

STATE OF SOUTH CAROLINA

 ORIGINAL

In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY

R. Knox McMahon, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

PERRY BERNARD BUCHANAN,

APPELLANT

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

)
) COURT OF GENERAL SESSIONS
) 2010-GS-32-01522
—) 2010-GS-32-01523

STATE OF SOUTH CAROLINA
vs.
PERRY B. BUCHANAN

DEFENDANT

)
)
) TRANSCRIPT OF RECORD
)
)
—)

April 25-26, 2011
Lexington, South Carolina

B E F O R E:

HON. R. KNOX MCMAHON, Judge and a jury.

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

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COLLEEN E. DIXON, ASSISTANT SOLICITOR
Attorneys for the State

CASEY CORNWELL, ASSISTANT PUBLIC DEFENDER
Attorney for the Defendant

CAROL M. THUEME, RPR
Official Court Reporter

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THE COURT: All right. Solicitor.

MS. GARRICK: Thank you, Your Honor. Your Honor, may it please the Court.

Your Honor, the State calls Indictment 2010-GS-32-1522, the State versus Perry Buchanan, indicted for armed robbery.

Indictment 2010-GS-32-1523, the State versus Perry Buchanan, possession of a weapon during the commission of a violent crime.

Your Honor, the defendant is present with counsel and ready for trial.

THE COURT: All right. Thank you.

Ladies and gentlemen of the jury panel, if you'd please give me your complete and undivided attention. Also, if you would please consider yourselves still under oath from the oath that was previously administered to you this morning.

We're now going through a process to select a trial jury for the case that has been called for trial. As a part of that process, I'm going to read or publish to you the indictments in this case. I do this because of certain questions that I will have to ask you to qualify you for service on this particular jury.

The indictments are not evidence. The indictments are the formal charging documents by which an

1 individual is placed on notice of the charges that have
2 been brought against him or her. They contain mere
3 allegations and in no sense are they considered evidence
4 of any of the allegations contained therein.

5 Mr. Bailiff, would you please shut the back door
6 for me. Thank you. Don't let anyone in or out during
7 this process. Thank you.

8 Again, these are the formal documents by which
9 an individual is placed on notice of the charges that have
10 been brought against him or her.

11 The indictments read -- 2010-GS-32-1522 reads
12 that Perry Bernard Buchanan, along with a co-defendant,
13 did in Lexington County, South Carolina, on or about
14 March 12th of 2010, knowingly and willfully while armed
15 with a deadly weapon, to wit, a box cutter, did
16 feloniously take from the person or presence of Shirley
17 Smith, a Walmart employee at 2401 Augusta Road, West
18 Columbia, South Carolina, by means of force, threats or
19 intimidation, goods being described as a Dell Inspiron
20 desktop computer, with the intent to deprive the owner of
21 the use of such property, in violation of 16-11-330(a) of
22 the Code of Laws of South Carolina, 1976, as amended.

23 And Indictment 2010-GS-32-01523 reads that Perry
24 Bernard Buchanan, along with a co-defendant, did in
25 Lexington County, South Carolina, on or about March 12th,

1 2010, knowingly and willfully visibly display a box cutter
 2 during the commission of a violent crime, or attempt to
 3 commit a violent crime, to wit, armed robbery, such weapon
 4 described as a box cutter, in violation of Section
 5 16-23-490 of the Code of Laws of South Carolina.

6 Ladies and gentlemen, those are indictments for
 7 armed robbery and possession of a knife during a violent
 8 crime.

9 The State in this case is represented by
 10 Assistant Solicitors Garrick and Dixon.

11 If you'd please stand and introduce yourselves
 12 to the jury panel and any other member of the Solicitor's
 13 staff that is going to assist you in the prosecution of
 14 this case.

15 MS. GARRICK: Thank you, Your Honor.

16 Good morning. My name is Angela Garrick. This
 17 is Colleen Dixon. And we have an investigator who's not
 18 in here right now whose name is Bill Smith.

19 THE COURT: The defendant in the case is
 20 represented by Mr. Casey Cornwell.

21 Would you please stand and introduce yourself
 22 and your client to the jury panel.

23 MR. CORNWELL: My name is Casey Cornwell. I'm
 24 an assistant public defender with the Public Defender's
 25 office and this is my client, Perry Buchanan.

1 THE COURT: Stand up for me, please,
2 Mr. Buchanan, and face the jury panel.

3 Thank you, Mr. Cornwell. Thank you,
4 Mr. Buchanan.

5 Is any member of the jury panel related by blood
6 or marriage or close personal friends or have any business
7 or professional relationship with either Assistant
8 Solicitors Garrick, Dixon, or Attorney Cornwell? If so,
9 please stand.

10 (No response.)

11 THE COURT: Has any member of the jury panel or
12 any member of your immediate family ever been prosecuted
13 by, or represented by, Assistant Solicitor Garrick, Dixon,
14 or Mr. Cornwell? If so, please stand.

15 (No response.)

16 THE COURT: Is any member of the jury panel
17 related by blood or marriage or close personal friends or
18 have any business or personal relationship with the
19 defendant named in the case, Mr. Perry Bernard Buchanan?
20 If so, please stand.

21 (No response.)

22 THE COURT: The indictments allege an incident
23 that occurred at the Walmart on the 2400 block of Augusta
24 Road. I believe that would be the one near Dreher Road,
25 between Dreher Road and I-26 on No. 1 going back towards

1 Columbia. Allegedly -- is that right, is that the correct
2 one?

3 MS. GARRICK: Yes, sir.

4 THE COURT: It allegedly occurred March 12th of
5 2010. The named victim is Shirley Smith, a Walmart
6 employee.

7 Does any member of the jury panel have any
8 knowledge about the case? If so, please stand.

9 (No response.)

10 THE COURT: Does any member of the jury panel
11 have any bias or prejudice towards the parties or the
12 subject matter involved in the case? If so, please stand.

13 (No response.)

14 THE COURT: Has any member of the jury panel
15 heard or know anything about the case from any source
16 whatsoever? If so, please stand.

17 (No response.)

18 THE COURT: I'm going to call a list of names of
19 potential witnesses in the trial of this case. If any of
20 the witnesses are present, I would ask you to please stand
21 and face the jury panel when your name is called.

22 I would further advise the jury panel that the
23 witnesses are not required to be present during this
24 process. So I may call names and no one stands.

25 The question, of course, is any member of the

1 jury panel related by blood or marriage or close personal
 2 friends or have any business or social relationship with
 3 any of the individuals whose names I now call? If so,
 4 please stand.

5 Shirley Smith, Dean Edgewater (sic), Terrance
 6 Boykin, Curtis Williams, Tonya Doby. Those are the first
 7 five names.

8 Again, is any member of the jury panel related
 9 by blood or marriage or close personal friends with any of
 10 those individuals whose names I just called? If so,
 11 please stand.

12 (No response.)

13 THE COURT: The next, Investigator Bruce Wade,
 14 West Columbia Police Department, standing to my front
 15 right.

16 Thank you.

17 Officer Thomas Griffin, West Columbia Police
 18 Department; Investigator James P. Sullivan, West Columbia
 19 Police Department; Officer Ludwig -- does he or she have a
 20 first name?

21 MS. GARRICK: Shawn, Your Honor.

22 THE COURT: Officer Shawn Ludwig, West Columbia
 23 Police Department.

24 Any additional potential witnesses from either
 25 of the parties, Ms. Garrick?

1 MS. GARRICK: No, Your Honor.

2 THE COURT: Mr. Cornwell?

3 MR. CORNWELL: No, Your Honor. But I need to
4 hand up my voir dire.

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

6 MR. CORNWELL: I need to hand up my voir dire.

7 THE COURT: All right. Yes, sir.

8 Has any member of the jury panel or any member
9 of your immediate family ever been a victim of a theft?
10 If so, please stand.

11 All right. I'll start -- let's see. I better
12 start or I won't finish.

13 This lady right here on the front. Your number
14 and name, please?

15 THE JUROR: No. 60, Renee Greathouse.

16 THE COURT: And you were a victim of a theft?

17 THE JUROR: Yes, sir.

18 THE COURT: And about when? About what time
19 frame?

20 THE JUROR: It's been many years ago.

21 THE COURT: The fact that you're a victim of a
22 theft many years ago, could you still be a fair and
23 impartial juror in the trial of this case for both the
24 State and the defense?

25 THE JUROR: Yes, sir.

1 THE COURT: Thank you. You may be seated.

2 Yes, sir. Your number and name, please?

3 THE JUROR: No. 120, David Mullis. It's been a
4 very long time that I had a theft occur.

5 THE COURT: The fact that that occurred, could
6 you still be a fair and impartial juror for both the State
7 and the defense?

8 THE JUROR: Yes, sir.

9 THE COURT: Thank you.

10 Yes, ma'am, in the purple.

11 THE JUROR: Yes, sir. I was involved with
12 someone taking ATM money from me.

13 THE COURT: All right. And tell me your number
14 and name.

15 THE JUROR: No. 40, Julia Dial.

16 THE COURT: And about what time frame?

17 THE JUROR: It's been a couple of years.

18 THE COURT: A couple of what?

19 THE JUROR: Years.

20 THE COURT: All right. The fact that you were a
21 victim of a theft, could you still be a fair and impartial
22 juror in the trial of this case?

23 THE JUROR: Yes, sir.

24 THE COURT: Thank you. You may be seated.

25 Up against the wall, yes, sir.

1 THE JUROR: No. 145, James Rennick.

2 THE COURT: Time frame?

3 THE JUROR: Two years ago.

4 THE COURT: The fact that you were a victim of a
5 theft, could you still be a fair and impartial juror in
6 the trial of this case for both the State and the defense?

7 THE JUROR: Yes, Your Honor.

8 THE COURT: Thank you. You may be seated.

9 And right behind Mr. Rennick?

10 THE JUROR: 156.

11 THE COURT: All right. Time frame?

12 THE JUROR: Probably eight years, ten years ago.

13 THE COURT: All right. The fact that you were a
14 victim of a theft eight to ten years ago, could you still
15 be a fair and impartial juror in the trial of this case
16 for both the State and the defense?

17 THE JUROR: Yes, sir.

18 THE COURT: Thank you. You may be seated.

19 Yes, sir, in the dark?

20 THE JUROR: No. 42.

21 THE COURT: All right.

22 THE JUROR: I was the victim of a car theft many
23 years ago.

24 THE COURT: The fact that you were a victim of a
25 car theft many years ago, could you still be a fair and

1 impartial juror in the trial of this case for both the
2 State and defense?

3 THE JUROR: Yes, sir.

4 THE COURT: Thank you. You may be seated.
5 Yes, ma'am.

6 THE JUROR: 112, Victoria Medermott.

7 October of 2004 I was a victim of armed robbery.

8 THE COURT: All right. And what area did that
9 occur in, Ms. Medermott?

10 THE JUROR: Richland County. In my home.

11 THE COURT: All right. The fact that you were a
12 victim of an armed robbery in your home?

13 THE JUROR: Yes, sir.

14 THE COURT: Could you still be a fair and
15 impartial juror in the trial of this case for both the
16 State and the defense?

17 THE JUROR: Yes, sir.

18 THE COURT: Thank you. You may be seated.
19 Yes, sir.

20 THE JUROR: A close relative was the victim of a
21 robbery.

22 THE COURT: All right. And tell me your name
23 and number.

24 THE JUROR: James Maddaloni, 104.

25 THE COURT: And you say it was a close relative?

1 THE JUROR: Yes.

2 THE COURT: And the fact that your relative was
3 the victim of such a crime, could you still be a fair and
4 impartial juror in the trial of this case for both the
5 State and the defense?

6 THE JUROR: Yes.

7 THE COURT: All right. Thank you.

8 Yes, ma'am.

9 THE JUROR: No. 30, Marguerite Clarkson. And my
10 home was broken into many years ago.

11 THE COURT: And the fact that you were a victim
12 of your home being broken into, Ms. Clarkson, could you
13 still be a fair and impartial juror in the trial of this
14 case for both the State and the defense?

15 THE JUROR: Yes.

16 THE COURT: All right. And the gentleman in the
17 yellow shirt.

18 THE JUROR: Yes, sir. No. 66, Eric Hampton. I
19 was the victim of a theft at my residence and my vehicle.

20 THE COURT: All right. And the fact that that
21 occurred, could you still be a fair and impartial juror in
22 the trial of this case for both the State and the defense?

23 THE JUROR: Yes, sir.

24 THE COURT: Thank you. You may be seated.

25 Yes, sir, in the dark.

1 THE JUROR: No. 150; Tony Roof. I was
2 burglarized in my car and my dad was also shot in the arm.

3 THE COURT: Give me a time frame.

4 THE JUROR: Mine was about four years ago and my
5 dad was eight years ago.

6 THE COURT: The fact that that occurred both to
7 you and a separate incident to your dad, could you still
8 be a fair and impartial juror in the trial of this case
9 for both the State and the defense?

10 THE JUROR: Yes, sir.

11 THE COURT: Thank you. You may be seated.

12 Yes, sir. Your number and name, please.

13 THE JUROR: Fifty-five, Scott Gifford. My home
14 was broken into approximately 20 years ago.

15 THE COURT: And the fact that that occurred,
16 could you still be a fair and impartial juror in the trial
17 of this case for both the State and the defense?

18 THE JUROR: Yes, sir.

19 THE COURT: Thank you. You may be seated.

20 Yes, sir. Your number and name, please.

21 THE JUROR: No. 161, David Slagle.

22 THE COURT: All right.

23 THE JUROR: And I wasn't really a victim of a
24 theft, but I was assaulted with a deadly weapon back in
25 1992.

1 THE COURT: The fact that that occurred, could
2 you still be a fair and impartial juror in the trial of
3 this case for both the State and the defense?

4 THE JUROR: No, sir.

5 THE COURT: Thank you. You may be seated.

6 Excuse 161 from the trial of this case.

7 Has any member of the jury panel ever been an
8 employee of or are you currently an employee of Walmart?
9 If so, please stand.

10 (No response.)

11 THE COURT: Is any member of the jury panel or
12 any member of your immediate family or close personal
13 friend employed with the West Columbia Police Department?
14 If so, please stand.

15 THE CLERK: There's someone standing, Your
16 Honor.

17 THE COURT: Yes. Your number and name, please.

18 THE JUROR: No. 6. I have a friend at the West
19 Columbia Police Department.

20 THE COURT: All right. And tell me your number
21 and name, please.

22 THE JUROR: No. 6.

23 THE COURT: And how long you all been friends?

24 THE JUROR: About two years.

25 THE COURT: About two years. And what does your

1 friend do at the police department?

2 THE JUROR: Her name is Jackie Brothers and I
3 believe she assists the sheriff.

4 THE COURT: All right. Ms. Brothers?

5 THE JUROR: Yes.

6 THE COURT: The fact that you're a friend of
7 Ms. Brothers, could you still be a fair and impartial
8 juror in the trial of this case for both the State and the
9 defense?

10 THE JUROR: I could.

11 THE COURT: Thank you. You may be seated.

12 Any others?

13 (No response.)

14 THE COURT: Is any member of the jury panel
15 related by blood or marriage or close personal friends
16 with any employee of the Lexington County Solicitor's
17 Office? If so, please stand.

18 (No response.)

19 THE COURT: Thank you. Any additional requested
20 voir dire from the State?

21 MS. GARRICK: No, Your Honor.

22 THE COURT: From the defense?

23 MR. CORNWELL: No, Your Honor.

24 THE COURT: And finally, ladies and gentlemen,
25 does any member of the jury panel know any reason

1 whatsoever why you feel like you could not be a fair and
2 impartial juror in the trial of this case for both the
3 State and the defense? If so, please stand.

4 (No response.)

5 THE COURT: All right. If you'd give us a jury
6 panel, please.

7 And what are the strikes, Solicitor?

8 MS. GARRICK: Five and ten, Your Honor.

9 THE COURT: Is that correct, Mr. Cornwell?

10 MR. CORNWELL: That's my understanding, Your
11 Honor.

12 THE COURT: All right. Thank you.

13 THE CLERK: As I call your name, I want you to
14 come forward through the little gate, come up here in
15 front of this podium and stand just like I am. Make sure
16 you bring your purses, books, whatever you might have with
17 you. I will give you instructions on whether -- at the
18 conclusion of asking questions, I'll give you instructions
19 to either have a seat in the jury box or to return to your
20 seat out there.

21 Begin, Your Honor?

22 THE COURT: Yes, ma'am, please.

23 THE CLERK: No. 17, Vickie Campbell. (White
24 female.)

25 What say you for the State?

1 MS. GARRICK: Please present this juror.

2 THE CLERK: What say for the defense?

3 MR. CORNWELL: Please seat the juror.

4 THE CLERK: Have a seat -- please seat or excuse
5 the juror?

6 MR. CORNWELL: Seat.

7 THE CLERK: Have a seat in the jury box, ma'am.

8 No. 53, Willard Ganes. (White male.)

9 All the way up to the podium. There you go.

10 Thank you, sir.

11 What say you for the State?

12 MS. GARRICK: Please present this juror.

13 THE CLERK: What say for the defense?

14 MR. CORNWELL: Please seat this juror.

15 THE CLERK: Have a seat in the jury box, sir.

16 No. 181, Adrienne Wright. (Black female.)

17 What say you for the State?

18 MS. GARRICK: Please present this juror.

19 THE CLERK: What say for the defense?

20 MR. CORNWELL: Please seat this juror.

21 THE CLERK: Have a seat in the jury box ma'am.

22 No. 182, Amanda Peele. (White female.)

23 What say you for the State?

24 MS. GARRICK: Please present this juror.

25 THE CLERK: What say for the defense?

1 MR. CORNWELL: Please seat this juror.

2 THE CLERK: Have a seat in the jury box, ma'am.

3 No. 6, Nancy Atkinson. (White female.)

4 What say for the State?

5 MS. GARRICK: Please present this juror.

6 THE CLERK: What say for the defense?

7 MR. CORNWELL: Please excuse this juror.

8 THE COURT: Return to your seat, please, ma'am.

9 No. 15, James Bowling. (White male.)

10 What say for the State?

11 MS. GARRICK: Please present this juror.

12 THE CLERK: What say for the defense?

13 MR. CORNWELL: Please excuse this juror.

14 THE CLERK: Please return to your seat, please,

15 sir.

16 No. 105, Ronald Marsh. (White male.)

17 What say for the State?

18 MS. GARRICK: Please present this juror.

19 THE CLERK: What say for the defense?

20 MR. CORNWELL: Please seat this juror.

21 THE CLERK: Have a seat in the jury box, sir.

22 No. 163, Renee Smith. (White female.)

23 What say for the State?

24 MS. GARRICK: Please excuse this juror.

25 THE CLERK: Return to your seat, please, ma'am.

1 No. 8, Dana Bangerter. (White male.)
2 What say for the State?
3 MS. GARRICK: Please present this juror.
4 THE CLERK: What say for the defense?
5 MR. CORNWELL: Please excuse this juror.
6 THE CLERK: Return to your seat, please, sir.
7 No. 156, Bradley Sheppard. (White male.)
8 What say for the State?
9 MS. GARRICK: Please present this juror.
10 THE CLERK: What say for the defense?
11 MR. CORNWELL: Please excuse this juror.
12 THE CLERK: Return to your seat, please, sir.
13 No. 138, Danielle Pough. (Black female.)
14 What say for the State?
15 MS. GARRICK: Please present this juror.
16 THE CLERK: What say for the defense?
17 MR. CORNWELL: Please seat the juror.
18 THE CLERK: Have a seat in the jury box, ma'am.
19 No. 121, Gregory Mundy. (White male.)
20 What say for the State?
21 MS. GARRICK: Please present this juror.
22 THE CLERK: What say for the defense?
23 MR. CORNWELL: Please excuse this juror.
24 THE CLERK: Return to your seat, please, sir.
25 No. 88, Lisa James. (White female.)

1 What say for the State?

2 MS. GARRICK: Please present this juror.

3 THE CLERK: What say for the defense?

4 MR. CORNWELL: Please seat the juror.

5 THE CLERK: Have a seat in the jury box, ma'am.

6 No. 86, Rita Jackson. (Black female.)

7 What say for the State?

8 MS. GARRICK: Please present this juror.

9 THE CLERK: What say for the defense?

10 MR. CORNWELL: Please seat the juror.

11 THE CLERK: Have a seat in the jury box, ma'am.

12 No. 55, Scott Gifford. (White male.)

13 What say for the State?

14 MS. GARRICK: Please present this juror.

15 THE CLERK: What say for the defense?

16 MR. CORNWELL: How many strikes do I have?

17 THE CLERK: Five.

18 MR. CORNWELL: Please excuse this juror.

19 THE CLERK: Return to your seat, please, sir.

20 No. 66, Eric Hampton. (Black male.)

21 THE COURT: What happened to 129?

22 THE CLERK: Oh, I apologize.

23 THE COURT: One twenty-nine should be next.

24 THE CLERK: Yes, sir, I jumped over it.

25 Have a seat, please, sir, for just a minute.

1 I apologize, Your Honor.

2 No. 129, Douglas Noland. (White male.)

3 What say for the State?

4 MS. GARRICK: Please present this juror.

5 THE CLERK: What say for the defense?

6 MR. CORNWELL: Please strike this juror.

7 THE CLERK: Return to your seat, please, sir.

8 THE COURT: Now 66, Eric Hampton. (Black male.)

9 What say for the State?

10 MS. GARRICK: Please present this juror.

11 THE CLERK: What say for the defense?

12 MR. CORNWELL: Please seat the juror.

13 THE CLERK: Please have a seat in the jury box,

14 sir.

15 No. 64, Joy Gunter. (White female.)

16 What say for the State?

17 MS. GARRICK: Please present the juror.

18 THE CLERK: What say for the defense?

19 MR. CORNWELL: Please seat the juror.

20 THE CLERK: Have a seat in the jury box, ma'am.

21 No. 81, Stephanie Hopkins. (White female.)

22 What say for the State?

23 MS. GARRICK: Please present this juror.

24 THE CLERK: What say for the defense?

25 MR. CORNWELL: Please excuse the juror.

1 THE CLERK: Return to your seat, please, ma'am.
2 No. 102, Dennis Lord. (White male.)
3 What say for the State?
4 MS. GARRICK: Please present this juror.
5 THE CLERK: What say for the defense?
6 MR. CORNWELL: Please seat this juror.
7 THE CLERK: Have a seat in the jury box, sir.
8 No. 95, Stacy Keese. (White female.)
9 What say for the State?
10 MS. GARRICK: Please present this juror.
11 THE CLERK: What say for the defense?
12 MR. CORNWELL: Please excuse this juror.
13 THE CLERK: Return to your seat, please, ma'am.
14 No. 40, Julia Dial. (White female.)
15 What say for the State?
16 MS. GARRICK: Please present this juror.
17 THE CLERK: What say for the defense?
18 MR. CORNWELL: Please excuse this juror.
19 THE CLERK: Return to your seat, please, ma'am.
20 No. 155, Heyward Shealy. (White male.)
21 What say for the State?
22 MS. GARRICK: Please present this juror.
23 THE CLERK: What say for the defense?
24 MR. CORNWELL: Please seat this juror.
25 THE CLERK: Have a seat in the jury box, sir.

1 Alternates, Your Honor?

2 THE COURT: One alternate. Strikes are one and
3 two.

4 THE CLERK: Yes, sir.

5 No. 52, Amy Freeman. (White female.)

6 What say for the State?

7 MS. GARRICK: Please present this juror.

8 THE CLERK: What say for the defense?

9 MR. CORNWELL: Please strike this juror.

10 THE CLERK: Return to your seat, please, ma'am.

11 No. 126, Charles Newton. (White male.)

12 What say for the State?

13 MS. GARRICK: Please present this juror.

14 THE CLERK: What say for the defense?

15 MR. CORNWELL: Please strike this juror.

16 THE CLERK: Return to your seat, please, sir.

17 No. 120, David Mullis. (White male.)

18 What say for the State?

19 MS. GARRICK: Please present this juror.

20 THE CLERK: What say for the defense?

21 MR. CORNWELL: Please seat this juror.

22 THE CLERK: Have a seat in the jury box, sir.

23 That's the alternate, Your Honor.

24 THE COURT: All right. Any motions regarding
25 the jury selection process from the State?

1 MS. GARRICK: No, Your Honor.

2 THE COURT: From the defense?

3 MR. CORNWELL: No, Your Honor.

4 (The jury is impaneled at 11:10 a.m.)

5 THE COURT: All right. Ladies and gentlemen
6 that we just selected for the panel for the trial of this
7 case, momentarily I'm going to ask you to step to your
8 jury room with the bailiff.

9 During this brief recess, do not discuss this
10 case with anyone. That includes your fellow jurors or
11 anyone else.

12 If anyone tries to talk with you about the case,
13 please let me know immediately. You would not be
14 authorized to discuss the case until you've heard all the
15 evidence, all the testimony in the case, the closing
16 arguments by the attorneys and the instruction on the law
17 by the Court, and then directed by the Court to begin your
18 deliberations with your fellow jurors in your jury room.

19 This should be just a brief recess. I need to
20 give further instructions to your colleagues out there
21 that have not been fortunate enough to be selected for a
22 juror in the trial of the case. But they're not going to
23 give up hope. There are many cases to be tried this week.

24 But if you would please go with Mr. Knight to
25 your new temporary home, to your jury room.

1 Thank you very much.

2 (The jury left open court at approximately 11:11
3 a.m.)

4 (Whereupon, court proceedings in other cases
5 were held.)

6 THE COURT: All right. Any pretrial matters
7 from the State, Solicitor?

8 MS. GARRICK: None from the State, Your Honor.

9 THE COURT: Defense?

10 MR. CORNWELL: Your Honor, I think we may need
11 to have a Jackson v Denno hearing.

12 THE COURT: All right. Solicitor.

13 MS. GARRICK: Your Honor, we'd call Bruce Wade.

14 THE COURT: All right. If you'd come around and
15 be sworn, please.

16 BRUCE WADE, after being duly sworn, testified as
17 follows:

18 THE CLERK: Have a seat, please, sir. Once
19 you're seated, speak up loud and clear. State your full
20 name, spelling your last.

21 THE WITNESS: My name is Bruce Wade. Last name
22 is W-A-D-E.

23 IN CAMERA DIRECT EXAMINATION

24 BY MS. GARRICK:

25 Q Investigator Wade, where are you employed?

1 A With the West Columbia Police Department.

2 Q And on March 12th of 2010, did you have occasion to
3 meet this defendant, Perry Buchanan?

4 A Yes, ma'am, I did.

5 Q Okay. And can you please tell the Court where you
6 met Mr. Buchanan.

7 A I met him about the 1900 block of Jarvis Klapman
8 Boulevard.

9 Q At that time was Mr. Buchanan in detention?

10 A Yes, ma'am.

11 Q And was Mr. Buchanan subsequently arrested?

12 A Yes, ma'am.

13 Q And when he was arrested, where was he first
14 transported to?

15 A He was transported to the West Columbia Police
16 Department.

17 Q And at the West Columbia Police Department, did you
18 have an occasion to speak with Mr. Buchanan?

19 A Yes, I did.

20 Q Did you -- was Mr. Buchanan free at that time to
21 leave?

22 A No, he was not.

23 Q And he was under arrest?

24 A Yes.

25 Q And did you have another investigator working this

1 case with you or were you alone?

2 A No, I was alone.

3 Q And at the West Columbia Police Department, do you
4 all have video equipment in the interview room there?

5 A No, ma'am.

6 Q And before speaking with Mr. Buchanan, what, if
7 anything, did you advise him?

8 A I advised him of his Miranda rights.

9 Q And did you have paperwork involved in telling
10 Mr. Buchanan what his rights were?

11 A Yes, ma'am, I did.

12 MS. GARRICK: If I may approach the witness,
13 Your Honor.

14 THE COURT: Yes, ma'am.

15 (WHEREUPON, The Court's Exhibit No. 1 was marked
16 for purposes of the record.)

17 BY MS. GARRICK:

18 Q If I can show you what's been marked as Court's
19 Exhibit 1 for ID. Do you recognize that document?

20 A Yes, ma'am, I do.

21 Q What is that document?

22 A A Miranda right form.

23 Q And is that a Miranda right form that you used on
24 March 12th with Mr. Buchanan?

25 A Yes, ma'am.

1 Q And what rights do you advise Mr. Buchanan of?

2 A I advised him of his Constitutional rights.

3 Q And could you please read them off one at a time,
4 please?

5 A Yes.

6 It says: "1) You have the right to remain
7 silent.

8 2) Anything you say can and will be used in
9 court as evidence against you.

10 3) You're entitled to talk to a lawyer now and
11 have him or her present now or at any time during
12 questioning."

13 Three (sic) says: "If you cannot afford a
14 lawyer, one will be appointed to you without cost.

15 5) Do you understand your rights? Yes or no."

16 And No. 6 says: "If you decide to answer
17 questions now without a lawyer present, you will still
18 have the right to stop answering questions at any time.
19 You also have the right to stop answering questions at any
20 time until you talk to a lawyer."

