Mr. Wright was able to identify  
21 through a photo lineup both Richard Sprinkle and Sean  
22 Echols as the people that came into his house and robbed  
23 him?

24 A. Yes.

25 Q. How about Mr. Robert Rumph, did you show him any

LORI GARRISON - DIRECT

1 lineups?

2 A. Yes, I showed him pictures of similar lineups.

3 Q. Investigator, I'm going to show you what's been marked  
4 State's Exhibit Three. What is that?

5 A. That is a photo lineup depicting Sean Echols in one of  
6 the pictures.

7 Q. And that's the one that you showed to Mr. Robert  
8 Rumph?

9 A. Yes.

10 Q. And is Mr. Echols identified in that lineup?

11 A. Yes, he is.

12 Q. Okay. And how was that done?

13 A. He was, his picture was circled and Mr. Rumph  
14 initialed, initialed the picture.

15 Q. Thank you, Investigator.

16 MS. FORD: Your Honor, at this time the State would  
17 move into evidence what's been marked State's Exhibit  
18 Three, photo lineup, Your Honor.

19 THE COURT: Hold on one second, please.

20 MR. WISE: No objection.

21 THE COURT: State's Three is in evidence without  
22 objection.

23 (Thereupon, State's Exhibit No. 3, photo lineup, was  
24 received into evidence.)

25 BY MS. FORD:

LORI GARRISON - CROSS

1 Q. Did you show Mr. Robert Rumph any other lineups,  
2 Investigator?

3 A. Yes, I did.

4 Q. Okay. Did he pick anyone out of those lineups?

5 A. No, he did not.

6 Q. Did he give a description of the other suspect?

7 A. Yes. He said that the man was shorter and had dreads  
8 and dark skin.

9 Q. And based on all of this that you learned, what did  
10 you do?

11 A. From there I obtained warrants for Sean Echols and --

12 Q. The Defendant?

13 A. -- Sprinkle. Right.

14 Q. Mr. Sprinkle. And what was Mr. Sprinkle ultimately  
15 charged with, Investigator?

16 A. He was charged with two counts of armed robbery, two  
17 counts of attempted murder and one count of burglary.

18 Q. In the first degree?

19 A. First degree, yes.

20 MS. FORD: Beg the Court's indulgence, Your Honor?

21 (Pause.)

22 Thank you, Investigator. If you'll answer any  
23 questions of Mr. Wise.

24 CROSS-EXAMINATION

25 BY MR. WISE:

LORI GARRISON - CROSS

1 Q. Investigator Garrison, how are you?

2 A. Good. How are you?

3 Q. Investigator, let me start with State's Exhibit Five.

4 Let me clear up one thing.

5 A. Okay.

6 Q. What body part is that?

7 A. His arm.

8 Q. Are you sure?

9 A. Yes.

10 Q. Thank you. The night that you responded here, you

11 spoke to Mr. Rumph and Mr. Wright at the hospital;

12 correct?

13 A. Correct.

14 Q. You didn't really do anything, you didn't do an

15 in depth interview at the house?

16 A. No. We wanted to take care of their injuries.

17 Q. Okay. And when you spoke to them at the hospital,

18 Mr. Wright said the person was either Rick or Ricky; is

19 that correct? Am I correct?

20 A. Yes, uh-huh.

21 Q. Okay. I'm sorry.

22 Mr. Wright told you that when this happened one guy

23 followed him into his bedroom and hit him with a pistol;

24 correct?

25 A. If I can recall from the statement, yes, uh-huh.

LORI GARRISON - CROSS

1 Q. Okay. These photo arrays have sheets that accompany  
2 them, don't they, where the people sign?

3 A. Yes.

4 Q. Do you have those sheets with you?

5 A. I don't have them with me.

6 Q. Do you have them in your folder?

7 A. Yes.

8 Q. Would you retrieve them for me? With the Court's  
9 permission?

10 THE COURT: Sure. I think she's going to hand it to  
11 her.

12 MS. FORD: (Folder handed to the witness.)

13 BY MR. WISE:

14 Q. Can you show me the sheets that accompany or the  
15 sheets that were signed by Mr. Wright?

16 A. Okay. This one. (Document handed to counsel.)

17 Q. Now, do you know which lineup this accompanies?

18 A. Which one do you have?

19 Q. (Displaying document.)

20 A. It should be this one.

21 Q. Okay. Can I see that?

22 A. Uh-huh. (Document handed to counsel.)

23 Q. Do you have another sheet like this that was signed by  
24 Mr. Wright?

25 A. (Document handed to counsel.)

LORI GARRISON - CROSS

1 Q. Okay. Give that back to you. And this sheet  
2 accompanies which photo array?

3 A. That should be this one here (pointing).

4 Q. Okay. So, and this is -- I'm looking now at State's  
5 Exhibit Two; correct?

6 A. Yes.

7 Q. And the person circled in State's Exhibit Two is Sean  
8 Echols?

9 A. Yes.

10 Q. And what Mr. Wright said about the photo in State's  
11 Exhibit Two is this is the man that hit me with the gun  
12 about the head and face area?

13 A. That's what was stated.

14 Q. So Mr. Wright said Mr. Echols hit him with a gun?

15 A. That's what was stated at that time.

16 Q. Okay. I'll give that back to you. Okay.

17 And when you first met Mr. Wright, he said to you that  
18 he went to the door and he saw two guys. That was his  
19 description; correct?

20 A. Right.

21 Q. Okay. Investigator Garrison, did you attend the  
22 preliminary hearing in this matter?

23 A. I believe I did.

24 Q. Were you present for a conversation between  
25 Mr. Sprinkle and Mr. Rumph?



LORI GARRISON - CROSS

- 1 A. Between Mr. Sprinkle --
- 2 Q. And Mr. Rumph?
- 3 A. -- and Mr. Rumph?
- 4 Q. Yes, at the preliminary hearing?
- 5 A. Not that I did recall.
- 6 Q. You never --
- 7 A. A conversation between the two of them?
- 8 Q. Yes, ma'am. Let me be more specific.
- 9 A. Okay.
- 10 Q. At the preliminary hearing, did you hear Mr. Sprinkle
- 11 say to Mr. Rumph -- or, I'm sorry. Let me rephrase it.
- 12 Did you hear Mr. Rumph say to Mr. Sprinkle that he
- 13 knows he didn't do anything to him? Did you hear
- 14 Mr. Rumph say that to Mr. Sprinkle at the preliminary
- 15 hearing?
- 16 A. No, sir.
- 17 Q. All right. And between Mr. Rumph and Mr. Sprinkle,
- 18 who's taller?
- 19 A. Between Mr --
- 20 Q. I'm sorry. Thank you. Between Mr. Echols and
- 21 Mr. Sprinkle, who is taller?
- 22 A. I believe it's Mr. Echols.
- 23 Q. During the course of your investigation you collected
- 24 a DNA sample from Mr. Sprinkle; correct?
- 25 A. Yes. From both, from Mr. Echols and Mr. Sprinkle,

LORI GARRISON - CROSS

1 yes.

2 Q. Did Mr. Wright ever tell you about some interaction  
3 between he and Mr. Sprinkle at the Bojangles earlier in  
4 the evening?

5 A. No, sir.

6 Q. Okay.

7 MR. WISE: Your Honor, can I have one moment?

8 THE COURT: Sure.

9 (Pause.)

10 BY MR. WISE:

11 Q. In your conversation with Mr. Rumph, did he tell you  
12 that Sean said to him that night, I killed once and I'll  
13 kill again?

14 A. Yes, sir.

15 Q. Mr. Rumph did tell you that Sean said that?

16 A. He said, he said that he believed it was, right. Her  
17 son, right. Yes.

18 Q. Okay. And your investigation revealed that there was  
19 one gun and one knife but no other weapons?

20 A. Correct.

21 Q. Okay. Investigator Garrison, one more moment, please.

22 (Pause.)

23 It's your testimony you only showed Mr. Wright photo  
24 arrays on one occasion?

25 A. Say that again now.

1 Q. Your recollection is you only showed Mr. Wright one  
2 set of photo arrays? You only showed him -- you went out  
3 one time with pictures?

4 A. Two. Two separate times. I can say that.

5 Q. All right. Okay.

6 MR. WISE: Investigator Garrison, thank you.

7 THE COURT: Anything on redirect?

8 MS. FORD: Yes, sir, Your Honor.

9 State would renew our motion to move into evidence  
10 State's Exhibit Five, Your Honor.

11 THE COURT: Any objection?

12 MR. WISE: No.

13 THE COURT: State's Five is in evidence without  
14 objection.

15 MS. FORD: Thank you, Your Honor.

16 (Thereupon, State's Exhibit No. 5, photograph, was  
17 received into evidence.)

18 MS. FORD: No further questions.

19 THE COURT: Anything on recross?

20 MR. WISE: No, Your Honor.

21 THE COURT: State ready to call its next witness?

22 MS. FORD: Yes, sir, we are.

23 THE COURT: Okay.

24 MS. FORD: The State will call Investigator Thrower.

25 JOHNNY THROWER, having been duly sworn, was examined

JOHNNY THROWER - DIRECT

1 and testified as follows:

2 THE CLERK: Thank you. You may have a seat. Please  
3 state your name again for the record.

4 THE WITNESS: Johnny Thrower.

5 DIRECT EXAMINATION

6 BY MS. FORD:

7 Q. Good afternoon, Investigator.

8 A. How are you doing?

9 Q. I'm good. Thank you. Where do you work?

10 A. I'm an investigator with the Orangeburg County  
11 Sheriff's Office.

12 Q. How long have you been in law enforcement?

13 A. I've been in law enforcement for 15 years. I've been  
14 with the sheriff's office approximately three years.

15 Q. Okay. And what do you do as an investigator?

16 A. I'm a narcotics investigator with special operations.  
17 I also do criminal investigation.

18 Q. Did you ever meet with Richard Sprinkle in January of  
19 this year?

20 A. Yes, ma'am. I did.

21 Q. How did that meeting come about?

22 A. Mr. Sprinkle had made several requests to talk to me.  
23 He called the office collect a few times and people at the  
24 jail, workers at the jail let me know that he wanted to  
25 speak with me.

JOHNNY THROWER - DIRECT

1 Q. Okay. So you did meet with him?

2 A. Yes, ma'am.

3 Q. Where did that meeting take place?

4 A. It took place at the criminal investigations division  
5 office on Chestnut, here in Orangeburg.

6 Q. Who all was present for your meeting with  
7 Mr. Sprinkle?

8 A. Myself and Investigator John Stokes.

9 Q. Okay. When you met with Mr. Sprinkle, did you advise  
10 him of his Miranda rights?

11 A. Yes, ma'am. I did.

12 Q. What rights did you advise him of?

13 A. I told Mr. Sprinkle that he had the right to remain  
14 silent, anything that he said can and will be used against  
15 him in a court of law. I told him that he had a right to  
16 an attorney. If he couldn't afford an attorney one would  
17 be appointed to him.

18 I also let him know that he had a right to stop  
19 answering questions or anything at any time while he was  
20 there to seek counsel from a lawyer.

21 Q. When you read Mr. Sprinkle his rights, did he appear  
22 to be under the influence of any drugs or alcohol or  
23 anything that would impair his ability to understand --

24 A. No, ma'am.

25 Q. -- your --

JOHNNY THROWER - DIRECT

1 A. No, ma'am, he didn't.

2 Q. Did he appear to have any mental or physical defects  
3 that would impair his judgment?

4 A. No, ma'am. Not at all.

5 Q. After you gave Mr. Sprinkle his rights, did he want to  
6 talk with you?

7 A. Yes, ma'am.

8 Q. Did you have any idea what he wanted to talk to you  
9 about?

10 A. Absolutely not.

11 Q. Let me ask you, Investigator, did you have  
12 Mr. Sprinkle sign a waiver of rights form?

13 A. No, ma'am; I didn't.

14 Q. Why not?

15 A. During the time, I had no idea what he wanted to talk  
16 about. I didn't know him.

17 Q. Okay. So this meeting was entirely at Mr. Sprinkle's  
18 request?

19 A. Yes, ma'am.

20 Q. Okay. Did Mr. Sprinkle make any statements when you  
21 met with him?

22 A. Yes, ma'am. He did.

23 Q. What did he say?

24 MR. WISE: Objection, Your Honor. We would renew our  
25 objection.

JOHNNY THROWER - DIRECT

1 THE COURT: I'll note your objection on the record. I  
2 also note my -- overrule your objection so that it's  
3 preserved for the record.

4 MR. WISE: Thank you, Your Honor.

5 BY MS. FORD:

6 Q. What did Mr. Sprinkle say?

7 A. He told me about a home invasion that him and Sean  
8 Echols actually participated in. And he told me that he  
9 did go to a residence with Sean. And after they got  
10 inside of the residence, Sean started to assault a guy  
11 there. And, you know, he basically was scared at that  
12 point and he left the residence.

13 Q. Okay. Mr. Sprinkle admitted being at a residence?

14 A. Yes, ma'am.

15 Q. And left?

16 A. Yes, ma'am.

17 Q. According to what he said to you?

18 A. Yes, ma'am.

19 Q. What else did he say?

20 A. He said, you know, that there was, you know, a third  
21 person there. It was Sean's mom. He said, you know,  
22 during the time, you know, he was on drugs or what have  
23 you and, you know, that's why he went.

24 Q. Okay. Did he make any further statements,  
25 Investigator?

JOHNNY THROWER - DIRECT

1 A. No, ma'am.

2 Q. Okay. Did he ever stop and ask for his lawyer?

3 A. No, ma'am.

4 Q. Did he ever say, stop, I don't want to talk to you any  
5 more?

6 A. No, ma'am.

7 Q. Did you interrogate him about what he was saying?

8 A. No, ma'am, I didn't.

9 Q. Did you handle the investigation that he was  
10 referencing, the home invasion he was referencing?

11 A. No, ma'am.

12 Q. But were you aware what he was referencing?

13 A. Well, I mean, I kind of heard about it, but as far as  
14 the details of it and, you know, everything, no, I wasn't  
15 aware of any detail about it.

16 Q. And after Mr. Sprinkle made these statements, what did  
17 you do next?

18 A. Took him back to the jail.

19 Q. Did you notify anyone?

20 A. Myself and Investigator Stokes, you know, we told  
21 Investigator Garrison that she needed to, you know,  
22 probably talk with him.

23 Q. Thank you, Investigator. Please answer any questions  
24 that Mr. Wise is going to ask you.

25 THE COURT: Your witness, Mr. Wise.



## JOHNNY THROWER - CROSS

1 MR. WISE: Thank you, Your Honor.

2 THE COURT: Yes, sir.

3 CROSS-EXAMINATION

4 BY MR. WISE:

5 Q. Investigator Thrower, how are you?

6 A. I'm fine, Mr. Wise. How are you?

7 Q. Investigator, I am well.

8 So, you get Mr. Sprinkle, you take him back, and he  
9 makes a statement. I just want to understand a couple of  
10 things.

11 He said there were three people present; correct?

12 A. That's correct.

13 Q. Okay. And he says he didn't do anything?

14 A. According to the statement that he gave; yes, sir.

15 Q. That's what he said?

16 A. Yes, sir.

17 Q. Okay.

18 A. Yes, sir.

19 Q. But he did say that Echols was one of the people who  
20 did do something?

21 A. Yes, sir.

22 Q. So based on his statement, based on his statement  
23 three people there, two people do something, one person  
24 didn't do anything, according to what he told you?

25 A. Based on his statement, Sean Echols did something. He

JOHNNY THROWER - CROSS

1 never said anything about what the third person did.

2 Q. All right. But according to his statement, he was  
3 there and then when Sean Echols started assaulting someone  
4 he took off?

5 A. That's correct.

6 Q. Okay. Did he say during the course of his statement  
7 that he went to the house at Sean's request?

8 A. He could have. I don't recall whether he did or not.

9 Q. Now you made the statement or you testified that -- I  
10 think you said, he said he was on drugs, that's why he  
11 went?

12 A. That's correct.

13 Q. Did he say what he meant by that?

14 A. He said he was a crack head.

15 Q. Did he say that he went there for drugs?

16 A. I don't recall if he said that or not.

17 Q. Okay. Let me be specific. He didn't say, because of  
18 my drug habit I went there to rob these people?

19 A. No, sir. I don't recall him saying that.

20 Q. Okay. What he says, he was there, he didn't do  
21 anything?

22 A. That's correct.

23 Q. Okay. Did he also tell you that he was afraid of Sean  
24 Echols?

25 A. Yes, sir. He did mention that.

## JOHNNY THROWER - REDIRECT

1 Q. Okay. Did he tell you if he ever had a weapon?

2 A. No, sir. He never said he had a weapon.

3 Q. Okay. Did he ever say he hit anybody?

4 A. No, sir. He never said he hit anybody.

5 Q. So when people, the first time -- according to his  
6 statement the first time something bad started happening  
7 he says he got scared and he left?

8 A. According to the statement that he gave me; yes, sir.

9 Q. Okay.

10 MR. WISE: Can I have one moment, Your Honor?

11 THE COURT: Sure.

12 (Pause.)

13 BY MR. WISE:

14 Q. Mr. Thrower, let me ask you one last question.

15 A. Yes, sir.

16 Q. Do you remember Mr. Sprinkle saying this to you, that  
17 he went to the house to test drugs? Do you remember him  
18 saying that?

19 A. If he did I don't recall him saying that.

20 Q. Okay. Thank you, Investigator.

21 THE COURT: Ms. Ford, anything on Redirect?

22 MS. FORD: Briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY MS. FORD:

25 Q. Investigator, when did you meet with Mr. Sprinkle?

JOHN C STOKES - DIRECT

1 A. I believe it was January. Sometime in January, at the  
2 end of January; I'm not sure of the exact date.

3 Q. Okay. But was that, what year?

4 A. This year.

5 Q. Are you aware of when the home invasion that he was  
6 talking about, are you aware of when that happened?

7 A. The exact date? No, ma'am. I'm not sure.

8 Q. Was it recently or was it --

9 A. It may have been in the last, maybe year or so.  
10 I'm -- like I said, I didn't investigate the case so I'm  
11 not sure.

12 MS. FORD: Thank you, Investigator.

13 THE COURT: Anything on recross?

14 MR. WISE: No, Your Honor.

15 THE COURT: Thank you, sir. You may step down. Is  
16 the State prepared to call its next witness?

17 MS. FORD: We are, Your Honor. The State would call  
18 Investigator Stokes.

19 JOHN C. STOKES, having been duly sworn, was examined  
20 and testified as follows:

21 THE CLERK: Have a seat, state your name for the Court.

22 THE WITNESS: My name is John C. Stokes.

23 DIRECT EXAMINATION

24 BY MS. FORD: \

25 Q. Good afternoon, Investigator.

JOHN C STOKES - DIRECT

1 A. How are you doing?

2 Q. Where do you work?

3 A. Orangeburg County Sheriff's Office.

4 Q. How long have you worked at the sheriff's office,

5 Investigator?

6 A. Nine going on ten years.

7 Q. Have you ever met Richard Sprinkle?

8 A. Yes.

9 Q. When have you met with him?

10 A. I don't remember the exact date but it was sometime in

11 January of this year.

12 Q. Of this year, okay. How did that come about, the

13 meeting with him?

14 A. Well, Mr. Sprinkle had expressed several times he

15 wanted to talk to Investigator Thrower about something

16 that we didn't know exactly what he wanted to talk about.

17 And also Mr. Sprinkle had called our office, criminal

18 investigations, on numerous times, collect calls to speak

19 to someone.

20 Q. So eventually you all met with him?

21 A. Yes.

22 Q. Did you advise Mr. Sprinkle of his rights?

23 A. (Shakes head.)

24 Q. Do you know if Investigator Thrower did?

25 A. Investigator Thrower stated he verbally gave him his

JOHN C STOKES - DIRECT

1 Miranda rights, yes.

2 Q. Okay. Did Mr. Sprinkle appear to be under the  
3 influence of drugs or alcohol or have any mental or  
4 physical disabilities that would affect him understanding  
5 what his rights were?

6 A. No.

7 Q. Eventually did Mr. Sprinkle decide that he wanted to  
8 speak with you and Investigator Thrower?

9 A. Yes.

10 Q. Okay. And what did he say?

11 MR. WISE: Same objection.

12 THE COURT: Noted for the record. Your earlier  
13 objection and my earlier rulings are preserved on the  
14 record. Thank you, sir.

15 MR. WISE: Thank you.

16 BY MS. FORD:

17 Q. What did he say, Investigator?

18 A. Oh, he said that an incident took place on some type  
19 of home invasion that took place on Myers Road. And that  
20 he was there with Sean Echols but his mama was the third  
21 person. He said that he was there. He got afraid -- got  
22 scared when the assault was taking place and he ran out  
23 the house.

24 Q. Okay. Did he say anything else?

25 A. He expressed some concerns about being in the

JOHN C STOKES - DIRECT

1 detention center. He said he was receiving some  
2 threatening, some threatening-type things from Mr. Echols  
3 and he was, wished to be removed from Orangeburg Detention  
4 Center.

5 Q. Okay. Anything else? Or was that basically the  
6 extent?

7 A. That's basically, that's basically it.

8 Q. Did he ever stop and say, I want to talk to a lawyer?

9 A. No.

10 Q. Did he ever say, I don't want to talk to you?

11 A. No.

12 Q. Did you handle the investigation --

13 A. No.

14 Q. -- of that home invasion on Myers Road?

15 A. No, I didn't.

16 MS. FORD: Beg the Court's indulgence.

17 (Pause.)

18 BY MS. FORD:

19 Q. When you said that Mr. Sprinkle was calling  
20 repeatedly, did those calls, were they followed quickly by  
21 you all meeting with him or --

22 A. No.

23 Q. -- was it a long period of calls?

24 A. It was a long period before we actually met with him.

25 Q. Okay. Would you say several days? Several weeks?

JOHN C STOKES - CROSS

1 A. Probably several weeks.

2 Q. Okay.

3 MS. FORD: Thank you. Please answer any questions  
4 that Mr. Wise may have.

5 THE COURT: Mr. Wise?

6 CROSS-EXAMINATION

7 BY MR. WISE:

8 Q. How are you, sir? Thank you, Your Honor.

9 A. Good.

10 Q. Is it Investigator Stokes?

11 A. Sergeant Stokes.

12 Q. Sergeant Stokes. Sergeant, let me ask you a question.

13 A. Uh-huh.

14 Q. You were there when -- with Investigator Thrower  
15 during the interview with Mr. Sprinkle; correct?

16 A. Yes.

17 Q. Were you there the whole time?

18 A. No.

19 Q. Okay. Tell me what happened. Who -- how did it work  
20 out?

21 A. As far as the interview?

22 Q. Yeah. In terms of who was there when, since you  
23 weren't there the whole time.

24 A. Investigator Thrower picked him up from the jail and  
25 brought him to our office. And they were sitting inside



JOHN C STOKES - CROSS

1 the actual interview room when I got there. And I  
2 actually stepped out a couple of times during the  
3 interview.

4 Q. Okay. I want to ask you a couple of things.

5 A. Yes, sir.

6 Q. You said he called numerous times?

7 A. Yes.

8 Q. To your office?

9 A. Uh-huh.

10 Q. To speak to you?

11 A. No, not me. He'd call collect. It was a collect call  
12 from Richard Sprinkle. That's all.

13 Q. He called to speak to a deputy?

14 A. An investigator, yes.

15 Q. Somebody in law enforcement?

16 A. Yes.

17 Q. He had a story to tell and he's calling to tell that  
18 story?

19 A. Apparently.

20 Q. About how many times did he call?

21 A. I can only say, I'm probably aware of at least three  
22 or four times that I know he called.

23 Q. That you know he called?

24 A. That I know he called.

25 Q. He called a lot.

JOHN C STOKES - CROSS

1 A. Three or four times, you know, I know he called and he  
2 called collect to our office, yes.

3 Q. Okay. One of the things you said was that he had some  
4 concerns about being in the detention center?

5 A. Yes.

6 Q. He was afraid of Sean Echols?

7 A. Yes.

8 Q. He said that Sean Echols had threatened him?

9 A. Yes.

10 Q. And he was trying to get out of there because he  
11 feared for his safety?

12 A. Yes.

13 Q. All right. Do you recall him saying about this  
14 incident that happened at the house that he went there at  
15 Sean's request?

16 A. Yes.

17 Q. Okay. And do you recall him saying that he went there  
18 to test drugs?

19 A. I can't recall that.

20 Q. Okay. You do recall him saying when Sean started  
21 assaulting somebody he left?

22 A. I remember him saying when something was taking place  
23 he got, I'm not -- I can't recall if he said when Sean was  
24 doing it but I know he said he saw something was going on,  
25 he got scared and he left out, he ran out the house.

1 Q. And he never said he did anything?

2 A. No.

3 Q. Okay. And he said there were three people?

4 A. Yes.

5 MR. WISE: One moment, Your Honor.

6 THE COURT: Sure.

7 MR. WISE: That's all I have, Your Honor.

8 THE COURT: Anything on redirect?

9 MS. FORD: Nothing, Your Honor.

10 THE COURT: You may step down. Thank you. Can I see  
11 y'all for one second?

12 MS. FORD: Yes, sir.

13 (Off-the-record discussion.)

14 THE COURT: All right. Ladies and gentlemen, that was  
15 another one of those important discussions that we were  
16 warning you about earlier. That was a discussion about  
17 whether we are going to break now or not.

18 And we are going to break now. I'd ask you all to be  
19 back in the jury room at 9:30 tomorrow morning.

20 Remember, you can't talk about the case among  
21 yourselves or with anybody else. You can't do any  
22 investigation, read anything about the case, anything like  
23 that.

24 Get a good night's rest. Come on back here in the  
25 morning and we'll continue with the State's case. Okay?

1 Thank y'all so much. We'll see y'all in the morning at  
2 9:30. Thank you.

3 (Jury exits courtroom at 5:11 p.m.)

4 THE COURT: All right. Anything from the State before  
5 we break?

6 MS. FORD: Nothing from the State, Your Honor.

7 THE COURT: Anything from the defense?

8 MR. WISE: No, Your Honor.

9 THE COURT: One thing I want to clear up or add to is  
10 my earlier ruling on the motion challenging subject matter  
11 jurisdiction on the indictments. Okay.

12 I earlier ruled on Defendant's motion challenging his  
13 indictments and subject matter jurisdiction of the Court.  
14 And I'm going to clarify my rulings for the record.

15 The Defendant initially challenged the nature of the  
16 grand jury system itself as used by South Carolina and  
17 particularly, I believe, the secrecy therein.

18 Refer you to a case, Evans versus State, 363 South  
19 Carolina 495. It seems directly on point and I find that  
20 controlling over the issues herein.

21 South Carolina Supreme Court stated in Evans: The  
22 stringent secrecy provision contained in the South  
23 Carolina Grand Jury statute mirror long view -- mirror the  
24 view long held uniformly by courts nationwide that secrecy  
25 of grand jury proceedings is desirable and necessary. As

1 the United States Supreme Court has explained, we  
2 consistently have recognized that the proper functioning  
3 of our grand jury system depends upon the secrecy of grand  
4 jury proceedings.

5 In particular, we have noted several distinct  
6 interests served by said party, the confidentiality of  
7 grand jury proceedings. Quoting from US versus Sells  
8 Engineering Inc., 463 US 418.

9 The Court then cites: The hesitance of some witnesses  
10 to testify in open court, the hesitance of witnesses to  
11 testify fully and truthfully in open court, and the  
12 interest in protecting the privacy of those wrongfully  
13 accused as significant reasons for the existence of our  
14 particular closed grand jury system.

15 I therefore find that the secret nature of the South  
16 Carolina Grand Jury system does not violate the US or the  
17 South Carolina Constitutions, and on the contrary is  
18 necessary to the proper functioning thereof.

19 As to the Defendant's challenge of the subject matter  
20 jurisdiction of this Court, I also find the Evans case  
21 controlling. That case held, in citing State versus  
22 Gentry, which is a South Carolina cite, 363 South Carolina  
23 93, that the subject matter jurisdiction of the Court and  
24 the sufficiency of a grand jury indictment are actually  
25 two distinct concepts.

1       The Court stated therein, that because the indictment  
2 is no longer considered a matter of subject matter  
3 jurisdiction any challenge thereto cannot be raised at any  
4 time.

5       Again citing Gentry, the Court stated: The  
6 sufficiency of an indictment must be challenged before the  
7 jury is sworn. In contrast, a challenge to the legality  
8 or sufficiency of the process of the grand jury must be  
9 made before the jury renders its verdict.

10       Insofar as the Defendant's notice challenge is one of  
11 the sufficiency of the indictment, I find that in addition  
12 to my prior rulings that he was given sufficient notice as  
13 to the factual and statutory grounds for his charge. This  
14 challenge was not timely raised; however, I find that  
15 Defendant's challenge to the indictment on the grounds  
16 that two of the grand jurors may have been biased or  
17 inattentive to be one to the process of the grand jury  
18 indictment. As such it could have been raised at any time  
19 prior to the jury rendering a verdict.

20       Again, referring to the Evans case, I find this  
21 challenge to the grand jury process befitted of what the  
22 case called the third category of challenges, a truly  
23 minor irregularity in the functioning of the processes of  
24 the grand jury. Such a challenge does not implicate the  
25 legality of the grand jury nor constitute -- or constitute

1 a lesser irregularity which rises to a constitutional  
2 violation.

3 This is in contrast to the first two categories  
4 involving illegality of the entire grand jury as a body  
5 and the statutory disqualification of an individual grand  
6 jury respectfully.

7 The circuit court ordinarily should not quash an  
8 indictment when a defendant asserts a truly minor  
9 irregularity in the grand jury process.

10 Additionally, the irregularity of the grand jury  
11 proceedings is pursued absent clear evidence to the  
12 contrary. And I find that the Defendant has failed to  
13 satisfy this burden here and therefore find the  
14 indictments are valid.

15 Thank you all.

16 MS. FORD: Thank you, Your Honor.

17 THE COURT: See y'all in the morning at 9:30.

18 END OF DAY: 5:16 P.M.

19

20 \* \* \* \*

21

22

23

24

25

SEAN ECHOLS - DIRECT

1 ON WEDNESDAY, APRIL 10TH, 2013, AT 9:56 A.M.:

2 THE COURT: All right. Good morning. Ms. Ford, is  
3 the State ready to go?

4 MS. FORD: We are, Your Honor.

5 THE COURT: Is the defense ready to go?

6 MR. WISE: We are, Your Honor.

7 THE COURT: If you'd bring the jury back in.

8 (Jury enters courtroom at 9:58 a.m.)

9 THE COURT: Good morning, ladies and gentlemen.

10 THE JURY (COLLECTIVELY): Good morning.

11 THE COURT: Hope y'all had a good evening. We're  
12 getting ready to continue with The case today and the  
13 State's prepared to call their next witness.

14 Ms. Ford?

15 MS. FORD: Thank you, Your Honor. May it please the  
16 Court.

17 The State calls Sean Echols to the stand.

18 SEAN ECHOLS, having been duly sworn, was examined and  
19 testified as follows:

20 THE CLERK: You may have a seat. Please state your  
21 name again for the record.

22 THE WITNESS: Sean Echols.

23 THE COURT: Your witness.

24 MS. FORD: Thank you, Your Honor.

25



SEAN ECHOLS - DIRECT

DIRECT EXAMINATION

BY MS. FORD:

Q. Good morning, Mr. Echols. You're dressed in a jail uniform. Why is that?

A. Because I'm incarcerated.

Q. Why are you incarcerated?

A. For two armed robberies and two attempted murders.

Q. Was anyone else charged with you?

A. Yes, ma'am.

Q. Who?

A. Richard Sprinkle.

Q. How do you know Richard Sprinkle?

A. Through Collins Shuler and Jasper Clark.

Q. Make sure you speak loudly because she's taking everything down. Okay? You said you were charged with two armed robberies?

A. And two attempted murders.

Q. Okay. Is that the same charges that Richard Sprinkle is charged with?

A. Yes, ma'am.

Q. Okay. So how did all of this start?

A. It started when I had a situation that I had, you know, like a quick come up and --

Q. What's a quick come up?

A. A quick robbery.

SEAN ECHOLS - DIRECT

1 Q. Okay.

2 A. And I had spoke with Collins Shuler and Jasper Clark  
3 on the situation. And I was going to initially do it by  
4 myself, but that's when they brought Richard -- well,  
5 Collins Shuler and Jasper Clark brought Richard Sprinkle  
6 into the picture of the armed robbery.

7 Q. Okay. When you say that they brought Richard Sprinkle  
8 into the picture, what do you mean by that?

9 A. Like, they know somebody that lived the life that  
10 could do it with me and that's how Richard Sprinkle came  
11 into the picture.

12 Q. Okay. So you met. Did you know Richard Sprinkle at  
13 that point?

14 A. No. I only met him, like, a couple, few times prior  
15 with Collins Shuler.

16 Q. Prior to you meeting him for what?

17 A. The night of the robbery.

18 Q. Did you and Richard Sprinkle talk about the robbery?

19 A. Yes, ma'am.

20 Q. What did y'all talk about?

21 A. We talked about how we would go about committing the  
22 robbery once we got to the scene, how we would get away  
23 from the robbery and which parts were, like, basically be  
24 played.

25 Q. Okay. Did you have any victims in mind?

SEAN ECHOLS - DIRECT

- 1 A. Yes, ma'am.
- 2 Q. Who?
- 3 A. Robert Rumph and James Wright.
- 4 Q. How did you choose them?
- 5 A. Because they ran a gambling house.
- 6 Q. And you were looking for quick money; right?
- 7 A. Yes, ma'am.
- 8 Q. Okay. Did you know either of the victims any other
- 9 way?
- 10 A. Yes, ma'am.
- 11 Q. How?
- 12 A. I knew Robert Rumph because he was affiliated with my
- 13 mother.
- 14 Q. Okay. And that's how you knew he had a lot of money
- 15 in the house?
- 16 A. Yes, ma'am.
- 17 Q. So you planned the robbery?
- 18 A. We planned the robbery.
- 19 Q. We meaning?
- 20 A. Me and Richard Sprinkle.
- 21 Q. Okay. And you decided when you were going to do the
- 22 robbery?
- 23 A. Yes, ma'am.
- 24 Q. Was that back in June of 2011?
- 25 A. Yes, ma'am.

SEAN ECHOLS - DIRECT

1 Q. Well after you planned the robbery, what did you do?

2 A. After we planned the robbery we had Jasper Clark and  
3 Collins Shuler, first they took us to Bojangles gas  
4 station. Jasper Clark and me stayed in the car. Collins  
5 Shuler and Richard Sprinkle went inside the gas station to  
6 get some cigarettes and a cigar for me.

7 When they came back out of the gas station Collins  
8 Shuler and Richard Sprinkle, Jasper Clark dropped us off  
9 up at Highway 33. Me and Richard Sprinkle got out of the  
10 car. We initially go through the path to come out on  
11 Atlantic Avenue but the woods had done overgrown. So we  
12 had to walk a few streets up.

13 I text Jasper Clark letting them know the name of the  
14 street that we were going to have to go through because we  
15 couldn't get through the path.

16 Q. Where were you trying to go?

17 A. To Robert Rumph and James Wright house.

18 Q. And was that close by where you were dropped off?

19 A. Yes, ma'am.

20 Q. Okay. So you said you were walking through the woods  
21 to get there?

22 A. We couldn't get through the woods.

23 Q. Okay. So how did you get there?

24 A. We had to go a few streets up. And I had texted the  
25 name of the street to Jasper Clark. I can't pronounce it

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1 or nothing. We went through a field, across the tracks  
2 and we came out onto the end of Atlantic Avenue which is a  
3 parallel street directly in front of James Wright and  
4 Robert Rumph's trailer.

5 Q. Okay. And when you got there, who all was with you?

6 A. Me and Richard Sprinkle.

7 Q. And what did y'all decide to do? What did you do?

8 A. I decided I was going to knock on the door and  
9 Mr. James Wright came to the door. He asked who it was.  
10 I told him that I needed to use the phone because I just  
11 got into a physical altercation with my wife and that I  
12 needed to call my mother to come pick me up.

13 Q. Is that the truth?

14 A. No, ma'am.

15 Q. So that was a lie --

16 A. Yes, ma'am.

17 Q. -- that you used to --

18 A. Gain entry into the residence.

19 Q. Okay. When you knocked on the door, who was with you?

20 A. Me and Richard Sprinkle.

21 Q. Okay. So you lied to Mr. Wright; correct?

22 A. Yes, ma'am.

23 Q. What did you do next?

24 A. Mr. Wright shut the door back, not all the way but  
25 partially. He left. I guess he went to go ask Mr. Robert

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1 Rumph is it okay to let us in to use the phone.  
2 Mr. Wright came back with the cordless phone in his hand.  
3 He told us to come in. Mr. Richard Sprinkle pointed the  
4 gun to Mr. Rumph's head -- I mean, not Mr. Rumph,  
5 Mr. Wright's head and told Mr. Wright, don't move, don't  
6 move, don't move.

7 So I kept Mr. Wright standing in the livingroom by the  
8 door while Richard Sprinkle went to Rocky's room. Then I  
9 escorted Mr. Wright to his room. I asked Mr. Wright for  
10 his money. He took a few bills out of his wallet, I  
11 guess, like, 30-something dollars.

12 I flipped up his mattress and that's when Richard  
13 Sprinkle called me and tell me to come to the back to  
14 Rocky's room.

15 Q. You said that Richard Sprinkle had a gun?

16 A. Yes, ma'am.

17 Q. Did you have any weapons on you?

18 A. I had a knife on my side.

19 Q. Okay. So you and Richard Sprinkle robbed Mr. Wright?

20 A. I robbed Mr. Wright while Richard Sprinkle went to  
21 Mr. Robert Rumph's room.

22 Q. And what did he do in there?

23 A. Well, when I was in Mr. Wright room I can't speak on  
24 what was done in the room before I was called back there,  
25 before Richard Sprinkle called me back there.

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1       Once I got to the room with James Wright, Richard  
2 Sprinkle asked me for the knife. I gave Mr. Richard  
3 Sprinkle the knife and I gained possession of the  
4 firearm. And that's when I was, like, yeah, make him  
5 talk.

6       That's when Richard Sprinkle began to cut Mr. Robert  
7 Rumph.

8 Q.   You told him to make him talk?

9 A.   Yes, ma'am.

10 Q.   Okay. When did you that, who all was in the room?

11 A.   Me, Richard Sprinkle, Robert Rumph and James Wright.

12 Q.   Was anybody else in the house with you?

13 A.   No, ma'am.

14 Q.   At any time?

15 A.   No, ma'am.

16 Q.   Were your faces covered at all?

17 A.   No, ma'am.

18 Q.   Did you take anything from Mr. Rumph?

19 A.   Richard Sprinkle relieved me -- when I came in the  
20 room Richard Sprinkle gave me two hands full of cash. And  
21 he started telling Mr. Rumph, that's not the rest of the  
22 money. Mr. Rumph was telling him that there's no more  
23 money in the residence.

24       That's during the time Mr. Rumph finally admitted that  
25 there was some more money in the closet. Richard Sprinkle

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1 went and retrieved it.