21 Q And did you have Mr. Buchanan initial each of these
22 rights as you went through them?

23 A Yes, I did.

24 Q And did Mr. Buchanan sign saying that he understood
25 these rights?

1 A Yes, he did.

2 Q Did Mr. Buchanan make a waiver in writing of these
3 rights?

4 A Yes, he did.

5 Q And is that document on Court's Exhibit 1?

6 A Yes, ma'am.

7 MS. GARRICK: Your Honor, for purposes of this
8 hearing, I move Court's 1 into evidence.

9 THE COURT: All right. Yes, it's in evidence as
10 Court's 1.

11 MS. GARRICK: Your Honor, that's how the court
12 reporter marked it.

13 THE COURT: All right. Yes, ma'am.

14 BY MS. GARRICK:

15 Q Did you have any reason to believe, based on
16 Mr. Buchanan's appearance and demeanor, that he was under
17 the influence of any type of drugs or alcohol?

18 A No, ma'am.

19 Q Was he able to answer questions about himself?

20 A Yes, ma'am.

21 Q Did you ask him where he lived?

22 A Yes, ma'am, I did.

23 Q Did you ask him his education level?

24 A Yes, ma'am, I did.

25 Q Did he give you what -- appropriate answers?

1 Let me rephrase my question.

2 Did he respond to your questions forthrightly?

3 A Yes, he did.

4 Q And during this interview process, did Mr. Buchanan
5 indicate that he would give you an oral statement?

6 A Yes, he did.

7 Q And did he, in fact, give you an oral statement?

8 A Yes, he did.

9 Q During this oral statement, was anyone else present?

10 A No, ma'am.

11 Q And during this oral statement, did you take notes?

12 A Yes, ma'am, I did.

13 Q Were you taking notes as Mr. Buchanan talked?

14 A Yes, I did.

15 Q And did you bring to court today those notes?

16 A Yes, I did.

17 MS. GARRICK: If I may approach again, Your
18 Honor.

19 THE COURT: Yes, ma'am.

20 (WHEREUPON, The Court's Exhibit No. 2 was marked
21 for purposes of the record.)

22 BY MS. GARRICK:

23 Q If I can show you what's been marked as Court's 2 for
24 ID. Can you recognize this document?

25 A Yes, ma'am.

1 Q What is that?

2 A Notes I took during the interview with Mr. Buchanan.

3 Q And are those notes in your own handwriting?

4 A Yes, ma'am.

5 Q And is it written -- where you say "I," does that
6 mean you or does that mean someone else?

7 A No. Where I said "I," it means Mr. Buchanan. I'm
8 writing what he's saying.

9 Q Okay. And could you -- before he told you this, had
10 you made any threats or promises to Mr. Buchanan to get
11 him to cooperate with the questioning process?

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

13 Q Did you threaten him in any manner?

14 A No, ma'am.

15 Q Did you tell him you'd help him out with his charges?

16 A No, ma'am.

17 Q And could you please publish Court's 2 as to the
18 notes you took as Mr. Buchanan was speaking.

19 A Yes, ma'am.

20 At the top it has my case number which is 11 --
21 1006514, and I have "robbery" beside it. The date, I have
22 March 12th, 2010 at 5:59 p.m.

23 I says -- I wrote down, "IO interviewed Perry B.
24 Buchanan at WCPD."

25 Underneath that I have a Social of 250-17-6926.

1 I have a line scribbled out up under that.

2 And under that I wrote down, "I had Tonya Doby
3 pick me up on Two Notch Road and I asked her to take me to
4 West Columbia -- to the West Columbia Walmart. I went in
5 and stole a computer. And when I was leaving out, a lady
6 stopped me and asked me for a receipt. I had a box cutter
7 in my hand and told the lady that 'my shit is paid for.'
8 I pushed the buggy out. She started running. I did not
9 have the box cutter open."

10 Underneath that I put, "I can't write nothing
11 down."

12 Underneath that I said, "Did you pay for the TV?"

13 No, I stole it from Walmart."

14 Q Is that the substance of what Mr. Buchanan told you
15 about what had happened at Walmart?

16 A Yes, ma'am, it is.

17 Q After Mr. Buchanan told you that, did you have any
18 other discussion with Mr. Buchanan?

19 A Yes, I did.

20 Q And did you make -- could you tell us about that
21 substance of that conversation?

22 A Yes, ma'am.

23 During the interview, I asked him to give me a
24 written statement and he told me why was I talking to him,
25 why would he be talking to investigators on something

1 simple as a shoplifting. And I explained to him that once
2 he presented a weapon during the shoplifting, it was no
3 longer a shoplifting, that made it an armed robbery, and
4 at that point he told me he couldn't give me a written
5 statement.

6 Q And what, if anything, did you tell him at that
7 point?

8 A I told him, "You already confessed to this crime and
9 I'm going to tell in court what you already told me."

10 Q And did he, in fact, give you a written statement?

11 A No, he didn't.

12 Q Okay. And did you cease the interview at that point?

13 A Yes, I did.

14 MS. GARRICK: Please answer any questions
15 Mr. Cornwell has.

16 THE COURT: All right. Mr. Cornwell.

17 IN CAMERA CROSS-EXAMINATION

18 BY MR. CORNWELL:

19 Q How long did this interview take place?

20 A Roughly an hour.

21 Q About an hour?

22 A Yes, sir.

23 Q And during that time, did you notice anything
24 peculiar health-wise about my client?

25 A No, sir.

1 Q And during that time, did my client request any
2 refreshments like something to drink or anything of that
3 nature?

4 A No, sir.

5 Q Did he express any physical needs or any kind of
6 needs health-wise?

7 A No, sir.

8 Q I have a question about your notes.

9 I notice you got -- specifically just regarding
10 Mr. Buchanan, you have two sets of notes. And this is
11 just maybe more for my clarification than anything, but
12 you've got one page of notes with just time and date
13 notated and another page where there is no time and date
14 notation.

15 A Uh-huh.

16 Q Are those two different times?

17 A Well, the notes, Exhibit 2, these were taken in the
18 interview room. While I was talking to him I was writing
19 down what he was saying. After the interview was over,
20 that's when I wrote the other note.

21 Q These notes were made after the interview?

22 A Yes, sir.

23 Q Were these notes made the same day or was --

24 A Yes, sir, the same day.

25 MR. CORNWELL: Beg the Court's indulgence.

1 THE COURT: Yes, sir.

2 (Pause.)

3 MR. CORNWELL: One more thing.

4 BY MR. CORNWELL:

5 Q How soon after was he arrested did you get an
6 opportunity to question him?

7 A Approximately an hour.

8 Q About an hour?

9 A Yes, sir.

10 Q And he was with you the entire time as far as
11 transportation?

12 A No, sir, I did not transport him.

13 Q All right. Do you know who transported him over
14 there?

15 A I'm not sure.

16 MR. CORNWELL: Okay. No further questions, Your
17 Honor.

18 THE COURT: Redirect, Solicitor?

19 MS. GARRICK: No, Your Honor.

20 THE COURT: Thank you, Detective Wade. You may
21 step down.

22 All right. You may call your next witness,
23 Solicitor.

24 MS. GARRICK: No other witnesses, Your Honor.

25 THE COURT: Thank you.

1 Mr. Cornwell.

2 MR. CORNWELL: Your Honor, under Jackson v Denno
3 I know there are several things that you have to look at.

4 One thing I want to focus on in particular is
5 that he was under custody the entire time he was under
6 arrest.

7 There was no video of the interview. We don't
8 know what happened in the interview room.

9 We would have the -- where the detective -- what
10 I would suggest is that just being under arrest itself and
11 being questioned in that manner, Your Honor, may have
12 contributed somehow to -- any kind of statement may be
13 tainted by that, Your Honor, the duress under that
14 situation.

15 That's what we would base our motion on and we'd
16 ask the Court to find in our favor.

17 THE COURT: All right. Solicitor.

18 MS. GARRICK: Thank you, Your Honor.

19 Your Honor, certainly I think it's clear that
20 Mr. Buchanan was in custody. But I believe that Miranda
21 was given properly, it was given in writing with the
22 defendant's initials besides each writing.

23 The officer has testified that no threats or
24 promises or offers of rewards were made to him, Your
25 Honor, and Court's 1 certainly seems to corroborate what

1 Investigator Wade said.

2 And as far as the substance of the statement,
3 it's says it's been recorded into the notes in Court's
4 Exhibit 2.

5 And I would ask that you find that Miranda was
6 complied with and the statement was voluntarily given.

7 THE COURT: All right. May I see Court's 1 and
8 2?

9 MS. GARRICK: Yes, sir.

10 THE COURT: All right. I have reviewed Court's
11 1 and Court's 2.

12 Court's 1 appears to be a document establishing
13 Miranda rights' warning with the name Perry Buchanan, a
14 particular date of birth, Social Security number, that he
15 finished the tenth grade, and that he can read.

16 As to each of the rights, it appears the
17 initials PB to the left of those rights.

18 Further, on No. 5, "Do you understand these
19 rights?" is circled yes with the initials PB above it.

20 No. 6 appears to -- after No. 6 appears the
21 signature of Perry Buchanan and then thereafter there's a
22 waiver of Miranda rights with the signature Perry
23 Buchanan, 3-12-10, and a witness, Officer Bruce Wade.

24 And further, Court's Exhibit No. 2 appears to be
25 the handwritten notes as the officer testified to.

1 I do find that he was in custody; however, he
2 was properly advised of his Constitutional rights,
3 appeared to understand those rights and freely and
4 voluntarily waive those rights.

5 I've taken in the totality of the circumstances
6 in this regard. Given his age, his educational level, the
7 fact that no threats or promises or coercion was used by
8 the officers, I would find that the statement was given
9 after advice of his Constitutional rights and freely and
10 voluntary.

11 All right. Anything further, Mr. Cornwell?

12 MR. CORNWELL: No, Your Honor.

13 THE COURT: All right. Anything further from
14 the State before we bring in our jury.

15 MS. GARRICK: Your Honor, we just need to bring
16 our witnesses in and hook up a laptop for the first
17 witness.

18 THE COURT: All right.

19 (Pause.)

20 THE COURT: All right. Ready, Solicitor?

21 MS. GARRICK: Yes, Your Honor.

22 THE COURT: Mr. Cornwell, ready?

23 MR. CORNWELL: I am, Your Honor.

24 THE COURT: Thank you. Bring us our jury,
25 please.

1 (The jury came into open court at approximately
2 12:13 p.m.)

3 THE COURT: All right. Madam Clerk, would you
4 swear our jury, please.

5 THE CLERK: Yes, sir, Your Honor.

6 Please stand and raise your right hand.

7 (WHEREUPON, the jury was sworn at 12:14 p.m.)

8 THE CLERK: Is there anyone not able to take the
9 oath administered?

10 (No response.)

11 THE CLERK: The jury is under oath, Your Honor.

12 THE COURT: Thank you. Mr. Mullis?

13 THE JUROR: Yes.

14 THE COURT: If you'll always maintain that seat
15 for me. If you'll just always maintain that seat for me
16 as the alternate.

17 And sooner or later I'll have an election and
18 I'll appoint a foreperson of our jury.

19 I may as well do it now.

20 What's your name, sir?

21 THE JUROR: Dennis Lord.

22 THE COURT: All right. Let's see, that would be
23 Juror No. 102.

24 Perhaps I could appoint you as foreperson of our
25 jury. And if you'd always maintain that seat for me,

1 please.

2 I need to keep up with 13 people and you in that
3 seat, Mr. Foreman, and you, Mr. Mullis, in that seat.

4 I'm sure any of you would be qualified to serve
5 as a fine foreperson, but you see how I chose in this
6 particular election.

7 The others of you, you may sit wherever you like
8 to sit. However, I have found that many times jurors are
9 very territorial. They like to sit in the same seat each
10 and every time.

11 Well, you're welcome to do that. You're welcome
12 to move about. If you sit in the same seat each and every
13 time, I may know your names by the time the trial is over.
14 Once I tell jurors that, many times they'll change seats
15 just to mess with me, I guess you could say.

16 Mr. Foreman, ladies and gentlemen, the case
17 we're about to try is the case of the State versus Perry
18 Bernard Buchanan.

19 What I will now say is intended to serve as an
20 introduction to the trial of this case. These remarks are
21 not a charge or instruction on the law. I will instruct
22 you on the law that applies to this case at the end of the
23 trial before you retire to consider your verdicts. This
24 is merely an explanation of the procedure that we will
25 follow in this trial so that you may better understand

1 what may be happening.

2 Mr. Buchanan, the defendant, is charged by
3 indictments filed in this court with the crimes of armed
4 robbery and possession of a knife during the commission of
5 a violent crime, the elements of which will be explained
6 to you later.

7 Again, ladies and gentlemen, these indictments
8 are simply the charge by which the case or the cases are
9 brought into court and they are not in any sense evidence
10 of any of the allegations they contain.

11 The defendant has pled not guilty to these
12 indictments. The State, therefore, has the burden of
13 proving each and every element of the indictments beyond a
14 reasonable doubt. And it will be your duty, ladies and
15 gentlemen, to decide whether the State meets that burden.

16 Your purpose as jurors is to find and determine
17 the facts. You are the sole judges of the facts. If at
18 any time I make any comment regarding the facts, you must
19 disregard it.

20 You are to determine the facts from the
21 testimony you hear in this courtroom and the other
22 evidence introduced in court. It is up to you to
23 determine any inferences which you feel may properly be
24 drawn from the evidence.

25 It is especially important that you perform your

1 duty of determining the facts diligently and
2 conscientiously. Because ordinarily there is no way to
3 correct an erroneous determination of the facts by a jury.

4 On the other hand, and with equal emphasis, the
5 same law that makes you the judges of the facts makes me
6 the judge of the law. The law as given by the Court is
7 the only law that you may consider. You must accept and
8 follow it even though you may disagree with it.

9 I cannot tell you what the facts are, you cannot
10 disagree with me about what the law is or should be. Your
11 job is to take the law as I give it to you and apply it to
12 the facts as you find them from the testimony of the
13 witnesses testifying under oath from this witness stand
14 and any other evidence introduced.

15 After doing that, you will render your verdicts,
16 true and just verdicts, under the solemn oath that you've
17 just taken as jurors.

18 Until I advise you to begin your deliberations,
19 you must not discuss this case with anyone. That includes
20 your fellow jurors, family, friends, or anyone else.

21 After the case is submitted to you, you must
22 discuss it only in the jury room with your fellow jurors.

23 As you've heard me say before, the attorneys and
24 parties in this case have been advised that they're not to
25 talk with you at all. So if you see one of these

1 individuals involved in the case in your coming and goings
2 and they do not even say hello, they're not being
3 unfriendly, they are merely following the Court's
4 instructions.

5 During the trial, do not read, listen to, or
6 watch any news reports about the case should there be any.
7 This includes anything that may be in the newspaper or on
8 the Internet, radio or television. You must not consider
9 anything you may have read about or heard about the case
10 outside of the courtroom, whether before or during the
11 trial.

12 Ladies and gentlemen, it is important that you
13 keep an open mind and decide -- and not decide any issue
14 in the case until you've heard all the evidence, the
15 parties have made their closing arguments, and I have
16 instructed you on the law.

17 It is your solemn responsibility to determine
18 the guilt or the innocence of the defendant and your
19 verdict must be based solely on the evidence as it is
20 presented to you in this trial and on the law as I
21 instruct you during and at the close of the trial.

22 In just a moment, the solicitor will make what
23 is called an opening statement in which the solicitor will
24 explain to you the issues in the case, or at least what
25 the solicitor thinks the issues are in the case.

1 Mr. Cornwell, the attorney for the defendant,
2 may also make an opening statement, although he is not
3 required to do so.

4 What the attorneys tell you during their opening
5 statements is not evidence in the case, it is only their
6 contention as to what the issues are.

7 The evidence in the case will be presented to
8 you by the testimony of the sworn witnesses from this
9 witness stand and/or by any exhibits that may be made part
10 of the record.

11 From time to time during the trial you may hear
12 one of the attorneys say something like, "Your Honor, I
13 believe we have a question of law or a matter of law to
14 discuss with you," or, "Your Honor, may we approach the
15 bench," or sometimes I myself might find it necessary to
16 excuse you from the courtroom for a short while so the
17 attorneys and I can discuss a matter of law.

18 The reason for this is because you are the
19 judges of the facts in the case and sometimes when I am
20 discussing matters of law with the attorneys, it may be
21 necessary for me to make some comment as to the facts in
22 connection with ruling whether a particular law applies or
23 not. I am not supposed to tell you what I think the facts
24 are, so I will excuse you from the courtroom while these
25 discussions take place so that in no way will you be

1 influenced by anything I might say or do in connection
2 with the facts.

3 In determining what the true facts are, ladies
4 and gentlemen, in using your good judgment and your common
5 sense, you must decide whether or not the testimony of the
6 witnesses is believable. It will be my responsibility to
7 rule as a matter of law as to whether certain testimony is
8 admissible at all or not, but once the testimony is
9 admitted, whether or not you believe it is solely for you
10 to determine.

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

17 You have the right to consider anything that is
18 in the record that will help you evaluate the testimony of
19 the witness. That means it will be your duty to pay close
20 attention to these witnesses, to observe them, to listen
21 to the witnesses, to pay close attention to the attorneys
22 and to the Court.

23 Don't let your thoughts wander but give strict
24 attention to the testimony in this case so that at the end
25 of all the testimony, after the closing arguments and the

1 instruction on the law by the Court, you will then be in a
2 position to determine what the true facts are and to apply
3 the law to those facts and thus render true and just
4 verdicts.

5 It will be your added duty, Mr. Foreman, to
6 preside in the jury room and be the jury spokesperson here
7 in court. It will also be your duty to write the verdict,
8 but I will give you further instructions about that at the
9 conclusion of the case.

10 Just a few other administrative issues.

11 There is a speaker system in this courtroom;
12 however, those of you further away from the witness stand,
13 if you cannot hear a particular witness, just raise your
14 hand, get my attention, the attention of one of the
15 bailiffs, and we'll certainly have the witness speak up.

16 I don't know what evidence, documents or such
17 like that may be presented, if any. Many times when
18 documents are presented, they may be handed to the
19 foreperson and then passed among the jury while you're out
20 here in the courtroom in your jury box.

21 You may look at those items all you wish. Keep
22 in mind that if I allow it into evidence, you will also
23 have those documents with you in the jury room at the time
24 of your deliberations.

25 By saying that, I'm not limiting you from

1 looking at it however much you want to look at it out here
2 in the courtroom, but just realize that's not the only
3 opportunity you will get to view those items, if any may
4 be presented.

5 Also breaks. Really, that boils down to what
6 I'm in charge of, taking breaks. And I have just a real
7 simple rule. When I want to take a break, we take a
8 break. Well, it's not some type of judicial marathon.
9 It's not like judicial boot camp or anything like that.
10 If at any time you need a break, any of you, just please
11 raise your hand. You all will take y'all's break, we will
12 take our break.

13 If you sit out here too long, your thoughts get
14 to wandering, you're not focused, please raise your hand,
15 take a break. You want to make sure you keep yourself
16 mentally sharp, focused on the evidence, the questions,
17 the answers, so you'll be able to return those true and
18 just verdicts.

19 From time to time -- I tell you this because
20 other jurors on other juries have brought it to my
21 attention -- from time to time you'll see me on my
22 computer. I don't answer emails, I don't read emails, I
23 don't focus on anything but the trial. I will do some
24 research from time to time if I think I see something
25 coming around the curve. So that's the only reason you

1 may see me on my computer from time to time.

2 All right. Any objections to anything I've told
3 the jury from the State?

4 MS. GARRICK: No, Your Honor.

5 THE COURT: From the defense?

6 MR. CORNWELL: No, Your Honor.

7 THE COURT: All right. We will now begin the
8 trial.

9 Solicitor, you may address the jury.

10 MS. DIXON: Thank you, Your Honor. May it
11 please the Court.

12 THE COURT: Yes, ma'am.

13 MS. DIXON: Ladies and gentlemen, sometimes one
14 detail can change the whole picture. Is it sunny outside
15 or is it raining? Is someone smiling or are they crying?
16 Is their hand empty or is it holding a weapon?

17 The State will prove today, ladies and
18 gentlemen, that on March 12th, 2010, that the defendant,
19 Mr. Buchanan, went into the Walmart in West Columbia and
20 he took a computer, didn't pay for it and attempted to
21 walk out of the store.

22 One of the Walmart employees that will be
23 testifying before you today, Ms. Smith, tried to stop the
24 defendant. "I need to see your receipt." He didn't have
25 a receipt to show her. Ms. Smith is going to tell you at

1 that point the defendant pulled out a box cutter and he
2 threatened her with that box cutter. She backed off. The
3 police were called.

4 You're going to hear from West Columbia Police
5 Department, they're going to tell you that they stopped
6 the defendant not far from the Walmart, that the computer
7 was in his car, and that they recovered a box cutter from
8 his car matching the description that Ms. Smith had given.
9 They're going to tell that you the clothes the defendant
10 was wearing matched the description Ms. Smith had given.

11 But we're going to go further than that, ladies
12 and gentlemen. We're going to show you the surveillance
13 video from the Walmart. You're going to see it for
14 yourself.

15 Now, being a surveillance video, it's not the
16 clearest, it's not close up, it's kind of far away, so
17 we're not relying only on that. You're going to have
18 Ms. Smith's testimony. You've going to have the video.
19 You've going to have the evidence, the clothing and the
20 box cutter that was recovered. And then you're going to
21 hear from Investigator Wade with West Columbia, and he's
22 going to tell you that he interviewed the defendant and
23 the defendant admitted that he had a box cutter in his
24 hand. That's what this case is about, ladies and
25 gentlemen.

1 The defendant is charged with armed robbery.
2 He's charged with taking that computer and using a weapon
3 to do it. And he used a weapon with Ms. Smith. She's
4 going to tell that you.

5 And he's charged with possession of a weapon
6 during a violent crime. That box cutter, that's the
7 weapon.

8 That's the evidence the State is going to show
9 you. You're going to hear the testimony, you're going to
10 see the video. And at the end of the day, ladies and
11 gentlemen, you're going to find that the defendant is
12 guilty of armed robbery and possession of a weapon during
13 a violent crime.

14 Thank you.

15 THE COURT: Thank you very much, Solicitor.

16 Mr. Cornwell.

17 MR. CORNWELL: May it please the Court.

18 Why? The State intends to show you a lot of
19 stuff. You know, they are right, Mr. Perry went into
20 Walmart on that day and he took a computer and he didn't
21 pay for it, and he confessed to the same.

22 The Solicitor's also right, one detail could
23 change the whole thing, because if it wasn't for that one
24 detail, we wouldn't be here today, because Mr. Perry says
25 that he did not have a box cutter. Mr. Perry also says

1 that he didn't tell Mr. Wade that he had a box cutter that
2 day. Mr. Perry's going to get on the stand and tell you
3 that. No, he doesn't have to; they have to prove that
4 that happened.

5 What you're going to see, you're going to see a
6 video. Yes, you are. You're going to see a video of the
7 entire confrontation between Ms. Smith and my client,
8 Mr. Perry Buchanan.

9 What you see in that video, of course we have
10 different interpretations. That's why we're here today.

11 You're going to hear testimony from Ms. Smith.
12 You're going to hear testimony from the officers involved.

13 But the main thing, the most important testimony
14 you'll hear today is probably going to be from Ms. Smith
15 because she's the person who actually encountered my
16 client.

17 She's going to make statements about what
18 happened that day. The investigator's going to make
19 statements about what happened that day. It's our
20 position that in this case, the video simply doesn't show
21 what they talk about.

22 Usually in cases like this, as a defense
23 attorney I can tell you that video is not our friend at
24 all. You've seen the shows, cops busting on TV, people
25 doing stupid stuff on video, and to be honest with you,

1 95 percent of the time that's exactly how it happens to
2 me. I can only speak from experience.

3 I saw this video and I believe that man. That
4 video --

5 MS. DIXON: Your Honor, objection.

6 THE COURT: All right. Ladies and gentlemen,
7 the issue of credibility is an issue to be determined by
8 the jury and the jury alone. It's not to be determined by
9 any of the attorneys or not to be determined by the Court.
10 You are the judges of the credibility or the believability
11 of the witnesses in the case.

12 Thank you, Mr. Cornwell, Solicitor. You may
13 continue.

14 MR. CORNWELL: May it please the Court.

15 And I'm glad that the judge clarified that
16 because I was going to say, I'm sure that you'll be
17 convinced after viewing this video and hearing all the
18 facts and evidence, hearing all the testimony, if you look
19 at this video, you're not going to see a man with a blade
20 in his hand. You're not going to see a man swinging a
21 blade at a person. You're not going to see a man
22 assaulting anybody.

23 You're going to see a shoplifter trying to get
24 out of Walmart with his recently stolen purchase.

25 You're not going to see him make any kind of

1 aggressive maneuvers towards the cashier at all.
2 Everything he does in the video is to avoid the
3 confrontation. He tries to get around her. He tries to
4 maneuver his cart so that she can't look in it. He tries
5 everything in his power to not be in that situation.

6 You know why? Because as a person who shoplifts
7 this item, he knew he had to get out of there quick. He
8 doesn't have time to pull out knives on people. Don't you
9 think if he was robbing the place and he had a weapon that
10 we'd see it?

11 This is my client, Perry Buchanan. He's not
12 guilty, and I think you'll agree with me when you see that
13 video.

14 Thank you.

15 THE COURT: Thank you, Mr. Cornwell.

16 Solicitor, you may call your first witness.

17 MS. DIXON: Thank you, Your Honor.

18 The State calls Shirley Smith.

19 THE COURT: Ms. Smith, would you mind -- Ms.
20 Smith, I'm sorry, would you go step back?

21 All right. I'm going to ask the jury to step
22 out momentarily to your jury room. Do not discuss the
23 case during this brief recess.

24 Madam Clerk, would you deliver this message to
25 the particular juror -- you may go with your bailiff --

1 and allow that call to be made.

2 (The jury left open court at approximately 12:35
3 p.m.)

4 THE COURT: I apologize, Solicitor,
5 Mr. Cornwell. I received a note from the Clerk's office
6 that one of the jurors, Mr. Hampton, needed to call home
7 and it appeared that it was something that needed to be
8 done as soon as possible. I apologize to Ms. Smith. And
9 we'll wait and see where we go from there.

10 MS. DIXON: Yes, sir.

11 THE COURT: All right. We'll just be on standby
12 until we hear back from our jury. Because we may start
13 back before lunch. Let me see how I have to deal with
14 him, all right?

15 Thank you.

16 MS. GARRICK: Yes, sir.

17 MR. CORNWELL: Thank you.

18 (A break was taken.)

19 THE COURT: I talked with Mr. Hampton. It's
20 some concerns about his work, not his work ethic, but his
21 work because he works for himself so he's going to work
22 after court and he's going to stay with us right now. Of
23 course, that being said, Solicitor, I assume Ms. Smith is
24 not going to be up there 15 minutes.

25 MS. DIXON: No, sir. She'll probably be up

1 there. She's probably our longest witness.

2 THE COURT: All right. Well, I hate for her to
3 have to face a break, but perhaps it would be prudent --
4 either way we're not going to finish by 1 o'clock -- if
5 we'd just take our recess now.

6 MS. DIXON: Okay.

7 THE COURT: I'll bring the jury back out, send
8 them to lunch, and we'll just start back fresh this
9 afternoon.

10 All right. Bring us our jury, please.

11 (The jury came into open court at approximately
12 12:43 p.m.)

13 THE COURT: All right. Welcome back, ladies and
14 gentlemen. I apologize for that brief delay. However,
15 given the hour, I do not think we'll finish this witness
16 by 1 o'clock, which is normally my lunch, the time I
17 normally break for lunch. So I think now would be a good
18 time to take our luncheon recess.

19 Please remember that you shall not discuss this
20 case with anyone; that includes your fellow jurors, lunch
21 mates, family, friends, or anyone else. If anyone tries
22 to talk with you about the case, please let me know
23 immediately.

24 Do not read, watch, or listen to any news
25 reports about the case should there be any.

1 You may not use a computer, cellular phone, or
2 other electronic device with communication capabilities
3 while in attendance at trial or during deliberations. You
4 may use these devices during your lunch breaks, but you
5 may not use them to obtain or disclose prohibited
6 information.

7 Prohibited information is information about a
8 party or a witness or an attorney or a court officer, news
9 accounts of the case, information collected through your
10 research on any topics raised or testimony offered by any
11 witness or information collected through your research on
12 any other topic that you might think would be helpful in
13 deciding the case.

14 Basically you can't do any investigation on the
15 Internet or any investigation on your own.

16 Please remember to keep an open mind about the
17 case. Do not begin your deliberations until you're
18 instructed to do so by the Court.

19 I would ask you to please be back at 2:15. If
20 you'd please be back in your jury room at 2:15.

21 You're now excused. I hope you all have a
22 pleasant lunch.

23 Thank you very much.

24 (The jury left open court at approximately 12:47
25 p.m.)

1 THE COURT: Anything further, Solicitor?

2 MS. GARRICK: No, Your Honor.

3 THE COURT: Mr. Cornwell?

4 MR. CORNWELL: No, Your Honor.

5 THE COURT: All right. 2:15. Thank you very
6 much.

7 MR. CORNWELL: Thank you.

8 MS. GARRICK: Thank you, Your Honor.

9 (A lunch break was taken.)

10 (WHEREUPON, State's Exhibits Nos. 1 through 10
11 were pre-marked for identification only.)

12 THE COURT: All right. Anything from the State
13 before we bring in our jury, Solicitor?

14 MS. GARRICK: No, sir, Your Honor.

15 THE COURT: From the defense?

16 MR. CORNWELL: No, Your Honor.

17 THE COURT: All right.

18 (The jury came into open court at approximately
19 2:19 p.m.)

20 THE COURT: All right. Welcome back. I hope
21 you all had a pleasant lunch.

22 Solicitor, you may now call your first witness.

23 MS. DIXON: Thank you, Your Honor.

24 The State calls Shirley Smith.

25 THE COURT: All right. Ms. Smith, if you'd come

1 around, please, and be sworn.

2 THE CLERK: Raise your right hand.

3 SHIRLEY SMITH, after being duly sworn, testified
4 as follows:

5 THE CLERK: Have a seat, please, ma'am. Ma'am,
6 once you're seated, need you to speak up loud and clear
7 stating your full name and spelling your last on the
8 record, please.

9 THE WITNESS: My name is Shirley Ann Smith. And
10 my last name is spelled S-M-I-T-H.

11 DIRECT EXAMINATION

12 BY MS. DIXON:

13 Q Ms. Shirley, where do you work?

14 A I work at Walmart in West Columbia, South Carolina.

15 Q And how long have you worked there?

16 A Going on eight years.

17 Q What do you do at Walmart?

18 A I work in five different departments. I cashier.

19 Q And what are those five departments that you work in?

20 A I work in the Garden Center, Celebrations,
21 Stationery, Fabrics and Crafts, and Clearance.

22 Q So were you working on March 12th of 2010?

23 A Yes, ma'am.

24 Q And can you tell me where you were stationed that
25 day?

1 A That day I was working the cash register in the
2 garden center.

3 Q Explain for the jury, for those of the jury who
4 haven't been to the West Columbia Walmart, how is the
5 garden center set up?

6 A You have -- as you come in from the store, you have a
7 garden center and then you go out the first door and
8 you've got a patio room one and a patio room two, but when
9 you go out the first door, you can go straight out the
10 second door.

11 Q Okay. So if I understand right, there's an inside of
12 the garden center and then the patio area?

13 A Yes, ma'am.

14 Q And where are the cash registers located?

15 A They're located in the inside, in the -- as you come
16 out the inside of the store, on the first -- I call it the
17 first room.

18 Q Okay. And about how far from the door between the
19 inside garden center and the patio area are those cash
20 registers?

21 A Which door? You talking about the first door?

22 Q The door between the garden center and the patio
23 area.

24 A Okay. The cash registers are -- like if this is the
25 door, the cash registers are right here.

1 Q Okay. And you say -- how many feet would you say?

2 A I would say probably five feet.

3 Q Okay. So it's pretty close?

4 A It's close.

5 Q Okay. And from your position at the cash register,
6 are you able to see people coming and going through that
7 door?

8 A You can see people coming and going. I do believe I
9 was on the first register, which is 71. I can see people
10 coming from the inside the store out this way and people
11 coming from the left side of me.

12 Q Okay. And while you were working that cash register
13 on March 12th of 2010, did you notice anything unusual?

14 A Yes, ma'am.

15 Q And what was that?

16 A I noticed to my left -- I was running the register
17 and I noticed to the left, I saw a buggy coming with a
18 large electronic item in it.

19 Q And what did you do then?

20 A I excused myself from the customers because I knew I
21 had sent Mr. Williams outside to get two propane tanks and
22 I knew I should check the receipt. So I excused my
23 customer so that I could go and ask for a receipt.

24 Q Okay. You said that you had sent Mr. Williams
25 outside. Who's Mr. Williams?

1 A Mr. Curtis Williams sitting in the blue shirt.

2 Q And what was he doing that day?

3 A He was the door greeter at the second outside door.

4 Q And what was his job as the door greeter?

5 A He was supposed to greet the customers and check
6 receipts.

7 Q Okay. So at that point Mr. Williams wasn't stationed
8 there to check the receipts and you did what?

9 A I checked the receipt. I went to check the receipt
10 myself because I knew that he was busy doing something.

11 Q Okay. Can you describe for me the person that was
12 pushing that buggy with the large electronic device in it?

13 A He was a darker male and he was taller than me. And
14 he had a black and white cap on. He had a black jacket on
15 with some design on it.

16 Q Okay. And where did he go with the buggy?

17 A He passed on the left side of me. I caught him out
18 of my vision. He passed on the left side. And he was
19 going to exit the first door when I excused myself from
20 the customers to go ask him for the receipt.

21 Q And did you ask him for the receipt?

22 A Yes, ma'am, I did.

23 Q What was his response?

24 A His response was, "I got it, they got it," and I knew
25 that -- I asked him again, but that's -- "I still need to

1 see your receipt."

2 Q Did he show you a receipt?

3 A No, ma'am.

4 Q Okay. The second time you said you asked him, "I
5 still need to see your receipt."

6 A Yes, ma'am.

7 Q What happened then?

8 A Well, they -- he started saying, "Well, you can't
9 touch my buggy, you can't touch me." And at that point I
10 stepped back a little bit and I says, "I'm not going to
11 touch you and I'm not going to touch your buggy, but you
12 can't leave with the merchandise without showing a
13 receipt."

14 Q Okay. At this point when you all are having this
15 conversation, where are you located?

16 A Just outside of the first door in the patio.

17 Q Okay. So it's still a covered area; is that right?

18 A Yes, ma'am.

19 Q Okay. You say, "I'm not going to touch you, I'm not
20 going to touch your buggy, show me your receipt." What
21 happens then?

22 A Well, then he tries to get around me and I would step
23 back in front of the cart making sure I didn't touch
24 either one. And it was like going around and, you know, I
25 would step -- he would try to get around me and I'd step

1 back in front of him.

2 Q Okay. At some point did he say anything else?

3 A When he saw that I wasn't relinquishing, he reached
4 down -- he reached out, it looked like his jacket, and he
5 pulled out a yellow box cutter and he brought it out
6 down -- may I stand up?

7 THE COURT: Yes, ma'am, you may stand up.

8 THE WITNESS: He brought it out the jacket
9 pocket and he -- the customers in my line were behind me.
10 So he had it down here where no one could see it and the
11 blade was out. And he says, "Is this worth you getting
12 all cut up over?"

13 BY MS. DIXON:

14 Q Okay. Now, you said it's a yellow box cutter. About
15 how far away from him were you at this point?

16 A Not very far.

17 Q Were you able to clearly see what he had in his hand?

18 A Yes, ma'am.

19 Q And did it frighten you?

20 A Yes, ma'am.

21 Q Okay. You see him holding this yellow box cutter.

22 A Yes, ma'am.

23 Q He makes that statement to you. What happened next,
24 Ms. Shirley?

25 A I was sort of in shock. I couldn't believe it. And

1 I looked to him and I says, "Well, you still can't leave
2 the store without showing a receipt."

3 Q Okay. And at this point he's got a box cutter, you
4 tell him he's still not leaving. What happens next?

5 A The box cutter came up a little further. At that
6 point I guess he didn't like that, so he brought it up
7 from there up a little bit higher and he said about "Is
8 this worth you getting cut up over?" And at that point,
9 you know, everything's sort of frozen and you just --
10 people react differently. I just sort of stepped back and
11 I just walked -- I got out of the way and I went to the
12 phone and called for a member of management immediately.

13 Q And you did that using the phone system in the
14 Walmart?

15 A We have a phone out in the garden center. I just
16 made a page for a member of management immediately.

17 Q And did someone from management come to the garden
18 center?

19 A The first person I saw was Dean Edgeworth. He -- I
20 excused myself again from the customers and I walked up to
21 Dean and I told him, I said, "He's got an electronic -- a
22 TV or electronic item and he pulled a blade on me."

23 Q Okay. After you walked away from this man who had
24 the box cutter, did you see him again that day?

25 A Yes, ma'am, I did.

1 Q Okay. And tell me about that.

2 A I went -- it was on 12th Street and I went and
3 identified him.

4 Q Okay. So after you spoke with Dean at Walmart, did
5 the police come to Walmart that day?

6 A Yes, ma'am.

7 Q Did you talk with an investigator?

8 A Investigator Wade.

9 Q Okay. And how did you get to 12th Street?

10 A I rode with Investigator Wade.

11 Q Okay. When you got to 12th Street, who, if anyone,
12 did you see there?

13 A I saw Mr. Buchanan.

14 Q What was he wearing?

15 A At the -- at the moment he didn't have the cap on and
16 I do believe he had the black jacket on. And I asked
17 Detective Wade, I said, "Did you find the cap?" because it
18 was a black and white cap. And he radioed and he asked
19 them. And I says, "Would you please get him to put the
20 cap on?" and they did.

21 And after I identified him, I said, "Detective
22 Wade, did you all find the blade with the yellow handle?"
23 And the officers come to the car window and they told him
24 yes, they had found the blade.

25 Q And how sure are you that the person you identified

1 that day is the person that pulled the box cutter on you.
2 in Walmart?

3 A A hundred percent.

4 Q Can you identify him here in court today?

5 A He's sitting over there by his attorney.

6 MS. DIXON: Your Honor, let the record reflect
7 that the witness has identified the defendant.

8 THE COURT: So reflected, yes, ma'am.

9 BY MS. DIXON:

10 Q Ms. Shirley, I want to ask you -- I'll hand you this
11 and see if you can identify it for me. Do you recognize
12 this hat?

13 A Am I supposed to touch it?

14 Q Yes, you can.

15 A Yes, that's it. That's the cap.

16 Q This is the hat that the defendant was wearing that
17 day?

18 A It was black and white.

19 Q Okay. I'm going to ask you if you recognize this.

20 A Yes, I do. Because if you look, it's got the inside
21 design that I could see.

22 MS. DIXON: Your Honor, for the record, these
23 have been marked as State's Exhibits 7 and 8 for
24 identification. The hat is No. 7 and the jacket is No. 8.

25 THE COURT: All right.

1 BY MS. DIXON:

2 Q Ms. Shirley, was this the hat and the jacket that the
3 defendant was wearing the day he pulled the box cutter on
4 you?

5 A Yes, ma'am.

6 Q Ms. Shirley, I'm going to show you something else.
7 This has been marked as State's Exhibit 6 for
8 identification. Do you recognize this item?

9 A The blade cutter.

10 Q And is this similar to the one that he pulled on you
11 that day?

12 A Yes, ma'am. The blade was sticking out.

13 MS. DIXON: Okay. And this is again State's
14 Exhibit 6 for identification.

15 BY MS. DIXON:

16 Q Ms. Shirley, are you aware, does Walmart have
17 security video in the store?

18 A Yes, ma'am, they do.

19 Q And does that include the garden center?

20 A Yes, ma'am.

21 Q I've got a disc here that we've pre-marked as State's
22 Exhibit 3 for identification. Do you recognize this disc?

23 A Yes, I do.

24 Q And how do you recognize it?

25 A It's got my initials on it.

1 Q Have you watched what's on this disc?

2 A Yes, ma'am.

3 Q And is this an accurate representation of what
4 happened that day?

5 A Yes, ma'am.

6 MS. DIXON: Your Honor, at this time we'd move
7 State's Exhibit 3 into evidence, the security video.

8 THE COURT: Mr. Cornwell?

9 MR. CORNWELL: No objections, Your Honor.

10 THE COURT: State's 3 in evidence without
11 objection.

12 MS. DIXON: Thank you, Your Honor.

13 If I could have the Court's indulgence for just
14 a minute. I'd like to publish it to the jury.

15 THE COURT: Yes, ma'am.

16 (WHEREUPON, State's Exhibit No. 3 was admitted
17 into evidence.)

18 (Pause.)

19 (WHEREUPON, State's Exhibit No. 3, the DVD, was
20 published for the jury but not transcribed.)

21 BY MS. DIXON:

22 Q All right. Ms. Shirley, I've got a number of
23 different videos. I'm going to show you the first one,
24 and if you could, describe to the jury what they're seeing
25 on this video.

1 THE COURT: Do you want the lights dimmed,
2 Solicitor?

3 MS. DIXON: It would help, Your Honor.

4 THE COURT: All right. Mr. Knight.

5 BY MS. DIXON:

6 Q All right. Ms. Shirley, can you tell us where this
7 camera is located?

8 A At the first door going out in the patio.

9 Q Okay. And so is this the interior of the Walmart?

10 A That's the inside where the registers are.

11 Q And what's that up at the top of the screen?

12 A The two registers.

13 Q Okay. I'm going to play it, Ms. Shirley, and if you
14 could, just tell the jury what they're seeing as this
15 video plays.

16 A That's Mr. Buchanan with the electronic item. That's
17 me coming to ask him for the receipt.

18 Q And so did you follow him out that door?

19 A Yes, ma'am.

20 Q All right. Ms. Shirley, before I play this one, can
21 you explain to the jury what they're seeing here?

22 A That's the patio. This way would be the first door.
23 That's the aisle that leaves out to the door out to the
24 outside.

25 Q Okay. When you say "this way," just to make it

1 clear, is it the left side of the screen or the right side
2 of the screen that goes to the inside of the store?

3 A The left side. The left side comes inside to the
4 cash registers.

5 Q And the right side would go where?

6 A Outside.

7 Q Ms. Shirley, I'm going to play this through one time
8 and just let the jury watch it. So if you could just
9 explain to them what's happening while they watch the
10 video.

11 A That's Mr. Buchanan with the merchandise. That's me
12 asking him for his receipt. And he's telling me, "They've
13 got it, I've got it," and I'm telling him I still need to
14 see a receipt. And we go around and around and I'm trying
15 to block him from getting out with the merchandise. And
16 there -- okay. That -- at the moment, can you back up?

17 Q Yes, ma'am. Tell me when you need me to stop it.

18 A Okay. And when I get around and to the buggy, there
19 he pulled something out of his pocket. After he swirled
20 that buggy around he pulled something out of the pocket.

21 Q Is that right here?

22 A Yes. Uh-huh.

23 Q I'm going to continue to play.

24 A And as you see I've got my hands on my hip and he's
25 already there. When you saw him, he swung his arm around

1 and he had the blade and at that point he was saying
2 twice, "Is this worth you getting cut up over?"

3 Q All right. Ms. Shirley, it's kind of hard to see so
4 I'm going to try and back it up for the jury and stop it
5 in the right place.

6 A Uh-huh. It was the right hand. And we were already
7 talking when you see he raised that right hand up and he
8 had the blade in it there.

9 Q And so which hand did he have the box cutter in?

10 A The right hand.

11 There he swung it out. You'd have to back up
12 it's so fast.

13 Q It's kind of hard to see on the video?

14 A Oh, yes, ma'am.

15 Q Do you remember it pretty well?

16 A I remember he pulled that blade out low and then he
17 pulled it up and each time he told me, "Is this worth you
18 getting cut up over?"

19 Q All right. Ms. Shirley, I'm going to continue to
20 play this through the end of the video. So if anything
21 else important comes up, you just let me know.

22 A At that point he had swung around and he had the
23 blade in his hand and at that point I had gave up. I knew
24 it was beyond me so I left and went inside for help.

25 There goes T.J.

1 Q And who's T.J., Ms. Shirley?

2 A He was another employee.

3 Q Okay. Was he working in the garden center that day?

4 A He must have been taking a break in the swing.

5 Earlier you saw him running in the store because I had
6 hollered at him, I said, "T.J." He had his earphones on
7 and he was sitting in the swing. I says, "Go call
8 security." So he went there and he was calling the
9 fitting room. I says, "T.J., give me the phone." So I
10 called for a member of management immediately.

11 Q I'm going to show you one more video, Ms. Shirley, if
12 you'll just bear with me.

13 And can you tell us real quick what this is a
14 view of?

15 A That's a view of the first patio. That's where the
16 area is, that's the entrance into the inside of the garden
17 center.

18 Q Okay. And that door at the top, where does that go?

19 A The door you see visibly is outside.

20 Q Can you identify the people at the bottom of the
21 screen, Ms. Shirley?

22 A To the left is me and to the right is Mr. Buchanan.

23 Q At this point does Mr. Buchanan have the box cutter
24 in his hand?

25 A If we go on -- can you back it up?

1 Yes, there it is. He's got it.

2 May I stand up?

3 THE COURT: Yes, ma'am.

4 THE WITNESS: He's standing there and he's got
5 his -- there's an object like this and he's got his hand
6 in the middle of it, it looks like, and that was the box
7 cutter, and it was yellow.

8 BY MS. DIXON:

9 Q So that light object in his right hand?

10 A That's in his right hand.

11 Q Is that the box cutter?

12 A Because this is his left and he's got the box cutter
13 like that.

14 Q And that's the box cutter that you saw?

15 A Yes. He never put it away. It was out ever since he
16 made the first comment.

17 Q Ms. Shirley, the electronic device that he had in his
18 cart, do you know what that was?

19 A At the time I thought it was a TV because it was a
20 big enough box to be a TV, but I knew it was a TV or
21 electronic device, but I found out it was an \$848
22 computer.

23 Q Ms. Shirley, I'm going to show you a couple of
24 pictures. The first is marked State's Exhibit 2 for
25 identification. Can you identify that for me?

1 A Yes. That's Mr. Buchanan and that's the computer in
2 the cart.

3 Q And is this a still that came off of the video we
4 just watched?

5 A Yes, ma'am.

6 Q Okay. And I'm going to ask you to identify State's
7 Exhibit 1, please.

8 A Yes. Identify it? That's the blade, the box cutter
9 with the extended blade. And that's the computer and
10 that's Mr. Buchanan.

11 Q And is this a close-up of this still?

12 A Yes, ma'am.

13 MS. GARRICK: Your Honor, at this point we'd
14 move State's Exhibits 1 and 2 into evidence.

15 THE COURT: Mr. Cornwell?

16 MR. CORNWELL: No objections, Your Honor.

17 THE COURT: State's 1 and 2's in evidence
18 without objection.

19 (WHEREUPON, State's Exhibits Nos. 1 and 2 were
20 admitted into evidence.)

21 MS. DIXON: Thank you, Your Honor.

22 Ms. Shirley, I think at this point that's all
23 the questions I have for you. If you'd answer any
24 questions Mr. Cornwell has.

25 THE COURT: Thank you, Solicitor.

1 Mr. Cornwell.

2 MR. CORNWELL: If it please the Court, Your
3 Honor.

4 CROSS-EXAMINATION

5 BY MR. CORNWELL:

6 Q Do you remember approximately what time it was when
7 this altercation took place?

8 A The precise time?

9 Q Yes, ma'am.

10 A Not the precise time, but the day I do. It's
11 March the 12th of 2010.

12 Q All right. Now, after this happened, did you have an
13 opportunity to -- you were interviewed by Mr. Wade you
14 said?

15 A Yes, I was interviewed by Mr. Wade, Detective Wade.

16 Q And about how long after the incident did that take
17 place?

18 A That Mr. Wade interviewed me?

19 Q Yes.

20 A Not long.

21 Q Did you say about an hour or so?

22 A Well, after it happened, I went and identified and
23 then I went back, and then Mr. Wade -- I went to the West
24 Columbia Police Department and talked with Mr. Wade.

25 Q All right. When you were talking with Mr. Wade, did

1 you have an opportunity to view the box cutters?

2 A No, I never saw the box cutters when I was talking
3 with Mr. Wade.

4 Q And earlier you testified that you had asked him
5 about the box cutters when they took you to the -- pick up
6 the client, pick up Mr. Buchanan?

7 A When I went to 12th Street, I identified
8 Mr. Buchanan. And I asked him -- after I had already
9 identified Mr. Buchanan, I asked him, I said, "Well, did
10 you get the yellow blade?" That's when he asked the
11 officers and they came to his car window and told him yes,
12 they had found -- got the blade.

13 Q And did you see the blades at that time?

14 A No, I was not shown the blades.

15 Q Okay. Now, you had an opportunity to speak with Mr.
16 Wade at the West Columbia Police Department. Did you have
17 an opportunity to view the video then?

18 A No, I don't think I viewed the video at that time.

19 Q Did you see it beforehand?

20 A No.

21 Q When did you get a chance to view the video?

22 A I viewed the video -- it was just recently.

23 Q So you're telling me you've never seen the video
24 before recently?

25 A It was just recently. I never saw the video.

1 The only time is when they came -- I was at the
2 cash register and they came and got me from the back and
3 took me to the little TV room. The security people were
4 watching it, but I didn't get to see it.

5 Q Was this before or after your interview with Mr.
6 Wade?

7 A That's where I met Detective Wade for the first time.

8 Q And they were already viewing the video?

9 A The security people were scanning the video.

10 Q Okay. Now, in the video and in your testimony and in
11 your statement you mention the fact that you were afraid
12 for your life.

13 A Yes, sir. It scared me. I was sort of -- like I
14 said, I was in shock. I didn't believe -- you know, you
15 never believe something like that, at the moment this
16 isn't happening, you know. That's how I felt.

17 Q Now, also on your statement it said that you had seen
18 Mr. Buchanan before. Could you kind of enlighten us on
19 that?

20 A You want me to go --

21 MS. DIXON: Your Honor, if we may approach for
22 one moment.

23 THE COURT: Yes, ma'am.

24 (A bench conference was held with the judge and
25 attorneys in the presence of the jury but out of the

1 hearing of the jury.)

2 THE COURT: Thank you, Solicitor.

3 Thank you, Mr. Cornwell. You may ask your next
4 question.

5 MR. CORNWELL: Thank you, Your Honor. Beg the
6 Court's indulgence.

7 THE COURT: Yes, sir.

8 (Pause.)

9 BY MR. CORNWELL:

10 Q Earlier you testified that during this altercation,
11 my client had his back to the camera and -- is that
12 correct?

13 A In what part?

14 Q The part where he pulls the blade, allegedly pulls
15 the blade out on you, you said that he had his back to the
16 camera?

17 A What it seemed to be -- can I stand up and show you?

18 Q That's fine.

19 THE COURT: Yes, ma'am, you can stand up.

20 THE WITNESS: Okay. When he pulled the blade,
21 he was out this way and he pulled the blade out of his
22 jacket pocket and he came around. So it was like he was
23 halfway like this. The first time he had -- the first
24 time I saw the blade, and then the second time I saw it,
25 he had pulled it up, pulled it out like this.

1 BY MR. CORNWELL:

2 Q And in your statement, did you make mention of any of
3 this?

4 A About the blade?

5 Q About the manner in which the blade was pulled out.

6 A I made mention that he had pulled the box cutter and
7 that he had threatened to cut me up. And then I mentioned
8 that the box cutter, he pulled it a little bit higher up
9 and he said again, "Is this worth you getting cut up
10 over?" And when I went to -- I said this -- you know, I
11 gave up, he had -- when he turned around, he swung it --
12 he had it still in his hand.

13 Q Now, did you say he pulled it higher up or did you
14 say he swung at you?

15 A To me, like I said, it was like I was in shock and
16 it -- when he pulled the blade down and the knife -- the
17 box cutter, it was down low and the blade was sticking out
18 and he made the first threat about cutting me up. Then
19 the second time, the blade was more visible because he
20 held it -- instead of being low, it came upward and he
21 threatened me again.

22 Q When you came out for the first encounter with
23 Mr. Buchanan in the patio, did you notice anything in his
24 hands at all or was the blade the first thing you saw?

25 A When Mr. Buchanan came by my cash register and when

1 he passed by, I noticed that there was a big object, an
2 electronic device in his cart, and I noticed him as he
3 went by, and just instinctively I knew that Mr. Williams
4 was outside doing -- getting the tanks, so I said to
5 myself, I need to check this.

6 Q And maybe I wasn't clear.

7 A Okay.

8 Q I'm talking specifically when you encountered him in
9 the patio, the encounter we see on the JamCam in
10 particular --

11 A Uh-huh.

12 Q -- did you notice anything in his hands before?

13 A When I came in contact with Mr. Buchanan in the
14 patio, when I asked for the receipt, that's -- when I
15 first asked for the receipt he was telling me, "They got
16 it, I got it," the blade came out right -- it was after
17 that.

18 Q How soon after you got to the patio would you say
19 that happened?

20 A To me, being, you know, something like that, you're
21 sort of -- when they won't give you a receipt right away
22 and they start making excuses, it seems like it's a little
23 bit more time, but it all was bam, bam, bam. It was all
24 fast and all together.

25 Q Now, you said that there was a swipe or he swiped

1 this blade at you and you pointed out on the video where
2 this swing took place. Could you kind of refresh our
3 memory as to when that happened? I'm playing the video
4 right now.

5 A Right there.

6 Q All right.

7 A Okay. It was before Terrance, T.J., walked off. All
8 that happened in a brief short time span.

9 Q Now you mentioned T.J. Is that his name, Terrance?

10 A Terrance Boykin.

11 Q All right. You mentioned his name. And in your
12 statement you said that you saw T.J. in the swing and
13 said, "T.J., call security." And this is after he swung
14 the blade at you?

15 A He had already pulled the blade out and made the
16 statement that, "Is this worth you getting cut up over?"
17 He had done everything. And when I looked over -- when I
18 had gave up and was going to walk off, I looked over and
19 then saw T.J. in the swing. That's when I had already
20 just -- this is it, you know, and I backed up and to walk
21 off.

22 Q So when T.J. left is when you told him to call
23 security?

24 A When I looked over and saw T.J. in the swing, I
25 hollered at T.J. and I said, "T.J., call security."

1 There he had his arm up and I walked off.
2 That's when he swung around and he had that blade still in
3 his hand.

4 There you see the arm extended. He had his back
5 to my customers at the register.

6 Q Are you saying right here he has a blade in his hand
7 or just noting his position?

8 A He had probably -- at that time when he put -- he had
9 to pull it out. He pulled it out of his pocket and I
10 walked around a little bit more to the front of him. I
11 noticed -- I saw the blade when I was right -- we were
12 sort of face-to-face.

13 Q Now, just kind of going back to this portion of the
14 video, right when you called T.J.

15 A You want me to tell you when I called T.J.? I've
16 already told him because there he goes.

17 Q I notice Mr. Buchanan kind of leaning back. It
18 doesn't look like he's really doing anything at that
19 point.

20 A He's already done it at that point.

21 Q Are you saying that right before then is when he
22 pulled the blade out?

23 A The blade was out. He had already pulled it out and
24 it stayed out.

25 Q So he never put the blade back in?

1 A He never put the blade back up.

2 Q Did T.J. see the blade?

3 A I never asked T.J. about that.

4 MR. CORNWELL: Beg the Court's indulgence.

5 THE COURT: Yes, sir.

6 (Pause.)

7 BY MR. CORNWELL:

8 Q I notice in your statement also that you said you
9 walked off and that's when he ran off?

10 A Repeat that.

11 Q In your statement, you said that you walked off once
12 you saw the blade and he took off.

13 A After he had already pulled the blade low and then
14 higher and made the two statements, after the second time
15 he pulled it up higher and made the statement I gave up
16 and I -- at that time I went back there, back to the
17 registers, got on the phone and called for management.

18 Q And so are you saying that after you tried to stop
19 him twice that's when you went back to management, or are
20 you saying that the video is not showing what's happening?

21 A When you see me walking back there, walking back
22 inside the store, I had gave up because I knew it was
23 beyond me and I went back in and called for management.

24 MR. CORNWELL: No further questions, Your Honor.

25 THE COURT: Thank you.

1 Redirect, Solicitor?

2 MS. DIXON: Briefly, Your Honor.

3 REDIRECT EXAMINATION

4 BY MS. DIXON:

5 Q Ms. Shirley, since you saw the box cutter in the
6 defendant's hand on March 12th, when is the next time
7 that you saw that box cutter?

8 A The next time I saw the box cutter was here this
9 year. It was this month.

10 Q Okay. When you told West Columbia Police Department,
11 when you were speaking with Investigator Wade the day of
12 the incident, how did you describe the box cutter to him?

13 A I told him it was an older-type box cutter and that
14 it was yellow or gold in color.

15 Q And was that before or after you went to West
16 Columbia to identify the defendant?

17 A I told him -- I told everybody the description of the
18 box cutter before I even talked with Detective Wade. The
19 first person that I saw that I described it to was Dean
20 Edgeworth. When he came after I called for management,
21 he's the first person I saw coming toward me and I said,
22 "He's got a TV or electronic device and he pulled a blade
23 on me."

24 Q Okay. When is the first time you described it as
25 yellow?

1 My question is this. Did you tell Investigator
2 Wade that it was a yellow box cutter before or after you
3 identified the defendant?