2 Also after that was done and over with Richard  
3 Sprinkle passed me the money. I asked Mr. Robert Rumph  
4 and Mr. Peg where were the car keys. Both of them stated  
5 that the keys were in their car. That's when I sent  
6 Richard Sprinkle on to the car, to go on to the car so he  
7 had the car ready.

8 I had took the pants off the foot of Mr. Robert Rumph  
9 bed and a black Atlanta Braves hat to put on my head in  
10 case anyone was outside or anyone would seen me when I was  
11 leaving the residence. I used the pants to open the back  
12 door so as not to leave any prints on the door knob or on  
13 the car.

14 And that is when I got in the car. Mr. Richard  
15 Sprinkle drove to the -- parallel to the same street, to  
16 the end of Atlantic Avenue. We got out, ran across the  
17 tracks and called Jasper Clark to come pick us up.

18 Q. So you and Richard Sprinkle left Robert Rumph's house  
19 and James Wright's house after you robbed them?

20 A. Yes, ma'am.

21 Q. And they were beaten and stabbed?

22 A. Yes, ma'am.

23 Q. Why are you here today?

24 A. To tell the truth.

25 Q. What you testified is the truth?



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1 A. Yes, ma'am.

2 Q. That you and Richard Sprinkle planned this?

3 A. Yes, ma'am.

4 Q. That you all knocked on the door?

5 A. Yes, ma'am.

6 Q. You lied to gain entry?

7 A. Yes, ma'am.

8 Q. You robbed these two gentlemen --

9 MR. WISE: Objection, Your Honor. She's testifying.

10 THE COURT: I'll sustain the objection.

11 MS. FORD: Yes, sir.

12 THE COURT: Okay.

13 BY MS. FORD:

14 Q. Have you been offered anything to be here today?

15 A. No, ma'am.

16 Q. Has anyone promised you anything?

17 A. No, ma'am.

18 Q. Have I promised you anything to be here?

19 A. No, ma'am.

20 Q. So you're doing this out of the goodness of your  
21 heart?

22 A. Yes, ma'am. I'm doing it because also, we got caught.

23 Q. You got caught. What do you hope is going to happen  
24 now to you?

25 A. That the Court would have mercy on me.

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1 Q. Because you did it?

2 A. Yes, ma'am.

3 Q. And you were caught?

4 A. Yes, ma'am.

5 MS. FORD: Beg the Court's indulgence?

6 THE COURT: Okay. (Pause.)

7 BY MS. FORD:

8 Q. Mr. Echols, what did Mr. Sprinkle look like the night  
9 of the robbery at the victim's house? What did he look  
10 like? What did his hair look like?

11 A. He had dreads.

12 Q. I ask you to take a look at something. It's been  
13 marked State's Exhibit One. Do you see a picture of what  
14 Mr. Sprinkle looked like at that time?

15 A. Yes, ma'am.

16 Q. Which one is it?

17 A. Number two.

18 Q. Okay. That's what Richard Sprinkle looked like the  
19 night of the robbery?

20 A. Yes, ma'am.

21 Q. Mr. Echols, you talked about Mr. Rumph being cut;  
22 right?

23 A. Yes, ma'am.

24 Q. What had happened to Mr. Wright?

25 A. I struck Mr. Wright in the head twice with the gun and

1 punched him in the mouth.

2 Q. In the head?

3 A. Yes, ma'am.

4 Q. Was he bleeding?

5 A. Not, like, excessively or nothing but, yes.

6 Q. And Mr. Rumph was left bleeding?

7 A. Yes, ma'am.

8 Q. Do you see the person that robbed Mr. Wright and

9 Mr. Rumph with you in the courtroom today?

10 A. Yes, ma'am.

11 Q. Where is he? Can you point him out?

12 A. (Pointing.)

13 Q. Mr. Sprinkle?

14 A. Yes, ma'am.

15 MS. FORD: Mr. Echols, please answer any questions  
16 from Mr. Wise.

17 MR. BELL: Your Honor, if I may. May we have a legal  
18 matter to take up outside of the jury, please?

19 THE COURT: All right. Ladies and gentlemen of the  
20 jury, we're going to take a short break.

21 Again, remember, you cannot talk about the testimony  
22 you've heard. We'll let you stretch your legs in there  
23 for a minute and we'll be right back out. Okay?

24 Thank you.

25 (Jury exits courtroom at 10:12 a.m.)

1 THE COURT: All right. Mr. Bell, does this have to do  
2 with the motion in limine?

3 MR. BELL: Yes. We would renew our motion in limine  
4 that we made pretrial that no questions about the federal  
5 investigation be asked.

6 THE COURT: I understand. The reason that the jury's  
7 been excused is we're hoping that we're going to preserve  
8 the record so that if anything has to go forward after  
9 this. So I'll note your motion.

10 I'm going to let Mr. Wise begin his cross-examination  
11 without the jury hearing. And then I'll let you object.  
12 Okay?

13 MR. BELL: (Nods head.)

14 CROSS-EXAMINATION

15 (PROFFERED)

16 BY MR. WISE:

17 Q. Mr. Echols, just to get right to the heart of what  
18 we're talking about here. Have you been charged in a  
19 federal case involving the shooting of a corrections  
20 officer?

21 THE COURT: Okay.

22 MS. FORD: Objection, Your Honor, based on our  
23 previous motions.

24 MR. WISE: If I may, Your Honor, at this point he  
25 hasn't asserted his Fifth Amendment rights.

1 THE COURT: No, I --

2 MR. WISE: And I think the case law is pretty clear  
3 that somebody else can't do it for him.

4 THE COURT: I will let him do whatever -- answer  
5 however he wishes to answer.

6 THE WITNESS: I would like to assert my Fifth  
7 Amendment.

8 THE COURT: Okay.

9 MR. WISE: Okay.

10 MS. FORD: Objection.

11 THE COURT: And now she's objecting and renewing the  
12 motion that we made in limine. And I'm going to continue  
13 with my ruling that we made in limine, I'm renewing it.

14 MR. WISE: Your Honor, I understand everything that's  
15 going on here.

16 I submit to the Court that the question of -- that  
17 wasn't the question I dealt with in the, initially in the  
18 hearing. What was dealt with initially -- what I just  
19 asked him was: Is he under investigation.

20 THE COURT: Right.

21 MR. WISE: So I don't believe that is a -- anything  
22 that wouldn't be -- his answering that wouldn't be  
23 incriminatory in any manner. But the question obviously  
24 that everybody is concerned about is my asking him: Did  
25 you shoot that corrections officer, or did you say he did.

1 THE COURT: And, Mr. Bell, I see you anxiously waiting  
2 to respond.

3 MR. BELL: Your Honor, I think that was the crux of our  
4 motion about an investigation or any charges that -- I  
5 mean, asking him about it still causes him to invoke his  
6 Fifth Amendment rights because he's under no compulsion to  
7 incriminate himself under the Fifth Amendment of the  
8 United States Constitution.

9 MR. WISE: I submit his saying that they're  
10 investigating me is not incriminatory. It just says he  
11 didn't do anything wrong.

12 THE COURT: Well, it may not be -- and I understand  
13 the distinction that you're attempting to make but he has  
14 invoked his Fifth Amendment rights. And I'm going to go  
15 along with the ruling I made earlier. You're not going to  
16 be able to question him on that.

17 MR. WISE: Okay. Very good.

18 THE COURT: And hopefully everything is preserved  
19 along that line.

20 And then before you pick up on the actual cross-  
21 examination and bring the jury back in here, I'm going to  
22 take a short break because I was supposed to call court  
23 administration first thing this morning and I forgot to.

24 MR. BELL: Your Honor, I don't mean to interrupt the  
25 Court.

1 THE COURT: Go ahead. It's more fun that way.

2 MR. BELL: I was just going to -- we would also  
3 interject another objection for cross-examination.

4 I think that Mr. Echols has been previously convicted  
5 of assault and battery with intent to kill and burglary  
6 second, and we would object to that coming in under  
7 609(a), even though it says that a crime of more than one  
8 year shall come in but it shall come in subject to a 403  
9 analysis that the probative value is outweighed by or  
10 outweighs any unduly prejudicial effect.

11 Our objection would be that these particular charges  
12 have nothing to do with dishonesty or credibility for  
13 impeachment sake. They're merely being asked to show  
14 conformity with and all of that, and that the prejudicial  
15 effect would substantially outweigh the probative value of  
16 these questions since they have nothing to do with  
17 dishonesty or anything, or would go to the credibility of  
18 the witness.

19 THE COURT: Okay. Mr. Wise, your response to that?

20 MR. WISE: I would submit certainly a burglary  
21 conviction goes to this witness's credibility.

22 The issue of whether or not an assault and battery  
23 with intent to kill, I think, is a little different. But  
24 I also think that is an issue that the jury can take into  
25 consideration when it's trying to evaluate this witness's

1 credibility.

2 So I would submit that they are appropriate questions  
3 for me to inquire this witness about.

4 THE COURT: And he's been convicted of them and within  
5 the last ten years; is that correct?

6 MR. BELL: I think the conviction's more than ten years  
7 but I think the way it reads is when your sentence plays  
8 out, at the end --

9 THE COURT: It's within ten years of the sentence.

10 MR. BELL: I think that would bring it in, but, again,  
11 Your Honor, as far as I'm aware burglary and ABWIK have  
12 not been declared crimes of dishonesty in the State of  
13 South Carolina.

14 Even -- there's now a question as to whether armed  
15 robbery is such. It just depends on the facts and  
16 circumstances depending on which case you read now, but...

17 THE COURT: What I'm going to do is, you know,  
18 Mr. Echols is sitting here in his prison garb. He has  
19 been convicted of this. It's within ten years, and I'm  
20 going to let you ask him about it. Okay?

21 MR. WISE: Thank you, Your Honor.

22 THE COURT: All right. We're going to take a short  
23 break.

24 (Thereupon, a break taken at 10:18 a.m., until  
25 10:26 a.m., when the trial resumed:)



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1 THE COURT: Is the State ready?

2 MS. FORD: We are, Your Honor.

3 THE COURT: Okay. Mr. Wise, are you ready?

4 MR. WISE: Yes, we're ready.

5 THE COURT: Bring the jury back in. Thank you.

6 (Jury enters courtroom at 10:27 a.m.)

7 THE COURT: Thank you, ladies and gentlemen. We're  
8 going to continue.

9 Mr. Wise?

10 MR. WISE: Thank you, Your Honor.

11 THE COURT: Yes, sir.

12 CROSS-EXAMINATION

13 BY MR. WISE:

14 Q. Good morning, Mr. Echols.

15 A. Good morning.

16 Q. Mr. Echols, what I want to do first is talk a little  
17 bit about some of the people involved in this case.

18 There has been some testimony in this case about  
19 Vivian Johnson. Do you know who Vivian Johnson is?

20 A. Yes, sir.

21 Q. Who is that?

22 A. My mother.

23 Q. Okay. And she is also the girlfriend of Mr. Rumph; is  
24 that correct?

25 A. Yes, sir.

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1 Q. Okay. And she is also charged in this case; isn't  
2 she?

3 A. Meaning as?

4 Q. Out of this situation you got charged, Mr. Sprinkle  
5 got charged, your mother got charged?

6 A. She got charged with obstruction of justice, not for  
7 nothing dealing with what took place at the scene.

8 Q. Okay. All right. She has a pending charge also?

9 A. Yes, sir.

10 Q. Okay. You and she discussed the fact that Mr. Rumph  
11 kept a large amount of money in his house; didn't you?

12 A. No, sir.

13 Q. You never talked about that?

14 A. No, sir.

15 Q. She never told you that he kept large amounts of cash?

16 A. No, sir.

17 Q. Okay. All right. You knew that he kept large amounts  
18 of cash because it was a gambling place?

19 A. Yes, sir.

20 Q. Okay. Now, how much money did you take from that  
21 house that night?

22 A. Like 5,200.

23 Q. Fifty-two hundred. Not a thousand?

24 A. No, sir.

25 Q. Okay. Do you remember speaking to Investigator

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1 Shumpert after you were arrested?

2 A. Yes, sir.

3 Q. Do you remember sitting down, you were at the office  
4 on Chestnut and making a statement to him?

5 A. Yes, sir.

6 Q. Do you remember telling him that you took \$7,000?

7 A. No, sir.

8 Q. You don't remember telling him that?

9 A. No, sir.

10 Q. Would looking at your statement help refresh your  
11 recollection about whether or not you told him that?

12 A. I know I told him it was somewhere in, like, the  
13 mid-thousands. I don't remember the exact number.

14 Q. Okay. Would looking at your statement help you  
15 refresh your recollection about what you told him?

16 A. Do you want to show it?

17 Q. Okay.

18 MR. WISE: Your Honor, may we have one moment?

19 THE COURT: Sure.

20 BY MR. WISE:

21 Q. While we're doing that, let me ask you another  
22 question. So it's your testimony that you knocked on the  
23 door?

24 A. Yes, sir.

25 Q. Okay. And Mr. Wright came to the door and you spoke

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1 to Mr. Wright?

2 A. Yes, sir.

3 Q. Okay. And then when Mr. Wright opened the door, you  
4 were the one who attacked Mr. Wright?

5 A. No, sir.

6 Q. You didn't attack Mr. Wright?

7 A. No, sir.

8 Q. You didn't do anything to him?

9 A. No, sir.

10 Q. Didn't hit him?

11 A. Not when the door was opened.

12 Q. Okay. When did you hit him?

13 A. When we all in Mr. Rumph's room.

14 Q. Okay. Did you take him to his bedroom?

15 A. Mr. Wright?

16 Q. Yes.

17 A. Yes, sir.

18 Q. Okay. When you took him to his bedroom, did you hit  
19 him?

20 A. No, sir.

21 Q. Okay. When he was standing at the front door, did you  
22 hit him?

23 A. No, sir.

24 Q. So it's your testimony the only time you struck him  
25 was later in Mr. Rumph's room?

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- 1 A. Yes, sir.
- 2 Q. Okay. And do I understand your testimony correctly  
3 that Mr. Sprinkle did not do anything to Mr. Wright?
- 4 A. He did not do anything to Mr. Wright.
- 5 Q. Okay. He never struck him with his hand or anything  
6 else?
- 7 A. No, sir.
- 8 Q. Okay. All right. And when you hit Mr. Wright, what  
9 did you hit him with?
- 10 A. The butt part of the gun.
- 11 Q. Okay. When you were in Mr. Rumph's room before you  
12 left that room, did you tell Mr. Rumph or say to him that  
13 you killed, you'd killed before and you'll kill again?
- 14 A. No, sir.
- 15 Q. You never said that?
- 16 A. No, sir.
- 17 Q. Now, do you remember in your statement to Mr. Shumpert  
18 saying that?
- 19 A. No, sir.
- 20 Q. Don't remember saying that?
- 21 A. (Shakes head.)
- 22 Q. Okay. Looking at your statement, would that help  
23 refresh your recollection about that?
- 24 A. Do you want to show it?
- 25 Q. Okay.

1 MS. FORD: Your Honor, may we approach?

2 THE COURT: Sure.

3 (Off-the-record discussion.)

4 THE COURT: Ladies and gentlemen, I hate to bother you  
5 with this, but we're going to have to take a short break  
6 while we get something straight with a statement. And if  
7 you'd just bear with us. I'm going to have to excuse you  
8 all again from the courtroom.

9 We'll take a short break, hopefully it will be a short  
10 break.

11 Remember you cannot talk about the testimony you've  
12 heard so far. Thank you all so much.

13 (Jury exits courtroom at 10:35 a.m.)

14 THE COURT: Since I obviously misunderstood you. We  
15 now have a video statement of Mr. Echols that was taken;  
16 is that correct?

17 MS. FORD: That's correct, Your Honor.

18 THE COURT: Okay. And the sheriff's department has  
19 started doing that now?

20 MS. FORD: They have that capability, Your Honor.

21 THE COURT: Well, okay. And I understand, they got  
22 the capability. Is that something that we're going to,  
23 you know, because oftentimes, you know, the question by  
24 the defense is, do you have the capability? Did you take  
25 it? And they always go, well, we never did it, you know.

1 But now we're going to start doing that?

2 MS. FORD: I can't answer that question, Your Honor.

3 THE COURT: Sometimes we will and sometimes we won't.

4 MS. FORD: Your Honor, I don't investigate the cases.

5 THE COURT: No, I understand. Well, okay. I guess  
6 that's something we'll see how that plays out in the  
7 courtroom.

8 Okay. Now -- and so he needs to see the video of  
9 this. And I just want to make sure. I'm just asking. He  
10 admitted that he took \$5,200. He might have said 7,000 to  
11 Mr. Shumpert, Investigator Shumpert; is that correct?

12 MR. WISE: That's correct.

13 THE COURT: And we want to get that distinction?

14 MR. WISE: Yes. Well, Your Honor, that's the first.  
15 There's going to be other issues that I'm going to ask him  
16 about --

17 THE COURT: Okay.

18 MR. WISE: -- that we might go to the tape also.

19 THE COURT: Okay.

20 MR. WISE: If he actually --

21 THE COURT: So --

22 MR. WISE: There's only one other section actually  
23 that we'll deal with.

24 THE COURT: So you're going to let him see those two  
25 parts of it right now?

1 MR. WISE: Yeah, and then he can see it. And we can  
2 go from there.

3 THE COURT: All right. And he needs to go over there  
4 to watch it?

5 MR. WISE: No. I can bring it to him.

6 THE COURT: Okay. Mr. Echols, what they're going to  
7 do is, apparently your statement to Mr., to Investigator  
8 Shumpert was videotaped. And since they're going to ask  
9 you questions about it, they're going to try to show you  
10 some of it to see if that will refresh any of your memory  
11 about it. Okay?

12 THE WITNESS: Yes, sir.

13 THE COURT: So if you'll just pay attention. And,  
14 Mr. Wise, for the record, what are you going to show him?  
15 Which parts? And who's my technological wizard that's  
16 going to do this?

17 MS. ULLMAN: That would be me, Your Honor.

18 THE COURT: Okay. Ms. Ullman.

19 MR. WISE: Your Honor, the first thing will be the  
20 portion of his statement where he indicates he took  
21 \$7,000.

22 THE COURT: Okay.

23 MR. WISE: And then there will be another segment --  
24 which I guess we should show him now?

25 THE COURT: Yes, you should.



1 MR. WISE: Yes -- related to the third person who was  
2 there.

3 THE COURT: Okay.

4 MR. WISE: And, could I have one moment, Your Honor?

5 THE COURT: And, Ms. Ullman, for the record, I want  
6 you to be able to tell me on the record how you got to the  
7 spot that you're in on that.

8 We'll make -- that video is going to have to be a  
9 Court's Exhibit. And so if you'll tell us how you got to  
10 the point that he's going to start looking at it, I'd  
11 appreciate it.

12 MS. ULLMAN: Yes, sir. On the video when you hit  
13 play, pause, fast forward, there are -- the video keeps  
14 time.

15 THE COURT: Right.

16 MS. ULLMAN: Your Honor, it starts at zero obviously,  
17 goes up to an hour and 17 minutes and one second.

18 THE COURT: And that's how long --

19 MS. ULLMAN: The entire video is; yes, sir.

20 THE COURT: Okay.

21 MS. ULLMAN: Mr. Wise has gone through and noted  
22 certain parts of the video that we were concerned about in  
23 testimony. And he has noted the time from zero to an hour  
24 17 minutes.

25 So as he asks the questions, I will go to the

1 charges.

2 THE COURT: Okay.

3 MS. ULLMAN: From what I understand of the long  
4 statement, there's a short part in the beginning where  
5 Mr. Echols discusses this incident. After that  
6 Mr. Shumpert and he start discussing his life and things  
7 going on and the feds. Obviously we would not get to that  
8 part because the discussion of this case ends and then all  
9 of that starts.

10 I've watched the video personally of just the  
11 discussion of this case and there's absolutely nothing in  
12 there about the federal charges or incident.

13 THE COURT: And, just for the record, the only thing  
14 that I'm doing right now is we're showing Mr. Echols the  
15 portion of his interview that is going to correspond to  
16 what Mr. Wise is going to ask him about.

17 We're not playing this tape for the jury.

18 MR. WISE: That's correct, Your Honor.

19 THE COURT: Okay. All right.

20 MR. WISE: And, Your Honor, so that there will be --  
21 this one section, and just so we're clear, then we'll go  
22 to another section related to whether or not a third  
23 person was present.

24 THE COURT: Okay.

25 MR. WISE: And I think that would be all we have.

1 THE COURT: Okay. Ms. Ullman?

2 MS. ULLMAN: I just need to ask Mr. Wise a question  
3 real quick.

4 THE COURT: Okay. Mr. Culler, I wondered why you were  
5 here.

6 MR. CULLER: Yes, yes, Your Honor. I'm here for that  
7 reason.

8 THE COURT: Okay. It's always good to have you in  
9 court.

10 MR. CULLER: Thank you, Your Honor.

11 MR. WISE: Your Honor, that's correct. There may be  
12 one other section related to who actually knocked on the  
13 door and went into the house.

14 THE COURT: He's already answered that.

15 MR. WISE: Yes, but he's --

16 THE COURT: He's stating something different in this?

17 MR. WISE: Exactly, sir.

18 THE COURT: All right. And then this is going to be  
19 like when my children were three years old; just one other  
20 thing, daddy, just one other thing.

21 So now we are down to three other things; is that  
22 correct?

23 MR. WISE: But I think that should be it. Ms. Ullman  
24 has told me that's it.

25 THE COURT: I just want to make sure. I'm just trying

1 to get a handle on how many one other things we got.

2 Ms. Ullman, if you would just tell me on the record  
3 about what minute you're starting at, just so we'll know.

4 MS. ULLMAN: Yes, sir. I'm starting at about 12:07  
5 and this would be in regards to the money.

6 THE COURT: Okay.

7 MS. ULLMAN: And the volume's on.

8 (Video played but is inaudible.)

9 THE COURT: Did you do a written transcript?

10 MS. ULLMAN: No, sir.

11 THE COURT: Nobody did?

12 (Video is inaudible. Pause.)

13 THE COURT: Where is a 12 year old when you need them?  
14 Are you going to be able to make the volume work?

15 MR. WISE: I don't know that we can, Your Honor.

16 MS. ULLMAN: Let me check one other spot.

17 MS. FORD: They're not at the right spot. It doesn't  
18 matter what the volume is. If they don't have the right  
19 spot, it's not going to work.

20 THE COURT: Mr. Echols, can you hear it?

21 THE WITNESS: Yes, sir.

22 THE COURT: All right.

23 MR. WISE: And also one other section, Your Honor, or  
24 two other sections.

25 THE COURT: Perhaps three?

1 MR. WISE: No.

2 THE COURT: Okay. Tell me on the record what you're  
3 going -- we've already shown him the part about the money.

4 MR. WISE: Yes.

5 THE COURT: Okay.

6 MS. ULLMAN: Your Honor, based on time, the time stamp  
7 on the actual video, it's November 18th, 2011, and the  
8 time was 12:14, maybe right at the end of 12:13, beginning  
9 of 12:14 was this statement about the money.

10 THE COURT: And, Mr. Echols, you were able to hear  
11 that; is that correct?

12 THE WITNESS: Yes, sir.

13 THE COURT: And you recall that conversation?

14 THE WITNESS: Yes, sir.

15 THE COURT: All right. They're going to move to  
16 different section and let you listen. They got two other  
17 sections they want and then we'll bring the jury back in  
18 and he's going to cross-examine you about those three  
19 areas.

20 THE WITNESS: Yes, sir.

21 THE COURT: Okay.

22 MR. WISE: Let's try 6:05. See if that works.

23 (Video played for witness, inaudible to others in  
24 courtroom.)

25 THE COURT: Ms. Ullman, when you get there before you

1 start playing it, let me know where we are.

2 MS. ULLMAN: Yes, sir.

3 THE COURT: Investigator Garrison, do you know  
4 anything about this video program at the sheriff's  
5 office?

6 THE OFFICER: Very little.

7 THE COURT: Okay. Do you know who's in charge of it?

8 THE OFFICER: I can find out.

9 THE COURT: Okay. I'd just like to know.

10 (Video played for witness, inaudible to all others.)

11 THE COURT: Where are we?

12 MS. ULLMAN: That was at time stamp 12:08.

13 THE COURT: And when, and this is about, who, whether  
14 there was a third person there or not?

15 MS. ULLMAN: Yes, sir.

16 MR. WISE: Now then there is a second spot where they  
17 talk about it in more detail.

18 THE COURT: Okay.

19 MR. WISE: And that hopefully is at 8:26. It starts  
20 at 8:26 but this goes for a few more minutes. It's a  
21 little longer than the last one, but it's... maybe eight  
22 minutes total.

23 THE COURT: I just want the record to reflect where we  
24 are looking at on that DVD so that the record will be  
25 clear.

1 MR. WISE: Your Honor, apparently now the issue is  
2 there's no volume coming out of the computer.

3 THE COURT: Not that there was a whole lot to begin  
4 with.

5 MR. WISE: Yes.

6 THE COURT: All right.

7 MR. WISE: Can we take a short break and see if we can  
8 fix this or just get another computer? It will take a  
9 minute.

10 THE COURT: Okay. Yeah. We're -- we'll take a short  
11 break, get another computer, get something in here. Did  
12 y'all try this before?

13 MR. WISE: Yes, sir.

14 THE COURT: Okay. All right. Mr. Echols, are you  
15 comfortable or do you need to go to the restroom or  
16 anything like that?

17 THE WITNESS: No, sir.

18 THE COURT: If you don't mind just sitting comfortable  
19 while we're trying to get everything straight, I  
20 appreciate it.

21 THE WITNESS: (Nods head.)

22 THE COURT: Thank you, sir.

23 (Thereupon, a break taken from 10:51 a.m., until  
24 11:00 a.m., and the trial resumed:)

25 THE COURT: The third place that they're asking

1 Mr. Echols to review on the video statement goes from?

2 MS. ULLMAN: On the time stamp from the interview room  
3 it starts at 12:11, and it goes about eight minutes.

4 THE COURT: And this has to do with the knocking?

5 MR. WISE: With the third person who was present.

6 THE COURT: Oh. With the third person. All right.

7 (Video played for witness, inaudible to others.)

8 MS. ULLMAN: Your Honor, for the time stamp purposes,  
9 we're stopping at 12:17.

10 THE COURT: Okay. Thank you. All right. And  
11 Mr. Echols, you had indicated to me earlier that even  
12 though the volume was very low you could understand --

13 THE WITNESS: Uh-huh.

14 THE COURT: -- what you said?

15 THE WITNESS: Yes, sir.

16 THE COURT: All right. Thank you, sir.

17 Ms. Ford?

18 MS. FORD: Just one moment, Your Honor.

19 THE COURT: Yeah. Go ahead.

20 MS. FORD: We're ready, Your Honor.

21 THE COURT: Okay. Is the State ready?

22 MS. FORD: Yes, sir.

23 THE COURT: Okay. All right. Is the defense ready?

24 MR. WISE: We are, Your Honor.

25 THE COURT: Would you bring the jury back in? Thank



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1 you.

2 (Court's Exhibit No. 2, DVD of Sean Echols' interview,  
3 was marked and received into evidence.)

4 (Jury enters courtroom at 11:09 a.m.)

5 THE COURT: All right. Ladies and gentlemen, I  
6 appreciate your patience while we get things -- while we  
7 get things going this morning. So I do appreciate that.

8 Mr. Wise is now going to continue with his cross-  
9 examination. Mr. Wise?

10 MR. WISE: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. WISE:

13 Q. Mr. Echols, let me back up. You've had a chance to  
14 listen to the statement that you gave Investigator  
15 Shumpert; correct?

16 A. Yes, sir.

17 Q. You've heard it? You understood it?

18 A. Yes, sir.

19 Q. Very good. Now one of the questions I asked you  
20 before we took a break was that you told Investigator  
21 Shumpert you took \$7,000. That's correct; isn't it?

22 A. No. I said close to.

23 Q. Close to \$7,000?

24 A. Close to \$7,000; yes, sir.

25 Q. Now, Mr. Echols, there was a third person present;

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1 wasn't there?

2 A. No, sir.

3 Q. Now during the course of listening to your statement  
4 you heard what you told Investigator Shumpert?

5 A. Yes, sir.

6 Q. You would agree with me that you told him that there  
7 were three people involved?

8 A. Yes, sir.

9 Q. You did tell him that?

10 A. But I told him a lie.

11 Q. You lied to him?

12 A. I didn't trust him.

13 Q. Okay. And you also told him that, the word you used  
14 was the other dude was just standing there. That's what  
15 you told him?

16 A. Yes, sir.

17 Q. Okay. You told them that the other dude, the third  
18 person, did not leave the living room. That's what you  
19 told him?

20 A. Yes, sir.

21 Q. You told him that the other dude did not engage in any  
22 planning. That's what you told Investigator Shumpert;  
23 isn't it?

24 A. Yes, sir.

25 Q. In your statement to Investigator Shumpert you did not

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1 say that this person you described as the other dude or  
2 the third person ever had a weapon; correct? You never  
3 said that?

4 A. No, sir.

5 Q. Okay. And you told Investigator Shumpert that the  
6 other dude did not share in the proceeds. That third  
7 person, he didn't get any money. That's what you told  
8 Investigator Shumpert?

9 A. Yes, sir.

10 Q. Okay. That that third person was just an innocent  
11 person?

12 A. Yes, sir.

13 Q. Okay. You told -- you told Investigator Shumpert that  
14 that third person did not do or say anything but just  
15 stood there?

16 A. Yes, sir.

17 Q. And the statement -- basically the statement that you  
18 gave Officer Shumpert was this third person, this other  
19 dude, was just merely present there at the time?

20 A. Yes, sir.

21 Q. Okay. This third person, this other dude, didn't know  
22 what was happening until it happened?

23 A. Yes, sir.

24 Q. All right. Now, let me ask about a few other people.

25 Who is somebody you call Little J?

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1 A. Jasper Clark.

2 Q. Okay. What was his involvement in this case?

3 A. He was the driver.

4 Q. When you say the driver, what do you mean by that?

5 A. He drove the vehicle.

6 Q. He drove?

7 A. The vehicle that was used to drop me and Richard  
8 Sprinkle off.

9 Q. Okay. So he drove you and Mr. Sprinkle to do this?

10 A. Yes, sir.

11 Q. Okay. And when he drove you there, did he know what  
12 he was driving you there to do?

13 A. Yes, sir.

14 Q. Did you tell Investigator Shumpert that?

15 A. Yes, sir.

16 Q. So, you told -- it's your testimony you told  
17 Investigator Shumpert that this Little J guy drove you to  
18 a robbery that he knew you guys were going to participate  
19 in?

20 A. Yes, sir.

21 Q. Did he share in the proceeds of the robbery?

22 A. Yes, sir.

23 Q. Okay. Did he have any other involvement in planning  
24 the robbery?

25 A. Do you mean, like, did he have anything to do with the

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1 planning?

2 Q. Yes.

3 A. Yes, sir.

4 Q. Okay. So he was involved in the planning and he drove  
5 the car and he shared in the proceeds?

6 A. Yes, sir.

7 Q. He was -- well, the only difference between you and he  
8 is that he didn't go in the house?

9 A. No, sir.

10 Q. Who is Carlos Shuler?

11 A. Who is he?

12 Q. Yes.

13 A. The confidential informant in our case.

14 Q. Is he -- was he involved in what happened this night?

15 A. Yes, sir.

16 Q. What was his involvement?

17 A. He supplied the weapons and he was part of, like, a  
18 second ride if we needed to get away.

19 Q. Did he go to the location?

20 A. Meaning as did he go in the location?

21 Q. Yes.

22 A. No, sir.

23 Q. So he supplied the weapons, he was a driver?

24 A. Yes, sir.

25 Q. He was involved in the planning?

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1 A. Yes, sir.

2 Q. And did he share in the money?

3 A. Yes, sir.

4 Q. Okay. Did you tell Investigator Shumpert this?

5 A. Yes, sir.

6 Q. And obviously he knew, Carlos Shuler knew that a  
7 robbery was going to take place?

8 A. Yes, sir.

9 Q. Okay. After this all happened, there came a point  
10 when the police searched your house; didn't they?

11 A. After I was incarcerated?

12 Q. Well, they had a search warrant for your house. I'm  
13 not sure if you were in jail or not. They went to your  
14 house with a search warrant; didn't they?

15 A. I was in -- I was locked up when that search warrant  
16 took place.

17 Q. Do you know that they did, though?

18 A. Yes, sir.

19 Q. Okay. And when they were in your house, they found a  
20 holster; didn't they?

21 A. Sir?

22 Q. They found a gun holster.

23 MS. FORD: Objection, Your Honor. May we approach?

24 THE COURT: Sure.

25 (Off-the-record discussion.)

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1 THE COURT: And go ahead, Mr. Wise.

2 MR. WISE: Thank you.

3 BY MR. WISE:

4 Q. So when they searched your house, let me get right to  
5 the point. When they searched your house, they found a  
6 gun holster and a knife in your room; isn't that correct?

7 A. Sir?

8 Q. They found a gun holster and a knife in your room?

9 A. Not to my knowledge.

10 Q. Not to your -- you don't know anything about that?

11 A. No, sir.

12 Q. Okay. Now, how did you come to testify in this case,  
13 how did this happen?

14 A. I mean, I don't understand your question.

15 Q. Okay. Did you approach Ms. Ford and say, I want -- or  
16 your attorney and say, I want to testify in this case?

17 A. You mean, like, how did everything come about?

18 Q. Yes.

19 A. I was left with no choice in the matter. Once I was  
20 aware that Richard Sprinkle was doing everything to place  
21 everything on me and tell lies to investigators, I said I  
22 would come forth and give the truth.

23 Q. Okay. So you approached the State about testifying?

24 A. Yes, sir.

25 Q. Okay. Now you said that -- when you decided to

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1 testify, did you meet with Ms. Ford to talk about what  
2 your testimony was going to be?

3 A. I don't understand.

4 Q. Well, let me ask you this. Have you ever met with  
5 Ms. Ford to talk about your case and your testimony?

6 A. With my attorney present?

7 Q. Yes.

8 A. Yes, sir.

9 Q. That would be Andrew Brown?

10 A. Yes, sir.

11 Q. And you talked about all that was going to happen in  
12 your case, your testimony and how it was going to work;  
13 correct?

14 A. No.

15 Q. Okay. All right. Before you testified today -- well,  
16 let me rephrase this.

17 Did your attorney provide you with what we call  
18 discovery in your case?

19 A. Rule Five?

20 Q. Yes.

21 A. Yes, sir.

22 Q. And did you review that Rule Five?

23 A. Yes, sir.

24 Q. So you know -- and would you explain to the jury what  
25 Rule Five is so they know?



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1 A. Rule Five is Brady versus Maryland and motion of  
2 discovery with all the evidence that is in your case.

3 Q. So the evidence in your case is also the same as the  
4 evidence in Mr. Sprinkle's case?

5 A. Yes, sir.

6 Q. So you knew everything that the police had found out  
7 about this situation, what their investigations revealed,  
8 you knew that before you testified today?

9 A. Yes, sir.

10 Q. Now when you started testifying, you said -- I think  
11 Ms. Ford asked you -- you're charged with armed robbery,  
12 and -- or two counts of armed robbery and two counts of  
13 attempted murder.

14 She did not ask you if you're charged with burglary in  
15 the first degree. Are you charged with burglary in the  
16 first degree?

17 A. Not to my knowledge.

18 Q. You were not indicted for burglary in the first  
19 degree?

20 A. No, sir.

21 Q. Do you know why not?

22 A. No, sir.

23 Q. Do you know that Mr. Sprinkle is indicted for burglary  
24 in the first degree?

25 A. No, sir.

1 Q. Do you know that -- you're familiar with the charge of  
2 burglary; aren't you?

3 A. Meaning?

4 Q. You know what a burglary is?

5 A. Yes, sir.

6 Q. Okay. And would your -- and you would -- do you  
7 understand that burglary in the first degree is a very  
8 serious crime?

9 A. Yes, sir.

10 Q. Okay. And you know that that carries life  
11 imprisonment?

12 A. Yes, sir.

13 MS. FORD: Objection, Your Honor.. What is the  
14 relevance of this? Asking --

15 THE COURT: Well, I'm going to sustain that objection.

16 MR. WISE: Your Honor, may I call the Court's  
17 attention to State versus Mizzell dealing with the ability  
18 to cross-examine the witness about a potential punishment,  
19 especially a witness who's -- I'll let the Court review  
20 that.

21 THE COURT: All right.

22 Ladies and gentlemen, I'll ask y'all to leave the  
23 courtroom one more time while I have a discussion with the  
24 attorneys about this.

25 Again, do not talk about the testimony. Thank you.

1 (Jury exits courtroom at 11:22 a.m.)

2 THE COURT: Mr. Wise, what's the cite on this?

3 MR. WISE: I'll find it for you.

4 (Pause.)

5 THE COURT: Mr. Wise, let me hear from you.

6 MR. WISE: Well, Your Honor, I think that case speaks  
7 directly to what I'm trying to do. It deals specifically  
8 with the issue where you have a witness who has charges  
9 pending where the issue is what the potential punishment  
10 is versus what he is trying to see happen.

11 And the fact that a witness who hasn't reached a  
12 specific agreement about a number is more -- it's relevant  
13 for the jury that they know that there is a potential  
14 there for greater punishment, that they hear that to  
15 evaluate his credibility.

16 I think that's what that case stands for. And it says  
17 it's especially true -- can I look at the case for a  
18 second?

19 THE COURT: Sure.

20 MR. WISE: The language that I think is most  
21 relevant --

22 MS. FORD: Your Honor, can we see a copy of this?

23 MR. WISE: Yes, you can.

24 THE COURT: You don't have a copy?

25 MS. FORD: No, sir, I don't.

1 MR. WISE: I don't.

2 THE COURT: Hold on, Mr. Wise. Before you do that,  
3 would you go back in there and let's copy it?

4 MR. WISE: Sure.

5 THE COURT: Maybe a couple copies because Mr. Bell  
6 probably wants to read it, too.

7 (Law clerk exits courtroom.)

8 (Break was taken from 11:26 a.m., until 11:43 a.m.,  
9 when the trial continued:)

10 THE COURT: I want to get your arguments on the  
11 record. Mr. Wise, I'll let you go first.

12 MR. WISE: Your Honor, I think --

13 THE COURT: And just for the record, just so they'll  
14 know. We had to take a number of breaks in Mr. Echols'  
15 testimony and I asked the attorneys to come back in  
16 chambers so that I could find out where we're going and  
17 hopefully continue with his cross-examination in a  
18 smoother fashion without as many interruptions as we've  
19 had to take so far.

20 So I had a taken the liberty of asking you where you  
21 were going with your cross-examination. And you brought  
22 up three different areas that we needed to address so we  
23 could go forward in a, perhaps, smoother and more coherent  
24 fashion without having to take these -- let the jury go  
25 out on possibly three separate occasions.

1       So that's what I'm giving you the opportunity to talk  
2 to me about right now. Okay?

3       MR. WISE: I think the issues that we're left with is  
4 whether I can inquire of this witness that he's looking  
5 for a ten-year sentence. That was the first issue.