4 A I told him it was a yellow box cutter before -- let
5 me see.

6 Like I said, I told everybody that it was a
7 yellow box cutter before I had an interview with Detective
8 Wade. And then -- because also when I went to identify
9 Mr. Buchanan, I asked him after I had identified him, I
10 said, "Detective Wade, did you all find a yellow box
11 cutter?"

12 Q Now, Mr. Cornwell had asked you a question about T.J.,
13 somebody you used to work with. During this altercation,
14 how far away from Mr. Buchanan were you?

15 A Not far.

16 Q Okay. And how far away from Mr. Buchanan was T.J.?

17 A Not far.

18 Q Okay. Was T.J. further than you?

19 A I was -- excuse me. I was standing right here. T.J.
20 was in the swing about where he was sitting.

21 Q Is it safe to say, Ms. Smith, that you were closer
22 than T.J. was?

23 A Right.

24 Q Okay. I know that we've watched the video probably a
25 dozen times now and it's hard to see on there. But,

1 Ms. Smith, how sure are you that Mr. Buchanan had a box
2 cutter on March 12th of 2010?

3 A I'm one hundred percent sure, and I tell you that
4 with my life. He had a box cutter and the blade was out
5 and it was yellow.

6 MS. DIXON: Thank you.

7 THE COURT: Recross, Mr. Cornwell?

8 MR. CORNWELL: One second, Your Honor.

9 RECCROSS-EXAMINATION

10 Q After this altercation, you went right back to work
11 ringing up customers?

12 A I'm a dedicated employee at Walmart, they're my
13 customers. I was shaken visibly and, you know, they knew
14 something was wrong because they stood back there and
15 watched it and I tried to go back.

16 When the altercation happened, I went and called
17 for a member of management immediately and I was -- yes, I
18 went back to checking out my customers because I knew Dean
19 Edgeworth -- that security and everybody else was handling
20 it.

21 MR. CORNWELL: Okay. No further questions, Your
22 Honor.

23 THE COURT: Thank you.

24 Thank you very much, Ms. Smith. You may step
25 down.

1 All right. Solicitor, you may call your next
2 witness.

3 MS. GARRICK: Your Honor, we'd call Curtis
4 Williams.

5 THE COURT: All right. If you'd come around for
6 us and be sworn, please, Mr. Williams.

7 CURTIS WILLIAMS, after being duly sworn,
8 testified as follows:

9 THE CLERK: Once you're seated, you need to
10 speak up loud and clear. State your full name, spelling
11 your last, please.

12 THE WITNESS: My name is Curtis Lee Williams,
13 Jr. W-I-L-L-I-A-M-S.

14 DIRECT EXAMINATION

15 BY MS. GARRICK:

16 Q Good afternoon, Curtis. How are you?

17 A All right.

18 Q Where do you work?

19 A West Columbia Walmart.

20 Q And how long have you worked at that Walmart?

21 A About two years.

22 Q And are you still currently employed at Walmart?

23 A Yes.

24 Q And do you know Ms. Shirley?

25 A Yes.

1 Q And did you know Terrance Boykin?

2 A Yes.

3 Q Do you know if Terrance still works at Walmart?

4 A No, he doesn't.

5 Q Were you working March 12th of 2010?

6 A Yes, ma'am.

7 Q Do you remember if all these events happened in the
8 morning or the afternoon?

9 A I believe it was, like, in the afternoon.

10 Q Okay. And what kind of -- what did your duties
11 consist of or what were you doing on that March 12th day,
12 where were you stationed?

13 A I was working the door and assisting customers on the
14 floor.

15 Q And when you say you were working the door, Walmart
16 has several different doors. What area were you working
17 in?

18 A The Garden Center's outside patio door.

19 Q Okay. And what, if anything, unusual happened that
20 afternoon?

21 A Well, I was down by the propane tank when I heard
22 yelling and then Terrance Boykin ran to the door and said
23 a customer has stolen an item and that's when I was -- I
24 saw the guy come across the parking lot.

25 Q Let me stop you there. When you say you saw the guy,

1 what caught your attention about him?

2 A Well, when he left the front doors on the outside
3 patio, he ran -- like he jumped on the back of the buggy
4 because it's like a downslope and he was like trying to
5 get to his vehicle quickly.

6 Q Could you describe what kind of clothes the man had
7 on?

8 A It was a black hoodie and a black hat.

9 Q And did you see any kind of altercation that
10 Ms. Shirley went through?

11 A No, ma'am.

12 Q So what first caught your attention was Terrance
13 yelling?

14 A No. I saw the customer go out running across the
15 parking lot first.

16 Q And did you see anything in the buggy?

17 A Yes. I saw a white and a green box.

18 Q And did you see where this customer went with the
19 buggy?

20 A He got into a red truck behind a van.

21 Q Okay. Can you describe what kind of vehicle it was?

22 A It was a Nissan XTerra.

23 MS. GARRICK: If I may approach the witness,
24 Your Honor.

25 THE COURT: Yes, ma'am.

1 BY MS. GARRICK:

2 Q If I could show you what's been marked as State's
3 Exhibit 4 for ID. Can you recognize this vehicle?

4 A Yes.

5 Q Can you tell us what -- is this the vehicle you saw
6 the man get into?

7 A Yes, ma'am.

8 Q And do you know which way it went out of the parking
9 lot?

10 A It circled on the back wall near the Hardee's and
11 turned to go out and made a right-hand turn at the light.

12 Q And as it turned right at the light, would it be
13 going towards Columbia or away from Columbia?

14 A Towards Columbia.

15 Q And who's the next person you talked to there as far
16 as Walmart employees?

17 A I talked to Terrance to try to figure out what
18 happened.

19 Q And did you have occasion to talk to Dean about what
20 happened?

21 A Yeah. When he came out there I told him that
22 Terrance had said someone had stole an item and I said I
23 saw him run across the parking lot and jump into a red
24 truck.

25 Q And were you there when Dean was calling law

1 enforcement?

2 A I wasn't there.

3 MS. GARRICK: Beg the Court's indulgence one
4 moment.

5 (Pause.)

6 MS. GARRICK: Please answer any questions
7 defense may have:

8 THE COURT: Thank you, Solicitor.

9 Mr. Cornwell.

10 MR. CORNWELL: May it please the Court.

11 CROSS-EXAMINATION

12 BY MR. CORNWELL:

13 Q Mr. Williams, did you see the incident between
14 Ms. Smith and my client?

15 A No, sir.

16 Q You didn't observe any altercation at all?

17 A No, sir.

18 Q Could you tell from your viewpoint who was driving
19 the red XTerra?

20 A I didn't know who was driving, but he left the
21 parking lot pretty fast.

22 Q Did you see him actually get in the vehicle?

23 A Yeah.

24 Q And did he get in on the passenger's side?

25 A No.

1 Q He got in the back seat?

2 A Oh, the way he came around the back side, I saw him
3 when he threw it in, and that was it.

4 Q So you didn't actually see him get in the vehicle?

5 A No, because I was walking towards the building.

6 MR. CORNWELL: Okay. No further questions.

7 THE COURT: Thank you, Mr. Cornwell.

8 Redirect, Solicitor?

9 MS. GARRICK: No, Your Honor.

10 THE COURT: Thank you very much, Mr. Williams.

11 You may step down.

12 All right. Solicitor, you may call your next
13 witness.

14 MS. DIXON: Thank you, Your Honor. The State
15 calls Dean Edgeworth to the stand.

16 THE COURT: All right. If you'd come around and
17 be sworn, please.

18 DEAN EDGEWORTH, after being duly sworn,
19 testified as follows:

20 THE CLERK: Once you're seated, speak up loud
21 and clear, stating your full name and spelling your last
22 for the record.

23 THE WITNESS: Dean Michael Edgeworth,
24 E-G-D-E-W-O-R-T-H.

25

1 DIRECT EXAMINATION

2 BY MS. DIXON:

3 Q Dean, where do you work?

4 A I work at West Columbia Walmart.

5 Q And what do you do there?

6 A I am their asset protection.

7 Q How long have you worked at the West Columbia
8 Walmart?

9 A Two years.

10 Q Tell the jury what asset protection does.

11 A Our basic job is to protect Walmart's assets from
12 shoplifting.

13 THE COURT: Could you speak up a little bit for
14 me and slow down a little bit for me, please?

15 THE WITNESS: I ensure the stop of theft from
16 all, from internals and externals.

17 BY MS. DIXON:

18 Q And tell me what a typical day in asset protection at
19 Walmart is like.

20 A All we do pretty much is walk around and see if we
21 can catch somebody shoplifting.

22 Q Okay. Were you working on March 12 of 2010?

23 A Yes, ma'am.

24 Q Okay. Tell me how you became aware that there was a
25 situation in the Garden Center.

1 A I was walking around the sporting goods section
2 through toys and I heard a page over the intercom that
3 they needed management and loss prevention to the Garden
4 Center immediately.

5 Q Could you tell who was making that page?

6 A Ms. Shirley.

7 Q How long have you known Ms. Shirley?

8 A Ever since I started working at that store, about two
9 years.

10 Q Okay. Can you describe for the jury, how did
11 Ms. Shirley's voice sound on that page?

12 A Crackled. She sounded nervous. She sounded like
13 something had extremely upset her.

14 Q Once you heard that page, Dean, what did you do?

15 A I ran out there.

16 Q Okay. About how long do you think it took you to get
17 to the Garden Center?

18 A Two seconds.

19 Q When you got to the Garden Center, what, if anything,
20 did you see?

21 A I was told by Ms. Shirley that he --

22 MR. CORNWELL: Objection, Your Honor. It's
23 hearsay.

24 THE COURT: All right. That would be hearsay,
25 Solicitor.

1 BY MS. DIXON:

2 Q Dean, when you first saw Ms. Shirley, how did she
3 seem to you?

4 A She seemed upset.

5 Q Did she seem excited?

6 A She seemed like excited, upset, that something had,
7 like, startled her.

8 Q Did she seem agitated at all?

9 A Not agitated. Just startled.

10 Q Was she speaking quickly?

11 A Yes, she was speaking quickly, nervously, and trying
12 to explain to me what was going on.

13 Q And what, if anything, did Ms. Shirley say to you?

14 A She --

15 MR. CORNWELL: Objection, Your Honor. Hearsay.

16 THE COURT: Solicitor?

17 MS. DIXON: Your Honor, I believe that the
18 witness has described Ms. Shirley's demeanor and it would
19 fall under the excited utterance exception to hearsay.

20 MR. CORNWELL: Your Honor, I'm not sure if we
21 got any definitive idea --

22 THE COURT: I can't hear you.

23 MR. CORNWELL: I'm not sure if we got any
24 definitive idea of how soon he talked to Ms. Shirley after
25 the call.

1 MS. DIXON: I'm sorry, Your Honor.

2 THE COURT: All right. You can ask that
3 question, Solicitor.

4 BY MS. DIXON:

5 Q Dean, do you know about how long it took you between
6 the time you got the page and the time you spoke to
7 Ms. Shirley?

8 A It took me all of probably ten seconds. Because I
9 was already right there entering the Garden Center by the
10 time the page went over the system.

11 Q So it was a short period of time?

12 A Extremely.

13 THE COURT: All right. Mr. Cornwell, do you
14 still have an objection?

15 MR. CORNWELL: No, Your Honor.

16 THE COURT: All right. Thank you.

17 You may proceed, Solicitor.

18 MS. DIXON: Thank you, Your Honor.

19 BY MS. DIXON:

20 Q Dean, what, if anything, did Ms. Shirley say to you?

21 A All I recall is the fact that she looked at me and
22 said he tried to run out with a TV or electronic device
23 and that he had a blade.

24 Q She said he had a blade?

25 A He had a blade. And that's when I ran outside.

1 Q And when you ran outside, what, if anything, did you
2 see?

3 A I was told by Curtis Williams and Terrance Boykin
4 that they had jumped in a red Nissan XTerra and they
5 pointed the vehicle out to me.

6 Q Okay. Was the vehicle still in the parking lot?

7 A Yes, ma'am.

8 Q Okay. Did you see where the vehicle went?

9 A It was starting to roll away and that's when I picked
10 up my phone and dialed West Columbia Police Department and
11 I was explaining to them how they were going. They turned
12 left towards the light at a slow pace and they turned
13 right into West Columbia.

14 Q Okay. They turned right onto which street?

15 A Augusta Highway.

16 Q Okay. And that heads towards Columbia or away from
17 Columbia?

18 A Towards.

19 Q Okay. Dean, I'm going to show you a CD and ask if
20 you recognize it.

21 A Yes.

22 Q Okay. And can you tell me, have you seen the
23 contents of this DVD?

24 A Yes.

25 Q And what's on here?

1 A It's him driving away in the Nissan XTerra.

2 Q Okay. Is this security video from Walmart?

3 A Yes, ma'am.

4 Q And did the West Columbia Police Department ask you
5 to pull this video?

6 A Yes, ma'am.

7 Q Have you had an opportunity to view this?

8 A Then or?

9 Q At some point prior to right now?

10 A Yes, ma'am.

11 MS. DIXON: Your Honor, at this time I'd ask to
12 publish the last portion of this video.

13 THE COURT: Yes, ma'am.

14 (WHEREUPON, State's Exhibit No. 3, the DVD, was
15 published for the jury but not transcribed.)

16 BY MS. DIXON:

17 Q Can you describe for the jury, Dean, what is this
18 video of?

19 A That is a shot of our parking lot right up there at
20 the traffic light.

21 Q Okay. And can you tell me, at the top of the screen,
22 which road is that?

23 A That is Augusta Road.

24 Q Okay. I'm going to play this video for you and if
25 you could, when you see the defendant's vehicle enter the

1 screen, will you tell me so I can stop it?

2 A Yes. There is the defendant's vehicle right there.

3 Q Okay. And is that the vehicle on the left side of
4 the screen?

5 A Yes.

6 Q Okay. And can you tell me which part of the store is
7 located on that left side?

8 A The Garden Center.

9 Q Okay. Can you describe for the jury what the
10 defendant's vehicle is doing right now?

11 A He's turning left towards the top of the parking lot
12 where the traffic light is at. And then he's going to
13 reach up there at the traffic light and turn right.

14 Q Okay. So he took a right onto Augusta Road?

15 A Yes, ma'am.

16 Q And did you see that happen?

17 A Did I see it? Yes, ma'am, I saw it happen.

18 MS. DIXON: Dean, that's all the questions I
19 have for you right now. Answer any questions Mr. Cornwell
20 has.

21 THE COURT: Thank you, Solicitor.

22 Mr. Cornwell.

23 MR. CORNWELL: May it please the Court, Your
24 Honor.

25

1 CROSS-EXAMINATION

2 BY MR. CORNWELL:

3 Q Mr. Edgeworth, you didn't get to see the altercation,
4 did you?

5 A Only on camera.

6 Q And did you have an opportunity to speak with
7 Ms. Smith afterwards?

8 A After the fact?

9 Q Yes.

10 A I spoke with her several times after the fact.

11 Q And you gave a statement to law enforcement also, a
12 written statement?

13 A Right.

14 Q And did you tell them what you heard from Ms. Smith
15 about the incident?

16 A I don't recall.

17 Q Would this statement help refresh your memory?

18 A Sure.

19 Q Do you now recall what you said, if anything, about
20 the blade in your statement?

21 A That Ms. Shirley had told me that "He pulled a blade
22 on me."

23 MR. CORNWELL: Okay. No further questions.

24 THE COURT: Redirect, Solicitor?

25 MS. DIXON: No, Your Honor.

1 THE COURT: Thank you very much, sir. You may
2 step down.

3 All right. You may call your next witness.

4 MS. GARRICK: Your Honor, we call Officer Thomas
5 Griffin.

6 THE COURT: All right. If you'd come around and
7 be sworn, please.

8 THOMAS GRIFFIN, after being duly sworn,
9 testified as follows:

10 THE CLERK: Once you're seated, speak up loud
11 and clear, stating your full name and spelling your last,
12 please.

13 THE WITNESS: Thomas Wessinger Griffin,
14 G-R-I-F-F-I-N.

15 DIRECT EXAMINATION

16 BY MS. GARRICK:

17 Q Officer Griffin, where are you employed?

18 A City of West Columbia.

19 Q And how long have you been working for the West
20 Columbia Police Department?

21 A A little over three years.

22 Q And what is your rank?

23 A I'm currently a corporal, which is a road supervisor
24 for the shift.

25 Q Okay. And what kind of duties did you do with the

1 police department?

2 A Traffic enforcement, normal calls of duty, calls of
3 service to the public.

4 Q And were you working on March 12 of 2010?

5 A Yes, ma'am.

6 Q And did you have a reason to go towards the Walmart
7 there on Augusta Road?

8 A Yes, ma'am.

9 Q Can you tell us the nature of the call?

10 A It came out through dispatch. Dispatch advised us
11 that someone had shoplifted from the Walmart using a
12 bladed object.

13 Q And where were you when you received this call?

14 A I was around -- I was near headquarters, which is the
15 1200 block of Klapman, right where 12th and Klapman meet.

16 Q And where did you go from there?

17 A I headed towards Walmart, which was headed towards
18 Lexington.

19 Q Okay. And are you on -- you were on Jarvis Klapman?

20 A Yes, ma'am.

21 Q And is that Walmart that's on Augusta Road, is that
22 in West Columbia?

23 A Yes, ma'am.

24 Q Is that within the county of Lexington?

25 A Yes, ma'am, it is.

1 Q And did you know -- did you have any information
2 about the suspect?

3 A It was given out that it was two black males
4 possibly, so yes, ma'am.

5 Q Did you have information about a particular type of
6 car?

7 A We were told it was a red XTerra.

8 Q What is the distance -- all right. Let me ask you
9 this. Did you see a red XTerra on Augusta Road?

10 A I saw it at approximately the 19 -- 1800 block of
11 Jarvis Klapman, which if you're coming from Augusta Road
12 to the city of Columbia, there is a split where you can go
13 right to Augusta Road or you can go left to Jarvis
14 Klapman. I observed that vehicle in the 1900 block of
15 Jarvis Klapman.

16 Q It was coming toward you or away from you?

17 A Towards me.

18 Q Where you saw that vehicle, what is the distance from
19 where that vehicle as you saw it and the Walmart on
20 Augusta Road?

21 A Approximately one mile.

22 Q Okay. And did I ask you to drive that distance in
23 preparation for court today?

24 A Yes, ma'am.

25 Q Now, how long generally would it take you to get from

1 that Walmart location to the area on Jarvis Klapman where
2 you saw the XTerra?

3 A The night that I drove it for you, which was no
4 traffic involved, it took right at three minutes.

5 Q Do you know about what time this call went out?

6 A I know it was around 4:40, 4:45. I know it was right
7 when 5 o'clock traffic was starting.

8 Q And do you have an estimate on how long it was from
9 when you got the call to when you saw the car?

10 A Less than ten minutes.

11 MS. GARRICK: If I may approach the witness,
12 Your Honor.

13 THE COURT: Yes, ma'am.

14 BY MS. GARRICK:

15 Q And when you saw this red XTerra, did you perform a
16 traffic stop?

17 A Yes, ma'am, I did.

18 Q If I could show you State's Exhibit 4. Do you
19 recognize this photograph?

20 A Yes, ma'am.

21 Q Is that the car you pulled over on Jarvis Klapman?

22 A Yes, ma'am, it is.

23 MS. GARRICK: Your Honor, I'd move State's 4
24 into evidence.

25 THE COURT: Any objections?

1 MR. CORNWELL: No objections, Your Honor.

2 THE COURT: All right. State's 4 is in evidence
3 without objection.

4 (WHEREUPON, STATE'S Exhibit No. 4 was admitted
5 into evidence.)

6 BY MS. GARRICK:

7 Q When you made the traffic stop on that vehicle, who
8 did you find within the vehicle?

9 A I found Mr. Buchanan in the passenger's side and
10 there was a driver as well.

11 Q Okay. Do you know the -- do you recall the name of
12 the driver?

13 A I believe it was -- it was a female. It was a black
14 female. Her name was Ms. Doby, I believe. I have to
15 double-check my paperwork.

16 Yes, ma'am, Tonya Doby was the driver of the
17 vehicle.

18 Q And do you recall how Mr. Buchanan was dressed when
19 you made the traffic stop?

20 A Yes, ma'am. He was wearing a black hat and a black
21 hooded sweatshirt.

22 Q And what, if anything, else did you see within the
23 vehicle?

24 A At the time -- just making the initial approach to
25 the vehicle? I just observed both subjects just sitting

1 in the vehicle.

2 Q Okay. And did you get them out of the car?

3 A Yes, ma'am, we did.

4 Q Did you place them in detention?

5 A Yes, ma'am, they were both placed in handcuffs due to
6 a weapon being involved in the offense.

7 Q And did you have other officers there assisting you?

8 A I did. Corporal Vinkemulder was on the stop with me
9 as well.

10 Q And is Corporal Vinkemulder -- how do you --

11 A Vinkemulder.

12 Q Is he still at West Columbia Police Department?

13 A No, ma'am. He's currently a police officer down in
14 Florida right now.

15 Q After you got them out of the car, did you observe
16 anything else related to this case?

17 A Yes, ma'am. Once we had them out of the car, we --
18 considering that a weapon was involved in the incident, we
19 conducted a protective sweep, which is just for officer
20 safety as well, of the vehicle. Inside the vehicle, the
21 passenger's side door, there was a black and
22 yellow-colored box cutter and then underneath the
23 passenger seat was a yellow box cutter as well.

24 Q If I may show you what's been marked as State's
25 Exhibit 5.

1 A Yes, ma'am.

2 Q Can you recognize that item?

3 A Yes, ma'am. This one was found in the passenger's
4 side door.

5 Q If I could show you what's been marked as State's
6 Exhibit 6.

7 A That was found underneath the front passenger's seat
8 where Mr. Buchanan was seated.

9 Q And what was done with those two items there?

10 A They were placed in those evidence bags and I turned
11 them over to Investigator Wade.

12 Q If I could show you State's 7. Do you recognize
13 this?

14 A Yes, ma'am.

15 Q What was this?

16 A That's the black and white hat that Mr. Buchanan was
17 wearing.

18 Q State's 8?

19 A That's the jacket that Mr. Buchanan was wearing as
20 well.

21 Q Were you present when these were collected?

22 A Yes, ma'am, I was.

23 Q Did you see anything else within the vehicle related
24 to Walmart?

25 A There was a computer box located in the back of the

1 vehicle.

2 Q Did you interview Mr. Buchanan in any way?

3 A No, ma'am, I did not.

4 Q Did you interview Ms. Shirley Smith?

5 A No, ma'am, I did not.

6 Q Did you go back to the Walmart for any reason?

7 A No, ma'am. I had no contact with Walmart after that.

8 Q Do you recall the investigator on this case,
9 Investigator Wade?

10 A Yes, ma'am.

11 Q Do you remember when you first saw him?

12 A I remember he had brought Ms. Shirley -- he had said
13 he -- he went to the Walmart to make contact with her.
14 When he got with her, he brought her up to where the
15 actual traffic stop was just so that she could ID
16 Mr. Buchanan.

17 Q And did you have anything to do with that ID process?

18 A Other than standing beside Mr. Buchanan, at one time
19 Ms. Shirley asked that his hat be placed on his head and I
20 placed his hat on his head.

21 Q Did you have any contact with Ms. Shirley or any
22 conversation with Ms. Shirley?

23 A No, ma'am. She was in the vehicle the entire time.

24 Q Did you tell Investigator Wade anything about the
25 weapon or do you recall telling him anything about --

1 A I don't recall. If he were to ask, I informed him
2 that there were two box cutters in the vehicle.

3 MS. GARRICK: Beg the Court's indulgence one
4 moment.

5 (Pause.)

6 MS. GARRICK: Please answer any questions
7 defense may have.

8 THE WITNESS: Yes, ma'am.

9 THE COURT: Thank you, Solicitor.

10 Mr. Cornwell.

11 MR. CORNWELL: If it please the Court, Your
12 Honor.

13 CROSS-EXAMINATION

14 BY MR. CORNWELL:

15 Q Did you have the opportunity to ascertain who owned
16 this vehicle?

17 A No, sir.

18 Q Who was the driver?

19 A Tonya Doby.

20 Q Did you get any evidence as to whether or not my
21 client owned the vehicle?

22 A No, sir.

23 Q You said you stopped this vehicle. Was there an
24 extended chase or anything or was it just a simple traffic
25 stop?

1 A No, sir, it was a traffic stop. There was no chase
2 involved.

3 Q All right. And did you find any other merchandise in
4 the vehicle?

5 A Other than the computer, no, sir.

6 Q Okay. Were you the one who actually put my client
7 under arrest at that time?

8 A Corporal Vinkemulder actually put him in handcuffs.
9 I put Ms. Doby in handcuffs.

10 MR. CORNWELL: Okay. Thank you. No further
11 questions.

12 THE COURT: Redirect, Solicitor?

13 MS. GARRICK: Just briefly.

14 REDIRECT EXAMINATION

15 BY MS. GARRICK:

16 Q Which seat was Mr. Buchanan in?

17 A Mr. Buchanan was located in the front passenger's
18 seat.

19 Q And the knives -- or both box cutters, I'm sorry, was
20 down on the passenger's side of the car?

21 A Yes, ma'am, they were.

22 MS. GARRICK: That's all.

23 THE COURT: Recross, Mr. Cornwell?

24 MR. CORNWELL: No, Your Honor.

25 THE COURT: Thank you very much, Officer. You

1 may step down.

2 THE WITNESS: Thank you, Your Honor.

3 THE COURT: Why don't we take a brief recess,
4 Solicitor, Mr. Cornwell.

5 Mr. Foreman, ladies and gentlemen, we'll take us
6 about a 15-minute recess.

7 Please remember, during this recess, do not
8 discuss this case with anyone, including your fellow
9 jurors. Remember to keep an open mind and do not begin
10 your deliberations until you're instructed to do so by the
11 Court.

12 You may now go with your bailiff. Thank you
13 very much.

14 (The jury left open court at approximately 3:26
15 p.m.)

16 THE COURT: How many more witnesses do you have,
17 Solicitor?

18 MS. GARRICK: Your Honor, we have Detective
19 Wade, which we've just got to view the defendant's
20 statements and stuff, and then Investigator Sullivan to
21 enter the items into evidence, and that's all.

22 THE COURT: All right. We'll take about a
23 15-minute recess. Thank you very much.

24 (A break was taken.)

25 THE COURT: Anything before we bring out our

1 jury from the State?

2 MS. DIXON: Nothing from the State, Your Honor.

3 THE COURT: Defense?

4 MR. CORNWELL: Nothing, Your Honor.

5 (The jury came into open court at approximately
6 3:44 p.m.)

7 THE COURT: Welcome back. Ladies and gentlemen,
8 we'll continue with the trial of the case by the
9 presentation of evidence and testimony by the State in its
10 case in chief.

11 Solicitor, you may call your next witness.

12 MS. GARRICK: Thank you, Your Honor.

13 Your Honor, we would call Investigator Bruce
14 Wade.

15 THE COURT: All right. If you'd come around and
16 be sworn for us, please.

17 BRUCE WADE, after being duly sworn, testified as
18 follows:

19 THE CLERK: Sir, if you'd have a seat. Once
20 you're seated, speak up loud and clear, stating your full
21 name and spelling your last.

22 THE WITNESS: My name is Bruce Wade, W-A-D-E.

23 DIRECT EXAMINATION

24 BY MS. GARRICK:

25 Q Investigator Wade, where are you employed?

1 A With the West Columbia Police Department.

2 Q And how long have you been employed with them?

3 A About five years.

4 Q And is that your total work in law enforcement?

5 A No, ma'am, 13 years.

6 Q And your title, "investigator," what does that mean
7 you get to do?

8 A I pretty much investigate major cases considered
9 felonies.

10 Q And how long have you been in investigations?

11 A For about five years. I've actually been with West
12 Columbia like five years, eight months, but I've been in
13 investigations for like five years in West Columbia.

14 Q And were you working March 12th of 2010?

15 A Yes, ma'am.

16 Q And were you called to go to the Walmart there on
17 Augusta Road?

18 A Yes, ma'am.

19 Q Is that within the jurisdiction of West Columbia
20 Police Department?

21 A Yes, ma'am.

22 Q And what was the nature of the call?

23 A It was a call of a shoplifter who had a bladed weapon
24 on him.

25 Q And do you recall, where did you go first?

1 A I went to the loss prevention office at Walmart.

2 Q And do you know how long between the calls to when
3 you arrived at Walmart?

4 A Approximately 20 minutes.

5 Q And when you got to the loss prevention office, who
6 did you meet?

7 A I met with Dean Edgewater (sic) and Ms. Shirley.

8 Q Did you have an opportunity to interview Ms. Shirley?

9 A Yes, I did.

10 Q And what was Ms. Shirley's demeanor there in the
11 office?

12 A In the office she seemed to be nervous and kind of
13 upset, but that was pretty much it.

14 Q Was she able to talk with you about the event?

15 A She did.

16 Q Was she able to describe for you the clothing that
17 the individual was wearing?

18 A She did.

19 Q And when was the first time you heard anything about
20 a yellow blade?

21 A In the loss prevention office. She told me that the
22 suspect had a yellow older box cutter-type knife.

23 Q And at that point were you aware of what the other
24 officers for West Columbia were doing?

25 A I knew they had conducted a traffic stop, but I

1 hadn't been to the traffic stop yet.

2 Q And about how long do you think you stayed there in
3 the loss prevention office?

4 A About 10 to 15 minutes.

5 Q Did you view the video?

6 A I did.

7 Q And did you show that video to Ms. Shirley?

8 A No, I didn't.

9 Q After you viewed the video, where did you go?

10 A After I viewed the video, I went back to the traffic
11 stop with Ms. Shirley.

12 Q And what were your intentions in taking Ms. Shirley
13 with you? What were you going to do?

14 A I wanted her to be able to sit in my vehicle and look
15 at the suspect and tell if that was him or not and she
16 could tell me if that was the right person or not.

17 Q And did you do that?

18 A Yes.

19 Q And did you take her so she could see the person in
20 custody?

21 A Yes, ma'am.

22 Q And who was the person in custody?

23 A Mr. Buchanan.

24 Q The defendant that's present in the courtroom?

25 A Yes, ma'am.

1 Q And did you -- what instructions did you give
2 Ms. Shirley about asking her if she could identify the
3 armed robber?

4 A I told her we was going to do a drive-by with the
5 suspect that they had stopped and I asked her would she be
6 able to tell me if this was the correct person or not.

7 And when we got there, I stopped, she actually
8 looked out and she said she wasn't sure -- at first she
9 said, "Is that the guy standing up beside the car?"

10 I said, "Yes."

11 She said, "Could you have the officers put his
12 hat on?"

13 And at that time I came across my radio and told
14 the officers, "Could you put the hat on?"

15 And when they put the hat on she said, "Yeah,
16 that's the same guy."

17 Q How quickly was she able to identify him once his hat
18 was on?

19 A Immediately.

20 Q Had she given you a description of the clothing?

21 A Yes, she did.

22 Q And did you, in fact -- did you yourself look in the
23 XTerra there?

24 A Yes, I did.

25 Q And --

1 A Not at that particular time I didn't, not while she
2 was in the vehicle with me. Once I dropped her back off
3 at Walmart, I came back to the scene of the vehicle.

4 Q Then let's go on a timeline.

5 After she identified the person, what happened
6 then?

7 A I took her back to the Walmart.

8 Q Do you remember any discussion there on Jarvis
9 Klapman about the box cutter?

10 A She did ask me -- she did ask me, she said, "Do you
11 know if they found the yellow box cutter in the car?"

12 Q And did you know that, the answer to that question?

13 A No, I didn't know the answer until I called on the
14 radio and asked the officer to come over to the car.

15 And when he came over to the car, I asked him, I
16 said, "Look, did you all find a box cutter in the car?"

17 They said, "Yes, we found two."

18 Q And did you yourself see them then?

19 A No, I didn't.

20 Q Did you show them to Ms. Shirley?

21 A No.

22 Q After you left there with Ms. Shirley, where did you
23 go?

24 A Back to the Walmart.

25 Q Okay. What did you do there at the Walmart?

1 A I dropped her off and told her that I would get back
2 with her later on that afternoon to get a written
3 statement from her.

4 Q And where did you go?

5 A I went back to the actual traffic stop.

6 Q Okay. And from there where did you go?

7 A From there I took photos of the vehicle, pretty much
8 took the computer out of the vehicle, and I had them take
9 Ms. Doby, which was the driver of the car, along with
10 Mr. Buchanan to the West Columbia Police Department for an
11 interview.

12 Q And where did the computer go?

13 A I released it to Mr. Dean Edgeworth.

14 Q Did you take it back to Walmart or do you recall how
15 you got it back there?

16 A I'm not sure. I just remember signing it back over
17 to him.

18 Q And when you went to the West Columbia Police
19 Department, did you have an opportunity to speak to
20 Mr. Buchanan?

21 A Yes, ma'am.

22 Q And was Mr. Buchanan placed under arrest?

23 A Yes, ma'am.

24 Q He was not free to go?

25 A No, ma'am.

1 Q And did you begin an interview process with
2 Mr. Buchanan?

3 A I did.

4 Q And what was the first thing you're required to do
5 when interviewing someone you've arrested?

6 A Advise them of their Miranda rights.

7 Q And did you, in fact, do that?

8 A Yes.

9 Q And did you have any other witness with you there?

10 A No, I didn't.

11 Q Were there any other detectives working -- this would
12 have been the night shift by now, right?

13 A Yes, ma'am.

14 Q Were any other detectives there?

15 A No, ma'am.

16 Q Do you have any video equipment there in the office?

17 A No, ma'am, we don't.

18 Q And did you give him his rights in writing?

19 A Yes, ma'am, I did.

20 Q Did you have him initial each one of his rights?

21 A Yes, ma'am.

22 Q If I can show you State's 9 for ID. Do you recognize
23 this form?

24 A Yes, ma'am.

25 Q What is that?

1 A West Columbia Miranda Rights form.

2 Q Is that the Miranda rights you gave the defendant?

3 A Yes, ma'am.

4 Q And did he initial each one of those rights?

5 A Yes, ma'am.

6 Q And did he sign a waiver of those rights?

7 A Yes, ma'am, he did.

8 Q And agree to speak with you?

9 A Yes.

10 MS. GARRICK: Your Honor, I move State's 4 (sic)
11 into evidence.

12 MR. CORNWELL: Your Honor, I would just renew my
13 prior objections.

14 THE COURT: All right. Subject to previous
15 objection, State's 4 -- excuse me, State's 9 --

16 MS. GARRICK: You are correct, State's 9.

17 THE COURT: -- State's 9 is in evidence without
18 objection.

19 No. Subject to previous objection, State's 9 is
20 in evidence.

21 MS. GARRICK: Your Honor, may I publish it?

22 THE COURT: Yes, ma'am.

23 (WHEREUPON, STATE'S Exhibit No. 9, previously
24 marked as Court's Exhibit No. 1, was admitted into
25 evidence.)

1 BY MS. GARRICK:

2 Q If I may show you what's been marked State's Exhibit
3 10 for ID. Do you recognize that document?

4 A Yes, ma'am.

5 Q What is that document?

6 A Notes that I took when I was in the interview with
7 Mr. Buchanan.

8 Q Mr. Buchanan agreed to speak with you?

9 A Yes, he did.

10 Q And he gave you a verbal statement?

11 A Yes, he did.

12 Q And that document -- when were you writing that
13 document?

14 A As he was speaking to me.

15 Q And if it says the word "I," who is it referring to?

16 A Mr. Buchanan.

17 Q And is that an accurate reflection of what
18 Mr. Buchanan said that evening on March 12th of 2010?

19 A Yes, ma'am.

20 MS. GARRICK: Your Honor, I'd move State's 10
21 into evidence.

22 MR. CORNWELL: Your Honor, I'd just renew my
23 prior objection.

24 THE COURT: All right. Subject to previous
25 objection, State's 10 is in evidence.

1 (WHEREUPON, STATE'S Exhibit No. 10, previously
2 marked as Court's Exhibit No. 2, was admitted into
3 evidence.)

4 BY MS. GARRICK:

5 Q Investigator Wade, could you please publish what
6 Mr. Buchanan's words were as you recorded them in that
7 document?

8 A Yes, ma'am, I can.

9 At the top I have my case number and I have
10 armed robbery -- no, I have "robbery" at the top and I've
11 got date, 3-12-2010 at 5:59 p.m.

12 I put down I.O., which would be me, interviewed
13 Perry B. Buchanan at the WCPD, which would be West
14 Columbia Police Department. Then I've written his Social
15 Security number down, 250-17-6926. And after that I
16 started taking notes.

17 I put -- I wrote down, "I had Tonya Doby pick me
18 up on Two Notch Road and I asked her to take me to West
19 Columbia Walmart. I went in and stole a computer and when
20 I was leaving out, the lady stopped me and asked me for a
21 receipt. I had a box cutter in my hand and I told the
22 lady, 'My shit paid for.' I pushed the buggy out and she
23 started running. I didn't have the box cutter open."

24 After that -- at that point I asked Mr. Buchanan
25 to give me a written statement on the facts that we went

1 over and he told me -- he asked me basically what was he
2 being charged with. And I explained to him that it was
3 going to be armed robbery. It wasn't just a shoplifting,
4 that a shoplifting -- when you present a weapon, it
5 changes actually from a misdemeanor to a felony; it
6 becomes an armed robbery at that point.

7 And I asked him for a written statement. He
8 told me he couldn't write anything down. And I did write
9 that down in my notes, that he said, "I couldn't write
10 anything down." And I asked him, "Did you pay for the
11 TV?" He said, "No, I stole it from Walmart."

12 Q And did you tell him that you had taken notes of his
13 confession?

14 A Yes, I did.

15 When he told me that he couldn't write anything
16 down, I told him basically "you already confessed to it."
17 I said, "And whatever you told me, I'm going to use it in
18 court." I said, "The stuff that you told me, I can use it
19 in court."

20 Q And are you aware, did you make any other charges in
21 regards to this case?

22 A Yes, Ms. Doby was charged with the same charges he
23 was charged with.

24 Q And do you know the status of her case?

25 A It's still pending trial.

1 Q After you finished interviewing Mr. Buchanan, did you
2 collect any other evidence in this case?

3 A I did.

4 Q Do you recall what evidence you collected?

5 A I collected his hat and his hoodie.

6 Q I'm going to show you State's 7. Do you recognize
7 this?

8 A Yes, ma'am.

9 Q And State's 8, do you recognize this?

10 A Yes, ma'am.

11 Q Do you remember where you got these from?

12 A In the West Columbia interview room.

13 Q And where have they been since that time?

14 A In the West Columbia evidence locker.

15 Q And they were brought to court today by you all?

16 A Yes, ma'am.

17 MS. GARRICK: Your Honor, I move State's 7 and 8
18 evidence.

19 THE COURT: Mr. Cornwell.

20 MR. CORNWELL: No objection, Your Honor.

21 THE COURT: State's 7 and 8 is in evidence
22 without objection.

23 (WHEREUPON, STATE'S Exhibits Nos. 7 and 8 were
24 admitted into evidence.)

25 BY MS. GARRICK:

1 Q Did you receive any other items in evidence in
2 regards to this case?

3 A Yes. I received those two box cutters.

4 Q If I can show you what's been marked as State's 5.

5 A Yes.

6 Q Do you recognize that?

7 A Yes.

8 Q Where did you -- did you ever have possession of
9 that?

10 A Yes, I did.

11 Q Who did you receive possession from?

12 A I received it from Officer Griffin.

13 Q And what did you do with it after you received it?

14 A Logged it into West Columbia evidence.

15 Q And brought it to court today?

16 A Yes.

17 Q State's 6.

18 MR. CORNWELL: No objection, Your Honor.

19 MS. GARRICK: He said no objection. I haven't
20 moved it in yet, State's 5, but I will.

21 Your Honor, I move State's 5 into evidence.

22 THE COURT: State's 5 is in evidence without
23 objection.

24 (WHEREUPON, STATE'S Exhibit No. 5 was admitted
25 into evidence.)

1 BY MS. GARRICK:

2 Q Do you recognize State's 6?

3 A Yes, ma'am, I do.

4 Q And where did you see that item?

5 A I also received it from Officer Griffin.

6 Q And brought it to court today?

7 A Yes, ma'am.

8 MS. GARRICK: Your Honor, I move State's 6 into
9 evidence.

10 MR. CORNWELL: No objection.

11 THE COURT: State's 6 is in evidence without
12 objection.

13 (WHEREUPON, STATE'S Exhibit No. 6 was admitted
14 into evidence.)

15 BY MS. GARRICK:

16 Q In regards to this case, did you have an opportunity
17 to take a statement from Ms. Smith?

18 A Yes, I did.

19 Q And did you interview the other witnesses?

20 A Yes, I did.

21 Q Did you interview Dean Edgeworth?

22 A I did.

23 Q Curtis Williams?

24 A Yes.

25 Q Was it done on that day, March 12th?

1 A Let me look at my notes.

2 I know I interviewed Ms. Smith that particular
3 day. And Mr. Curtis Williams was also interviewed. All
4 of them were interviewed that day.

5 Q Did you have an opportunity to meet T.J., Terrance
6 Boykin?

7 A I did talk with him.

8 Q Did you take a statement from him?

9 A No, I didn't.

10 Q Is there any reason why not?

11 A He didn't have any more to add to it than Ms. Smith,
12 Mr. Edgeworth and Mr. Williams told me.

13 Q And since that time did I ask you to look for
14 Terrance Boykin?

15 A You did.

16 Q And have you been able to find him?

17 A I haven't made contact with him.

18 Q He doesn't work for Walmart?

19 A No, he don't.

20 MS. GARRICK: Beg the Court's indulgence one
21 moment.

22 (Pause.)

23 BY MS. GARRICK:

24 Q Is armed robbery considered a violent crime?

25 A Yes.

1 Q And a box cutter, the box cutter, No. 5 and No. 6,
2 does that have a blade on it, sir?

3 A Yes, ma'am.

4 Q A blade that's capable of cutting?

5 A Yes, ma'am.

6 MS. GARRICK: Just one moment, Your Honor.

7 (Pause.)

8 MS. GARRICK: Investigator, please answer
9 defense questions.

10 THE COURT: Thank you, Solicitor.

11 Mr. Cornwell.

12 MR. CORNWELL: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. CORNWELL:

15 Q Mr. Wade, you arrived on the scene at approximately 5
16 o'clock according to investigative report?

17 A That's correct.

18 Q And also according to the investigative report, it
19 says that you had an opportunity to view the video at that
20 time?

21 A That's correct.

22 Q And also you said you had an opportunity to see the
23 altercation and everything that happened on that video?

24 A I viewed the video, yes, sir.

25 Q All right. Did you see the video from all the

1 different angles that they had available?

2 A I'm not sure.

3 Q You're not sure?

4 A No.

5 Q Also, at 5 o'clock, according to your investigative
6 report, it says that after you viewed the video, that you
7 went to Klapman Boulevard where the officers had the
8 vehicle stopped?

9 A Yes, sir, I did go to Klapman Boulevard.

10 Q All right. And you got to observe what was inside
11 that car when you were there?

12 A After dropping Ms. Shirley back off at the store I
13 went back and observed what was in the car. But when I
14 had Ms. Shirley in the car I never did exit my vehicle.

15 Q Okay. It says in your investigative report that
16 inside the vehicle there was a brand new Dell Inspiron
17 desktop box on the back seat. Are you saying you didn't
18 see that?

19 A Yes, I seen it. I collected it.

20 Q And also in your investigative report they said that
21 this happened at 5 o'clock, during the 5 o'clock hour?

22 A Uh-huh.

23 Q All right. You had an opportunity to speak to
24 Mr. Buchanan you stated also?

25 A I spoke with Mr. Buchanan in an interview room, yes,

1 sir.

2 Q According to your investigative report, that happened
3 at 5:59, just about an hour after you went by Jarvis
4 Klapman?

5 A Yes, sir.

6 Q And you took an oral statement from him?

7 A Yes, sir, I did.

8 Q During the course of that statement, did you ask him
9 specifically if he was armed?

10 A I recall asking him -- I told him I wanted to talk
11 about what happened at Walmart today, and from there,
12 that's when he started telling me the facts of what
13 happened.

14 Q Are you saying he volunteered information to you
15 basically?

16 A Yes, he did.

17 Q I notice in your report that you didn't mention any
18 kind of description of the box cutter that you allege he
19 said he had?

20 A Uh-huh.

21 Q Do you recall if he described it at all?

22 A Not to my knowledge he didn't. He just told me it
23 wasn't open.

24 Q And all this happened around 6 o'clock, 5:59?

25 A Roughly.

1 Q All right. You also took a statement from Ms. Doby
2 about 20 minutes, a half hour later, or how long?

3 A I didn't get a statement from her. I actually gave
4 her the opportunity to.

5 Q Sorry about that. And shortly after they were
6 transported to Lexington County?

7 A Yes, sir.

8 Q All right. According to your investigative report,
9 at 7:14 you interviewed Shirley Ann Smith at West Columbia
10 Police Department?

11 A Yes, sir.

12 Q Now, was it after that that you took her back to the
13 scene with the XTerra?

14 A No. In the 5 o'clock hour, between 5 and 6 p.m., at
15 some point I took Ms. Shirley from Walmart to the traffic
16 stop. And after she identified Mr. Buchanan as the
17 suspect, I took her back to the store and dropped her off.
18 After that I returned back to the vehicle.

19 Q I was kind of confused because your timeline in the
20 investigative report seems to indicate that you had no
21 contact with Ms. Smith until 7:14.

22 A I talked to Ms. Smith. I just didn't put that in
23 my -- for some reason I left it out of the investigative
24 report, but I do have it in my notes.

25 Q You mentioned that you'd been in law enforcement for

1 13 years?

2 A Yes, sir.

3 Q And as part of law enforcement, as far as your
4 career, as far as an officer's duties, you have to fill
5 out these investigative reports, right?

6 A Yes, sir.

7 Q You put in all the important details. Everything
8 that's important to the prosecution of this case should be
9 in the investigative report; isn't that correct?

10 A For the most part.

11 Q Why isn't that detail in there?

12 A Just something that I didn't put in there. I
13 didn't -- it's not like I tried to hide it. I took her to
14 the thing. That's not that I tried to hide anything.

15 Q Getting back to your investigative report, you said
16 you had an opportunity to speak with Ms. Smith. Did you
17 notice anything about her statement that maybe didn't add
18 up to you?

19 A No, sir.

20 Q She said that the blade was yellow or gold; is that
21 correct?

22 A From what -- from the way I was taking when she was
23 saying "blade," she meant the actual box cutter itself.

24 Q Okay. And she said it was an older box cutter that
25 was yellow or gold?

1 A That's correct.

2 Q When you had an opportunity to talk to her, she's
3 saying that my client communicated a threat to her?

4 A I asked her was she in fear for her life and she told
5 me yes.

6 Q Okay. And you had an opportunity to speak to my
7 client. Did he say he offered or threatened to do harm to
8 her?

9 A I'm not sure. I'm not sure if he --- I read to you
10 what he said but I'm not sure if he said that he actually
11 threatened her. I know he told me the box cutter was
12 closed.

13 MR. CORNWELL: Beg the Court's indulgence.

14 THE COURT: Yes, sir.

15 (Pause.)

16 BY MR. CORNWELL:

17 Q So you took Ms. Smith to the crime scene at around --
18 not the crime scene -- to the vehicle around 5 o'clock?

19 A In the 5 o'clock hour, yes, sir.

20 Q And you had an opportunity to identify what was on
21 the side of the red XTerra? I'm just going by your
22 investigative report. Is that correct?

23 A In the 5 o'clock hour -- once I dropped Ms. Smith
24 back off at the Walmart, I did return back to the traffic
25 stop. I took photos of the car and what was inside the

1 car.

2 Q Okay. When did you view the video?

3 A When I originally arrived at Walmart to talk
4 Ms. Shirley.

5 Q Okay. Did you ever find the flat screen TV or was
6 she simply mistaken about that?

7 A I never found a flat screen TV. There was a computer
8 in the car.

9 Q Okay. Did you ever have an opportunity to speak with
10 Ms. Doby again?

11 A Since her primary interview?

12 Q Yes.

13 A No, I haven't talked to her.

14 Q All right. Did you talk to Mr. Edgewater (sic)? Did
15 he give any indication that he knew or had -- knew how
16 this blade looked?

17 A Not to my knowledge.

18 Q Not to your knowledge?

19 A Unh-unh.

20 Q Did he indicate to you that it was a particular color
21 or anything like that?

22 A Not to my knowledge.

23 Q Did he even indicate if he knew that it was a box
24 cutter or not, this blade that he saw?

25 A He told me -- "blade" is what I remember him telling

1 me is a blade.

2 MR. CORNWELL: Beg the Court's indulgence.

3 THE COURT: Yes, sir.

4 (Pause.)

5 BY MR. CORNWELL:

6 Q Have the yellow box cutters you confiscated, have
7 they ever been dusted for fingerprints or anything like
8 that?

9 A I'm not sure. I log it into evidence and then we
10 have a -- it's over with the evidence custodian at that
11 particular time.

12 Q And you said there was no video of the interview with
13 you and my client?

14 A We don't have video systems in our interview room.

15 Q And there's no audio recording either?

16 A No, sir, not unless we actually bring a tape recorder
17 in there with us, which is not common practice with us.

18 MR. CORNWELL: No further questions, Your Honor.

19 THE COURT: Thank you, Mr. Cornwell.

20 Any redirect, Solicitor?

21 MS. GARRICK: No, Your Honor.

22 THE COURT: Thank you very much, Detective Wade.

23 You may step down.

24 All right. You may call your next witness.

25 MS. GARRICK: Your Honor, the State rests.

1 THE COURT: All right. Thank you very much.

2 MR. CORNWELL: Your Honor, may we approach?

3 THE COURT: Yes, sir.

4 (A bench conference was held with the judge and
5 attorneys in the presence of the jury but out of the
6 hearing of the jury.)

7 THE COURT: All right. Mr. Foreman, ladies and
8 gentlemen, at this stage I must confer with the attorneys
9 momentarily outside of your presence. I'm going to ask
10 you to please step to your jury room. Do not discuss the
11 case during this brief recess.

12 Thank you very much. You may now go with your
13 bailiff.

14 (The jury left open court at approximately 4:09
15 p.m.)

16 THE COURT: All right. You have motions,
17 Mr. Cornwell?

18 MR. CORNWELL: Your Honor, I would make a motion
19 for a summary judgment at this time. Your Honor, the
20 State has presented no evidence by which a reasonable jury
21 can find my client guilty. I'd ask for a directed
22 verdict, Your Honor.

23 THE COURT: All right. Thank you.

24 Viewing the evidence in the light most favorable
25 to the non-moving party for the existence and not the

1 weight of the evidence, I find there is substantial direct
2 and substantial circumstantial evidence from which a jury
3 could return a verdict of guilty on both counts.

4 Defendant's motion for directed verdict is denied.

5 Do I need to interview your client in regards to
6 his right to testify or not to testify?

7 MR. CORNWELL: Your Honor, I've spoken with my
8 client about his right to get on the stand and speak in
9 his defense, Your Honor, but he does wish to give up that
10 right.

11 THE COURT: Thank you.

12 All right. And you have a witness,
13 Mr. Cornwell?

14 MR. CORNWELL: Yes, Your Honor, we do have a
15 witness. We have a piece of evidence that we want to put
16 in and we have a witness as far as the chain goes. It's
17 basically a piece of personal property from when my client
18 was arrested and we believe that that's the object he had
19 in his hand.

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

22 MS. GARRICK: Your Honor, in an abundance of
23 caution, at some point will you have the defendant himself
24 under oath waive his right to testify?

25 THE COURT: I'm sorry?

1 MS. GARRICK: At some point will you have the
2 defendant himself under oath acknowledge to you that he is
3 not going to testify, he is freely giving that up?

4 THE COURT: I will.

5 MS. GARRICK: Thank you.

6 THE COURT: Well, I may as well do that now
7 before we bring the jury out.

8 Come around, please, Mr. Buchanan.

9 MR. CORNWELL: One moment, Your Honor.

10 THE CLERK: Raise your right hand, sir.

11 PERRY BUCHANAN, after being duly sworn,
12 testified as follows:

13 THE COURT: Tell me your full name.

14 THE DEFENDANT: Perry Bernard Buchanan.

15 THE COURT: I need to go over some things with
16 you at this point, Mr. Buchanan. I do this with everyone
17 who's on trial. I need your responses to be under oath.
18 That's why I had the Clerk place you under oath. Do you
19 understand?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: How old are you?

22 THE DEFENDANT: Fifty years old, sir.

23 THE COURT: Speak up a little bit for me.

24 THE DEFENDANT: Fifty.

25 THE COURT: How far did you go in school?

1 THE DEFENDANT: Tenth grade.

2 THE COURT: I'm sorry?

3 THE DEFENDANT: Tenth grade.

4 THE COURT: What type of work did you do before
5 you were incarcerated?

6 THE DEFENDANT: Well, I do landscaping. I have
7 done some plumbing, auto body repair.

8 THE COURT: All right. We've reached the stage
9 of the trial where the State has rested and your side, the
10 defense, now has the opportunity to present evidence for
11 the jury to consider.

12 Do you understand where we're at in the trial,
13 Mr. Buchanan?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: In that regard, your side, the
16 defense, may call witnesses to testify. If you choose to
17 testify yourself, you may do so. Do you understand?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: No one can force you to testify.
20 You have an absolute right to remain silent. And if you
21 choose not to testify, I will tell this jury that they
22 cannot hold your silence against you in any way. I will
23 tell them they are not to even discuss that in the jury
24 room. Do you understand?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: If your side offers no evidence at
2 all, in other words, if neither you nor anyone on your
3 behalf testifies or offers any exhibits, then your
4 attorney will get to make the last argument to the jury.
5 Otherwise, the prosecutor gets to make the last argument.
6 Do you understand?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Does Mr. Buchanan have a criminal
9 record that would subject him to impeachment under Rule
10 609?

11 MS. GARRICK: Yes, Your Honor.

12 THE COURT: All right. And what would that be?

13 MS. GARRICK: Your Honor, he has a 2000 ABHAN
14 conviction and possession of crack cocaine, resisting
15 arrest, strong arm robbery, shoplifting, failure to stop
16 for a blue light. He has a 2002 third or subsequent
17 property offense. He has a 2001 bribes. A 2001
18 shoplifting. A 2008 attempted armed robbery. A
19 shoplifting in 2005.

20 Your Honor, that's the bulk of it within the
21 last ten years.

22 THE COURT: All right. The 2000, explain that
23 one to me, Solicitor.

24 MS. GARRICK: Your Honor, it was a ten-year
25 conviction for ABHAN.

1 THE COURT: All right. When was he released
2 from confinement?

3 MS. GARRICK: Your Honor, I do not have that
4 date. It was an out-of-state conviction from Georgia.

5 THE COURT: What about the possession of crack
6 cocaine?

7 MS. GARRICK: Your Honor, those were all at the
8 same time out of Georgia.

9 He got three years on that possession of crack.

10 THE COURT: Resisting arrest?

11 MS. GARRICK: A fined amount on the same
12 incident date, same conviction date from 2000, Your Honor.

13 THE COURT: And what was that?

14 MS. GARRICK: It was a fine, a fine.

15 THE COURT: And then strong arm robbery?

16 MS. GARRICK: The conviction date was the same
17 offense date, 3-29 of 2000. Your Honor, I just have a
18 conviction.

19 THE COURT: And then failure to stop for a blue
20 light?

21 MS. GARRICK: Same thing, Your Honor.

22 THE COURT: And your record indicates he got a
23 ten-year active sentence?

24 MS. GARRICK: Yes, sir.

25 THE COURT: For assault and battery of a high

1 and aggravated nature?

2 MS. GARRICK: Yes, sir.

3 THE COURT: All right. And then the '02
4 property offense third, what was his sentence there?

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

7 (Pause.)

8 MS. GARRICK: Five years. Five years, Your
9 Honor.

10 THE COURT: And that's in South Carolina?

11 MS. GARRICK: No, sir, Georgia.

12 THE COURT: Georgia. And in '01 did you say
13 bribes?

14 MS. GARRICK: Yes, sir. It has conviction but
15 it does not give his sentence and my intention would be
16 because it's dishonest --

17 THE COURT: And then an '01 shoplifting?

18 MS. GARRICK: Yes, sir.

19 THE COURT: And what was his sentence there?

20 MS. GARRICK: Your Honor, it was a magistrate's
21 level, but once again --

22 THE COURT: And in '08 attempted armed robbery?

23 MS. GARRICK: Yes, sir.

24 THE COURT: And what was his sentence there?

25 MS. GARRICK: Three years, Your Honor.

1 THE COURT: And then the '05 shoplifting?

2 MS. GARRICK: Yes, sir.

3 THE COURT: All right. Mr. Cornwell, do you
4 have a position on any of these charges?

5 MR. CORNWELL: My rap sheet only goes up to
6 1999, Your Honor. And my client indicated to me that the
7 2000 ABHAN was a proffer. He said he hadn't resided in
8 Georgia --

9 THE DEFENDANT: -- since '85.

10 THE COURT: I can't hear.

11 THE DEFENDANT: I caught a -- I was in
12 Georgia -- I haven't been in Georgia since 1985. They
13 saying I had a conviction just in 2000. I left -- I maxed
14 out of Georgia in 1985 for the case that I had up there.
15 I haven't been to Georgia since then.

16 THE COURT: What was that case?

17 THE DEFENDANT: That was an assault and battery
18 of a high and aggravated nature, sir. I caught that
19 sentence in '78 and I maxed out in '85. I haven't been
20 back to Georgia since then. And I was locked up in
21 Wateree Institution in 2004 all the way to 2005 -- I mean
22 2006. I maxed out and my mother died a year later.