6       The reason I think that is an appropriate area to  
7 examine this witness about is because it goes to his --  
8 the jury should evaluate that in evaluating his  
9 credibility. That, in fact, as he said, if he had been  
10 charged with burglary in the first degree he would be  
11 looking at life. He is desirous of serving a ten-year  
12 sentence. And the jury should evaluate that in how they  
13 evaluate the things that he testifies to.

14       THE COURT: Okay.

15       MR. WISE: The second issue I think related to -- I  
16 think it was my indication that I planned to ask him,  
17 wasn't he given an offer of a cap of 20 years. And  
18 obviously that goes along with the same issue of, he could  
19 be facing life, he was offered 20 and he's looking for  
20 ten.

21       So it's the same issue of how the jury evaluates his  
22 credibility understanding the potential sentence, what the  
23 sentence was, what the plea offer was that he was  
24 originally offered and what he's looking for.

25       Then I think the third issue that came up was my --

1 and let me make sure.

2 My intention to ask him about his membership in the  
3 Folk Nation. The Folk Nation -- and, Your Honor,  
4 obviously I don't know what this witness would say when I  
5 ask him that question. But the reason this becomes an  
6 issue and the reason I know to ask the question is because  
7 this is based on something he said to Investigator  
8 Shumpert in their videotaped statement.

9 And I think the fact that he is a member of a gang, a  
10 gang that has been known to commit all manner of crime  
11 becomes relevant for the jury to evaluate his credibility.

12 In addition, he said to Lieutenant Shumpert not only  
13 was he a member of the Folk Nation but he was a lieutenant  
14 in the Folk Nation. In other words, he ordered other  
15 people around. I think he said that he gave orders to  
16 other people.

17 So again I think that goes to -- the jury should  
18 evaluate that.

19 And, Your Honor, I submit being a member of a gang is  
20 a bad act that he should be able to be cross-examined  
21 about, but I think it goes to this individual's  
22 credibility.

23 And all of these questions, the issue of the ten year  
24 to 20 year, involved in the Folk Nation are all designed  
25 to squarely let the jury make a determination about how to

1 evaluate this witness's credibility.

2 THE COURT: Okay. Thank you, sir. Ms. Ford?

3 MS. FORD: Your Honor, regarding Mr. Wise's first and  
4 second arguments, we would refer to Rule 408, Your Honor,  
5 that's specifically discussing plea negotiations. This  
6 witness has testified that he was offered nothing in  
7 exchange for his testimony here today.

8 And that should be sufficient, Your Honor.

9 In conformity with 410, Your Honor. I apologize.  
10 Rule 410 of South Carolina Rules of Evidence.

11 Your Honor, concerning Mr. Wise's additional argument  
12 about asking questions about the witness's possibility of  
13 being involved in the Folk Nation, Your Honor, we'd just  
14 refer to Rule 405 (sic) that evidence of a crime, wrong or  
15 act is not admissible to prove the character of a person  
16 in order to show action in conformity therewith.

17 That's exactly what the defense is trying to do here.  
18 If you are a member, it says, you must have committed  
19 these crimes. Your Honor, that's what the rule was  
20 created to obviously avoid, Your Honor.

21 And I think Mr. Wise's confusing the issue of  
22 credibility of a witness versus the character of a  
23 witness. The credibility of a witness can be tested, Your  
24 Honor, but certainly not bring into, the character of the  
25 witness in the manner in which Mr. Wise's attempting to do

1 so which it would be the State's position would violate  
2 Rule 404, Your Honor.

3 THE COURT: Okay. Thank you, ma'am. All right.  
4 Anything in response?

5 MR. WISE: Very, very briefly, Your Honor.

6 As I indicated, I am not trying to show -- because  
7 there's really nothing that's related to this case that  
8 deals with any kind of gang or gang activity or anything  
9 like that unless these other guys from the Folk Nation  
10 could -- as the State's indicated it does, there is a  
11 difference between character and credibility and my belief  
12 is that it goes to the witness's credibility.

13 I'm not trying to show he acted in conformance with  
14 anything that the Folk Nation does in this situation.

15 THE COURT: But you're -- okay. All right.

16 The first thing, right before we took a break I had  
17 sustained your objection to his question about whether or  
18 not he could ask him about the possible life sentence.  
19 And Mr. Wise was kind enough to give me the Mizzell case  
20 so I'm going to correct my ruling.

21 I'm going to overturn the objection. He is allowed to  
22 ask him about the maximum sentence he could be facing  
23 under that. Okay?

24 With regards to Mr. Echols asking, you know, for ten  
25 years or asking for a cap of 20 years, whether or not that



1 was given or not, all of that is part of plea negotiations  
2 and we're not going to get into that at all.

3 With regard to whether or not he was in a gang or not  
4 in a gang however, whether he -- it doesn't matter to me  
5 how he's going to ask it, we're not going to get into  
6 that. I think it's character. Doesn't have anything to  
7 do with his truthfulness or untruthfulness. So, whether I  
8 think it's a bad act that he's in a gang or not, we're not  
9 getting into it in this trial.

10 Okay? All right.

11 MR. WISE: Your Honor, just to clarify the Court's  
12 ruling.

13 THE COURT: Okay.

14 MR. WISE: I understand about the plea negotiations.

15 THE COURT: You're not going to ask him about the ten,  
16 you're not going to ask him about the 20.

17 MR. WISE: Okay.

18 THE COURT: That's plea negotiations. You're not  
19 going to ask him whether or not he was a member of a gang  
20 regardless of what he says.

21 MR. WISE: Okay. Since we're all standing here.

22 THE COURT: Some of us are sitting.

23 MR. WISE: Since I'm the only one standing here.

24 THE COURT: That's right. And since you're here and  
25 you got the floor, go ahead.

1 MR. WISE: One of the things I was going to ask him  
2 about was whether or not, and this goes with life  
3 imprisonment, he was served notice of life without parole,  
4 an LWOP. The --

5 THE COURT: You can ask him that. He has been served  
6 with that; is that correct?

7 MS. FORD: Mr. Echols has not, Your Honor.

8 THE COURT: Mr. Echols has not?

9 MR. WISE: Thank you, Your Honor.

10 THE COURT: It's seemingly in line with the Mizzell.  
11 You can ask him about whatever maximum sentence he could  
12 be facing.

13 MR. WISE: Thank you, Your Honor.

14 MS. FORD: But I would like to say that he certainly  
15 could be, but he's not on trial here today.

16 THE COURT: Right. I understand.

17 Now after the break we're getting ready to start  
18 again. Is the State ready?

19 MS. FORD: Yes, sir, Your Honor.

20 THE COURT: Is the defense ready?

21 MR. WISE: We are, Your Honor. Thank you.

22 THE COURT: Thank you, sir. If you'd bring the jury  
23 back in. Thanks.

24 And, Mr. Wise, I note your objection to all my rulings  
25 so they're preserved.

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1 MR. WISE: Thank you, Your Honor.

2 THE COURT: Thank you, sir. Looking forward to  
3 reading this transcript.

4 (Jury enters courtroom at 11:53 a.m.)

5 THE COURT: All right. Ladies and gentlemen, again, I  
6 want to thank you for your patience. We'll continue now  
7 with the cross-examination of Mr. Echols.

8 Mr. Wise, you have the floor.

9 MR. WISE: Thank you, Your Honor.

10 THE COURT: Yes, sir.

11 CROSS-EXAMINATION (CONTINUED)

12 BY MR. WISE:

13 Q. Mr. Echols, I'm going to -- let's go back and start  
14 again. You testified you weren't indicted for burglary in  
15 the first degree; correct?

16 A. Correct.

17 Q. And you know that burglary in the first degree carries  
18 life imprisonment; correct?

19 A. Correct.

20 Q. Okay. Now have you been served with notice that the  
21 State intends to seek life without parole or LWOP?

22 A. No, sir.

23 Q. Do you know what that means?

24 A. Yes, sir.

25 Q. What does that mean?

SEAN ECHOLS - CROSS

1 A. Life without the possibility of parole.

2 Q. Which means if that happens to you, you'd spend the  
3 rest of your life in prison?

4 A. Yes, sir.

5 Q. Since this case has been pending, you've threatened  
6 Mr. Sprinkle; haven't you?

7 A. No, sir.

8 Q. You never threatened him in jail?

9 A. No, sir.

10 Q. You never sent some of your friends to beat him up?

11 A. No, sir.

12 Q. That never happened?

13 A. No, sir.

14 Q. Okay. I don't think you were asked this, Mr. Echols,  
15 on direct but you've got a prior conviction for burglary;  
16 don't you?

17 A. Yes, sir.

18 Q. Okay. And prior convictions for assault and battery  
19 with intent to kill?

20 A. Yes, sir.

21 Q. Okay. On your direct examination you mentioned  
22 exchanging some texts, I think, with Clark, somebody named  
23 Jasper Clark.

24 Do you know somebody -- is it Jasper Clark? Is that  
25 the name of the person who was involved in this with you?

SEAN ECHOLS - CROSS

1 A. Yes, sir.

2 Q. Jasper Clark. Okay. So you exchanged some text  
3 messages with Jasper Clark about this crime; correct?

4 A. Yes, sir.

5 Q. Did you exchange any text messages with Mr. Sprinkle  
6 about this crime?

7 A. No, sir.

8 Q. Okay.

9 MR. WISE: Your Honor, may I have one moment?

10 THE COURT: Take your time.

11 (Pause.)

12 BY MR. WISE:

13 Q. A couple of very quick questions. Mr. Echols, I think  
14 on direct testimony you said that Sprinkle said to you,  
15 called out to you and said, I got it; is that right?

16 A. Yes, sir.

17 Q. And then after that you came into the room?

18 A. Yes, sir.

19 Q. And that's when you said to him, make him talk; that's  
20 your testimony?

21 A. No, sir. After -- once he called me into the room  
22 that's when he asked for the knife. We switched weapons,  
23 and then that's when I was, like, yeah, make him talk.

24 Q. Okay. And that was after he said, I got it?

25 A. Yes, sir.

SEAN ECHOLS - REDIRECT

1 Q. How do you know Richard Sprinkle?

2 A. Through Collins Shuler and Jasper Clark.

3 Q. Did you ever pal around with him?

4 A. Probably on, like, two or three occasions.

5 Q. So two or three occasions in your whole life you spent  
6 any time with Mr. Sprinkle?

7 A. Yes, sir.

8 Q. But this is the person you choose to go and do, in  
9 your testimony do a robbery with?

10 A. Yes, sir.

11 MR. WISE: Thank you, Mr. Echols.

12 THE COURT: Ms. Ford, anything on redirect?

13 MS. FORD: Yes, sir.

14 REDIRECT EXAMINATION

15 BY MS. FORD:

16 Q. Mr. Echols, when you talked to Investigator Shumpert  
17 you had said that there was a third person involved with  
18 the robbery. Were you talking about Richard Sprinkle?

19 A. Yeah, we were the only two people.

20 Q. So when you said a third person --

21 A. I was lying.

22 Q. -- you were talking about you, Richard Sprinkle and  
23 another third person; correct?

24 A. Yes, sir -- I mean, yes, ma'am.

25 Q. Mr. Sprinkle was not the third person you were

SEAN ECHOLS - REDIRECT

- 1 thinking of?
- 2 A. No, ma'am.
- 3 Q. Okay. You've always said that Richard Sprinkle and
- 4 you planned this robbery?
- 5 A. Yes, ma'am.
- 6 Q. Together?
- 7 A. Yes, ma'am.
- 8 Q. With Jasper Clark and Collins Shuler?
- 9 A. Yes, ma'am.
- 10 Q. And that's been your testimony here today?
- 11 A. Yes, ma'am.
- 12 Q. Correct? And that's what you told Investigator
- 13 Shumpert?
- 14 A. Yes, ma'am.
- 15 Q. Do you know what the maximum penalty is for armed
- 16 robbery?
- 17 A. Yes, ma'am.
- 18 Q. What is it?
- 19 A. Thirty years.
- 20 Q. Do you know what the maximum penalty is for attempted
- 21 murder?
- 22 A. Yes, ma'am.
- 23 Q. What is that?
- 24 A. Thirty years.
- 25 Q. You're looking at two counts of both; correct?

1 A. Yes, ma'am.

2 Q. So you're looking at a maximum of 120 years for these  
3 charges; correct?

4 A. Yes, ma'am.

5 MS. FORD: No further questions, Your Honor.

6 THE COURT: Anything on recross?

7 RECROSS-EXAMINATION

8 BY MR. WISE:

9 Q. Mr. Echols, Ms. Ford just asked you about Mr. Shuler  
10 and Mr. Clark. How long have you known Mr. Shuler?

11 A. All my life.

12 Q. And how long have you known Mr. Clark?

13 A. Same.

14 Q. Okay.

15 MR. WISE: Thank you.

16 THE COURT: All right. Thank you, Mr. Echols. You  
17 may step down. Thank you.

18 May I see the attorneys here for one second?

19 (Off-the-record discussion.)

20 THE COURT: Ms. Ford, is the State ready to call its  
21 next witness?

22 MS. FORD: Your Honor, at this time the State would  
23 rest.

24 THE COURT: All right. Ladies and gentlemen, the  
25 State has elected to rest their case. That means you've



1 heard all the testimony you're going to hear from the  
2 State. Okay?

3 Next what we're going to do now is, it is,  
4 fortunately, lunchtime. So we're going to take a break  
5 for lunch. As happens in the course of a case, once the  
6 State rests there's some issues I've got to take up out of  
7 the presence of the jury. So it's handy that it's now  
8 lunchtime so y'all can go off to lunch.

9 I'd ask y'all to come back at two o'clock. Okay?  
10 We'll resume the trial at two o'clock.

11 Remember, you have not heard all the testimony in this  
12 case. You cannot talk among yourselves about the  
13 testimony that you have heard or with anybody else, you  
14 cannot do any investigation or read anything about this.  
15 Okay?

16 Go and have a nice lunch. Enjoy it, it's a beautiful  
17 day outside. Okay. Thank y'all.

18 (Jury exits courtroom at 12:02 p.m.)

19 (Pause in proceedings from 12:02 p.m., until  
20 12:11 p.m., and the trial resumed:)

21 THE COURT: Y'all want to come back there and talk?

22 MR. WISE: Sure.

23 THE COURT: All right. Mr. Wise, do you want me to  
24 ask him those questions before --

25 MR. WISE: Yes, I think they're getting him now.

1 (Pause in proceedings from 12:02 p.m., until  
2 12:13 p.m., when the Defendant entered the courtroom and  
3 the trial resumed:)

4 THE COURT: All right. We're going to go back on the  
5 record for a second.

6 And, Mr. Sprinkle, we need to put you under oath. If  
7 you don't mind standing up, raising your right hand.

8 (Defendant placed under oath.)

9 THE COURT: Mr. Sprinkle, if you want you're welcome  
10 to sit down if you want to.

11 THE DEFENDANT: No, I'm good.

12 THE COURT: You're good?

13 THE DEFENDANT: Yes.

14 THE COURT: I don't blame you. I like to stand up  
15 some myself.

16 Mr. Sprinkle, at this time I'm going to explain to you  
17 certain of your rights. I know your attorneys have  
18 already gone over this with you. But if you do not  
19 understand anything I say, just let me know. If you want  
20 me to explain anything in more detail, if you'll let me  
21 know I'll be happy to do that.

22 Do you understand?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right, sir. As you know we've now  
25 reached the stage of the trial where you may present your

1 defense.

2 You have the right to claim the protections given to  
3 you by the Fifth Amendment of the Constitution of the  
4 United States. This amendment states in part that no  
5 person shall be compelled in any criminal case to be a  
6 witness against himself.

7 This means that you cannot be required to testify in  
8 this case. You have the right to testify on your own  
9 behalf. However, no one can make you testify. This is a  
10 personal right, and no one can waive this right except  
11 you.

12 THE DEFENDANT: Correct.

13 THE COURT: If you decide to testify, you will be  
14 subject to the same rules that govern other witnesses and  
15 you may be examined and cross-examined on any relevant  
16 issue in this case.

17 In addition, if you have any convictions involving  
18 dishonesty or false statements or for crimes punishable by  
19 imprisonment for more than one year and this Court  
20 determines that the probative value of admitting this  
21 evidence outweighs its prejudicial effect to you, the  
22 solicitor will be able to introduce your record to attack  
23 your credibility.

24 THE DEFENDANT: Correct.

25 THE COURT: Just as was done with Mr. Echols. Okay?

1 THE DEFENDANT: Right.

2 THE COURT: If you decide to testify, this decision on  
3 your part must be freely and voluntarily and intelligently  
4 made with knowledge of the protections given to you by the  
5 Fifth Amendment and the consequences of your decision to  
6 testify.

7 If you decide not to testify, I will instruct the  
8 jurors that they cannot give the fact that you did not  
9 testify any consideration whatsoever, and that there is to  
10 be absolutely no prejudice to you because you did not  
11 testify.

12 It is left entirely up to you whether or not you  
13 testify. You may talk with your attorneys, your family,  
14 friends, or anyone else but the final decision is left  
15 entirely up to you.

16 Do you understand what I've explained?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And it's my understanding that you've  
19 already talked with your attorneys about that?

20 THE DEFENDANT: So-so.

21 THE COURT: So-so.

22 THE DEFENDANT: (Nods head.)

23 THE COURT: Okay. Do you have any questions about  
24 what I've told you?

25 THE DEFENDANT: No, sir.

1 THE COURT: All right. Now, the reason I'm telling  
2 you now before we take the break for lunch is to give you  
3 time during lunch to talk with your attorneys some more  
4 about that. And if there's anybody else that you need to  
5 talk with about that, that you'll be allowed to do so.

6 THE DEFENDANT: Thank you.

7 THE COURT: Do you understand that?

8 THE DEFENDANT: Yes, sir. Thank you.

9 THE COURT: And that's what you're wanting to do?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you understand when we come back from  
12 lunch, I'm going to ask you about that and you're going to  
13 have to give me your answer at that time. And you  
14 understand it's going to have to be your answer?

15 THE DEFENDANT: Right.

16 THE COURT: And nobody's supposed to pressure you or  
17 anything like that. It's got to be what you want to do.  
18 Do you understand?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Well, I'll talk to you after lunch.

21 THE DEFENDANT: All right, sir. Thank you, sir.

22 THE COURT: Okay. Now we're taking a break for  
23 lunch. We need to be back here about 1:30.

24 MS. FORD: Thank you, Your Honor.

25 (Thereupon, the luncheon recess was taken at

1 12:22 p.m., until 2:12 p.m., when the trial resumed:)

2 THE COURT: Y'all may be seated.

3 Let me just go over a couple of things on the record.

4 The attorneys have had an opportunity to review the  
5 verdict form which is three pages, and five questions with  
6 subparts to questions three and four.

7 And they have indicated in chambers that the verdict  
8 form was acceptable.

9 Is that correct, Ms. Ford? Ms. Ford?

10 MS. FORD: Yes, sir.

11 THE COURT: The verdict form is fine?

12 MS. FORD: Yes, sir.

13 THE COURT: And Mr. Wise?

14 MR. WISE: It is, Your Honor.

15 THE COURT: Now we've also had an opportunity in  
16 chambers to go over the jury charges. And I believe the  
17 defense had submitted a criminal intent definition from  
18 Section 111 that had a sentence in it that mine did not  
19 contain verbatim.

20 I have allowed them to look -- they have reviewed my  
21 criminal intent charge, and I believe it is acceptable.  
22 Is that correct?

23 MS. ULLMAN: Your Honor, after reviewing what Court  
24 intends to charge we are acceptable with that versus the  
25 one sentence that is missing.

1 THE COURT: All right. And I have advised counsel  
2 that I will be charging the armed robbery charge,  
3 attempted murder, assault and battery first as to both of  
4 the victims, but I would also charge assault and battery  
5 second as to Mr. Wright.

6 The parties are -- I mean, as to Mr. Wright being the  
7 victim.

8 MS. FORD: As well as assault and battery of a high  
9 and aggravated nature?

10 THE COURT: Yes. Assault and battery high and  
11 aggravated nature as well.

12 MS. FORD: Yes, sir.

13 THE COURT: Thank you. Yeah, okay. All right.

14 MS. ULLMAN: Obviously, Your Honor, for the record we  
15 would object to that. We would ask that you charge  
16 assault and battery second as to both victims.

17 THE COURT: Right.

18 MS. ULLMAN: Due to the injury we feel that that fits  
19 moderate bodily injury.

20 THE COURT: And just to clarify. The Court does not  
21 believe that Mr. Rumph -- number one, it is only arguable  
22 to the Court that Mr. Wright only received moderate bodily  
23 harm, but the Court does not believe Mr. Rumph received  
24 only moderate bodily harm when he was cut, I believe, five  
25 times. And I do not, the Court does not believe that that

1 was moderate bodily injury, but I note your objection.

2 Anything else we need to discuss about the charge?

3 MR. WISE: Could I have one moment, Your Honor?

4 THE COURT: Sure. And, again, y'all have the

5 opportunity after I charge to clear that up.

6 MS. ULLMAN: Yes, sir.

7 THE COURT: But right now.

8 MS. ULLMAN: We're fine. Thank you.

9 THE COURT: All right. Now, is the defense ready to  
10 proceed?

11 MR. WISE: We are, Your Honor.

12 THE COURT: Okay. And -- have y'all had -- I guess I  
13 need to ask Mr. Sprinkle.

14 Mr. Sprinkle, if you'd stand back up, please, sir, if  
15 if you don't mind?

16 THE DEFENDANT: (Complies.)

17 THE COURT: Mr. Sprinkle, we had earlier placed you  
18 under oath to go over when I advised you about whether or  
19 not you wanted to testify or not.

20 THE DEFENDANT: Uh-huh.

21 THE COURT: Okay? And we did that right before we  
22 took a break for lunch. And during lunch, hopefully  
23 you've had an opportunity to talk to everybody that you  
24 wanted to.

25 THE DEFENDANT: Yes, sir.



1 THE COURT: Have you had that opportunity?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Have you come to a conclusion as to  
4 whether or not you wish to testify?

5 THE DEFENDANT: I don't.

6 THE COURT: Okay. And I appreciate the fact but, so  
7 you've come to a conclusion. Have you done that freely  
8 and voluntarily?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Has anybody forced you to make that  
11 decision?

12 THE DEFENDANT: No, sir.

13 THE COURT: Okay. And it is your decision not to  
14 testify; is that right?

15 THE DEFENDANT: Right.

16 THE COURT: Thank you, sir. You can sit down.

17 THE DEFENDANT: (Complies.)

18 MS. ULLMAN: Your Honor, The last thing I think before  
19 we bring in the jury is the State has rested on the  
20 record. The defense would have a motion for a directed  
21 verdict.

22 THE COURT: Okay.

23 MS. ULLMAN: Bear with me just a moment, Your Honor.

24 THE COURT: Take your time.

25 MS. ULLMAN: Directed verdict motion, obviously the

1 Court is to look at the evidence in the light most  
2 favorable to the State.

3 And this is an issue of whether evidence exists, not  
4 sufficiency of that evidence, though the evidence must be  
5 competent evidence, Your Honor.

6 Regarding that, specifically attempted murder, both  
7 indictments, Your Honor, we believe there's been no  
8 evidence at all as to Mr. Sprinkle's intent to kill  
9 Mr. Rumph or Mr. Wright. Regarding that, Your Honor,  
10 Mr. Wright received cuts to his body but he was never  
11 stabbed or shot with the gun that they're alleging was  
12 there.

13 Obviously a stabbing and a shooting would be likely to  
14 result in death and certainly could be inferred to intend  
15 that, but in this situation regarding Mr. Wright the only  
16 evidence is that he had been hit, I believe, with a weapon  
17 but that he was hit not shot or stabbed.

18 Regarding Mr. Rumph, Your Honor, I believe the  
19 evidence has been that he was cut with the intention of  
20 trying to make him talk. Obviously you can't make someone  
21 talk who's dead.

22 So I think that that would show that the intent was to  
23 make him talk, to make him tell where the money was and  
24 not actually to kill him. Had that been the intent, make  
25 him talk certainly wouldn't be part of what happened

1 there.

2 So regarding the attempted murder as to both victims,  
3 I don't believe any evidence as to the intent has been  
4 provided.

5 Your Honor, regarding the armed robbery, there's no  
6 evidence that -- excuse me. I'm sorry. There's no  
7 evidence that Mr. Sprinkle is the person who --  
8 (conferring with Mr. Wise)...

9 I apologize, Your Honor. Just one second.

10 THE COURT: Take your time.

11 MS. ULLMAN: Apologize. Regarding the armed robbery,  
12 the State has to allege or evidence has to exist here  
13 today that Mr. Sprinkle took property from the presence of  
14 a person or from that person himself with the intent to  
15 deprive him while threatening or armed with a weapon.

16 In this situation I don't think there's been any  
17 evidence that Mr. Sprinkle took property from both of  
18 these victims or that he had the intent to deprive those  
19 victims.

20 I believe the car itself, Your Honor, was left right  
21 down the street. It certainly wasn't hidden or taken out  
22 of the county or anywhere else. So we would argue that  
23 there's no evidence as to the armed robbery.

24 Regarding the burglary, Your Honor, the evidence is  
25 that the victim knew the people at the door and that they

1 let them in. So we would argue that there was no forced  
2 entry or -- no forced entry, and their intent was to --  
3 the testimony was their intent was to go in and use the  
4 phone at first.

5 What happened and the change of the intent once they  
6 entered the house wouldn't be probative. I think the  
7 intent to commit the crime therein on a burglary, no  
8 matter what degree, has to exist at the time that the  
9 entry of the residence was made.

10 That's it, Your Honor. Thank you.

11 THE COURT: Thank you, ma'am. Any response?

12 MR. BELL: I'll respond.

13 THE COURT: Okay. Mr. Bell?

14 MR. BELL: Thank you, Your Honor.

15 As stated, the Court is weighing -- well, not weighing  
16 but considering whether there was any evidence to support  
17 the charges. I think as to the attempted murder, I think  
18 the Court can infer that from the circumstances, A, they  
19 were both armed with deadly weapons therefore, there was  
20 an intent to do serious harm or to kill.

21 And I think the statements made, one, talk or I'll  
22 kill you or whatever, I think that certainly, I think that  
23 evinces an intent that they would have killed them if they  
24 hadn't talked. I mean, we can't read their minds because  
25 eventually I think Mr. Rumph talked.

1 I will also say there were questions that were asked  
2 about, also, I think even Sean Echols, I've killed before  
3 and I'll kill again. So even though I can't remember, I  
4 thought that came out with one witness, maybe with  
5 Detective Garrison, but there was talk, a direct threat to  
6 kill which would evince an intent to kill and malice to  
7 cover an attempted murder, both attempted murders because  
8 as you know the hand of one is the hand of all. What's  
9 imputed to one can be imputed to both since they were both  
10 actively involved in the crime.

11 As to the armed robbery, they were both armed. Money  
12 was taken from both individuals. Goods were taken from  
13 both individuals while they were, each of the participants  
14 were armed and we would say also that the hand of one,  
15 again, applies to both. It covers the activity of both as  
16 to each.

17 As to the burglary, Your Honor, I think there is no  
18 element in burglary of forced entry. There's only entry.  
19 And the State would argue that in this case that entry,  
20 that the consent to enter was overcome or it was without  
21 consent because it was coercive intent. It was gained by  
22 trick or artifice under 16-11-310. And that's adequate  
23 under the law for the crime of burglary first. They came  
24 in. They were armed. And they also injured two  
25 individuals who were not participants in the crime.

1 That's the elements of those crimes.

2 So I think the State has proven -- I think the State  
3 has proven, not just the evidence (verbatim) of the  
4 evidence but we have proven that all charges exist.

5 And would ask that you deny the directed verdict  
6 motion on all five indictments.

7 THE COURT: All right. Thank you, Mr. Bell.

8 With regard to the motion, I do have to look at  
9 whether or not there's any evidence with regard to the  
10 attempted murder.

11 I believe the phrase you were looking for that was  
12 testified to was, don't make me kill you over this little  
13 bit of money was the question. So I do believe that there  
14 is testimony from which a jury could reasonably find him  
15 guilty of the charge of attempted murder.

16 As to the charge of armed robbery, I know that the  
17 defense has made an issue about it not being for a very  
18 long period of time, but if you take -- as the law says,  
19 if you take property for even an instant away from, the  
20 slightest removal of property for even an instant it's  
21 sufficient to be a taking or an armed robbery of a person.

22 And, regarding no forced entry, deception as a means  
23 of entering into a house is included in the charge of  
24 burglary.

25 And I believe that with regard to all these charges

1 there's sufficient evidence in the record for it to go to  
2 the jury. So I am denying motions for directed verdict.

3 Thank you, Ms. Ullman.

4 Now, is the defense -- I understand that Mr. Sprinkle  
5 is not going to testify. Is there going to be any  
6 testimony from the defense?

7 MR. WISE: No, Your Honor. We would rest.

8 THE COURT: So when the jury comes in and you rest on  
9 the record, you won't -- do you want me to excuse them so  
10 you can renew your directed verdict motion or --

11 MR. WISE: Can I have one minute, Your Honor?

12 THE COURT: Yeah.

13 MS. ULLMAN: Your Honor, for the record defense has  
14 rested. I think it would be appropriate just to renew our  
15 motion at this point.

16 When the jury comes in certainly in front of them  
17 we'll rest so that they understand the defense is not  
18 putting up any information but just for logistics and not  
19 making them travel so much, obviously we have rested and  
20 we would renew our motions just based on the same  
21 argument.

22 THE COURT: Okay. And I think just for the record  
23 what we'll do is I'll let you rest and then for the record  
24 I just want you to state on the record we'll renew our  
25 motions and I'll say I'll renew my decision or something

1 like that and we'll go forward.

2 MS. ULLMAN: Yes, sir.

3 THE COURT: Ms. Ford, are you prepared to go forward  
4 at that stage?

5 MS. FORD: Yes, sir.

6 THE COURT: And then, who's closing? Ms. Ullman?

7 MR. WISE: I am.

8 THE COURT: Mr. Wise. All right.

9 If y'all are ready, go ahead and bring the jury in.

10 Okay. Thank you.

11 (Jury enters courtroom at 2:30 p.m.)

12 THE BAILIFF: Your Honor, may I approach?

13 THE COURT: Yes, ma'am.

14 (Off-the-record discussion.)

15 THE COURT: All right. Ladies' and gentlemen, I  
16 understand from the bailiff we tried to find a cooler room  
17 to put y'all in. And you understand we will sweat you out  
18 if we have to.

19 Now I hope y'all enjoyed lunch. We're getting ready  
20 to continue with the trial now. Mr. Wise?

21 MR. WISE: Your Honor, at this point the defense would  
22 rest.

23 THE COURT: Ladies and gentlemen, the defense has  
24 indicated that they are resting which means that they will  
25 not be putting up any testimony at this time.



## CLOSING STATEMENTS ON BEHALF OF THE STATE

1       The -- so we will now go into the final arguments on  
2 this case. Before we do the final arguments, Mr. Wise, do  
3 you want to just note or Ms. Ullman, do you want to note  
4 for the record?

5       MS. ULLMAN: Yes, sir. Just for the record, I would  
6 renew motions that we had discussed previously and the  
7 motions just made before.

8       THE COURT: Thank you. And just for the record, I  
9 will do my decision just as we had done. Okay?

10       MS. ULLMAN: Yes, sir.

11       THE COURT: All right. Ladies and gentlemen, what  
12 we're going to do now is we're going to go into the  
13 closing arguments of the parties.

14       And Ms. Ford, are you ready?

15       MS. FORD: I am, Your Honor.

16       THE COURT: Okay. All right.

17       MS. FORD: May it please the Court.

18       THE COURT: Yes, ma'am.

19       MS. FORD: Good afternoon, ladies and gentlemen of the  
20 jury.

21       Don't make me kill you over this little bit of money.  
22 Don't make me kill you over this little bit of money.

23       There cannot be a more cowardly or depraved act than  
24 the burglary, the robbery, and the brutal beating and  
25 stabbing of two old men who were asleep in their own

## CLOSING STATEMENTS ON BEHALF OF THE STATE

1 house.

2 But that was exactly what Richard Sprinkle and Sean  
3 Echols did on the night of June 26, 2011, at the home of  
4 Mr. Robert Rumph and Mr. James Wright.

5 They were asleep in their beds, awoken by a knock,  
6 face to face with people they knew and ultimately with the  
7 barrel of a pistol pointed at them and the shine of a  
8 knife coming at their body.

9 Ladies and gentlemen, Mr. Sprinkle is charged on five  
10 indictments; burglary in the first degree, two counts of  
11 armed robbery, and two counts of attempted murder.

12 As I go over the law, I ask that you please remember  
13 that Judge Dickson is the Judge. If anything I say in my  
14 explanation of the law conflicts in any way with Judge  
15 Dickson's, you've got to follow him. He's the Judge.

16 Use a yardstick.

17 Burglary in the first degree is the unlawful entry  
18 into the dwelling of another without consent, with the  
19 intent to commit a crime therein, accompanied by  
20 circumstances of aggravation, being armed with a deadly  
21 weapon, or causing physical injury to a non participant in  
22 the crime.

23 Now Mr. Bell in his opening told you about this  
24 unlawful entry into a dwelling of another without  
25 consent. If you lie, you trick, you deceive to gain entry

## CLOSING STATEMENTS ON BEHALF OF THE STATE

1 into the home, then that is without consent.

2 Armed robbery. Armed robbery is the taking and  
3 carrying away of another's personal property with the  
4 intent to deprive him or her of possession by use of  
5 force, threats or intimidation and while armed with a  
6 deadly weapon which in this case would be armed with a  
7 knife and armed with a gun.

8 And attempted murder. The intent to kill, attempts to  
9 kill another with malice aforethought either express or  
10 implied.

11 The Judge is going to go over all of this in greater  
12 detail.

13 But I first want to look to what you heard from the  
14 witness stand. What's the testimony that you heard? The  
15 evidence shows that Richard Sprinkle and Sean Echols went  
16 to Mr. Rumph and Mr. Wright's house on Myers Road here in  
17 Orangeburg County that night, June 26 of 2011.

18 Everyone agrees with that, even the Defendant. He  
19 told the investigators he was there that night. Everyone  
20 agrees.

21 They knocked at the door armed with a knife, a gun.  
22 Sean Echols testified they came up with a story; I need to  
23 use the phone, had a little fight with my girlfriend, I  
24 need your help.

25 Mr. Wright testified he went to the door, answered

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1 it. They said they needed to use the phone. He wanted to  
2 check with his house mate. He wanted to talk with  
3 Mr. Rumph, Uncle Rocky as they called him when they asked  
4 if they could see him and use the phone. Mr. Rumph said  
5 sure because Mr. Wright said, we know him.

6 So when Mr. Wright went back, he pointed out the  
7 person in this courtroom, Mr. Richard Sprinkle, that  
8 pointed a gun at him. He pointed it right at his chest  
9 and demanded money from Mr. Wright.

10 The testimony you heard from the witness stand was  
11 that Mr. Wright knew him as Ricky. He had seen him  
12 around. He testified that he had even seen him the day  
13 before. He said, I saw him on that Saturday. This  
14 happened that Sunday night. Middle of the night. He had  
15 just seen him.

16 Investigator Garrison ultimately showed Mr. Wright the  
17 lineup. And she said immediately Mr. Wright testified and  
18 Investigator Garrison testified, he immediately picked out  
19 who he called Ricky. Rick. Richard Sprinkle.

20 Sean Echols and Richard Sprinkle, they got  
21 Mr. Wright's money. Mr. Wright was beaten about the head  
22 with a gun, told you he had stitches on the inside of his  
23 mouth because it was all broken up. They bloodied an old  
24 man for \$40 in his own home causing lacerations to his  
25 head. Investigator Garrison testified that these were the

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1 cleaned-up photos. This is what it looked like after it  
2 was all cleaned up.

3 Ladies and gentlemen, the evidence shows you that  
4 Richard Sprinkle is guilty of burglary in the first degree  
5 and he's guilty of the armed robbery and attempted murder  
6 of Mr. James Wright.

7 Both Mr. Wright and Mr. Rumph testified as well as  
8 Sean Echols that the four of them, Mr. Rumph, Mr. Wright,  
9 Sean Echols and Richard Sprinkle, all ended up in  
10 Mr. Rumph's room.

11 After they had made their intrusion into the home by  
12 lying, demanding money, they ended up in Mr. Rumph's  
13 room. Sean Echols was demanding money, demanding money  
14 from Uncle Rocky. Mr. Rumph knows Sean Echols. He dated  
15 his mom. He had even borrowed money from Mr. Rumph.

16 Both Mr. Wright and Mr. Rumph picked Sean Echols out  
17 of the photo lineup. They picked him as one of the people  
18 who came in their home, robbed them, beat and stabbed  
19 them.

20 Sean Echols told Mr. Sprinkle -- four of them were in  
21 that bedroom, Mr. Rumph's bedroom, told him, make him  
22 talk.

23 You heard testimony from both Sean Echols and  
24 Mr. Rumph that Richard Sprinkle and Sean Echols switched  
25 weapons. Richard Sprinkle had the knife and that's when

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1 Richard Sprinkle made Mr. Rumph talk, sliced him, stabbed  
2 him in his abdomen, his foot, his arm, his legs, multiple  
3 places all over his body, ultimately telling him, there's  
4 more money, take it.

5 And that's what they did. Richard Sprinkle made him  
6 talk and stole more money. According to both Mr. Rumph  
7 and Sean Echols, they took Mr. Rumph's money, they took  
8 his pants, an Atlanta Braves baseball cap and they left in  
9 Mr. Rocky Rumph's car leaving this man, Mr. Rocky Rumph,  
10 in a pool of blood in his own bed in his home.

11 Ladies and gentlemen, the evidence shows that Richard  
12 Sprinkle and Sean Echols are guilty of the armed robbery  
13 and attempted murder of Robert Rumph.

14 You heard some testimony from Mr. Wright. He said  
15 Ricky looks different now. When he was beating and  
16 robbing Mr. Wright and Mr. Rumph, he had dreads. He's  
17 clean shaven now. But Mr. Wright pointed, that's Ricky.  
18 He had dreads then. He looks different now but that's  
19 him.

20 Mr. Wright was sure then that it was Richard Sprinkle.  
21 He was sure now when he testified yesterday that that was  
22 the man that came in his house. Lied his way in. Beat  
23 him. Robbed him. Took his money.

24 Mr. Rumph testified he didn't pick anybody out of a  
25 lineup other than Sean Echols. He picked Sean Echols out,

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1 but he gave Investigator Garrison a description; a taller  
2 black man with dreads. Sure sounds like the description  
3 of Richard Sprinkle at the time of this incident.

4 But then we come to the testimony of Sean Echols.  
5 Sean Echols testified it was him. Sean Echols testified  
6 Richard Sprinkle was with him. Together they entered that  
7 home and robbed and assaulted these men.

8 Sprinkle himself told Investigator Thrower and  
9 Investigator Stokes that he was at the house that night.  
10 Of course he doesn't tell the whole truth. He says that  
11 when stuff started going down he got scared and ran.  
12 That's what he told them. That's what the investigators  
13 testified to. And he left the house.