23 THE COURT: Do you have certified convictions,
24 Solicitor, on the 2000 charges?

25 MS. GARRICK: No, sir. The only certified

1 conviction I have is the one from Columbia, Richland
2 County, which is the 2-14- 08, which is the attempted
3 armed robbery. And, Your Honor, that's connected to the
4 Notice of Intent to Seek Life Without Parole that was
5 served on Mr. Buchanan 8-7.

6 THE COURT: The '02 property offense third, is
7 that shoplifting?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And the '01 bribes --

10 THE DEFENDANT: That was -- if I'm not mistaken,
11 that was part of the same case where the officer said that
12 I offered him something, but they ran it all in together.

13 I'm really not -- I really can't remember that
14 case that clearly, but it was all together. It was a
15 shoplifting and some kind of way that the bribe came in --
16 I don't know how, but it did -- and I pleaded guilty to
17 all those up under one deal.

18 THE COURT: All right. I will rule that the
19 2000 offenses are not admissible.

20 I rule that you can ask him about three
21 shoplifting convictions. He's got one in '02, one in '01,
22 and one in '05. That's three shoplifting convictions.

23 He has the bribery or bribes in '01.

24 And then as to the attempted armed robbery, I
25 would rule that you can ask him if he has a felony

1 conviction in 2008 in Richland County.

2 MS. GARRICK: Yes, sir.

3 THE COURT: Do you want to be heard on any of
4 those, Mr. Cornwell?

5 MR. CORNWELL: No, Your Honor.

6 THE COURT: All right. So if you take the stand
7 then, Mr. Buchanan, the prosecutor can ask you if you have
8 been convicted of certain offenses in the past. I've
9 ruled that those offenses the prosecutor can ask you about
10 is a 2001 shoplifting, a 2002 shoplifting, a 2005
11 shoplifting, a 2001 bribes, and a 2008 felony conviction.
12 They can't ask you about the details, but they can ask you
13 if you have those convictions if you testify.

14 I will then tell the jury that they can only
15 consider that evidence against you, if they consider it at
16 all, as it goes to the issue of your believability or your
17 credibility and for no other purpose. Do you understand?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: The decision about whether you
20 testify or not is your decision to make and yours alone.
21 I expect that you'll confer with your attorney and perhaps
22 others with whom you value their opinions on important
23 decisions, but the decision about whether you testify or
24 not is your call to make, your decision. Do you
25 understand?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Has anyone exercised any undue
3 influence over you to get you to choose to testify or not
4 to testify?

5 THE DEFENDANT: No, sir.

6 THE COURT: Today are you under the influence of
7 any drugs, alcohol, medication or anything that negatively
8 affects your thinking ability?

9 THE DEFENDANT: No, sir.

10 THE COURT: Whatever decision you've made about
11 whether to testify or not to testify, is it your decision
12 made of your own free will and accord?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you have any questions you would
15 like to ask me about your decision to testify or not to
16 testify?

17 THE DEFENDANT: No, sir.

18 THE COURT: Have you made your decision?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And what is your decision?

21 THE DEFENDANT: I won't testify.

22 THE COURT: Say it again?

23 THE DEFENDANT: I would not testify.

24 THE COURT: You will not testify. And that is
25 your decision made of your own free will and accord?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Thank you.

3 I find that the defendant understands his right
4 to testify or not to testify and that he has made his
5 decision not to testify freely, knowingly, and
6 voluntarily.

7 You may return to your seat, Mr. Buchanan.

8 All right. Anything further before we bring in
9 our jury?

10 MS. GARRICK: No, sir.

11 MR. CORNWELL: No, Your Honor.

12 THE COURT: Bring us our jury, please.

13 (The jury came into open court at approximately
14 4:27 p.m.)

15 THE COURT: All right. Welcome back, ladies and
16 gentlemen.

17 As you recall, the State has rested. You've
18 heard all the evidence and all the testimony you are going
19 to hear from the State in its case in chief. The
20 defendant now may present evidence and testimony if he
21 chooses to do so.

22 The State is the party that has the burden of
23 proving its case beyond a reasonable doubt.

24 A criminal defendant in South Carolina is always
25 presumed to be innocent regardless of the serious nature

1 of whatever they may be charged with. However, they may
2 present evidence and testimony if they choose to do so and
3 never required to do so. A person does not have to prove
4 himself or herself innocent.

5 With that being said, we will turn our attention
6 to Mr. Cornwell and ask Mr. Cornwell, does the defendant
7 intend to offer any witnesses?

8 MR. CORNWELL: Yes, Your Honor. We'd like to
9 call one witness to the stand.

10 THE COURT: All right. You may call your first
11 witness.

12 SHANNON O'CAIN, after being duly sworn,
13 testified as follows:

14 THE CLERK: Have a seat. Once you're seated,
15 state your full name on the record spelling your last.

16 THE WITNESS: Shannon M. O'Cain, O- apostrophe
17 C-A-I-N.

18 THE COURT: All right. Mr. Cornwell.

19 DIRECT EXAMINATION

20 BY MR. CORNWELL:

21 Q Ms. O'Cain, how are you?

22 Could you tell the jury where you work at.

23 A I work for the Lexington County Public Defender's
24 Office.

25 Q And do you recall me asking you to pick up something

1 from the jail for us?

2 A Yes.

3 Q Is this the property release form signed by my
4 client?

5 A Correct. Yes.

6 Q Is this the bag that you got from the jail as a
7 result of this signed property release form?

8 A Yes.

9 Q Did you open this bag in my way?

10 A No.

11 Q Did you tamper with it in any way?

12 A No.

13 Q Are you the only individual between the time you got
14 it from the jail and you gave it to me that handled this?

15 A Yes.

16 Q Could you tell me what the contents of these bags
17 are?

18 A Sunglasses, cell phone, some shoe strings and some
19 loose change.

20 MR. CORNWELL: Your Honor, I would like to
21 introduce these into evidence as the personal effects of
22 Mr. Buchanan when he was arrested, Your Honor.

23 THE COURT: All right. Solicitor.

24 MS. GARRICK: No objection, Your Honor.

25 THE COURT: All right. That would be Defense 1?

1 MR. CORNWELL: Yes.

2 THE COURT: Without objection.

3 (WHEREUPON, Defendant's Exhibit No. 1 was marked
4 for identification and received into evidence.)

5 MR. CORNWELL: No further questions.

6 THE COURT: Thank you.

7 Solicitor?

8 MS. GARRICK: No questions, Your Honor.

9 THE COURT: Thank you very much, Ms. O'Cain.
10 You may step down.

11 All right. Mr. Cornwell, you may call your next
12 witness.

13 MR. CORNWELL: That's it for the defense, Your
14 Honor.

15 THE COURT: All right. The defense rests,
16 correct?

17 MR. CORNWELL: The defense rests, Your Honor.

18 THE COURT: All right. Any evidence or
19 testimony in reply?

20 MS. GARRICK: No, Your Honor.

21 THE COURT: All right. Thank you very much.

22 Mr. Foreman, ladies and gentlemen of the jury,
23 you've now heard all the evidence and all the testimony
24 you're going to hear in the trial of this case.

25 The procedure we follow now, we're at the point

1 of the closing arguments by the attorneys. I think that
2 will take us well beyond the 5 o'clock hour so we're going
3 to take our evening recess and start back fresh in the
4 morning.

5 I remind you during this recess you're not to
6 discuss this case with anyone. That includes your family,
7 friends, or anyone else.

8 Do not read, listen to, or watch any news
9 reports about the case should there be any.

10 Do not use your computer or cellular phone or
11 any other electronic device with communication
12 capabilities to obtain information that is prohibited,
13 which includes but is not limited to the following:
14 information about a party, a witness, an attorney, or a
15 court officer; news accounts of the case; information
16 through your own research on any topics raised or
17 testimony offered by any witness; or information collected
18 through your research on any other topic that you might
19 think would be helpful in deciding the case.

20 Please remember, you decide this case based on
21 the evidence and the testimony that you heard from the
22 witnesses testifying under oath from this witness stand,
23 the inferences that you find may properly be drawn from
24 the evidence, and any exhibits or documents placed into
25 evidence, and the law as I tell you the law is. Do not do

1 any investigation on the Internet or on your own.

2 With that being said, I'm going to excuse you
3 for your evening recess. I would ask you to please be
4 back promptly at 9:30 in the morning. Please be back
5 promptly at 9:30.

6 You're now excused. I hope you all have a
7 pleasant evening.

8 Thank you very much.

9 (The jury left open court at approximately 4:34
10 p.m.)

11 THE COURT: All right. Anything further from
12 the State?

13 MS. GARRICK: No, Your Honor.

14 THE COURT: Defense?

15 MR. CORNWELL: Not at this time, Your Honor.

16 THE COURT: Any specific requests to charge?

17 MR. CORNWELL: Your Honor, may we -- I can bring
18 you some in the morning, Your Honor, if that's acceptable?

19 THE COURT: All right. You can email them to my
20 law clerk if you'd like.

21 MR. CORNWELL: Thank you.

22 THE COURT: Solicitor?

23 MS. GARRICK: Nothing specific, Your Honor.

24 THE COURT: All right. Thank you very much.

25 Court will be in recess until 9:30 in the

1 morning.

2 (The proceedings were concluded for the day to
3 be reconvened on April 26, 2011.)

4 THE COURT: All right. Anything from the State?

5 MS. GARRICK: Your Honor, just briefly. We will
6 waive opening on the law. And also, after Mr. Cornwell
7 finishes, we're going to need one minute to change laptops
8 because Mr. Cornwell is going to use his laptop and we'll
9 need to put ours up there.

10 THE COURT: All right.

11 MS. GARRICK: And State's Exhibit 6, if I may
12 approach, Your Honor, I'd ask to remove this item from the
13 bag for closing. This is the box cutter.

14 THE COURT: All right. You may do so.

15 Anything further, Solicitor?

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

17 THE COURT: Mr. Cornwell?

18 MR. CORNWELL: Your Honor, similarly, I would
19 ask to remove an item from Defense Exhibit No. 1. It's a
20 cell phone.

21 THE COURT: All right. Yes, sir, you may.

22 Any specific requests to charge?

23 MR. CORNWELL: I emailed some to your law clerk,
24 Your Honor, and defense has a copy -- the State has a copy
25 also.

1 THE COURT: All right. The reasonable doubt
2 charge is what I charge.

3 I also charge Manning. So I charge both Manning
4 and Victor versus Nebraska.

5 The non-testifying, I charge that.

6 Lesser included offense, Solicitor?

7 MS. GARRICK: Your Honor, I guess it would be
8 strong arm.

9 THE COURT: All right. And I was planning on
10 charging that.

11 MR. CORNWELL: Thank you.

12 THE COURT: I just charge it as robbery. Some
13 people call it strong arm, some people call it common law.
14 You all call it what you want.

15 I charge this basic charge on confession.

16 All right. May we have our jury.

17 THE BAILIFF: Your Honor, we're still missing
18 one.

19 THE COURT: All right. Thank you.

20 (Pause.)

21 THE BAILIFF: Your Honor, we have all our
22 jurors.

23 THE COURT: All right. Bring us our jury,
24 please.

25

1 (The jury came into open court at approximately
2 9:33 a.m.)

3 THE COURT: Good morning, ladies and gentlemen
4 of the jury panel. Welcome back.

5 As you recall, the State rested, the defense
6 rested. You've heard all the evidence and all the
7 testimony you're going to hear from the parties in the
8 trial of this case.

9 We're now at the point of the closing arguments
10 by the attorneys. They're different from the opening
11 statements. They are true arguments. The attorneys may
12 argue the facts, the inferences to be drawn from the facts
13 and the law.

14 The procedure we follow is Mr. Cornwell will
15 present the closing argument on behalf of Mr. Buchanan
16 first. Thereafter, the Solicitor will present the closing
17 argument on behalf of the State, the State being the party
18 that has the burden of proving the case beyond a
19 reasonable doubt.

20 After the closing arguments of the attorneys, I
21 will then charge or instruct you on the law that applies
22 to the facts of this case. You will then retire for your
23 deliberations to determine what the facts are, apply them
24 to the law as I have explained it to you, and reach those
25 true and just verdicts.

1 I would ask you to please give the attorneys
2 your complete and undivided attention during their closing
3 arguments as you have done throughout the course of this
4 trial.

5 With that being said, Mr. Cornwell.

6 MR. CORNWELL: May it please the Court, Your
7 Honor.

8 Ladies and gentlemen of the jury, you've heard a
9 lot in this last day and, I guess, a couple hours of here.
10 You've heard from the State, heard their opening argument.
11 You've heard their witnesses take the stand. You've heard
12 all the direct, you've heard all the testimony that's got
13 to be heard in this case. It's time for you to decide
14 whether or not you believe that the State has met its
15 burden of proof, whether or not it's proof beyond a
16 reasonable doubt that my client went to a store, took some
17 merchandise, didn't pay for it, and also wielded a weapon
18 in the process.

19 It is definitely our position, as I told you
20 before, that Perry Buchanan went into the store, he took
21 merchandise, he didn't pay for it. And actually he's been
22 willing to admit that since the day he was caught.

23 Was that wrong? Of course it was wrong.
24 Everybody knows you pay for what you want.

25 Was Perry Buchanan wrong? Yes, he was wrong.

1 Which is why when the officer took him down to West
2 Columbia Police Department to talk to him, he tried to
3 come clean. He told him, "I took this thing. I took it
4 and didn't pay for it at the Walmart." But that's it.
5 Where we differ is the issue of the weapon.

6 They had him dead to rights on the shoplifting.
7 They had him. He gave it to them. He confessed to
8 shoplifting. But we don't agree that there was a knife
9 involved in this at all.

10 The testimony of Ms. Shirley Ann Smith and the
11 video does not match. You've had an opportunity to see
12 this video a thousand times probably by now, and you've
13 got the whole DVD of this incident in evidence. You're
14 going to have an opportunity to look at it again if you
15 want to. But I'm going to put you through it again so
16 that we can see exactly what happened on this video.

17 (DVD played.)

18 MR. CORNWELL: Look closely. We're coming up on
19 the part of the video where Ms. Shirley Ann Smith said my
20 client pulled a knife, that he put his hand in his pocket
21 and pulled something out and then he wielded a knife.

22 Only problem is, look at this video:
23 Mr. Buchanan's hands don't leave his pockets. It's after
24 the moment she said that he presented a knife to her.

25 This is it. She said he waved the knife at her

1 at this point and then she takes off.

2 Her testimony points to this part of the video
3 as the part where he pulls the knife on her. In her
4 statement she said that when he pulled the knife on her
5 she didn't stick around. She knew it was beyond her, and
6 she left. Yet in the video she lingers around for a few
7 seconds, stands there and strikes a pose.

8 I ask you to use your common sense and your
9 understanding. All of you have been on this earth for
10 enough years to realize and understand human nature.
11 Nobody's going to stand there and strike a Superman pose
12 if somebody has a knife. They're not even trained to do
13 that. They're told not to fight back. They're told to go
14 call loss prevention. They're told to call the
15 authorities.

16 When I questioned her on this and I said -- kind
17 of insinuating that, you know, she wasn't acting like a
18 person who was in fear of their life, she responded by
19 saying, "Well, I'm a proud employee of Walmart. I've been
20 for eight years." Come on. Really?

21 Some people may ask, well, what does she have to
22 gain by making a story up about a knife? What does she
23 have to gain? The respect and admiration of her
24 colleagues, props from Walmart possibly. Seven years,
25 eight years now it is she's been working for Walmart as a

1 cashier. Maybe it's to raise her stock in the eyes of the
2 company. I don't know. But those are all possible
3 motivations for her to not be telling the truth during
4 this time.

5 What's another motivation? Pride. Pride comes
6 before destruction, and the haughty spirit before a fall.

7 We see here someone who has given a story and
8 now they're in so deep and entrenched, human nature is to
9 dig in.

10 It's a sad truth that we don't like to admit
11 mistakes. We don't like to admit when we are wrong. We
12 don't like to admit that. So what do we do? It's human
13 nature to dig in. Once you've made your story up, you
14 just dig in and stick to it.

15 When I questioned her on the stand, you saw how
16 flustered she got. You saw that in regards to the video.
17 Every time I questioned her about the video, where he
18 could have pulled the knife, another thing you notice is
19 that his back was conveniently to the camera everytime an
20 incident occurred where she said she saw the knife.

21 Let's talk about that, the times where she said
22 she saw the knife.

23 If you recall, I was playing this same video
24 clip and in direct exam when the prosecutor was asking her
25 about when she saw the knife, it was around this time when

1 he put his hands down in his pocket. She said he pulled
2 his hand out of his pocket and had a knife, which we just
3 saw that he had his hand in his pocket the whole time. He
4 didn't pull his hand out where you could see it. And when
5 he did pull his hand out, there was nothing in his hand.

6 I'm going to let you see it. As a matter of
7 fact, I can put this in slow motion for you.

8 Here we are coming up on the moment when he
9 supposedly pulls a knife on her. You can see it clearly
10 in slow motion.

11 (DVD played.)

12 MR. CORNWELL: He puts his hand in his pocket,
13 hand's still in his pocket, hand's still in his pocket,
14 hand's still in his pocket. The right hand's still in the
15 pocket, left hand on the grocery cart.

16 Now he pulls his hand out. What's he doing?
17 Gesturing, telling her to back up, as you heard her say,
18 "keep away from my cart." What's he doing? He's not
19 swinging a blade. If anything, he's trying to get around
20 her. That's not the body language of a person with a
21 weapon who is using it willingly and aggressively. That is
22 the body language of a person that's trying to get around
23 somebody.

24 Also, you have seen the video footage where the
25 prosecution tries to say that, aha, well, his back may

1 have been to the camera this whole time that we say that
2 he had a weapon and you may not be able to see the knife
3 when she says that he pulled the blade out on her, but we
4 do have this one part of the video that shows him holding
5 something in his hand, and it's the knife, it's the
6 weapon.

7 You've seen this video before. You've seen this
8 still that I'm referring to, which is basically where they
9 take a shot of a frame of a video and it's basically a
10 photograph, and you can see clearly right there, there
11 appears to be something in his hand. That's what they
12 focus on. It's a white amorphous blob in his hand. That
13 is what they want you to believe is a weapon. This is
14 what they bring to court and say is the weapon he had in
15 his hand.

16 I'm not a man with a big ego. I can admit I
17 have little hands, okay? It almost covers this entire
18 blade. You look at that video. Whatever it is you see in
19 his hand is not only not covered by his hand, but it juts
20 out this end and this end far more than this thing does.
21 My hand almost covers this and Mr. Perry's hand is bigger
22 than mine. If he had this in his hand, you wouldn't see
23 as much of that exposed to the camera.

24 But it does appear he had something in his hand.
25 At some point in the video it does appear he had something

1 in his hand. What could it be?

2 This is a frame of Mr. Perry leaving Walmart
3 right before he goes into the patio center, exactly before
4 you see the encounter between him and Ms. Shirley Ann
5 Smith, seconds before. Mr. Perry walks into the garden
6 center wielding a very, very dangerous cellular device in
7 his hand. What is that? Huh? You can see it clearly as
8 I can. As a matter of fact, it's the only time you can
9 see clearly the contents of Mr. Perry's hand at every
10 angle in this entire video, and we clearly see that it's a
11 cell phone, this cell phone that he had on him that day,
12 this cell phone that he had on him in his right hand as he
13 walked into the garden center.

14 And I had some questions, too. You know, I've
15 looked at this video many times, as I'm pretty sure the
16 Solicitor's office did. As a matter of fact, I know they
17 have. And the one thing that stuck out to me was that
18 there was nothing I saw that could match the description
19 of what was actually in his hand, or what appeared to be
20 in his hand, as he turned around at the end of the video,
21 the angle that we showed you many times, the above-head
22 shot here. And I've been wracking my brain trying to
23 figure out, you know, what could that be? What could this
24 white object be? Because it's clearly not yellow. We can
25 see yellow from far away.

1 Look at that. Look at that. See how bright
2 yellow shows up? Yellow, yellow, yellow. The blade's
3 yellow.

4 I don't see yellow in Mr. Perry's hand. All I
5 see is white. So I've been asking myself, wracking my
6 brain, what could cause this. Glow from a cell phone
7 screen?

8 Enough of the video. You've seen the video.
9 Let's talk about Ms. Smith.

10 Ms. Smith said on the stand -- and no one doubts
11 her loyalty to Walmart. I mean, eight years at any job,
12 especially in this economy, is an outstanding achievement.
13 I'm just saying. But I had an opportunity to speak with
14 Ms. Smith on the stand and cross-examine her and I asked
15 her specific questions about what happened because I had
16 seen that video many times. And in her statement she
17 claims that Mr. Buchanan swung a blade on her, not once,
18 he swung around with the blade and then she said he made
19 it clear and she knew it was beyond her when he swung
20 around again. We don't see that. It never happens in the
21 video. You've seen it. At no point does he swing at
22 anybody. The only time he even makes a swinging motion is
23 when he's turned around, turned his shopping cart around
24 to run away from her.

25 She got flustered on the stand, which is

1 understandable. I mean it's the first time she's ever
2 been pressed on these issues.

3 Talk about a foggy memory. She couldn't
4 remember something. I asked her and she couldn't
5 remember. Hey, I mean, this is a question of perception.
6 She didn't even know that it was a computer in the grocery
7 cart after standing out there for a good minute and a half
8 trying to keep the man from taking the cart out and had an
9 opportunity to look at the contents of the cart and look
10 at him and stop him. She thought it was a flat screen TV.

11 And that's whose memory we're going to rely on?
12 That's whose senses of perception we're going to rely on
13 to pinpoint something that she said was hidden and small
14 and tucked away and he was principally moving this knife
15 when she couldn't see the big thing right in front of her?

16 I had an opportunity to speak with Bruce Wade.
17 You saw him on the stand.

18 I've been working in Lexington County since
19 2007, and Bruce Wade is a good cop. He's a good man.
20 People make mistakes. And he is a man. A man with all
21 the flaws that we have, all the faults that we have. The
22 only difference between you and I is that every morning he
23 goes to work, he puts on that badge, he puts on the
24 uniform, and he's taken an oath to serve and protect, an
25 oath he takes very seriously.

1 A lot of people ask what motivation would he
2 have to even attempt to fabricate or manufacture or
3 whatever. He has to produce.

4 You've got to understand. I have to deal with
5 Mr. Perry Buchanan as a person. I have to treat him as a
6 human being. I have to listen to what he says and I have
7 to take into account different things, his state of mind,
8 and I have to care about what he says to me and about his
9 case and what happens to him. Because to everybody else
10 in this courtroom, the jury excluded hopefully, he's just
11 a number. He's a perp. He's a suspect. They don't care
12 what happens to him. He's not one of the people that
13 Bruce Wade has been serving and protecting. He has
14 committed a crime.

15 But that's what our justice system is for.
16 Because even if you're accused of a crime, every person
17 deserves to see the system work correctly for them.

18 You heard me question Mr. Wade. I questioned
19 him specifically because I had my suspicions that
20 something wasn't right about the testimony or the
21 statement of Ms. Smith. I just -- it just did not fit.

22 He was questioned on direct by the solicitor,
23 and on direct, I don't know if it was a mistake, I don't
24 know if it was an oversight, I don't know if it was on
25 purpose, but on direct it appeared as if he had not went

1 to the crime scene before he talked to Ms. Smith. It
2 appeared that Ms. Smith hadn't been to the crime scene --
3 or not the crime scene, I'm sorry -- the location of the
4 XTerra, the red XTerra on Jarvis Klapman before she was
5 interviewed.

6 But on cross when I referred to his
7 investigative report with his timeline on it, it was clear
8 that Ms. Smith had been to Jarvis Klapman Boulevard at 5
9 o'clock. She got to see the red XTerra, and in that red
10 XTerra were these yellow box cutters. And in that red
11 XTerra was the stolen merchandise.

12 Mr. Wade says that he saw the merchandise, the
13 merchandise was in there, but somehow, you know, they
14 avoided seeing the weapon. They avoided seeing those box
15 cutters. Ms. Smith didn't see any of that. Bruce Wade
16 didn't see that either. This idea of a box cutter just
17 spontaneously came from Ms. Smith because that's what she
18 actually saw. That's what they want you to believe. But
19 the fact remains that she was exposed to this thing
20 beforehand. It's our position that the idea was planted
21 in her mind.

22 I talked to Ms. Smith on that stand and I asked
23 her, Before you talked to Bruce Wade, you know, did you
24 talk to anybody else about this box cutter? Did you tell
25 them, you know, describe to anybody else how this box

1 cutter looked? Because to be honest with you, when you
2 look at the statements and you talk to the witnesses, she
3 never mentions or describes this thing as a box cutter
4 until her statement with Bruce Wade which is after she had
5 been to the red XTerra where the box cutter was.

6 So she says, "Yes, as a matter of fact, the
7 first person I talked to was Dean Edgeworth. I told him
8 that the suspect had a box cutter, it was a yellow box
9 cutter."

10 Well, Dean Edgeworth gets on the stand and I
11 asked him directly, I said, "Did Ms. Smith tell you about
12 the blade? Yes. Did she describe it to you? No." Let
13 him read his statement. He didn't write a description in
14 his statement. He said "blade." He didn't write a
15 description of a box cutter. Nobody said "box cutter."
16 "Box cutter" doesn't come up until after Mr. Wade and
17 Ms. Smith talked, after they'd been to where the box
18 cutter is. After.

19 Let's talk about the oral confession. Of course
20 we don't agree that my client confessed to having a box
21 cutter. Of course we don't. That is just not true.

22 You guys heard a lot of things today and
23 yesterday. You're going to have an opportunity to review
24 all the evidence in this case. You're going to have an
25 opportunity to sit back there and make a decision based on

1 the evidence that you've seen.

2 A lot of times decisions can be boiled down to a
3 simple explanation, sometimes they can't. But I know one
4 of the things you're going to have to do when you go back
5 there in that jury room is decide whether or not you
6 believe what you see or what you hear. Because when you
7 look at that video, you don't see anything. What you hear
8 is suspect.

9 They say a picture is worth a thousand words.
10 How much is a video? Huh?

11 I'm not asking you to reach here. I'm asking
12 you to look at the video and just see what I see. See
13 what's there.

14 A man's life is in your hands today, his
15 freedom, and they want you to convict him based on that,
16 based on that blurry, grainy picture.

17 The video is important. It is. The evidence is
18 important. But this still of him holding some kind of
19 blurry white thing in his hand that we don't even know
20 what it is, that's not enough. It's simply not enough
21 that blurry photographs and grainy video footage could
22 prove anything.

23 We'd have pet Sasquatches. We'd be riding to
24 work in UFOs. There'd be a Loch Ness monster in the
25 California aquarium. But there's not. You know why?

1 Because grainy video footage and blurry photographs have
2 not proven a thing. In the history of human existence has
3 anything ever been proven by bad pictures? No. And the
4 State can't prove their case based on that either.

5 So I'm asking you when you go back there, you
6 remember that my client is not guilty. He's innocent.
7 They have to prove his guilt beyond a reasonable doubt,
8 beyond a blurry photograph, beyond the garbled testimony
9 of a -- the flustered testimony of a person at Walmart who
10 was there and thought she might have saw somebody but
11 can't identify what's in his grocery cart. Beyond the
12 testimony of even Bruce Wade because he can't get his
13 timeline straight.

14 Everywhere you look, everything you hear is
15 suspect, but what you see in that video is not.

16 Look at the video plainly how it is. Don't try
17 to make stuff up. Don't try to manufacture stuff. Don't
18 try to make something be there when it's not. Just look
19 at it clearly. You'll see there was no swing. You'll see
20 there was no lunge. You'll see he didn't act like he had
21 a weapon. You'll see that.

22 You won't hear somebody come up here with faulty
23 memory or a foggy recollection try to convince you of what
24 they thought they saw with their words. Believe what you
25 see, what you see clearly. Find Perry Buchanan not

1 guilty, not because I say so, because he is.

2 Thank you.

3 THE COURT: Thank you, Mr. Cornwell.

4 Solicitor.

5 MS. GARRICK: Thank you, Your Honor. May it
6 please the Court.

7 THE COURT: Yes, ma'am.

8 MS. GARRICK: Mr. Cornwell.

9 Good morning, ladies and gentlemen.

10 We all have a job to do today. Judge McMahon
11 has presided over this trial. He's in charge of
12 determining admissibility of evidence and today he's going
13 to tell you the law that's involved in this case, and
14 that's his job.

15 What you just heard is Mr. Cornwell doing his
16 job. His job is to be an advocate for his client. His
17 job is to try to persuade you to look at the evidence in
18 the light more favorable to his client.

19 And I'm a prosecutor and I have a job and my
20 duty is to seek justice.

21 You all took a juror's oath and your oath was
22 that you would base your verdicts on the evidence and the
23 law, the evidence that comes from the witness stand, what
24 you heard, the items of evidence that you'll have in your
25 jury room, and then the law that Judge McMahon is going to

1 tell you about at the close of the case. That's your job.

2 And, ladies and gentlemen, your job is to
3 actually figure out what happened. And I would argue to
4 you that it's a pretty straightforward matter. This isn't
5 a big mystery. This isn't a whodunit.

6 Certainly Mr. Buchanan is guilty of taking that
7 computer from Walmart without paying for it. So he's
8 guilty of a crime. But you all have to decide what crime
9 is he guilty of. Is he guilty of armed robbery or is he
10 guilty of something lesser? That's what this trial has
11 been about, ladies and gentlemen.

12 And ask yourselves this: On March 12th, 2010,
13 none of us were there, right? So who is the best person
14 that can tell us what Mr. Buchanan did on that day?
15 Shirley Smith. She was the one who was there. She was
16 the one who lived this and experienced this. She's the
17 one who saw Mr. Buchanan as he tried to push that buggy
18 out with a big electronic item in it. She's the one that
19 confronted Mr. Buchanan. She had a conversation with him.

20 She saw what she saw. She said she saw a yellow
21 or gold older blade, a box cutter. And she's identified
22 this item, ladies and gentlemen, this item right here.

23 And the defense in their closing just now has
24 said that she's not been truthful. She's not been
25 truthful on March 12th, 2010, and that she must have

1 lied yesterday under oath. That's the defense's argument,
2 ladies and gentlemen.

3 Ms. Smith's not on trial. How offensive.

4 You get to decide the believability and the
5 credibility of the witnesses. You get to decide who do
6 you believe. And, ladies and gentlemen, you do that by
7 using your common sense.

8 When you took that juror's oath, it didn't mean
9 that you had to leave your common sense out there. You
10 brought it with you. So use that. Use that as you
11 evaluate what Ms. Smith did tell us, what she said
12 March 12th to her co-workers. Remember, she told them "he
13 had a blade, he pulled a blade on me."

14 And I disagree with Mr. Cornwell in how I
15 remember the testimony. I don't believe she told Dean
16 that it was yellow. I believe she said it was just a
17 blade. But she said she told Detective Wade that it was a
18 yellow or gold-handled older box cutter.

19 And Ms. Shirley and Detective Wade told you that
20 she had not seen the box cutters or even reviewed the
21 video until I think she said a couple of months ago or
22 about a month ago when we were getting ready for this
23 trial.

24 Ladies and gentlemen, you have to judge her
25 credibility. Did she appear to be honest and forthright?

1 Did she try and give you details and explain to you what
2 she went through on March 12th?

3 Why would she lie? Do you think she enjoys
4 coming here into court, missing work all these days,
5 having to face Mr. Buchanan, having to be subject to
6 cross-examination, having to come and meet with us
7 numerous times to talk about what happened? Does that
8 make any sense at all? There's no benefit to her lying.

9 She said it March 12th. She told everyone then.
10 And then she told you all yesterday. Please think about
11 that.

12 Let's talk a little bit about the video.
13 Certainly as Ms. Dixon told you all at the beginning, it's
14 not the best security video there is. It's not, you know,
15 what you see on all the fancy TV shows now with NCIS and
16 CSI. I mean, it's not perfect, but it's what we have.
17 It's the best we have.

18 And certainly, ladies and gentlemen, we viewed
19 it numerous times, 30, 40, 50 times probably, and each
20 time you can see something a little bit different. So I'd
21 ask you, and I'd urge you, to please look at it more than
22 once. Look at all the different camera angles and look at
23 it slowly and look at it over and over and see whether the
24 video tracked what Ms. Smith said. And I'd argue that it
25 does.

1 She told you about the confrontation. And she
2 told you how they went round and round the buggy. She
3 told you that his back was to the camera numerous times.

4 She tells you he goes in his pocket and he pulls
5 out something and it's down low and that she sees it and
6 that he says to her not once but twice, "Is it worth
7 getting cut over?" and that the second time when he does
8 that, he raises it up. She didn't say he stabbed at her
9 or he lunged at her. Those words didn't come out of her
10 mouth. She said he raised it, he swung it towards her.
11 Look and see if it's on the video, and I submit you'll see
12 it. You'll see it.

13 Now what about this cell phone? The cell phone.
14 Look at this camera angle. This is as he goes out the
15 first door and at the top of the screen is Ms. Shirley.
16 Those are her feet there and then you see her walk behind
17 him.

18 Ms. Shirley never talked about anything silver.
19 She didn't talk about anything silver in his hand. She
20 didn't see this. This was behind her. This happened
21 before the confrontation. And Mr. Cornwell says, oh, but
22 this -- that you see it in the still. Let's talk about
23 that for a minute.

24 What's that, ladies and gentlemen? A cell
25 phone's a lot smaller than this blade. Come on. There's

1 an item that is shown on that screen there, a silver
2 blade. Ms. Shirley told you what it was. She said,
3 "That's the box cutter. That's what I saw." She's a
4 buggy-length away from him. She said it then; she said it
5 yesterday.

6 But, ladies and gentlemen, maybe if this video
7 with that shot there, if that's all you had to base your
8 decision on, if that's supposed to be proof beyond any
9 reasonable doubt it's a box cutter, maybe you wouldn't
10 have the proof you needed.

11 But guess what? It's not just about this video
12 and that still. You have more than that to consider. You
13 have what she told you, what she said she saw. She said
14 it March 12th, she says it a year later, and she's told
15 you what it was.

16 But you have even more than that. Within ten
17 minutes, West Columbia Police Department, good police
18 work, they stopped that red XTerra. And what did they
19 find? Mr. Buchanan, a big old stolen computer, and not
20 one but two box cutters, yellow. And where are they in
21 that car? Right by Mr. Buchanan. One at his feet, one in
22 the door. You've got that.

23 Defense says, oh, it's just fabricated, it's
24 planted in her mind. Come on. Use that common sense.
25 What else are they going to say? What else can the

1 defense say to explain away the evidence?

2 Bruce Wade. What did he do in this case? He
3 did a good job. He went up, collected witnesses, had them
4 write statements, met with the victim, had her write a
5 statement. He told you that she told him even before they
6 knew for sure that the box cutters had been recovered that
7 it was a yellow blade.

8 He collected the evidence, the clothes that she
9 had described in detail. She even told them, and told you
10 all, there was something on the inside design of the
11 jacket. Look in the hood. It's there. The hat matches.

12 Detective Wade collects the clothes, collects
13 the box cutters, and once again, Detective Wade and
14 Ms. Shirley say they didn't know for sure that the blades
15 had been collected until after she had identified them.

16 Ms. Shirley has to ask Detective Wade, "Did they
17 get the blade? Did they get the box cutter?" He was
18 like, "I don't know." He radios the road guy -- remember
19 Officer Griffin -- to find out, "Did you find the blade?"
20 That's when they find out there's two blades. Ms. Shirley
21 says, "I didn't see them until we got ready for court. I
22 didn't see them that day." Credibility and believability.

23 What else do you have to consider to help you
24 make your decision? What Detective Wade told you. The
25 most important part, I would argue, of his job that day,

1 and that is interviewing the man who was arrested,
2 interviewing Mr. Buchanan.

3 Detective Wade gives him his Miranda warnings,
4 follows the letter of the law, has him initial it, waiving
5 all his rights. Mr. Buchanan talks to him.

6 Would have been nice if there was audio and
7 video equipment in West Columbia, but there's not. So
8 there's not.

9 So Detective Wade, as Mr. Buchanan is talking
10 and giving this statement to him, he's writing it down. I
11 mean, you can tell. It's jotted down. You know, it's not
12 some fancy report for court. These are Detective Wade's
13 notes in State's Exhibit 10 where he writes what
14 Mr. Buchanan told him. And he writes it in first person.
15 It's Mr. Buchanan speaking.

16 "I had Toby go and he picked me up," blah, blah,
17 blah. "I had a box cutter in my hand and told the lady,
18 'My shit's paid for.' I pushed the buggy, she started
19 running. I didn't have the box cutter open." Don't want
20 to tell that little detail.

21 And then when Detective Wade let's him know for
22 sure, Hey, Mr. Buchanan, this is armed robbery. You know,
23 this isn't some little shoplifting, this is armed robbery.
24 Mr. Buchanan says, "I can't write nothing down." That
25 makes sense. Self-preservation's kicking in. He doesn't

1 want to write it down. Detective Wade tells him, "Okay.
2 You've already confessed. I've documented it. I'm going
3 to tell the Court," and he did.

4 The defense wants you to ignore that. Of course
5 they do. That's damaging evidence.

6 So it's not just the video, ladies and
7 gentlemen. It's all this other evidence.

8 You don't have to be convinced beyond each and
9 every doubt. It's proof beyond any reasonable doubt. And
10 Judge McMahon's going to explain that to you. Because
11 think about it. There's no way 12 people can be convinced
12 of something beyond a shadow of a doubt. That's an
13 impossible burden. And that's not the burden the State
14 has.

15 Ladies and gentlemen, the only one with anything
16 to gain today is Mr. Buchanan. He's the one that is on
17 trial. He's the one who will benefit if your verdict is
18 guilty of something lesser than armed robbery.

19 Ladies and gentlemen, you're going to be given a
20 choice of whether he's guilty or not guilty. And I think
21 we can all agree he is guilty of a crime, but the question
22 is what crime. Your choice is going to be between armed
23 robbery and strong armed robbery or common law robbery.
24 Why reward Mr. Buchanan with a lesser charge?

25 Ladies and gentlemen, your verdict should hold

1 him accountable for the actions and the decisions that he
2 took and what he did on March 12th of 2010.

3 Think about what he did, ladies and gentlemen.
4 Five o'clock in the afternoon, March 12th, 2010, down at
5 our Walmart right down the road, he decides, I'm going to
6 go get me a computer. So he goes into Walmart, he loads
7 up approximately a \$900 computer, puts it in a buggy and
8 tries to walk out of the garden center where he's
9 confronted by Ms. Shirley, who's simply doing her job
10 trying to check receipts.

11 And what does he do? He tries to intimidate
12 her, tries to get around her, and then he pulls this box
13 cutter, a deadly weapon, and he tells her not once but
14 twice, "Is it worth getting cut over?"

15 Don't you think as scared as she must have been
16 she's paying pretty close attention, she's focusing on the
17 person who's threatening her and the item that is
18 frightening her?

19 Ladies and gentlemen, Mr. Buchanan should have
20 learned as a small child that actions have consequences.

21 Ms. Dixon told you at the beginning of this case
22 that a detail can change the picture, and that's true. If
23 Mr. Buchanan had just gone into Walmart and concealed some
24 clothing or items or even tried to just sneak out with
25 that computer, it would have been a shoplifting. If he

1 had tried to get out with the computer in that buggy by
2 just intimidating Ms. Shirley or pushing past her in the
3 buggy using force or intimidation, that would be strong
4 armed robbery, ladies and gentlemen. But when he
5 presented this that he told Detective Wade he had in his
6 hand, when he presented a box cutter, that changed the
7 picture. That made the crime an armed robbery. It made
8 him in possession of a weapon during the commission of a
9 violent crime.

10 I would urge you to deliberate, take your time,
11 think about this. Look at all of the evidence together,
12 not just the video, everything else you've heard and all
13 these other items.

14 Ladies and gentlemen, there are few things you
15 can know with absolute certainty, but if you are firmly
16 convinced, then you must convict.

17 Ladies and gentlemen, Mr. Buchanan on
18 March 12th, 2010, when he presented this blade to
19 Ms. Shirley, he committed an armed robbery, and we would
20 ask that you find him guilty of that and the other
21 indictment.

22 Thank you.

23 THE COURT: Thank you, Solicitor.

24 Mr. Foreman, ladies and gentlemen of the jury,
25 if you'd please give me your complete and undivided

1 attention.

2 I'm now going to charge you or instruct you on
3 the law that applies to the facts of this case.

4 The procedure I follow is I cover the general
5 criminal law that applies to all criminal offenses in
6 South Carolina; thereafter I will cover the charge in the
7 particular indictments: Armed robbery, the lesser
8 included offense of robbery, and possession of a weapon, a
9 knife, during the commission of a violent crime. And
10 finally, I will cover the form of the verdict.

11 I generally give you the caption of the
12 paragraph I'm fixing to cover, and when I change from one
13 topic to the next, I will generally alert you to that
14 change. If you'd please give me your complete and
15 undivided attention.

16 The charge, arrest, indictments are not
17 evidence. The indictments charge the defendant with armed
18 robbery and possession of a weapon during the commission
19 of a violent crime. I remind you, the fact that this
20 defendant was arrested, charged, and indicted in this case
21 is not evidence and cannot be considered by you as
22 evidence of guilt in this case, nor does it create any
23 presumption or inference of guilt. These documents, these
24 indictments are simply the formal written instruments
25 which contain the charges made against the defendant. It

1 is the formal documents by which the case is brought into
2 court.

3 Multiple charges. The indictments in this case
4 allege different offenses. The charges are: The first
5 indictment, armed robbery or the lesser included offense
6 of robbery; the second indictment, possession of a weapon
7 during the commission of a violent crime.

8 Each indictment charges a separate and distinct
9 offense. You must decide each indictment separately on
10 the evidence and the law that applies to it, uninfluenced
11 by your decision as to any other indictment.

12 You will be asked to write a separate verdict as
13 to each indictment.

14 Presumption of innocence. The defendant has
15 pled not guilty to these indictments and that plea puts
16 the burden on the State to prove the defendant guilty. A
17 person charged with committing a criminal offense in South
18 Carolina is never required to prove himself innocent.

19 I charge you that it is an important rule of the
20 law that a defendant in a criminal trial, no matter what
21 the seriousness of the charge may be, will always be
22 presumed to be innocent of the crime for which the
23 indictment was issued unless guilt has been proven by
24 evidence satisfying you of that guilt beyond a reasonable
25 doubt.

1 This presumption of innocence does not end when
2 you begin your deliberations, but it accompanies the
3 defendant throughout the trial until you reach a verdict
4 of guilt based on evidence satisfying you of that guilt
5 beyond a reasonable doubt.

6 The presumption of innocence has been said to be
7 like a robe of righteousness placed about the shoulders of
8 a defendant which remains with the defendant until it has
9 been stripped from the defendant by evidence satisfying
10 you of the defendant's guilt beyond a reasonable doubt.

11 The presumption of innocence is not a mere legal
12 theory. It is not just a legal phrase. It is a
13 substantial right to which every defendant is entitled
14 unless you, the jury, are satisfied from the evidence of
15 the defendant's guilt beyond a reasonable doubt.

16 Reasonable doubt. What is a reasonable doubt in
17 the law? A reasonable doubt is the kind of doubt that
18 would cause a reasonable person to hesitate to act. The
19 State has the burden of proving the defendant guilty
20 beyond a reasonable doubt.

21 Some of you in the past may have served as
22 jurors in civil cases where you were told that it is only
23 necessary to prove that a fact is more likely true than
24 not true, such as by the greater weight or the
25 preponderance of the evidence.

1 In criminal cases, the State's proof must be
2 more powerful than that. It must be proof beyond a
3 reasonable doubt.

4 Proof beyond a reasonable doubt is proof that
5 leaves you firmly convinced of the defendant's guilt.

6 There are very few things in this world that we
7 know with absolute certainty, and in criminal cases, the
8 law does not require proof that overcomes every possible
9 doubt. If based on your consideration of the evidence you
10 are firmly convinced that the defendant is guilty of the
11 crimes charged, you must find the defendant guilty.

12 If, on the other hand, you think there is a real
13 possibility that the defendant is not guilty, you must
14 give the defendant the benefit of the doubt and find him
15 not guilty.

16 Duties of trial jury and trial judge. I remind
17 you that during this trial, you and I have certain duties
18 to perform. As the trial judge, it's my responsibility to
19 preside over the trial and I also have the duty to rule on
20 the admissibility of the evidence that has been offered
21 during this trial.

22 You are to consider only the competent evidence
23 before you. You are to consider only the testimony which
24 has been presented from the witness stand and any exhibits
25 which have been made part of the record in this case.

1 I also have the duty to charge you the law that
2 applies to this case. As the presiding judge, I am the
3 sole judge of the law of this case and it is your duty as
4 jurors to accept and apply the law as I now state it to
5 you. If you already have any idea as to what the law is,
6 or what the law ought to be, and it does not agree with
7 what I now tell you the law is, you must abandon your idea
8 because you are sworn to follow the law and apply the law
9 exactly as I state it to you.

10 In every case tried in this courtroom before a
11 jury, the jury becomes the sole and exclusive judges of
12 the facts in a case. A trial judge cannot intimate,
13 state, comment on, or make any statement to a trial jury
14 about the facts in a case.

15 Since you, the jury, are the sole judge of the
16 facts in this case, you are not to infer from what I have
17 said during the progress of this trial in ruling upon the
18 admissibility of evidence or otherwise, or anything that I
19 now say during this course of instruction to you, that I
20 have any opinion about the facts in this case. The law
21 does not allow me to have an opinion about the facts in
22 this case. That is a matter solely for you, the jury, to
23 determine. As jurors, it is your duty to determine the
24 effect, the value, the weight, and the truth of the
25 evidence that has been presented during this trial.

1 Direct and circumstantial evidence. There are
2 two types of evidence generally presented during a trial:
3 direct evidence, circumstantial evidence.

4 Direct evidence is the testimony of a person who
5 claims to have actual knowledge of a fact, such as an eye
6 witness or an ear witness. It is evidence which
7 immediately establishes the main fact to be proved.

8 Circumstantial evidence is proof of a chain of
9 facts and circumstances indicating the existence of a
10 fact. It is evidence which immediately establishes a
11 collateral fact from which the main fact may be inferred.
12 Circumstantial evidence is based on inference and not on
13 personal knowledge or observation.

14 The law, our law, makes absolutely no
15 distinction between the weight or value to be given to
16 either direct or circumstantial evidence, nor is there a
17 greater degree of certainty required of circumstantial
18 evidence than of direct evidence. You should weigh all of
19 the evidence in the case. After weighing all of the
20 evidence, if you're not convinced of the guilt of the
21 defendant beyond a reasonable doubt, you must find the
22 defendant not guilty.

23 Credibility of the witness. Necessarily, you,
24 the jury, must determine the credibility of the witnesses
25 who have testified in this case. Credibility simply means

1 believability, who are you going to believe. It becomes
2 your duty as jurors to analyze and to evaluate the
3 evidence and determine which evidence convinces you of its
4 truth.

5 In determining the believability of witnesses
6 who have testified in this case, you may believe one
7 witness over several or several over one. You may believe
8 a part of the testimony of a witness and reject the
9 remaining part of the testimony of that same witness.

10 You may believe the testimony of a witness in
11 its entirety or reject the testimony of a witness in its
12 entirety. You may consider whether any witness has
13 exhibited to you any interest, any bias, prejudice or
14 other motive in this case. You may also consider the
15 demeanor, the manner, the appearance of the witness while
16 testifying on the witness stand.

17 Statement of the defendant. A statement alleged
18 to have been made by the defendant has been admitted into
19 evidence in this case. While the Court has determined
20 that the statement is admissible, I instruct you that you,
21 the jury, make the ultimate decision of whether or not the
22 defendant made the statement.

23 If the defendant did make the statement, you
24 must determine whether the statement was made by the
25 defendant voluntarily of his own free will. This means

1 that the statement was not caused by pressure, force,
2 fear, threats, coercion, intimidation, or by hope or
3 promise of leniency or reward of any kind.

4 In determining whether the statement was
5 voluntary, you should consider both the characteristics of
6 the defendant and the details of the questioning. Some of
7 the factors that you must consider are: The age of the
8 defendant; the defendant's education or lack of education;
9 the defendant's mental ability or capacity; the
10 defendant's I.Q. or intelligence; the defendant's
11 background and environment; the place and length of
12 detention; the nature of the questioning; and the advice
13 or lack thereof to the defendant of his Constitutional
14 rights, including but not limited to: the right to remain
15 silent, that any statement could be used against him in a
16 court of law, the right to have a lawyer present, that if
17 he could not afford a lawyer, a lawyer would be appointed
18 to represent him without any cost, and that he could stop
19 making a statement at any time. You must carefully
20 consider all of the surrounding circumstances before you
21 give any weight to any alleged statement.

22 The State has the burden of proving beyond a
23 reasonable doubt that the alleged statement was voluntary.
24 If you determine it was, you may give the statement any
25 further consideration that you deem proper. You must

1 decide what weight, if any, should be given to the alleged
2 statement.

3 If you determine that the alleged statement was
4 not the free and voluntary statement of the defendant, you
5 should not consider the statement at all.

6 I instruct you and emphasize, the fact that the
7 defendant did not testify is not a factor to be considered
8 by you in any way in your deliberations and in your
9 consideration on the guilt or innocence of the defendant.
10 It must not be considered by you in any manner whatsoever.

11 A defendant has the constitutional right to
12 remain silent, and the assertion of this right must not be
13 considered by you in your deliberations. I repeat: Under
14 your oath, you are to draw no conclusions whatsoever from
15 the fact that the defendant in this case did not testify.
16 The fact that this defendant did not testify should not
17 even be discussed in the jury room.

18 The burden of proof, as I have stated to you, is
19 on the State. The defendant is not required to prove his
20 innocence. The burden of proof remains on the State to
21 prove guilt beyond a reasonable doubt.

22 Ladies and gentlemen, that covers the general
23 criminal law that applies to all criminal cases in South
24 Carolina. I'm now going to charge you the specific
25 offenses charged in the indictments. If you would please

1 continue to give me your complete and undivided attention.

2 Armed robbery. The defendant is charged with
3 armed robbery. In order to prove this offense, the State
4 must first prove beyond a reasonable doubt that the
5 defendant took personal property from the person or
6 presence of another.

7 Property is in the presence of a person if it is
8 within the person's reach, inspection, observation or
9 control so that the person could, if not overcome with
10 violence or prevented by fear, keep possession of the
11 property.

12 The State must also prove beyond a reasonable
13 doubt that the defendant carried the property away,
14 intending to permanently deprive the owner of the property
15 and to keep the property for the defendant's own use. The
16 slightest removal of the property or the complete
17 possession of the property, even for an instance, by a
18 defendant is sufficient to show a taking and carrying away
19 of the property. The taking and carrying away of the
20 property must have been done with violence or by putting
21 the person from whom the property was taken in fear of
22 violence.

23 Finally, the State must prove beyond a
24 reasonable doubt that the defendant was armed with a
25 deadly weapon during the robbery. A deadly weapon is any

1 article, instrument, or substance which is likely to cause
2 death or great bodily harm.

3 Whether an instrument has been used as a deadly
4 weapon depends on the facts and circumstances of each
5 case. The following are examples of instruments which may
6 be deadly weapons: A pistol, a shotgun, a rifle, a dirk,
7 a dagger, a knife, a slingshot, metal knuckles, a razor,
8 gasoline, a fire bomb, a Molotov cocktail.

9 If you find that the State has failed to prove
10 that the defendant was armed with a deadly weapon, you may
11 then consider whether the State has proved beyond a
12 reasonable doubt that the defendant committed robbery.

13 So you have the greater offense of armed
14 robbery, the lesser offense of robbery. Included within
15 that offense of armed robbery is that lesser offense of
16 robbery.

17 In order to prove robbery, the State must prove
18 beyond a reasonable doubt all of the elements that I have
19 just explained to you except that the defendant was armed
20 with a deadly weapon. That is the charge on armed robbery
21 and the lesser included offense of robbery.

22 The other indictment charges possession of a
23 weapon during the commission of or attempt to commit a
24 violent crime. The defendant is charged with possession
25 of a weapon during the commission of or attempt to commit

1 a violent crime. The State must prove beyond a reasonable
2 doubt that the defendant visibly displayed a knife during
3 the commission of a violent crime.

4 A knife means an instrument or a tool with a
5 sharp cutting blade, whether or not fastened to a handle,
6 which can be used to inflict a cut, a slash, or a wound.

7 In order to find the defendant guilty of
8 possession of a weapon during the commission of a violent
9 crime, you must first find the defendant guilty of either
10 committing a violent crime or attempting to commit a
11 violent crime. I charge you that armed robbery is a
12 violent crime.

13 That covers the charge in the indictment and,
14 finally, I assure you, ladies and gentlemen, the end is in
15 sight. I'm going to cover the form of the verdict.

16 Ladies and gentlemen, you cannot allow
17 yourselves to be governed by sympathy, by prejudice,
18 passion, by public opinion, or any other arbitrary factor.
19 Both the State and the defendant have the right to expect
20 that each of you will carefully and impartially consider
21 all of the evidence in this case and that you will follow
22 the law as I have explained to you.

23 Mr. Foreman, you will have along with all the
24 items that have been introduced into evidence this verdict
25 form in the jury room with you during your deliberations.

1 It's got the caption of the case and then has a number
2 Roman Numeral, I guess, I and Roman Numeral II. If after
3 your deliberations, your determination of the facts in the
4 case, applying those to the law as I have explained it to
5 you, if you find that the State has met its burden of
6 proof beyond a reasonable doubt as to armed robbery and
7 that verdict is unanimous -- all 12 of you must agree --
8 this says indictment number as to armed robbery, we, the
9 jury, by unanimous consent, find the defendant guilty of
10 armed robbery. I would ask you to check to the left of
11 "guilty of armed robbery" and circle both your checkmark
12 and those words "guilty of armed robbery."

13 If after your view of the evidence you determine
14 that the State has not met its burden of proof as to the
15 crime of armed robbery but has met its burden of proof
16 beyond a reasonable doubt as to the crime of robbery and
17 that is a unanimous decision by the jury, I would ask you
18 to check to the left of those words "guilty of robbery,"
19 circle both your checkmark and those three words.

20 If you find that the State has failed to prove
21 its case beyond a reasonable doubt as to armed robbery or
22 robbery, you would find the defendant not guilty. If
23 that's a unanimous decision, check to the left of the two
24 words "not guilty," circle both the checkmark and the two
25 words "not guilty."

1 Mr. Foreman, only if you find the defendant
2 guilty of armed robbery would there be a need to consider
3 the second offense of possession of a weapon during the
4 commission of a violent crime.

5 If you have found the defendant guilty of armed
6 robbery, you would then go to the second indictment,
7 again, we, the jury, by unanimous consent find the
8 defendant guilty or not guilty as to that.

9 Once the jury has reached its verdicts and those
10 verdicts are unanimous, if you would sign -- there's a
11 place where you -- today's date and location.

12 Again, ladies and gentlemen, your verdicts must
13 be unanimous ones.

14 As to these possible verdicts, Mr. Foreman,
15 ladies and gentlemen, there is no significance whatsoever
16 in the order in which I have listed them on the form or in
17 the order in which I explained them to you. It is simply
18 that one must be stated first.

19 Once the jury has reached its verdicts,
20 unanimous verdicts, and you have signed and dated the
21 form, if you would please knock on the jury room door,
22 inform the bailiff that you have reached a verdict, at
23 that time we will receive you back into the courtroom.

24 I'm going to ask you, Mr. Foreman, ladies and
25 gentlemen, momentarily to step to the jury room with your

1 bailiff. If I do not have to bring you out for further
2 instructions, our alternate would come out -- everyone
3 else looks well, healthy today -- then we would deliver
4 the verdict form. All the items of evidence --
5 Mr. Bailiff, will you take care of that noise out there
6 for me, please -- we will then deliver the verdict form,
7 all the items of evidence, and you will be informed by the
8 Clerk to begin your deliberations.

9 With that, if you have any questions during the
10 course of your deliberations, if you'd please write out a
11 note for me, knock on the jury room door. I assure you
12 we're not going to slip off and leave you all held captive
13 back there in any manner.

14 Laptop. You need a laptop for the video. Can
15 somebody operate the laptop? I'm sure there's a lot of
16 techies on there. All right. We'll see about a laptop
17 for you in that regard so you'll have that.

18 All right. If you'll go with your bailiff.

19 Thank you very much for your attention.

20 (The jury left open court at approximately 10:47
21 a.m.)

22 THE COURT: Any exceptions, Solicitor?

23 MS. GARRICK: No, Your Honor.

24 THE COURT: Mr. Cornwell?

25 MR. CORNWELL: No, Your Honor.

1 THE COURT: If you all would look at the form of
2 verdict.

3 And I take it, since I told them the only time
4 they have to deliberate on the indictment for the
5 possession of a weapon is if they find Mr. Buchanan guilty
6 of armed robbery, so should they return a verdict of
7 guilty of robbery or not guilty, I will then just
8 judicially dismiss that in that regard. You see what I'm
9 saying?

10 MR. CORNWELL: Yes, sir.

11 MS. GARRICK: I'm sorry?

12 THE COURT: I would judicially dismiss the
13 indictment for the weapon if they come back with a
14 robbery.

15 MS. GARRICK: Yes, Your Honor, absolutely.

16 THE COURT: There's no need for them to
17 deliberate on that.

18 MS. GARRICK: Yes, sir, absolutely.

19 THE COURT: It would be judicially -- it would
20 not be a proper verdict anyway.

21 MS. GARRICK: That's right.

22 THE COURT: All right. You all check your --
23 what about a laptop, Solicitor and Mr. Cornwell?

24 MS. GARRICK: Your Honor, we need to try, I
25 think it's compatible to that, but I don't feel

1 comfortable sending my laptop back.