14 That sure doesn't match with what three of the four  
15 people in that house that night said; that he was there.  
16 Sean Echols testified he planned it with him, planned it,  
17 entered that home, beat and took the money of these men.  
18 Sounds better though for him to say, I was there but I was  
19 scared. I didn't do anything.

20 That just doesn't match the testimony that you heard,  
21 the overwhelming evidence that shows that Richard Sprinkle  
22 was there, Richard Sprinkle participated in the planning.  
23 Richard Sprinkle entered that home. He robbed these two  
24 men. He sliced up Mr. Rocky Rumph. He had beaten  
25 Mr. Wright, 74 year old Mr. Wright, stole their money and

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1 left in the car with Sean Echols.

2 The only one that disagrees with that is Richard  
3 Sprinkle. The only person who has a motive to lie. He's  
4 trying to save his own neck. Surely if he robbed and beat  
5 two old men in the middle of the night, he'd certainly lie  
6 to save his neck; wouldn't he?

7 The defense is going to try to say anything to help  
8 Mr. Sprinkle avoid the truth, the truth that you heard  
9 from the witnesses on the witness stand.

10 They're going to try to get you to believe that  
11 Richard Sprinkle was scared of Sean Echols; he was  
12 threatened by him, that he went to that house that night  
13 because he was forced to by Sean Echols. He was under  
14 duress. He had to go, but Sean Echols continues to  
15 threaten him.

16 Ladies and gentlemen, does that make sense? That the  
17 person who's testifying against this man is also  
18 threatening him? Wouldn't it be the other way around?

19 Wouldn't it make more sense that the person testifying  
20 against Mr. Sprinkle would be the one threatened? And  
21 when did Mr. Sprinkle start claiming he was threatened?  
22 Well it turns out it was right around the time he found  
23 out that Sean Echols was going to testify against him.  
24 Huh.

25 And when did Mr. Sprinkle want to come clean? He



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1 said, tell his truth is what he told the investigators,  
2 Investigator Stokes and Investigator Thrower. Well, that  
3 was in January of this year. This happened in 2011. He  
4 was noticed for trial January of this year.

5 The defense wants you to believe, they're going to get  
6 up here and argue in just a few minutes, that Richard  
7 Sprinkle was there but he didn't have anything to do with  
8 it.

9 But that's not what Mr. Wright said. That's not what  
10 Mr. Rumph said. That's not what Sean Echols said.

11 That man was there. He participated. He robbed these  
12 men. He assaulted these men in their own house.

13 The defense is also going to try and throw out that  
14 there was a third person in the house that night, someone  
15 to draw attention away from Mr. Sprinkle.

16 Except the victims say that there were only two people  
17 in the house that night. And we know it was Richard  
18 Sprinkle and Sean Echols.

19 Ladies and gentlemen, I didn't call Sean Echols to the  
20 witness stand because he was a boy scout. Ladies and  
21 gentlemen, Sean Echols is a bad man. He entered their  
22 home. He beat them. He robbed them. He's not a good  
23 guy.

24 And Mr. Echols admits it. He's always admitted it.  
25 You heard him say, we got caught.

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1 And what he says happened and what Mr. Rumph says  
2 happened and what Mr. Wright said happened is right on.  
3 He did it. Richard Sprinkle did it.

4 During cross-examination Mr. Wise had asked  
5 Investigator Garrison if she heard Mr. Rumph tell  
6 Mr. Sprinkle at some sort of hearing that he knows he  
7 didn't have anything to do with it. Investigator Garrison  
8 said she didn't recall any sort of conversation like  
9 that.

10 Well, the interesting thing is, Mr. Wise didn't ask  
11 Mr. Rumph that question because he knows if he did  
12 Mr. Rumph wouldn't have just said no. He would have said  
13 heck no. That didn't happen. Never said that.

14 And if he had asked Mr. Rumph that, then Mr. Wise in  
15 his closing couldn't come up here and float that out to  
16 you all, try to make you all think, oh maybe, maybe  
17 Mr. Rumph did say that. So we asked Investigator Garrison  
18 instead.

19 The defense is going to argue anything to avoid the  
20 truth. The truth that Richard Sprinkle knows, these  
21 victims know, Sean Echols knows. And that's Richard  
22 Sprinkle is guilty of burglary in the first degree. He's  
23 guilty of two counts of armed robbery. And he's guilty of  
24 two counts of attempted murder.

25 Now concerning the attempted murder, if you ladies and

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1 gentlemen are not firmly convinced that Mr. Sprinkle is  
2 guilty on the charge of attempted murder, the Judge will  
3 instruct you on some other offenses. And while it's the  
4 State's position that there is sufficient evidence to find  
5 Mr. Sprinkle guilty of attempted murder on both Mr. Wright  
6 and Mr. Rumph, I ask you all to evaluate the evidence that  
7 you heard, think about it carefully and hold Mr. Sprinkle  
8 responsible for the terrible injuries that he caused  
9 Mr. Wright and Mr. Sprinkle -- Mr. Wright and Mr. Rumph,  
10 excuse me, and find him guilty of attempted murder.

11 And as we wrap up, I go back and think about the  
12 openings, the road map that you heard from Mr. Bell and  
13 Ms. Ullman. Ms. Ullman said in her opening that  
14 Mr. Sprinkle is just a citizen of Orangeburg County but  
15 that the sheriff's office and public safety don't work for  
16 him.

17 Well, I disagree with that. The sheriff's office,  
18 public safety, they work for all citizens, you, me,  
19 Mr. Sprinkle, serving and protecting us. It just so  
20 happens that in this case the citizens of Orangeburg  
21 County need to be protected, protected from Richard  
22 Sprinkle.

23 I ask you, members of the jury, to carefully consider  
24 and think about the evidence that you've heard from this  
25 witness stand. I want you to take a look at the photos,

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1 deliberate in just a little bit.

2 I want you to consider all the witnesses. Mr. Wright  
3 and Mr. Rumph, they're not educated men but they know when  
4 they were robbed and assaulted in their own home and they  
5 know who did it.

6 And they know it was Sean Echols and it was Richard  
7 Sprinkle who planned it, carried it out and left, left  
8 these men bloody in their own home in the middle of the  
9 night.

10 I ask you, members of the jury, to do what is right  
11 and what is just. And in the interest of justice for  
12 Mr. Wright, Mr. Rumph, I ask that when you deliberate I  
13 ask that you find Richard Lanard Sprinkle guilty of  
14 burglary in the first degree, guilty of armed robbery  
15 against Mr. Rumph and Mr. Wright, and I ask that you find  
16 him guilty of two counts of attempted murder against these  
17 victims.

18 THE COURT: Thank you, Ms. Ford.

19 MS. FORD: Thank you.

20 THE COURT: Mr. Wise?

21 MR. WISE: Thank you, Your Honor. If it please the  
22 Court.

23 I understand everything that you've been told by the  
24 State about how they see this case. But I think if you  
25 take a step back and look at the facts in this case you

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1 take a step back and look at the facts in this case you  
2 will see that the things they say do not make sense.

3 I'm going to say a lot of things. I'm going to talk  
4 about a lot of things. I'm going to lay out a lot of  
5 facts. If you think that I am misstating, if you think  
6 that I'm incorrect, if you think that I'm exaggerating,  
7 you have the ability to come back in here and hold me to  
8 my proof. You can come back in here and say, we want to  
9 hear something back. And you can check whether or not I  
10 am telling you what the facts of this case reveal.

11 Now, let's take a look. Because there are too many  
12 things that just don't make sense in this case. You know,  
13 when I started working on this I said to Mr. Sprinkle, you  
14 know, there's just too many inconsistencies. At this  
15 point I am saying there are some things that are just an  
16 impossibility that just could not have happened.

17 Let's start with the fact that these people go to  
18 somebody's house at 2:30 in the morning.

19 Now if you believe the police report based on the  
20 description that they gave, Mr. Rumph and Mr. Wright did  
21 not know who did this.

22 Now, remember, the State says one knew one, the other  
23 knew the other. But Deputy McRoy came in here and  
24 testified that he did his incident report. And in his  
25 incident report when it asked him who are these two

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1 subjects he had two things filled in. One was unknown and  
2 one was a blank.

3 And I asked him, when you left the house that day, who  
4 were you looking for. And he said, we were looking for  
5 two unknown people.

6 Now that's the first indication that something's wrong  
7 because obviously if they knew that it was Sprinkle and  
8 they knew that it was Echols and they knew both of them,  
9 that's the first thing they would say.

10 And, remember they spoke to the police. I think they  
11 said they spoke to four or five police officers.

12 At the time this happened Mr. Wright said that he did  
13 not know who did this. If he knew it was Richard  
14 Sprinkle, he would have said so.

15 But the report says the robbers are unknown.

16 The other thing I think that goes along with that is,  
17 under my examination of Investigator Garrison, I asked her  
18 what was the first thing that Mr. Wright said to you about  
19 who did this. And she said it was -- he said it was two  
20 guys. Garrison says they said, two black males. No  
21 matter who you believe, we know there's no doubt about it,  
22 they never said it was Mr. Echols and Mr. Sprinkle.

23 Now the other thing, late at night, not that big a  
24 deal but important is that they described Mr. Sprinkle as  
25 a person with dark skin. We'll he's sitting there and you

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1 can look at him. And you can make your own determination  
2 about whether or not he is dark skinned.

3 But I submit to you the fact that they described that  
4 man as dark skinned gives you a pretty good indication  
5 that something was going on here. And it is not as the  
6 State would have you believe.

7 The other thing that caught my attention about this  
8 case which made me think this case isn't just what the  
9 State says it is, is that Mr. Wright said he went to the  
10 door and Mr. Wright knows Mr. Sprinkle. He calls him Rick  
11 or Ricky but he never said in answer to my question, did  
12 you speak to him, did you address him, did you say Rick or  
13 Ricky what are you doing here. Did he say to you,  
14 Mr. Peg, how are you doing. There was no interaction  
15 between them according to Mr. Wright.

16 So I submit to you that when he said that that's not  
17 right. That's not accurate.

18 Now, according to Mr. Wright, Mr. Sprinkle asked for  
19 Mr. Rumph but Mr. Rumph doesn't know -- Mr. Rumph doesn't  
20 know Mr. Sprinkle. So why are we asking that? You would  
21 think that Echols who knows Mr. Rumph would ask for  
22 Mr. Rumph. Echols would be the one who would say, Uncle  
23 Rocky. But Echols never spoke.

24 The other curious thing about it is, if Mr. Wright  
25 knew it was Mr. Sprinkle that night why would they need

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1 three or four lineups to figure it out?

2       Apparently Mr. Wright said he knows his name and he  
3 knows what street he lives on. Now, I know Investigator  
4 Garrison. She's a good investigator. She doesn't need  
5 much more to find him. She wouldn't have to keep showing  
6 them these lineups.

7       So I submit to you either Mr. Wright and Mr. Rumph  
8 were trying to mislead people, mislead the police or they  
9 let two complete strangers into their house at that  
10 address.

11       Obviously they spoke to the police because the police  
12 had the description and the only people who would give  
13 that description were Mr. Rumph and Mr. Wright. So  
14 obviously they were not being forthright. That's the  
15 point.

16       The question is, why? Why would they not be  
17 forthright with the police? Why would they not say, we  
18 know these guys, this is who they are? One is my  
19 girlfriend's son and one is a guy I know and this is his  
20 name.

21       We'll come back to that, but there's some other things  
22 about the evidence in this case that should cause you some  
23 concern and cause you, I submit, to find that the State  
24 has not proven their case beyond a reasonable doubt.

25       To accept the State's theory you have to believe that



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1 Mr. Rumph did not know who was seeing Rick. You have to  
2 believe that Mr. Rumph just said, sure, let these  
3 strangers in.

4 Now -- because remember, he didn't know. He didn't  
5 have names. Mr. Sprinkle never said to Mr. Rumph, it's  
6 Sean and it's Ricky. He never said who they were. He  
7 just said they were these -- his words I think were,  
8 according to Mr. Rumph, two boys want to use the phone.

9 Neither Mr. Rumph or Mr. Wright ever testified that  
10 Mr. Wright told Mr. Rumph that it was Mr. Sprinkle at the  
11 door. So he -- you have to believe that he just said,  
12 okay, 2:30 in the morning, these two boys we don't know,  
13 they want to use the phone, have at it. Let them use it.

14 I submit that that didn't happen. It couldn't happen  
15 that way.

16 Another issue I think that it's small but it's  
17 important is that whether this happened at 2:30 in the  
18 morning or 4:30 or five o'clock in the morning. And  
19 remember Mr. Wright wasn't sure about time it happened.

20 And I say that only because of this. If they can't be  
21 sure about something that simple, can you have any  
22 confidence in any of the other things that they tell you?

23 How many people were there? Mr. Rumph and Mr. Wright  
24 say two. Sean says three. Now these are State's  
25 witnesses. Listen, I'm not making something up. I'm not

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1 arguing something that didn't -- wasn't testified to from  
2 this stand.

3 Let's look at something else about what happened here.  
4 There's some very simple facts that are in dispute, like  
5 who did what.

6 I was trying to follow, make my notes and listen to  
7 what was going on. I came away with this. Sean Echols  
8 said he assaulted and robbed Mr. Wright and he said that  
9 in great detail.

10 But Mr. Wright testified that Mr. Sprinkle assaulted  
11 and robbed him and he said that in great detail.

12 Lots of details. No doubt about it.

13 And when Mr. Wright filled out that photo lineup form  
14 that Investigator Garrison showed him, he circled  
15 Mr. Echols' picture and wrote that that was the man that  
16 hit him in the head with a gun.

17 So obviously this all can't be true. Something is  
18 wrong. That alone should cause you some concern.

19 Another issue is both Mr. Wright and Mr. Rumph  
20 testified to something and agreed to something that just  
21 could not happen. And let me be specific.

22 Somebody goes to the door. Mr. Wright says, one guy  
23 followed him into his bedroom and pistol whipped him.  
24 That was his word. He says the other guy, and when he  
25 used the word pistol whip he means hit him with a gun. He

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1 said that.

2 He said the other guy went right to -- and that was  
3 his words, went right to Mr. Rumph's room. He said one  
4 guy had a knife. One guy had a gun. So in this house  
5 there's one guy with a knife, one guy with a gun.

6 So the guy in Mr. Wright's room has the gun,  
7 but Mr. Rumph said a man comes in waiving a gun, woke him  
8 up waiving a gun. Obviously it's impossible for  
9 Mr. Wright to be pistol whipped with a gun in his room and  
10 Mr. Rumph at the same time to be approached in his room by  
11 a man with the same gun. Cannot happen. That's what I  
12 mean by impossibility. These are not inconsistencies.

13 Mr. Rumph has said that the small guy hit Mr. Wright  
14 with the gun. The small guy is Mr. Sprinkle. That's what  
15 Investigator Garrison told you. So that would mean that  
16 Mr. Sprinkle would have been with Mr. Wright in Wright's  
17 room and therefore could not have been in Mr. Rumph's room  
18 with the gun. It's an impossibility.

19 Then that leads to the question of: Okay, well then,  
20 who cut Mr. Rumph? Mr. Rumph says Mr. Sprinkle cut me,  
21 but it could not have been Mr. Sprinkle who cut him  
22 because Mr. Wright says Mr. Sprinkle was with him in his  
23 room. That's what Mr. Wright says.

24 And according to Mr. Wright when he got into  
25 Mr. Rumph's room, Mr. Rumph had already been cut. So

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1 obviously, logically the person who might have cut -- who  
2 would have cut Mr. Rumph could not have been, as the State  
3 alleges, Mr. Sprinkle because he would not have been  
4 there. And by the time he got there Mr. Rumph had already  
5 been cut.

6 Wright helps me with this because he says, look, the  
7 other guy, the other guy being Mr. Echols, cut Mr. Rumph.  
8 That's the testimony. And that testimony makes sense  
9 because remember what Mr. Echols said, he was the one with  
10 the knife.

11 So, the point obviously is you can't have it both  
12 ways. Both Mr. Echols and Wright could not have both cut  
13 Mr. Rumph with one knife. An impossibility.

14 Now there was this issue about them -- someone said  
15 the State argued about them switching knives. And I  
16 understand that, except for the fact that Mr. Wright said  
17 that never happened. What he says is, the guy comes in  
18 the house. He's got a gun. He hits me in the head with  
19 the gun. We go into Mr. Rumph's room. He's got the gun.  
20 They go out the back door. He's got the gun. He came --  
21 and I asked him. He came in with a gun, he went out with  
22 a gun. That's what he said.

23 So you can see the confusion about what happened. You  
24 can see the impossibility about what happened. Did  
25 Mr. Echols hit Mr. Wright or did Mr. Sprinkle hit

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1 Mr. Wright? Did Mr. Sprinkle cut Mr. Rumph or did  
2 Mr. Echols cut Mr. Rumph?

3 And the thing that makes me use the word impossibility  
4 is because during the course of this trial they have said  
5 all of that happened. And all of that can't be true.

6 And again, if you think I am exaggerating or making it  
7 up, there is a record. You come back and listen to it.

8 How much money was taken? Mr. Echols says close to  
9 7,000. Mr. Rumph says a thousand. Again this is the  
10 State's witnesses. I'm not just making stuff up.

11 I got to deal quickly, I think, with the allegation  
12 about somebody making him talk. When you think about that  
13 and you take a step back and you listen to that, you look  
14 at that, I submit to you, you can't accept that at face  
15 value.

16 If you believe that Echols told Mr. Sprinkle to make  
17 Mr. Rumph talk but -- and I asked him about this at the  
18 time it happened. It didn't make any sense. Because the  
19 reason Mr. Echols came into the room, according to  
20 Mr. Rumph, was because the other person, they said it's  
21 Sprinkle, said, I got it. So he had the money.

22 There's nothing to make him talk about. Whatever that  
23 means, it didn't happen because it doesn't make any  
24 sense. And remember he says, come in and make him talk.  
25 They never say talk about what, because they had the

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1 money. And they never ask him any questions.

2 Now, I don't know exactly what happened in that room.  
3 I don't. But I know that when they come in and say that  
4 somebody said, make them talk and the other person started  
5 cutting them, that didn't happen. It just doesn't follow.

6 So obviously you can't just accept what they say about  
7 what happened and who did what. And I submit these  
8 inconsistencies, and I called them impossibilities, makes  
9 it impossible for you not to have a reasonable doubt about  
10 what happened that night.

11 So what happened? Well, now the thing we know is  
12 this. After my cross-examination about Mr. Rumph and his  
13 income and money that was taken, we come to find out it's  
14 a gambling place. We come to find out there's a lot of  
15 money in that place.

16 So I submit what happened is some kind of gambling-  
17 related something. I don't know. It was common knowledge  
18 that it was a gambling place, obviously. It was common  
19 knowledge that there was a lot of money there. And I  
20 submit that, back to what I said in the beginning, that's  
21 why Mr. Wright and Mr. Rumph were not forthright with the  
22 police.

23 And that's also why their stories are so inconsistent  
24 because when you're talking about \$7,000, that's a lot to  
25 try to explain. It's a lot to -- it's enough money to

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1 cause the streets to break out. People have certainly  
2 fought over less. But that's why this came up. That's  
3 why there was an issue for them and they couldn't just  
4 come to the police. When the police walked in the door  
5 they couldn't say, okay, this is what happened. We're  
6 having a game and, you know, we had a lot of money and  
7 this is what happened and we know who did it.

8 It had to be related to the money and the gambling  
9 because, as Mr. Rumph said, he was on a fixed income.  
10 Sean Echols' mother dates Mr. Rumph. She knows how much  
11 money he's got. She knows he's on a fixed income. So  
12 obviously he would not be a target to rob just on his  
13 fixed income. And that's why they told the police they  
14 didn't know who did it.

15 So they had to come up with this story. And why is  
16 this significant? The problem is this. This happens.  
17 They got to come up with a story and, remember, time  
18 passed. There was some time before they told the police  
19 what happened. They told them at the hospital, not at the  
20 house, at the hospital.

21 During that time they were trying to figure out  
22 exactly what to tell the police. So they were trying to  
23 come up with a story and they had some time. They didn't  
24 have enough time and that's why they couldn't work out the  
25 details about what happened. And that's why the story

## CLOSING STATEMENTS ON BEHALF OF THE DEFENSE

1 doesn't make sense. And that's why they did not give  
2 forthright answers to the police. And that's why you  
3 should have a reasonable doubt about what happened.

4 I was listening to the State's case and they -- one of  
5 the officers, deputies testified about crime scene people  
6 coming out, people start investigating and photo lineups.

7 But it doesn't help because this has nothing to do  
8 with Mr. Sprinkle.

9 They didn't need all of that. And the fact they used  
10 all of that is a good, I think, indication that they did  
11 not say Mr. Sprinkle in the very beginning because they  
12 wouldn't need all of that to find him.

13 Well, why did they name him? Why did they name him?  
14 Why would they pick on him? That's the question. Well,  
15 what do we know? No doubt about this. We know Sean did  
16 this. He came in, he testified to what happened. One of  
17 the things I asked him was: Were you involved in sending  
18 texts messages to set this up? And he said, yeah. I  
19 said: Did you send any to Sprinkle? He said, no. And  
20 there's no record of text messages to Sprinkle. Why?  
21 Because Mr. Sprinkle wasn't involved with it. He's  
22 sending text messages to the people who are helping him,  
23 Collins and Jasper Clark.

24 We know Sean did this. He called earlier. We know  
25 his mother was involved because she called setting it up.



## CLOSING STATEMENTS ON BEHALF OF THE DEFENSE

1 She called earlier in the evening to make sure he was  
2 home, called again to make sure he was home. She said, I  
3 want to just come over, is that okay, although it was late  
4 at night. And who else knew about the money except for  
5 Vivian Johnson?

6 We know she was involved because the interesting thing  
7 that got to me was the testimony that she got to the  
8 house, and I think the term was, right after he got back  
9 from the hospital. Well, how would she know that that  
10 happened? Because there is no testimony, no indication  
11 that anybody called her. She was following the situation  
12 because she was involved in the situation and she was  
13 checking to see how he was.

14 So we have Sean. We know he's involved. We have  
15 Sean's mother's boyfriend, Mr. Rumph. We know he's  
16 involved. We have Sean's mother's boyfriend's roommate,  
17 Mr. Rumph (sic). All connected. We know that. Who is  
18 the odd man out? Who is totally uncommitted? Who has no  
19 connection to any of these people?

20 And that is Mr. Sprinkle. That's Richard. And that's  
21 why he gets named. He's just a guy in the community and  
22 they use him because it will help Sean. He is just a fall  
23 guy, a patsy. I don't know what name you want, but we  
24 know that the problem is Sean Echols is on the hook. No  
25 doubt about it. He's in a bad place. So what does he

## CLOSING STATEMENTS ON BEHALF OF THE DEFENSE

1 do? What does his mother do? They come up with a plan to  
2 help him. How can you help him?

3 He names Richard Sprinkle. What does that do? It  
4 does what -- it accomplishes what he wanted to accomplish  
5 which is, he can come in here, take this witness stand,  
6 look you in the eye and say, it was me but it was also  
7 another guy. So I'm going to come in here and I'm going  
8 to help the police. I'm going to be a witness for the  
9 State and then I can ask for mercy, well, I helped you  
10 out. And it worked.

11 So just to be sure you understand the point I am  
12 making, the State's dealing with a guy, a bad person,  
13 plans a robbery, present at the robbery, puts the whole  
14 thing in place. He is facing a maximum of 30 years. The  
15 guy who set the whole thing up.

16 Somebody else, Mr. Sprinkle, is facing life without  
17 parole.. I asked Sean, did the State serve you life  
18 without parole notice? No. He's not dumb. He knows what  
19 he's doing. He is very smart. He is accomplishing with  
20 the help of the State exactly what he wants. And, and  
21 he's making it better for his friends, whoever those third  
22 people are. He's making it better for his mother.

23 Don't think Sean can't do this. You've seen him.  
24 You've got a feel for him. These people know him;  
25 Mr. Rumph, Mr. Wright. They know him. He knows them. He

## CLOSING STATEMENTS ON BEHALF OF THE DEFENSE

1 knows where they live. And as he said to them, people he  
2 knows, the boyfriend of his mother, as he looked him in  
3 the eye and said he has killed before and will kill again.

4 That's the kind of person he is. Everybody knows Sean  
5 Echols and everybody's afraid of him. Even Richard  
6 Sprinkle is afraid of him and he was in jail.

7 If Sean Echols says to Mr. Rumph, to Mr. Wright, to  
8 whoever, that Mr. Sprinkle is the third person, then  
9 Mr. Sprinkle is going to be the third person because  
10 nobody's going to cross him. And neither Wright nor Rumph  
11 are going to go against him. And he has his mother to  
12 just make sure everything goes according to plan.

13 So why would the -- it was a good question. Ms. Ford  
14 asked a very good question. Why would Mr. Echols threaten  
15 Mr. Sprinkle? Because Mr. Echols is trying to make  
16 something happen, and he doesn't want Mr. Sprinkle to get  
17 in the way. That's why he threatened him.

18 So what is Sprinkle's involvement in this case? I  
19 submit to you he's the real person that Sean referred to  
20 that -- when he said that there was a third person who did  
21 nothing. Sean said there was a third person.  
22 Mr. Sprinkle told the police there was a third person. He  
23 said, when things started going wrong, I left. When the  
24 assault started, I left.

25 And that's why they keep talking about only being

## CLOSING STATEMENTS ON BEHALF OF THE DEFENSE

1 two people in there because when all the dirty work was  
2 happening in the house, Mr. Sprinkle was gone.

3 According to Mr. Echols, he says someone just stood  
4 there, didn't do anything, didn't plan, didn't have a  
5 weapon. And I submit it was Mr. Sprinkle that was that  
6 person.

7 Sean has never -- Sean Echols has never said who the  
8 other people are. But he's made up a story of  
9 Mr. Sprinkle's involvement to protect those people. I  
10 would submit it was probably Little J who he referred to  
11 or Collins Shuler, maybe his mother, but I don't know. I  
12 think it was probably Little J or Collins Shuler. And  
13 just to show you how smart he is, they're off the hook.  
14 No charges, no testimony --

15 MR. BELL: Objection, Your Honor. There's no evidence  
16 of what he's saying there in the record.

17 THE COURT: Do I need to excuse the jury so I can talk  
18 about this with y'all, or do we need to ignore that?

19 MR. WISE: Okay. No, I'll rephrase.

20 THE COURT: If you don't mind rephrasing, Mr. Wise.  
21 I'll appreciate it.

22 MR. WISE: Thank you. Okay.

23 So I say it's Collins or I say Little J or Collins  
24 Shuler. You did not hear any of them come in to testify.  
25 Why is that? Just like Sean wanted, the police don't

## CLOSING STATEMENTS ON BEHALF OF THE DEFENSE

1 care.

2 Now the last few things. The thing that, that made me  
3 scratch my head about this whole thing is Mr. Echols  
4 testified he knows Collins Shuler, known him all his  
5 life. He knows Little J, Jasper Clark, known him all his  
6 life.

7 But he's only talked to Mr. Sprinkle twice. And you  
8 have to scratch your head and wonder why would somebody  
9 commit a crime that carries maximum of life imprisonment  
10 with somebody who he's only known (verbatim) twice.

11 Why would he do that? He doesn't know him,  
12 obviously. Doesn't know what he'd do, what he's capable  
13 of, whether he'd stand up, if he wouldn't, if he'd run.  
14 No, he would do it with the people like Collins Shuler and  
15 Little J. The people he's known all his life. His boys.  
16 His people he can count on. That's how that would  
17 happen.

18 And I submit to you, that's why Collins Shuler and  
19 Little J weren't called as witnesses in this case.  
20 Because they weren't the people, as he said, that were  
21 doing this. And they're not going to come in here and do  
22 what Mr. Echols said. And who would? Of course, they  
23 don't have the same situation Mr. Echols has. Okay.

24 The other thing you can't ignore about this case is  
25 the lack of any physical evidence. No fingerprints in the

## CLOSING STATEMENTS ON BEHALF OF THE DEFENSE

1 car or in the house. No weapon found. No money found.  
2 No DNA. And, remember, Mr. Sprinkle gave them a DNA  
3 sample. It's nothing. There's nothing. No physical  
4 piece of evidence to in any way corroborate or  
5 substantiate what anybody from the State has said.

6 Now, I've got a few last arguments but I want to talk  
7 about these charges for a minute. Number one, I submit to  
8 you that there's no attempted murder. I say if you look  
9 at Mr. Rumph, if you look at his injuries, it is pretty  
10 obvious that there was no intent to murder.

11 The State may say he used a knife but when the  
12 injuries are to someone's feet and someone's arm and  
13 somebody's thumb -- and if you look at the photos, they're  
14 here. They're an inch, maybe an inch and a quarter.  
15 You're not trying to kill anybody like that.

16 Now, I submit to you that if somebody were going to  
17 hurt somebody or try to kill somebody with a knife, they  
18 would stab that person and not inflict what are  
19 relatively -- and I don't mean that cuts don't hurt, but  
20 relatively small cuts. And there was no stabbing here.  
21 They would be small cuts.

22 And I submit also that this whole issue of  
23 just-making-him-talk thing, if nothing else it's an  
24 indication they were not trying to murder Mr. Wright.

25 As to Mr. Wright, certainly his injuries are not

## CLOSING STATEMENTS ON BEHALF OF THE DEFENSE

1 enough. Getting hit in the head is not enough.

2 Now the Judge is going to give you some other  
3 charges. And he'll tell you about assault charges and  
4 other charges, and he's going to charge you on those but  
5 let me tell you this.

6 If you look at these injuries of Mr. Wright and they  
7 don't even rise to the level of the charge that the Judge  
8 gave you, if you look at them and say, this isn't even  
9 that, assault and battery second degree, then as to that  
10 you find him not guilty. And that's it.

11 There's no burglary here. Why do I say that? Well,  
12 there's some statements that are not in dispute. They go  
13 to the door. They request to be let in. They get let in  
14 and then something happens inside. Obviously the State  
15 says they try to trick them to get in, but we talked about  
16 something, something happened inside. So obviously there  
17 was no forced entry. They were voluntarily let in.

18 Now, the fact that after they get in they committed a  
19 crime, after they get in they commit a crime does not make  
20 it a burglary. It does make the crime that was committed  
21 after they got in but not a burglary.

22 And the evidence at this point, I think, is  
23 insufficient to show that whatever happened here, whatever  
24 happened, fight, gambling, argument, whatever it was,  
25 there was no intent to do anything wrong when they went

## CLOSING STATEMENTS ON BEHALF OF THE DEFENSE

1 in.

2 So as I said in the beginning, I understand everything  
3 the State is arguing. But there are some things that just  
4 caught my ear when Ms. Ford was speaking. And there's a  
5 couple of expressions she used. She used they knocked at  
6 the door. They said they needed to use the phone. She  
7 said, I think it's Mr. Wright was beaten about the head.  
8 They bloodied the old man. They took his pants. And the  
9 reason that caught my ear is because even the State  
10 doesn't know exactly who did what or they would have told  
11 you.

12 Now, the interesting thing that Ms. Ford said was that  
13 Mr. Sprinkle started talking around the time that he found  
14 out about Mr. Echols. And I thought that was interesting.

15 Because here's what you need to do. If I say  
16 something that you don't think really happened, you check  
17 the record. And I ask you to check the record to see if  
18 there's any proof in that. Okay. Check the record to see  
19 if there's any proof of what he talked about as far as the  
20 (inaudible). It's just not what this case is.

21 She described Mr. Wright as sure, but I will say  
22 this. I think you understand at this point that  
23 Mr. Wright is anything, but he's not sure. He is anything  
24 but sure about what happened.

25 The Judge -- one of the Judge's instructions is going



## CLOSING STATEMENTS ON BEHALF OF THE DEFENSE

1 to be on the issue of mere presence. You'll listen to  
2 that. But basically what it means is this. If somebody  
3 is present when something happens and they're not involved  
4 in it, then it's not hand of one hand of all.

5 There is this old, this idea that we can -- we have  
6 this hand of one hand of all thing, when people are around  
7 then everybody's responsible. It's almost like some  
8 judicial-pixie-dust-supreme-court-case that everybody's  
9 guilty. But that's not the law. The Judge will instruct  
10 you on the law when he talks about mere presence.

11 Ms. Ford asked something about why I didn't ask  
12 Mr. Rumph the question about -- it really was a good point  
13 she made, but I didn't ask because I didn't have to. I  
14 asked Investigator Garrison because she was there.  
15 Nothing to hide. I'm not trying to hide.

16 I understand everything the State has put forward. I  
17 understand everything that they've argued. I submit that  
18 the evidence in this case is just insufficient.

19 I submit that when you look at the testimony of  
20 Mr. Wright and Mr. Rumph and you put them side by side,  
21 put them next to each other, put them on top of each  
22 other, it's impossible. The things they said happened  
23 could not have happened. They can't just say everybody  
24 did everything and come in here and expect you to send  
25 people to prison on that kind of testimony. There's too

## JURY CHARGE

1 many problems with their story, too little evidence in  
2 this case.

3 I submit the appropriate verdict is not guilty.  
4 Mr. Sprinkle has been through a lot. He has been put  
5 through a lot. He has been threatened. And it is time  
6 for you to find him not guilty and send him home.

7 Thank you.

8 THE COURT: Thank you, Mr. Wise.

9 Ladies and gentlemen, before I go over the charges  
10 with you, we've been going for just about an hour so I'm  
11 going to let you all take a break. Go back to the jury  
12 room for a second and I'll bring you all back out in about  
13 ten minutes.

14 Remember you have not heard me give you the charge on  
15 the law. You cannot begin your deliberations until I tell  
16 you you can begin your deliberations. I'll let you go  
17 back and stretch your legs for a minute and then you'll  
18 come back and I'll charge you on the law.

19 Thank you.

20 (Jury exits courtroom at 3:29 p.m.)

21 THE COURT: All right. We'll be in recess for ten  
22 minutes.

23 (Thereupon at 3:30 p.m., a recess was taken until  
24 3:45 p.m., when the trial resumed:)

25 THE COURT: State ready?

## JURY CHARGE

1 MS. FORD: Yes, sir.

2 THE COURT: Defense ready?

3 MS. ULLMAN: We are, Your Honor. Thank you.

4 THE COURT: Bring them back, please, ma'am

5 (Jury enters courtroom at 3:45 p.m.)

6 JUDGE'S CHARGE TO THE JURY

7 THE COURT: All right. Ladies and gentlemen, it's  
8 getting down to the wire. My turn to charge you on the  
9 law in this case.

10 The indictments that I mentioned, that have been  
11 mentioned in this case, these indictments, there are a  
12 number of offenses that the Defendant has been charged  
13 with. But I need to remind you of the fact that the  
14 Defendant was arrested, charged and indicted is not  
15 evidence in this case and cannot be considered by you as  
16 evidence of guilt in this case, nor does it create any  
17 presumption or inference of guilt.

18 These documents are simply the formal written  
19 instruments which contain the charges made against the  
20 Defendant. They are the formal documents which brings  
21 this case to court.

22 The indictments charge the Defendant with several  
23 different offenses.

24 He is charged with armed robbery of Mr. Rumph and  
25 Mr. Wright.

## JURY CHARGE

1 He is charged with attempted murder of Mr. Rumph and  
2 Mr. Wright.

3 And he is charged with burglary in the first degree.

4 Each indictment charges a separate and distinct  
5 offense. You must decide each indictment separately on  
6 the evidence and law applicable to it, uninfluenced by  
7 your decision as to any other indictment.

8 The Defendant may be convicted or acquitted on any or  
9 all of the offenses charged. You will be asked to write a  
10 separate verdict of guilty or not guilty for each  
11 indictment. This is the verdict form.

12 And, Madam Forelady, at the conclusion of these  
13 charges, I'm going to come down there and I'm going to  
14 review this with you.

15 Now the Defendant has pled not guilty to these  
16 indictments. And that plea puts the burden on the State  
17 to prove the Defendant guilty beyond a reasonable doubt as  
18 to every offense charged. A person charged with  
19 committing a criminal offense in South Carolina is never  
20 required to prove himself innocent.

21 The basic rule of our law is that a Defendant in a  
22 criminal trial no matter how serious the charge is always  
23 presumed to be innocent of the crime for which the  
24 indictment was issued unless guilt has been proven by  
25 evidence satisfying you, the jury, of that guilt beyond a

## JURY CHARGE

1 reasonable doubt.

2 This presumption of innocence does not end when you  
3 begin your deliberations but it accompanies the Defendant  
4 throughout the trial until you reach a verdict of guilt  
5 based on evidence satisfying you of that guilt beyond a  
6 reasonable doubt.

7 The presumption of innocence is like a robe of  
8 righteousness placed about the shoulders of the Defendant  
9 which remains with the Defendant until it has been  
10 stripped from the Defendant by evidence satisfying you of  
11 the Defendant's guilt beyond a reasonable doubt.

12 The presumption of innocence is not mere legal  
13 theory. It is not just a legal phrase. It is a  
14 substantial right to which every defendant is entitled  
15 unless you, the jury, are satisfied from the evidence of  
16 the Defendant's guilt beyond a reasonable doubt.

17 What is reasonable doubt in the law? A reasonable  
18 doubt is the kind of doubt that would cause a reasonable  
19 person to hesitate to act. The State has the burden of  
20 proving the Defendant guilty beyond a reasonable doubt.

21 Some of you may have served as jurors in civil cases  
22 where you were told that it is only necessary to prove  
23 that a fact is more likely true than not true such as by  
24 the greater weight or preponderance of the evidence.

25 In criminal cases the State's proof must by more

## JURY CHARGE

1 powerful than that. It must be beyond a reasonable doubt.  
2 Proof beyond a reasonable doubt is proof that leaves you  
3 firmly convinced of the Defendant's guilt.

4 There are very few things in this world that we know  
5 of with absolute certainty. And in criminal cases the law  
6 does not require proof that overcomes every possible  
7 doubt. If based on your consideration of the evidence you  
8 are firmly convinced that the Defendant is guilty of the  
9 crime charged, you must find the Defendant guilty.

10 On the other hand, if you think there is a real  
11 possibility that the Defendant is not guilty, you must  
12 give the Defendant the benefit of the doubt and find him  
13 not guilty.

14 During the trial you and I have certain duties to  
15 perform. As the trial judge it is my duty to preside over  
16 the trial of this case and I also have the duty to rule on  
17 the admissibility of evidence offered during this trial.

18 You are to consider only the competent evidence before  
19 you. If there was any testimony ordered stricken from the  
20 record in this case during this trial, you must disregard  
21 that testimony.

22 You are to consider only the testimony which has been  
23 presented from this witness stand and any exhibits which  
24 have been made a part of the record in this case and any  
25 stipulations of counsel.

## JURY CHARGE

1 I have the duty to charge you the law applicable in  
2 this case. As the presiding judge, I am the sole judge of  
3 the law and it is your duty as jurors to accept and apply  
4 the law as I now state it to you.

5 If you already have an idea as to what the law is or  
6 what the law ought to be and it does not agree with what I  
7 tell you now the law is, you must abandon that idea  
8 because you are sworn to accept the law and apply the law  
9 exactly as I now state it to you.

10 In every case tried before a jury, the jury is the  
11 sole and exclusive judge of the facts. A trial judge  
12 cannot intimate, state, comment on, or make any statement  
13 to a trial jury about the facts in a case.

14 Since you, the jury, are the sole judge of the facts  
15 in this case, you are not to infer from what I have said  
16 during the progress of this trial, in ruling upon the  
17 admissibility of evidence or otherwise, or anything that I  
18 say now during the course of this instruction to you that  
19 I have any opinion about the facts in this case.

20 The law does not allow me to have an opinion about the  
21 facts in this case. This is a matter solely for you, the  
22 jury, to determine. As jurors it is your duty to  
23 determine the effect, value, weight, and truth of the  
24 evidence presented during this trial.

25 There are two types of evidence which are generally

## JURY CHARGE

1 presented during a trial; direct evidence and  
2 circumstantial evidence.

3 Direct evidence is the testimony of a person who  
4 claims to have actual knowledge of a fact such as an  
5 eyewitness. It is evidence which immediately establishes  
6 the main fact to be proved.

7 Circumstantial evidence is proof of a chain of facts  
8 and circumstances indicating the existence of a fact. It  
9 is evidence which immediately establishes collateral facts  
10 from which the main fact may be inferred. Circumstantial  
11 evidence is based on inference and not on personal  
12 knowledge or observation.

13 The law makes absolutely no distinction between the  
14 weight or value to be given to either direct or  
15 circumstantial evidence, nor is a greater degree of  
16 certainty required of circumstantial evidence than of  
17 direct evidence.

18 You should weigh all of the evidence in this case.  
19 After weighing all of the evidence if you are not  
20 convinced of the guilt of the Defendant beyond a  
21 reasonable doubt, you must find the Defendant not guilty.

22 Necessarily you must determine the credibility of  
23 witnesses who have testified. Credibility simply means  
24 believability.

25 It becomes your duty as jurors to analyze and to



## JURY CHARGE

1 evaluate the evidence and determine which evidence  
2 convinces you of its truth. In determining the  
3 believability of witnesses who have testified, you may  
4 believe one witness over several witnesses or several  
5 witnesses over one witness.

6 You may believe a part of the testimony of a witness  
7 and reject the remaining part of the testimony of that  
8 same witness. You may believe the testimony of a witness  
9 in its entirety or reject the testimony of a witness in  
10 its entirety.

11 You may consider whether any witness has exhibited to  
12 you any interest, bias, prejudice, or other motive in this  
13 case. You may also consider the appearance and manner of  
14 a witness while on the witness stand.

15 I instruct you and emphasize that the fact that the  
16 Defendant did not testify is not a factor to be considered  
17 by you in any way in your deliberations and in your  
18 consideration on the question of the guilt or innocence of  
19 the Defendant. It must not be considered by you in any  
20 manner whatsoever.

21 A defendant has the constitutional right to remain  
22 silent and the assertion of this right must not be  
23 considered by you in your deliberations. I repeat, under  
24 your oath you are to draw no conclusion whatsoever from  
25 the fact that the Defendant in this case did not testify.

## JURY CHARGE

1 The fact that this Defendant did not testify should not  
2 even be discussed in the jury room.

3 The burden of proof, as I have stated to you, is on  
4 the State. The Defendant is not required to prove his  
5 innocence. The burden of proof remains on the State to  
6 prove guilt beyond a reasonable doubt.

7 In order to establish criminal liability criminal  
8 intent is required. For example, the mental state  
9 required to be proven by the State for a particular crime  
10 might be purpose, intent, knowledge, recklessness or  
11 criminal negligence. Criminal intent must be proven by  
12 the State beyond a reasonable doubt. Criminal intent is  
13 always a matter that must be determined by the jury from  
14 the circumstances surrounding the situation.

15 There's no way to prove intent to a mathematical  
16 certainty. There's no way medical science can dissect a  
17 person's brain and determine what the person had in mind.  
18 So the law says that criminal intent may be inferred from  
19 the circumstances shown to have existed at that time.

20 You must make a determination of whether or not the  
21 element requiring intent was present. It is not necessary  
22 to establish intent by direct and positive evidence. But  
23 intent may be established by inference in the same way as  
24 any other factor; by taking into consideration the acts of  
25 the parties and all of the facts and circumstances of the

## JURY CHARGE

1 case.

2 Criminal intent is a mental state, a conscious  
3 wrongdoing. It it's up to you to determine what the  
4 Defendant intended to do based on the circumstances shown  
5 to have exited.

6 Criminal intent can arise from action or a failure to  
7 act. It may arise from negligence, recklessness or  
8 indifference to duty or to consequences that is considered  
9 by the law to be the equivalent of criminal intent.

10 An issue in this case is the identification of the  
11 Defendant as the person who committed the crime charged.  
12 The State has the burden of proving identity beyond a  
13 reasonable doubt. You must be satisfied beyond a  
14 reasonable doubt of the accuracy of the identification of  
15 the Defendant before you may convict the Defendant.

16 Identification testimony is an expression of belief or  
17 impression by a witness. You must determine the accuracy  
18 of the identification of the Defendant. You must consider  
19 the believability of each identification witness in the  
20 same way as any other witness. You may consider whether  
21 the witness had an adequate opportunity to observe the  
22 offender at the time of the offense. This will be  
23 affected by things like how long or short a time was  
24 available, how far or close the witness was, the lighting  
25 conditions and whether the witness had the chance to see

## JURY CHARGE

1 or know the person in the past.

2 Once again, I instruct you, the burden of proof is on  
3 the -- the burden of proof on the State extends to every  
4 element of the crime charged. And is -- and this  
5 specifically includes the burden of proving beyond a  
6 reasonable doubt the identity of the Defendant as the  
7 person who committed the crime.

8 If after examining the testimony you have a reasonable  
9 doubt as to the accuracy of the identification, you must  
10 find the Defendant not guilty.

11 A statement alleged to have been made by the Defendant  
12 has been admitted into evidence in this case. While the  
13 Court has determined that the statement is admissible, I  
14 instruct you that you make the ultimate decision of  
15 whether or not the Defendant made the statement.

16 If the Defendant did make the statement, you must  
17 determine whether the statement was made by the Defendant  
18 voluntarily and of his own free will. This means that the  
19 statement was not caused by pressure, force, fear,  
20 threats, coercion or intimidation, or by hope of a promise  
21 of leniency or a reward of any kind.

22 In determining whether the statement was voluntary you  
23 should consider both the characteristics of the Defendant  
24 and the details of the questioning. Some of the factors  
25 that you must consider are: The age of the Defendant; the

## JURY CHARGE

1 Defendant's education or lack of education; the  
2 Defendant's mental ability or capacity; the Defendant's IQ  
3 or intelligence; the Defendant's background and  
4 environment; the place and length of detention; the nature  
5 of the questioning; and the advice or lack thereof to the  
6 Defendant of his constitutional rights including but not  
7 limited to the right to remain silent, that any statement  
8 could be used against him in a court of law, the right to  
9 have a lawyer present, that if he could not afford a  
10 lawyer, a lawyer would be appointed to represent him  
11 without any cost; and he could stop making a statement at  
12 any time.

13 You must carefully consider all of the surrounding  
14 circumstances before you give any weight to an alleged  
15 statement.

16 The State has the burden of proving beyond a  
17 reasonable doubt that the alleged statement was voluntary.  
18 If you determine that it was, you may give the statement  
19 any further consideration that you deem proper.

20 You must decide what weight if any should be given to  
21 the alleged statement. If you determine that the alleged  
22 statement was not the free and voluntary statement of the  
23 Defendant, you should not consider the statement at all.

24 If a crime is committed by two or more people who are  
25 acting together in committing a crime, the act of one is

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1 the act of all. A person who joins with another to commit  
2 an unlawful act is criminally responsible for everything  
3 done by the other person which happens as a probable or  
4 natural consequence of the acts done in carrying out the  
5 common plan and purpose.

6 For example, two people can be guilty of killing  
7 another person when only one of the two had a gun, there  
8 was only one bullet and only one of the two fired the shot  
9 that caused the death.

10 If two or more people are together, acting together,  
11 assisting each other in committing the offense, the act of  
12 one is the act of all. Or, as it is sometimes said, the  
13 hand of one is the hand of all.

14 Prior knowledge that a crime is going to be committed  
15 without more is not sufficient to make a person guilty of  
16 that crime. Mere knowledge that another person is going  
17 to commit a crime even if the Defendant is present when  
18 the crime is committed is not sufficient to convict the  
19 Defendant as a principal.

20 Guilt as a principal is shown by actual or  
21 constructive presence at the scene as a result of prior  
22 arrangement. Therefore, a finding of a prior arranged  
23 plan or common scheme is necessary for a finding of guilt  
24 as a principal.

25 The State must prove beyond a reasonable doubt by

## JURY CHARGE

1 competent evidence the theory of the hand of one is the  
2 hand of all. A principal in a crime is, one who either  
3 actually commits the crime or who is present aiding,  
4 abetting or assisting in the -- in committing the crime.

5 / When a person does an act in the presence of and with  
6 the assistance of another, the act is done by both. Where  
7 two or more acting with a common plan or intent are  
8 present at the commission of a crime it does not matter  
9 who actually commits the crime, all are guilty. The hand  
10 of one is the hand of all.

11 Present at the commission of a crime means to be  
12 sufficiently near to aid and abet and assist in the  
13 commission of the crime. However, mere presence at the  
14 scene of a crime is not sufficient to convict one as a  
15 principal on the theory of aiding and abetting.

16 Intent is also a necessary element, for there must  
17 have been a common design or intent to commit the crime  
18 and the crime must have been committed pursuant thereto  
19 with the person aiding and abetting by some overt act.

20 Intent means intending the result which actually  
21 occurs, not accidentally or involuntary. Intent may be  
22 shown by acts and conduct of the Defendant and other  
23 circumstances from which you may naturally and reasonably  
24 infer intent. The State must prove these elements beyond  
25 a reasonable doubt.

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1 As I said before, mere presence at the scene is not  
2 sufficient to prove someone guilty of a crime. A  
3 Defendant's presence where a crime is being committed or  
4 mere association with a person who commits a crime does  
5 not make a Defendant an accomplice or an aider or abetter  
6 of the person committing the crime.

7 The burden is on the State to prove every element of  
8 the crime charged. If you find after reviewing all of the  
9 evidence that the State has proved that the Defendant was  
10 only present at the scene of the crime and that they have  
11 not proved beyond a reasonable doubt any other  
12 participation in the crime, then you must find the  
13 Defendant not guilty. The law is that the proof of the  
14 Defendant's presence at the scene of the crime is not  
15 sufficient to find someone guilty.

16 The Defendant is charged with two counts of armed  
17 robbery, one against Mr. Rumph, one against Mr. Wright.  
18 In order to prove this offense, the State must first prove  
19 beyond a reasonable doubt that the Defendant took personal  
20 property from the person or presence of another person.  
21 Property is in the presence of a person if it is within  
22 the person's reach, inspection, observation or control so  
23 that the person could, if not overcome with violence or  
24 prevented by fear, keep possession of the property.

25 The State must also prove beyond a reasonable doubt



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1 that the Defendant carried the property away intending to  
2 permanently deprive the owner of the property and to keep  
3 the property for the Defendant's own use. A slightest  
4 removal of the property or the complete possession of the  
5 property, even if for an instant, by the Defendant is  
6 sufficient to show a taking and carrying away of the  
7 property. The taking and carrying away of the property  
8 must have been done by violence or by putting the owner of  
9 the property in fear of violence.

10 Finally, the State must prove beyond a reasonable  
11 doubt that the Defendant was armed with a deadly weapon  
12 during the robbery. A deadly weapon is any article,  
13 instrument or substance which is likely to cause death or  
14 great bodily harm. Whether an instrument has been used as  
15 a deadly weapon depends on the facts and circumstances of  
16 each case.

17 The following are examples of instruments which may be  
18 deadly weapons; a shotgun, a rifle, a dirk, a dagger, a  
19 slingshot, metal knuckles, a razor, gasoline, a fire bomb  
20 or Molotov cocktail and lighter fluid. A gun may be a  
21 deadly weapon even if it is not operating.

22 The Defendant is also charged with two counts of  
23 attempted murder; one of Mr. Rumph, one of Mr. Wright. In  
24 order to prove this crime the State must prove the  
25 Defendant attempted to kill another person with malice

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1 aforethought, either express or implied.

2 Malice is hatred, ill will or hostility toward another  
3 person. It is the intentional doing of a wrongful act  
4 without just cause or excuse and with an intent to inflict  
5 an injury or under circumstances that the law will infer  
6 an evil intent.

7 Malice aforethought does not require that malice exist  
8 for any particular time before the act is committed but  
9 malice must exist in the mind of the Defendant just before  
10 and at the time the act is committed. Therefore, there  
11 must be a combination of the previous evil intent and the  
12 act.

13 Malice aforethought may be express or inferred. These  
14 terms, express and inferred, do not mean different kinds  
15 of malice but merely the manner in which malice may be  
16 shown to exist. That is, either by direct evidence or by  
17 inference from the facts and circumstances which are  
18 proved.

19 Express malice is shown when a person speaks words  
20 which express hatred or ill will for another or when the  
21 person prepared beforehand to do the act which was later  
22 accomplished. For example, lying in wait for a person or  
23 any other acts of preparation going to show that the deed  
24 was within the Defendant's mind would be express malice.

25 Malice may be inferred from conduct showing a total

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1 disregard for human life. Inferred malice may also arise  
2 when the deed is done with a deadly weapon. Again, a  
3 deadly weapon is any article, instrument or substance  
4 which is likely to cause death or great bodily harm.

5 Whether an instrument has been used as a deadly weapon  
6 depends on the facts and circumstances of each case. And  
7 I've already given you examples of instruments which may  
8 be deadly weapons and I'm not going to repeat that to you.

9 If facts are proved beyond a reasonable doubt  
10 sufficient to raise an inference of malice to your  
11 satisfaction, this inference would simply -- would be  
12 simply an evidentiary fact to be considered by you, the  
13 jury, along with the other evidence in this case and you  
14 may give it the weight you decide it should receive.

15 A specific intent to kill is not an element of  
16 attempted murder, but there must be a general intent to  
17 commit serious bodily injury. Intent means intending the  
18 result which actually occurs, not accidentally or  
19 involuntarily.

20 Intent may be shown by acts and conduct of the  
21 Defendant and other circumstances from which you may  
22 naturally and reasonably infer intent.

23 Evidence of the character of the act, the character of  
24 the instrument used, the manner in which it was used, the  
25 purpose to be accomplished, and the resulting wounds or

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1 injuries may be considered in determining the intent with  
2 which the act was committed.

3 Intent may also be inferred when it is demonstrated  
4 that the Defendant voluntarily and willfully commits an  
5 act, the natural tendency of which is to destroy other's  
6 life.

7 Included within the offense of attempted murder is the  
8 lesser offense of assault and battery of a high and  
9 aggravated nature. If you find that the State has not  
10 proven that the Defendant is guilty of attempted murder,  
11 you must then determine whether the State has proven the  
12 Defendant is guilty of assault and battery of a high and  
13 aggravated nature as to the victims Rumph and Wright.

14 A person commits the offense of assault and battery of  
15 a high and aggravated nature if the person unlawfully  
16 injures another person and great bodily injury to another  
17 person results or the act is accomplished by means likely  
18 to produce death or great bodily injury.

19 Great bodily injury means bodily injury which causes a  
20 substantial risk of death or which causes serious  
21 permanent disfigurement or protracted loss or impairment  
22 of the function of a bodily member or organ.

23 Also included within the offense of attempted murder  
24 is the lesser offense of assault and battery in the first  
25 degree. If you find that the State has not proven that

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1 the Defendant is guilty of attempted murder or assault and  
2 battery of a high and aggravated nature you must then  
3 determine whether the State has proven -- has proved that  
4 the Defendant is guilty of assault and battery in the  
5 first degree as to the victims, Mr. Rumph and Mr. Wright.

6 A person commits the offense of assault and battery in  
7 the first degree if the person unlawfully injures another  
8 person and the act occurred during the commission of a  
9 robbery, burglary, kidnapping or theft.

10 A person may also commit the offense of assault and  
11 battery in the first degree if the person unlawfully  
12 offers or attempts to injure another person with the  
13 present ability to do so and the act either is  
14 accomplished by means likely to produce death or great  
15 bodily injury or occurred during the commission of a  
16 robbery, burglary, kidnapping or theft.

17 Great bodily injury means bodily injury which causes a  
18 substantial risk of death or which causes serious  
19 permanent disfigurement or protracted loss or impairment  
20 of the function of a bodily member or organ.

21 Included within the offense of attempted murder is the  
22 lesser offense of assault and battery in the second  
23 degree. If you find that the State has not proven that  
24 the Defendant is guilty of attempted murder, assault and  
25 battery of a high and aggravated nature, or assault and

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1 battery in the first degree you must then determine  
2 whether the State has proven that the Defendant is guilty  
3 of assault and battery in the second degree as to  
4 Mr. Wright only.

5 A person commits the offense of assault and battery in  
6 the second degree if the person unlawfully injures another  
7 person or offers or attempts to injure another person with  
8 the present ability to do so and moderate bodily injury to  
9 another person results or moderate bodily injury to  
10 another person could have resulted.

11 Moderate bodily injury means physical injury requiring  
12 treatment to an organ system of the body other than skin,  
13 muscles and connective tissues of the body except when  
14 there is penetration of the skin, muscles and connective  
15 tissues that require surgical repair of a complex nature  
16 or when treatment of the injuries requires the use of  
17 regional or general anesthesia.

18 The Defendant is also charged with first degree  
19 burglary. The State must first prove beyond a reasonable  
20 doubt that the Defendant entered a dwelling without  
21 consent. A dwelling is any building or portion of a  
22 building in which a person ordinarily sleeps. A building  
23 constructed as a dwelling that has never been occupied  
24 cannot be considered a dwelling for purposes of burglary  
25 but a building is a dwelling even if the residents are

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1 temporarily absent from the building.

2 In order to prove that the Defendant entered the  
3 dwelling, the State does not have to show that the  
4 Defendant's entire body entered the dwelling. The  
5 smallest entry is sufficient. It may be any part of the  
6 body such as a hand or a foot or even an instrument such  
7 as a hook or other instrument.

8 In addition, the State does not have to prove that  
9 force was used to gain entry. If a person enters a  
10 building by using deception, artifice, trick or  
11 misrepresentation to get consent to enter, this is entry  
12 without consent.

13 Next the State must prove beyond a reasonable doubt  
14 that the Defendant intended to commit a crime, either a  
15 felony or a misdemeanor, at the time of the entry. The  
16 mere entry into a dwelling without consent is not  
17 burglary. If the intent to commit a crime is formed after  
18 the entry, it is not burglary.

19 On the other hand, if the Defendant intended to commit  
20 a crime at the time of the entry it is a burglary even if  
21 the intent was abandoned after the entry. It does not  
22 matter that the intended crime was not completed.

23 Intent may be shown by acts and conduct of the  
24 Defendant and other circumstances from which you may  
25 naturally and reasonably infer intent.

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1 Finally the State must prove beyond a reasonable doubt  
2 that when entering, while in the dwelling or when fleeing  
3 the Defendant or an accomplice was armed with a deadly  
4 weapon or explosive. Once again, a deadly weapon is any  
5 article, instrument or substance which is likely to cause  
6 death or great bodily harm. Whether an instrument has  
7 been used as a deadly weapon depends on the facts and  
8 circumstances of each case; or the State must prove beyond  
9 a reasonable doubt that when entering, while in the  
10 dwelling or when fleeing the Defendant or an accomplice  
11 caused physical injury to anyone not participating in the  
12 crime; or the State must prove beyond a reasonable doubt  
13 that while entering, while in the dwelling or when fleeing  
14 the Defendant or an accomplice displayed what was or  
15 appeared to be a knife, revolver, rifle, shotgun, machine  
16 gun or other firearm.

17 Now I have declared the law to you through these  
18 instructions to help guide you to a just and lawful  
19 verdict. Whether some of these instructions will apply  
20 will depend upon what you find to be the facts.

21 The fact that I have instructed you on various  
22 subjects in this case must not be taken as indicating an  
23 opinion of this Court as to what you should find to be the  
24 facts or as to what your verdict should be.

25 Your verdict must represent the considered judgment of



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1 each one of you. In order to return a verdict it is  
2 necessary that each juror agree. Your verdict must be  
3 unanimous. All 12 of you must agree on the verdict. Your  
4 verdict cannot be based on sympathy, passion, prejudice,  
5 emotion, or any other consideration not in evidence in  
6 this case.

7 Remember, you are not partizans favoring one party  
8 over another. You are the judges of the facts. Your sole  
9 interest is to seek the truth from the evidence that has  
10 been presented to you in this case.

11 Now, Madam Forelady, I'm going to go over the verdict  
12 form with you. I'm glad you put on your glasses. Okay.  
13 This is the verdict form. And here it tells you we're  
14 here in Orangeburg County. These are the indictment  
15 numbers. Okay. This is the case; State of South Carolina  
16 versus Mr. Richard Sprinkle.

17 It says, please circle the appropriate verdict below  
18 and follow the instructions carefully.

19 The first question that y'all have to answer is: We  
20 the jury unanimously find the Defendant as to the charge  
21 of armed robbery of Robert Rumph, either guilty or not  
22 guilty.

23 Question number two: We the jury unanimously find the  
24 Defendant as to the charge of armed robbery of James  
25 Wright, again, either guilty or not guilty.

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1        Now, you get to question number three and this is  
2 where you got to be careful. We the jury unanimously find  
3 the Defendant as to the charge of attempted murder of  
4 Robert Rumph, either guilty or not guilty.

5        Now, if you answer guilty to question three, proceed  
6 to question four which is right there. Okay? If you  
7 answered not guilty you go, you proceed to part A.

8        Part A reads: We the jury unanimously find the  
9 Defendant as to the lesser-included offense of assault and  
10 battery of a high and aggravated nature of Robert Rumph,  
11 again guilty or not guilty.

12        Again at this point if you answered guilty to part A,  
13 proceed to question four. If you answered not guilty to  
14 part A, proceed to B.

15        B reads: We the jury unanimously find the Defendant  
16 as to the lesser-included offense of assault and battery  
17 in the first degree of Robert Rumph, either, again, guilty  
18 or not guilty.

19        Then we move to question four. We the jury  
20 unanimously find the Defendant as to the charge of  
21 attempted murder of James Wright, again, guilty or not  
22 guilty.

23        Again we're going to be doing the same thing with him  
24 that we did with Mr. Wright. If you answered guilty to  
25 question four, proceed to question five which is on the

## JURY CHARGE

1 last page. If not, you proceed -- if you answered not  
2 guilty, proceed to part A.

3 A is: We the jury unanimously find the Defendant as  
4 to the lesser-included offense of assault and battery of a  
5 high and aggravated nature of James Wright, guilty or not  
6 guilty. Again, if you answered guilty to part A, proceed  
7 to five. If not, proceed to B.

8 B: We the jury unanimously find the Defendant as to  
9 the lesser-included offense of assault and battery in the  
10 first degree of James Wright, guilty not guilty.

11 Again if you find him guilty, move to five. If not,  
12 go to part C. Okay?

13 Part C: We the jury unanimously find the Defendant as  
14 to the lesser-included offense of assault and battery in  
15 the second degree of James Wright, guilty or not guilty.

16 And then finally question number five. We the jury  
17 unanimously find the Defendant as to the charge of  
18 burglary in the first degree, guilty or not guilty.

19 That's the end of your deliberations. You will sign  
20 here and complete the date.

21 Okay. Now, you will not get this verdict form until  
22 you are told to begin your deliberations. Okay. What's  
23 going to happen now, you and I just went through a bunch  
24 of charges. I've got to go over the charges with the  
25 attorneys. If I have misspoken or I need to clarify some

1 of my charges, they will tell me.

2 Well, what's going to happen is you're going to go  
3 back in your jury room while we discuss my charges. If  
4 everything is okay, the evidence and the verdict form is  
5 going to be brought back in to the jury room by Ms. Dee  
6 and she's going to tell you that you're to begin your  
7 deliberations. She's going to give you the verdict form  
8 and you can begin your deliberation.

9 Until that time you cannot talk about the case.

10 Okay? Now, after you get the verdict form, Madam  
11 Forelady, it's going to be your duty to preside over the  
12 deliberations.

13 If you have any questions and everybody agrees that  
14 there's a question, you have to send out a question form.

15 Okay. Once y'all have made your decision in this case  
16 you've got to complete this form, sign it and date it.  
17 You'll knock on the door and tell the bailiff. Okay?

18 Now right now as I told you, I'm going to excuse you  
19 to go back into the jury room while I discuss the charges  
20 and I'll bring you back out here if I need to.

21 Remember, you cannot talk about the case yet.

22 FORELADY OF THE JURY: Okay.

23 THE COURT: Thank you.

24 (Jury exits courtroom at 4:24 p.m.)

25 THE COURT: Y'all go into different rooms.

1 (Alternates exit courtroom.)

2 THE COURT: Anything from the State regarding the  
3 charges?

4 MS. FORD: Nothing from the State.

5 THE COURT: Anything from the defense?

6 MR. WISE: Yes, sir. Very briefly. I did it again.

7 THE COURT: Sir?

8 MR. WISE: I said, very briefly

9 THE COURT: Okay.

10 MR. WISE: Your Honor, I believe the Court in the  
11 charge on attempted murder charged the jury that specific  
12 intent is not required for that crime. I believe that it  
13 is. I call the Court's attention to State versus Sutton,  
14 S-U-T-T-O-N.

15 THE COURT: Okay.

16 MR. WISE: 33 South Carolina, 192, 508 Southeastern  
17 Second 41.

18 And as I read the case, the essential elements  
19 required for proof of criminal intent of murder are, one,  
20 a specific intent to commit the crime and, two, a direct  
21 and effectual act done towards its commission.

22 Then it goes on: The elements of intent to crime  
23 (verbatim) are, specific intent to commit a criminal  
24 offense and an act in furtherance of that intent that  
25 falls short of its ultimate execution. Probably a bad

1 choice of words, but...

2 THE COURT: You got the case?

3 MR. WISE: I don't have the case. I just have my  
4 notes but it has the citation.

5 THE COURT: Okay. That's a 1998 case.

6 MR. BELL: Attempted murder didn't exist.

7 THE COURT: Yeah.

8 MR. BELL: That's ABWIK. That case in attempted  
9 murder didn't exist.

10 THE COURT: When was this indicted? When was this --  
11 not indicted, when was this?

12 MR. BELL: 2011.

13 MS. FORD: 2011, I believe, Your Honor.

14 THE COURT: 2011?

15 MS. FORD: I believe so, Your Honor.

16 THE COURT: Let's just -- we'll double-check. What is  
17 it, 333. Put code section and see if it pulls up  
18 anything. I'll go pull 333.

19 (Pause.)

20 THE COURT: Just to let you know 16-20-29 became  
21 effective June 2nd, 2010.

22 All right. Mr. Bell, or Ms. Ford, any comments about  
23 correcting my charge?

24 MS. FORD: No, sir.

25 THE COURT: What I was thinking about doing is I was

1 just to read the statute. And the statute reads: A  
2 person who with intent to kill, intends to kill a  
3 person -- attempts to kill another person with malice  
4 aforethought, either express or implied, commits the  
5 offense of attempted murder.

6 Here's yours.

7 MR. WISE: Oh, thank you.

8 THE COURT: That's why you can't find it.

9 MR. WISE: Thank you.

10 THE COURT: That's a 1998 case. I figure the best  
11 thing to do is just read what the actual statute says.

12 MR. WISE: Can I --

13 THE COURT: Sure.

14 MR. WISE: One moment.

15 (Pause.)

16 MR. WISE: Very good.

17 THE COURT: Is that all right?

18 MS. FORD: Yes, sir.

19 THE COURT: Would you bring the jury back in?

20 (Jury enters courtroom at 4:30 p.m.)

21 THE COURT: Ladies and gentlemen, what I'm going to  
22 do -- it has been pointed out to me that I have possibly  
23 not charged you correctly with the definition of the  
24 attempted murder charge. So what I'm going to do is I'm  
25 going to read to you the statute on what attempted murder

1 is as defined by our legislature.

2 Attempted murder. A person who with intent to kill  
3 attempts to kill another person with malice aforethought,  
4 either express or implied, commits the offense of  
5 attempted murder.

6 Okay. All right. I'll let y'all go back into your  
7 jury room now. Okay?

8 (Jury exits courtroom at 4:32 p.m.)

9 THE COURT: Anything from the State?

10 MS. FORD: No, sir.

11 THE COURT: Anything from the defense?

12 MR. WISE: No, Your Honor.

13 THE COURT: What I would ask you to do is for you all  
14 to get together and make sure we got all the exhibits and  
15 they're in order. And then if you will give them to  
16 Ms. Dee and then I'm going to give her the verdict form  
17 and then you can go back there.

18 If you'll bring the alternates. They're in another  
19 room?

20 THE BAILIFF: Yes.

21 THE COURT: All right.

22 (Attorneys correlate and agree on exhibits.

23 Deliberations commence at 4:34 p.m.)

24 THE COURT: All right. Okay. Now we wait.

25 MS. FORD: Yes, sir.



1 THE COURT: We're in recess.

2 (Alternates enter courtroom,)

3 THE COURT: I want to thank both of y'all. Since  
4 y'all are alternates and since nobody dropped out during  
5 the day and a half of the trial, we don't need you any  
6 more. Y'all are free to go. If you want to stay and find  
7 out what happens, you're welcome to sit in the back of the  
8 courtroom and wait like we're going to wait.

9 But if you need to go, you're free to go and I  
10 appreciate you being willing to serve. And now, remember  
11 you got another two years off.

12 THE JUROR: Thank you.

13 THE BAILIFF: They just started their drink.

14 THE COURT: Bring them back through there.

15 THE BAILIFF: Right.

16 THE COURT: Thank you, ma'am.

17 THE JUROR: You're welcome.

18 (At 4:46 p.m., a note from the jury was received.)

19 THE COURT: The jury has apparently requested to hear  
20 the testimony of Mr. Wright, Mr. Rumph and Mr. Echols.

21 Now, suggestions from the State? Comments that are  
22 printable.

23 MR. BELL: I'm feeling I'm back in Dorchester County.

24 THE COURT: If you don't have any to --

25 MR. BELL: I would suggest if the Court is going to do

1 it, do it in the morning.

2 THE COURT: Oh, no. Oh, no. We're doing it now if  
3 we're going to do it.

4 You know, I'm not inclined to play the testimony in a  
5 case that has taken less than a day to hear. They are  
6 there. They're supposed to, you know, have paid  
7 attention. It seemed to me that they were paying  
8 attention. To replay the whole thing of the main three  
9 witnesses, and we've got a lot of down time with  
10 Mr. Echols that I seem to remember.

11 I think they should have to go with what they  
12 remember. But, I'm not trying it. I want to hear from  
13 the defense.

14 MR. WISE: Your Honor, I think they should hear the  
15 testimony.

16 MS. FORD: Your Honor, they've heard the testimony.

17 THE COURT: Yeah, they have heard it.

18 MR. WISE: Well, let me put it this way. I think the  
19 Court should do what the jury asks to be done. Obviously  
20 they have a concern. And that's why they did that, and  
21 it's impossible to tell what the concern is.

22 THE COURT: Uh-huh.

23 MR. WISE: So, normally they would come and say the  
24 direct of this or part of that but.

25 THE COURT: All right.

1 MS. FORD: Well, Your Honor, I think the concern is  
2 that in Mr. Wise's closing, if you want to hear the whole  
3 trial again we'll play the whole trial again, which I  
4 think was clearly misleading to the jury.

5 THE COURT: Did you say that?

6 MR. WISE: I don't think I used the word whole trial  
7 again but I said because they have to be the judge of the  
8 facts, if I misstate any facts and they want to hear it,  
9 then they can hear it.

10 And I still stand by it. I said some things and I  
11 said, if you said I'm misleading you, that's what you do.  
12 And apparently they're holding me to my word.

13 MS. FORD: Holding Mr. Wise to that, and obviously  
14 they've heard the testimony of these --

15 THE COURT: Hold on. Hold on. Thank you. Can you  
16 play back everything --

17 (Off-the-record discussion.)

18 MR. WISE: As to Mr. Echols, the only thing I would  
19 say is obviously we can skip over --

20 THE COURT: Some of the dead time.

21 MR. WISE: All of the dead time. Save probably an  
22 hour.

23 THE COURT: Maybe two.

24 MR. WISE: Okay.

25 THE COURT: All right. Bring the jury back out here.

1 I want to just ask them about it.

2 (Jury enters courtroom at 4:50 p.m.)

3 THE COURT: I do not want y'all to respond out here.  
4 I'm going to let y'all go back and talk for a minute. The  
5 question seemed to indicate that y'all wanted to -- and  
6 you're going to have to respond to this, Madam Forelady,  
7 y'all wanted to hear the testimony of Mr. Wright,  
8 Mr. Rumph and Mr. Echols?

9 FORELADY OF THE JURY: Yes. We were looking for one  
10 particular thing in there.

11 THE COURT: Okay. All right. Okay.

12 And so y'all are prepared to listen to all of the  
13 testimony of those three witnesses one more time? That's  
14 correct? I'm going to let y'all -- I mean, if that's what  
15 y'all want to do.

16 FORELADY OF THE JURY: I don't think that we have to  
17 listen to each one of them in the entirety, just until we  
18 get to what we want to know.

19 THE COURT: Okay. I'm going to let y'all go back into  
20 the jury room for one more second while I talk to the  
21 attorneys for one more time. Okay?

22 (Jury exits courtroom at 4:52 p.m.)

23 THE COURT: All right. You know I wanted to ask what  
24 they wanted to know, but I couldn't do that. Okay.

25 MR. WISE: Your Honor, may I be heard briefly?

1 THE COURT: Sure.

2 MR. WISE: The only thing -- I think the Court may be  
3 able to limit this by asking them if they think it's  
4 direct examination or cross-examination because then when  
5 they get to it they can signal, yes, that's what we want.

6 THE COURT: Well, I understand that would be a good  
7 thing but, you know, because somebody says something on  
8 direct and if I stop it at the end of direct, you're going  
9 to say well why didn't we hear what he said on cross  
10 because I know I asked them a question about whatever they  
11 said on direct. And if they say, I only want to hear what  
12 he did on cross, then they're going to say, why, don't we  
13 hear exactly what we heard on direct so you can get a fair  
14 hearing on what the people decided about -- testified  
15 about.

16 Okay. All right. How long it would take you to pull  
17 up Mr. Wright's testimony?

18 (Off-the-record discussion.)

19 MS. FORD: Your Honor, may I briefly be heard on the  
20 matter?

21 THE COURT: Yeah.

22 MS. FORD: Your Honor, we spent the last day and a  
23 half of going over the testimony of basically the three  
24 main witnesses, Your Honor.

25 The jury certainly -- they appear to have paid

1 attention, have heard all the testimony on both direct and  
2 cross. I certainly agree that to play a portion either of  
3 direct or cross could certainly be prejudicial to either  
4 the State or the defense.

5 THE COURT: Uh-huh.

6 MS. FORD: And, Your Honor, as such, it seems as if  
7 the best way to go about this is the jury has heard the  
8 testimony on direct, they've heard the testimony given on  
9 cross. And that's, you know --

10 THE COURT: Tell them life's tough.

11 MS. FORD: Not that life is tough, but certainly  
12 they've heard all of the evidence. And to basically  
13 replay the entire trial again, you know, would not  
14 necessarily be to anyone's, you know, to their benefit.

15 To hear specifically what they want and then they say,  
16 stop, I think that that could certainly be prejudicial to  
17 either the State or the defense.

18 THE COURT: Here's a concern. Okay. You know, that's  
19 what they've asked for to make their decision. I mean,  
20 that's what they've asked for. Okay.

21 Do you have -- I mean, do you have any case law or  
22 anything where you're familiar with a judge saying, sorry,  
23 not going to play it. Got anything? Anybody?

24 MS. FORD: I do know that judges have done that, Your  
25 Honor. I don't know -- I can't off the top of my head

1 come up with case law that would say that.

2 THE COURT: Hold on.

3 THE LAW CLERK: If I can pull it.

4 THE COURT: Hold on a second. That's why I have him.

5 (Pause.)

6 THE COURT: Just so y'all will know, what I'm looking  
7 at this is 275 South Carolina 291 270 Southeastern Second  
8 126.

9 It's the quickest thing we could find so far, if y'all  
10 can find it.

11 MS. FORD: Your Honor, what's the name of the case?

12 THE COURT: Oh, I'm sorry. Name of the case is State  
13 versus Plyler, P-L-Y-L-E-R. We can run copies. Okay.  
14 He's going to run copies for y'all.

15 If you turn to page five, you look at Sections 11 and  
16 12 you can see what it's talking about. So that y'all  
17 can -- I'll give y'all a chance to read it.

18 MS. FORD: Thank you, Your Honor.

19 (Pause.)

20 THE COURT: All right. Have y'all had an opportunity  
21 to look at this case, the Plyler case?

22 MS. FORD: Yes, sir.

23 MR. WISE: I have, Your Honor.

24 THE COURT: It appears from my reading of it that I  
25 can start replaying it until such time as they decide to

1 stop. Y'all find it reads -- does it say anything else to  
2 y'all?

3 MS. FORD: Your Honor, just that it's in the  
4 discretion of the trial judge.

5 THE COURT: Oh yeah, as to whether I can require them  
6 to hear more than what they want.

7 MS. FORD: Or not at all, if Your Honor were to choose  
8 that.

9 THE COURT: I don't think it says not at all. The way  
10 I read it is kind of like I've got to do it. Anything  
11 else, Mr. Wise?

( 12 MR. WISE: No.

13 THE COURT: Ms. Ford?

14 MS. FORD: No, sir, Your Honor.

15 THE COURT: All right. Bring the jury on back out.

16 (Jury enters courtroom at 5:06 p.m.)

17 THE COURT: All right. The court reporter has marked  
18 where their testimony begins, each one of the three  
19 gentlemen that y'all have requested; Mr. Wright, Mr. Rumph  
20 and Mr. Echols. Okay.

21 And I know y'all want to get to a certain part  
22 somewhere. Okay. And, Madam Forelady, you're going to be  
23 the person that's going to raise your hand and tell us  
24 when to stop.

( 25 THE FORELADY OF THE JURY: Okay.



1 THE COURT: Now what we're going to do in just a  
2 minute is the court reporter is going to start playing  
3 Mr. Wright's testimony. Okay. And then we'll play  
4 Mr. Wright's testimony until you raise your hand.

5 THE FORELADY OF THE JURY: Okay.

6 THE COURT: Okay. All right.

7 (Thereupon the testimony of Mr. James Wright, page  
8 number 155 line number 5 through page number 157 line  
9 number 24 was played for the jury;

10 The testimony of Mr. Robert Rumph, page number 185  
11 line 3 number through page number 188 line number 10 was  
12 played for the jury;

13 And the testimony of Mr. Sean Echols, page number 257  
14 line number 1 through page number 264 line number 19, was  
15 played for the jury.)

16 THE COURT: I'm going to let you go back into the jury  
17 room and continue with your deliberations. Thank you.

18 (Jury exits courtroom at 5:25 p.m.)

19 THE COURT: Mr. Wise?

20 MR. WISE: Your Honor, this is nothing as to what just  
21 transpired, but can I be heard on something else that's  
22 just come up?

23 THE COURT: Sure.

24 MR. WISE: Thank you.

25 Your Honor, after the jury went out to deliberate,

1 apparently Mr. Sprinkle's father who is present in the  
2 courtroom, the gentleman with the blue shirt, was out in  
3 the hallway to use the restroom. At that point he  
4 apparently had a conversation with Mr. Wright. During the  
5 course of that conversation apparently Mr. Wright  
6 indicated to Mr. Sprinkle that his testimony during the  
7 trial was mistaken and that Mr. Sprinkle didn't hit him.

8 Now, I've not talked to Mr. Wright. This just came  
9 up, but I felt I should bring it to the Court's attention  
10 sooner than later.

11 THE COURT: Okay.

12 MR. WISE: So I don't know if it's an accurate  
13 recitation. But obviously if that were true, I would  
14 submit to the Court that that might affect his credibility  
15 and affect his credibility regarding what happened.

16 And then the jury comes back and asks for his  
17 testimony to be re-read, which kind of makes it more of an  
18 issue that I think needs to be brought before the Court.

19 So, I think that the first thing I'd -- which I think  
20 is appropriate is just to have the State meet with  
21 Mr. Wright and confirm that that's accurate. And then we  
22 can make a determination about how to proceed. But it's  
23 the kind of thing, if that were so my motion would be for  
24 a new trial.

25 But I don't want to be premature about that because I

1 may have this totally wrong.

2 THE COURT: All right. Well, Ms. Ford, anything you  
3 want to say? You don't know anything about it, I'm  
4 assuming --

5 MS. FORD: No, sir.

6 THE COURT: -- it was news to you, too? All right.  
7 Well, before I do anything, we'll take a short break.  
8 Okay.

9 MR. WISE: Thank you.

10 THE COURT: Appreciate you letting me know.

11 MR. WISE: Thank you.

12 (Thereafter at 5:27 p.m., a break was taken. At  
13 5:35 p.m., the trial resumed:)

14 THE BAILIFF: They just need a definition of a word.  
15 May I approach?

16 THE COURT: Definition.

17 THE BAILIFF: They don't want to come back out. They  
18 just need to know the definition.

19 THE COURT: They may or may not have to come back  
20 out. We'll discuss that. Just wait right there.

21 Before we get into other thing, let's bring the --

22 (Defendant enters courtroom.)

23 THE COURT: Okay. They want me to define mere  
24 presence. And they want me to just send it back there,  
25 but I think I've got to read it to them unless y'all have

1 another -- unless y'all have something else that y'all can  
2 suggest.

3 MS. FORD: No, sir. We would just ask that since in  
4 the definition the hand of one is the hand of all it also  
5 talks about mere presence. We would ask that you  
6 obviously charge both of those because the definition is  
7 under the hand-of-one-is-the-hand-of-all charge that you  
8 have read to the jury.

9 THE COURT: Well, I do mention that in the hand of one  
10 is the hand of all. Mr. Wise?

11 MR. WISE: Thank you, Your Honor.

12 THE COURT: Yes, sir.

13 MR. WISE: The Court did give a specific charge on  
14 mere presence. That's what they've asked for. That's  
15 what I think the Court should give them.

16 THE COURT: And I understand that. However, I  
17 mentioned mere presence when I'm reading the hand of one  
18 hand of all, too. So, y'all step back here.

19 (Off-the-record discussion from 5:38 p.m., until  
20 5:41 p.m., and the trial resumed:)

21 THE COURT: All right. The jury had asked for the  
22 definition of mere presence. I had used the definition of  
23 mere presence both in my charge of hand of one hand of all  
24 and in the definition of mere presence.

25 I have gone over the portion of hand of one hand of

1 all that I'm going to read, and the definition of mere  
2 presence so that we'll have -- the jury will have a,  
3 hopefully a full understanding of the meaning of mere  
4 presence.

5 And I talked it over with counsel in chambers, and I  
6 believe it is the considered opinion of the State and the  
7 defense that I'm going to respond to the question in that  
8 manner.

9 Is that correct, Ms. Ford?

10 MS. FORD: That's correct

11 THE COURT: Is that correct, Mr. Wise?

12 MR. WISE: It is, Your Honor.

13 THE COURT: Okay. Bring the jury back out.

14 (Jury enters courtroom at 5:42 p.m.)

15 THE COURT: All right. Ladies and gentlemen, it's my  
16 understanding y'all wanted me to define mere presence.  
17 Okay.

18 I cannot do that by just sending something back to  
19 you, okay, which is the reason I brought you back here.

20 I've gone over with the attorneys, I've got about a  
21 little over a page I need to read. So if y'all will just  
22 pay attention. I've got to put -- I've got to define mere  
23 presence but also put it in its proper perspective.

24 So: A principal in a crime is one who either actually  
25 commits the crime or who is present aiding, abetting or

1 assisting in the -- in committing the crime. When a  
2 person does an act in the presence of and with the  
3 assistance of another, the act is done by both.

4 Where two or more acting with a common plan or intent  
5 are present at the commission of a crime, it does not  
6 matter who actually commits the crime, all are guilty. The  
7 hand of one is the hand of all. Present at the commission  
8 of a crime means to be sufficiently near to aid and abet  
9 and assist in the commission of a crime.

10 However, mere presence at the scene of a crime is not  
11 sufficient to convict one as a principal on the theory of  
12 aiding and abetting. As I said before, mere presence at  
13 the scene is not sufficient to prove someone guilty of a  
14 crime.

15 A defendant's presence where a crime is being  
16 committed or mere association with a person who commits a  
17 crime does not make a defendant an accomplice or an aider  
18 and abetter of the person committing the crime.

19 The burden is on the State to prove every element of  
20 the crime charged. If you find after reviewing all the  
21 evidence that the State has proved that the Defendant was  
22 only present at the scene of a crime and that they have  
23 not proved beyond a reasonable doubt any other  
24 participation in the crime, then you must find the  
25 Defendant not guilty.

1 The law is that proof of the Defendant's presence at  
2 the scene of the crime is not sufficient to find someone  
3 guilty. Okay?

4 I'll excuse y'all. Let you all go back into the jury  
5 room. Thank you.

6 (Jury exits courtroom at 5:45 p.m.)

7 (Thereupon, Court's Exhibit Nos. 3 and 4, notes from  
8 the jury, were marked and received into the record.)

9 THE COURT: The DVD is Court's Two. The first  
10 question of the jury about replaying the testimony through  
11 the witnesses is Court's Exhibit Number Three, and the  
12 request to define mere presence is Court's Number Four.

13 All right. Now, the other thing we need to put on the  
14 record, Mr. Wright (sic), I believe you brought some -- to  
15 my attention what you -- is believed by the father of  
16 Mr. Sprinkle that the victims in this case had renounced  
17 or changed their testimony.

18 And, Ms. Ford, Mr. Bell, y'all have had an opportunity  
19 to talk with the victims in this case?

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

21 THE COURT: All right.

22 MS. FORD: Your Honor, Mr. Bell and I spoke with  
23 Mr. Wright who was the subject of the concern. Asked if  
24 he had a conversation, asked if he had changed his  
25 testimony in any way. He did not, Your Honor. He said

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1 that that's what they said but he kept -- his testimony  
2 did not change. He stands by what he stated yesterday  
3 under oath, Your Honor.

4 THE COURT: Okay. All right. Thank you, ma'am.  
5 Mr. Wise, we just note that on the record. Okay?

6 MR. WISE: Yes, Your Honor.

7 THE COURT: Thank you, sir. All right.

8 We're going to be in recess for a little while  
9 longer. Okay. Thank you.

10 (Thereupon, Court stood in recess from 5:49 p.m.,  
11 until 7:05 p.m., when the trial resumed:)

12 THE COURT: I've been told the jury has reached a  
13 verdict; is that correct?

14 THE BAILIFF: Yes, Your Honor.

15 THE COURT: Is the State ready to proceed?

16 MS. FORD: We are, Your Honor.

17 THE COURT: Is the defense ready to proceed?

18 MR. WISE: We are, Your Honor.

19 THE COURT: Okay. Bring the jury on back out.

20 (Jury enters courtroom at 7:05 p.m.)

21 THE COURT: Madam Forelady, has the jury reached a  
22 verdict?

23 THE FORELADY OF THE JURY: We have, Your Honor.

24 THE COURT: Is that verdict unanimous?

25 THE FORELADY OF THE JURY: It is, Your Honor.



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1 THE COURT: Would you mind giving the bailiff the  
2 verdict form?

3 THE FORELADY OF THE JURY: (Complies.)

4 THE BAILIFF: Your Honor, may I approach?

5 THE COURT: Yes, ma'am. Thank you, ma'am.

6 THE BAILIFF: Uh-huh.

7 THE COURT: Can I see the attorneys for a second?

8 (Off-the-record discussion.)

9 THE COURT: All right. This is the verdict form of  
10 the State of South Carolina versus Richard Sprinkle and  
11 the jury answering the questions that were provided to  
12 them.

13 Question number one: We the jury unanimously find the  
14 Defendant as to the charge of armed robbery of Robert  
15 Rumph, guilty.

16 Question number two: We the jury unanimously find the  
17 Defendant as to the charge of armed robbery of James  
18 Wright, guilty.

19 Question number three: We the jury unanimously find  
20 the Defendant as to the charge of attempted murder of  
21 Robert Rumph, not guilty.

22 Question -- so question A of question three: We the  
23 jury unanimously find the Defendant as to the lesser-  
24 included offense of assault and battery of a high and  
25 aggravated nature of Robert Rumph, jury did not respond to

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1 that.

2 Subpart B: We the jury unanimously find the Defendant  
3 as to the lesser-included offense of assault and battery  
4 in the first degree of Robert Rumph, guilty.

5 Question number four: We the jury unanimously find  
6 the Defendant as to the charge of attempted murder of  
7 James Wright, not guilty.

8 Subpart A of question four: We the jury unanimously  
9 find the Defendant as to the lesser-included offense of  
10 assault and battery of a high and aggravated nature of  
11 James Wright, not guilty.

12 Subpart B of question four: We the jury unanimously  
13 find the Defendant as to the lesser-included offense of  
14 assault and battery in the first degree of James Wright,  
15 not guilty.

16 Subpart C: We the jury unanimously find the Defendant  
17 as to the lesser-included offense of assault and battery  
18 in the second degree of James Wright, not guilty.

19 Question number five: We the jury unanimously find  
20 the Defendant as to the charge of burglary in the first  
21 degree, guilty.

22 Signed by the Foreperson and dated today.

23 Anything from the State?

24 MS. FORD: Nothing from the State, Your Honor.

25 THE COURT: Anything from the defense?

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1 MS. ULLMAN: Your Honor, We'd ask that you poll the  
2 jury.

3 THE COURT: All right. Ladies and gentlemen of the  
4 jury, the defense has asked that I poll the jury. That  
5 means I'm going to ask you questions.

6 What I'm going to do is ask each one of you if this is  
7 your verdict and is it still your verdict is what the  
8 question is. When I call your name, I would ask that you  
9 stand so that I can ask the question of you. And then you  
10 can respond.

11 Tony Mims. Mr. Mims, is this your verdict?

12 THE JUROR: Yes, sir.

13 THE COURT: Is it still your verdict?

14 THE JUROR: Yes, sir.

15 THE COURT: Thank you, sir. Jamel James. Mr. James,  
16 is this your verdict?

17 THE JUROR: Yes, sir.

18 THE COURT: Is it still your verdict?

19 THE JUROR: Yes, sir.

20 THE COURT: Thank you, sir. Marilyn Carter.  
21 Ms. Carter, is this your verdict?

22 THE JUROR: Yes.

23 THE COURT: Is it still your verdict?

24 THE JUROR: Yes.

25 THE COURT: Thank you, ma'am. Faye Menefee. Is this

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1 your verdict?

2 THE JUROR: Yes.

3 THE COURT: Is it still your verdict?

4 THE JUROR: It is.

5 THE COURT: Thank you, ma'am. Penny Fulmer.

6 Ms. Fulmer, is this your verdict?

7 THE JUROR: Yes.

8 THE COURT: Is it still your verdict?

9 THE JUROR: Yes.

10 THE COURT: Thank you, ma'am. Jacqueline Jamison.

11 Ms. Jamison, is this your verdict?

12 THE JUROR: Yes, sir.

13 THE COURT: Is it still your verdict?

14 THE JUROR: Yes, sir.

15 THE COURT: Thank you, ma'am. Christopher Reed.

16 Mr. Reed, is this your verdict?

17 THE JUROR: Yes.

18 THE COURT: Is it still your verdict?

19 THE JUROR: Yes.

20 THE COURT: Thank you, sir. Rachel Haddock.

21 Ms. Haddock, is this your verdict?

22 THE JUROR: Yes, sir.

23 THE COURT: Is it still your verdict?

24 THE JUROR: Yes, sir.

25 THE COURT: Thank you, ma'am. Stephanie Brant.

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1 Ms. Brant, is this your verdict?

2 THE JUROR: Yes, sir.

3 THE COURT: Is it still your verdict?

4 THE JUROR: Yes, sir.

5 THE COURT: Thank you, ma'am. Edward Miller.

6 Mr. Miller, is this your verdict?

7 THE JUROR: Yes, sir.

8 THE COURT: Is it still your verdict?

9 THE JUROR: Yes, sir.

10 THE COURT: Thank you, sir. Shannon Johnson.

11 Mr. Johnson, is this your verdict?

12 THE JUROR: Yes.

13 THE COURT: Is it still your verdict?

14 THE JUROR: Yes.

15 THE COURT: Thank you, sir. Erica Tyler. Ms. Tyler,  
16 is this your verdict?

17 THE JUROR: Yes, sir.

18 THE COURT: Is it still your verdict?

19 THE JUROR: Yes, sir.

20 THE COURT: Thank you, ma'am. Anything else?

21 MS. ULLMAN: We have matters of law, but other than  
22 that, no, sir.

23 THE COURT: All right. Ladies and gentlemen, I  
24 appreciate your attention. I know the verdict form was a  
25 fairly long verdict form, but I appreciate your attention

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1 during this trial. I appreciate the questions that you've  
2 asked.

3 You are now free. Okay. Thank you for your service  
4 to the county. And y'all can go that way around. Have a  
5 good evening. Thank you.

6 (Jury exits courtroom at 7:14 p.m.)

7 MS. FORD: Your Honor, may we approach for just a  
8 moment?

9 THE COURT: Sure.

10 (Off-the-record discussion.)

11 THE COURT: All right. Mr. Wise, Ms. Ullman, who is  
12 it?

13 MS. ULLMAN: Thank you, Your Honor.

14 THE COURT: Ms. Ullman.

15 MS. ULLMAN: First, I would ask Your Honor to consider  
16 a motion for a new trial. A new trial should be granted  
17 where there's no evidence supporting a conviction.

18 Regarding the assault and battery first conviction in  
19 Mr. Rumph's case -- or Mr. Rumph was the victim. Excuse  
20 me. We don't believe that there was any evidence of great  
21 bodily injury to Mr. Rumph that would not support assault  
22 and battery first degree.

23 Regarding the burglary, Your Honor, we don't believe  
24 there's evidence supporting that. There was no evidence  
25 that they -- that Mr. Sprinkle wasn't invited into the

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1 house.

2 And then obviously we'd also argue there's no evidence  
3 regarding the armed robbery of both victims.

4 THE COURT: All right. Ms. Ullman, I'll note your  
5 argument for the record but having seen the pictures and  
6 like that regarding the assault and battery first  
7 conviction, I do believe that there was sufficient  
8 evidence to show great bodily injury.

9 With regard to the burglary, deception was evident, I  
10 think, from the testimony. And regarding the armed  
11 robbery I think there was certainly evidence to convict  
12 him of the armed robbery.

13 So I'm going to deny your motion for a new trial.

14 MS. ULLMAN: Yes, sir.

15 The last motion I would make is for a verdict in  
16 arrest of the judgment, Your Honor. That's an appropriate  
17 criminal case motion when there's lack of jurisdiction or  
18 insufficiency in the charging document.

19 That comes from State V Miller, 287 South Carolina  
20 280.

21 Your Honor, I obviously would again just renew my  
22 arguments earlier about the insufficiency of the --

23 THE COURT: Of the indictment

24 MS. ULLMAN: Of the indictment. Yes, sir.

25 THE COURT: It includes --

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1 MS. ULLMAN: I think it was the attempted murder  
2 didn't include the intent and malice within the  
3 indictments.

4 THE COURT: And the jury did not find him guilty of  
5 attempted murder on either one of those.

6 MS. ULLMAN: Yes, sir.

7 THE COURT: They found him guilty -- on one they  
8 didn't find him guilty at all, Mr. Wright. And on  
9 Mr. Rumph they found him guilty of the lesser included  
10 assault and battery first.

11 So, I'm not going to grant your motion in arrest of  
12 judgment on that.

13 MS. ULLMAN: Yes, sir.

14 THE COURT: Anything else?

15 MS. ULLMAN: (Shakes head.)

16 THE COURT: Thank you, ma'am. Anything from the  
17 State?

18 MS. FORD: Your Honor, I'm just awaiting documents  
19 from -- Your Honor, it will just be a few minutes before  
20 we have those documents.

21 THE COURT: We'll take a short break while y'all get  
22 the documents together.

23 MS. FORD: Yes, sir.

24 (Thereafter, at 7:18 p.m., a break was taken until  
25 7:25 p.m., and the trial resumed:)



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1 THE COURT: All right. Ms. Ford?

2 MS. FORD: Yes, sir, Your Honor.

3 THE COURT: Anything from the State?

4 MS. FORD: Your Honor, the State would just place on  
5 the record at the appropriate time Mr. Sprinkle's prior  
6 criminal history and relay some remarks from the victims  
7 at the appropriate time.

8 THE COURT: Ma'am?

9 MS. FORD: And relay some remarks from the victims at  
10 the appropriate time.

11 THE COURT: Before -- let me make sure that the armed  
12 robbery charge is ten to 30?

13 MR. BELL: Yes.

14 MS. FORD: Yes, sir.

15 THE COURT: Assault and battery first is zero to ten?

16 MR. BELL: Yes, sir.

17 MS. FORD: Yes, sir.

18 THE COURT: And burglary is 30 to life?

19 MR. BELL: Fifteen.

20 MS. FORD: Fifteen years to life.

21 MR. BELL: Yeah.

22 THE COURT: Okay. All right. Ms. Ford, what else  
23 would you like to tell me?

24 MS. FORD: Your Honor, I spoke with the victims.

25 Obviously they've testified. They had really nothing

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1 further to add other than asking me to relay to the Court  
2 that -- ask this Court to sentence Mr. Sprinkle to the  
3 maximum penalty, Your Honor, provided by law.

4 Your Honor, as far as Mr. Sprinkle's prior criminal  
5 history: He has an attempted burglary second from 1987.

6 He has, which shows up as assault and battery with  
7 intent to kill conviction from 1990 which I think is  
8 actually a lesser included pointing and presenting a  
9 firearm from 1990, Your Honor, as well as a possession  
10 with intent to distribute crack cocaine also from 1990.

11 Looks like he has a couple of marijuana convictions,  
12 Your Honor.

13 Out of the State of Georgia he has convictions for  
14 kidnapping which it looks like it was pled to false  
15 imprisonment as well as making terroristic threats, Your  
16 Honor.

17 That appears to be the extent of his prior record.

18 THE COURT: Okay. The false imprisonment, when was  
19 that?

20 MS. FORD: That was in 2002, Your Honor.

21 THE COURT: 2002. Okay. All right. Mr. Wise or  
22 Ms. Ullman?

23 MS. ULLMAN: In regards to Mr. Sprinkle, I've advised  
24 him that I don't think it's in his best interests to speak  
25 on his own behalf. Obviously we will be filing an appeal

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1 and I wouldn't want anything that he may say here  
2 regarding sentencing to affect his appeal.

3       Regarding him as a person, he is a father. He has  
4 obviously got family that loves and supports him. And his  
5 father has been here all day. His son has been in and out  
6 of the courtroom. His aunt is here and would like to be  
7 heard from on behalf of Mr. Sprinkle if Your Honor feels  
8 that's appropriate.

9       THE COURT: Okay. I'd like to hear from her right  
10 now, Ms. Ford.

11       UNIDENTIFIED SPEAKER: Your Honor --

12       THE COURT: And for the record, if you'd state your  
13 name.

14       MS. MARY JANE FORD: My name is Mary Jane Ford.

15       THE COURT: Yes, ma'am.

16       MS. MARY JANE FORD: I am the auntie of Richard as we  
17 affectionately call him. He was brought up in a Christian  
18 home, always polite. Willing to help wherever needed or  
19 possible.

20       He was known to work in my place of business. Also  
21 did, occasionally, yard work.

22       Later on in life, I learned that he got involved with  
23 drug. When I learned that, approximately three or four  
24 years ago, I took him to get some help. At that time he  
25 willing went on his own. And I would counsel with him in

## VERDICT &amp; SENTENCING

1 a Christian way. 'So would my pastor and other family  
2 members.

3 I would like to say, I don't understand all the  
4 charges but I would say that if there's any way you could  
5 have mercy, I think he deserves another chance. I feel  
6 that he does merely because of the drug problem that have  
7 not really been, have not been addressed.

8 THE COURT: Yes, ma'am.

9 MS. MARY JANE FORD: And it's not that he haven't  
10 asked for help.

11 I find after listening to the verdicts and the  
12 say-so's, that he needs help. Being incarcerated for that  
13 for life would not solve the problem.

14 THE COURT: Yes, ma'am.

15 MS. MARY JANE FORD: We love him and as you know there  
16 are a lot of people here that got problems. Some of these  
17 are sitting in here right now that have been accused, have  
18 problems and a lot of this initiated from these problems  
19 where I think the young men went to these places looking  
20 for whatever happened.

21 THE COURT: Uh-huh.

22 MS. MARY JANE FORD: You see -- okay.

23 THE COURT: Yes, ma'am.

24 MS. MARY JANE FORD: I just want to say if there's any  
25 way you can have mercy and spare him and get some help for

## VERDICT &amp; SENTENCING

1 him, we'd appreciate it.

2 THE COURT: And, Ms. Ford, I'd like to be able to  
3 help. I have very limited things that I can do.

4 MS. MARY JANE FORD: I understand. Okay.

5 THE COURT: Thank you, ma'am.

6 MS. MARY JANE FORD: We thank you all.

7 THE COURT: Yes, ma'am. Anything else, Ms. Ullman?

8 MS. ULLMAN: Obviously, Your Honor, we understand what  
9 the potential sentences are. In this situation, Your  
10 Honor, we would ask that you consider not giving a life  
11 sentence. I understand that's what burglary first  
12 carries.

13 But Mr. Sprinkle's 43 years old. His record started  
14 in '87 and as you heard, he has a few bad things on there  
15 but it's not extensive. It's not as if every year, twice  
16 a year or anything like that he was being arrested and  
17 charged with weapons and drugs and things of that nature.

18 I think Ms. Mary Ford, his aunt, is correct in that  
19 drugs absolutely have led him down the path that he's been  
20 in life. And one thing out of his own mouth that you  
21 heard on the stand, Your Honor, during the pretrial he  
22 said, yes, I'm a drug fiend. I have a drug problem. So  
23 he's admitted that, too.

24 Obviously, I understand the sentence will be given. I  
25 just again would ask that you consider not giving a life

## VERDICT &amp; SENTENCING

1 sentence.

2 And along with what Ms. Mary Ford said, we'd ask that  
3 you consider possibly ATU or something in that nature so  
4 that while he is there he could try to get some help.

5 And I think that's probably the limit on the help that  
6 you can give him in prison.

7 I believe that would be it, Your Honor.

8 THE COURT: Thank you, ma'am. Y'all give me a  
9 second. Let me step back a little bit.

10 MS. FORD: Yes, sir.

11 THE COURT: I'll be back.

12 (Thereafter, a break was taken from 7:33 p.m., until  
13 7:41 p.m., when the trial resumed:)

14 THE COURT: All right. Mr. Sprinkle.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: In some ways, you appeared in front of me  
17 so many times, I'm kind of going to miss seeing you.

18 THE DEFENDANT: Yeah.

19 THE COURT: The jury has listened to the evidence in  
20 this case and they found you guilty of these charges. And  
21 they also found you not guilty of the charge of  
22 Mr. Wright. I think the jury paid attention to the  
23 testimony.

24 Now it is my duty to sentence you according to the  
25 jury's verdict.

1 AND ON THE CHARGE OF ASSAULT AND BATTERY IN THE FIRST  
2 DEGREE, THE SENTENCE OF THIS COURT IS: YOU ARE COMMITTED  
3 TO THE STATE DEPARTMENT OF CORRECTIONS FOR A PERIOD OF TEN  
4 YEARS.

5 ON THE CHARGES OF ARMED ROBBERY, THERE ARE TWO OF  
6 THOSE THAT YOU WERE CONVICTED OF, SENTENCE OF THIS COURT  
7 IS: YOU'RE SENTENCED -- COMMITTED TO THE STATE DEPARTMENT  
8 OF CORRECTIONS FOR A PERIOD OF 30 YEARS.

9 AND ON THE CONVICTION FOR BURGLARY ONE: YOU ARE  
10 COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A  
11 PERIOD OF 35 YEARS.

12 THE SENTENCES ARE CONCURRENT. I'LL GIVE YOU CREDIT  
13 FOR THE TIME SERVED AND I AM GOING TO RECOMMEND ATU.

14 THE DEFENDANT: All right.

15 THE COURT: Good luck to you.

16 THE DEFENDANT: All right. Thank you.

17 THE COURT: Thank you, sir. All right. Thank you  
18 all.

19 MS. FORD: Thank you, Your Honor.

20 MR. WISE: Thank you, Your Honor.

21 END OF PROCEEDINGS: 7:44 P.M.

22 \*\*\*  
23  
24  
25

1  
2 CERTIFICATE OF REPORTER  
3

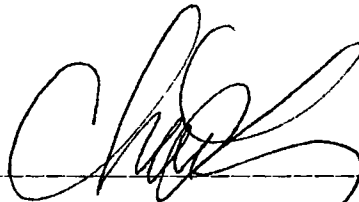
4 STATE OF SOUTH CAROLINA )

5 COUNTY OF AIKEN, )  
6

7 I, Cheri L. Young, Registered Professional Reporter  
8 and Official Court Reporter for the State of South  
9 Carolina, Second Circuit-At Large, do hereby certify that  
10 the foregoing is a true, accurate and complete transcript  
11 of record of the proceedings had and evidence introduced  
12 in the hearing of the captioned case, relative to appeal,  
13 in the Court of General Sessions for Orangeburg County on  
14 the 8th, 9th and 10th day of April, 2013.

15 I do further certify that I am neither of kin,  
16 counsel, nor interest to any party hereto.

17 I have hereunder set my hand this 22nd day of June,  
18 2013.

19  
20 

21 Cheri L. Young, RPR  
22 Official Court Reporter  
23  
24  
25



THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM ORANGEBURG COUNTY  
Circuit Court

Edgar W. Dickson, Circuit Court Judge

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Case No. 2011-GS-38-01561 - 01563  
Case No. 2013-GS-38-00287  
Appellate Case No. 2013-000784

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State of South Carolina,.....Respondent,

v.

Richard Lanard Sprinkle,.....Appellant.

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**FINAL BRIEF OF APPELLANT**

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**STATEMENT OF ISSUES ON APPEAL**

- I. Did the trial court err in admitting identification evidence that was unreliable and unduly suggestive?
- II. Did the trial court err in limiting the cross examination of Sean Echols, one of the perpetrators of the crime and a witness for the State?
- III. Did the trial court err in denying the motion for directed verdict and motion for new trial when the evidence did not support the conviction?
- IV. Did the trial court err in failing to charge the lesser-included offense of assault and battery in the second degree?

### STATEMENT OF THE CASE

This is an appeal from a verdict finding Richard Lanard Sprinkle guilty of one count of burglary, two counts of armed robbery, and one count of assault and battery in the first degree. (R. pp. 331-333.) Sprinkle was sentenced to 35 years in prison for burglary, 30 years for the two counts of armed robbery, and 10 years for assault and battery in the first degree. (R. p. 330; pp. 346-349.)

Sprinkle was arrested on June 29, 2011, and indicted on October 1, 2012, for two counts of armed robbery, two counts of attempted murder, and burglary in the first degree. (R. p. 5; pp. 350-360.) On January 30, 2013, Sprinkle was indicted for first degree burglary. (R. p. 359.)

The case was tried before a jury in Orangeburg County on April 9 and 10, 2013, nearly two years after Sprinkle was arrested. The jury found Sprinkle guilty of first degree burglary, two counts of armed robbery, and one count of first degree assault and battery. (R. pp. 331-333.) The jury found Sprinkle not guilty as to attempted murder and not guilty as to assault and battery of one of the victims.

This appeal follows.

### FACTS

This case involves a crime that occurred in a gambling house in Orangeburg on the early morning hours of June 26, 2011. The victims were James Wright and Robert Rumph. Wright and Rumph lived together. (R. p. 106, lines 20-24.) Rumph makes his money playing cards and gambling. (R. p. 153, lines 19-20.) On the night of the crime,

there had been a card game at the house. (R. pp. 154-155.) Wright, who is 74 years old, drank a “half of a half a pint” of liquor.<sup>1</sup> (R. p. 115, lines 20-21; p. 130, lines 5-18.)

According to Wright, he and Rumph were sleeping when there was a knock at the door. The person asked if “Uncle Rocky,” meaning Rumph, was home. (R. p. 107, lines 11-12; p. 117; p. 119, lines 12-18.) The person said he wanted to use the phone. (R. p. 107, lines 11-12). Wright looked out the window to see who was there. Wright said he could see the faces of the men from the city streetlight. (R. p. 130, lines 22-24.) He testified that he went to the back bedroom to tell Rumph that someone was at the door asking for him. Rumph said to let them in. (R. p. 119, lines 13-14.) Wright opened the door and the men came inside. It was dark inside and Wright did not turn on the lights. (R. p. 16, lines 16-19; p. 22, lines 2-4; p. 130, lines 19-22.) Once inside, one of the men immediately hit Wright on the head with a pistol and demanded money. (R. p. 109, line 25 – p. 110, line 8; p. 119, lines 18-24.)

The other man went to Rumph’s room. Rumph testified that a “black guy with long dreads on his hair” came into his room and demanded money. (R. p. 137; p. 143, line 7.) Rumph testified that his bedroom light and TV were on. (R. p. 148, lines 15-17.) When Rumph did not immediately give the man money, the man cut Rumph with a knife. (R. p. 138.)

Rumph testified that Wright and the other man eventually came into his bedroom. Rumph recognized the other man as Sean Echols, Vivian’s son. Vivian was a woman whom Rumph “socialized” with. (R. p. 139; p. 145.) Vivian knew that Rumph kept a lot of money in the house, and Rumph had loaned money to Echols in the past. (R. p. 139;

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<sup>1</sup> In the pre-trial hearing, Wright testified that he drank “about a half a pint.” (R. p. 16, lines 4-7.)

pp. 145-146.) Vivian had called the house twice that evening. (R. p. 151, lines 17-22.) The second time she called, she asked if she could come over. Rumph said no, that he was in bed. (R. p. 155, lines 19-20.) Rumph testified that a little over \$1000 was stolen. (R. p. 153, lines 11-12.) Rumph also testified that his car, a pair of pants, and a hat were taken. (R. p. 140; p. 143.)

Shortly after the men left, the police arrived. Wright said that the man who hit him was “dark skinned” and had dreadlocks. (R. p. 128.) The police showed Wright three or four different photo lineups on three different days. (R. p. 113, line 24 - p. 114, line 1; p. 133, lines 1-7.) Wright was not able to identify anyone in the first lineup. (R. p. 133, line 14 – p. 133, line 7.) After Wright told the police that he thought the man’s name was Ricky, the police created a photo lineup with a photo of Richard Sprinkle. (R. pp. 38-40.) Wright identified Sprinkle as one of the perpetrators. (R. p. 334.) Wright also identified Echols. (R. pp. 113-114; p. 335.)

Rumph, on the other hand, was not able to identify Sprinkle. (R. p. 180, lines 1-8.) He was only able to give a description, which was that the man was “shorter and had dreads and dark skin.” *Id.* Rumph identified Echols, however. (R. p. 142; p. 336.)

Sprinkle was arrested on June 29, 2011, three days after the crime. In January 2013, Sprinkle met with the police and told them that he was present at the scene of the crime, but that when he saw Echols assaulting someone, he got scared and ran out of the house. (R. p. 187; p. 190; p. 193; p. 197.) He said that he was on drugs and that is why he went to the house. (R. p. 190, lines 21-23.) He never said that he had a weapon and he never said that he hit anyone. (R. p. 194, lines 1-4.) He also testified that Echols’s mom, Vivian was there. (R. p. 197, lines 18-21.) He said that he was afraid of Echols.



(R. p. 192, lines 23-25.) Echols had been threatening him and he wanted to be moved from Orangeburg Detention Center. (R. p. 197, line 24 – p. 198, line 4.)

### STANDARD OF REVIEW

“In criminal cases, appellate courts review errors of law only and are bound by the trial court’s factual findings unless they are clearly erroneous.” *State v. Senter*, 396 S.C. 547, 551, 722 S.E.2d 233, 235 (Ct. App. 2011).

### ARGUMENT

#### **I. The trial court erred in denying the motion to suppress the identification of Richard Sprinkle.**

The trial court erred in denying the motion to suppress the identification of Richard Sprinkle because the testimony presented by Wright was unreliable and the lineup was unduly suggestive because Sprinkle appears in prison garb.

“An in-court identification of an accused is inadmissible if a suggestive out-of-court procedure created a very substantial likelihood of irreparable misidentification.” *State v. Cheeseboro*, 345 S.C. 526, 540, 552 S.E.2d 300, 307-08 (2001). “To determine the admissibility of an identification, the court must determine (1) whether the identification process was unduly suggestive and (2) if so, whether the out-of-court identification was nevertheless so reliable that no substantial likelihood of misidentification existed.” *Id.* at 540, 552 S.E.2d at 308. In evaluating the likelihood of misidentification, courts consider the following factors: “the opportunity of the witness to view the criminal at the time of the crime, the witness’ degree of attention, the accuracy of the witness’ prior description of the criminal, the level of certainty demonstrated by the witness at the confrontation, and the length of time between the crime and the confrontation.” *Neil v. Biggers*, 409 U.S. 188, 199-200 (1972).

In the case at hand, the identification of Sprinkle was unreliable. Wright testified that he was immediately hit over the head when the men came into the house and that it was dark inside and he never turned the lights on. He further testified that he had been drinking that night.<sup>2</sup>

Further, the description Wright gave the police did not match a description of Sprinkle. Wright initially told the police that the person who assaulted him was a dark-skinned black man with shoulder length dreadlocks. But he later identified Sprinkle as the perpetrator. Wright admitted that Sprinkle “changed a little bit” since the night of the crime. (R. p. 14, lines 1-4.) He said, “He ain’t quite as black in the face.” *Id.* He also said his hair is shorter and his skin’s a little cleaner that it was then. It was more darker.” (R. p. 26, line 22 – p. 27, line 3.)

Additionally, Wright did not identify Sprinkle in a photo lineup until after Wright gave the police Sprinkle’s name. Wright did not give the police Sprinkle’s name during the initial interview. (R. p. 39, lines 12-15.) Wright was shown a total of four different lineups on three different days. (R. p. 24, line 17 – p. 25, line 2.) He said he was shown the first one the day after the crime, but was not able to identify anyone. *Id.* He was shown additional lineups the next day, and again, no identification. *Id.* It was not until after Wright told the police that someone named “Ricky” was involved that the police produced a lineup with Sprinkle’s photo. (R. p. 39, line 24 – p. 40, line 7.) Wright said that the police handed him the lineup and said, “The suspect’s on here, see if you can pick him.” (R. p. 25, lines 17-19.) Wright circled the photo of Sprinkle

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<sup>2</sup> The jury ended up not believing Wright’s testimony that Sprinkle was the one who hit him. The jury found Sprinkle not guilty as to assault and battery of Wright. (R. pp. 331-333.)

even though it did not match the description he gave the police. If Wright knew who the perpetrator was, then there should not have been a need to create a lineup. The creation of a lineup that contained a photo of a suspect who matched the name giving to the police but not the description was unduly suggestive and created a very substantial likelihood of irreparable misidentification.

More importantly, Rumph never identified Sprinkle, even though he was in the best position to do so. Rumph described the person who came into his bedroom as “a black guy with long dreads on his hair.” (R. p. 143, lines 3-7.) Rumph said that the TV and light were on his bedroom. Rumph testified that eventually the other perpetrator, whom both Wright and Rumph identified as Sean Echols, came into the room. (R. p. 157.) Rumph had a much better opportunity to observe the men than Wright did. His room was lit, he had not been immediately hit over the head, and there was no testimony presented that he had been drinking that night. Wright testified that the robbery lasted approximately 25 minutes, which gave Rumph plenty of time to view the perpetrators. (R. p. 23, lines 16-21.) Rumph never identified Sprinkle in any of the lineups he was shown.

Finally, the lineup itself is unduly suggestive because Sprinkle appears in prison garb. (R. p. 334.) The other men are wearing t-shirts and tank tops. Sprinkle is the only one who appears in a gray, scrub-like shirt that is worn in prison.

Given these circumstances, there is a substantial likelihood that a misidentification has occurred. The in-court identification made by Wright and the photo lineup should have been excluded.

**II. The trial court erred in limiting the cross-examination of Sean Echols, who testified on behalf of the State.**

The trial court erred in limiting defense counsel's cross-examination of Sean Echols, who was one of the perpetrators and a key witness for the State. Echols was the only witness who testified that Sprinkle helped plan the crime. Without Echols's testimony, the jury could not have convicted Sprinkle of burglary, and may not have convicted him of armed robbery and assault and battery.

At trial, defense counsel sought to cross-examine Echols regarding (1) several prior convictions, (2) Echols's sentence for the conduct in this case, (3) a plea deal that Echols was offered, and (4) pending charges related to a federal investigation of a shooting of a corrections officer. The State moved to exclude cross-examination on these subjects. (R. pp. 54-57; pp. 215-216; pp. 234-241.) Although the trial court allowed the defense to cross-examine Echols about his prior convictions and the maximum sentence he faced the conduct in this case, the trial court refused to allow the defense to cross-examine Echols regarding the federal charges and any plea deal offered by the State. (R. pp. 87-88; pp. 240-42.)

#### **A. The federal charges**

Prior to trial, the State made a motion to limit the cross-examination of Echols regarding federal charges pending against him. (R. pp. 54-57). The defense opposed the motion, arguing that cross-examination should be permitted to impeach the witness. *Id.* The trial court granted the State's motion. (R. pp. 86-89). The trial court ruled that the examination was prohibited because it violated Echols's Fifth Amendment right to refuse to offer incriminating testimony. *Id.* The trial court relied on *State v. Hughes*, 328 S.C. 146, 493 S.E.2d 821 (1997), for the proposition that the defense should not be allowed to call a witness whom it knows will invoke the Fifth Amendment in front of the jury, and

ruled that the attempted murder is not a crime that is probative of truthfulness, and therefore cross-examination was not permitted.<sup>3</sup> *Id.*

At trial, the State called Echols to testify. (R. p. 203, line 17.) At the beginning of the cross-examination, the jury was excused, the State renewed its objection, and the Court sustained the State's objection. (R. pp. 215-17.) This was error.

The Sixth Amendment rights to notice, confrontation, and compulsory process require that a defendant be allowed to answer charges “through the calling and interrogation of favorable witnesses, the cross-examination of adverse witnesses, and the orderly introduction of evidence.” *State v. Graham*, 314 S.C. 383, 385, 444 S.E.2d 525, 527 (1994).<sup>4</sup> A criminal defendant has the right under the Confrontation Clause to cross-examine a witness against him with regard to bias. *State v. Mizell*, 349 S.C. 326, 331, 563 S.E.2d 315, 317 (2002). A defendant's rights under the Confrontation Clause are violated where the he is “prohibited from engaging in otherwise appropriate cross-examination designed to show a prototypical form of bias on the part of the witness, and thereby ‘to expose to the jury the facts from which jurors [] could appropriately draw inferences relating to the reliability of the witness.’” *Id.* at 331, 563 S.E.2d at 317 (quoting *Delaware v. Van Arsdaill*, 475 U.S. 673, 680 (1986)). “The trial judge retains discretion to impose reasonable limits on the scope of cross-examination.” *Mizell*, 349 S.C. at 331, 563 S.E.2d at 317. “Before a trial judge may limit a criminal defendant's

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<sup>3</sup> Although not specifically mentioned by the court, the basis for this part of its ruling appears to be Rule 609, SCRE.

<sup>4</sup> These Sixth Amendment protections are extended to state defendants through the Due Process Clause of the Fourteenth Amendment. *E.g.*, *Duncan v. State of La.*, 391 U.S. 145, 148 (1968).

right to engage in cross-examination to show bias on the part of the witness, the record must clearly show the cross-examination is inappropriate.” *Id.*

The trial court’s reliance on the Fifth Amendment and *Hughes* was error, and violated Sprinkle’s rights under the Confrontation Clause. Echols should not have been allowed to invoke his Fifth Amendment right not to testify when he was simply asked whether he had “been charged in a federal case involving the shooting of a corrections officer.” (R. p. 215, lines 18-20.) “It is . . . black-letter law that a witness cannot assert a Fifth Amendment privilege not to testify if the testimony sought cannot possibly be used as a basis for, or in aid of, a criminal prosecution against the witness.” *Pillsbury Co. v. Conboy*, 459 U.S. 248, 273 (Blackmun, J. concurring). Here, the question posed sought merely a factual answer regarding whether the witness had been charged with a crime. The question was not intended to elicit incriminating testimony. Accordingly, defense counsel was entitled to question Echols regarding the existence of these charges.

The trial court’s reliance on *Hughes* and Rule 608(b)(1), SCRE, is misplaced. In *Hughes*, the South Carolina Supreme Court held that a defense counsel may not put a defendant “on the stand *solely* to allow the jury to draw adverse inferences from his refusal to testify.” 328 S.C. at 152-53, 493 S.E.2d at 824 (emphasis in original). In this case, Echols was not being put on the stand solely to allow the jury to draw an inference regarding his refusal to testify. The purpose of the examination was to demonstrate that Echols had additional charges pending against him, which may influence his testimony against Sprinkle. Cross-examination to elicit such bias is permissible under the Sixth Amendment and state law.

Similarly, Rule 609, SCRE, does not apply. Rule 609 applies to the use of past convictions to impeach a witness. But the testimony in question did not relate to Echols's prior convictions. It concerned pending charges.

The purpose of the cross-examination was to demonstrate the potential for bias by Echols, a purpose which is allowable under Rule 608(c), SCRE, and *Mizell*. The mere fact that a witness has "neither agreed to a plea bargain nor pled guilty" does not allow a court to exclude such testimony. *Mizell*, 349 S.C. at 332, 563 S.E.2d at 318.

Accordingly, the trial judge erred in prohibiting cross-examination on the federal charges.

#### **B. Plea discussions with the State**

The trial court also erred in prohibiting the defense from cross examining Echols about his plea discussions with the State. Defense counsel sought to question Echols about whether "he [was] given an offer of a cap of 20 years. And obviously that goes along with the same issue of, he could be facing life, he was offered 20 and he's looking for ten [years]." (R. p. 237, lines 17-20.) Although the basis for the trial court's ruling is not entirely clear on the record, it appears to be based on Rule 410, SCRE.<sup>5</sup>

Rule 410, SCRE, reads:

Except as otherwise provided in this rule, evidence of the following is not, in any civil or criminal proceeding, admissible *against the defendant* who made the plea or was a participant in the plea discussions:

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<sup>5</sup> The trial court ruled that "[w]ith regards to Mr. Echols asking, you know, for ten years or asking for a cap of 20 years, whether or not that was given or not, all of that is part of plea negotiations and we're not going to get into that." (R. p. 240 line 24 – p. 241 line 2). This was in response to the State's argument that their objection to the proffered cross-examination was that that no plea had been reached as a result of Echols' discussions with the State. The State referred the court to Rule 410, SCRE, which is "specifically discussing plea negotiations." (R. p. 239, line 5.)

... (4) any statement made in the course of plea discussions with an attorney for the prosecuting authority which do not result in a plea of guilty or which result in a plea of guilty later withdrawn.

(emphasis added). The language in the rule suggests that the rule applies only in a civil or criminal proceeding “against the defendant.”

Although state courts have not addressed what it means for the rule to apply “against the defendant,” at least one federal court has. In *United States v. Mathis*, the Fourth Circuit stated that it “see[s] no error in the use of a statement of a witness made when he pleaded guilty to impeach his testimony in this trial [of another individual].”<sup>6</sup> 550 F.2d 180, 182 (4th Cir. 1976). The Court went on to hold that “Federal Rule of Evidence 410 . . . only prohibit[s] statements made in conjunction with a guilty plea from being used . . . against the person who made the plea.” *Id.* Thus, there is no protection under Rule 410 where the statements sought to be introduced are only to be “used collaterally for the purposes of impeachment.” *Id.* See also Wright, Miller, et al., 23 Fed. Prac. & Proc. Evid. § 5349 (1st ed.) (“Presumably the use of the statement [from plea negotiations] to impeach the defendant when he testifies in some case in which he is not a party would be permissible. Moreover, in some cases the invocation of the rule by the prosecutor to prevent the defendant from using a plea-related statement for impeachment purposes might run afoul of the Confrontation Clause.”).

Here, the plea negotiations between Echols and the State should have been revealed to the jury as evidence of Echols’s bias. Echols’s testimony was not being

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<sup>6</sup> The Fourth Circuit noted that in addition to the fact that the statement was used in the trial of a third party, the rule did not apply because the guilty plea was not withdrawn by the witness. *Mathis*, 550 F.2d at 182.



introduced into evidence at his own trial, and therefore Rule 410, SCRE, did not bar cross-examination regarding this matter.

In *Mizell*, the witness “had neither agreed to a plea bargain nor pled guilty.” 349 S.C. at 332, 563 S.E.2d at 318. Although *Mizell* specifically dealt with whether the maximum sentence the witness faced was admissible upon cross examination, the court’s holding provides guidance in the instant case. As the supreme court stated in *Mizell*, “*any fact* may be elicited which tends to show interest, bias, or partiality of the witness.” 349 S.C. at 331, 563 S.E.2d at 317 (emphasis added). The supreme court also held that “[t]he fact that a witness has yet to reach a plea bargain or been found guilty should not prevent the admission of [evidence indicative of bias]. The lack of a negotiated plea, if anything, creates a situation where the witness is more likely to engage in biased testimony in order to obtain a future recommendation of leniency.” *Id.*

Echols’ testimony regarding his plea negotiations is the type of evidence of bias envisioned in *Mizell*. Echols had been offered plea, but was hoping for even greater leniency in exchange for his testimony and therefore had not accepted the plea. (R. p. 237.) The failure to allow defense counsel to cross-examine Echols about this plea offer and his reasons for not accepting it violated Sprinkle’s Sixth Amendment rights.<sup>7</sup>

Although a violation of the Confrontation Clause is not *per se* reversible error, in order to avoid reversal “the error must be harmless beyond a reasonable doubt.” *Graham*, 314 S.C. at 386, 444 S.E.2d at 527 (1994) (quoting *Van Arsdall*, 475 U.S. 673, 680 (1986)). The determination of whether an error is harmless beyond a reasonable

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<sup>7</sup> The prosecution also opened the door to this testimony in its direct examination of Echols, where the State elicited testimony that the defendant was testifying “out of the goodness of his heart” and had not been offered anything. (R. p. 212, lines 18-22.)

doubt “depends upon a host of factors” including “the importance of the witness’ testimony[,] . . . whether the testimony was cumulative, the presence or absence of evidence corroborating or contradicting the testimony of the witness on material points, the extent of cross-examination otherwise permitted and, of course, the overall strength of the prosecution’s case.” *Graham*, 314 S.C. at 386, 444 S.E.2d at 527 (quoting *Van Arsdall*, 475 U.S. at 684).

Here, Echols’s testimony was an essential part of the State’s case. Without his testimony, the State had no evidence that Sprinkle helped plan the crime, and therefore no evidence of intent, particularly with respect to burglary. Additionally, Echols was the only person to testify that Sprinkle assaulted Rumph, which was directly contradicted by Rumph himself, who was never able to identify Sprinkle.

Given the importance of Echols’s testimony and the limitations on Sprinkle’s ability to confront him through cross examination, the trial court’s ruling should be reversed.

### **III. The trial court erred in denying Sprinkle’s motion for directed verdict and motion for new trial.**

The trial court erred in denying the motion for directed verdict and a motion for new trial because the evidence presented did not support the convictions in this case.

“When reviewing the denial of a motion for directed verdict, an appellate court must review the evidence, and all inferences therefrom, in the light most favorable to the State.” *State v. Senter*, 396 S.C. 547, 551, 722 S.E.2d 233, 235-36 (Ct. App. 2011). “If there is any evidence, direct or circumstantial, which reasonably tends to prove the guilt of the accused or from which guilt may be fairly and logically deduced, the appellate court must find the case was properly submitted to the jury.” *Id.* at 551, 722 S.E.2d at

236. “The decision whether to grant a new trial rests with the sound discretion of the trial court, and [the appellate court] will not disturb the trial court’s decision absent an abuse of discretion.” *Id.*

**A. First-degree burglary**

“A person is guilty of first-degree burglary if he ‘enters a dwelling without consent and with intent to commit a crime in the dwelling’ and either enters or remains in the dwelling during the nighttime.” *State v. Gilliland*, 402 S.C. 389, 397, 741 S.E.2d 521, 525 (Ct. App. 2012) (quoting S.C. Code Ann. § 16-11-311(A) (2003)). “Although the intent to commit a crime must exist at the time the accused enters the dwelling, the jury may base its determination of that intent upon evidence of the accused’s actions once inside the dwelling.” *Id.*

Here, the only evidence presented to support a conviction of burglary came from Sean Echols, whom defense counsel was not able to fully cross examine as explained above. Echols testified that Sprinkle, along with two other people, helped him plan the crime. (R. pp. 206-07; p. 212.) The two other people were Jasper Clark and Collins (Carlos) Shuler, people whom Echols had “known all of his life.” (Rr. pp. 227-30; pp. 247-48.) Echols said that Clark, who was known as Little J, helped plan the robbery, drove them to the house, and shared in the proceeds. (R. p. 228.) Echols had only met Sprinkle “a couple, a few times prior.” (R. p. 205, lines 12-15; p. 246, lines 5-7.)

Echols knew that there was a lot of money in the house. His mother “socialized” with Rumph and Echols had borrowed money from Rumph before. (R. p. 139; p. 145.) There was no evidence presented that Sprinkle knew any of this.

Echols testified that he (Echols) was the one who knocked on the door and asked to use the phone. (R. p. 208, lines 8-12.) Echols testified that he “robbed Mr. Wright while Richard Sprinkle went to Mr. Robert Rumph’s room.”<sup>8</sup> (R. p. 209, lines 20-21.) But Rumph never identified Sprinkle.

Despite this testimony, Echols was not indicted for burglary. Only Sprinkle was indicted. Echols understood that burglary carries a potential sentence of life imprisonment. (R. p. 234, lines 6-12; p. 243, lines 14-19.)

The jury was given a charge on mere presence. “Mere presence at the scene is not sufficient to establish guilt as an aider or abettor.” *State v. Mattison*, 388 S.C. 469, 480, 697 S.E.2d 578, 584 (2010). “However, presence at the scene of a crime *by pre-arrangement* to aid, encourage, or abet in the perpetration of the crime constitutes guilt as a principle.” *Id.* (emphasis added).

Without Echols’s testimony, there was no evidence that Sprinkle was at the scene by pre-arrangement to aid, encourage or abet, in the perpetration of the crime. The defense was not able to fully explore Echols’s credibility because of the limitation on the cross examination as explained above.

Because the evidence presented in this case does not reasonably tend to prove the guilt of Sprinkle with respect to the charge of first degree burglary, the trial court should have granted the motion for a directed verdict or the motion for a new trial.

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<sup>8</sup> Echols previously gave a statement to the police saying that three men went into the house that night, and that one of the men did not help plan the crime; he just stood there. (R. p. 226.) Echols later said that he lied to the investigator because he did not trust him. *Id.*

### **B. Armed robbery**

“Armed robbery occurs when a person commits robbery while either armed with a deadly weapon or alleging to be armed by the representation of a deadly weapon.” *State v. Moore*, 374 S.C. 468, 476, 649 S.E.2d 84, 88 (2007) (citing S.C. Code Ann. § 16-11-330 (2003)). “Included in armed robbery is the lesser included offense of robbery.” *Moore*, 374 S.C. at 476, 649 S.E.2d at 88. “Robbery is defined as the felonious or unlawful taking of money, goods, or other personal property of any value from the person of another or in his presence by violence or by putting such person in fear.” *Id.* “The gravamen of a robbery charge is a taking from the person or immediate presence of another by violence or intimidation.” *Id.* at 477, 649 S.E.2d at 88. “The elements of robbery and armed robbery include asportation of the property.” *Id.*

In this case, there was no evidence presented that Sprinkle took anything from anyone, or that he participated in taking anything. Wright’s testimony identifying Sprinkle is unreliable as explained above. The jury found Sprinkle not guilty of assaulting Wright, which means the jury did not believe Wright’s testimony that Sprinkle is the one who assaulted him. And Rumph was never able to identify Sprinkle.

Given that there was no evidence presented that Sprinkle took anything from anyone or that he participated in the crime, the trial court should have granted a directed verdict or the motion for a new trial.

### **C. Assault and Battery**

The trial court erred in failing to direct a verdict or grant a new trial as to the charge of assault and battery of Rumph.

“A person commits the offense of assault and battery in the first degree if the person unlawfully: injures another person, and the act . . . (ii) occurred during the commission of a robbery, burglary, kidnapping, or theft . . . .” S.C. Code Ann. § 16-3-600 (2011).

Here, despite being shown multiple lineups, Rumph never identified Sprinkle as the person who injured him. Nor did he identify Sprinkle in court. Rumph had the best opportunity to view the perpetrator because the light was on in his room and Rumph was not immediately hit over the head like Wright was. Further, Rumph was able to positively identify Echols, who came into the room after Rumph had been assaulted.

Further, Wright’s testimony was that someone else other than Sprinkle assaulted Rumph. Wright testified that Sprinkle assaulted him (Wright) by hitting him over the head while the other perpetrator went into the room and confronted Rumph. Wright testified that when he went into Rumph’s room, he saw that Rumph had been cut on his leg and foot, but he did not see it happen. (R. pp. 126-127.)

The only person who testified that Sprinkle harmed Rumph was Echols, who as explained above, the defense was not permitted to fully cross-examine. Given the limited cross examination of Echols and Rumph’s inability to identify Sprinkle as the person who assaulted him, the trial court erred in denying the motion for directed verdict and the motion for new trial as to the assault and battery of Rumph.

**IV. The trial court erred in failing to charge the lesser-included offense of assault and battery in the second degree.**

A defendant is entitled to a jury charge on a lesser included offense where “there is evidence from which it could be inferred that a defendant committed the lesser offense rather than the greater.” *State v. Dennis*, 402 S.C. 627, 637-38, 742 S.E.2d 21, 27 (Ct.

App. 2013). “To warrant reversal, a trial court’s refusal to give a requested jury instruction ‘must be both erroneous and prejudicial to the defendant.’ *Id.* at 637, 742 S.E.2d at 27.

Assault and battery in the first degree occurs where a defendant injures another and the act involves nonconsensual touching of the other’s private parts, occurred during the commission of a robbery, burglary, kidnapping, or theft, or an offer or attempt to injure someone was “accomplished by means likely to produce death or great bodily injury.” S.C. Code Ann. § 16-3-600(C)(1) (Supp. 2012). Assault and battery in the second degree is a lesser-included offense of assault and battery in the first degree, assault and battery of a high and aggravated nature, and attempted murder. S.C. Code Ann. § 16-3-600(D)(3) (Supp. 2012).

The statute defines “great bodily injury” as injury “which causes a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.” S.C. Code Ann. § 16-3-600(A)(1) (Supp. 2012). The statute defines “moderate bodily injury” as “physical injury requiring treatment to an organ system of the body other than the skin, muscles, and connective tissues of the body, except when there is penetration of the skin, muscles, and connective tissues of the body that require surgical repair of a complex nature or when treatment of the injuries requires the use of regional or general anesthesia.” S.C. Code Ann. § 16-3-600(A)(2) (Supp. 2012).

In the case at hand, the trial court refused to charge assault and battery in the second degree as to Rumph because the court found that Rumph’s injury was more than “moderate bodily injury.” This was error. Rumph’s injury did not rise to the level of

“great bodily injury.” There was no evidence presented that Rumph suffered a substantial risk of death or permanent disfigurement. Rumph’s injuries required stitches. He was taken to the hospital and released that same day. Similarly, there was no evidence that the assailant—and certainly not Sprinkle—attempted to cause death or great bodily injury. Instead, the evidence presented was that the person cut him to try to make him give over the money.

Because there was evidence by which it could be inferred that Sprinkle committed only assault and battery in the second degree, the court should have charged the lesser-included offense, and the failure to do so constitutes reversible error.



# CONCLUSION

Appellant respectfully requests that the convictions and sentences be reversed and the case remanded for a new trial.

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THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM ORANGEBURG COUNTY  
Circuit Court

Edgar W. Dickson, Circuit Court Judge

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Case No. 2011-GS-38-01561 - 01563

Case No. 2013-GS-38-00287

Appellate Case No. 2013-000784

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State of South Carolina,.....Respondent,

v.

Richard Lanard Sprinkle,.....Appellant.

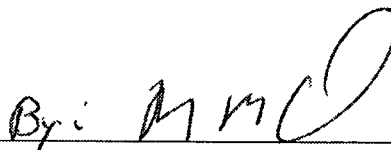
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CERTIFICATE OF COUNSEL

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The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

June 24, 2014.

By: 

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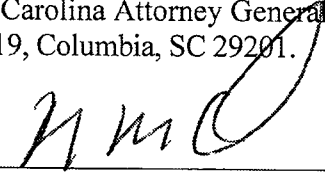
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**PROOF OF SERVICE**

I certify that I have served the Final Brief of Appellant on Respondent State of South Carolina on June 24, 2014, addressed to the attorney of record, J. Benjamin Aplin, Assistant Attorney General, Office of the South Carolina Attorney General, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201.

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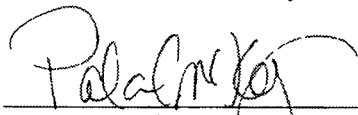
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Before me this 24th day of June, 2014.



\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: July 24, 2022.

STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM ORANGEBURG COUNTY  
Edgar W. Dickson, Circuit Court Judge

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Appellate Case No. 2013-000784

THE STATE, .....RESPONDENT

v.

RICHARD LANARD SPRINKLE, .....APPELLANT.

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**FINAL BRIEF OF RESPONDENT**

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**RESPONDENT'S STATEMENT OF ISSUES ON APPEAL**

1. Whether Appellant's claim that the trial court erred in failing to suppress the victim's in-court identification testimony is preserved for appellate review where Appellant failed to object to the identification when it was offered at trial, and even if preserved, whether the trial court properly concluded the out-of-court photo lineup identification did not result from unduly suggestive police procedures and was so reliable that no substantial likelihood of misidentification existed?
2. Whether the trial court properly imposed reasonable limits on Appellant's cross-examination of State's witness Sean Echols where the interrogation sought: (1) was irrelevant, (2) was likely to confuse the issues, and (3) would not demonstrate a prototypical form of bias on the part of Echols?
3. Whether the trial court properly denied Appellant's motions for a directed verdict and for a new trial on all charges where the State presented substantial direct and circumstantial evidence from which the jury could fairly and logically find Appellant guilty of each charge?
4. Whether the trial court properly declined Appellant's request to charge the jury on the lesser included offense of assault and battery in the second degree where no evidence was presented at trial from which it could be inferred the lesser, rather than the greater, offense was committed?

### STATEMENT OF THE CASE

Richard Lanard Sprinkle (Appellant) was indicted at the October 8, 2012, term of the grand jury for Orangeburg County for two counts of armed robbery (R.p. 350-354) and two counts of attempted murder (R.p. 356-357). He was subsequently indicted at the February 4, 2013, term of the grand jury for burglary - first degree (R.p.359). Appellant was represented by Jillian D. Ullman, Esquire, and Mark Wise, Esquire, of the First Circuit Public Defender's Office. The State was represented by Assistant Solicitors Sarah A. Ford and B. Harrison Bell, Jr. (R.p.1). On April 8-10, 2013, Appellant proceeded to trial by jury before the Honorable Edgar W. Dickson pursuant to which he was found guilty of first degree burglary, two counts of armed robbery, and one count of assault and battery in the first degree as a lesser included offense of attempted murder. He was sentenced to thirty-five (35) years' imprisonment for first degree burglary, thirty (30) years' concurrent imprisonment for each count of armed robbery, and ten (10) years' concurrent imprisonment for first degree assault and battery, for an aggregate sentence of thirty-five (35) years' imprisonment. (R.p. 346-360; R.p.330, lines 1-13). Appellant timely filed a notice of intent to appeal his conviction and sentence and subsequently submitted a Brief in support of his appeal. This Brief of Respondent (the State) follows.

### STATEMENT OF FACTS

In the early morning hours of June 26, 2011, two men knocked on James Wright (Wright) and Robert Rumph's (Rumph's)<sup>1</sup> front door and asked if they could use the telephone. When Wright opened the door, the men produced a pistol and a knife and asked for money. The intruders struck Wright in the head with the pistol and cut Rumph with the knife while continuing to demand money. After assaulting Wright and Rumph, the men took cash and some clothing, and left in Rumph's car. (R.p.93, line 22-p.94, line 15; p.106, line 11-p.111, line 7; p.136, line 8-p.140, line 23; p.145, lines 15-19). Wright testified he knew Appellant before the incident and had even talked to Appellant the day before. (R.p.111, line 17-p.112, line 13). Rumph testified he knew Appellant's accomplice, Sean Echols, before the incident because Rumph socialized with Echols' mother, Vivian, and had previously loaned money to Echols. (R.p.139, lines 2-13). During the subsequent investigation, Wright and Rumph were able to identify Appellant and Echols from photo line-ups prepared by the police. (R.p.112, line 14-p.115, line 4; p.142, line 4-p.143, line 2).

### Identification Evidence: Pretrial

On April 8, 2012, the court held a hearing to address several pre-trial motions. First, the State asked the trial court to conduct a Neil v. Biggers<sup>2</sup> hearing regarding the reliability of the out-of-court identification of Appellant and the admissibility of eyewitness identification testimony the State was considering offering at trial. First, the State called Wright to the stand. He described the two robbers as black men, one of

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<sup>1</sup> Rumph was also known by the nickname "Rocky" and was alternatively referred to as Rocky, Mr. Rock or Uncle Rocky by some witnesses.

<sup>2</sup> 409 U.S. 188 (1972).

whom had long hair. Wright testified he knew the one with the long hair as "Ricky" because Ricky "used to [walk] the street all the time." He explained he had actually talked to Ricky on the Saturday evening before the early Sunday morning robbery. Next, Wright identified State's Exhibit #1 as a photo line-up which was presented to him by the police. He testified the person in photo number two was the one who came into his home and robbed him. Wright said he circled the photo and wrote his initials next to his selection. He testified the police officer who presented the line-up did not tell him which photo to pick, and he knew right away which one was Ricky. The exhibit was introduced into evidence for the purpose of the hearing. Wright then physically identified Appellant as the person he had circled in the line-up and testified that despite slight changes in physical appearance since the incident, Appellant was without a doubt the person who assaulted and robbed him. (R.p.5, line 21-p.14, line 11). On cross-examination Wright acknowledged that at the time he encountered the intruders there were no lights on in the house, he had just woken up, and he had drunk a half-pint of alcohol before going to bed; however, he noted when he answered the door he "looked right in the face" of Appellant and again identified him in the courtroom as the person who hit him with the pistol and robbed him. (R.p.14, line 18-p.28, line 15).

Next, the State called Investigator Lori Ann Lewis Garrison of the Orangeburg County Sheriff's Office to the stand. She talked to both Wright and Rumph the night of the incident. Garrison testified Wright told her he knew one of the suspects by the name "Ricky" or "Rick," and that Ricky lived on the 1400 block of Goff. She later discovered Appellant [Richard Sprinkle] lived at 1482 Goff, so she generated a photo line-up that included Appellant. The day after the incident Garrison showed the six-person photo



line-up to Wright and asked if he recognized anybody who assaulted him that night.

Wright identified picture number two, which was the photo of Appellant. Garrison said Wright showed no hesitation in picking the picture of Appellant. She testified she did not suggest to Wright whom he should pick out. (R.p.28, line 22-p.31, line 13).

On cross-examination Garrison testified she showed Wright a total of three different photo line-ups, two of which included a photo of Echols, and one of which included a photo of Appellant. She explained that administrator at the Sheriff's Department created the line-up including Appellant by choosing photos of five other individuals with the same physical characteristics and hairstyle as the photo of Appellant. Garrison testified she simply asked Wright if he could identify anybody in the picture that he recognized from that night, but did not tell him there would be somebody particular in the line-up. (R.p.32, line 11-p.39, line 15). On re-direct Garrison clarified the Sheriff's Department came up with the photo line-up by finding pictures of five other individuals with similar characteristics, similar haircuts, similar facial features, and similar facial hair as Appellant. (R.p.39, line 22-p.40, line 18).

At the close of the testimony, Appellant argued the line-up constituted an unduly suggestive police procedure because he was the only person in a jail uniform. He claimed it was obvious the shirt he was wearing was a jail shirt and that some of the photos were cropped too closely to see the full face of the person pictured. Appellant also argued that pursuant to "the factors that Biggers requires" the identification made by Wright was not reliable because Wright did not have a good opportunity to witness the intruders on the night of the incident. (R.p.41, line 5-p.45, line 19).

The State responded that the identification procedure was not unduly suggestive in any way because it involved a photo line-up with six individuals of the same race with similar hair and facial feature. The solicitor argued it was not at all evident Appellant was wearing a jail uniform in the photo. Finally, the solicitor argued that even if the procedure was somehow suggestive, the fact Wright knew Appellant from prior dealings demonstrated there was no likelihood of irreparable misidentification. (R.p.45, line 21-p.47, line 11).

After hearing testimony arguments, the trial court denied the motion to exclude the eyewitness identification evidence. The judge ruled as follows:

I think they did a spectacular job of putting this lineup together.

To me, I don't find it unduly suggestive at all. Everyone has essentially the same skin tone, length of hair. And with the exception of one who might have a mustache, everybody has a goatee, a mustache and a goatee.

So the lineup is not unduly suggestive at all. And I don't know [who] did this but I'd rather see more lineups [done] this well than some I've seen. So, I don't think the lineup in and of itself is unduly suggestive.

I've listened to the testimony of the victim, Mr. Wright, and Ms. Garrison. I do not believe that the identification process was unduly suggestive, nor was there any substantial likelihood of misidentification because he had given a general description of the Defendant, indicated that he knew where he lived and then picked him out of this photo lineup.

So I find it to be reliable.

(R.p.48, line 22-p.49, line 15).

#### **Scope of Cross-Examination: Pretrial**

Following a pre-trial Jackson v. Denno hearing, Appellant made a motion to require the State to disclose any deals made for the testimony of co-defendant Echols, either with the State or the federal government. He claimed Echols was charged federally

with crimes unrelated to the State charges. The solicitor responded: "Your Honor, everything has been provided to the defense concerning the pending investigation federally against Mr. Echols. The State has also provided an expired plea offer to Mr. Echols. There have been no offers or negotiations or anything of that nature concerning Mr. Echols' testimony in this case, Your Honor." (R.p.50, line15- p.51, line 20). The State then made a motion in limine to exclude any effort to question Echols about the pending federal investigation, noting there had been no conviction, or even a federal charge. The solicitor also noted Echols attorney was present and had instructed Echols not to answer any questions about the federal investigation based on his Fifth Amendment rights. (R.p.54, line 23-p.56, line 5). Appellant responded that the federal investigation involved the shooting of a corrections officer, and alleged that during the investigation Echols admitted he shot the officer in an assassination attempt in exchange for money. He argued the shooting was a "bad act," and that he should be allowed to cross-examine Echols about it so the jury could better evaluate his credibility. (R.p.56, line 8-p.57, line 1). The State replied that any question about the shooting would induce Echols to answer that he was invoking his Fifth Amendment rights, which would be extremely prejudicial to do in front of the jury. The trial judge took the matter under advisement. (R.p.57, lines 3-9).

The following morning the case was called for trial, the jury was selected, and the court gave preliminary instructions before excusing the jury panel and ruling on outstanding pretrial matters. (R.p.58, line 1-p.85, line 8). The trial court granted the State's motion to exclude any testimony regarding Echols' federal investigation for two reasons. First, the trial court found such evidence was inadmissible under the South

Carolina Rules of Evidence, specifically Rule 608(b), because it was not probative of Echols character for truthfulness or untruthfulness. Second, relying on State v. Hughes, 328 S.C. 146, 493 S.E.2d 821 (1997), the trial court found any attempt to elicit testimony about the pending investigation would impermissibly allow the jury to draw an adverse inference from Echols' invocation of his right against self-incrimination, which would run contrary to the purpose of the Fifth Amendment. (R.p.86, line 17-p.88, line 14). Ultimately, the jury was sworn and the case proceeded to trial. (R.p.90, lines 5-13).

### **Trial**

During opening statements, Appellant's counsel reminded the jury that it was their job to determine whether any of Wright's trial testimony was true. (R.p.102, line 13-p.103, line 1). The State then called Wright to the stand to describe the armed robbery and assault. He repeated his previous in camera testimony that on the night of the incident two black men, one with long hair and one with short hair, knocked on his door. When Wright went to the door, they asked about Rumph and said they wanted to make a phone call. Rumph told Wright it was okay to let them in, but when Wright opened the door one of the men pointed a pistol at his chest and grabbed him around the neck. (R.p.105, line 22-p.108, line 21). Wright made an in-court identification of Appellant as the assailant with the pistol, without any objection from Appellant. Wright testified he knew Appellant as "Ricky" and recognized Appellant because Wright saw him "walking the street" all the time. (R.p.108, line 23-p.109, line 12).

Wright testified that one man went down the hall to Rumph's room while the other man forced Wright to his room, demanded money, and made Wright pull up his mattress. Wright was bleeding because he had been hit in the head with the pistol. The

man then walked Wright to Rumph's room, where the other man cut Rumph with a knife to get Rumph to open his closet and give up his "pocketbook." The two men then took Rumph's car and left. Wright testified he talked to Appellant at Bojangles the evening before the Sunday morning robbery, and then he made a second in-court identification of Appellant. Appellant again failed to object. (R.p.109, line 13-p.112, line 13). Next, Wright described the photo lineup procedure and his out-of-court identification of Appellant, and he made a third in-court identification of Appellant without objection. He also described a separate photo lineup where he identified Echols as the second robber. (R.p.112, line 14-p.115, line 14; R.p. 334-335). On cross-examination, Wright explained that the intruders had a gun and a knife, but he wasn't sure whether Appellant or the other man had the knife after they were all in Rumph's room, because Wright was bleeding and wiping blood from his face as a result of having been hit with the pistol. (R.p.121, lines 9-21). He later said Rumph had already been cut when they entered his room, and he did not actually see Rumph getting cut. (R.p.127, lines 1-23).

The State then called Rumph to the stand. On the night of the incident, Rumph was in bed asleep when Wright came to his room to say two men were at the door who wanted to use the phone. One of the men referred to Rumph as "uncle" and Rumph told Wright to let them in. Shortly thereafter, a man entered Rumph's room, pointed a gun at him, and demanded money. Rumph directed the intruder to some cash that was on his dresser, but the man demanded more money and said: "Don't make me kill you over this little bit of money." Wright and a second intruder with short hair then entered Rumph's bedroom. Rumph testified the man with longer hair, or "dreads" was the one who was already in his room. He claimed the man with the dreads then cut him with a knife.

Rumph explained that when the man with the dreads first entered the bedroom he had the pistol, but then he and the man with the shorter hair traded weapons, and the man with the dreads cut him with the knife while the man with shorter hair said: "Make him talk." (R.p.135, line 25-p.139, line 2).

Rumph identified the intruder with short hair as "Vivian's son" and testified he already knew him because Rumph and his mother were "socializing together." Rumph testified the man with the dreads started cutting him on his stomach, leg, arm and foot. As the intruders left the house with Rumph's money, pants, and a hat, the man with short hair told Rumph: "don't you never disrespect my mama because I will be back." The two men then left in Rumph's car. (R.p.139, line 2-p.140, line 23). Rumph identified State's Exhibit Numbers Four, Five, Six, Seven, and Eights as photographs of his injuries. He also identified State's Exhibit Number Three as a photo line-up by which he made an out-of-court identification of Echols as the man with short hair. Rumph explained there were two intruders, one with short hair whom he knew, and one with dreadlocks whom he didn't know, but that they both participated in stealing his pants, his car, his money, and his hat. (R.p.141, line 6-p.143, line 19; State's Exhibit #3).

Next, Deputy David McRoy of the Orangeburg County Sheriff's Department testified on behalf of the State. McRoy was working road patrol on June 26, 2011. At approximately two o'clock in the morning he responded to the scene of the robbery. He described one victim as having cuts on his chest, left foot, and forearm, and the other victim having a big gash on top of his head. (R.p.159, line 10-p.161, line 13).

The State then called Investigator Garrison to describe her investigation of the assault and robbery of Wright and Rumph. She described the injuries received by both

victims and identified several photos of those injuries, each of which was introduced into evidence without objection. (R.p.167, line 1-p.174, line 5; p.186, lines 8-12; R.p.337-345). Garrison testified she talked to both victims about the incident. Wright stated he knew one of the subjects from a local place called the Corner Pocket and that his name was "Rick" or "Ricky," and Rumph stated the other subject was Sean Echols, the son of a lady he was seeing. Garrison went on to describe the preparation of the photo line-ups and the out-of-court identifications Wright made of both Appellant and Echols (R.p. 334-335), and the out-of-court identification Rumph made of Echols (R.p.336). Each of the three photo line-ups was introduced into evidence with "no objection" from Appellant. (R.p.174, line 7-p.180, line 23).

Next, Investigators Johnny Thrower and John Stokes testified in regard to an oral statement Appellant made to them after his arrest. Appellant made several requests to talk to Thrower, so Thrower and Stokes eventually agreed to meet with Appellant. At the meeting, Appellant told the investigators about a home invasion he participated in with Echols. Appellant claimed he went to the residence with Echols and Echols' mother, but after they got inside, Echols started assaulting a guy, at which point Appellant got scared and ran out of the house. (R.p.186, line 24-p.202, line 9).

Finally, the State called co-defendant Sean Echols to the stand. Echols testified he originally was to planning to commit a quick robbery by himself, but then sought help from his friends Collins Shuler and Jasper Clark, who also brought Appellant into the picture. He said he and Appellant specifically planned the robbery of Wright and Rumpy because the victims ran a gambling house and would have money. Echols said he and Appellant talked about how they would commit the robbery, how they would get away,

and the specific roles each would play in committing the crime. Echols already knew Rumph because Rumph was "affiliated" with his mother. He repeated his claim that he and Appellant planned the robbery. (R.p.203, line 17-p.206, line 25).

Echols then described the entire incident in great detail. Shuler and Clark dropped Appellant and Echols a few streets away from the victims' house. Appellant and Echols walked through a field and then approached the door of the residence. Echols knocked and when Wright came to the door Echols told Wright he needed to use the phone because he had been in a fight with his wife and needed to call his mother to pick him up. Echols testified this claim was a lie in order to gain entry into the house. Wright walked away but returned with a cordless phone and told Echols and Appellant to "come in." (R.p.207, line 1-p.209, line 3).

According to Echols, when they entered the house Appellant had a gun and Echols had a knife. Appellant pointed the gun to Wright's head and told him not to move and then walked to Rumph's room while Echols escorted Wright to Wright's room. Echols asked Wright for money, took a few bills from his wallet, and flipped up Wright's mattress to look for more money when he heard Appellant call for him to come to Rumph's room. When Echols and Wright got to Rumph's room, Appellant handed Echols two handfuls of cash and asked Echols for the knife. They traded weapons and Appellant began to cut Rumph with the knife while demanding more money. Eventually, Rumph admitted there was more money in the closet. Appellant opened the closet and retrieved the money while Echols asked for Rumph's car keys. Echols took a pair of pants and a hat from Rumph's room and used the pants to open the back door without leaving fingerprints. Appellant and Echols then drove Rumph's car to the end of the



street, got out, and called Clark to come pick them up. Echols testified he and Appellant beat, stabbed, and robbed Wright and Rumph, and that they planned the robbery.

(R.p.209, line 3-p.212, line 8).

Next, Echols testified he had not been offered or promised anything in exchange for his testimony. He said he was testifying because he did it, got caught, and was hoping the court would have mercy on him. (R.p.212, line 14-p.213, line 4). Echols then testified Appellant had dreads the night of the robbery and reviewed State's Exhibit #1. He said photo number 2 was an accurate picture of what Appellant looked like at the time of the robbery. Echols admitted he hit Wright in the head twice with the gun and punched him in the mouth, causing Wright to bleed. (R.p.212, line 13-p.214, line 7).

#### **Scope of Cross-examination: Trial**

Before Appellant began his cross-examination, the solicitor advised the court he had a matter to take up outside of the presence of the jury. The jury was excused, and the State renewed its motion to prohibit any questions about the federal investigation involving Echols. The trial court then asked Appellant to proffer the questions he wanted to ask on cross-examination and asked the State to make whatever objections it would make to those questions. The proffer proceeded as follows:

Q: Mr. Echols, just to get right to the heart of what we're talking about here. Have you been charged in a federal case involving the shooting of a corrections officer?

The Court: Okay.

Ms. Ford: Objection, Your Honor, based on our previous motions.

Mr. Wise: If I may, Your Honor, at this point he hasn't asserted his Fifth Amendment rights.

The Court: No, I - -

Mr. Wise: And I think the case law is pretty clear that somebody else can't do it for him.

The Court: I will let him do whatever - - answer however he wishes to answer.

The Witness: I would like to assert my Fifth Amendment.

The Court: Okay.

Mr. Wise: Okay.

Ms. Ford: Objection.

The Court: And now she's objecting and renewing the motion that we made in limine. And I'm going to continue with my ruling that we made in limine, I'm renewing it.

(R.p.214, line 17-p.215, line 13). Counsel for Appellant argued he should be allowed to ask Echols whether he is "under investigation" because the answer given wouldn't be incriminatory in any manner. The State responded that any question about an investigation or a possible criminal charge would allow Echols to invoke his Fifth Amendment rights because he is under no compulsion to incriminate himself. Ultimately, the trial court ruled: "Well, it may not be - - and I understand the distinction that you're attempting to make but he has invoked his Fifth Amendment rights. And I'm going to go along with the ruling I made earlier. You're not going to be able to question him on that." (R.p.216, line 16-p.217, line 16).

Next, the State made a motion to prohibit Appellant from cross-examining Echols in regard to his prior convictions for assault and battery with intent to kill and second-degree burglary. The solicitor argued that under Rule 609(a)(1), SCRE, any probative value was outweighed by undue prejudice. The trial court disagreed and ruled it would allow Appellant to ask Echols about the prior convictions. (R.p.218, line 2-p.219, line

21). The jury returned to the courtroom and Appellant began his cross-examination of Echols. Echols testified Appellant did not do anything to Wright and repeated his claim that he was the one who hit Wright with the pistol. (R.p.220, line 5-p.224, line 10). Echols then acknowledged that in a statement given to the police during the investigation he said there were three people involved in the robbery but that the other “dude” or “third person” involved: (1) was just standing there, (2) did not engage in any planning of the robbery, (3) did not have a weapon, (4) did not get any of the money stolen, (5) was innocent, (6) was merely present, and (7) didn’t know what was happening until it happened. Echols, however, testified this claim about an innocent third party was a lie and that once he learned Appellant was trying to place all of the blame on him, he came forward to give the truth. (R.p.226, line 3-p.231, line 22).

Appellant then began questioning Echols about the charges he was facing for his participation in the robbery. He admitted he had not been indicted for first-degree burglary but denied knowing Appellant had been so indicted, for what Echols acknowledged was a “very serious crime.” The State objected to the questions about first-degree burglary on grounds they were not relevant. The trial court initially sustained the objection and then sent the jury out to hear arguments after Appellant drew the judge’s attention to State v. Mizzell.<sup>3</sup> After hearing Appellant’s argument in regard to Mizzell, and a brief discussion in chambers, the trial court asked counsel for Appellant to describe any additional areas of cross-examination he wished to explore and to explain why he believed they were appropriate. Appellant’s counsel advised he wanted to cross-examine Echols on three points, all of which would assist the jury in making a determination about Echols credibility. First, he wanted to ask Echols if he had sought a

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<sup>3</sup> 349 S.C. 326, 563 S.E.2d 315 (2002).

ten year sentence during plea negotiations with the State. Second, he wanted to ask Echols if he was in fact given an offer of a cap of twenty years during plea negotiations with the State. Third, he wanted to ask Echols if he is a member of the Folk Nation gang. The solicitor responded that she believed Appellant's first and second requests were inadmissible pursuant to Rule 410, SCRE, because they were part of Echols' plea negotiations, and the third request was inadmissible pursuant to Rules 404 and 405, SCRE, because it was evidence of other crimes, wrongs, or acts. (R.p.231, line 23-p.240, line 14).

The trial court ruled as follows:

The first thing, right before we took a break I had sustained your objection to his question about whether or not he could ask him about the possible life sentence. And Mr. Wise was kind enough to give me the Mizzell case so I'm going to correct my ruling.

I'm going to overturn the objection. He is allowed to ask him about the maximum sentence he could be facing under that. Okay?

With regards to Mr. Echols asking, you know, for ten years or asking for a cap of 20 years, whether or not that was given or not, all of that is part of plea negotiations and we're not going to get into that at all.

With regard to whether or not he was in a gang or not in a gang however, whether he - it doesn't matter to me how he's going to ask it, we're not going to get into that. I think it's character. Doesn't have anything to do with his truthfulness or untruthfulness. So whether I think it's a bad act that he's in a gang or not, we're not getting into it in this trial.

Okay? All right.

(R.p.240, line 15-p.241, line 9). Cross-examination resumed, and Appellant questioned Echols about not having been indicted for first-degree burglary. He acknowledged first-degree burglary would have carried a sentence of life without the possibility of parole. Appellant also questioned Echols about his prior convictions for burglary and assault and

battery with intent to kill. (R.p.243, line 11-p.244, line 20). Upon completion of Echols testimony, the State rested. (R.p.248, lines 20-23).

### **Proposed Jury Charges**

After questioning Appellant outside of the presence of the jury in regard to his right to testify, the parties discussed possible jury charges. In regard to the crimes themselves, the trial judge advised he would be charging armed robbery, attempted murder and the lesser included offense of assault and battery in the first degree as to both victims, Wright and Rumph. He said he would also charge the lesser included offenses of assault and battery in the second degree and assault and battery of a high and aggravated as to Wright, but declined Appellant's request to charge assault and battery in the second degree as to Rumph. The trial judge found Mr. Rumph could not have suffered only moderate bodily harm when he was cut five times, denied Appellant's request, and noted Appellant's objection. (R.p.249, line 15-p.251, line 1).

### **Motion for a Directed Verdict**

Appellant moved for a directed verdict on all charges. In regard to attempted murder, he argued the State had failed to present any evidence of an intent to kill. He argued that since Wright had only been struck with a pistol rather than shot or stabbed, there was no evidence of intent to kill. He further argued that since Rumph was only cut with the intention of trying to make him talk, the robbers could not have wanted him dead, so there was no intent to kill. In regard to armed robbery, Appellant argued there was no evidence he took property from the victims or had to the intent to deprive them of their property, particularly where the car was left right down the street. Finally, in regard to burglary, Appellant argued that since there was no forced entry there was no intent to

commit a crime at the time the intruders entered the victims' house. (R.p.252, line 18-p.255, line 10). The solicitor responded that by being armed with deadly weapons and threatening to kill the victims if they didn't talk, the intruders evidenced an intent to kill. The solicitor then referenced the use of weapons and the taking money and goods from both victims as evidence of armed robbery, and use of trick or artifice to gain entry and the injuries inflicted on the victims as evidence of burglary. (R.p.255, line 14-p.257, line 6). The trial court denied the motion for a directed verdict as to each charge. (R.p.257, line 7-p.258, line 3). Appellant chose not to testify in his own defense, and the defense rested. Appellant renewed his motion for a directed verdict and the trial court again denied the motion. (R.p.258, line 7-p.260, line 10).

#### **Closing Arguments, Jury Charge, and Verdict**

After the trial court denied Appellant's motion for a directed verdict, the parties made closing arguments. Appellant's counsel reminded the jury of the weaknesses of Wright's identification by pointing out the inconsistency between the initial police report of two "unknown" assailants and Wright's subsequent claim that he knew Appellant prior to the incident. Counsel also noted the discrepancy between Wright's original description of Appellant as having dark skin and the appearance of Appellant's skin during trial. Next, counsel attacked the reliability of Wright's identification where he was presented with multiple photo line-ups and he noted the seemingly inconsistent testimony from Wright, Rumph, and Echols about Appellant's participation in the crimes. (R.p.271, line 21-p.293, line 7).

The trial judge charged the jury on the State's burden of proof, the presumption of innocence, the roles of the judge and jury, direct evidence, circumstantial evidence,

credibility of witnesses, criminal intent, accomplice liability, and mere presence.

(R.p.294, line 6-p.307, line 15). In regard to identity, the trial judge specifically charged the jury as follows:

An issue in this case is the identification of the Defendant as the person who committed the crime charged. The State has the burden of proving identity beyond a reasonable doubt. You must be satisfied beyond a reasonable doubt of the accuracy of the identification of the Defendant before you may convict the Defendant.

Identification testimony is an expression of belief or impression by a witness. You must determine the accuracy of the identification of the Defendant. You must consider the believability of each identification witness in the same way as any other witness. You may consider whether the witness had an adequate opportunity to observe the offender at the time of the offense. This will be affected by things like how long or short a time was available, how far or close the witness was, the lighting conditions and whether the witness had the chance to see or know the person in the past.

Once again, I instruct you, the burden of proof is on the - - the burden of proof is on the State extends to every element of the crime charged. And is - - and this specifically includes the burden of proving beyond a reasonable doubt the identity of the Defendant as a person who committed the crime.

If after examining the testimony you have a reasonable doubt as to the accuracy of the identification, you must find the Defendant not guilty.

(R.p.302, line 10-p.303, line 10). In regard to the charging the crimes and the elements of those crimes, the trial court charged armed robbery, attempted murder, assault and battery of a high and aggravated nature, and assault and battery in the first degree as to both victims, but only charged assault and battery in the second degree as to Wright. (R.p.307, line 16-p.313, line 17). The trial court then gave detailed instructions on the verdict form, including the attempted murder charges and the possible lesser included offenses as to each victim, which did not include an option for assault and battery in the second degree as to Wright. (R.p.314, line 11-p.316, line 18). Except for an objection to the trial

judge's charge that specific intent was not required for attempted murder, Appellant made no other objections to the jury charge or verdict form. (R.p.317, line 2-p.319, line 19).

At the end of trial, the jury found Appellant guilty of first degree burglary, two counts of armed robbery, and one count of first degree assault and battery as a lesser included offense of attempted murder in regard to Rumph. Appellant was acquitted of any assault in regard to Wright. Appellant made a motion for a new trial, arguing there was no evidence of great bodily injury to Rumph which would support the conviction for assault and battery in the first degree. The trial court denied the motion and sentenced Appellant to thirty-five (35) years' imprisonment for first degree burglary, thirty (30) years' concurrent imprisonment for each count of armed robbery, and ten (10) years' concurrent imprisonment for first degree assault and battery, for an aggregate sentence of thirty-five (35) years' imprisonment. (R.p.346-360; R.p.330, lines 1-13). (R.p.321, line 9-p.326, line 24).



## ARGUMENT

### I.

**Appellant's claim that the trial court erred in failing to suppress the victim's in-court identification testimony is not preserved for appellate review because Appellant failed to object to the identification when it was offered at trial, and even if preserved, the trial court properly concluded the out-of-court photo lineup identification did not result from unduly suggestive police procedures and was so reliable that no substantial likelihood of misidentification existed.**

Appellant argues the trial court erred in denying his motion to suppress Wright's in-court identification testimony because that testimony was unreliable and was based on an unduly suggestive out-of-court photo line-up. This argument is not preserved for appellate review because Appellant failed to object to the identification evidence when it was offered at trial. Even if preserved, there was ample evidence supporting the circuit court's findings that: (1) the out-of-court photo lineup identification did not result from unduly suggestive police procedures; and (2) under the totality of the circumstances the out-of-court identification was so reliable that no substantial likelihood of misidentification existed. Furthermore, any error in the admission of Wright's identification testimony was harmless given the cumulative nature of that evidence and the other overwhelming evidence of Appellant's guilt. For all of these reasons, Appellant's challenge to the identification testimony should be denied and his convictions should be affirmed.

### Issue Preservation

Generally, a motion in limine seeks a pretrial evidentiary ruling to prevent the disclosure of potentially prejudicial evidence to the jury, and a ruling on such a motion is preliminary and subject to change based on developments during trial. State v. Smith,

337 S.C. 27, 32, 522 S.E.2d 598, 600 (1999). A ruling on a motion in limine does not constitute a final ruling on the admissibility of evidence. State v. Simpson, 325 S.C. 37, 42, 479 S.E.2d 57, 60 (1996). Therefore, an objection must be made at the time the evidence is introduced during trial in order to preserve the issue for appellate review. State v. Schumpert, 312 S.C. 502, 507, 435 S.E.2d 859, 862 (1993); State v. Atieh, 397 S.C. 641, 646, 725 S.E.2d 730, 733 (Ct. App. 2012); State v. Burton, 326 S.C. 605, 609, 486 S.E.2d 762, 764 (Ct. App. 1997). “However, where a judge makes a ruling on the admission of evidence on the record immediately prior to the introduction of the evidence in question, the aggrieved party does not need to renew the objection.” State v. Forrester, 343 S.C. 637, 642, 541 S.E.2d 837, 840 (2001). Additionally, if the trial court clearly indicates its ruling is final rather than preliminary, the issue is preserved for appellate review. State v. Wiles, 383 S.C. 151, 157, 679 S.E.2d 172, 175 (2009); Atieh, 397 S.C. at 647, 725 S.E.2d at 733.

In the instant case, Appellant failed to preserve any challenge to the identification evidence for appellate review. Before the jury was sworn, the trial court held a Neil v. Biggers hearing regarding the reliability of Wright’s out-of-court identification of Appellant and the admissibility of the eyewitness identification testimony the State was considering offering at trial. The trial judge issued a preliminary ruling finding the identification process was not unduly suggestive and that the identification itself was reliable. Following a pretrial Jackson v. Denno hearing, a preliminary jury charge, and opening statements, the State called Wright to the stand to tell the jury about the assault, robbery and burglary. During Wright’s testimony, the State sought to elicit the identification evidence addressed in the trial court’s pretrial ruling. Wright proceeded to

make three separate in-court identifications of Appellant. Appellant did not object or otherwise attempt to renew any pretrial challenge to Wright's identification testimony. Appellant also did not object to testimony from Wright and Investigator Garrison describing the out-of-court identification procedure, and he failed to object with the photo lineup was introduced into evidence by the State.

Because Appellant did not make a contemporaneous objection to any identification evidence elicited during trial in the jury's presence, he failed to preserve any issue related to the trial court's pretrial rulings on the identifications by Wright. See State v. Turner, 373 S.C. 121, 126, n.1, 644 S.E.2d 693, 696 (2007) (finding the issue regarding an in-court identification was not preserved when the appellant objected pre-trial to a suggestive identification procedure and again during trial to the procedure but never objected to the subsequent in-court identification). Therefore, this issue is not preserved for further review. To the extent this Court finds the identification issue was properly preserved, the State submits it is nevertheless without merit.

#### **Standard of Review**

In criminal cases, the appellate court sits to review errors of law only. State v. Wilson, 345 S.C. 1, 5, 545 S.E.2d 827, 829 (2001). The appellate court is bound by the trial court's factual findings unless they are clearly erroneous. State v. Baccus, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006). The admission of evidence is within the sound discretion of the circuit court. State v. Simmons, 384 S.C. 145, 166, 682 S.E.2d 19, 30 (Ct. App. 2009). Accordingly, a circuit court's decision to allow the in-court identification of an accused will not be disturbed on appeal absent an abuse of discretion or prejudicial legal error. Id.; State v. Govan, 373 S.C. 552, 556, 643 S.E.2d 92, 94 (Ct.

App. 2007). "To warrant reversal based on the admission or exclusion of evidence, the appellant must prove both the error of the ruling and the resulting prejudice, i.e., that there is a reasonable probability the jury's verdict was influenced by the challenged evidence or the lack thereof." State v. Singleton, 395 S.C. 6, 13-14, 716 S.E.2d 332, 335-36 (Ct. App. 2011) (quoting Fields v. Reg'l Med. Ctr. Orangeburg, 363 S.C. 19, 26, 609 S.E.2d 506, 509 (2005)).

### Discussion / Analysis

An out-of-court identification of the defendant violates due process and must be suppressed when the identification procedure used by police was impermissibly suggestive and conducive to a substantial likelihood of misidentification. State v. Liverman, 398 S.C. 130, 138, 727 S.E.2d 422, 425 (2012); State v. Dukes, 404 S.C. 553, 557-58, 745 S.E.2d 137, 139 (Ct. App. 2013). A witness's subsequent in-court identification is inadmissible "if a suggestive out-of-court identification procedure created a very substantial likelihood of *irreparable* misidentification." State v. Traylor, 360 S.C. 74, 81, 600 S.E.2d 523, 526 (2004) (emphasis added). Trial courts employ a two-pronged inquiry to determine whether due process requires suppression of an out-of-court eyewitness identification. Liverman, 398 S.C. at 138, 727 S.E.2d at 426. First, the court must determine whether the identification resulted from "unnecessarily suggestive" police procedures. Biggers, 409 U.S. at 198-99; Liverman, 398 S.C. at 138, 727 S.E.2d at 426; Traylor, 360 S.C. at 81, 600 S.E.2d at 526. If the court finds the identification did not result from impermissibly suggestive police procedures, the inquiry ends there and the court does not need to consider the second prong. State v. Dukes, 404 S.C. 553, 557-58, 745 S.E.2d 137, 139 (Ct. App. 2013). The defendant bears the burden of proving the

identification procedure was impermissible suggestive. Id. at 561, 745 S.E.2d at 141 (“Our supreme court has never placed the burden of disproving suggestiveness on the State. The Fourth Circuit, whose decisions regarding federal constitutional law are binding on us, has held the defendant bears the burden of proving the identification procedure was impermissibly suggestive.”).

If the court finds, however, that the police used an impermissibly suggestive identification procedure, it must then determine whether the identification was nevertheless “so reliable that no substantial likelihood of misidentification existed.” Liverman, 398 S.C. at 138, 727 S.E.2d at 426. The inquiry must focus upon whether, under the totality of the circumstances, there was a substantial likelihood of irreparable misidentification. State v. Turner, 373 S.C. 121, 127, 644 S.E.2d 693, 696 (2007); Singleton, 395 S.C. at 13-14, 716 S.E.2d at 335-36. When determining the likelihood of misidentification, courts must evaluate the totality of the circumstances using the following factors: (1) the witness's opportunity to view the perpetrator at the time of the crime, (2) the witness's degree of attention, (3) the accuracy of the witness's prior description of the perpetrator, (4) the level of certainty demonstrated by the witness at the confrontation, and (5) the length of time between the crime and the confrontation. Turner, 373 S.C. at 127, 644 S.E.2d at 697; Singleton, 395 S.C. at 13-14, 716 S.E.2d at 335-36.

In the instant case, Wright testified the police officer who presented the photo lineup did not tell him which photo to pick. Investigator Garrison confirmed this account, testifying she did not suggest to Wright whom he should pick out of the photo array, instead simply asking if he recognized anybody who assaulted him that night.

Appellant argued the lineup was nevertheless unduly suggestive because he was the only person in a jail uniform. He claimed it was obvious the shirt he was wearing was a jail shirt. The trial judge disagreed and found the photo lineup was not unduly suggestive at all. The trial judge observed how strikingly similar the six individuals appeared the photographs, all having the same skin tone and length of hair, and nearly identical facial hair. He praised the "spectacular job" the police did putting the photo array together. (R.p.49, line 22-p.49, line 15). The photo lineup itself supports the trial court's observations. It also demonstrates the fallacy of Appellant's claim regarding the shirt he was wearing in the photograph. It is simply a solid colored, "v-neck" shirt with no lettering or other identifying information indicating it is part of a jail uniform. (R.p. 334). Appellant failed to carry his burden of proving the identification procedure was impermissibly suggestive.

On appeal, Appellant also argues Wright's prior personal knowledge of Appellant led the police to create a suggestive lineup. He contends: "The creation of a lineup that contained a photo of a suspect who matched the name given to the police but not the description was unduly suggestive and created a very substantial likelihood of irreparable misidentification." (Brief of Appellant, p.5-p.6). However, this Court has specifically found the opposite to be true. See Singleton, 395 S.C. at 14, 716 S.E.2d at 336 (concluding the identification process was not unduly suggestive because the victim had prior personal knowledge of the defendant). Thus, this argument is without merit.

The State submits that since there was evidence to support the trial court's decision, that court did not abuse its discretion in ruling the procedure was not impermissibly suggestive. Dukes, 404 S.C. at 563, 745 S.E.2d at 142. Consequently,

this Court should affirm the trial court's ruling and need not consider the trial court's determination of the second prong of Biggers. Id. To the extent this Court disagrees, the State submits there was also sufficient evidence to support the trial court's ruling that the out-of-court identification was reliable under the totality of the circumstances.

At the pretrial hearing, Wright described the two robbers as black men, one of whom had long hair. This description was consistent with the photograph of Appellant the police used in the photo lineup. Wright testified he knew the robber with the long hair as "Ricky" and explained he had actually talked to Ricky on the Saturday evening before the early Sunday morning robbery. He testified that when presented with the lineup, he knew right away which one was Ricky. (R.p.5, line 21-p.14, line 11). On cross-examination Wright noted that when he first answered the door he "looked right in the face" of Appellant. (R.p.14, line 18-p.28, line 15). Investigator Garrison testified she showed the lineup to Wright the day after the incident and Wright showed no hesitation in picking the picture of Appellant. (R.p.28, line 22-p.31, line 13).

Appellant argued the identification made by Wright was not reliable because Wright did not have a good opportunity to witness the intruders on the night of the incident. (R.p.41, line 5-p.45, line 19). The trial judge disagreed and ruled as follows:

I've listened to the testimony of the victim, Mr. Wright, and Ms. Garrison. I do not believe that the identification process was unduly suggestive, nor was there any substantial likelihood of misidentification because he had given a general description of the Defendant, indicated that he knew where he lived and then picked him out of this photo lineup. So I find it to be reliable.

(R.p.48, line 22-p.49, line 15).

The evidence supports this finding. Wright had an excellent opportunity to view the perpetrator at the time of the crime because he looked right in Appellant's face before

opening the door. His attention was heightened because he was answering a strange knock on the door in the middle of the night. Wright gave a relatively accurate description of the perpetrator and was then certain he had made a correct identification from the photo lineup. Finally, the lineup was presented only one day after the crime. Further, a review of Wright's trial testimony indicates that his in-court identification of Appellant originated not from any taint associated with the allegedly suggestive photo lineup, but from Wright's prior association with Appellant and his observation of Appellant at the time robbery. Thus, the in-court identification was nonetheless properly admitted as it had an independent origin. Liverman, 398 S.C. at 142, 727 S.E.2d at 428. Under the totality of the circumstances, the victim's pre-trial and in-court identifications were reliable. Therefore, the trial court did not abuse its discretion in denying Appellant's motion to suppress the identification testimony, and Appellant's convictions should be affirmed.

### **Harmless Error**

Appellate courts will generally not set aside a judgment based on insubstantial errors not affecting the result. State v. Sherard, 303 S.C. 172, 176, 399 S.E.2d 595, 597 (1991). After an error is found, the appellate court must then review the other evidence considered at trial besides the erroneously admitted evidence. Baccus, 367 S.C. at 55, 625 S.E.2d at 223. Error is harmless beyond a reasonable doubt if it does not contribute to the verdict. State v. Fletcher, 379 S.C. 17, 25, 664 S.E.2d 480, 484 (2008). An admission of improper evidence is considered harmless when it is merely cumulative to other properly admitted evidence. State v. Blackburn, 271 S.C. 324, 329, 247 S.E.2d 334, 337 (1978). The harmlessness of an error in the admission of evidence generally depends on the materiality of the evidence in relation to the case as a whole. State v.



Haselden, 353 S.C. 190, 196, 577 S.E.2d 445, 448 (2003). “When guilt has been conclusively proven by competent evidence such that no other rational conclusion can be reached, the Court should not set aside a conviction because of insubstantial errors not affecting the result.” State v. Bailey, 298 S.C. 1, 5, 377 S.E.2d 581, 584 (1989).

Here, the State submits any error in the admission of the identification evidence from Wright was harmless, merely cumulative to other evidence, and not prejudicial. The identification by Wright placed Appellant at the scene of the crime and showed he was an active participant, evidence which was cumulative to and corroborated by the detailed testimony from Echols. See State v. Simmons, 308 S.C. 80, 83, 417 S.E.2d 92, 94 (1992) (“We note that, under certain circumstances, if the identification is corroborated by either circumstantial or direct evidence, then the harmless error rule might be applicable.”). Furthermore, Appellant admitted in his own statement to law enforcement he was present at the scene of the crime and he conceded his presence in his closing argument to the jury. (R.p.286, line 18-p.287, line 6). See State v. Kirkpatrick, 320 S.C. 38, 43, 462 S.E.2d 884, 888 (Ct. App. 1995) (“The erroneous admission of the key evidence was harmless inasmuch as Kirkpatrick admitted he rented the U-Haul in question and bought a lock, with two keys, to put on it. Thus, the evidence of the key linking Kirkpatrick to the U-Haul was merely cumulative.”). Because the challenged identification evidence was cumulative to other properly-admitted evidence, any error in the admission of that identification evidence was completely harmless and could not have affected the result at trial. See Singleton, 395 S.C. at 14-15, 716 S.E.2d at 336 (finding harmless error in the admission of identification testimony where two co-conspirators testified against Singleton and identified him as a participant in the robbery).

Furthermore, the propriety of Appellant's conviction is reinforced by the other protections he was afforded at trial, including his Sixth Amendment right to confront the eyewitness, his right to the effective assistance of an attorney who attempted to expose the flaws in the eyewitness' testimony during cross-examination and focus the jury's attention on the fallibility of such testimony during opening and closing arguments, the trial court's eyewitness-specific jury instruction, and the constitutional requirement that the State prove Appellant's guilt beyond a reasonable doubt. Liverman, 398 S.C. at 142-43, 727 S.E.2d at 428. For all of these reasons, Appellant's convictions should be affirmed.

## II.

**The trial court properly imposed reasonable limits on Appellant's cross-examination of State's witness Sean Echols where the interrogation sought: (1) was irrelevant, (2) was likely to confuse the issues, and (3) would not demonstrate a prototypical form of bias on the part of Echols.**

Appellant argues the trial court erred in limiting his cross-examination of State's witness Sean Echols. Specifically, he argues the trial court improperly prohibited him from asking Echols: (1) whether he was "under investigation" or "charged" in a federal case involving the shooting of a corrections officer, and (2) whether during plea negotiations he sought a ten year sentence and had been offered a "cap" of twenty years. The State disagrees and submits Appellant's argument is without merit. The trial court appropriately exercised its discretion to impose reasonable limits on Appellant's cross-examination of Echols where both the federal investigation and the plea negotiations were not relevant to Echols' testimony at Appellant's trial, were likely to confuse the issues, and would not demonstrate a prototypical form of bias on the part of Echols.

Furthermore, any error in limiting Appellant's cross-examination of Echols was harmless in light of: (1) the existence of evidence corroborating Echols' testimony on material points, (2) the extent of the cross-examination Appellant was permitted to conduct, and (3) the overall strength of the State's case.

### Standard of Review

As a general rule, a trial court's ruling on the proper scope of cross-examination will not be disturbed on appeal absent a manifest abuse of discretion. State v. Gracely, 399 S.C. 363, 371, 731 S.E.2d 880, 884 (2012); State v. Quattlebaum, 338 S.C. 441, 450, 527 S.E.2d 105, 109 (2000). Pursuant to the Sixth Amendment of the United States Constitution, every criminal defendant has a right to "to be confronted with the witnesses against him" during trial. U.S. Const. amend. VI. Specifically included in a defendant's Sixth Amendment right to confront the witness is the right to meaningful cross-examination of adverse witnesses. State v. Aleksey, 343 S.C. 20, 33, 538 S.E.2d 248, 255 (2000); State v. Graham, 314 S.C. 383, 385, 444 S.E.2d 525, 527 (1994). This right guarantees to a criminal defendant the opportunity to cross-examine the witnesses against him concerning bias. State v. Gillian, 360 S.C. 433, 450, 602 S.E.2d 62, 71 (Ct. App. 2004), aff'd as modified on other grounds, 373 S.C. 601, 646 S.E.2d 872 (2007); see also Rule 608(c), SCRE ("Bias, prejudice or any motive to misrepresent may be shown to impeach the witness either by examination of the witness or by evidence otherwise adduced.").

"This does not mean, however, that trial courts conducting criminal trials lose their usual discretion to limit the scope of cross-examination." Aleksey, 343 S.C. at 33-34, 538 S.E.2d at 255; See also State v. Whitner, 380 S.C. 513, 519, 670 S.E.2d 655,

659 (Ct. App. 2008) (finding the scope of cross-examination rests in the trial judge's sound discretion). "On the contrary, 'trial [courts] retain wide latitude insofar as the Confrontation Clause is concerned to impose reasonable limits on such cross-examination based on concerns about, among other things, harassment, prejudice, confusion of the issues, witness' safety, or interrogation that is repetitive or only marginally relevant.'" Aleksey, 343 S.C. at 34, 538 S.E.2d at 255 (quoting Delaware v. Van Arsdall, 475 U.S. 673, 679 (1986)). "The limitation of cross-examination is reversible error if the defendant establishes he was unfairly prejudiced." State v. Brown, 303 S.C. 169, 171, 399 S.E.2d 593, 594 (1991). A criminal defendant may show a violation of the Confrontation Clause by showing that he was prohibited from engaging in otherwise appropriate cross-examination designed to show a prototypical form of bias on the part of the witness, and thereby to expose to the jury the facts from which jurors . . . could appropriately draw inferences relating to the reliability of the witness. State v. Mizzell, 349 S.C. 326, 331, 563 S.E.2d 315, 317 (2002) (quoting Van Arsdall, 475 U.S. at 680) (internal quotation marks omitted). The Mizzell court highlighted the competing concerns with regard to certain witnesses: The jury is, generally, not entitled to learn the possible sentence of a defendant because the sentence is irrelevant to finding guilt or innocence. However, other constitutional concerns, such as the Confrontation Clause, limit the applicability of this rule in circumstances where the defendant's right to effectively cross-examine a co-conspirator witness of possible bias outweighs the need to exclude the evidence. Id. at 331-32, 563 S.E.2d at 318.<sup>4</sup>

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<sup>4</sup> In Gracely, our supreme court revisited limitations on the scope of cross-examination in light of the Confrontation Clause and concluded: "The fact that a cooperating witness avoided a mandatory minimum

### Discussion / Analysis

Appellant acknowledges he was allowed to fully cross-examine Echols about both: (1) his prior convictions for burglary and assault and battery with intent to kill; and (2) the maximum sentence he would have faced for his conduct in this case, including the possible life without the possibility of parole (LWOP) sentence he avoided by not being indicted for first degree burglary. Appellant, however, maintains the limitations imposed by the trial court in regard to the pending federal investigation and the plea negotiations with the State nonetheless violated his Sixth Amendment Rights. The State disagrees. "The appropriate question under a Confrontation Clause analysis is whether there has been any interference with the defendant's opportunity for effective cross-examination at trial." Gillian, 360 S.C. at 450, 602 S.E.2d at 71 (emphasis added). Here, the trial court did not interfere with Appellant's opportunity for effective cross-examination.

### The Federal Investigation

At the pre-trial hearing, Appellant argued that although Echols had not been convicted of a federal crime, he believed the shooting Appellant allegedly admitted to federal investigators would constitute a "bad act" Appellant should be permitted to ask Echols about in regard to his credibility. The trial court granted the State's motion to exclude any testimony regarding Echols' federal investigation for two reasons. First, the trial court found it was inadmissible under Rule 608(b), SCRE, because it was not probative of Echols character for truthfulness or untruthfulness. Second, relying on

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sentence is critical information that a defendant must be allowed to present to the jury." Gracely, 399 S.C. at 374-75, 731 S.E.2d at 886. "It is of no moment that at some point during the proceedings one of the witnesses confirmed the existence of a mandatory minimum sentence. The fact remains that Appellant was unable to fully develop this information through the cross-examination . . . ." Id. at 375 n.4, 731 S.E.2d at 886 n.4.

State v. Hughes, 328 S.C. 146, 493 S.E.2d 821 (1997), the trial court found any attempt to elicit testimony about the pending investigation would impermissibly allow the jury to draw an adverse inference from Echols' invocation of his right against self-incrimination, which would run contrary to the purpose of the Fifth Amendment. (R.p.86, line 17-p.88, line 14). At trial, Echols invoked his Fifth Amendment rights and the trial court went along with the pretrial ruling.

On Appeal, Appellant challenges the trial court's Fifth Amendment analysis and reliance on Hughes, as well as its reliance on the South Carolina Rules of Evidence. The State submits that even if the trial court's reliance on Hughes was slightly misplaced because Echols was not being called solely to allow the jury to draw an adverse inference from his refusal to testify, the limitation on cross-examination was nevertheless an appropriate exercise of discretion because the pending federal investigation simply does not show bias. The State has no authority to negotiate a deal with a witness in regard to federal charges. Appellant asserts "the purpose of the examination was to demonstrate that Echols had additional charges pending against him, which may influence his testimony against [Appellant];" however, he fails to articulate how this would be the case. Instead, it appears to be a thinly veiled attempt to introduce evidence of Echols' prior "bad act" to prove his bad character - a use clearly not permitted under Rule 404(b), SCRE. Thus, the interrogation sought was irrelevant and would likely confuse the jury. In addition, it would not expose the jury to facts from which the jurors could appropriately draw inferences relating to Echols' reliability. Thus, the questions about the federal investigation were appropriately excluded.

### **The Expired Plea Offer**

At a pretrial hearing, the solicitor explained the State provided Appellant with the terms of an expired plea offer it had given Echols, but further explained there had been no offers or negotiations concerning Echols testimony in this case. (R.p.50, line 15-p.51, line 20). At trial, Echols confirmed he had not been offered or promised anything in exchange for his testimony. (R.p.212, line 14-p.213, line 4). Appellant then sought to question Echols about the specific terms of the expired plea offer, despite it having no connection to Echols testimony at trial. The solicitor suggested those questions should be prohibited pursuant to Rule 410, SCRE, because the terms of the expired offer were part of plea negotiations. The trial court agreed and prohibited Appellant from asking about the expired plea offer.

On Appeal, Appellant challenges the trial court's analysis and apparent reliance on Rule 410 of the South Carolina Rules of Evidence. The State submits that even if the trial court's reliance on Rule 410, SCRE, was off target, the limitation on cross-examination was nevertheless an appropriate exercise of discretion because the terms of the expired plea offer simply do not show bias in regard to Echols testimony. Appellant asserts "the plea negotiations between Echols and the State should have been revealed to the jury as evidence of bias;" however, similar to his analysis regarding the federal charges, he fails to explain how. Appellant references Mizell, and its holding that the lack of a negotiated plea "creates a situation where the witness is more likely to engage in biased testimony in order to obtain a recommendation of leniency." Mizell, 349 S.C. at 332, 563 S.E.2d at 318. He argues: "Echols' testimony regarding his plea negotiations is the type of evidence of bias envisioned in Mizell." The State

disagrees. The testimony envisioned in Mizell is precisely the testimony that was already elicited from Echols – that he had no deal. The terms of an expired plea deal – one that was not offered in exchange for trial testimony – is irrelevant and would likely confuse the jury. In addition, it would not expose the jury to facts from which the jurors could appropriately draw inferences relating to Echols' reliability. Therefore, the questions about the expired plea deal were appropriately excluded.

### **Harmless Error**

In Gracely our supreme court acknowledged "[a] violation of the Confrontation Clause is not per se reversible but is subject to a harmless error analysis." Id. at 375, 731 S.E.2d at 886. Whether such an error is harmless in a particular case depends upon a host of factors . . . . The factors include [1] the importance of the witness's testimony in the prosecution's case, [2] whether the testimony was cumulative, [3] the presence or absence of evidence corroborating or contradicting the testimony of the witness on material points, [4] the extent of cross[-] examination otherwise permitted, and, of course, [5] the overall strength of the prosecution's case. Id. (quoting Van Arsdall, 475 U.S. at 684 (emphasis added in Gracely)).

The purpose of Rule 608(c), SCRE, is that a defendant be allowed to explore any "bias, prejudice, or other motive to misrepresent" such that the jury gets a clear picture of a witness with which to judge her credibility. Cross-examination is the tool used to highlight any biases that may exist. Here, the trial court allowed a meaningful cross-examination with numerous opportunities for impeachment, including specifically allowing Appellant to inquire into whether Echols believed he would get some sort of leniency in exchange for testifying. Echols admitted he was not indicted



for first degree burglary and was avoiding an LWOP sentence, but testified he had not yet been given any deals or plea bargains in exchange for his testimony. Just as the Court pointed out in Mizzell, this particular testimony was highly probative of bias because the jury could have inferred that Echols would be more likely "to engage in biased testimony in order to obtain a future recommendation for leniency." Mizzell at 332-33, 563 S.E.2d at 318. The additional cross-examination sought by Appellant would at best have been marginally relevant.

In regard to overall strength, Appellant argues Echols' testimony was an essential part of the State's case, and that without his testimony, the State had no evidence that Appellant helped plan the crime. He also notes that Echols was the only person to testify Appellant was the assailant that assaulted Rumph. Although Echols accomplice testimony was important, it was only a portion of the strong testimony against Appellant. Established case law in South Carolina has held that a conviction can stand upon the uncorroborated testimony of an accomplice. See State v. Taylor, 255 S.C. 147, 149-150, 177 S.E.2d 550, 551 (1970). Here by comparison, the testimony was largely corroborated by the eyewitness identification testimony from Wright proving Appellant was an active participant in all of the crimes. It was also corroborated in part by Appellant's statement to the police where he admitted he was at the scene of the crimes. As noted by our supreme court, "In a case built on circumstantial evidence, including testimony from witnesses with such suspect credibility, a ruling preventing a full picture of the possible bias of those witnesses cannot be harmless." Gracely, 399 S.C. at 377, 731 S.E.2d at 887. Here, the case was not built on circumstantial evidence and Echols' testimony alone. Appellant suffered

no unfair prejudice as a result of the limitations placed on his cross-examination of Echols concerning the federal investigation and the plea negotiations. See State v. Brown, 303 S.C. 169, 171, 399 S.E.2d 593, 594 (1991). Thus, the trial court did not err.

### III.

**The trial court properly denied Appellant's motions for a directed verdict and for a new trial on all charges 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 denying his motion for a directed verdict and his motion for a new trial because the evidence presented did not support the convictions in this case. He argues the evidence did not reasonably tend to prove his guilt with respect to first degree burglary, armed robbery, or assault and battery. The State disagrees and submits Appellant's arguments are without merit. Detailed eyewitness testimony from Appellant's accomplice Echols and victim Wright provided direct evidence of Appellant's active participation in the first degree burglary of the residence, the armed robbery of Wright and Rumph, and the first degree assault and battery of Rumph. Additionally, Appellant's statement to the police, testimony from victim Rumph, and testimony from the investigating officers provided substantial circumstantial evidence to reasonably support the direct evidence of the crimes. The State submits the trial judge properly considered the existence of evidence as opposed to its weight in denying Appellant's motions for a directed verdict and a new trial, and in submitting the case to the jury. Therefore, Appellant's convictions and sentence should be affirmed.