2 THE COURT: No. That's fine. It doesn't matter
3 to me.

4 MS. DIXON: Your Honor, we just have stuff about
5 the case on our laptop.

6 THE COURT: I don't have a laptop. That's all
7 I'm saying. I'm not sending mine. But yes, that's fine
8 with me, Solicitor, if that will work, if it's compatible.

9 (WHEREUPON, the jury began deliberations at
10 approximately 10:52 a.m.)

11 (A break was taken.)

12 (Deliberations ceased and proceedings resumed at
13 or about 12:10 p.m.)

14 THE COURT: I received this note from the jury.

15 "We just found out one juror was victim of armed
16 robbery about 15 years ago. Does this disqualify this
17 juror? Juror states it will not affect their decision."

18 Do you have any position on that matter,
19 Solicitor?

20 MS. GARRICK: No, Your Honor.

21 THE COURT: Mr. Cornwell?

22 MR. CORNWELL: Do we know what juror number?

23 THE COURT: I do not.

24 MR. CORNWELL: Okay. Because I remember one of
25 the jurors did -- I marked down as having been a victim of

1 theft, but it was awhile ago. So I think they may have
2 said that when they were questioned about it.

3 THE COURT: I'm open to suggestions. I mean the
4 note obviously indicates that the juror states it will not
5 affect their decision. I'm selling it like I bought it.

6 MR. CORNWELL: I have no issues with it, Your
7 Honor.

8 THE COURT: All right. With that being said,
9 I'm going to advise them to continue their deliberations.

10 MR. CORNWELL: Thank you, Your Honor.

11 MS. GARRICK: Thank you, Your Honor.

12 THE COURT: Thank you.

13 (WHEREUPON, jury deliberations resumed at
14 approximately 12:12 p.m.)

15 (A break was taken.)

16 THE COURT: Bring us our jury.

17 (The jury came into open court at approximately
18 12:16 p.m.)

19 THE COURT: All right. Our jury is back present
20 in the courtroom.

21 Do you have that note? Would you hand that to
22 me, Mr. Bailiff? I need to mark that as a Court's
23 exhibit. Thank you.

24 (WHEREUPON, The Court's Exhibit No. 3 was marked
25 for purposes of the record.)

1 THE COURT: All right. It's my understanding
2 you all wanted to take a break. That's fine. How long a
3 break? Oh, just a ten, fifteen-minute break? All right.
4 That will be fine. I didn't know if you wanted to go to
5 lunch and come back, I just wasn't sure. That will be
6 fine. You can take a 15-minute break.

7 Just please remember, do not discuss the case
8 during that recess. If anyone tries to talk with you,
9 please let me know immediately.

10 Do not do any research on the Internet or
11 independent during that time.

12 When all 12 return, you may start your
13 deliberations back.

14 THE FOREMAN: We would like clarification on
15 something.

16 THE COURT: All right. Yes, sir.

17 THE FOREMAN: Should I come up and ask you?

18 THE COURT: You can ask me right here on the
19 record unless you want to go write me out a note. I know
20 you know how to write them. But if you don't feel
21 comfortable asking me in open court, I'd ask you to return
22 and write out a note or you can ask me --

23 THE FOREMAN: I'll write you a note shortly.

24 THE COURT: All right. Why don't you write the
25 note out, give it to the bailiff, and let me respond to it

1 before you all take your break? Will that be all right?

2 THE FOREMAN: Yes, sir.

3 THE COURT: Is that all right?

4 THE FOREMAN: Yes, sir.

5 THE COURT: All right. Just return to your jury
6 room. Thank you very much.

7 (The jury left open court at approximately 12:18
8 p.m.)

9 (A break was taken.)

10 (Proceedings resumed at or about 12:23 p.m.)

11 THE COURT: They just wanted clarification on
12 possession of a weapon during the crime.

13 "Does that mean the weapon used or not? Intent
14 of use or just on person?"

15 I'm just going to recharge them that part of my
16 charge.

17 MS. GARRICK: Yes, sir.

18 THE COURT: All right. You can bring them in.

19 (Deliberations ceased and the jury came into
20 open court at approximately 12:24 p.m.)

21 THE COURT: All right. I believe before you
22 take your break I'm going to recharge you on just this one
23 section.

24 There's a statute in South Carolina entitled
25 possession of weapon during the commission of or attempt

1 to commit a violent crime under Section 16-23-490.

2 The defendant is charged with possession of a
3 weapon during the commission of or attempt to commit a
4 violent crime. The State must prove beyond a reasonable
5 doubt the defendant visibly displayed a knife during the
6 commission of a violent crime. A knife means an
7 instrument or tool with a sharp cutting blade, whether or
8 not fastened to a handle, which can be used to inflict a
9 cut, a slash, or wound.

10 In order to find the defendant guilty of
11 possession of a weapon during the commission of a violent
12 crime, you must first find the defendant guilty of either
13 committing a violent crime or attempting to commit a
14 violent crime. Armed robbery is a violent crime.

15 If that is not responsive to your question, like
16 I say, I know you know how to write out notes. Upon your
17 return if you'll write me out another note, I will
18 certainly respond.

19 So we'll say you all take a 15-minute break.
20 Let's be back at quarter to 1. You won't have that
21 clock -- it's probably fast or slow -- and if you get back
22 early you may begin your deliberations.

23 Thank you very much.

24 (The jury left open court at approximately 12:26
25 p.m.)

1 THE COURT: All right. Any exceptions?

2 MS. GARRICK: No, Your Honor.

3 THE COURT: From the defense?

4 MR. CORNWELL: No, Your Honor.

5 THE COURT: All right. We'll be awaiting the
6 jury's return and verdict.

7 (WHEREUPON, The Court's Exhibit No. 4 was marked
8 for purposes of the record.)

9 (A break was taken.)

10 (Proceedings resumed at or about 1:04 p.m.)

11 THE COURT: Bring the jury in.

12 (The jury came into open court at approximately
13 1:04 p.m.)

14 THE COURT: All right. Madam Clerk.

15 THE CLERK: Mr. Foreman, have you reached your
16 verdict?

17 THE FOREMAN: Yes, we have.

18 THE COURT: Please pass them up by the bailiff.

19 THE COURT: All right. Thank you very much.

20 Madam Clerk, you may publish the verdict.

21 THE CLERK: Indictment No. 2010-GS-32-1522,
22 State versus Perry Buchanan, as to armed robbery: We, the
23 jury, by unanimous consent find the defendant guilty of
24 robbery.

25 Indictment No. 2010-GS-32-1523, as to possession

1 of a weapon during the commission of a violent crime: We,
2 the jury, by unanimous consent find the defendant not
3 guilty.

4 And it is so signed by Foreperson Dennis Lord.

5 THE COURT: Thank you.

6 Oh, go right ahead, Madam Clerk.

7 THE CLERK: Yes, sir.

8 Mr. Foreman, ladies and gentlemen of the jury,
9 if this is your verdicts, please indicate each of you by
10 raising your right hand, please.

11 All hands raised, Your Honor.

12 THE COURT: Thank you very much, Madam Clerk.

13 Anything additional for the jury from the State?

14 MS. GARRICK: No, Your Honor.

15 THE COURT: From the defense?

16 MR. CORNWELL: Your Honor, I'm not sure if I
17 heard. What was the verdict on the armed robbery?

18 THE CLERK: Robbery.

19 MR. CORNWELL: Oh, it was a guilty on the
20 robbery. Okay.

21 THE COURT: Anything further for the jury from
22 the defense?

23 MR. CORNWELL: No, Your Honor.

24 THE COURT: Thank you very much.

25 Mr. Foreman, ladies and gentlemen of the jury,

1. thank you very much for your service during the trial of
2. this case. Without your participation -- I realize it's
3. not voluntary, but without your participation, we would
4. not be able to be about the very important business of
5. administering your criminal justice system.

6. The good news is as far as court's concerned,
7. you can take the afternoon off. Now, probably to many of
8. you all that has nothing to do with taking the afternoon
9. off. I'm sure many of you have to return to your work.
10. But I'm going to ask you to please call back your juror
11. information number after 10 o'clock in the morning.

12. Call back at 10 o'clock did you say?

13. THE CLERK: Yes, sir, at 10.

14. THE COURT: At 10 o'clock in the morning if
15. you'd please call back.

16. You'll now be known as the balance of the panel.
17. So you may be subject to being recalled for another case
18. this week.

19. All right. Any questions in that regard?

20. THE BAILIFF: Judge, if they will leave their
21. buttons on the corner on their way out, I'd appreciate it.

22. THE COURT: Thank you very much. It's been my
23. pleasure and privilege to be with you all this week.

24. Thank you very much. Please call back at 10 in the
25. morning.

1 Mr. Foreperson, will you meet the Clerk out in
2 the hallway momentarily? Thank you.

3 (The jury was excused and left open court at
4 approximately 1:08 p.m.)

5 THE COURT: All right. Do you have any motions,
6 Mr. Cornwell?

7 MR. CORNWELL: Your Honor, at this time I guess
8 traditionally we'd make the motion to set aside the
9 verdict and find my client not guilty, Your Honor.

10 THE COURT: All right. I would respectfully
11 deny that motion.

12 Any others?

13 MR. CORNWELL: No, Your Honor.

14 THE COURT: Any reason sentencing cannot be
15 imposed at this time?

16 MR. CORNWELL: No, Your Honor.

17 THE COURT: All right. Thank you.

18 Madam Solicitor, do you have anything prior to
19 sentencing?

20 MS. GARRICK: Yes, Your Honor. May I approach?
21 I do have a sentence sheet for strong arm robbery, common
22 law robbery.

23 THE COURT: All right. I still have my notes as
24 far as his prior record's concerned, Solicitor.

25 MS. GARRICK: Your Honor, there has been -- I've

1 done some more research on his prior record and there are
2 many, many more convictions that -- as far as sentencing I
3 would bring to the Court's attention.

4 As before, we were talking about an impeachment
5 situation, but I would like to give you a more full record
6 of his prior convictions.

7 THE COURT: All right.

8 MS. GARRICK: Your Honor, as far as his Georgia
9 convictions, I would bring to the Court's attention that
10 he was convicted in 1978 for three counts of armed robbery
11 and received a 15-year sentence.

12 Your Honor, his rap sheet is one of the most
13 difficult ones to read. I've been doing this a long time
14 and it's very difficult to read.

15 To the best of my knowledge if I could start
16 over with just his South Carolina convictions, and that's
17 to give him the benefit of those out-of-state Georgia
18 convictions that were very difficult, Your Honor, I can
19 confirm or I believe his record in South Carolina to be a
20 March 1992 possession of marijuana, resisting arrest, and
21 malicious injury where he received fines.

22 September of '93, possession of crack cocaine.
23 He got a three-year sentence.

24 In April of '95, he was convicted out of
25 Columbia, which is Richland County, for an ABHAN and a

1 strong arm robbery. He got five years suspended to ten
2 months, credit for time served.

3 THE COURT: Hold on just a minute.

4 Sheriff, will you make sure nobody comes back in
5 this door, please? I have that door locked when I'm
6 conducting court and I don't know why people are coming in
7 and out of it. Thank you.

8 You may continue, Solicitor. I'm at '95,
9 aggravated assault and battery and strong arm robbery?

10 MS. GARRICK: Yes, sir. He got five years
11 suspended to ten months, credit for time served, and five
12 years probation.

13 In April of '96, he was convicted of a
14 shoplifting where he paid a fine. In 1996, it looks like
15 he had a probation or parole revocation and he did four
16 years.

17 December of '98, he has a failure to stop for a
18 blue light. The sentence was three years suspended to
19 time served and one year probation.

20 November of '99, he was convicted of a
21 shoplifting third or greater. This is out of Irmo. He
22 got two years suspended to five years probation and drug
23 court was ordered.

24 January of '02, out of Richland County, he has a
25 shoplifting third or subsequent, five years. In June of

1 '02, convicted of shoplifting, simple assault. He paid a
2 fine.

3 If you go back and insert August of '01 was
4 another shoplifting where he paid a fine.

5 February of '05, a shoplifting. A conviction is
6 noted but no disposition. August of '05, failure to stop
7 for a blue light, three years.

8 February of '08, Your Honor, he had been
9 indicted for armed robbery out of Richland County. He
10 pled guilty to attempted armed robbery. He got a
11 three-year sentence.

12 Your Honor, that is the conviction that we had
13 relied upon to serve the life without parole notice on him
14 should he have been convicted of the armed robbery here.
15 Because we had served that notice, we were able to get
16 copies of that indictment, that warrant, that sentence
17 sheet, and we had to have those documents, as you know, to
18 serve that life without parole notice.

19 Your Honor, I would just ask the Court, or I
20 would like to tell the Court that that attempted armed
21 robbery that he pled guilty to out of Richland County in
22 February of '08, that that was where he pulled and
23 presented a knife on a clerk at Burlington Coat Factory as
24 he was stealing merchandise from the business.

25 Your Honor, based on his history with the

1 criminal justice system, based upon the nature of this
2 offense, Your Honor, I am asking for you to consider
3 giving him a 15-year sentence. And Investigator Wade
4 would like to address you. And we do not have any further
5 victim impact.

6 THE COURT: All right. And 15 years, that's the
7 sentencing range?

8 MS. GARRICK: Yes, sir..

9 THE COURT: Thank you.

10 All right. Detective Wade, I'll be glad to hear
11 from you.

12 INVESTIGATOR WADE: Yes, Your Honor. I would
13 also like to ask for the 15 years also due to the fact of
14 his rap sheet and how many man hours we put into this and
15 how we had to inconvenience the victim so much in this.
16 That's pretty much what I had to say, Your Honor.

17 THE COURT: All right. Thank you very much.
18 Anything further, Solicitor?

19 MS. GARRICK: No, Your Honor.

20 THE COURT: All right. Mr. Cornwell, if you and
21 your client would come around, please.

22 I will be glad to hear from you, Mr. Cornwell.

23 MR. CORNWELL: May it please the Court, Your
24 Honor.

25 As you've probably heard already, my client is

1 50 years old. He's a resident of Lexington County and --
2 Richland County, I'm sorry, Your Honor -- and one of the
3 first things he tells me, whenever, whatever sentence is
4 handed down, whatever happens to him today, Your Honor,
5 this is done.

6 And I know he's probably had the same thoughts
7 before when he got in trouble before and it's a thought
8 that I'm sure all my clients have when they get in
9 trouble, but I've spoken with Mr. Perry Buchanan. I went
10 to jail to see him at Lexington County and one of the
11 first things he told me is, you know, Listen, I need to do
12 something about my drug problem. This is a guy who back
13 in 1978 got convicted of armed robbery, spent a good deal
14 of time in jail, got out of jail and tried to put the
15 pieces of his life back together because of a decision he
16 made when he was 17.

17 Unfortunately, Mr. Buchanan kind of fell to the
18 temptation of drugs, Your Honor, and that's been in his
19 life for a long time now. And if you look at his rap
20 sheet, you look at the kind of charges he's been getting,
21 it's so stereotypical of somebody who has an addiction
22 issue, mostly shopliftings and stuff of that nature, Your
23 Honor.

24 And that's not an excuse in any way. I know the
25 Court, any judge has heard the same old story and sad song

1 before, and that's probably how they look at it. A lot of
2 what happens at that point is what the defendant chooses
3 to do with it.

4 And in that regard, Your Honor, he has been in
5 contact with several agencies that kind of specialize in
6 drug treatment. He's been in contact with the program
7 down in Charleston, South Carolina Strong. He's been in
8 contact with Troy up in North Carolina which is a very
9 similar program, it's a two-year program. I think they're
10 all based on that program out of San Francisco, Your
11 Honor. And Hope Haven, Your Honor, is another program
12 he's talked to me about, and he's been in contact with
13 those individuals.

14 Mr. Buchanan has no illusions about what could
15 happen to him today. He knows very well that he just was
16 found guilty of a strong arm robbery. He knows very well
17 he has an extensive criminal record, Your Honor. We're
18 asking for any leniency you can extend in this case, Your
19 Honor.

20 This is a man who actually tried to come clean.
21 He was arrested, tried to come clean about what he'd done.

22 Your Honor, this was never a situation where he
23 was denying he didn't take anything from the store, Your
24 Honor. It was just an issue of whether or not he had a
25 weapon, and I think the jury saw it our way.

1 Had Mr. Perry Buchanan had an opportunity to
2 plead straight up to a strong arm robbery before, he
3 probably would have accepted that offer, Your Honor. But
4 that's just not the nature of the machine and the nature
5 of our negotiations, Your Honor.

6 We're here today because he was found guilty by
7 a jury of his peers of a crime that he did commit, a crime
8 he would have freely admitted to, Your Honor.

9 We'd ask that you consider a probationary
10 sentence. We know that in all unlikelihood that that's
11 not going to happen, but we would ask you to consider that
12 and allow him to go and participate in one of these drug
13 programs.

14 We've also discussed the programs available to
15 him while incarcerated, which is ATU, Your Honor. I'm not
16 sure what the status of that program is, but just the fact
17 that he would even broach that subject and talk about it
18 shows to me that he's a person who's dedicated about
19 getting this problem behind him.

20 He saw what could have happened today as a
21 result of his inability to get ahold of his drug issues,
22 Your Honor. He could have been in jail for the rest of
23 his life. And that's definitely not something that
24 Mr. Buchanan wants. It's not something he wants for
25 himself, it's not something he wants to put his family

1 through. He doesn't want to continue doing these things,
2 Your Honor. He doesn't want that. And so he has made the
3 conscious decision to address that issue, Your Honor.

4 And it's not just drugs. He made decisions. He
5 had a chance to say no or not do these things, and he
6 understands that, Your Honor. He's up here owning up to
7 what he did. He's up here admitting his guilt. He's up
8 here throwing himself on the mercy of the Court and asking
9 from you whatever leniency you can extend in this matter,
10 Your Honor.

11 THE COURT: Thank you, Mr. Cornwell.

12 Mr. Buchanan, anything you'd like to say?

13 THE DEFENDANT: Yes, sir.

14 First, I would like to apologize to Walmart,
15 Mrs. Shirley Smith, and the Court for wasting you all's
16 time being up here with this foolishness which, like I
17 say, I'm 50 years old, I know I have an extensive record.
18 I have a long extensive drug problem.

19 With me coming out of the system, Your Honor,
20 with no family and the reentry program is very badly
21 broken, you know what I'm saying? When you come to --
22 when you get out, no place to stay, no job, I mean it's
23 just so much.

24 You know, I'm not making excuses for what I did.
25 I mean I know it's the chance you'll probably give me, you

1 know, 15 years today, but I've been trying to own up to
2 this situation for the last 13 months and two weeks. And
3 I'm very sorry I did this, but I mean, even if I go to
4 prison today for 15 years and I get out, I mean, it's the
5 same thing. I mean, I'm being released, no place to stay,
6 no job, no family. I never had an opportunity to get in
7 one of these programs, you know what I'm saying?

8 THE COURT: Never had an opportunity to what?

9 THE DEFENDANT: To get in one of these programs,
10 to try to get on my feet. So basically, I mean, I just
11 went back to what I know. I mean, walking the street, no
12 place to stay, no job. I mean, like I say, I'm not trying
13 to make excuses, you know what I'm saying, but I would
14 like to apologize again to the victim, Ms. Smith, Walmart,
15 and to the Court, and just hope you could show some type
16 of leniency on me today, Your Honor.

17 MR. CORNWELL: And, Your Honor, I forgot to
18 mention, he's been in jail, according to my calculations,
19 for about 410 days, Your Honor, just for the Court's
20 knowledge.

21 THE COURT: All right. Thank you.

22 Anything further, Mr. Buchanan?

23 THE DEFENDANT: That's it, Your Honor.

24 THE COURT: Well, Mr. Buchanan, I'm not without
25 empathy, but there's some things I can't fix. There's

1 some things, I don't know, there's probably plenty of
2 talented people with a lot more talent than I have in this
3 courtroom, if I have any at all, that maybe could fix
4 those type of issues, but, you know, that train kind of
5 left the tracks so long ago that it's almost a distant
6 memory. It's not even in our vision anymore.

7 You know, if you're motivated by needing money
8 to get drugs, if it's a drug addiction, I wish I had that
9 answer. I think the jury showed mercy, quite frankly.
10 And, of course, you know, they followed the law. The
11 State has the burden of proving this case beyond a
12 reasonable doubt.

13 All right. 2010-GS-32-01522, Perry Bernard
14 Buchanan, common law robbery, the defendant's committed to
15 the State Department of Corrections for a determinate term
16 of 15 years. He shall be given credit for all time
17 served.

18 How much did you say that was, Mr. Cornwell?

19 MR. CORNWELL: About 410 days.

20 THE COURT: Four hundred and ten days?

21 MR. CORNWELL: Yes, Your Honor.

22 THE COURT: Good luck to you, Mr. Buchanan.

23 MS. GARRICK: Your Honor, will you sign the
24 appropriate paperwork on the possession of a weapon during
25 the commission of a violent crime to judicially dismiss

1 that one?

2 THE COURT: They indicated not guilty.

3 MS. GARRICK: I thought that they weren't going
4 to do that.

5 THE COURT: I thought they were not either,
6 Solicitor, but they did that on that form.

7 Thank you very much. Good luck to you, Ms.
8 Smith.

9 (The proceedings were concluded.)

10 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

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INDEX

Reconsideration Hearing 09/22/11	3
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INDEX OF WITNESSES

(Court Reporter's Note: There was no direct or cross examination of any witnesses).

INDEX OF EXHIBITS

(Court Reporter's Note: No exhibits were marked or received into evidence).

1 (The following proceedings are reported on
2 September 22, 2011.)

3 THE COURT: Let me take up Mr. Cornwell's case
4 with Mr. Buchanan.

5 MS. GARRICK: Your Honor, this is a motion for
6 reconsideration filed by Mr. Cornwell on behalf of
7 Mr. Buchanan

8 THE COURT: Yes, sir. Do you have a motion,
9 Mr. Cornwell?

10 MR. CORNWELL: Your Honor, we had a motion to
11 reconsider filed on Perry Buchanan's behalf. After
12 speaking with my client, he tells me he wishes to
13 withdraw this motion.

14 THE COURT: Thank you, Mr. Cornwell.
15 You are Perry Buchanan?

16 THE DEFENDANT: Yes.

17 THE COURT: Mr. Buchanan, I have pending
18 before me a notice of motion and motion to reconsider
19 the sentence that I imposed on you 26 April of 2011. Do
20 you wish to withdraw this motion?

21 THE DEFENDANT: Yes, I do.

22 THE COURT: You do not want to go forward?

23 THE DEFENDANT: No, sir.

24 THE COURT: You are doing this freely and
25 voluntarily?

1 THE DEFENDANT: Yes, I am..

2 THE COURT: Thank you very much. The motion
3 is withdrawn.

4 MR. CORNWELL: Thank you, Your Honor.

5 MS. GARRICK: Thank you, sir.

6 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

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C E R T I F I C A T E

1
2 I, the undersigned L. Coconut Pantsari, Official
3 Reporter for the Eleventh Judicial Circuit of the State
4 of South Carolina, do hereby certify that the foregoing
5 is a true, accurate, and complete Transcript of Record
6 of all the proceedings had and the evidence introduced
7 in the hearing of the captioned cause, relative to
8 appeal, in the Criminal Court for Lexington County,
9 South Carolina on the 22nd day of September, 2011.

10 I do further certify that I am neither of kin,
11 counsel nor interest to any party hereto.

12
13
14 November 17, 2011

15
16
17
18 L Coconut Pantsari

19 Court Reporter
20
21
22
23
24
25

Number: 1006514 / Robbery

Date and Time

Notes

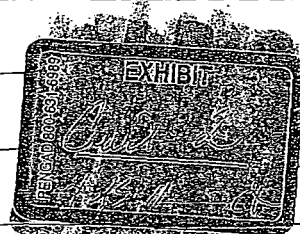
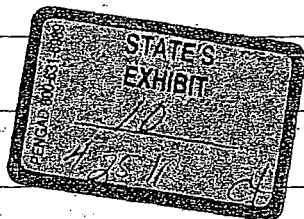
3/12/10 8:59 AM I/O interviewed Perry B. Buchanan @ WC
250-17-6926

~~TO BE DELETED~~

I had Tony Dobie pick me up on
Znotch Rd and asked her to take
me to West Cola Walmart. I went in
stole a computer and when I
was leaving out the lady stopped
me and asked for a receipt. I had
a box cutter in my hand and told the
lady my chit paid for. I push
the buggy out and she started running.
I did not have the box cutter open.

I cant write nothing down.

Did you pay for the TV: No I stole
it from walmart



WITNESSES

West Columbia Police Department

I Taylor

Law Enforcement Case #: 1006514

JAG

ARREST WARRANT NUMBER

J033578

ACTION OF GRAND JURY

TRUE BILL

[Signature]

Foreperson of Grand Jury

Date: 6/7/10

VERDICT

Guilty of Robbery

[Signature]

Foreperson of Petit Jury

Date: 4/26/11

DOCKET NO. 2010GS3201522

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

JUNE TERM 2010

THE STATE
vs.

Perry Bernard Buchanan

CDR #: 0139

Indictment for

ROBBERY WHILE ARMED WITH A
DEADLY WEAPON

§ 16-11-0330(A)

DONALD V. MYERS, SOLICITOR

A TRUE COPY
[Signature]
Lex. Co. C.C.C.P., G.S. & F.C.

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
ROBBERY WHILE ARMED WITH A DEADLY
WEAPON

§. 16-11-0330(A)

At a Court of General Sessions, convened on JUNE 2010, the Grand Jurors of
Lexington County present upon their oath:

That Perry Bernard Buchanan along with co-defendant did in Lexington
County, South Carolina on or about March 12, 2010 knowingly and willfully while armed
with a deadly weapon to wit: a box cutter, did feloniously take from the person or
presence of Shirley Smith a Wal-Mart employee at 2401 Augusta Road, West
Columbia, SC, by means of force, threats or intimidation goods being described as a
Dell Inspiron desktop computer with the intent to deprive the owner of the use of such
property, in violation of Section 16-11-330 (A) of the South Carolina Code of Laws,
1976, as amended

Against the peace and dignity of the State and contrary to the statute in such case made and
provided.


ASSISTANT SOLICITOR

RECORDED

PR27201

STATE OF SOUTH CAROLINA)
 COUNTY OF Lexington)
 STATE VS.)
 Perry Bernard Buchanan)
 AKA:)
 Race: Sex: M. Age: 50)
 DOB: 11-29-1960 SS#: 250-17-6926)
 Address: 157 Coolstream Dr)
 City, State, Zip: Columbia, SC 29223-4609)
 DL#: 008729342 SID#:)

IN THE COURT OF GENERAL SESSIONS
 INDICTMENT/CASE#: 2010GS3201522
 A/W#: J033578
 Date of Offense: 3/12/2010
 S.C. Code § : 16-11-0330(A)
 CDR Code #: 0139

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Robbery / Common law robbery, strong arm robbery

in violation of § 16-11-0325 of the S.C. Code of Laws, bearing CDR Code # 0137
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: *Angela Garrick* 06/16/10
 Garrick, J. Angela SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed — years
 and/or to pay a fine of \$ —; provided that upon the service of — days/months/years and/or payment
 of \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for —

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 410 days
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
 Total: \$ — plus 20% fee: \$ —
 Payment Terms: —
 Set by SCDPPPS —

PTUP — days/hours Public Service Employment

Recipient: —

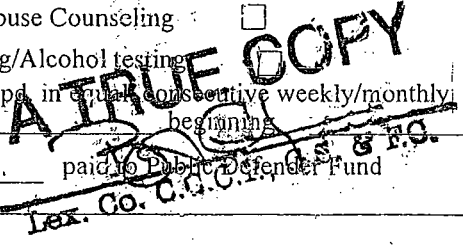
Obtain GED
 Attend Voc. Rehab. or Job Corp. —
 May serve W/E beginning —
 Substance Abuse Counseling
 Random Drug/Alcohol testing —
 Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ — beginning —
 \$ — paid to Public Defender Fund
 Other: —
Lex. Co. C.C.C. & P.O.

*Fine:		\$
§ 14-I-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$
TOTAL		\$ 130.00

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk *Bill Carney*
 Court Reporter: *C. Thorne*
 SCCA/217 (03/2011)

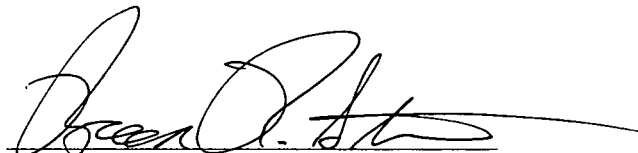
Presiding Judge *Tom*
 Judge Code: *2145*
 Sentence Date: *26 April 11*



CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

This 14th day of September, 2012



Breen Richard Stevens
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT