

 ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM HORRY COUNTY

William H. Seals, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

HERBERT CAUSEY,

APPELLANT

Appellate Case No. 2011-199367

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA

COUNTY OF HORRY

IN THE COURT OF GENERAL SESSIONS

11-GS-26-01000

11-GS-26-01002

11-GS-26-01003

State of South Carolina,)

vs.)

TRANSCRIPT OF RECORD

Herbert Leonard Causey,)

Defendant.)

September 6-8, 2011
Conway, South Carolina

Before:

The Honorable, William H. Seals, Jr., Judge; and jury

Appearances:

BY: Candice A. Lively, Esq.
Attorney for State

BY: W. Thomas Floyd, Esq.
Attorney for Herbert Leonard Causey

BY: Johnny Gardner, Esq.
Attorney for Tonia Huggins

Brenda R. Babb
Circuit Court Reporter

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S-2	Photo ID Line Up (Pre trial and trial)	51	53/100
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1 Ms. Lively: State of South Carolina v. Herbert
2 Leonard Causey, the State is calling the case against him.
3 He has four true billed indictments, Your Honor.

4 He is charged under indictment 2011-GS-26-01000
5 for kidnapping; 2011-26-GS-01001 armed robbery; 2011-GS-26-
6 01002 burglary first degree; 2011-GS-26-01003 assault with
7 intent to commit criminal sexual conduct in the first
8 degree.

9 The Court: All right, any motions we need to
10 put on the record before we pick a jury?

11 Ms. Lively: Prior to the jury being picked,
12 Your Honor, I'd don't believe so. We're just going to pick
13 them right now and then excuse them for lunch; is that my
14 understanding?

15 The Court: Go ahead and get them in here, that
16 sounds good to me.

17 Ms. Lively: Thank you.

18 Mr. Gardner: Do we need to address my case?

19 Ms. Lively: Oh, I'm sorry, one moment, one
20 moment, Your Honor, I'm sorry. Let me do address that on
21 the record, I do apologize.

22 Your Honor, the State of South Carolina charged
23 Tonia Muggins with the accessory after the fact to these
24 felonies. The indictment was true billed and at this time
25 the state would like to put on the record that we intend to

1 dismiss that charge against Ms. Huggins and dismiss it with
2 prejudice and she is under state subpoena as a witness in
3 this case so she is not excused from the case; however, her
4 charges are being dismissed at this time.

5 The Court: All right, anything you need to put
6 on the record, Mr. Gardner?

7 Mr. Gardner: I believe that covers it, Your
8 Honor.

9 The Court: Thank you very much.

10 Mr. Gardner: Oh, I'm sorry, permission to be
11 excused from the court.

12 The Court: That's perfectly fine with me.

13 Mr. Gardner: Thank you.

14 The Court: You have a good day.

15 Mr. Gardner: Yes, sir.

16 The Court: Go ahead and bring in the jury.

17 Ms. Lively: Your Honor, if she can step out?

18 The Court: That will be fine.

19 Ms. Lively: Thank you, Your Honor.

20 (Whereupon, the jury pool enters the courtroom.)

21 The Court: All right, thank you very much.

22 Good morning, my name is William Seals. I'm a circuit
23 court judge from the big city of Marion, South Carolina.

24 and it's my pleasure to be here this week to serve you for
25 this one week term of General Sessions court.

1 Mr. Floyd: I believe that would make a mutual
2 explanation, Judge.

3 The Court: All right, so you're withdrawing
4 your motion; is that correct?

5 Mr. Floyd: Yes, sir.

6 The Court: All right, thank you very much. If
7 you would go ahead and dismiss the remainder of the jury
8 panel. Tell them to call back in after six, and if you
9 would go ahead and bring the jury back out and I'll dismiss
10 them as well.

11 (Whereupon, the jury returns to the jury room at
12 12:44 p.m.)

13 The Court: If you would go ahead and be seated
14 in the very first seat on the front row. I like the way
15 you dress, you look patient and wise, I'm going to appoint
16 you the foreperson of the jury.

17 All right, members of the jury I'm going to
18 dismiss you for lunch and I would ask that you be back at
19 2:15, and we will start this case, however, I do want to
20 make one request of you and that is I do not want you
21 getting any information about this case anywhere outside of
22 this courtroom, so if you would until this case is over,
23 completely over and a decision has been rendered, do not
24 talk about the case with anybody. Don't even talk about
25 the case among yourselves. When you leave here I would ask

1 that you not watch the news, that you not read the
2 internet, that you not go out and try to investigate it in
3 any way whatsoever. It's very very important that you
4 receive everything you are supposed to receive to make a
5 decision in this case according to our laws and our
6 constitution and I can make sure that happens inside this
7 courtroom. So if you would abide by that ruling and just
8 tell people you can't talk about the case and forget the
9 news and the newspaper and the internet or anything like
10 that until this case is over with I will be appreciative
11 and technically that is an order, so you are dismissed
12 until 2:15.

13 (Whereupon, the jury was excused for lunch at
14 12:46 p.m.)

15 The Court: Thank you, are there any pretrial
16 motions from the state?

17 Ms. Lively: There are, Your Honor.

18 The Court: All right?

19 Ms. Lively: Your Honor, first of all based upon
20 the way that this case has unfolded there are several
21 witnesses in this case who have given statements to the
22 Loris P.D. and, therefore, their credibility and
23 reliability of their prior statements are extremely
24 important so I'm asking the court to grant a motion to
25 sequester the witnesses during the trial of the case for

1 that reason.

2 The Court: All right, I have no problem with
3 that all, how about you, Mr. Floyd?

4 Mr. Floyd: I don't have a problem with that,
5 Judge.

6 The Court: All right, that motion is granted
7 with my consent.

8 Ms. Lively: Okay, the other issue we addressed
9 prior to actually picking the jury and that was the, the
10 actual charges against Tonia Huggins, I just want to make
11 sure on the record that that issue is not going to be
12 something that the state is pursuing during this case so
13 that I just wanted to confirm.

14 Also the defendant has a prior record, as a
15 matter of fact he was convicted of assault with intent to
16 kill in 1995 and served a period of time at the Department
17 of Corrections. We served him with notice of life without
18 the possibility of parole and one of the things that I need
19 to make sure that these witnesses understand, Your Honor,
20 and I've told the ones who were more favorable to working
21 with the state that obviously nothing regarding the
22 defendant's prior record is to be brought up, addressed for
23 any reason whatsoever. They understand that. I will
24 reiterate that again to the witnesses who may be more not
25 too favorable but sympathetic to the defense to make sure

1 they understand that that's an order of the court, if that
2 were to occur then you would be able to take the
3 appropriate measures.

4 The Court: All right, that would be good.

5 Ms. Lively: Okay, then the next thing that we
6 have are issues, I believe, we'll need to probably address
7 regarding calling of witnesses. First of all the defendant
8 made some statements prior to Miranda that were statements
9 against interest which the state would contend were
10 statements that were not hearsay and should be admissible
11 to the parties that actually heard those statements. I
12 have Chief Joe Vaught here from the Loris Police Department
13 who is my chief investigator in the case. He heard some
14 statements himself from the defendant and then I do have
15 some witnesses also who heard statements. Now the thing is
16 I've subpoenaed these people, the other witnesses other
17 than Chief Vaught to come and testify regarding what they
18 heard the defendant say. There are a could of ways that we
19 could do this. I know what those witnesses heard from the
20 defendant based upon everything that Mr. -- that Chief
21 Vaught put in his case report. That information was
22 provided to Mr. Floyd.

23 For instance, Mr. Vaught heard the defendant make
24 comments that he was charged wrong, that he never hurt
25 anybody, something of that nature, whenever he was at the

1 jail being booked in. The other thing is we have a
2 statement from Lisa Sarvis who is a friend of Tonia Huggins
3 who was on the phone with Tonia Huggins and heard Mr.
4 Causey in the background saying all I did was take some
5 money, I never hurt her, something, all the statements are
6 somewhat similar in regards to that.

7 We have Marty Huggins who gave a statement to
8 Chief Vaught as well stating that on the day of the
9 burglary that the defendant looked nervous and mentioned
10 that he had done something he was ashamed of or he had done
11 something wrong and Marty Huggins stated I don't want to
12 know what is, I don't want to get involved. That's kind of
13 the basis of what a lot of these witnesses are going to
14 state.

15 Tonia Huggins, Your Honor, so we can be very
16 clear actually has a three page statement from February the
17 1st of this year that she gave to the Loris P.D. which was
18 witnessed by the Loris P.D. where she actually details the
19 statement made by the defendant to her regarding the crime.
20 It had information in it that only someone who committed
21 the crime, the victim, or someone who was there would be
22 aware of.

23 In her statement she goes into great detail about
24 the use of a stun gun, that the defendant took money from
25 her, how the defendant tricked or conned her into letting

1 him back into the house by saying I need to use the
2 bathroom, all of this information is in a three page
3 statement written by Tonia Huggins which I have, and
4 obviously that statement I'll deal with through her but
5 it's a statement where she's reiterating what the defendant
6 has disclosed to her.

7 The Court: All right.

8 Ms. Lively: So, however Your Honor would like
9 for me to proffer the information I do have Chief Vaught
10 here regarding what those witnesses stated to him and I can
11 do it through hearsay for the purposes of the motion. If I
12 need to call Tonia Huggins during pretrial motions I can do
13 that as well regarding her statement as to what the
14 defendant told her or I can just call her as a witness and
15 we'll deal with her testimony at that time. I'm just
16 putting it on the record so nothing catches anybody off
17 guard.

18 The Court: All right, any thoughts in that
19 regard, Mr. Floyd?

20 Mr. Floyd: Judge, a got a little bit confused
21 on what the motion was in regards ---

22 The Court: I think what she's trying to do is
23 not spring it on you and have it out in front of the jury
24 before we actually ruled on it or decide what we're going
25 to do. She's named the witnesses that are going to say ---

1 Mr. Floyd: I'm aware of the alleged statement
2 that was given to the, allegedly given to the Chief and I
3 certainly think we need to have a Deno hearing in regards
4 to that. The other statements if you want to take it up in
5 pretrial or as it comes up in court, of course, I would
6 object to them but I think the issue comes down as to
7 whether or not she can identify the voice or not.

8 Ms. Lively: And we can address that as the,
9 that would be maybe a credibility issue as well, Your
10 Honor, but what we can do is just, I just wanted to make
11 sure that because these specific statements by these
12 witnesses are going to deal with statements against the
13 defendant that they're saying he said, that's the reason
14 why I wanted to make sure before that just floats out of
15 their mouth. Now Mr. Floyd has all of the documentation
16 from Chief Vaught as to what each witness disclosed to him
17 during the investigation so he is aware of it and that's
18 what I'm basing it on as well from having talked to these
19 witnesses but I just want to make sure that if there's
20 anything out there right now that Mr. Floyd wants to
21 address that he has in that case report that we go ahead
22 and address it if need be otherwise I'll just call the
23 witnesses like I normally do and let them testify to what
24 they have personal knowledge of, that's perfectly fine. I
25 just, I've had it happen where somebody gets on the stand

1 and once it's out you can't fix it. I just want to make
2 sure there's nothing that he's aware of that's in the case
3 report that stands out as being a statement against his
4 client that we need to address pretrial.

5 Mr. Floyd: Certainly the Deno hearing needs to
6 take place.

7 The Court: We'll do that.

8 Ms. Lively: Sure.

9 Mr. Floyd: No question about that if Tonia is
10 going to testify. The other deals with a phone
11 conversation that was overheard and a direct conversation
12 that took place.

13 The Court: There's two ways we can do it in my
14 opinion. One, we can put the witnesses on the stand and
15 you can just object when you need to object or if the
16 Solicitor wants to maybe stop and say we probably ought to
17 take something outside of the presence of the jury we can
18 send them out, hear what they got to say and then you can
19 place whatever you want on the record and I'll rule.

20 Mr. Floyd: I guess that's what kind of caught
21 me to stand here trying to figure out which way to go with
22 it.

23 The Court: We can do it either way.

24 Ms. Lively: I think the one witness he's
25 referring to, which is kind of the one that concerns that,

1 is Lisa Sarvis. She is the one who had the phone
2 conversation with Tonia Huggins so what I'll do is
3 specifically whenever she is her turn to be called I'll let
4 Your Honor know that that's the witness. We may want to
5 proffer her prior to her testimony being heard by the jury,
6 that way we can clear up any of those problems before it
7 happens.

8 The Court: That sounds good, too.

9 Ms. Lively: Is that, okay? Okay, I think that
10 will handle that particular issue. Then other than the
11 Jackson v. Deno we also have a, there was a photo I.D.
12 lineup, Your Honor. I, the photo I.D. lineup that was
13 provided by Chief Vaught to my victim he's, she was not
14 able to pick out one person being the defendant in the six
15 pack. What she was able to do is say it was either this
16 person or this person, so obviously what the state wants to
17 do is since one of the people was the defendant we want to
18 show that it wasn't that she could not pick someone but it
19 was that she was trying to be a hundred percent sure and
20 she couldn't be a hundred percent sure at that time, so
21 goes to the credibility of, of what she's seeing, not
22 necessarily the admissibility of the photo i.d. lineup.

23 Now if the defense wants to have a Neal v.
24 Biggers hearing on that issue obviously the State is ready
25 to proceed on that. I have Chief Vaught here for that as

1 well, but I do intend even though she did not pick out the
2 exact picture of the defendant I do intend to use that at
3 trial.

4 The Court: All right, any objections to that?

5 Mr. Floyd: Yes, Sir, there is an objection to
6 that. Either there was an identification made or there
7 wasn't. I don't think you can sit six pictures in front of
8 a person and then coming to court and say well it's one of
9 these two or three but I don't know which one.

10 The Court: Do you have me any authority of the
11 case law that says that would be improper?

12 Mr. Floyd: I do not at this particular time,
13 Judge.

14 The Court: Because it seems to me that it would
15 be a credibility issue that might even work in your favor
16 that somebody cannot fully identify who it was. Why don't
17 we go ahead and have a Biggers hearing and go from there?

18 Ms. Lively: Yes, sir.

19 The Court: All right, I'm ready whenever the
20 two of you are.

21 Ms. Lively: All right, well we'll just, how
22 about this, we'll go forward with not only the Biggers but
23 we'll also handle the Jackson v. Deno because that comes in
24 through Chief Vaught.

25 The Court: Okay, that would be good.

Chief Vaught - Direct Exam. In Camera by Ms. Lively 40

1 Ms. Lively: The State calls Chief Joe Vaught to
2 the stand.

3 Mr. Floyd: Judge, when we started this trial
4 upon the co-defendant's testimony the charges being
5 dismissed I informed the court that I would need some time
6 with my client because that kind of changed the way this
7 case was prepared. We've got the jury coming back in just
8 a little while.

9 The Court: 2:15, why don't we go ahead and have
10 these two hearings, get them out of the way, and then
11 you'll have at least an hour to think about what you're
12 going to do.

13 Mr. Floyd: Yes, sir.

14 Chief Joseph W. Vaught
15 being first duly sworn, testified in camera as follows:

16 Madam clerk: Please state your name for the
17 court and spell your last.

18 The witness: Joseph W. Vaught, v-a-u-g-h-t.

19 Direct Examination

20 By Ms. Lively:

21 Q And, Chief Vaught, you are currently
22 employed with the Loris Police Department; is that correct?

23 A Yes.

24 Q Okay, and are you the chief investigator of
25 this case involving the defendant Herbert Causey?

Chief Vaught - Direct Exam. In Camera by Ms. Lively

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1 A Yes.

2 Q All right, now during your investigation
3 did you have an opportunity to have contact with Mr.
4 Causey?

5 A Yes, I did.

6 Q Okay, and if you would, please, tell Your
7 Honor exactly the contact that you had directly with Mr.
8 Causey regarding any statements that he may have provided
9 to you?

10 A My first contact with Mr. Causey was at J.
11 Reuben Long Detention Center. I went there to serve
12 warrants and prior to serving the warrants it was my intent
13 to advise Mr. Causey of his rights and give him an
14 opportunity to make any statement he wished to make, excuse
15 me.

16 Q And where was he when you first saw him,
17 Chief Vaught?

18 A He was in the holding area of the detention
19 center and we left that area and walked to an interview
20 room which is just to the rear of the holding area. As we
21 were entering the door of the interview room Mr. Causey
22 commented something to the effect that the charges are
23 wrong, I didn't rob that lady. There were similar comment
24 as, as we went into the room and, of course, I advised Mr.
25 Causey that I was going to advise him of his rights and at

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1 that time he could make any statement he'd like to make.

2 Q Okay, did you document that statement in
3 your case report for myself as well as for the defense?

4 A Yes, ma'am, I did.

5 Q Okay, all right, and whenever you actually
6 had the opportunity to sit down with Mr. Causey did he make
7 any statement to you regarding his involvement or lack of
8 involvement in this crime?

9 A After being advised of his rights he did
10 not, he mentioned comments that Tonia had nothing to do
11 with it. Another comment made during that process as we
12 were entering the room was, I'd asked to use the bathroom,
13 I was invited in by that lady, I did not have a weapon.

14 Q Okay, all right, now let's be clear, those
15 statements that you're giving to the court that were made
16 by the defendant were those pre Miranda statements?

17 A Yes, ma'am, they were, and those were being
18 made up until the point that I advised Mr. Causey that we
19 had to discontinue the conversation because I had not
20 advised him of his rights.

21 Q Okay, so you did tell him that you couldn't
22 talk to him about what his statements were?

23 A Yes, ma'am.

24 Q All right, then after he was Mirandized did
25 he make any further statements to you?

Chief Vaught - Direct Exam. In Camera by Ms. Lively

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1 A No, ma'am, he did not.

2 Q He did not, okay?

3 A No.

4 Q So everything that you've testified to,
5 let's be clear, is that was all pre Miranda statements
6 against his interest?

7 A Yes, ma'am.

8 Q Was anyone else in there with you who
9 listened or heard those statements made by Mr. Causey that
10 you're aware of?

11 A If I could clarify just a moment about the
12 pre advisement, as I look at my notes, after he was read
13 his rights he signed a signature on the portion
14 acknowledging that he had heard them and that's when he
15 again he repeated after I told him we had to discontinue
16 the interview he repeated Tonia had nothing to do with it.

17 Q Okay.

18 A Yes, ma'am.

19 Q So the one statement that he said post
20 Miranda is Tonia had nothing to do with it?

21 A Yes, ma'am.

22 Q Okay, and you, did you document that in
23 your case report as well?

24 A I did.

25 Q Now, Chief Vaught, whenever you met with

Chief Vaught - Direct Exam. In Camera by Ms. Lively 44

1 the defendant both pre Miranda and post Miranda did you
2 have any indication that he was under the influence of
3 alcohol, drugs, or anything that would inhibit his ability
4 to understand what was taking place?

5 A I did not detect anything pertaining to
6 alcohol and drugs.

7 Q Okay, and whenever you read him his Miranda
8 rights did you observe any mental or physical condition
9 which you believe would have rendered him unable to
10 understand what was taking place?

11 A I did not.

12 Q And whenever you went through the Miranda
13 form is that a standard Miranda form that is used by law
14 enforcement?

15 A Yes, ma'am, it is.

16 Q Okay, and is his signature or initials
17 documented on that Miranda form?

18 A Yes, his signature is on the line indicate
19 that I read him his rights.

20 Q Okay, and do you have that form with you?

21 A I do.

22 Q Okay, would you please show that to me?

23 Ms. Lively: If I could have this marked as
24 State's 1?

25 (Whereupon, State's Exhibit Number 1 marked for

Chief Vaught - Direct Exam. In Camera by Ms. Lively

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1 identification.)

2 Mr. Floyd: Are you marking it just for this
3 hearing or for the --

4 Ms. Lively: For this hearing right now.

5 Mr. Floyd: Oh, okay.

6 Ms. Lively: Unless you're --

7 Mr. Floyd: I don't have any problems it coming
8 on into evidence.

9 Ms. Lively: Okay, that's fine.

10 The Court: Thank you.

11 Ms. Lively: Well then based upon the defense
12 having no objection, Your Honor, the State would move in
13 Exhibit Number 1 into evidence.

14 The Court: All right, State's Number 1 into
15 evidence without objection.

16 Ms. Lively: Thank you.

17 (Whereupon, State's Exhibit Number 1 entered into
18 evidence.)

19 Ms. Lively: (Continuing)

20 Q I'm going to show you state's number 1 and
21 is that a standard law enforcement form where a defendant
22 is advised of their rights to either speak or not speak
23 with you?

24 A Yes, ma'am.

25 Q Okay, and is that the form that you

Chief Vaught - Cross Exam. In Camera by Mr. Floyd

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1 explained to Herbert Causey?

2 A It is.

3 Q Okay, and is his name anywhere on there
4 affixed to it showing his understanding of the, of his
5 rights?

6 A Yes, ma'am, he signed under the, under the
7 area where it says this is to certify that the above rights
8 have been explained to me and I understand each one of
9 them.

10 Q Okay, all right, now, Chief Vaught, did you
11 at any time threaten Mr. Causey or force him any way shape
12 or form into making any comments or statements to you?

13 A No, ma'am.

14 Q Did you actually engage him in conversation
15 when you saw him at J. Reuben Long booking or did he make
16 the statements voluntarily to you?

17 A The conversation began as we were entering
18 the interview room and Mr. Causey initiated that
19 conversation.

20 Q Okay, all right, and that was without any
21 type of pressure or prompting by you; is that my
22 understanding?

23 A That is correct.

24 Q Okay, all right, did anyone who was with
25 you prompt him or ask any questions to elicit an answer or

Chief Vaught - Cross Exam. In Camera by Mr. Floyd

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1 comment from him?

2 A No, ma'am.

3 Ms. Lively: All right, thank you, answer any
4 questions the defense may have.

5 The Court: All right, Mr. Floyd?

6 Cross Examination

7 By Mr. Floyd:

8 Q Was there someone else with you when you
9 went to the detention center?

10 A Yes, sir, Sergeant Adam Bell was with me.

11 Q Was there anybody else in the room?

12 A No, sir.

13 Q And you went out there with the intention
14 of serving warrants on Herbert?

15 A Yes, sir.

16 Q And also to give him a chance to clear up
17 any, anything?

18 A Yes, sir.

19 Q Did you take any kind of tape recorder with
20 you?

21 A I did not.

22 Q Did you give him the opportunity to write
23 out anything?

24 A We did not get to that point since he did
25 not waive his rights.

Chief Vaught - Cross Exam. In Camera by Mr. Floyd 48

1 Q All right, now when you make reference to
2 the comments he said are you stating this, what exactly did
3 he say, let me just put it that way?

4 A May I refer to my notes?

5 Q Yes, sir?

6 A As we were entering the interview room
7 adjacent to the booking area Mr. Causey commented, the
8 charges of armed robbery and kidnaping are wrong. I asked
9 to see the bathroom and was invited in by that woman. I
10 did not have a weapon, and later he commented Tonia had
11 nothing to do with it.

12 Q Okay, are those notes your personal notes
13 or something different than the incident report that I
14 have?

15 A I'm reading from the incident report, sir.

16 Q Okay, did you have any personal notes of
17 your own?

18 A I did make note when I was in the interview
19 room, yes, sir, and then I recorded it onto the
20 supplemental incident report.

21 Q Same thing on both notes?

22 A Yes, sir.

23 Q And again this wasn't tape recorded in any
24 style, any fashion?

25 A No, sir, it was not recorded.

1 Q Usually when you go to interview a suspect
2 or to give them an opportunity to clear things up you tape
3 record it; would that be correct?

4 A Not always.

5 Q All right, it seems to become standard
6 practice, is it not, with Loris Police Department?

7 A At the current time it is not a standard
8 practice.

9 Q So it is not with Loris Police Department?

10 A That's correct.

11 Q Cause it seems that it is with most
12 agencies, and after he signed it acknowledging that you had
13 read him his rights as evidenced by the Miranda warning,
14 correct?

15 A Yes, sir.

16 Q Or Miranda form?

17 A Yes, sir.

18 Q After that he refused to sign anything?

19 A Yes, sir.

20 Q In fact he wasn't cooperating with you at
21 all, was he?

22 A He just declined to sign and said he'd
23 rather not sign anything further.

24 Mr. Floyd: Thank you.

25 The Court: All right, anything further,

Chief Vaught - Direct Exam. In Camera by Ms. Lively 51

1 statement and then he understood what was happening so we
2 think that it would be properly, proper for the jury to
3 hear.

4 The Court: Thank you very much. Under these
5 circumstances I find that the defendant's pre and post
6 statements are admissible. Regarding the post Miranda
7 statement I find, of course, that he was Mirandized and
8 that he gave that statement freely and voluntarily.

9 All right, I'm ready to move forward with the
10 Neal v. Biggers hearing.

11 Ms. Lively: Yes, sir, Your Honor.

12 (Whereupon, State's Exhibit Number 2 marked for
13 identification.)

14 Direct Examination (In Camera)

15 By Ms. Lively:

16 Q Chief Vaught, a part of your investigation
17 was determining possible suspects in this case; is that
18 correct?

19 A That is correct.

20 Q Okay, and during your investigation on the
21 day of the occurrence, which was January 26th of 2011, did
22 you have an opportunity to actually devise a photo lineup
23 of six individuals for the victim to view?

24 A Yes, ma'am, I did.

25 Q Okay, tell this court how you came up with

1 Solicitor?

2 Ms. Lively: Not in regards to the Jackson v.
3 Deno, Your Honor.

4 The Court: All right, and you are seeking to
5 admit the pre and post?

6 Ms. Lively: Correct, Your Honor, the pre
7 statement as well as the post brief statement Tonia had
8 nothing to do with it, that is what the state is asking to
9 be put in evidence.

10 The Court: All right, anything you want to put
11 on the record, Mr. Floyd?

12 Mr. Floyd: We would object to it be introduced,
13 Your Honor. Of course the statements made before Miranda
14 we would submit are not admissible and also the statement
15 that is supposedly or allegedly made after Miranda that
16 Tonia had nothing to do with it there is no context of what
17 he's referring to at that stage.

18 The Court: All right.

19 Mr. Floyd: Thank you.

20 The Court: Anything you want to put on the
21 record?

22 Ms. Lively: Just briefly, Your Honor, that it
23 would be a statement against interest pre Miranda which is
24 clearly an exception to the hearsay and obviously the
25 defendant post Miranda made a decision to make that one

Chief Vaught. - Direct Exam. In Camera by Ms. Lively 52

1 the photo lineup?

2 A The lineup came about as a request to J.
3 Reuben Long Detention Center and I'm not sure of their
4 process but they provided me with a lineup.

5 Q Okay, and in that lineup did you request
6 that the defendant Herbert Causey be included?

7 A Yes, I did.

8 Q Okay, now, of course, we can't talk about
9 going to the jail to ask them to pull up old photos so in
10 regards to that, however, that's where you did get the
11 photos?

12 A Yes, ma'am.

13 Ms. Lively: All right, Your Honor, permission
14 to approach the witness at this time?

15 The Court: Sure.

16 Ms. Lively: (Continuing)

17 Q Would you please hand me the actual photo
18 lineup that was used?

19 Q Chief Vaught, I'm going to show you what's
20 marked as State's Exhibit Number 2 and ask you if that is
21 the original photo I.D. lineup that you used to show Ms.
22 Eloise Martin?

23 A It is.

24 Q All right, and is there anything on it that
25 you actually changed or put onto that document yourself?

Chief Vaught - Direct Exam. In Camera by Ms. Lively 53

1 A The only entry I made on the document was
2 after I had left Ms. Martin I noted on the back shown to
3 victim 2131:26 2011.

4 Q Did you witness the actual photo I.D.
5 lineup in the attempted identification by the victim?

6 A Yes, ma'am, I did.

7 Ms. Lively: Okay, Your Honor, the State would
8 move to introduce State's Exhibit Number 2 into evidence.

9 The Court: All right, any objections, Mr.
10 Floyd?

11 Mr. Floyd: Well I think that's why we're having
12 this hearing.

13 The Court: I'll be glad to hear from you.

14 Ms. Lively: It's just for the hearing, Your
15 Honor, to be clear about that.

16 The Court: Right.

17 (Whereupon, State's Exhibit Number 2 entered into
18 evidence.)

19 Ms. Lively: (Continuing)

20 Q Now I'm going let you hold onto that, and
21 if would you, please, tell me the context of how Ms. Martin
22 was brought into the police station or if you went to her
23 in order for her to observe the photo lineup?

24 A I went to Ms. Martin's residence about 9:30
25 p.m. on January the 26th. I explained to her that I was

Chief Vaught - Direct Exam. In Camera by Ms. Lively 54

1 just going to show her a piece of paper which contained
2 photographs and ask her if she could pick out the
3 individual who had entered her house earlier in the day.
4 Ms. Martin looked at the photographs. She was, she was
5 unable, she, she commented that it was something to the
6 affect that it was very confusing and traumatic and that
7 she was just not able to focus on any one individual.

8 Q Okay, all right, and in reviewing the six
9 pack did she ever give you any indication of who she
10 thought it either might be or could be?

11 A She took some time to look at the
12 photographs and she, she commented it could be one of,
13 possibly one of two individuals on the, on the paper.

14 Q And do you recall or have any notes as to
15 which two individuals she said it could be?

16 A It's the numbers five and six.

17 Ms. Lively: And if I may approach, Your Honor?

18 Ms. Lively: (Continuing)

19 Q And I'll show you, Officer, for the court's
20 benefit five and six?

21 The Court: Got it, thank you.

22 Ms. Lively: All right, and you're also aware,
23 Mr. Floyd, five and six?

24 Ms. Lively: (Continuing)

25 Q Okay, and would you, please, state for the

Chief Vaught - Direct Exam. In Camera by Ms. Lively

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1 record in five and six is the defendant one of those
2 photos?

3 A Yes, ma'am.

4 Q And did you do anything at all to influence
5 or help Ms. Eloise and even limiting it down to two people?

6 A No, ma'am, as, as a matter of fact and I
7 explained to her very specifically that I was unable to do
8 that, that she must look at it and arrive at her own
9 decision.

10 Q Was she trying to get you to help her?

11 A No, ma'am, she did not.

12 Q Okay, all right, and did anyone else
13 witness the photo array and the attempted identification by
14 Ms. Eloise; was it just you and her or --

15 A Lieutenant Karen Baker was with me.

16 Q Lieutenant Karen Baker?

17 A Yes, ma'am.

18 Q And she works with the Loris P.D. as well?

19 A Yes, she does.

20 Q All right, okay, so it's your testimony
21 that you did absolutely nothing other than provide this
22 I.D. lineup for Ms. Eloise to attempt to make an I.D.?

23 A That is correct.

24 Ms. Lively: Okay, answer any questions the
25 defense may have.

Chief Vaught - Cross Exam. In Camera by Mr. Floyd

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1 The Court: All right, Mr. Floyd?

2 Cross Examination

3 By Mr. Floyd:

4 Q Do you know who the other people in the
5 lineup are?

6 A I do not, sir.

7 Q That was done J. Reuben Long?

8 A Yes, sir.

9 Q This was done at 2130?

10 A 9:30 p.m., yes. sir.

11 Q And that would have been about five hours -

12 -

13 A That's correct.

14 Q Was anyone else at the house at that time
15 other than you and Lieutenant Baker?

16 A There was just the three of us. That's my
17 memory, I don't know if anyone was in any other part of the
18 house or not.

19 Q That's your recollection it could have been
20 five or six?

21 A Yes, sir.

22 Mr. Floyd: Thank you, sir.

23 The Court: All right, anything further,
24 Solicitor?

25 Ms. Lively: No, Your Honor.

1 The Court: All right, for the record based on
2 what I have seen and heard, I find that the item for
3 identification process was not unduly suggestive and I find
4 it reliable. The fact that the defendant picked out two
5 individuals one of which is the defendant in a lineup
6 simply goes to credibility. The process itself I find very
7 reliable. All right, anything further?

8 Ms. Lively: Your Honor, if I could just make
9 sure that we're clear on how we want to address him,
10 actually him being Chief Vaught, obtained those photos,
11 maybe just that he was able to obtain photos to show to the
12 victim but not mention it came from J. Reuben Long
13 Detention Center. Obviously we don't want to open that
14 door.

15 The Court: That's fine.

16 Ms. Lively: Okay, just so ---

17 The Court: Any problem with that?

18 Mr. Floyd: No, sir, I was going to suggest that
19 he just maybe, I had a lineup prepared.

20 The Court: That would be good, thank you.

21 Ms. Lively: Thank you, Your Honor.

22 Mr. Floyd: And if I slip up and start to say it
23 just throw a pen at me or something.

24 Ms. Lively: I'll do it.

25 The Court: Hopefully you won't do that.

1 Ms. Lively: Okay, the last thing that I have,
2 Your Honor, is the victim, and this may be something also
3 need Chief Vaught to actually testify to, but the
4 defendant's description that was given by the victim was
5 that he had tattoos on this neck and his forearms and it's
6 actually in her written statement and I do have pictures
7 that, they always take the pictures of tattoos at J. Reuben
8 Long Detention Center any time someone is booked they
9 identify all the different, the different tattoos on their
10 body. What I was going to do was actually put those into
11 evidence and I know that Chief Vaught has actually reviewed
12 those photos as well and he's aware of that process and the
13 ones that I'm going to use cause he has tattoos all over
14 him for just the ones on his neck and on the forearms as
15 stated by the victim that he has those tattoos and I do
16 have the photos and I've provided those to the defense as
17 well regarding the defendant's tattoos on his body.

18 The Court: All right, any objections to that,
19 Mr. Floyd?

20 Mr. Floyd: Well if she has provided me the
21 pictures we can get, take a look at them and see which ones
22 she's planning on using, which ones she's not and go from
23 there.

24 The Court: You want to go ahead and do that now
25 or do you want to wait?

1 Ms. Lively: Here you go, and, Your Honor, I'll
2 hand these up to you as well so you can actually see them
3 for yourself.

4 The Court: All right.

5 Ms. Lively: I haven't marked them yet for I.D.

6 The Court: Looks like two pictures of the
7 forearms and one picture of the back of the neck.

8 Mr. Floyd: Yes, sir, and my concern is whether
9 she has identified particular tattoos or just in general
10 tattoos and also the tattoo from the back of the neck?

11 The Court: I tell you what we do, why don't we
12 let her testify and you can put them in at that time.

13 Ms. Lively: Okay.

14 The Court: And we'll see what her testimony is
15 and see if it identifies those and go from there.

16 Mr. Floyd: Yes, sir.

17 Ms. Lively: Okay, thank you, Your Honor.

18 The Court: All right, anything further?

19 Ms. Lively: No, Your Honor, that's all from the
20 State.

21 The Court: How about from you, Mr. Floyd?

22 Mr. Floyd: Nothing as this time, Judge,

23 The Court: All right, we'll be back at 2:15.
24 You may step down.

25 Ms. Lively: Thank you.

1 up, if you'd just kind of waive your hand at me or get her
2 attention she'll get my attention and I'll make sure your
3 needs are taken care of, okay.

4 With that being said I recognize the State for
5 your opening statement.

6 Ms. Lively: Thank you, Your Honor.

7 The Court: You're welcome.

8 Opening Statement

9 By Ms. Lively:

10 Hello again, I'm Candace Lively, from the
11 solicitor's office here in Horry County, and I'm sure that
12 you've heard a man's home is his castle, and I'm here to
13 show you through Ms. Eloise Martin that a woman's home is
14 her heart, her security. Ms. Eloise Martin you're going to
15 hear from her from that witness stand and she's going to
16 present herself as a pretty amazing woman. She's lived
17 eighty one years, eighty two now, she just had a birthday,
18 you're going to hear about that. Eighty-one years and for
19 the last twenty or more she's lived alone in her own little
20 house, you're going to see pictures of it, in Loris, South
21 Carolina, on the same street, same place, many of the same
22 neighbors, in the security of her own home.

23 Unfortunately at some point in time during the
24 past twelve months unbeknownst to her the defendant, Mr.
25 Causey and his girlfriend, Tonia Huggins, moved in next

1 door on [REDACTED] right next to her little blue house.
2 Now you're going to hear from her she didn't really know
3 who they were, but the State will show you that that
4 defendant knew who Ms. Eloise was, a woman living by
5 herself in that little house.

6 On January 26, 2011, Ms. Eloise was in her home
7 like she is normally, reading the paper, watching t.v.,
8 living her life not bothering a soul. She's in there broad
9 daylight and she'll tell you I hear a knock at my door.
10 She goes to the door, someone, a man, she'll give you the
11 details, dressed in a gray button up shirt, dark jeans or
12 pants, work boots, and a red ball cap was at her door,
13 asked her, you know, I was a neighbor. I'm looking to see
14 if maybe some of my mail might have gotten mixed up in
15 yours, something of that nature, and Ms. Eloise said, sure,
16 let me look. That was the beginning of the loss of her
17 security, that was the beginning of an invasion of her
18 home. It was planned by somebody who knew she was a
19 sitting duck. The evidence will show that, ladies and
20 gentlemen.

21 She looks, made small talk with him, she'll tell
22 you she was being very nice to him, doesn't find any mail.
23 He turns around to leave, she's walking him out. He gets
24 to the car, which she'll describe to you as being a small
25 green automobile dark in color, he turns around and here is

1 the moment of truth. That man could have walked away and
2 nothing else would have happened, Ms. Eloise would have
3 been safe in her home living her life like she had done
4 over twenty years but, no. There was evil intent here,
5 ladies and gentlemen. That defendant made a decision and
6 turned around and said can I use your bathroom. Ms.
7 Eloise, sure, come back in, broad daylight, around 3:00 in
8 the afternoon.

9 He goes in there, she sees him go into the
10 restroom, coming back out, and we'll show you pictures so
11 you can see how small her house is, comes back out. She
12 sees him lean down not knowing what he's doing and the next
13 thing it all happens like this (snapping fingers). Give me
14 your money. I don't have anything, give me your money,
15 where's your pocketbook. \$310 later, ya'll, after twenty
16 years of being a vibrant woman who lives alone for \$310 her
17 security and her home was invaded by that man and the
18 evidence will show that.

19 Now let me tell you, I'm going to let Ms. Eloise
20 tell you exactly what happened in that house because he's
21 charged with four crimes. He is charged with burglary
22 first degree which is when you break into a person's home
23 with the intent to commit a crime therein. Now breaking
24 can include tricking someone, taking advantage of someone,
25 gaining someone's trust to get in that door that you have

1 evil intent, that's burglary first degree.

2 Now what's the crime, that second time he comes
3 around, he's going to go back in there for some money.
4 He's not going to let himself walk away from it and do the
5 right thing. He goes back in there to get money.

6 Now here's something I didn't mention but you
7 will see for yourself. Not only does the perpetrator go in
8 and take advantage of an eighty one year old woman, he has
9 some sort of weapon in his hand and she will tell you that.
10 It was like a black box with a red glow light on it. I
11 don't know, she'll tell you that, but was she scared,
12 she'll tell you that, yes, she was scared, and he showed it
13 to her, deliberately showed this weapon to her while he
14 took her money, armed robbery, the taking of someone's
15 possessions by force with the use of a weapon.

16 Then charged with kidnapping, he takes Ms.
17 Eloise, could have walked out of there with that money,
18 just left, but he takes her into a bedroom and we will show
19 you those pictures. The first bedroom they went into was a
20 rice bed, it was too high, she couldn't get up on it.
21 She'll tell you she was, I can't get up there, I can't get
22 up there, and let's move to the next bedroom a lower bed,
23 gets her on that bed. She will tell you how he told her to
24 take off her pants. I'm going to let her tell you about
25 that.

1 She'll tell you how he tried to tie her hands up
2 with the inside strings of her robe she had on. I'm going
3 to let her tell you about that, too.

4 Kidnapping, holding someone against their will.
5 It's not just grabbing somebody off the street and taping
6 up their mouth and throwing them in the back of the van.
7 Kidnapping is much more broad, okay, so it can be holding
8 someone somewhere where they don't want to be, kidnapping.

9 And then finally assault with intent to commit a
10 criminal sexual conduct. If you believe, after hearing all
11 the testimony, after this person could have left with that
12 money and left Ms. Eloise alone after violating her home,
13 if once you hear how she was made to go under those
14 bedrooms, get on the bed, unbutton her pants, if you have
15 any doubt about whether or not he was going to do something
16 to her that will be your decision.

17 You're going to hear evidence from this witness
18 stand from several people, several witnesses, but the thing
19 that you're going to understand and hear the most is the
20 person who was there and that's Ms. Eloise. She's the one
21 who can tell you and she will tell you. There will be
22 other people here, some who want to be here, some who might
23 not want to be here, that are going to tell you bits and
24 pieces of things that happened later, the car that was used
25 by the defendant being crushed two days later, the

1 defendant getting caught on video surveillance at Food Lion
2 in exactly the same clothes that was worn by the person
3 that broke into Ms. Eloise's house that same day, didn't
4 even change clothes. That's going to be presented to you
5 as well, okay, and I'll tell you that sometimes we all hope
6 that there's going to be that DNA, CSI moment, we don't
7 have that in real life. Sometimes we do, it's nice, but
8 also what we have is testimony which is direct evidence so
9 don't forget that, ladies and gentlemen, cause that can be
10 the most compelling and is the most compelling evidence in
11 this case, and that is my job as a prosecutor to bring you
12 all the relevant and admissible evidence and once that is
13 done, once you've seen everything like the judge said,
14 using your common sense, putting everything together,
15 seeing the entire picture, I'm going to do my best to help
16 you do that, but at the end of this you will have no doubt
17 that Herbert Causey planned and went into that home with
18 evil intent. You will have no doubt, thank you.

19 The Court: Mr. Floyd?

20 Mr. Floyd: May it please the Court?

21 The Court: Sure.

22 **Opening Statement**

23 **By Mr. Floyd:**

24 Ladies and gentlemen of the jury, good afternoon,
25 I introduced myself to your earlier. I am Thomas Floyd,

1 and I'm here today representing Herbert Causey in these
2 charges.

3 The first thing I want to tell you at this point
4 in the trial is no evidence has been presented yet. You're
5 hearing the solicitor's theory of the case. Our criminal
6 court's in South Carolina are quite different than our
7 civil courts where if you have a car wreck or call
8 witnesses or depositions are given and you pretty much know
9 what's going to be testified to, what's not going to be
10 testified to. That does not go on in our criminal
11 courtroom, so just want to make you aware of the fact that
12 you have no evidence before you at this time.

13 Mr. Causey has pled not guilty to these crimes
14 and it's interesting that DNA was mentioned. That's going
15 probably come out in this trial, not Herbert's, but it will
16 probably come out. Fingerprint also, not Herbert's, but
17 that's probably going to come out. That's coming out and
18 I'm not going to go through what each witness is going to
19 testify to at one point or another point, I'm going to tell
20 you that the Solicitor will put up one side of the coin,
21 too, and we all know there's two sides to every coin.

22 This is a very serious case as you can tell by
23 the charges that's been brought, serious to Mr. Causey.

24 I want to thank you at this time for your
25 service. We're getting ready to start hearing the evidence

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1 now. I'd like for you to pay attention and return a
2 verdict that speaks the truth at the close of the trial and
3 I'll talk to you more about that when the trial is over
4 with as the judge prepares to or does give you the law that
5 applies to this case. Thank you.

6 The Court: All right, Solicitor, if you'd call
7 your first witness.

8 Ms. Lively: Yes, sir, Your Honor, the State
9 would call Ms. Eloise Martin to the stand.

10 **Eloise Martin**

11 **being first duly sworn, testified as follows:**

12 Madam Clerk: Please state your full name and
13 spell your last name.

14 The witness: My full name is Eloise Martin.

15 Madam Clerk: Spell your last name.

16 The witness: My last name is Martin, m-a-r-t-i-
17 n.

18 **Direct Examination**

19 **By Ms. Lively:**

20 Q Ms. Eloise?

21 A Yes, ma'am.

22 Q Are you comfortable enough up there?

23 A Yes, ma'am.

24 Q Okay, and if you don't mind, Ms. Eloise,
25 when is your birthday?

Ms. Martin - Direct Examination by Ms. Lively

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1 A Eighth month, the third day of twenty-nine.

2 Q So, how old are you as of today?

3 A I'm eighty-two years old today.

4 Q And, Ms. Eloise, where do you live?

5 A I live in Loris, South Carolina, street
6 number, [REDACTED].

7 Q [REDACTED]?

8 A Yes, ma'am.

9 Q How long have you lived there?

10 A Twenty years or more.

11 Q All right, and do you live there alone?

12 A Yes, ma'am.

13 Q Okay, and where are the rest of your
14 family, are they spread out everywhere?

15 A They spreaded out everywhere.

16 Q Okay, does anybody else in your family live
17 in Horry County?

18 A I have a sister that lives in Myrtle Beach.

19 Q Okay, and is she a younger sister or an
20 older sister?

21 A She's a younger sister.

22 Q Okay, now, Ms. Martin, do you [REDACTED]?

23 A They wouldn't let me [REDACTED] for a while but
24 now I [REDACTED] a little bit.

25 Q Okay, now, Ms. Eloise, you said you live at

1 [REDACTED] for about twenty or more years; is that
2 right?

3 [REDACTED]

4 Q Okay, do you know your neighbors who live
5 around you?

6 A Well I know the ones across the street and
7 they move in and out so I can't keep up with them.

8 Q Okay, okay, that's fine, and, Ms. Eloise,
9 do you, do you work?

10 A No, ma'am, I haven't worked in quite a
11 while.

12 Q Okay, all right, now, Ms. Eloise, on
13 January the 26th of this year were you at home?

14 A [REDACTED]

15 Q Okay, and were you at home alone or did you
16 have any visitors?

17 A I was home alone.

18 Q Okay, and just tell the jury on a day like
19 that, I believe that's a Wednesday, what would you normally
20 do on just a regular day during the week?

21 A I usually watch t.v., get dressed, and
22 sometimes I go to the store, I read the newspaper and just
23 piddle.

24 Q Just piddle?

25 A Yeah.

Ms. Martin - Direct Examination by Ms. Lively

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1 Q All right, now on that day let's say about
2 three in the afternoon were you dressed by that time?

3 A Yes, ma'am, I was dressed then I had, it
4 was cold to me and I had put a robe on over it, over my
5 clothes and I was setting watching, reading the newspaper.

6 Q Okay, all right, and since it was about
7 3:00, so was it sunlight outside?

8 A Yes, ma'am.

9 Q Okay, did anything different from your
10 schedule or unusual happen that afternoon?

11 A Yes, ma'am, somebody knocked on the door.
12 I went to the door and he asked me did he have any mail
13 around or had I seen any mail. I told him, no, sir, but if
14 you look in the box over there you might find some and ---

15 Q Okay, let me stop you right there for a
16 second, okay?

17 A Yes, ma'am.

18 Q Okay, so the person that knocked on the
19 door was a man, is that what you're telling us?

20 A Yes, ma'am, it was.

21 Q Okay, was he white or African American?

22 A He was white.

23 Q All right, and could you describe to the
24 jury what this man looked like, what you remember?

25 A He was kind of tall; he had, he had tattoos

Ms. Martin - Direct Examination by Ms. Lively

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1 on his arm and up his neck.

2 Q Okay, do you remember what this man was
3 wearing?

4 A Yes, ma'am, he had on work boots, jeans,
5 gray shirt and a red cap.

6 Q A red cap, okay, was there anything about
7 his face that you remember?

8 A There were looked like he might have had
9 some scars from blackhead or something on his face and left
10 some scars there.

11 Q Okay, blackheads or maybe acne scars?

12 A Yeah, acne scars, something like that.

13 Q Okay, so your testimony is that you, you
14 told him he could look in your mailbox to see if there was
15 any mail there?

16 A No, I told him everybody from over there
17 had moved out.

18 Q Okay?

19 A And I asked him where they moved to, he
20 said across the street. I said well I hope you like it; he
21 said it looks nice over there.

22 Q Okay, and at that time did you know who
23 this person was?

24 A No, I knew they was some folks living over
25 there for a couple of years and I never had no trouble with

Ms. Martin - Direct Examination by Ms. Lively

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1 them and I thought maybe he was just one of them.

2 Q Okay, that's fine. Now whenever he, after
3 you looked to see if there was any mail, or some mail that
4 didn't belong to you that could have belonged to him, what
5 did he do next?

6 A He stood there for a minute and he walked
7 off the porch and to the front of his car and then he
8 stepped back on the porch and asked me could he use the

9 [REDACTED]
10 [REDACTED] Q Okay, Ms. Eloise, do you remember what the
11 car looked like that was in the [REDACTED] way?

12 A It was a small car, something like a Ford
13 or, course, a little car, I don't know where it was black
14 or green but I heard later it was green.

15 Q Well you can't tell me what you heard, I
16 just want to know exactly what you remember?

17 A Yeah, okay.

18 Q That's fine, okay, all right, so you said
19 he turns back around and asked to use your bathroom, what
20 did you say in response?

21 A I said, okay, he come through to the
22 bathroom and I got at the end of the table and he walked
23 out. When I seen him walk out he kind of slumped over,
24 that was when he unplugged the telephone.

25 Q Okay, and you can tell us about that in

1 just a minute, right after that happened what do you
2 remember him doing or saying?

3 A He said this is a hold up, I want your
4 money. I says, I don't have no money. He said, he got
5 ahead of me then and told me to set down and hand him his
6 bill folder. I handed him my bill folder and there was no
7 money in it. He said take your pocketbook. My pocketbook
8 was setting there so I handed it to him cause he had some
9 kind of hand, I don't, didn't know at the time what it was
10 but it give a bright red light and I ---

11 Q Let me stop you right there, okay. All
12 right, you said he had something you didn't know what it
13 was, what, where was it this thing; was he holding it?

14 A It was in his hand.

15 Q Okay, about how big was it, give me --

16 A It was little, it wasn't big.

17 Q Okay, what was the shape?

18 A He said he stepped around me and told me to
19 sit down.

20 Q Okay, let me ask you this, Ms. Eloise, and
21 that's my fault. I should have made sure you understood
22 me, I'm talking about the thing he was holding in his hand.
23 What was the shape of it, was it round or square?

24 A It looked like a little black, like I would
25 say a water gun or something kind of like that, that kids

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1 play with but it had a bright light to it. I didn't ---

2 Q What color, okay, what color was that
3 bright light?

4 A It was a bright red.

5 Q Okay, was this, when you say bright was it
6 because it was on, could you tell?

7 A Yeah, it had to be on, I believe, cause if
8 it had not been on it would have been a different color
9 red.

10 Q Okay, now, Ms. Eloise, after you saw that
11 what, and he asked you for your money and went through your
12 purse, tell the jury what happened next?

13 A He said go to the bedroom, he emptied my
14 purse and he went all through it and he got the money. I
15 had two envelopes. I had one out for, I had been to the
16 store and then I had one, two one hundred dollar bills and
17 five twenties folded up in I thought a hidden space but he
18 found it, too.

19 Q Okay, and what was the total amount of
20 money that he took from you, Ms. Eloise?

21 A Three hundred and ten dollars.

22 Q Okay, now after he went through your purse
23 and took your money he had told you to go to the bedroom,
24 tell the jury exactly what happened next?

25 A He told me to get up on that bed and pull

Ms. Martin - Direct Examination by Ms. Lively

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1 my pants off; I told him I couldn't. He said it again; I
2 said I can't get up there. He said go to the other
3 bedroom.

4 Q Okay, let me stop your right there just so
5 that we, you make sure the jury understands, what kind of
6 bed do you have in that first bedroom you went into?

7 A I have a rice bed which is kind of high.

8 Q Okay, okay, do you sleep in that rice bed?

9 A Not now I don't. I sleep in the other
10 bedroom cause it's more convenient for me.

11 Q Okay, so the second bedroom is the one that
12 you went into after going into the rice bed?

13 A Yes, ma'am.

14 Q Okay, tell the jury now when he tells you
15 to go into the second bedroom exactly what happened?

16 A He said get on the in the middle of the bed
17 and pull your pants off and, and if I don't be quiet he
18 would use that gun. I said, please, don't do that to me
19 and why are you doing that to me and he, he didn't say
20 nothing. Then I said, he said I'm going to tie you up. I
21 said don't do that, please, don't, and then I started
22 calling my son and told him I needed help, please hurry and
23 come, hurry, and then this guy walked up and said you all
24 right and he took off out the door then.

25 Q Okay, when you say he asked you're

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1 referring to the defendant or are you referring to the
2 defendant?

3 A Ma'am?

4 Q I'm sorry, when you're saying he are you
5 talking about the person that broke into your house?

6 A Yes, ma'am.

7 Q Okay, I just want to make sure. Now, Ms.
8 Eloise, when he, when the person who broke into your house
9 had you get on that smaller bed what happened with your
10 pants?

11 A My pants was unbuttoned, he tried to tie me
12 up with the end string of my robe I had on.

13 Q Okay, what color was that robe?

14 A It was a lilac color.

15 Q Okay, and did you provide that robe to the
16 Loris Police Department?

17 A I, yes, ma'am, I did.

18 Q Okay, and that would be Mr. Chief Vaught?

19 A Yes, it would be.

20 Q Is this your robe?

21 A Yes, ma'am, it is.

22 Q Okay, is this the one that you were wearing
23 on January 26th of this year?

24 A That's the one I was wearing that day over
25 my clothes; I was dressed and had that over my clothes.

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1 Ms. Lively: Your Honor, the State would move to
2 introduce this as State's Exhibit Number 24?

3 The Court: Any objections?

4 Mr. Floyd: No, sir.

5 The Court: State's Number 24 into evidence
6 without objection.

7 (Whereupon, State's Exhibit Number 24 marked and
8 entered into evidence.)

9 Ms. Lively: (Continuing)

10 Q Now, Ms. Eloise, you said you were wearing
11 this that day?

12 A Yes, ma'am.

13 Q Now would you, please, and you don't have
14 to stand up, point out to the jury which strings the
15 defendant used to try and tie you up?

16 A The ones on the inside there, they close
17 together.

18 Q Okay, are these the ones?

19 A Yes, ma'am.

20 Q So these strings right here, and you were
21 wearing this?

22 A Yes, ma'am, I was, I had it on over my
23 clothes.

24 Q Okay, did you have it wrapped tight shut or
25 was it open?

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1 A It was wrapped around.

2 Q And when you, when he told you to get on
3 the bed who pulled out the strings?

4 A I guess he did cause he was going to tie me
5 up.

6 Q Okay, he was trying to tie you up?

7 A He walked around the bed looking for
8 something else and he didn't find nothing else and looking
9 for a phone.

10 Q Okay, now, Ms. Eloise, was he able to
11 actually get these strings and tie you up?

12 A He did, he wrapped them round real good, he
13 couldn't tie them, I don't believe.

14 Q Okay, so he couldn't get them tied, now,
15 Ms. Eloise, when, when this was over were you able to see
16 him leave your house?

17 A Yeah, after he went out the door I run to
18 the window and I seen his license plate was South Carolina
19 but I didn't get the license number.

20 Q Okay?

21 A And that's when I realized my pants was
22 unbuttoned when I got up.

23 Q Okay, okay, now, all right, and what did
24 you do after you saw him leaving your house?

25 A I called the Loris Police Department and

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1 they was there pretty soon.

2 Q Okay, now, Ms. Eloise, I'm going to show
3 you just some pictures that you've actually seen before and
4 ask you to identify them for the jury?

5 Mr. Floyd: Judge, I have an issue with some of
6 these photos.

7 The Court: Okay, members of the jury, if you
8 would go into the jury room for just a moment and I'll be
9 back with you, do not discuss the case.

10 (Whereupon, the jury retired to the jury room at
11 3:00 p.m.)

12 The Court: Is that door closed? All right, be
13 glad to hear from you, Mr. Floyd?

14 Mr. Floyd: Judge, and let me just start off by
15 saying I have been given these pictures by the State. When
16 I originally got them I thought they were actually crime
17 scene photos but come to find out -- I know what's in
18 there, I don't them all over my table, I don't want you to
19 accuse me of stealing -- but I come to realize and actually
20 saw the time stamp on them and asked the Solicitor, they
21 were taken some five months, four months, five months after
22 this allegedly occurred. My concern with the photos is
23 that they aren't showing an accurate description of the
24 crime scene itself.

25 The Court: Any response to that?

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1 Ms. Lively: Your Honor, yes, the pictures were
2 taken by my investigator at a later date in the presence of
3 Ms. Martin in her home and she actually walked us through
4 and can identify each and every one of those pictures. As
5 a matter of fact, she's the one that pointed out places
6 that she was taken throughout the home so I believe that
7 because it is her home, because she can identify everything
8 in the home and she can authenticate that fact that the
9 scene is in as much as the same condition as it was at the
10 time of the crime, then through her testimony that would be
11 a sufficient identification for them to be authenticated.

12 The Court: All right, the objection is
13 overruled but you may cross examine regarding five months
14 or whatever else.

15 Mr. Floyd: Thank you.

16 The Court: Go ahead and bring out the jury.

17 (Whereupon, the jury returns to the jury room at
18 3:03 p.m.)

19 The Court: And those are photos 3 through 23.

20 Ms. Lively: 23, Yes, sir.

21 The Court: All right, you may continue.

22 Ms. Lively: (continuing)

23 Q Ms. Eloise, I'm going to hand you twenty
24 photos, okay, and I want you to flip through them, if you
25 can quickly, but make sure you can tell us whether or not

1 you recognize what's in these photos, okay?

2 A Yes, I will.

3 Q Okay, you don't have to tell, if you see
4 one of these photos and it's something you don't recognize
5 tell us which one that is, but if you recognize all of
6 these, then just flip through them and let us know, okay?

7 A I know that one.

8 Q Okay, well you don't have to tell us for
9 each one. If you don't know the one then you need to tell
10 us, okay?

11 A Okay, I recognize them all.

12 Q Okay, all right, so from three to twenty
13 three you say you recognize them all?

14 A Yes, ma'am.

15 Q What do these pictures show, Ms. Eloise?

16 A I'm sorry.

17 Q I'm sorry, what type of things did, do
18 these pictures show, is it your house, your neighborhood or
19 all of the above?

20 A They show the house and on one they show
21 the house next door is right next to mine, the yard adjoin
22 together.

23 Q Okay, okay, so these are your house and
24 your neighborhood?

25 A Yeah, that's the house it was supposed to

Ms. Martin - Direct Examination by Ms. Lively

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1 be living in.

2 Q Okay, now, Ms. Eloise, do you remember when
3 myself and investigator came to your house and took these
4 picture?

5 A I sure do.

6 Q All right, and who was it that pointed out
7 to us what areas of your house to take pictures of; was
8 that you?

9 A Yes, ma'am, it was.

10 Q And had anything in your house on that day
11 changed or was there anything that was like really really
12 different from how your house looked on January the 26th or
13 was it pretty much the same?

14 A No, ma'am, and it still looks the same.

15 Q It still looked the same and the house next
16 door to your house is it still the same as it's shown in
17 these pictures?

18 A Yes, ma'am, it is.

19 Ms. Lively: Okay all right, Your Honor, the
20 State would move to introduce State's Exhibit Number 3
21 through 23 into evidence at this time.

22 The Court: Any objections?

23 Mr. Floyd: Over my prior objection, Your Honor.
24 At some point also I've been given those pictures but I
25 think I've got them in a different order than they have

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1 been marked. I'd like to kind of put them in order so if
2 I'm going to use them, at some point when we get a break.

3 The Court: All right, your objection is
4 overruled, 3 through 23 are into evidence.

5 Ms. Lively: Thank you, Your Honor.

6 (Whereupon, State's Exhibits Numbers 3, 4, 5, 6,
7 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21,
8 22, and 23 entered into evidence.)

9 Ms. Lively: One moment, Your Honor. Your
10 Honor, if I may, I've actually put these pictures on a
11 computer, if I can have the clerk activate the screen.

12 The Court: Sure.

13 Ms. Lively: And it will be easier for the jury
14 to see the photos than passing them around.

15 The Court: That's fine.

16 Ms. Lively: (Continuing)

17 Q Now, Ms. Martin, you've already given us
18 your address; is this your house?

19 A Yes, ma'am, it is.

20 Q Okay, whose car is that?

21 A That's my car.

22 Q Okay ---

23 Mr. Floyd: What exhibit number?

24 Ms. Lively: That is Exhibit Number 3.

25 Ms. Lively: (Continuing)

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1 Q All right, okay, Exhibit Number 4, is this
2 another view of your house and the car?

3 A Yeah, that is.

4 Q Okay, now whenever the person who broke
5 into your home parked their vehicle or his vehicle where
6 was it, was it in your yard or where was the car?

7 A It was parked right side of my car.

8 Q So right here?

9 A Yes, yes, ma'am.

10 Q Okay --

11 Mr. Floyd: That was Exhibit 4?

12 Ms. Lively: That was 4.

13 Mr. Floyd: Okay.

14 Ms. Lively: (Continuing)

15 Q This is Exhibit Number 5; is that your
16 address, your numbers on your door?

17 A Yes, ma'am, it is.

18 Q I keep pointing at myself, right there,

19  okay, that's Exhibit Number 5. Okay, Exhibit Number
20 6 what are we looking at in this picture, Ms. Eloise?

21 A That is the door where you go into the
22 kitchen.

23 Q Okay, all right, okay, so --

24 A You got a vase of flowers there.

25 Q Okay, so where the flowers are what's this

Ms. Martin - Direct Examination by Ms. Lively

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1 room right here?

2 A That's where you go into the kitchen.

3 Q Okay, all right --

4 Mr. Floyd: Give me just one second before you
5 change so I can mark it.

6 Ms. Lively: Okay, and that's Number 6, Tom.

7 Q (Continuing) Okay, this is Exhibit Number
8 7?

9 A That's the living room and it goes into the
10 bathroom and the bedrooms.

11 Q Okay, so is this where you were sitting
12 when the defendant knocked on your door in this living
13 room?

14 A I was sitting in the living room, yes,
15 ma'am.

16 Q Okay, all right, and what is this back
17 here?

18 A That's a desk ---

19 Q Okay?

20 A --- where the telephone and all is at.

21 Q Okay, so this is the telephone and the
22 telephone cord?

23 A Yes, ma'am.

24 Q What's behind this chair?

25 A A little bookcase and I keep my pocketbook

Ms. Martin - Direct Examination by Ms. Lively

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1 and all behind it.

2 Q Okay, you keep your pocketbook behind that
3 chair?

4 A Yes, ma'am.

5 Q Okay, all right, and that's State's Exhibit
6 Number 7, okay, now what is this; is that that chair you
7 were talking about?

8 A That's when you're coming out the bathroom
9 the picture was took of the telephone.

10 Q Okay, what's this?

11 A That's the bookcase between the chair and
12 the desk.

13 Q Okay, what's this thing behind the chair?

14 A That's my pocket, oh, that's a picture up
15 on the wall.

16 Q Okay, let me show you this cause sometimes
17 that one is a little bit brighter, I'm going to show you
18 State's Exhibit Number 8, can you tell me what this is
19 beside your chair right there?

20 A Yeah, that's a, that's a book case and
21 that's a picture up there.

22 Q Okay, all right, and what, and let me ask
23 you this, what is this right here, this cord, what's that
24 for?

25 A The telephone cords.

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1 Q Okay, and what do you normally keep behind
2 that chair right there, Ms. Eloise?

3 A My pocketbook is usually behind that chair.

4 Q Okay, all right, that's States Exhibit
5 Number 8, okay, and I think you just testified to this,
6 this is State's Exhibit Number 9, that's the --

7 A View of the house I think as you go in.

8 Q All right, let's take a step back for a
9 minute, okay, I'm sorry, we were just looking at the chair
10 with some cords?

11 A Yeah, all right, so what are these right
12 here?

13 A That's still cord.

14 Q All right, so these are your cords, is that
15 the cords to the phone or do you know?

16 A Well it's a cord to the phone.

17 Q Okay, and that's State's Exhibit Number 9,
18 and I hate to even ask you what this is but I guess you're
19 going to tell me, this is State's Exhibit Number 10, what's
20 this?

21 A That's a bathroom.

22 Q Okay, is this the bathroom that the
23 defendant used on that day?

24 A Yes, ma'am, it is.

25 Q Okay, now do you know for sure whether he

Ms. Martin - Direct Examination by Ms. Lively

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1 actually used the bathroom?

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

3 Q Okay, okay?

4 A I didn't hear it flush if he did.

5 Q Okay, but he told you he needed to use the
6 bathroom?

7 A Yeah, he asked to use the bathroom.

8 Q All right, okay, now tell the jury what
9 this is?

10 A That's the bed in the front bedroom.

11 Q Okay, this is State's Exhibit Number 11 and
12 was this the first bedroom that the defendant asked you to
13 get on the bed?

14 A Yes, ma'am, it is.

15 Q Okay, and once again were you able to do
16 that?

17 A No, ma'am, I knew better than to try.

18 Q Okay, okay, and is this another picture of
19 that same bed?

20 A Yes, it is.

21 Q And that State's Exhibit Number 12, okay,
22 and do you remember when me and the investigator were there
23 we asked to use one of your tape measures?

24 A Yes, ma'am, I do.

25 Q Okay, and is that your tape measure?

1 A Yes, ma'am, it is.

2 Q Okay, and were you in there whenever we
3 measured from the bottom to the height of the bed?

4 A Yes, ma'am, I was.

5 Q And it shows, can you read from there
6 thirty six inches; does that look about right?

7 A Yeah, I think that was right.

8 Q Okay, all right, and that's another close
9 up, this is State's Exhibit 14, okay, Ms. Eloise, which bed
10 is this?

11 A That's the smaller bed in the other
12 bedroom.

13 Q All right, this is State's Exhibit 15, was
14 this the bed that you were told to get on?

15 A Yeah, I was told to get on both but that's
16 the one I was told to get in the middle of.

17 Q Okay, all right, and when you were told to
18 get in the middle of this bed did you sit on this bed or
19 were you laying on the bed?

20 A I sit on the side of the bed, he said get
21 in the middle of the bed and I went to calling for help and
22 he tied the strings around and then when I was calling for
23 my son to come he, he fled.

24 Q Okay, that's when he stopped when you were
25 calling for your son?

Ms. Martin - Direct Examination by Ms. Lively

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1 A Yes, ma'am.

2 Q Okay, all right, now this picture which is
3 State's Exhibit Number 16?

4 A That's the front room window with the couch
5 is there.

6 Q Okay, is this the window you looked out of
7 to see if he had left?

8 A Yes, ma'am, it is.

9 Q All right, and is that one where you saw
10 the small dark in color vehicle?

11 A Yes, ma'am.

12 Q Okay, all right, and I think you had
13 testified a little bit before but if I was looking in from
14 your front door is that what I would see going into your
15 house?

16 A Yes, it is.

17 Q Okay, so that's going into, is that your
18 kitchen?

19 A Yes, ma'am ---

20 Q And over here ---

21 A --- it's the t.v. with the basket of
22 flowers and there was a little table of flowers on the
23 other side.

24 Q And if I kept going, I'm sorry?

25 A It goes into the kitchen.

1 Q Okay, if I had gone this way I would see
2 that blue chair and then we keep going and there we would
3 go to the bedrooms; is that right?

4 A Yes, ma'am.

5 Q Okay, all right, now is this, that was
6 State's Exhibit 17, this one is State's Exhibit Number 18?

7 A Yes, ma'am, that's the front door as you
8 come into the house.

9 Q Is that the door the defendant came in and
10 left?

11 A Yes, ma'am, it is.

12 Q Okay, and that's 18, all right, now, Ms.
13 Eloise, whose house is that right there, that blue house
14 with the white car; do you see it?

15 A That is my house and that's apartment house
16 on this side.

17 Q Okay, all right, and ---

18 A And right next to that on the other side
19 was Burney's house they supposed to have been staying in.

20 Q Okay, hold on just a minute, okay, I want
21 to be clear, when you say Vernon's house, is that Vernon's
22 house next door to yours?

23 A Yes, ma'am.

24 Q Okay, okay, well hold on just a minute, and
25 what is this road; is this [REDACTED] all the way down?

Ms. Martin - Direct Examination by Ms. Lively

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1 A [REDACTED], Street.

2 Q [REDACTED], I'm sorry, okay, now ---

3 A That's Burney's house their carport where
4 them people stayed.

5 Q Okay, hold on, all right, let me just ask
6 you a couple of questions, whose house is this right here,
7 this blue one?

8 A That, the shed on that blue one is mine.

9 Q Okay, okay, all right, that's what I'm
10 asking, so that is your house, so we're looking at it from
11 a different angle going up [REDACTED]; is that right?

12 A Yeah.

13 Q Okay, and whose house is this, is this that
14 Vernon person you're talking about?

15 A Yes, ma'am, that's the house the people was
16 renting.

17 Q Okay, okay, now hold on, okay, now is that
18 a better piece of that house, Vernon's house next door that
19 he rented out?

20 A Yeah, he's got the fence around the yard,
21 front part the yard.

22 Q And that's your house again, right?

23 A Yes, ma'am.

24 Q Okay?

25 A Blue one.

Ms. Martin - Direct Examination by Ms. Lively

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1 Q All right, so that one is going to be
2 State's Exhibit 21, okay, and then is that the street
3 number of Vernon's house next door to your house?

4 A Yes, ma'am, it is.

5 Q Okay, all right, so that's the front of
6 that house that Vernon rented out?

7 A Yes, ma'am, it is.

8 Q Okay, and that would be State's Exhibit
9 Number 22, okay, and then from another angle this is
10 State's Exhibit Number 23, if I was standing in your yard
11 let's say right next to your car and looked down [REDACTED]
12 Street is that how Vernon's house would look to me?

13 A Yeah, it is.

14 Q Okay, so did you share that part of that
15 fence with Vernon's house that he rented?

16 A No, they put it up.

17 Q Okay, and that's between your house and his
18 house, right?

19 A Yes, ma'am.

20 Q Okay, Ms. Eloise, whenever you called Loris
21 P.D. how quick was it, how quick was their response to get
22 to your house?

23 A In a matter of minutes.

24 Q Okay?

25 A It's only a couple of or maybe three

Ms. Martin - Direct Examination by Ms. Lively

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1 blocks.

2 Q All right, and did you give the first
3 responding officer a description of the person who broke
4 into your house?

5 A Yes, I did.

6 Q Okay, do you remember who that officer was?

7 A Ms. Miller, I believe. is the one that
8 wrote up what I told her.

9 Q Okay. Alicia Miller?

10 A Yes, ma'am.

11 Q All right, and was, so that was done within
12 minutes of you calling the police; is that an accurate
13 statement?

14 A Yes, ma'am. they all were good.

15 Q Okay, all right, now, Ms. Eloise, did you
16 later on that day or evening have an opportunity to meet
17 Chief Joe Vaught from the Loris Police Department?

18 A Yes, I did and he was great.

19 Q Okay, and, Ms. Eloise, when you met with
20 him did he present you with something that had pictures on
21 it for you to look at?

22 A Yes, he did.

23 Q Okay, hold on just a second, okay, now, Ms.
24 Eloise, I'm going to show you what's been marked as State's
25 Exhibit Number 2 just for identification purposes, I don't

Ms. Martin - Direct Examination by Ms. Lively

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1 want you to go into any of the details except tell me
2 whether you recognize this document, the document itself,
3 don't tell me the people, tell me whether you recognize
4 seeing this document?

5 A Yes, I do, remember.

6 Q You do, okay, who showed you this document?

7 A The Chief did.

8 Q Okay, Chief Joe Vaught showed it to you?

9 A Yes, he did.

10 Q Okay, all right, and when he showed that
11 document did he tell you what the purpose was that he
12 showed that to you?

13 A Yeah, they was wanting me to identify the
14 person that broke, that come in.

15 Q Okay, all right, very good, now when you
16 were given that, that document, how many pictures are on
17 that document; tell this jury how many are on there?

18 A There are six on here.

19 Q Okay, and whenever you were looking at that
20 document what was the thing that you were trying to do in
21 looking at those six photos?

22 A I was trying to be sure I had the right
23 one.

24 Q Okay, and in looking at those six photos
25 were you able to narrow it down or pick somebody out at

Ms. Martin - Direct Examination by Ms. Lively

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1 all?

2 A Yeah, I did narrow it down.

3 Q Okay, let me stop you there, and this is
4 the photo lineup that you were shown; isn't that right?

5 A Yes, ma'am.

6 Q Okay?

7 A And, can I ---

8 Q Hold on just a minute?

9 A All right.

10 Q That's fine, that's fine, I got a legal
11 thing to deal with?

12 Ms. Lively: Your Honor, at this time the State
13 would move to introduce what's previously marked as State's
14 Exhibit Number 2 which would now be State's Exhibit Number,
15 you can keep the same number, okay, well then we'll keep it
16 as 2 into evidence at this time?

17 The Court: Any objections?

18 Mr. Floyd: Over prior objections, Judge.

19 The Court: All right, State's Number 2 into
20 evidence.

21 Ms. Lively: Thank you, Your Honor.

22 (Whereupon, State's Exhibit Number 2 entered into
23 evidence.)

24 Q Okay, all right, now that we got that over
25 with, looking at this document do you remember who or if

Ms. Martin - Direct Examination by Ms. Lively

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1 you were able to pick any one person out, were you when you
2 looked at that?

3 A They looked so much alike I knew the one on
4 the bottom right.

5 2 Q All right, so which two did you, and if you
6 don't remember that's fine, I just need you to think about
7 what you saw that day and what you told Chief Vaught that
8 day? Don't tell me what you know now, I need to know when
9 you looked at it that night were you able to pick out one,
10 two, three or nobody?

11 A Well I, I said two, I finally said there
12 two that looked like that.

13 Q Okay, all right, so you picked out two, you
14 weren't sure?

15 A Yeah.

16 Q Okay, that's all right, and what are the
17 numbers of the two, you said on the right?

18 A Yeah.

19 Q Okay, which two, can you give us the
20 numbers?

21 A That one and that one is the one I said,
22 yeah.

23 Q What number is that, can you see it?

24 A Five, is it five?

25 Q Okay, and what number?

Ms. Martin - Direct Examination by Ms. Lively

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1 A Six.

2 Q Five and six, okay, so you were able to
3 narrow it down to five and six, five and six, okay, all
4 right, were you able to, you had mentioned way earlier in
5 your testimony that you noticed the defendant or the person
6 that broke in had tattoos on his neck and on his arms; do
7 you recall that?

8 A Yes, yes, I do.

9 Q Okay, do you remember what those tattoos
10 looked like; do you remember anything about them?

11 A Not that, I just knew it was all tattooed
12 up and seemed like there was some coloring on one of his
13 arms in with the ink of the tattoo.

14 Q Okay, I'm going to show you a couple of
15 pictures and ask if you recognize it; if you don't that's
16 okay? I'm going to show you these three and just tell me
17 if you recognize all or any one of these three photos?

18 A I recognize the top on the neck and this
19 arm here was and there was tattoos but I couldn't see good
20 enough to tell where it was a bird or not.

21 Q Okay, okay, so let me just get these marked
22 quickly then, sorry --

23 (Whereupon, State's Exhibits Numbers 25 and 26
24 marked for identification.)

25 Q (Continuing) Okay, I'm going to show you

Ms. Martin - Direct Examination by Ms. Lively 103

1 again what's marked as State's 25 and 26, 25 and 26, 25
2 being this one, now you said that you recognized that?

3 A Yeah, cause his shirt collar I could see
4 the blue, I couldn't see behind the neck but I seen the
5 blue of the neck.

6 Q Okay, all right, so you could see some on
7 his neck but he had a shirt on?

8 A Yeah.

9 Q Okay, how about this forearm picture which
10 is number 26; do you recognize that?

11 A Yeah, I remember it was all tattooed up.

12 Q Why does this picture, number 26, why do
13 you recognize that one?

14 A Seems like there's a little color in it.

15 Q Okay, you recognize the color in it?

16 A Yeah, it's a little color in it.

17 Ms. Lively: Okay, Your Honor, the State would
18 move to introduce State's 25 and 26 into evidence at this
19 time?

20 The Court: Any objections?

21 Mr. Floyd: No, sir.

22 The Court: 25 and 26 into evidence without
23 objection.

24 Ms. Lively: Okay.

25 (Whereupon, State's Exhibits Numbers 25 and 26

Ms. Martin - Direct Examination by Ms. Lively

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1 entered into evidence.)

2 Q (Continuing) So you remember the ink on his
3 neck as well the color of the tattoo on his forearm; you
4 remember the color of his tattoo on his forearm?

5 A Yeah, kindly, I can't say the name but it
6 was kindly of a rose like color.

7 Q Like a rose like color?

8 A Like a salmon color or something like that.

9 Q Or a salmon color?

10 A Yeah.

11 Q Okay, okay, that's fine, and we're almost
12 done, okay, one second, now, Ms. Eloise, you said that you
13 knew Vernon, the next door neighbor had rented out his
14 house to people; did you know who those people were?

15 A I don't know, she had passed away and her
16 son rented the house to them, Terry, Terry Wright.

17 Q Okay, Ms. Eloise, thank you very much --

18 Ms. Lively: Your Honor, may we approach for
19 just a moment?

20 The Court: Sure.

21 (Whereupon, a bench conference was held off the
22 record in the presence of the jury, but out of the hearing
23 of the jury.)

24 The Court: Members of the jury we're going to
25 take a fifteen minute break, if you need to use the rest

Ms. Martin - Cross Examination by Mr. Floyd

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1 room feel free to do so. She'll make sure that you have
2 drinks or cookies or nabs or anything like that. If
3 anybody needs to smoke just let her know and that's fine as
4 well, but do not discuss the case.

5 (Whereupon, the jury retired to the jury room at
6 3:39 p.m.)

7 The Court: All right, Ms. Martin, we're going
8 to take a brief break, do you need to use the rest room or
9 get anything to drink or anything like that?

10 A No, sir, thank you.

11 The Court: All right, that's fine, well you
12 just stay right where you are but you cannot talk with
13 anybody at this time, do you understand?

14 A Yeah.

15 The Court: All right, we'll be at ease for
16 fifteen minutes.

17 Ms. Lively: Thank you, Your Honor.

18 (Whereupon, a recess was taken.)

19 The Court: Go ahead and bring in the jury.

20 (Whereupon, the jury returns to the jury room at
21 3:58 p.m.)

22 The Court: All right, Mr. Floyd, you're
23 recognized?

24 Mr. Floyd: May it please the court, Your Honor?

25 The Court: Sure.

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By Mr. Floyd:

Q Good afternoon, Ms. Martin, I understand you just had a birthday?

A Yeah, that's right.

Q How long ago was it?

A The third day of August.

Q Any birthday is a good birthday, isn't it?

A Yeah, they come pretty often when you get a certain age, don't they?

Q They do seem to spin around faster than what they did when you were young. I've got just a few questions I want to ask you, Ms. Martin, about what happened back on January the 26th, if that's okay with you?

A Okay.

Q First off, Ms. Martin, do you remember giving a statement to the police officers that day?

A Yes, I do.

Q Okay, now this man that came to your house
it was somewhere around 3:00 in the afternoon?

A Yes, sir, he did.

Q All right, do you remember about how long he was at your house?

A No, I don't remember how long he was there
but he was there too long.

Ms. Martin - Cross Examination by Mr. Floyd

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1 Q Yes, ma'am, I gathered that from the
2 testimony you have given so far, and he walked up wanting
3 to know if you had gotten any of his mail?

4 A Yes, sir, he wanted to know if I had gotten
5 any or seen any of his mail. I told him, no, I have not,
6 but if he looked in the box over there he might see some.

7 Q And then you let him come in and use your
8 bathroom?

9 A Yes, I thought it would be all right, they
10 had been over there for a couple of years and I hadn't had
11 no trouble with them and he acted okay in the beginning.

12 Q All right, now and this man said he wanted
13 your money?

14 A Yes, he did.

15 Q All right, and then if I understood you
16 directly you testified he had something in his hand, if I
17 understood you right you said it was a little black water
18 gun type and had a bright red light; is that correct?

19 A Well to me that looked kind of the way I
20 described it; I didn't know what it was till one of the
21 police officers told me what it was.

22 Q Yes, ma'am, but I'm talking about at that
23 particular time?

24 A That particular time that's what he had.

25 Q Yes, ma'am, it was after that that the

Ms. Martin - Cross Examination by Mr. Floyd

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1 police officer told you what it was, correct?

2 A They told me what it was cause I didn't
3 know what kind of thing it was.

4 Q That's correct, ma'am, that's what I was
5 trying to clear up also but when you saw it or described it
6 as a little black water gun type thing that had a bright
7 red light on it?

8 A Yeah, it was kind of like the kids used to
9 play with.

10 Q Yes, ma'am, now at one point you testified
11 that he asked you if you were all right?

12 A He did when he out the door when he started
13 to leave while I was calling for help he said you all right
14 and he took off out the door and as fast as he could he
15 slung out the yard and I got his license tag. I didn't get
16 the number, I just knew it was South Carolina tag.

17 Q Okay, and when you say you're calling for
18 help, did you say you were calling your son?

19 A I called my son and I called for the good
20 Lord to help me, too.

21 Q Yes, ma'am?

22 A I didn't know what was coming next.

23 Q And that's when he asked you if you were
24 all right and he left, correct?

25 A He asked me was I all right before he left,

1 yeah..

2 Q Okay, now when you gave your statement to
3 the police officer did you read over it?

4 A Did I read over it?

5 Q Yes, ma'am?

6 A Yeah, I did.

7 Q I'm going to hand this to you just so
8 you'll know what I'm talking about; is that the correct
9 statement that you gave to the police?

10 A That looks like it.

11 Q It looks like it?

12 A Yeah.

13 Q There's three pages long ---

14 A Three pages long.

15 Q --- look at all three pages, ma'am, and I
16 want to ask you some questions about something if you don't
17 recognize it?

18 A That looks about like it.

19 Q Could you see it all right?

20 A I could see it, make out most of it.

21 Q Okay, does that look like the statement
22 that you gave to the police that day; I believe you gave it
23 to Officer Miller?

24 A Yeah, Ms. Miller.

25 Q All right, now, Ma'am, you testified a

Ms. Martin - Cross Examination by Mr. Floyd

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1 defendant minutes ago that he threatened to use the box in
2 his hand?

3 A He did use the box in his hand cause if he
4 hadn't of used it it wouldn't have been that color.

5 Q Okay?

6 A And my voice wouldn't been like it is.

7 Q So he did threaten you?

8 A He did, did, did shine it on me when he
9 told me he wanted my money and I told him I didn't have no
10 money. He said set down here and give me your bill folder.
11 I gave him my bill folder, weren't no money it it, then he
12 said your pocketbook and he took my pocketbook and walked
13 me to the bedroom.

14 Q Would it surprise you to know that in your
15 statement that you gave to Officer Miller on January 26th,
16 2011, 3:21, that you never said he ever threatened to use
17 the gun or, excuse me, the black box?

18 A I didn't, I wasn't asked, I don't know, he
19 did use the black box. Ms. Miller is the one told me what
20 it was.

21 Q Okay, bear with me, now when he left your
22 house as you were calling for help he said you're all
23 right, he left your house, now he was parked, show you this
24 picture that you have identified as State's Exhibit Number
25 4?

Ms. Martin - Cross Examination by Mr. Floyd

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1 A He was parked right beside my car like he
2 belongs there.

3 Q Yes, ma'am, was he parked in front of the
4 steps up to your house?

5 A Yeah, he was parked right side my car.

6 Q Right beside your car in front of your
7 white steps there?

8 A Yeah.

9 Q Okay, now he turns and left your house and
10 this man walked out and got in his car and you were looking
11 out your front window, okay?

12 A I run to the front window quick as I could
13 when I knew he was in the car.

14 Q So before he had backed out the [REDACTED] way --

15 A He took off out the [REDACTED] way is why he lost
16 his gun in the yard.

17 Q Excuse me, I didn't understand what you
18 said, ma'am, I apologize?

19 A He dropped his gun that he was using in the
20 yard.

21 Q Okay, but that would have been the window
22 up on the right side of your, no, that would have been the
23 window right here under the porch that you were looking out
24 of?

25 A Yeah, cause that's the big room there that

Ms. Martin - Cross Examination by Mr. Floyd

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1 goes to every room in the house.

2 Q Okay?

3 A And the bedroom is right there.

4 Q This is the bedroom ---

5 A That was the first bedroom, the other is on
6 the other side.

7 Q Okay, so the window kind of right in front
8 of your car was the one you were looking out of?

9 A Yeah.

10 Q And he was parked beside your car in front
11 of the white steps?

12 A He was parked side the car.

13 Q And so when he was leaving your house
14 pulling out of your [REDACTED] way you were looking out that
15 front window, correct?

16 A Yeah.

17 Q Okay, now you had also said that he was
18 looking around for something to tie you up with?

19 A He walked around the bed, he said he's
20 going to tie me up, he walked around the bed and then he
21 asked me did I have a telephone in there. I didn't answer
22 him so he come and tied me with them strings in my
23 housecoat.

24 Q Okay, if I understood your question told a
25 few minutes ago he didn't actually tie you up with those

1 strings?

2 A He wrapped them around me arms and tied,
3 tried, I don't know if they tied or not but he wrapped them
4 around both arms.

5 Q But then this man went looking for
6 something else to tie you up with; was that what happened?

7 A He must have been cause why would he walk
8 around the bed looking for something.

9 Q All right, now that same day Chief Vaught
10 came over to your house and showed you some pictures?

11 A Yes, sir, he did.

12 Q And you couldn't pick out any one person
13 from those pictures?

14 A They all looked alike at that time to me.

15 Q And when this man left he asked you if you
16 were all right, correct?

17 A Yeah, he did ask me was I all right, I
18 didn't answer him, he ought to know I wasn't all right.

19 Q Okay, now the solicitor Ms. Lively showed
20 you a couple of pictures and I'm just curious when, what
21 kind of shirt was the man wearing?

22 A He was wearing a gray shirt.

23 Q All right ---

24 A The sleeves were short sleeves.

25 Q Short sleeved, was it a tee shirt or did

Ms. Martin - Redirect Examination by Ms. Lively

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1 the shirt have a color on it?

2 A It had a collar on it like a man's work
3 shirt.

4 Q Okay, now and what color, if I understood
5 you correctly you referred to the color of the tattoo on
6 the arm?

7 A Yeah, he was tattooed on the arms.

8 Q What colors were they?

9 A It looked like black and some kind of a
10 light color on the arm kind of like a light peach color or
11 something like that.

12 Q Kind of a light peach color?

13 A Well it was a light color, I wouldn't know
14 if it was a peach or some kind of light color like that on
15 his arms.

16 Q All right, was that on both arms or just on
17 the right one or just on the left one?

18 A Well he was tattooed all up, whenever
19 somebody is doing you the way he did you don't exactly know
20 how many what it was on, it was on his arm and his neck.

21 Q Okay, and where did you see them on his
22 neck?

23 A I seen them up his neck like that.

24 Q Up his neck like this?

25 A Yeah.

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Ms. Martin - Redirect Examination by Ms. Lively

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1 Q Like that where my hand is?

2 A I seen it up his neck.

3 Q Okay, all right, I think I'm done, Ms.

4 Martin, if you'll give me just a few minutes to look over
5 my notes, okay?

6 A Okay.

7 Mr. Floyd: Thank you, ma'am, I don't have any
8 further questions for you.

9 The Court: Any redirect?

10 Ms. Lively: Just a couple.

11 Redirect Examination

12 By Ms. Lively:

13 Q Ms. Eloise, when you said that you were
14 calling out for your son, Wayne, and you were calling out
15 to the Lord?

16 A Yeah, I was calling and I asked him why was
17 he doing this me, please don't do this to me, and I was
18 asking him that, too.

19 Q Is that when he stopped?

20 A No, it wasn't, when I started calling for
21 my son he stopped.

22 Q Okay, so when, when, when you started
23 calling out your son's name, Wayne, is when the defendant
24 stopped; is that right?

25 A Yeah, yes, ma'am, it was.

1 Q Okay, and let me just clear something up,
2 was Wayne there that day?

3 A No, Wayne was in Summerville but he didn't
4 know that.

5 Q Okay, all right, okay, all right, and your,
6 okay, so when you were calling you weren't actually like
7 picking up the phone or calling you were just saying these
8 things out loud?

9 A Yeah, I was, I thought if he lived next
10 door he should know I have two sons and they come in and
11 out. They didn't stay there but they come in and out and
12 they said they had seen them out there on the carport ---

13 Q Okay, you can't, that's information from
14 your, from your sons?

15 A Yeah.

16 Q Let's don't talk about that?

17 A They he ought to know them, yeah.

18 Q Okay, that's enough, hold on just a second,
19 one more thing, Mr. Floyd asked you, sorry, Mr. Floyd asked
20 you about the thing the defendant was holding in his hand,
21 okay?

22 A Yeah.

23 Q Okay, hold on, I'm going to ask you, now in
24 that statement that, that you wrote out with Officer
25 Miller?

Ms. Martin - Redirect Examination by Ms. Lively

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1 A Yeah.

2 Q Did you give a description of what it was
3 that the person pointed at you on that day?

4 A Yes, I did and she told me that's what it
5 was. I said what do it do to you, she said it mess your
6 nerve up.

7 Q Okay, let me just show you something and
8 see if this will help you remember, okay, and then if you
9 will tell the jury exactly how you describe what the person
10 was pointing at you that day, I'm going to show you, okay?

11 A Okay.

12 Q And ask you if you remember, hold on, hold
13 on, okay, all right, right here, if you'll, don't read it
14 out loud but just, do you see that, am I too far away, do
15 you see that? Do you see that?

16 A Yeah.

17 Q Okay, what is it that you said the person
18 pointed at you?

19 A Well it was, I can't hardly describe it, it
20 looked like a water gun or pistol like thing with a light
21 on it.

22 Q Okay, and I understand there's a light on
23 it and I understand you said that it looked like a water
24 pistol, I'm asking you what you told Ms. or Officer Miller
25 it looked like that day it happened? If you'll look at

Ms. Grate - Direct Examination by Ms. Lively

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1 this and tell me what it is you told her it looked like,
2 what is it that you told her it looked like, just that
3 description, not what you're telling me now, what did you
4 say? What did you tell her?

5 A Right there, a square black box with a red
6 light shine on me and have any, I can't hardly see that.

7 Q You're fine, you're fine, so a square black
8 box with a red light on you is what you described to
9 Officer Miller ---

10 A Yeah.

11 Q --- that day?

12 A Yeah, and well I know when I used to get
13 little black gun like this for the boys and that said that
14 then.

15 Q Okay, okay, all right --

16 Ms. Lively: Thank you, Ms. Martin, that's all
17 the questions I have.

18 The Court: Anything further, Mr. Floyd?

19 Mr. Floyd: No, sir, Judge, thank you.

20 The Court: All right, you may step down, would
21 you help her, please?

22 A Okay, thank you, sir.

23 The Court: Thank you. All right, if you'd go
24 ahead and call your next witness.

25 Ms. Lively: Yes, sir, Your Honor, the State

Ms. Grate - Direct Examination by Ms. Lively

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1 would call Joyce Grate from the Loris P.D. to the stand.

2 Joyce B. Grate

3 being first duly sworn, testified as follows:

4 Madam Clerk: Please state your full name and
5 spell your last name.

6 The witness: My name is Joyce B. Grate, g-r-a-
7 t-e, Grate.

8 Direct Examination

9 By Ms. Lively:

10 Q Ms. Grate, where do you work?

11 A The Loris Police Department.

12 Q And what are your duties at the Loris
13 Police Department?

14 A I am a dispatcher, I answer and dispatch
15 calls.

16 Q Okay, were you working on January the 26th
17 of this year?

18 A Yes, ma'am.

19 Q All right, and when you were working that
20 day did you get a call in regarding a potential burglary?

21 A Yes, ma'am.

22 Q Okay, and do you keep a log of all of those
23 calls that come in?

24 A Yes, ma'am.

25 Q All right, if I'm, I'm going to show you a

Ms. Grate - Direct Examination by Ms. Lively

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1 document and just to refresh your recollection of the calls
2 that you would have taken that day?

3 A Yes, ma'am.

4 Q Does that look like the kind of log that
5 you keep in the normal course of business?

6 A Yes.

7 Q Okay, I'm going to ask you about that if
8 you don't mind, do you happen to recall receiving a
9 telephone call from an Eloise Martin that day?

10 A Yes.

11 Q Do you know what time it was whenever you
12 received that call?

13 A It was 3:10.

14 Q 3:10 in the afternoon?

15 A Yes, ma'am.

16 Q All right, now when you received that call
17 was it, was it Ms. Martin calling or was it someone on her
18 behalf?

19 A It was Ms. Martin.

20 Q All right, and whenever Ms. Martin called
21 what did she report to you?

22 A She stated that she had been robbed.

23 Q Okay, all right, and as a dispatcher what
24 is your, what are your duties in regards to gathering
25 information to assist in, in sending out an officer to a

Officer Miller - Direct Examination by Ms. Lively 121

1 scene, what are you supposed to do?

2 A I asked Ms. Martin where does she live at.

3 Q Okay, and where does she live?

4 A [REDACTED] in Loris.

5 Q Okay, and about how far is that from the
6 police department?

7 A About a minute or two.

8 Q Okay, all right, it's really close?

9 A Yes, ma'am.

10 Q Okay, and what other information did you
11 gather from Ms. Martin regarding what had happened?

12 A I asked her did she need EMS, she stated
13 she was okay, then I asked her could she give me a
14 description of the person that robbed her.

15 Q Okay, was she able to give you a
16 description at that time of the person who had robbed her?

17 A She said it was a white male wearing blue
18 jeans, a gray shirt and had tattoos all around his neck.

19 Q Okay, all right, and do you recollect
20 approximately what time it was that an Officer arrived on
21 the scene?

22 A Yes, while I was getting the information I
23 handed the officer the address and she left out; she got
24 there at 3:11.

25 Q Okay, and who was the officer that you

Officer Miller - Direct Examination by Ms. Lively

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1 provided that information to?

2 A Officer Miller.

3 Q Okay, Alicia Miller?

4 A Yes.

5 Q Okay, was that everything that you had to
6 go in regards to the investigation and assisting with this
7 particular case?

8 A Yes, ma'am, I stayed on the phone with Ms.
9 Martin until Officer Miller arrived.

10 Q Okay?

11 A And then I told her to go the police
12 officer.

13 Q Okay, all right, thank you very much,
14 answer any questions that Mr. Floyd might have for you.

15 The Court: Mr. Floyd?

16 Mr. Floyd: I have no questions, Judge.

17 The Court: All right, you may step down, call
18 your next witness.

19 Ms. Lively: Alicia Miller.

20 Officer Alicia Miller

21 being first duly sworn, testified as follows:

22 Madam Clerk: Please state your full name and
23 spell your last name?

24 The witness: Alicia Miller, m-i-l-l-e-r.

25 Direct Examination

Officer Miller - Direct Examination by Ms. Lively

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1 By Ms. Lively:

2 Q Where do you work, Officer Miller?

3 A Loris Police Department.

4 Q And how long have you worked there?

5 A Approximately six years now.

6 Q What are your duties at the Loris Police
7 Department?

8 A I'm a patrol officer, respond to calls.

9 Q And did you have an opportunity to respond
10 to a call that was taken in by dispatch on January 26th of
11 this year?

12 A Yes, I did.

13 Q Okay, and will you tell this jury what that
14 call was in reference to?

15 A Okay, the call was in reference to a
16 robbery called in by the victim. She had stated that a
17 gentleman had gained entry into her home by saying he
18 needed to use the rest room. She allowed the subject to go
19 in and use her rest room while she waited by the door and
20 at that point Ms. Martin had stated that he had come out of
21 the bathroom bent down and picked, looked like he was
22 playing with something against the wall and then he had
23 walked up towards her holding some sort of black box.

24 Q A black box?

25 A Uh-huh.

Officer Miller - Direct Examination by Ms. Lively 124

1 Q When you respond to a situation like that
2 is it, is it policy or a good idea to have a victim
3 actually write out or give you a statement to be documented
4 in writing?

5 A As policy we do get a statement from every
6 single victim on every call that we go to, however, if the
7 victim is distraught or unable to write we, we write the
8 report, the voluntary statements for them and then we read
9 it back to them and they sign off on it.

10 Q Please tell this jury what you did in this
11 particular case?

12 A In this case Ms. Martin was very
13 distraught. Several times I asked her if she needed to go
14 to the hospital and she said that, you know, she had, was
15 fine, but at that point she just was unable to pull herself
16 together to be able to write a statement so I went ahead
17 and wrote a statement for her, read it back to her, and she
18 went ahead and signed off on it.

19 Q At this point in time, Officer Miller, all
20 the information that you had gathered that was put into
21 this statement was that information you received solely
22 from the victim Ms. Eloise Martin in this case?

23 A Yes.

24 Q Okay, had you talked to anyone else or any
25 other potential witnesses at that point?

Officer Miller - Direct Examination by Ms. Lively 125

1 A No, she was the only one in the residence.

2 Q Okay, and how long did it take you to get
3 to her house?

4 A Approximately probably a minute.

5 Q Okay, so within a minute of her calling
6 dispatch you were there talking to her?

7 A Yes.

8 Q And while you were there you actually then
9 wrote out this three-page statement ---

10 A Yes, ma'am.

11 Q --- of Ms. Eloise Martin, okay, as a matter
12 of fact that's your signature at the bottom saying that you
13 witnessed it; is that right?

14 A Yes, it is.

15 Q Okay, and would you, do you recall at
16 approximately what time you documented that the statement
17 was given?

18 A At approximately 3:21.

19 Q Okay, 3:21 in the afternoon?

20 A Yes.

21 Q Okay, after you took that statement from
22 Ms. Martin what was the next thing that you did?

23 A I believe after the statement I went back
24 and started the report ---

25 Q Okay.

Officer Miller - Direct Examination by Ms. Lively 126

1 A --- and several other officers attempted to
2 locate in the area of a possible vehicle description, it
3 was a dark in color vehicle description is the only thing
4 that we received at that point in time.

5 Q Okay, okay, all right, and that information
6 once again was given to you by whom?

7 A Ms. Eloise Martin.

8 Q Ms. Eloise Martin, okay, and in her
9 description to you of what the perpetrator looked like what
10 did she tell you?

11 A I need to refer back to my notes on that,
12 please?

13 Q That's fine.

14 A Ms. Martin stated to me that the gentleman
15 that was in her home was wearing a gray in color shirt,
16 wearing jeans and work boots with a red baseball cap and he
17 had tattoos on his necks, neck and his arms.

18 Q Was there anything else that she documented
19 for you, and I'll show you her statement that you
20 witnessed, and just have you refresh your recollection of
21 there's anything else other than that?

22 A He left in a dark in color car and had blue
23 to gray eyes.

24 Q So she said he had blue to gray eyes?

25 A Yes.

Officer Miller - Direct Examination by Ms. Lively 127

1 Q And you documented that in your ---

2 A Yes, I did.

3 Q You said that Ms. Martin was distraught,
4 were you surprised at her ability to give you such detail?

5 A Yes, I was.

6 Q Okay, now while you were there you said
7 that you met with Ms. Eloise Martin, were you there
8 whenever the other officers showed up and began to process
9 the scene?

10 A Yes.

11 Q You were, who was it that appeared on scene
12 from Loris P.D. after you were there?

13 A Sergeant Bell and Chief Vaught and
14 Lieutenant Shepherd?

15 Q Shepherd, who is, used to be Karen Baker?

16 A Yes, used to be Baker.

17 Q Okay, and is this Lieutenant Baker?

18 A Yes, it is.

19 Q Okay, all right, while you were there were
20 you actually witness to anything that was found or taken
21 into evidence on the scene?

22 A Yes, when I had come out to my patrol car
23 Lieutenant Shepherd actually saw a black box laying by the
24 [REDACTED]'s side of my vehicle that I did not see it when I
25 got out on the scene and upon further looking at it it

Officer Miller - Direct Examination by Ms. Lively 128

1 appeared to be some sort of taser or stun gun.

2 Q Okay, all right, and let me just, hold on a
3 second, I'm going to show you State's Exhibit Number 4 and
4 ask you where approximately in this picture did you pull
5 your vehicle up whenever you arrived?

6 A Right where vehicle is at now, her vehicle
7 was parked on the side of the residence ---

8 Q Okay ---

9 A --- that day, right where she was parked
10 at.

11 Q All right, so and you stated that when you
12 were getting back into your vehicle you, Lieutenant
13 Shepherd actually saw that there was something outside your
14 [REDACTED]'s side?

15 A Correct, she actually had stopped me, she
16 had thought my cell phone had fallen out of my patrol car,
17 it was laying on the ground and later we find out that's
18 not what that was.

19 Q Okay, what was it, Officer Miller?

20 A Let me refer back to my notes here, it was
21 a black in color box and upon further looking at it it was
22 a stun gun and it was a 1900 K-volt, it was a sticker that
23 was on the stun gun and it's a ultra high voltage on the
24 label and it says the type was a WS800.

25 Q Okay, and what, did that item match the

Officer Miller - Direct Examination by Ms. Lively 129

1 description that was provided to you by the victim?

2 A Yes, it did.

3 Q Okay --

4 (Whereupon, State's Exhibit Number 33 marked for
5 identification.)

6 Ms. Lively: (Continuing)

7 Q All right, Officer Miller, I'm going to
8 show you this envelope which contains an item that has now
9 been marked as State's Number 33 and ask you if you
10 recognize it?

11 A Yes, I do.

12 Q Okay, was that the item that was found next
13 to your vehicle?

14 A Yes.

15 Q All right, and whenever you saw that item
16 and you and Lieutenant Baker or Lieutenant Shepherd saw
17 that item why did you, why did you obtain it for it to be
18 placed into evidence?

19 A Because it matched the description of what
20 the victim had given us, Ms. Martin had given us.

21 Q Okay, so was that something you dropped?

22 A No, no.

23 Ms. Lively: Your Honor, at this time the State
24 would move to introduce Exhibit Number 33 into evidence.

25 The Court: Any objections?

Officer Miller - Cross Examination by Mr. Floyd

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1 Mr. Floyd: I'd object at this time, Your Honor.

2 The Court: Why don't you go ahead and leave it
3 up here if you don't mind.

4 Ms. Lively: I was going to show it ---

5 The Court: He can come up here and look at it
6 if he wants to.

7 Mr. Floyd: I'm familiar with it, Judge.

8 The Court: All right.

9 Mr. Floyd: It's my understanding is that the,
10 this was actually found by Lieutenant Shepherd.

11 Ms. Lively: That's fine.

12 The Court: All right, any objections?

13 Mr. Floyd: That would be my objection, Your
14 Honor, cause it was actually found by Lieutenant Shepherd,
15 not by this officer.

16 The Court: All right, I'm going to overrule
17 that, State's Number 33 into evidence.

18 (Whereupon, State's Exhibit Number 33 entered
19 into evidence.)

20 Ms. Lively: (Continuing)

21 Q What additional investigation did you
22 actually do in regards to this case another than writing
23 out the statement for the victim, being present when the
24 stun gun was located and preparing that report?

25 A None other.

Officer Miller - Cross Examination by Mr. Floyd

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1 Q Okay, all right, so that was the end of
2 your portion?

3 A That was the end of my portion.

4 Ms. Lively: Okay, thank you, answer any
5 questions that Mr. Floyd might have for you.

6 Cross Examination

7 By Mr. Floyd:

8 Q And what did you do with the black box;
9 where did it go from your hands?

10 A Lieutenant Shepherd had picked it up, she
11 had stopped me right at my patrol car door thinking it was
12 my cell phone and Lieutenant Shepherd had picked it up and
13 we dropped in a, there was either a paper bag or it was put
14 in something to permit it from any more fingerprints
15 getting on it, to be taken to the police department so we
16 could go ahead and process it for the evidence.

17 Q And I guess that's the question I was
18 asking, did you take it on from there or did ---

19 A No, I did not.

20 Q Lieutenant Shepherd did, now you took Ms.
21 Martin's statement, correct?

22 A Yes, I did.

23 Q And ask you if that's it?

24 A Yes, it is.

25 Q Three-page statement?

Officer Miller - Redirect Examination by Ms. Lively 132

1 A Yes, sir.

2 Q In there she describes it as a black box
3 with a red light on it?

4 A Uh-huh.

5 Q At any point in that statement that was
6 given minutes after this happened did she ever say that she
7 was threatened by the use of the black box?

8 A Yes, she did.

9 Q She did?

10 A Yes, she did.

11 Q Why didn't you put it in the statement?

12 A May I refer back to it, okay, I didn't,
13 didn't put it in the statement.

14 Q Nor did you put in there that it was used
15 which she testified to just a second ago, that would be
16 correct also, wouldn't it?

17 A Well in the statement there it shows that
18 she give a description of the box that was pointed at her,
19 in the statement on that second page at the top there.

20 Q But she never said it was used on her,
21 which she testified here that she was threatened with it?

22 A Correct, she had told me that he had, he
23 had pointed that at her.

24 Q And that was not included in the statement?

25 A Correct.

Lieutenant Shepard - Direct Exam. by Ms. Lively

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1 Mr. Floyd: Thank you, ma'am.

2 The Court: Anything further, Solicitor?

3 Ms. Lively: Just one.

4 Redirect Examination

5 By Ms. Lively:

6 Q Now, Officer Miller, right after you took
7 down about Ms. Martin saying that he pointed the bright red
8 box at me made reference to feeling threatened would you,
9 please, tell this jury if you could recall what it was or
10 how she was feeling, what her demeanor was in regards to
11 having that pointed at her, if you could recall?

12 A She was yelling and she was scared and he
13 was, she was afraid that he was going to rape her.

14 Ms. Lively: Thank you, that's all, Your Honor.

15 The Court: Mr. Floyd?

16 Mr. Floyd: Nothing further.

17 The Court: All right, you may step down, thank
18 you. All right, If you'll call your next witness.

19 Ms. Lively: Yes, sir, Your Honor, the State
20 would call Lieutenant Karen Baker Shepherd.

21 Lieutenant Karen Baker Shepherd

22 being first duly sworn, testified as follows:

23 Madam Clerk: Please state your full name and
24 spell your last name.

25 The witness: Karen Baker Shepherd, s-h-e-p-h-e-

Lieutenant Shepard - Direct Exam. by Ms. Lively

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1 r-d.

2 Direct Examination

3 By Ms. Lively:

4 Q Where are you currently employed,
5 Lieutenant?

6 A Loris Police Department.

7 Q And how long have you worked there?

8 A Approximately eleven years, going on eleven
9 years.

10 Q And what are your duties at the Loris
11 Police Department?

12 A I supervise the shifts as well as do some
13 of the investigation work and also answer calls if need to
14 be, and some administrative stuff.

15 Q Okay, were you working on the date of
16 January 26th of this year?

17 A Yes.

18 Q All right, and do you recall the incident
19 as reported by Ms. Eloise Martin that occurred on [REDACTED]
20 Street?

21 A Yes, ma'am.

22 Q All right, tell this jury what it was that
23 you first did in getting involved in that investigation?

24 A Well once I arrived on the scene Ms.
25 Miller, Officer Miller was already there and had took some

Lieutenant Shepard - Direct Exam. by Ms. Lively

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1 initial information; and when I went in to find out just
2 the additional information that she had as for the
3 description of the vehicles or anything else that she had;
4 and when I come back out to secure the scene and go around
5 and check the perimeter and check things on the outer
6 that's when I found the, the black box by Ms. Miller's car,
7 which at that time I thought it was a cell phone, that she
8 had dropped her cell phone.

9 Q Okay, all right, and whenever you were able
10 to get closer to the item were you able to determine that
11 you were incorrect in what it was?

12 A Yes, ma'am, once I, I actually picked it up
13 that's when I realized it wasn't a cell phone, it was some
14 form of a taser object, some kind of stun gun object once
15 reading the little label on it.

16 Q Okay, so who actually picked up the item?

17 A I did.

18 Q You did, and when you picked up that item
19 was it in the grass, on the dirt, on the pavement, where
20 was it?

21 A It was on the grass area.

22 Q Okay, and when you picked it up what
23 exactly did you do with it?

24 A When I actually picked it up I said what in
25 world is this, you know, thinking that, I said, Miller, did

Lieutenant Shepard - Direct Exam. by Ms. Lively

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1 you drop your phone, and she said, no, and then I got to
2 looking at it and I, I said, what is this, and then we got
3 to inspecting a little further and then we seen the little
4 prongs on it and seen that it wasn't actually a cell phone,
5 it was actually some form of weapon because it had the
6 little, two little silver prongy things and it come down
7 into a box.

8 Q Okay, I'm going to show you what's already
9 in evidence as State's Number 33 and ask you if you
10 recognize this as being the item that you found?

11 A Yes, ma'am.

12 Q Okay.

13 A That's it.

14 Q All right, and you said that you actually
15 were able to determine what it was and you read some of the
16 label, what, what does the label say on that item?

17 A It says 1900 K-watts, WS800 type direct
18 current ultra high voltage.

19 Q Okay, and did you look into it to see
20 exactly what that thing is and what it does?

21 A Well once I read that I kind of figured out
22 that it was some form of a stun gun.

23 Q Okay, all right, when you saw it was there
24 any type of light or anything on it that you, that stood
25 out to you?

Lieutenant Shepard - Direct Exam. by Ms. Lively

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1 A No, not at that time. There was, it was in
2 the off mode or it didn't have anything shining.

3 Q Okay, all right, and so when you saw it did
4 it look at it looks to us here now?

5 A Just like that.

6 Q Okay, all right, so once you actually took
7 this into possession you realized what it was, what did you
8 do with it next?

9 A At that point I said I don't know what this
10 is and then when we realized it was the form of a stun gun
11 then we put in a manila envelope to keep from contaminating
12 it any further because my, my prints or my hand had been on
13 it so just to, to make sure.

14 Q Okay, all right, and whenever you seized it
15 what did you do with it next, after you put it in the
16 envelope where did it go from there?

17 A It went to evidence ---

18 Q Okay?

19 A --- which was to Chief Vaught.

20 Q Chief Vaught, okay, so it went to Chief
21 Vaught. Do you log it in or how do you keep up with what
22 it is that you're putting into evidence?

23 A Yes, it's logged into evidence.

24 Q Okay. now after you obtained that item was
25 there anything else that you were able to collect from Ms.

Lieutenant Shepard - Direct Exam. by Ms. Lively

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1 Eloise Martin's home or yard to further the investigation
2 in this case?

3 A Me in particular?

4 Q You in particular.

5 A Not at that time.

6 Q Okay, did you assist Chief Vaught in
7 furthering the investigation to determine who the
8 perpetrator was in this case?

9 A Yes.

10 Q Okay, please tell the jury what you did in
11 regards to continuing the investigation?

12 A I assisted on most of the statements that
13 were taken, all the collecting of the taking the evidence
14 up to SLED to be processed as well as to Horry County, well
15 first it was taken to Horry County to be processed.

16 Q Okay.

17 A And then to SLED and --

18 Q And was this the stun gun?

19 A Yes, ma'am.

20 Q That you're referring to?

21 A Yes, ma'am.

22 Q Okay.

23 A Yes, ma'am.

24 Q All right, so first you took it to Horry
25 County P.D.?

Lieutenant Shepard - Direct Exam. by Ms. Lively

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1 A Uh-huh.

2 Q That's yes?

3 A Yes, ma'am.

4 Q Okay, and then after that it was taken to
5 SLED?

6 A For a swab.

7 Q Okay, were there any other items or
8 anything else that was collected, a tangible item like the
9 stun gun from Ms. Eloise Martin's house?

10 A Not that I recall.

11 Q Okay, and that's why I'm asking, I just
12 want to make sure that that's what it is that you obtained.
13 Now you stated that you were actually witness to some of
14 the statements that were taken; do you recall how many
15 different people you talked to in trying to gather
16 information in this case?

17 A The exact number, no, but quite a few.

18 Q Quite a few, all right, and based upon the
19 information that you gathered in this investigation were
20 you able to come up with a possible perpetrator in the
21 crime?

22 A Yes.

23 Q Okay, and who was that person?

24 A Mr. Herbert Causey.

25 Q Okay, and based on that information did you

Lieutenant Shepard - Direct Exam. by Ms. Lively 140

1 continue your investigation to find additional evidence or
2 additional witnesses who would be aware of his involvement?

3 A Yes.

4 Q Okay, is there anybody in particular that
5 you witnessed a statement from that gave details of the
6 crime other than Mr. Causey?

7 A Yes, Ms. Tonia Huggins.

8 Q Okay, how did you come to have contact with
9 Tonia Huggins?

10 A Some neighbors and stuff had told us that
11 the Huggins had lived next door to the victim.

12 Q Ms. Martin?

13 A Yes, ma'am.

14 Q Okay?

15 A And through the investigation and talking
16 with several people and different people and stuff that's
17 how we come to the conclusion to find out more about Ms.
18 Tonia and then where they lived at [REDACTED] along with
19 Ms. Teresa Martin and Marty Huggins.

20 Q Okay, and did you have an opportunity to
21 meet with and speak with Ms. Tonia Huggins?

22 A Yes.

23 Q All right, and when you met with her and
24 spoke with her did you, was she under arrest?

25 A No.

Lieutenant Shepard - Direct Exam. by Ms. Lively

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1 Q Okay, did you give her any Miranda warnings
2 or anything like that?

3 A No.

4 Q Okay, at that time was she just someone to
5 talk to regarding possible information of the crimes?

6 A Yes.

7 Q Okay, and whenever you met with and talked
8 to her did she provide you with a statement regarding
9 information she had about the burglary?

10 A Yes.

11 Q Okay, who witnessed Ms. Huggins statement?

12 A Me.

13 Ms. Lively: I'm just going to have this marked
14 for I.D. purposes?

15 (Whereupon, State's Exhibit Number 34 marked for
16 identification.)

17 Ms. Lively: (Continuing)

18 Q Now, Lieutenant Shepherd, I'm going to show
19 you what's been marked as State's Exhibit Number 34 for
20 I.D. purpose so I don't want you to read to me anything
21 that's in it but I'm just going to ask you if you recognize
22 this three-page document?

23 A Yes, ma'am.

24 Q You do?

25 A Uh-huh.

Lieutenant Shepard - Direct Exam. by Ms. Lively 142

1 Q Okay, and without going into the details of
2 it what is or who, whose statement is that?

3 A Ms. Tonia Denise Huggins.

4 Q Okay, and when was that statement taken?

5 A On February the 1st, 2011.

6 Q Okay, and in what location was it taken?

7 Was it at the police department, at a grocery store, at her
8 work?

9 A It was given at the police department.

10 Q Okay, and did you witness each page?

11 A Yes, ma'am.

12 Q Okay, at the time whenever you were there
13 witnessing that statement did you force her or coerce her
14 into making that statement?

15 A No, ma'am.

16 Q Did you provide her any details of the
17 crime that had occurred in Ms. Eloise Martin's house before
18 she gave you that statement?

19 A No, ma'am.

20 Q Okay, well just tell this jury what it is
21 that you said to Ms. Huggins to get her to provide you that
22 statement or was it voluntary?

23 A Well when she initially came in it was just
24 like normal kind of questions. I asked her did she know
25 the suspect, how long she had known him, just general

Lieutenant Shepard - Direct Exam. by Ms. Lively

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1 conversation, and then we went into, I don't know exactly
2 how or what the questioning was, but it's basically if Ms.
3 Huggins wasn't involved then she just needed to basically
4 just tell us what she did know and then she basically went
5 into telling us what she did know.

6 Q Okay, and so, so once again what I'm
7 curious about is did you tell her any of the information
8 about the specifics of what had occurred and what Ms.
9 Eloise Martin had said happened that day in her home?

10 A Not specifics.

11 Q Okay, okay, did you tell, was there any
12 information provided to Ms. Huggins regarding any type of
13 weapons, if any, were used?

14 A We asked her did she know of Mr. Causey
15 having a stun gun.

16 Q Okay.

17 A Or had she ever saw one.

18 Q Okay.

19 A In her residence.

20 Q Okay, all right, and so she provided you
21 information regarding that?

22 A Uh-huh.

23 Q That's a yes?

24 A Yes, ma'am.

25 Q All right, were you able to eliminate her

Lieutenant Shepard - Cross Examination by Mr. Floyd 144

1 from being present at the scene of the crime?

2 A Yes, ma'am.

3 Q How was that?

4 A She was at work.

5 Q Okay, and you were able to document that?

6 A Yes, ma'am.

7 Q Now did you personally witness any other
8 statements written by any witnesses from this case in your
9 investigation other than Tonia Huggins?

10 A Ms. Teresa Martin also gave a statement.

11 Q Okay, was that a written statement or just
12 a statement that you recall getting from this witness?

13 A We got so many statements and we
14 interviewed so many times, an actual written statement I
15 don't know unless I look back in the file.

16 Q Okay.

17 A But I know we talked to her multiple times.

18 Q Okay, did you ever meet with or talk with
19 anybody from Allen's Scrap Metal?

20 A Not me personally.

21 Q Not you, okay, all right, one moment --

22 Ms. Lively: All right, thank you, Lieutenant,
23 please answer any questions that Mr. Floyd might have for
24 you.

25 Cross Examination

Lieutenant Shepard - Cross Examination by Mr. Floyd

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1 . By Mr. Floyd:

2 Q Now when you saw the black box on the
3 ground you thought it was Officer Miller's cell phone?

4 A Yes, sir.

5 Q And you transported it over to Horry
6 County?

7 A Not at, not at that time, we secured in
8 evidence, we put it in a manila envelope and placed it into
9 evidence.

10 Q At which point did you transport it over to
11 Horry County?

12 A I think we process, I don't know the exact
13 date that we had it actually processed.

14 Q Did, was Horry County able to lift any
15 fingerprints off of it?

16 A They did get some partial, some partial
17 prints, there were some from a print.

18 Q You yourself don't know what kind of prints
19 were lifted off of it, that would be Heather Brummett who
20 did that?

21 A Yes, sir.

22 Q All right, now you also transported it up
23 to South Carolina Law Enforcement, didn't you?

24 A Yes, sir.

25 Q And what was the purpose of that?

Lieutenant Shepard - Cross Examination by Mr. Floyd

146

1 A For DNA swabbing.

2 Q Do you carry a taser stun gun?

3 A Carry a taser.

4 Q Carry a taser, how long have you been
5 employed at the police department?

6 A Going on eleven years.

7 Q How long have you carried a taser?

8 A Probably in the last three years, I think
9 somewhere approximately around three years that we've had
10 them, maybe four at the max.

11 Q Before that I always called them black
12 jacks but I think there's a actual name.

13 A ASP baton.

14 Q Do you carry one of those?

15 A I used to, I don't anymore.

16 Q Law enforcement went from those to tasers,
17 phased out the use of batons and went over to the use of
18 tasers?

19 A Some, some has, some agencies have.

20 Q Most of them?

21 A Yes, sir.

22 Q I mean every sheriff in here right now
23 they've moved to make sure that school resource officers
24 have them? They took away the batons and replaced them
25 with stun or tasers, correct?

Mr. Lucas - Direct Examination by Ms. Lively

147

1 A Most agencies.

2 Mr. Floyd: Thank you.

3 The Court: Any redirect?

4 Ms. Lively: No, Your Honor.

5 The Court: All right, you may step down and
6 we're going to break for the evening. If you would be back
7 at 9:30 in the morning in your jury room, and again tonight
8 do not discuss the case with your family members, don't
9 discuss it among yourselves, and don't watch the news or
10 read the newspaper or research the internet. If you'll
11 just go home, get some rest, come back, truck on tomorrow.
12 Everybody else remain seated.

13 (Whereupon, the jury was excused for the evening
14 at 5:00 p.m.)

15 The Court: We'll be at ease until 9:30 in the
16 morning.

17 Ms. Lively: Thank you.

18 The Court: Thank you.

19 (Whereupon, court was adjourned for the evening.
20 And resumes on September 7, 2011 at 9:30 a.m.)

21 (Whereupon, State's Exhibit Number 35 marked for
22 identification.)

23 The Court: Bring out the jury.

24 (Whereupon, the jury returns to the jury room at
25 9:36 a.m.)

Mr. Lucas - Direct Examination by Ms. Lively

148

1 The Court: Good morning, all right. Solicitor,
2 if you'd call your next witness.

3 Ms. Lively: Thank you, Your Honor, excuse me,
4 the State would call Randy Lucas to the stand.

5 **Timothy Randall Lucas**

6 **being first duly sworn, testified as follows:**

7 Ms. Lively: One moment, Your Honor.

8 The Court: Sure.

9 Madam Clerk: Please state your full name and
10 spell your last.

11 The witness: My name is Timothy Randall Lucas,
12 l-u-c-a-s.

13 Ms. Lively: Thank you, Your Honor.

14 **Direct Examination**

15 **By Ms. Lively:**

16 Q Mr. Lucas, where do you live?

17 A I live at [REDACTED] in Loris.

18 Q How long have you lived at, on [REDACTED]
19 Street?

20 A I've lived at [REDACTED] just since
21 December of this year but we have a house right behind it,
22 that's [REDACTED].

23 Q Okay, and how long have you known Ms.
24 Eloise Martin?

25 A Since like 1989, 1990 when I first moved to

Mr. Lucas - Direct Examination by Ms. Lively

149

1 Loris.

2 Q All right, and when you first came to know
3 Ms. Eloise where was she living?

4 A She, she lives right across from the [REDACTED]
5 [REDACTED] house, I don't know actually her address
6 number.

7 Q Okay, all right, so ever since you've lived
8 there then you've known Ms. Eloise lived on [REDACTED]?

9 A Yes, ma'am.

10 Q Okay, and do you know her personally or
11 kind of casually, what's your relationship like with Ms.
12 Eloise?

13 A I know her pretty well. Her and my mother
14 in law were really good friends and we look out for her,
15 help her a lot when I can, cut her grass, clean her roof
16 off. She's pretty self sufficient.

17 Q Okay, and has she lived there alone since
18 you've known her?

19 A Ever since I've known her, yes, ma'am, she
20 has lived there alone.

21 Q Does she [REDACTED] a vehicle?

22 A Yes, ma'am, she does.

23 Q All right, now, Mr. Lucas, have you, were
24 you aware of whose home it was that's directly beside Ms.
25 Eloise Martin on [REDACTED], the white home?

Mr. Lucas - Direct Examination by Ms. Lively

150

1 A Yes, ma'am, that's Ms. Vernie Wright's
2 house.

3 Q Vernie Wright's house?

4 A Yes, ma'am.

5 Q Okay, and who is Vernie Wright?

6 A Ms. Vernie Wright was, she owns Wright
7 Seafood House in Loris right down [REDACTED]. She's,
8 she's deceased now.

9 Q All right, now, Mr. Lucas, are you aware if
10 that house has ever been rented out to other persons?

11 A No, ma'am, just the one time, that's all.

12 Q Just the one time?

13 A Yes, ma'am.

14 Q And when was that one time if you can
15 recall?

16 A It was last year, I don't know the exact
17 date when the people moved in there.

18 Q Okay.

19 A It stayed vacant for a long time.

20 Q It stayed vacant for a long time?

21 A Yes, ma'am.

22 Q Okay, I have a little bit of a hard time
23 hearing you.

24 A This move closer?

25 Q Yeah, if you don't mind I want to make sure

Mr. Lucas - Direct Examination by Ms. Lively

151

1 everybody can hear you, okay?

2 A Yes, ma'am.

3 Q All right, now you said it was rented out,
4 who was that home rented out to, if you know?

5 A I know Tonia, I don't know actually what
6 Tonia's last name is, Tonia and her mother, I guess, and
7 her daughter.

8 Q Okay, and was there ever a time whenever
9 you saw the defendant Herbert Causey in that area?

10 A Yes, ma'am, he lived there also.

11 Q He lived there also?

12 A I guess I say maybe four months or so, I'm
13 not really sure.

14 Q Lived there for about four months?

15 A At least.

16 Ms. Lively: All right, Your Honor, if I may
17 approach the witness?

18 The Court: Sure.

19 Ms. Lively: (Continuing)

20 Q I'm going to show you what's already in
21 evidence and just have you tell the jury, this is State's
22 Exhibit Number 3, whose home is that?

23 A That's Ms. Eloise's house.

24 Q That's Ms. Eloise's house, okay, do you
25 know whose white vehicle that is?

Mr. Lucas - Direct Examination by Ms. Lively

152

1 A That's Ms. Eloise's car.

2 Q Okay, that's her car, is that where she
3 normally parks her vehicle?

4 A Yes, in front of her house.

5 Q All right, and State's Exhibit Number 4
6 same thing?

7 [REDACTED]

8 Q All right, and what's her exact address?

9 A [REDACTED]

10 Q All right, and in State's Exhibit Number
11 19, which looks like it shows a part of the street, is that
12 [REDACTED]?

13 [REDACTED]

14 Q All right, now I'm going to show you.
15 State's Exhibit Number 21 and ask you whose homes are shown
16 in that picture?

17 A That's Ms. Eloise's house on the left and
18 that's Ms. Wright's house on the right.

19 Q Okay, so Ms. Vernie's house is the white
20 house right beside Ms. Eloise's blue home; is that right?

21 A [REDACTED]

22 Q Okay, and I'm going to show you another
23 picture, this is State's Exhibit Number 22.

24 A [REDACTED]

25 Q That's Vernie Wright's house?

Mr. Lucas - Direct Examination by Ms. Lively

153

1 A Yes, ma'am.

2 Q And that's [REDACTED]?

3 A [REDACTED], yes, ma'am.

4 Q Okay, is this the home that is directly

5 beside Ms. Eloise Martin's home?

6 A Yes, ma'am, it is.

7 Q All right, and who was renting that home?

8 A I guess it was Tonia.

9 Q Tonia?

10 A And her mother and Herbert, I guess.

11 Q The defendant?

12 A The defendant, yes, ma'am.

13 Q Okay, did you ever speak to Mr. Causey

14 whenever he was living there?

15 A Yes, I have.

16 Q All right, have you had the opportunity to

17 observe him and any, any features of his that stand out in

18 your mind?

19 A Features as in his tattoos.

20 Q Well tell me what kind of features stand

21 out in your mind whenever you would describe Mr. Causey?

22 A A lot of tattoos on his arms, chest, neck,

23 marks on his face, I don't know if it's acne marks or

24 whatever its caused on his face.

25 Q Okay, on January 26th, well let me back up

Mr. Lucas - Direct Examination by Ms. Lively

154

1 for a second. When you were observing these renters in the
2 home did you ever have an opportunity to see what type of
3 vehicle these people would be driving?

4 A Yeah, they had a, they had several vehicles
5 but the last vehicle was a teal blue Ford Taurus, Mercury
6 Sable, I'd say late eighties maybe.

7 Q Okay, so an older model?

8 A Yes, ma'am.

9 Q Greenish color vehicle?

10 A Yes, ma'am.

11 Q All right, now, Mr. Lucas, on January 26th,
12 2011, were you home that day, if you can recall?

13 A I believe I was at work.

14 Q Okay, all right, and whenever you got home
15 that day did you notice anything unusual in the
16 neighborhood?

17 A At that time I don't remember if the police
18 were over there or if there was ambulance over there at
19 that time. I asked my wife what was going on, she said she
20 didn't know.

21 Q Okay, at any point in time after what you
22 observed did you have an opportunity to be interviewed by
23 someone from the Loris Police Department?

24 A Yes, I have been interviewed by Loris
25 Police Department.

Mr. Lucas - Direct Examination by Ms. Lively

155

1 Q And who interviewed you?

2 A By the Chief and Ms. Karen.

3 Q By the Chief, is that Joe Vaught?

4 A Yes, ma'am.

5 Q Okay, and by Karen Baker?

6 A Karen Baker, yes, ma'am.

7 Q Karen Baker, okay, and do you recall being
8 interviewed by them about the events that occurred on
9 January the 26th?

10 A Yes, ma'am.

11 Q Do you have any personal knowledge as to
12 what occurred to Ms. Eloise that day?

13 A After talking to her I know what happened
14 and talking to the Chief.

15 Q Okay, so you were informed by others as to
16 what actually happened that day?

17 A Yes, ma'am, I actually went over and seen
18 her after she came home to check on her.

19 Q Okay, and how was her, how was her
20 demeanor, her appearance?

21 A She was very distraught, she can barely
22 talk. Normally before, you know, she, you could carry a
23 pretty good conversation with her, you know, she's, like I
24 said she's pretty self sufficient. She's a smart lady and
25 she, she stutters a lot now and is quite, quite, I've never

Ms. Narci - Direct Examination by Ms. Lively

156

1 really seen her shake, she kind of has like tremors and
2 stuff now, I've never really seen that from her before.

3 Q Okay, Mr. Lucas, when you were interviewed
4 by Loris P.D. did you provide them any information
5 regarding Mr. Causey; do you recall that?

6 A I told them pretty much what I said, the
7 car that they were driving, his tattoos, what his
8 appearance what he looks like.

9 Q Okay, all right, so you provided them with
10 a physical description as well as a vehicle that, that they
11 had [REDACTED] at some time?

12 A Yes, ma'am.

13 Q All right, and did you provide them with
14 information that they had lived in that home ---

15 A Yes, ma'am.

16 Q --- next to Ms. Eloise?

17 A Yes, ma'am.

18 Q Okay, do you remember how long they lived
19 in that home?

20 A Not really, I mean I know that they have
21 lived there maybe four, four to six months I guess, I
22 really don't know.

23 Q Okay, and does Ms. Eloise live alone?

24 A Yes, ma'am, she does, she's always lived
25 alone since I've known her.

Ms. Narci - Direct Examination by Ms. Lively

157

1 Q Since you've known her?

2 A Yes, ma'am.

3 Ms. Lively: Okay, thank you, answer any
4 questions the defense may have for you.

5 The Court: Thank you, Mr. Floyd?

6 Mr. Floyd: Judge, I don't have any questions
7 for Mr. Lucas.

8 The Court: All right, you may step down, thank
9 you. If you'd call your next witness?

10 Ms. Lively: Your Honor, my assistant is seeing
11 which one of my next witnesses is actually here so give me
12 just one second.

13 Mr. Floyd: Judge, may we approach also?

14 The Court: Sure.

15 (Whereupon, a bench conference was held off the
16 record in the presence of the jury, but out of the hearing
17 of the jury and the court reporter.)

18 (Whereupon, State's Exhibit Number 27, 28, 29,
19 30, 31 and 32 marked for identification.)

20 Karen Ann Narcisi

21 being first duly sworn, testified as follows:

22 Madam Clerk: Please state your full name and
23 spell your last name.

24 The witness: My full name is Karen Ann Narcisi,
25 n-a-r-c-i-s-i.

Ms. Narci - Direct Examination by Ms. Lively

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Direct Examination

By Ms. Lively:

Q Good morning, Ms. Narcisi. this is the first time I've had an opportunity to meet you so thank you for coming. Where do you work?

A I work at Food Lion on Fourth Avenue in Conway.

Q Okay, and how long have you worked there?

A I've worked at that particular store since it opened about eleven years.

Q All right, and what are your duties there?

A I am customer service manager, I take care of the cashiers, the baggers, servicing customers in the service desk, and that's about it.

Q Okay, and what type of access do you have to the information that's recorded, well let me ask you this, do you have a surveillance security camera working at your Food Lion?

A Yes, we do.

Q Okay, and are you familiar with that surveillance camera?

A Yes, I am.

Q All right, and when that, is that surveillance camera is it on twenty-four-seven?

A Yes, it is.

Ms. Narci - Direct Examination by Ms. Lively

159

1 Q And is the images off that surveillance
2 camera are they recorded?

3 A Yes, they are.

4 Q Now, Ms. Narcisi, from the last time that
5 you looked at that surveillance camera are the dates and
6 times are they accurate with the actual dates and times of
7 the calendar and the clock?

8 A Yes, they are.

9 Q And they are accurate?

10 A Uh-huh.

11 Ms. Lively: If I may approach, Your Honor?

12 The Court: Sure.

13 Ms. Lively: Thank you.

14 Q (Continuing) I'm going to show you what's
15 in this envelope marked as State's Exhibit Number 32?

16 A We request that from our headquarters in
17 Salisbury.

18 Q Okay, that was going to be my question,
19 when would you get a downloaded disk of surveillance images
20 onto, when would you get something like this?

21 A When it is requested by the police
22 department or whenever a request say an individual is
23 having problems and they request it but most times it has
24 to be requested by the police department.

25 Q Okay, and was this requested by the police

Ms. Narci - Direct Examination by Ms. Lively

160

1 department?

2 A Yes, it was.

3 Q All right, and in your capacity working at
4 Food Lion was this the disk that was received regarding
5 surveillance pictures from your surveillance at the Food
6 Lion?

7 A Yes,

8 Q Okay, and is this kept in the normal course
9 of business the surveillance tapes and information in case
10 needed by law enforcement or for whatever purpose?

11 A Yes.

12 Q Okay --

13 Ms. Lively: Your Honor, at this time the State
14 would move to introduce State's Number 32 into evidence.

15 The Court: Any objections?

16 Mr. Floyd: Just a quick question, how can you
17 identify that particular disk as the one ---

18 A I don't, I'm assuming it came from my Food
19 Lion because they came, somebody from the police department
20 requested it and we have a request form and then it is
21 given to the police department.

22 Mr. Floyd: Do you even know what's on that
23 disk?

24 A No, I don't.

25 Mr. Floyd: That would be an objection, Your

Ms. Narcisi - Direct Examination by Ms. Lively

161

1 Honor.

2 The Court: All right, if you would come on up.

3 (Whereupon, a bench conference was held off the
4 record in the presence of the jury, but out of the hearing
5 of the jury and the court reporter.)

6 The Court: I sustain your objection.

7 Ms. Lively: (Continuing).

8 Q Ms. Narcisi, who did you, did you actually
9 speak to somebody from the Loris Police Department?

10 A I believe I spoke to the gentleman sitting
11 at the table there.

12 Q Okay, that would be Chief Joe Vaught the
13 police chief?

14 A Uh-huh.

15 Q That's correct, okay. Now, Ms. Narcisi,
16 whenever you spoke to him did he provide you with a date
17 and time of his request that he wanted off of the
18 surveillance cameras?

19 A Yes, he did.

20 Q Do you recall when that was?

21 A No, I don't.

22 Q You don't recall?

23 A No.

24 Q If I provided you with a copy of his report
25 showing or reflecting when he talked to you would that

Ms. Narci - Direct Examination by Ms. Lively

162

1 refresh your recollection of when he came to you?

2 A Uh-huh.

3 The Court: You need to answer yes or no.

4 The Witness: Yes.

5 Ms. Lively: Okay, if I may approach, Your
6 Honor?

7 The Court: Sure.

8 Ms. Lively: (Continuing)

9 Q All right, I'm going to show you this,
10 don't read it out loud, but if you would just review this
11 paragraph here, see if that refreshes your memory as to
12 meeting Chief Vaught regarding the surveillance camera?
13 Did that help to refresh your memory?

14 A Uh-huh.

15 Q You need to answer yes or no.

16 A Yes, ma'am.

17 Q Okay, what was the date then that was
18 requested to be pulled off of the surveillance cameras?

19 A It would have been 1-26, it was requested
20 on 2-18.

21 Q Okay, from February 18th it was requested?

22 A Uh-huh.

23 Q The date that was specifically wanted
24 pulled off of the surveillance camera and recorded was what
25 date?

Ms. Narci - Direct Examination by Ms. Lively

163

1 A 1-26.

2 Q 1-26, was that of this year?

3 A Of this year, 2011.

4 Q Okay, did you make that request to have
5 that information pulled off of the surveillance cameras
6 from that Food Lion?

7 A Yes, I did.

8 Q Okay, and whenever you actually had that
9 information pulled off for January 26th of this year did
10 you receive it in a disk?

11 A Yes, I did.

12 Q Did you provide that disk to Chief Vaught?

13 A Yes, I did.

14 Q Okay, and was it in a disk that I showed
15 you?

16 A Disk form, it was in disk form.

17 Q All right, okay --

18 Ms. Lively: Your Honor, at this time the State
19 would move to introduce 32 into evidence.

20 The Court: Any objections?

21 Mr. Floyd: Same objection, Your Honor, through
22 this witness she can't identify the disk, can't identify
23 what's on it.

24 The Court: Sustained at this time.

25 Ms. Lively: Okay, that's fine, that's all the

Ms. Brummett - Direct Examination by Ms. Lively

164

1 questions I have for this witness.

2 The Court: All right, thank you, Mr. Floyd?

3 Mr. Floyd: No questions.

4 Ms. Lively: Thank you.

5 The Witness: Thank you.

6 The Court: Thank you. If you would call your
7 next witness.

8 Ms. Lively: Yes, sir, I believe it's going to
9 be Heather Brummett.

10 Heather Brummett

11 being first duly sworn, testified as follows:

12 Madam Clerk: Please state your full name and
13 spell your last name.

14 The Witness: Heather Brummett, b-r-u-m-m-e-t-t.

15 Direct Examination

16 By Ms. Lively:

17 Q Good morning, Heather?

18 A Good morning.

19 Q Where do you work?

20 A Horry County Police Department.

21 Q And what are your duties there?

22 A I work as a crime scene investigator so I
23 have various duties, mostly responding to crime scenes,
24 processing evidence from crime scenes. We also assist
25 other agencies with their crime scenes for processing as

Ms. Brummett - Direct Examination by Ms. Lively

165

1 well.

2 Q Okay, and whenever you process crime scenes
3 and evidence for other departments do you also follow the
4 same procedures as you would for Horry County P.D.?

5 A Yes, we do.

6 Q Okay, and did you have an opportunity to
7 assist Loris Police Department in about January of this
8 year regarding this particular case?

9 A Yes, I did.

10 Q Okay, could you, please, tell this jury
11 what items or item was provided to you for processing?

12 A There was like a hand held taser devise
13 that was given to me to process.

14 Q Okay, and what exactly was it that you did
15 in processing this item?

16 A I swabbed the porous areas of the taser,
17 the uneven areas for touch DNA and then I processed the
18 smooth areas for possible fingerprint impressions.

19 Q Okay --

20 Ms. Lively: Your Honor, if I may approach this
21 witness?

22 The Court: Sure.

23 Ms. Lively: (Continuing)

24 Q I'm going to show you what's already in
25 evidence as State's Exhibit Number 33, it's no longer

Ms. Brummett - Direct Examination by Ms. Lively

166

1 charged, okay, State's Number 33; do you recognize this
2 item?

3 A Yes, I do.

4 Q Okay, and is this the item that you
5 processed for Loris Police Department?

6 A Yes, it is.

7 Q All right, now, Ms. Brummett, if you could,
8 please, explain to the jury what it is that you're doing in
9 regards to trying to find touch DNA; what's touch DNA?

10 A Touch DNA is left any time someone touches
11 something. If I touch this counter right here there's
12 touch DNA there. It's, it's nothing more than DNA from
13 your fingerprints. Your fingerprints is mostly water and
14 oil so the touch DNA we use swabs and swab that area for
15 DNA or for the oil from your body and then it's sent to
16 SLED for processing and if they can have enough to get a
17 profile they can use it to compare against CODIS, which is
18 a database, or against other known standards that we can
19 get from an individual.

20 Q Okay, and does it matter when you're
21 processing a particular item what type of material it is
22 and whether you're able to get touch DNA, are some surfaces
23 better than others?

24 A I believe, I don't know for sure if they
25 are, if there's some surface better than others for touch

Ms. Brummett - Direct Examination by Ms. Lively

167

1 DNA, but for fingerprints there are.

2 Q Okay, and that was going to be my segway,
3 in regards to fingerprints were you looking for any
4 fingerprints on this particular item?

5 A Yes, I was.

6 Q Okay, and were you able to find or lift any
7 fingerprints from that item?

8 A I was able to lift one partial fingerprint
9 from, from the taser.

10 Q Okay, and, and you said that you work in
11 fingerprints and evidence processing, correct?

12 A Yes, that's correct.

13 Q And was the fingerprint, the partial that
14 you found, were you able to do anything with it in order to
15 make a match?

16 A No, I was not, I was not able to make a
17 comparison or put it into AFIS.

18 Q Okay, and what is AFIS?

19 A AFIS is automated fingerprint
20 identification system; it again is just a tool that we use
21 to enter latent prints and we have a database of people
22 that we can compare their prints to our unknown print.

23 Q Okay, but there wasn't enough of that for
24 you to do that?

25 A No, there wasn't.

1 Q All right, and at the time whenever you
2 swabbed the stun gun is there any way for you just with
3 your own naked eye to be able to tell whether or not touch
4 DNA is going to be present on that particular item?

5 A No, there's no way to tell that.

6 Q Okay, once you take the swab what do you do
7 with it?

8 A I take the two swabs and then I place them
9 into a box and the box is labeled as to where it came from,
10 the date and the time, then both ends of the box is sealed
11 with my initials.

12 Q Okay, do you recall who actually picked up
13 those items to take them to SLED for comparison?

14 A Well Chief Vaught was there along with his
15 evidence, I don't recall her name, I'm sorry.

16 Q Would it be Karen Shepherd, possibly?

17 A Yes, that's right.

18 Q Okay, all right, is that the lady over
19 there?

20 A Yes, it is.

21 Q All right, Ms. Brummett, did you have any
22 other work or connection in investigating this case other
23 than swabbing that stun gun and attempting to, to get
24 fingerprints from it?

25 A No, I did not.

Ms. Brummett - Cross Examination by Mr. Floyd

169

1 Ms. Lively: Okay, thank you, answer any
2 questions the defense would have for you.

3 The Court: Mr. Floyd?

4 Cross Examination

5 By Mr. Floyd:

6 Q Ms. Brummett, I show you, that's the work
7 before?

8 A This looks like a chain of custody.

9 Q Are you familiar with it, did you fill it
10 out, let me ask you that?

11 A No, I did not.

12 Q All right, so you lifted a partial print?

13 A Yes, that's correct.

14 Q Are you familiar with who did fill out this
15 form?

16 A No, I'm not.

17 Q So you had a print and you weren't able to
18 get a match on it?

19 A I had a print that I was not able to get a
20 match, that's correct.

21 Mr. Floyd: Thank you, ma'am.

22 The Court: Anything further?

23 Ms. Lively: No, Your Honor.

24 The Court: All right, you may step down.

25 The Witness: Thank you.

Ms. Sarvis - Direct Examin. In Camera by Ms. Sarvis 170

1 The Court: Call your next witness.

2 Ms. Lively: Yes, sir, the State would call Lisa
3 Sarvis to the stand, and, Your Honor, may we approach
4 regarding this witness?

5 The Court: Sure.

6 (Whereupon, a bench conference was held off the
7 record in the presence of the jury, but out of the hearing
8 of the jury and the court reporter.)

9 The Court: Ladies and gentlemen of the jury, if
10 you would go into the jury room for just a moment, we have
11 to take up some matters of law. Do not discuss the case,
12 I'll be back with you shortly.

13 (Whereupon, the jury retired to the jury room at
14 10:06 a.m.)

15 The Court: Go ahead and swear the witness.

16 Lisa Sarvis (In Camera)

17 being first duly sworn, testified in camera as follows:

18 Madam Clerk: Please state your full name and
19 spell your last name.

20 The Witness: Lisa Sarvis, s-a-r-v-i-s.

21 Direct Examination

22 By Ms. Lively:

23 Q Ms. Sarvis, how do you know the defendant
24 Herbert Causey?

25 A His girlfriend was my assistant manager

Ms. Sarvis - Direct Examin. In Camera by Ms. Sarvis 171

1 where I work.

2 Q And where was it that you work?

3 A The Cash 'N Dash.

4 Q For how long was Tonia Huggins your
5 assistant manager?

6 A About two years.

7 Q Okay, and for about those two years that
8 she was your assistant manager how long had she been with
9 Herbert?

10 A I guess about four months before she
11 transferred to another store.

12 Q Okay, and you can't say anything about him
13 being in prison or anything like that. I want to make sure
14 we put that, make sure you're aware of that, I think I
15 already told you. Now whenever you had the opportunity to
16 be around Tonia was there ever times when you also were
17 around Herbert?

18 A Yes.

19 Q Okay, and during those four months you said
20 she dated him and, and she was also your assistant manager
21 tell the Judge how much interaction that you actually had
22 with Mr. Causey?

23 A Not as much as Tonia but, but occasionally.

24 Q Okay, well I mean tell us about that, did
25 you have conversations with him, was he close up to you, I

Ms. Sarvis - Direct Examin. In Camera by Ms. Sarvis 172

1 mean tell us about what kind of interaction that you had
2 with him and Tonia?

3 A I mean we would sit around and talk or at
4 the store or something like that.

5 Q Okay, did you ride in the same car
6 sometimes?

7 A Uh-huh.

8 Q Is that a yes?

9 A Yes.

10 Q Okay, and, Ms. Sarvis, had you ever been to
11 their home when they lived at [REDACTED] [REDACTED]?

12 A Yes.

13 Q All right, and so you know where that is?

14 A Yes.

15 Q And tell the Judge why you know where that
16 is?

17 A Because I used to take Tonia back and forth
18 to work sometimes and used to go over and visit her and
19 stuff like that.

20 Q Okay, so and whenever you would take her to
21 work were you basically giving her a ride to and from work
22 sometimes?

23 A Most usually I took her home because we
24 were, she worked morning shift, I worked night shift so I
25 would take her home but somebody else would bring her to

Ms. Sarvis - Direct Examin. In Camera by Ms. Sarvis 173

1 work.

2 Q Okay, so whenever you would take her home
3 would you sometimes go into the home with her?

4 A Yes.

5 Q Okay, and would you have conversations with
6 Mr. Causey present?

7 A Yes.

8 Q All right, and were there times when he
9 would talk directly to you?

10 A Yes.

11 Q All right, so would it be fair to say that
12 you were familiar with his voice as well as Tonia's voice?

13 A Yes.

14 Q All right, now, Lisa, whenever Tonia no
15 longer worked as your assistant manager did you still have
16 an opportunity to see her on occasion?

17 A Yes.

18 Q All right, tell the Judge about that?

19 A She would come to the store where I worked
20 or if I was going towards Whiteville where she worked I
21 would stop by and say, hey, and something like that.

22 Q So were ya'll fairly good friends, you and
23 Tonia?

24 A Yeah.

25 Q All right, now let me take you to January

Ms. Sarvis - Direct Examin. In Camera by Ms. Sarvis 174

1 the 26th of 2011, do you have any personal knowledge about
2 what occurred at Ms. Eloise Martin's house on [REDACTED]
3 Street?

4 A Pretty much just by what I've heard.

5 Q Okay, well we're going to get into that,
6 did you have an opportunity to be interviewed by Loris P.D.
7 regarding Mr. Causey and Ms. Tonia Huggins?

8 A Yes.

9 Q You did, okay, and when you were
10 interviewed who was it that interviewed you regarding these
11 two individuals?

12 A I believe it was Karen Baker and Joe
13 Vaught.

14 Q Okay, is that the gentleman?

15 A Yes.

16 Q Mr. Vaught, and then --

17 A Yes.

18 Q Okay, all right, and whenever you spoke to
19 them did you tell them what you knew regarding Tonia and
20 Herbert Causey and any possible information they would have
21 regarding the January 26th event?

22 A Yes.

23 Q All right, please tell the Judge exactly
24 what it was that happened that you told the police about?

25 A All I know is I went to my job and I was

Ms. Sarvis - Direct Examin. In Camera by Ms. Sarvis 175

1 off and a coworker there told me that something had
2 happened, I didn't know what, something had happened and it
3 got out that they were at my house.

4 Q Who's they?

5 A Tonia and Herbert.

6 Q Tonia and Herbert, okay?

7 A And I was like, no, they're not, cause I
8 hadn't been home yet but, you know, this is what I was
9 told.

10 Q Okay.

11 A And so I stayed at the store for a little
12 while trying to figure out what exactly had happened
13 because, you know, I didn't want no part of what was going
14 on because my husband was gone in the military. I was by
15 myself, and I just, I didn't want no trouble, and later on
16 I did go home and like the next day I had heard that
17 something had happened and I still ain't exactly clear what
18 happened.

19 Q Okay, so you're just hearing things had
20 happened but you're not, don't tell me what you're hearing,
21 but just based upon the stuff that you're hearing what did
22 you do in response to that?

23 A I was told when they was at my house
24 everybody confronting me about them being at my house and I
25 told everybody nobody is at my house, okay, then I get a

Ms. Sarvis - Direct Examin. In Camera by Ms. Sarvis 176

1 phone call from Tonia saying, you know, they didn't say
2 that they was at my house, you know.

3 Q Would you be specific about they because we
4 need to know who it is?

5 A Tonia and Herbert.

6 Q Tonia and Herbert, okay, all right. So
7 Tonia called you?

8 A Yes.

9 Q All right, and when Tonia called you what
10 was the conversation that occurred?

11 A Tonia told me that she did not bring my
12 name into whatever had happened and that they thought more
13 of me, Tonia and Herbert, than to put me in the middle of
14 whatever had happened, and then Tonia told me what had
15 happened and I told her that I didn't want no part in it,
16 don't bring my name into it, but I told her it was kind of
17 already too late because the cops were coming to my house.

18 Q Okay, now let me back you up for a minute,
19 when you were on the call with Tonia Huggins are you sure
20 that it was Tonia Huggins that was on the phone?

21 A Yes.

22 Q All right, when you were on the phone with
23 Tonia Huggins did you hear anyone else in that phone
24 conversation?

25 A Yes, I did.

Ms. Sarvis - Direct Examin. In Camera by Ms. Sarvis

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- 1 Q Who did you hear?
- 2 A Herbert.
- 3 Q Herbert who?
- 4 A Causey.
- 5 Q How do you know it was Herbert Causey that
- 6 you heard?
- 7 A Cause I know his voice.
- 8 Q Are you a hundred percent sure it was his
- 9 voice?
- 10 A Yes.
- 11 Q Tell the Judge what you heard Herbert
- 12 Causey say?
- 13 A He was telling Tonia to tell me that they
- 14 thought more, Tonia and Herbert thought more of me than to
- 15 bring me into whatever had happened and that he told her to
- 16 tell me what he did and I told Tonia I didn't want to know
- 17 what he did. I just didn't want to be in the middle of it
- 18 and he said that he just took some money and left, he
- 19 didn't hurt nobody or anything.
- 20 Q Did you hear him say those exact words?
- 21 A Yes, and then Tonia said that he couldn't
- 22 find a job or whatever that's why he took the money, so I
- 23 just left it at that and I told her I wanted no part of it.
- 24 Q And did you relay this information to Chief
- 25 Vaught and Karen Baker?

Ms. Sarvis - Cross Exam. In Camera by Mr. Floyd

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1 A Yes.

2 Q Have you had any other contact with Tonia
3 Huggins or Herbert Causey since that time?

4 A No.

5 Q And once again are you a hundred percent
6 sure that was Herbert Causey you heard on the other line?

7 A Yes, ma'am.

8 Ms. Lively: Answer any questions that Mr. Floyd
9 might have.

10 The Court: Mr. Floyd?

11 Mr. Floyd: Thank you, Judge.

12 Cross Examination

13 By Mr. Floyd:

14 Q Ms. Sarvis, how many times have you talked
15 with Herbert?

16 A A handful of times, I would speak to him
17 when I would go ---

18 Q A handful ---

19 A --- to her house.

20 Q A handful of times, ten times?

21 A It was more than ten.

22 Q Okay, that's what I'm asking, how many
23 times have you talked to him on a, on the phone?

24 A Not a whole lot but I mean we, when me and
25 Tonia would talk he was always in the background, you know,

Ms. Sarvis - Cross Exam. In Camera by Mr. Floyd

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1 we all conversated together on the phone.

2 Q When you talked on this particular day was
3 it a land line or a cell phone?

4 A On which day?

5 Q The phone conversation that you're
6 testifying to today?

7 A It was on land line.

8 Q On a land line, and I don't know any way to
9 ask this other than ask it, how are you sure that it was
10 Herbert on the other end of the line?

11 A Because Tonia was there with him and told
12 me they were together right there.

13 Q That's what I'm getting at, was it because
14 Tonia told you it was Herbert?

15 A No, because I know his voice.

16 Mr. Floyd: Thank you.

17 The Court: All right, go ahead and bring the
18 jury back out.

19 (Whereupon, Court's Exhibit Number 1 marked for
20 identification.)

21 The Court: Any objections to that testimony,
22 Mr. Floyd?

23 Mr. Floyd: Yes, sir, I'm going to object on the
24 basis of hearsay, double hearsay, the fact that her
25 identification with him over the land line was not --

Ms. Sarvis - Direct Examination by Ms. Lively

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1 The Court: I'm going to overrule that
2 objection, 801(b)(2), that is not hearsay.

3 Ms. Lively: Thank you, Your Honor.

4 (Whereupon, the jury returns to the jury room at
5 10:20 a.m.)

6 **Lisa Sarvis**

7 being first duly sworn, testified as follows:

8 Madam Clerk: Please state your full name and
9 spell your last name.

10 The Witness: Lisa Sarvis, s-a-r-v-i-s.

11 **Direct Examination**

12 By Ms. Lively:

13 Q Lisa, where do you live?

14 A In Tabor City, North Carolina.

15 Q Okay, and are you currently working?

16 A Yes, I am.

17 Q Where do you work?

18 A The Cash 'N Dash in Loris.

19 Q All right, and how long have you worked at
20 the Cash 'N Dash?

21 A This time about two years.

22 Q Okay, and do you know the defendant Herbert
23 Causey?

24 A Yes.

25 Q And how do you know him?

Ms. Sarvis - Direct Examination by Ms. Lively

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1 A Because of my assistant manager it's her
2 boyfriend.

3 Q Okay, and what's your assistant manager's
4 name?

5 A Tonia Huggins.

6 Q All right, Tonia Huggins, and how long did
7 you work with Ms. Huggins at the Cash 'N Dash?

8 A About two years.

9 Q All right, and for those two years that you
10 worked with her how long do you remember her dating Mr.
11 Causey?

12 A It was about four months.

13 Q All right, and did you have an opportunity
14 while she was dating Mr. Causey to actually speak with him
15 and get to know him?

16 A Yes.

17 Q All right, and let me just ask you, do you
18 know where Tonia was living at that time?

19 A Yes.

20 Q Where was she living?

21 A On [REDACTED] in Loris.

22 Q In Loris, [REDACTED] in Loris, okay, and
23 when she was living there who was living with her?

24 A Her mother, her daughter, her daughter's
25 boyfriend, Herbert, Tonia, I believe that was it.

Ms. Sarvis - Direct Examination by Ms. Lively

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1 Q Okay, did you have an, okay, did you have
2 an opportunity to actually visit in that home on [REDACTED]
3 Street?

4 A Yes, I did.

5 Q All right, and whenever you would visit
6 there would Mr. Causey be there?

7 A Yes.

8 Q All right, and did you have conversations
9 with him in person with Ms. Huggins present?

10 A Yes.

11 Q All right, now whenever you were working
12 for Ms. Huggins was there a time whenever that situation
13 changed, when she left Cash 'N Dash?

14 A Yes, she got transferred to a store in
15 Whiteville.

16 Q In Whiteville, okay, were ya'll friends?

17 A Yes.

18 Q Did you continue to have contact with her?

19 A Not as much but, yes.

20 Q All right, and whenever you would have
21 contact with her did you ever see Mr. Causey?

22 A Yes.

23 Q What kind of car was Tonia driving about
24 that time; do you recall?

25 A She had a Neon.

Ms. Sarvis - Direct Examination by Ms. Lively

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1 Q Okay?

2 A And then it had messed up and then she had
3 a green Taurus.

4 Q Okay?

5 A A Ford Taurus.

6 Q A Ford Taurus, was that the last vehicle
7 you knew that she had or was there another one?

8 A I believe so.

9 Q Okay, and did you ever see her and Herbert
10 in that vehicle together?

11 A Yes.

12 Q All right, and did you ever actually see
13 her, did she ever come to the Cash 'N Dash in that vehicle?

14 A Yes.

15 Q Did you ever notice any mechanical problems
16 with the vehicle or any issues with the vehicle?

17 A No.

18 Q All right, now have you and Tonia had any
19 kind of problems as friends?

20 A No.

21 Q Did you ever have any problems with Mr.
22 Causey?

23 A No.

24 Q Now, Ms. Sarvis, are you, do you have any
25 personal knowledge of what occurred at Ms. Eloise Martin's

Ms. Sarvis - Direct Examination by Ms. Lively

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1 home on January 26th of this year?

2 A I wasn't there but like I said I've heard
3 of what happened.

4 Q Okay, you've heard, I'm saying do you have
5 any personal knowledge as in you weren't there, were you?

6 A No.

7 Q All right, okay, now, Ms. Sarvis, tell this
8 jury about when you were approached by the Loris Police
9 Department regarding any information that involved Mr.
10 Herbert Causey; can you tell me about that?

11 A I guess it was two or three days later
12 maybe after the incident they come to my house.

13 Q Okay?

14 A Questioning me.

15 Q All right, and were you able to provide
16 them with any information regarding Mr. Causey and Ms.
17 Huggins at that time?

18 A As much as I could.

19 Q Okay, and did you tell them everything that
20 you recalled to the best of your recollection?

21 A Yes, ma'am.

22 Q Please tell this jury what you told the
23 police on that day?

24 A That I had went to where I worked and a
25 coworker had told me that Tonia and Herbert was at my

Ms. Sarvis - Direct Examination by Ms. Lively

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1 house, that something had happened, somebody did something
2 wrong, and that they were at my house and so I just stayed
3 at the store for a while because I didn't know what was
4 going on and I didn't know what I was going to go home to,
5 and I was alone because my husband was away and I finally
6 found out that --

7 Q Don't tell me what exactly you found out
8 regarding Ms. Eloise. Tell me specifically what you did as
9 a result of what you found out, did you have any contact
10 with Ms. Huggins after that?

11 A Only the phone call when I got fed up with
12 everybody calling me and asking, coming in the store asking
13 me where Tonia was and I didn't know.

14 Q All right, when did you next have contact
15 with Tonia Huggins and/or Herbert Causey?

16 A When Tonia called me at work after I had
17 told her mother, she came in and asked me if had seen her
18 daughter, and I said, no, and that I don't know who started
19 it, that they was not at my house, Tonia and Herbert, and
20 that I wish people would quit asking me about it. Well I
21 guess about twenty thirty minutes later Tonia called me at
22 work and told me that she did not say that she was at my
23 house, she don't know who started it but I told her
24 somebody said it and that I didn't want involved in
25 whatever had happened, don't bring my name into it, and I

Ms. Sarvis - Direct Examination by Ms. Lively

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1 told her I didn't want no lawmen knocking on my door and --

2 Q Well let me ask you this, are you sure that
3 it was Tonia that you were speaking to?

4 A Yes.

5 Q How sure?

6 A A hundred per cent sure.

7 Q Okay, and while you were talking with her
8 did you hear anyone else during that conversation?

9 A Yes, I did.

10 Q And who did you hear?

11 A Herbert Causey.

12 Mr. Floyd: I'm going to object, Your Honor,
13 based upon my prior objection.

14 The Court: Objection overruled.

15 Mr. Floyd: Thank you.

16 Ms. Lively: (Continuing)

17 Q And you said that you heard Herbert Causey,
18 how do you know it was Herbert Causey?

19 A Because I have talked with him before. I
20 mean, we've spoke on the phone, we've spoke in person, I
21 mean, I know his voice.

22 Q Okay, and so when you were, when you were
23 hearing this, when you were hearing Mr. Causey speak tell
24 the jury what it is that Mr. Causey you heard him say?

25 A He told Tonia to tell me that they did not

Ms. Sarvis - Direct Examination by Ms. Lively

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1 bring me into whatever had happened, that they thought more
2 of me than that, that I was a good friend, and then he said
3 tell her, he told Tonia to tell me what he did and I told
4 Tonia I didn't want to know. I just didn't want to be
5 brought into it.

6 Q Okay.

7 A And he said just tell her I went in took
8 some money and I left, I didn't hurt nobody, didn't do
9 anything wrong. He said I took it and left, and then Tonia
10 responded said, he took money because he couldn't find a
11 job and after that I just told her, you know, good luck but
12 I just didn't want to be brought into whatever they had
13 done.

14 Q Ms. Sarvis, is that the information you
15 relayed to the Loris Police Department?

16 A Yes.

17 Q And how sure are you that it was Herbert
18 Causey that you heard in that conversation?

19 A I'm a hundred percent sure.

20 Q And do you have any, were you subpoenaed to
21 be here?

22 A Yes.

23 Q Did you want to be here?

24 A No.

25 Q Do you have anything against Herbert Causey

Ms. Sarvis - Direct Examination by Ms. Lively

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1 or Tonia Huggins?

2 A No, ma'am.

3 Q Whenever you spoke to the Loris Police
4 Department did you provide them with information as to a
5 physical description of Mr. Causey?

6 A What I could remember, yes.

7 Q Okay, well just tell the jury how you
8 described him and the general appearance of what, for the
9 police what they were to look for when looking for Mr.
10 Causey?

11 A I told them he would wear jeans or shorts
12 and tennis shoes, and usually a button up shirt and that he
13 had tattoos and that you'd see him with a ball cap on.

14 Q Do you know where his tattoos were?

15 A On his legs, on his arms, I think on his
16 neck, I ain't sure, I think on his neck.

17 Ms. Lively: All right, thank you. Answer any
18 questions Mr. Floyd might have for you.

19 The Court: Mr. Floyd?

20 Mr. Floyd: I've got no questions of this
21 witness.

22 The Court: All right, you may step down, thank
23 you.

24 A Thank you.

25 The Court: All right, if you'd call your next

Ms. Martin - Direct Examination by Ms. Lively

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1 witness.

2 Ms. Lively: Teresa Martin.

3 Teresa Martin

4 being first duly sworn, testified as follows:

5 Madam Clerk: Please state your full name and
6 spell your last name.

7 The Witness: Teresa Ann Martin, m-a-r-t-i-n.

8 Direct Examination

9 By Ms. Lively:

10 Q Good morning, Ms. Martin.

11 A Good morning.

12 Q Tell the jury where you live?

13 A Where I live?

14 Q Where you live?

15 A [REDACTED], Longs, South Carolina

16 29568.

17 Q Who lives there with you?

18 A My brother.

19 Q Who's your brother?

20 A Marty Huggins.

21 Q Okay, Ms. Martin, have you ever lived on

22 [REDACTED]?

23 A No, ma'am, but my mama has.

24 Q Okay, have you ever visited your mother?

25 A Yes, ma'am, me and my fiance that got

1 killed, yes, we did.

2 Q Okay, I'm sorry about that, how about Mr.
3 Causey, did you ever visit whenever he was staying there
4 with Tonia?

5 A He was there maybe once or twice when we
6 would go up but they would leave and that's it.

7 Q Okay, let me ask you something, Teresa, on
8 January the 26th of this year were you aware that Ms.
9 Eloise Martin who lived on [REDACTED] was robbed?

10 A No, ma'am, I don't even know who she is.

11 Q All right, and were you interviewed by the
12 Loris Police Department about what, if anything, you knew
13 regarding that event?

14 A Yes, ma'am.

15 Q Okay, all right, do you recall ever stating
16 that you were with Mr. Causey and your brother, Marty, on
17 the night of January 26th?

18 A No, ma'am, I don't. I may have been but at
19 that time I was sick, too, because I had to go to the
20 emergency room, had a TIA stroke and I had went and picked
21 him up for work or whatever and I come [sic] back home
22 cause the doctor had me on bedridden.

23 Q Okay, what kind of car was your sister
24 driving back then?

25 A It's a green four-door car.

Ms. Martin - Cross Examination by Mr. Floyd

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1 Q Do you recall giving information to the
2 Loris Police Department as to what Mr. Causey was wearing
3 on January the 26th?

4 A Yes, ma'am, he was wearing a red hat, black
5 leather jacket, blue jeans, and white shoes; I don't have
6 any idea what kind of shirt.

7 Ms. Lively: Okay, all right, thank you, answer
8 any questions Mr. Floyd might have for you.

9 A You're welcome.

10 The Court: Mr. Floyd?

11 Cross Examination

12 By Mr. Floyd:

13 Q Ms. Martin, you said you don't remember if
14 you gave them any information about Herbert being at your
15 house on January the 26th?

16 A I know he was at my house but he had left,
17 he did not come back.

18 Mr. Floyd: All right, maybe I misunderstood
19 you, he was at, your were at the house at the same time he
20 was on January the 26th. Thank you, ma'am.

21 The Court: Anything further?

22 Ms. Lively: That's all, Your Honor.

23 The Court: All right, you may step down.

24 The Witness: I can step down?

25 The Court: If you'd call your next witness?

Chief Vaught - Direct Examination by Ms. Lively

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Ms. Lively: Call Chief Joe Vaught.

Chief Joe Vaught

being first duly sworn, testified as follows:

Madam Clerk: Please state your full name and spell your last name.

The Witness: Joseph W. Vaught, v-a-u-g-h-t.

Direct Examination

By Ms. Lively:

Q Chief Vaught, where do you work?

A Loris Police Department.

Q How long have you worked there?

A About three and a half years.

Q And what are your duties at the Loris Police Department?

A I'm the chief of police.

Q And are you involved in investigations of violent crimes?

A Yes, ma'am, I am.

Q Did you have an opportunity to become involved in the investigation regarding the burglary of Ms. Eloise Martin?

A I did.

Q And when was that?

A That was on the January 26th, 2011.

Q And when exactly, if you can recall, did

Chief Vaught - Direct Examination by Ms. Lively

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1 you arrive at the crime scene?

2 A I arrived at the scene just minutes after
3 the call came into the police department; the responding
4 officer was on scene when I got there

5 Q Okay, and tell this jury who all was
6 actually on the scene whenever you got there?

7 A Lieutenant Baker and I arrived, at the
8 scene was the victim and Officer Miller.

9 Q Okay, and tell the jury what you did in
10 either processing the scene or canvassing the actual area
11 for any evidence?

12 A My responsibilities at the scene at that
13 time was we just started an investigative plan. Officer
14 Miller was interviewing the victim, obtaining the pertinent
15 information about any descriptions on the suspects or
16 vehicles. Lieutenant Baker began a check of the outside of
17 the house and I actually conducted just a walk through of
18 the house to ensure that everything was secure and for
19 anything that may have been present but my primary function
20 at that time was to start formulating an investigative plan
21 from the information that were obtaining from the victim.

22 Q Okay, now was Ms. Eloise able to give you
23 details and specifics about the event?

24 A She was, she was obviously very distraught
25 at that time and upset but at the same time she was able to

Chief Vaught - Direct Examination by Ms. Lively

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1 provide us pertinent information with descriptions.

2 Q And how good or bad was her description
3 regarding the perpetrator, detailed or not?

4 A The, under the circumstances the
5 description I thought was detailed.

6 Q Okay, and based on that information were
7 you able to come up with some possible, with a possible
8 suspect or person of interest?

9 A Yes, ma'am, we were.

10 Q Okay, and based upon that information did
11 you approach Ms. Eloise about a possible identification?

12 A I did.

13 Q Okay --

14 Ms. Lively: If I may approach, Your Honor?

15 The Court: Sure.

16 Ms. Lively: (Continuing)

17 Q I'm going to show you what's already in
18 evidence as State's Exhibit Number 2 and ask you whether or
19 not this is the document you provided to Ms. Eloise Martin
20 on the evening of January the 26th?

21 A Yes, ma'am, it is. It bears a notation
22 that I made on the back of it.

23 Q Okay, what is that notation?

24 A It just says shown to victim 2130 1-26-
25 2011.

Chief Vaught - Direct Examination by Ms. Lively

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1 Q Okay, and tell the jury whenever you showed
2 the photo lineup to Ms. Eloise, how you presented it to her
3 and what her response was?

4 A This document was presented and the only
5 instructions given were to just review the six photographs
6 on this sheet and determine if the person who had entered
7 her house was on the sheet, or was on the sheet.

8 Q Okay, when you do that for in assisting a
9 victim to explain what a photo lineup is, do you provide
10 any other information regarding who the person -

11 A No, ma'am.

12 Q --- who is person is? Okay, all right,
13 when you showed that to Ms. Eloise tell this jury how she
14 reacted and who, if anyone, she was able to identify?

15 Mr. Floyd: Your Honor, I'm going to object at
16 this time based on pretrial motions we had in this matter.

17 The Court: Objection is overruled for reasons
18 previously stated.

19 Ms. Lively: Thank you, Your Honor.

20 The Witness: (Continuing)

21 A Could I have the question again, please?

22 Q Absolutely, absolutely. When you showed
23 her the photo I.D. lineup, please tell this jury what her
24 reaction was and if she was able to identify any one
25 person?

Chief Vaught - Direct Examination by Ms. Lively 196

1 A The victim took the document. She, she
2 reviewed it, she, she made some comments to the effect that
3 it was difficult to focus at that time. She did spend some
4 time looking at each photograph, appeared to, to study each
5 one. Ultimately she commented that she could not identify
6 any one individual. She did point out two individuals, my
7 memory she referred to them as the, the bottom or the right
8 side of the individuals but she identified either five or
9 six.

10 Q Okay, all right, so either five or six?

11 A Yes, ma'am.

12 Q But she couldn't pick just one?

13 A That's correct.

14 Q Is Mr. Causey one of those two, five, those
15 two numbers five or six?

16 A Mr. Causey is number six.

17 Q He's number six?

18 A Yes, ma'am.

19 Q Okay, thank you. During the investigation
20 were you, was an item located on the scene that was taken
21 to be processed by one of your officers?

22 A Yes, ma'am.

23 Q Okay, and is that the item right there in
24 front of you?

25 A Yes, ma'am.

Chief Vaught - Direct Examination by Ms. Lively

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1 Q And what is that?

2 A It's a, it's referred to as a stun gun,
3 that's what we refer to it as.

4 Q All right, and whenever that item was
5 actually seized how was it packaged and what did you do
6 with it?

7 A Lieutenant Baker initially located this
8 item. She secured it and although I was there when she did
9 identify it, or locate it, she secured it, and after it was
10 processed by the Horry County Police the next day I then
11 took it into the evidence room.

12 Q Okay, and who was the one that actually or
13 did anyone then take it to SLED once it had been processed
14 at the Horry County evidence room?

15 A These swabs for touch DNA and a partial
16 latent print were taken; the instrument itself was not
17 taken.

18 Q Okay, so the stun gun stayed in evidence at
19 Loris P.D.?

20 A Yes, ma'am.

21 Q All right, so the items that actually went
22 to SLED were just swabs?

23 A They were swabs and a partial latent print.

24 Q Okay, and during the pendency of this case
25 did you obtain any swabs for comparison or a DNA profile

1 from the defendant?

2 A Yes, ma'am, we did get swabs from Mr.
3 Causey.

4 Q And is that standard?

5 A Yes, ma'am, it is.

6 Q Okay, and who was the one that transported
7 all of these items to SLED?

8 A I did.

9 Q All right, and when you transported them to
10 SLED and turned it over is there a process for you to sign
11 in these items?

12 A Yes, ma'am, there is.

13 Q Okay, as a matter of fact, Chief Vaught,
14 you actually used to work at SLED; is that correct?

15 A Yes, ma'am, I was the laboratory director
16 for seven years.

17 Q Okay, all right, so you're very familiar
18 with that process ---

19 A Yes, ma'am.

20 Q --- is that a fair statement, okay, and did
21 you follow procedure in regards to taking the swabs and
22 checking them in at SLED?

23 A Yes, ma'am.

24 Q All right, and after all of this was done
25 was any of information or the testing helpful to you in

Chief Vaught - Direct Examination by Ms. Lively

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1 this particular case, the results?

2 A The results were not.

3 Q Okay, all right, so based upon those
4 results did you just at that time keep the evidence where
5 it's supposed to be and just be prepared to come to trial
6 and testify as to what you did?

7 A Yes, ma'am.

8 Q All right, well let's move on to
9 interviewing witnesses. How many witnesses did you end up
10 interviewing in regard to the events that occurred?

11 A There were, there were a number of
12 witnesses who were interviewed. Of course we did a canvas
13 of neighborhood which led to a number of people that we
14 actually spoke to, to identify or to develop pertinent
15 information.

16 Q Okay, and was any of that information
17 provided to you that led you to the Food Lion in Loris or
18 Conway, excuse me?

19 A Yes, ma'am.

20 Q Okay, did you recognize Ms. Karen Narcisi
21 who testified earlier?

22 A I did.

23 Q Okay, tell the jury about how you came to
24 know Ms. Karen Narcisi from Food Lion?

25 A On February the 18th I contacted Food Lion

Chief Vaught - Direct Examination by Ms. Lively

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1 security and based on the information that we had developed
2 that, that Ms. Tonia Huggins and possibly Mr. Causey had
3 gone in the Food Lion during the early evening of January
4 26th. I asked the security department if they could
5 provide me with a copy of a tape or disk, whichever they
6 used, of individuals who entered the Food Lion about 2000
7 or 8 p.m. on January the 26th. Later in the day I was
8 notified that I could pick that tape up at the Food Lion in
9 Conway from Ms. Narcisi, I believe it is, and I did.

10 I have the original, I guess, of the tape that
11 the Food Lion actually furnished me. On that they had
12 already notated on it 1-26-11 Food Lion Number 1599
13 Attention Chief Vaught, and once I received I ---

14 Q Did you review it?

15 A I did review it, yes, ma'am.

16 Q And you reviewed the images on there?

17 A Yes, ma'am, I did.

18 Q Were the images that were on that disk
19 consistent with the information that you had learned
20 through your investigation regarding people who would be on
21 it and time lines?

22 A Yes, ma'am.

23 Q All right, now when you received that
24 information do you keep your original disk in evidence?

25 A Yes, I do.

Chief Vaught - Direct Examination by Ms. Lively

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1 Q All right, and whenever the case report is
2 provided to the Solicitor's office do you provide me with
3 an exact copy of the information that you have?

4 A Yes, ma'am.

5 Q Okay, and in turn are you aware of our
6 procedures in regards to providing that information to the
7 defense?

8 A Yes, ma'am.

9 Q Okay, all right, I'm going to show you
10 what's been marked as State's Exhibit Number 32 and the
11 disk that's inside; do you recognize this?

12 A Yes, ma'am, this disk there is entries that
13 I made prior to sending it to your office.

14 Q Okay, and are those entries the exact same
15 entries that were on the Food Lion copy that you received
16 from Ms. Narcisi?

17 A Yes, ma'am, certainly the format is
18 somewhat different but I put the basic information, the
19 case number, time.

20 Ms. Lively: Your Honor, the State either marked
21 the exact copy that was in evidence as a new number State's
22 Exhibit or we can move to introduce the actual Number 32
23 that was provided to me by Chief Vaught whichever the Court
24 would prefer?

25 The Court: I have no problem with 32, any

Chief Vaught - Direct Examination by Ms. Lively

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1 objection, Mr. Floyd?

2 Mr. Floyd: Just one question, Chief, about the
3 markings you refer to.

4 Q Exactly what are those markings that are on
5 it?

6 A The City that was provided to the
7 Solicitor's office is the Loris case number 11-0326 Loris
8 P.D. (Causey) and then I put the time that which is
9 2003:19:19 Food Lion 701 South, Conway, South Carolina, and
10 then CY for copy that I made.

11 Q And those were your notations?

12 A Yes, sir.

13 Q And that's how you identified that?

14 A Yes, sir.

15 Mr. Floyd: Thank you, sir.

16 The Court: Any objection?

17 Mr. Floyd: No, sir.

18 The Court: All right, continue.

19 Ms. Lively: Thank you, Your Honor.

20 The Court: 32 is into evidence without
21 objection.

22 Ms. Lively: Thank you, Your Honor.

23 (Whereupon, State's Exhibit Number 32 entered
24 into evidence.)

25 Ms. Lively: (continuing)

Chief Vaught - Direct Examination by Ms. Lively

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1 Q And once again did you review that disk and
2 the time lines provided to you?

3 A Yes, ma'am, I did.

4 Q All right, I'm going to show you State's
5 Exhibits 27 through 31 and ask you whether or not these are
6 still shots from the security surveillance that you
7 observed from Food Lion in the time frame that you're
8 referring to?

9 A Yes, ma'am, they are.

10 Q Okay, do they appear to be altered in any
11 way?

12 A They do not.

13 Q Are they an accurate representation of the
14 surveillance that you observed in looking at State's
15 Exhibit Number 32?

16 A Yes, ma'am.

17 Q Is it consistent with the information you
18 received from you investigation?

19 A It is.

20 Ms. Lively: The State would move to offer 27
21 through 31 into evidence at this time, Your Honor.

22 The Court: Any objections?

23 Mr. Floyd: No, sir, I've reviewed those.

24 The Court: Thank you, State's 27 through 31
25 into evidence without objection.

Chief Vaught - Direct Examination by Ms. Lively 204

1 (Whereupon, State's Exhibits Number 27, 28, 29,
2 30 and 31 entered into evidence.)

3 Ms. Lively: (Continuing)

4 Q Okay, I'm going to show you State's Number
5 27 and ask you to, please, identify the persons who are in
6 that photo?

7 A The female is Ms. Tonia Huggins, the
8 individual with the red hat on Mr. Herbert Causey and in
9 the back with the gray shirt is Marty Huggins, Ms. Huggins
10 brother.

11 Q And how were you able to make those
12 identifications from looking at the surveillance; how were
13 you able to determine who those people were?

14 A I have spoken to Marty Huggins and Tonia
15 Huggins several times and, of course, I have spoken to Mr.
16 Herbert Causey.

17 Q In your investigation what information were
18 you provided regarding what to look for and the perpetrator
19 who entered Ms. Eloise's home, what was he wearing?

20 A Ms. Martin in her initial call to the
21 police department mentioned tattoos and gray shirt. During
22 the interview at her residence she continued to explain
23 that the individual who came in was just over six feet
24 tall, had a gray shirt, had a red hat. After that I
25 stopped back by Ms. Martin's house, as I did several times

Chief Vaught - Direct Examination by Ms. Lively

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1 during that evening to for additional information. On one
2 of those visits she mentioned that he had acne scars on his
3 face. During the interview of witnesses as we did the
4 neighborhood canvas and identified other individuals who
5 possibly had information that description remained
6 consistent throughout.

7 Q Okay, were you able to locate the vehicle
8 that Ms. Eloise described to you as being the one that was
9 possibly in her front yard and used by the perpetrator?

10 A A couple of days after January the 26th I
11 did observe that vehicle pulling into the yard on [REDACTED]
12 [REDACTED] at the mobile home that Tonia Huggins was allegedly
13 living at that time.

14 Q Okay, and were you able to ever get that
15 information and process the vehicle for any type of
16 evidence?

17 A I was not able to do that.

18 Q And why is that?

19 A During that initial contact with Tonia
20 Huggins she indicated that she was on the way to work and
21 she must leave but she would make herself available after
22 8:00, after 8 p.m. that evening. So she left the area and
23 I later discovered that the vehicle had been taken to a
24 local scrap metal dealer and crushed.

25 Q It was crushed?

Chief Vaught - Direct Examination by Ms. Lively

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1 A Yes, ma'am.

2 Q When she was driving that vehicle on the
3 day that you saw her before she was leaving for work did
4 you notice any problems with that vehicle, any mechanical
5 problems or anything like that?

6 A I did not.

7 Q Okay, do you know where she was going to
8 work that day?

9 A At Conway Manor in Conway.

10 Q Were you able to or did you ever receive
11 any work records regarding Ms. Tonia Huggins?

12 A I spoke with her supervisor.

13 Q Okay, and on January 26th, 2011, were you
14 provided any information as to whether she was working or
15 not working that day?

16 A She was at work that day.

17 Q She was at work that day?

18 A Yes, ma'am.

19 Q Were you present for when Ms. Tonia Huggins
20 provided a statement to Loris P.D.?

21 A Yes, ma'am, I was.

22 Q And when you were there do you recall what
23 date that was?

24 A February the 1st, I can confirm that from
25 my report.

Chief Vaught - Direct Examination by Ms. Lively

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1 Q Okay, and who actually signed witnessing
2 her statement; do you recall?

3 A Lieutenant Baker actually witnessed the
4 statement, I'm the individual who actually conducted the
5 interview and at Ms. Huggins request I, I wrote the
6 statement which she reviewed and signed.

7 Q And on the statement is there an indication
8 such as initials or some type of documentation that she
9 reviewed that statement and I'll show you State's I.D. 34
10 to refresh your recollection?

11 A Yes, yes, ma'am, there is, at the beginning
12 of the first page it bears her initials and at the end and
13 her signature and dates at the bottom and that, she did
14 that on each page at the beginning and end of the page and,
15 and signed each page.

16 Q Chief Vaught, did you Mirandize her for
17 that statement?

18 A I did not.

19 Q Was she under arrest or anything like that?

20 A No, ma'am, we had, there was nothing in our
21 investigation to indicate that Ms. Huggins was involved in
22 this incident at that point.

23 Q At that point?

24 A Yes, ma'am.

25 Q Okay, and, Chief Vaught, did you force her

Chief Vaught - Direct Examination by Ms. Lively

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1 or coerce or threaten her in any way to provide a statement
2 to you?

3 A No, ma'am.

4 Q Did she seem under the influence of alcohol
5 or drugs or incoherent whenever she was providing this
6 information to you and Lieutenant Baker?

7 A She did not and it's routine to ask that
8 question if an individual is under the influence of alcohol
9 or drugs or anything.

10 Q And what was her response?

11 A That she did not indicate that there was
12 any alcohol or drugs involved.

13 Q Thank you, at any time did you feel like in
14 your investigation you had enough information to pursue a
15 warrant against the defendant Mr. Causey?

16 A Yes, ma'am.

17 Q Okay, tell the jury what it was that you,
18 what the actual charges were that you sought against Mr.
19 Causey and what you did next?

20 A The warrants that I obtained on February
21 the 1st, I obtained three charging Mr. Causey with armed
22 robbery, kidnapping, and assault.

23 Q Okay, and when you did that what did you do
24 next in order to locate Mr. Causey?

25 A We put the information on the arrest

Chief Vaught - Direct Examination by Ms. Lively

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1 warrants and Mr. Causey into NCIC which is the national
2 crime information center which is a computer network that
3 all law enforcement agencies around the country have access
4 to. I also notified the Horry County Police Department
5 that we had these warrants and I was later on the, it was
6 several days later Horry County dispatch notified our
7 dispatch that Mr. Causey had been apprehended as a result
8 of our warrants and had been taken to J. Reuben Long
9 Detention Center.

10 Q Okay, and when you received this
11 information what did you do?

12 A I went to J. Reuben Long to serve the
13 warrants.

14 Q Okay, was anybody with you?

15 A Sergeant Adam Bell.

16 Q And whenever you arrived at J. Reuben Long
17 Detention Center tell this jury the first time that you
18 actually came into contact with Mr. Causey?

19 A I first saw Mr. Causey in the booking area
20 at the detention center.

21 Q Okay, and what were, where were your plans
22 in regards to what you were going to do with Mr. Causey
23 when you first arrived?

24 A I was going to advise Mr. Causey of his
25 rights, give him an opportunity to make any statement that

Chief Vaught - Direct Examination by Ms. Lively 210

1 he may wish to make and serve the arrent warrants. In
2 order to do that it was necessary to walk from the booking
3 area a short distance to an interview room.

4 Q Prior to you actually advising Mr. Causey
5 of his rights was there a conversation or any statements
6 made by the defendant?

7 A There wasn't a statement made by Mr. Causey
8 at that time; there was not a conversation. As, as we were
9 walking into the interview room Mr. Causey commented the
10 charge of armed robbery and kidnapping are wrong, I asked
11 to use the bathroom and was invited in by that woman. I
12 did not have a weapon. We continued on into the interview
13 room and at that time I advised Mr. Causey to wait until he
14 was advised of his rights before he made any further
15 statements.

16 Q Okay, so he, so he made the statement to
17 you that he was invited into that woman's house to use the
18 bathroom?

19 A Yes, ma'am.

20 Q Okay, and he was telling you that you were
21 charging him wrong?

22 A Yes, ma'am.

23 Q All right, when you actually went into the
24 interview room at that time were you able to provide Mr.
25 Causey with his Miranda rights?

Chief Vaught - Direct Examination by Ms. Lively

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1 A Yes, ma'am, I did.

2 Q Okay, and when you provide someone with
3 their Miranda rights tell this jury what the procedure is
4 in order to make sure that the person fully understands?

5 A There's a standard form and in the case of
6 the Loris Police Department we use the form from the
7 Solicitor's office and it is read verbatim to the
8 individual and then he or she is asked to first sign a
9 statement underneath the rights which indicates that they
10 have been read to them.

11 Q Okay, and did you use this standard form?

12 A Yes, ma'am, I did.

13 Q All right, Chief Vaught, I'm going to show
14 you what's in evidence as State's Exhibit Number 1 and ask
15 you whether or not you recognize this form?

16 A Yes, ma'am, I do.

17 Q Is that the Miranda form that you used in
18 regards to the Defendant Causey?

19 A It is.

20 Q All right, after you provided Mr. Causey
21 with his Miranda rights did he appear to understand what he
22 would be doing if he waived those rights?

23 A Yes, he did.

24 Q Okay, did you force him or coerce him in
25 any way to make a statement at that time?

Chief Vaught - Direct Examination by Ms. Lively

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1 A No, ma'am, I did not.

2 Q Did he sign or indicate his understanding
3 of those rights?

4 A Underneath the sentence it says to certify
5 that the above rights have been explained to me and I
6 understand each one of them he did sign.

7 Q Okay, all right, and Chief Vaught, did he
8 at that time make a statement to you?

9 A Yes, ma'am, he did, after that he, he made
10 the comment that Tonia was not involved in, in this
11 incident.

12 Q Okay, what else did he tell you?

13 A There was, there was really not any more
14 information beyond that. There was somewhat of a repeat of
15 the earlier comment about the charges but at that time I
16 advised Mr. Causey that we had to discontinue the interview
17 because the portion of the form which allows for the waiver
18 rights he refused to sign.

19 Q Okay.

20 A So he did not waive his rights.

21 Q All right, so after his Miranda is it your
22 testimony that he just stated Tonia was not involved?

23 A Yes, ma'am.

24 Q Okay, now, Chief Vaught, did you record any
25 of the witness statements that you took from these

Chief Vaught - Cross Examination by Mr. Floyd

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1 individuals or the statement made by Mr. Causey?

2 A No, ma'am.

3 Q Okay, and how are you able to recall this
4 information for the jury and for all of us here today?

5 A The information was immediately recorded
6 onto notes and then transferred into my report.

7 Q Okay, and was that case report and the
8 details of each conversation provided to the solicitor's
9 office?

10 A Yes, ma'am, it was.

11 Q All right, did you change those notes or
12 alter them in any way shape or form?

13 A No, ma'am.

14 Q Are they your recollection of details that
15 you received in your investigation?

16 A Yes, ma'am.

17 Q And do you know Mr. Causey personally?

18 A I do not.

19 Q Okay, do you have anything against Mr.
20 Causey or Tonia Huggins?

21 A No, ma'am.

22 Q Do you know Ms. Eloise?

23 A Only I met her as a result of this
24 incident.

25 Q Okay, were you able to determine when Ms.

Chief Vaught - Cross Examination by Mr. Floyd

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1 Tonia Huggins crushed her car?

2 A Yes, ma'am, I was. I received that
3 information from an employee at Allen's Scrap Metal.

4 Q Okay, and what date was it that that
5 occurred?

6 A It was at on 1-28, January the 28th, 2011.

7 Q On January 28th?

8 A Yes, ma'am.

9 Q What was the date that you said that you
10 met with Ms. Tonia Huggins in her yard and she said she had
11 to get out of there to get to work?

12 A It was January the 27th.

13 Q January 27th, so the next day she crushed
14 the car?

15 A Yes, ma'am.

16 Q All right --

17 Ms. Lively: The Court's indulgence, Your Honor.

18 Thank you, that's all the questions I have. Please answer
19 any questions that Mr. Floyd may have for you.

20 The Court: Mr. Floyd?

21 Mr. Floyd: May it please the Court?

22 The Court: Sure.

23 Cross Examination

24 By Mr. Floyd:

25 Q Chief Vaught, you responded to Ms. Martin's

Chief Vaught - Cross Examination by Mr. Floyd

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1 house on that day?

2 A Yes, sir.

3 Q And you were, you weren't first on the
4 scene?

5 A I was not.

6 Q When did you arrive on the scene?

7 A I arrived just moments after the responding
8 officer.

9 Q Were ya'll able to lift any fingerprints
10 from the home?

11 A No, sir.

12 Q Did you try to?

13 A After reviewing the information that we had
14 at that time we did not.

15 Q Did you take any photos of the home?

16 A We did not.

17 Q All right, which Food Lion was this that --

18 A This was the Food Lion at 770 Highway 701
19 South Conway.

20 Q All right, thank you, in talking about
21 Tonia's vehicle you said you didn't notice any mechanical
22 problems is that the first you had seen that vehicle?

23 A Yes, sir.

24 Q Okay, so you didn't know if there was any
25 mechanical problems or not?

Chief Vaught - Cross Examination by Mr. Floyd

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1 A I would not have known for sure, no, sir, I
2 did not observe any problem.

3 Q Now when you identified it as being the
4 vehicle it was Tonia's vehicle. it was never identified as
5 the vehicle being at Ms. Martin's home, correct?

6 A Only, only in the general information of a
7 small vehicle, dark colored vehicle, that's all.

8 Q Tonia's car was never identified as being
9 the vehicle at Ms. Martin's home, correct?

10 A That's correct.

11 Q Thank you, sir. Now out at the jail when
12 you went out there to see Herbert you went out there with
13 the intention of getting his statement, getting his side of
14 it?

15 A Yes, sir.

16 Q And you didn't take a tape recorder out
17 there with you?

18 A I did not.

19 Q You didn't give him the opportunity to
20 write anything down, did you?

21 A Yes, sir, he had an opportunity to make any
22 statement that he would like to have made but, of course, I
23 explained to him we could only do that after he waived his
24 rights.

25 Q That is when he refused to sign?

Chief Vaught - Cross Examination by Mr. Floyd

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1 A Yes, sir,

2 Q As a matter of fact he wasn't cooperating
3 with you at all in there, was he?

4 A He was, he was cooperative. He just said
5 that he didn't want to waive his rights to an attorney
6 because he may want one later in the process.

7 Q He was cooperative by refusing to sign any
8 documents you wanted him to sign?

9 A Yes, sir, he was, he was very pleasant as,
10 as we spoke,

11 Q And you didn't take any fingerprints from
12 the home, you didn't take any pictures to show this jury
13 what the home looked like right after this alleged
14 incident?

15 A No, sir, we did not.

16 Q And it's never been alleged that whoever
17 went in Ms. Martin's home was wearing gloves or anything
18 like that?

19 A No, sir.

20 Q And apparently according to Ms. Martin they
21 had walked around her house a pretty good bit opened two or
22 three doors, correct?

23 A Yes, sir.

24 Q And again no fingerprints?

25 A No, sir.

Mr. Huggins - Direct Examination by Ms. Lively

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1 Q None were even attempted to be lifted?

2 A That's correct.

3 Q And the partial print that was lifted off
4 of the taser was no help to you in this investigation
5 either, was it?

6 A It was, according to the information from
7 the laboratory it was not suitable for identification.

8 Q All right, and that was from SLED, correct?

9 A Yes, sir.

10 Mr. Floyd: Beg the Court's indulgence.

11 The Court: Sure.

12 Mr. Floyd: Thank you, sir, I've got no further
13 questions.

14 The Court: All right, anything further?

15 Ms. Lively: No redirect, Your Honor.

16 The Court: All right, you may step down. Is
17 the jury okay, do you need a break or you want to continue
18 with another witness? All right, let's take a twenty
19 minute break, be back at 11:30. Do not discuss the case.
20 Everybody else remain seated.

21 (Whereupon, the jury retired to the jury room at
22 11:10 a.m.)

23 The Court: All right, we'll be at ease until
24 11:30.

25 Ms. Lively: Your Honor, I think I'm going to

Mr. Huggins - Direct Examination by Ms. Lively 219

1 try and publish just the surveillance. I'm going to see if
2 I can get it lined up to go ahead and knock that out since
3 I have a break if that's okay?

4 Mr. Floyd: What are we doing?

5 Ms. Lively: We're going to show the
6 surveillance.

7 (Whereupon, a recess was taken and the following
8 takes place on the record after the recess.)

9 The Court: Go ahead and bring in the jury.

10 (Whereupon, the jury returns to the jury room at
11 11:35 a.m.)

12 The Court: All right, Solicitor, I'm ready to
13 proceed when you are.

14 Ms. Lively: Yes, sir, Your Honor, actually the
15 State is going to go ahead and call Marty Huggins to the
16 stand.

17 The Court: All right.

18 **Marty Joe Huggins**

19 being first duly sworn, testified as follows:

20 Madam Clerk: Please state your full name and
21 spell your last name.

22 The Witness: Marty Joe Huggins, h-u-g-g-i-n-s.

23 **Direct Examination**

24 **By Ms. Lively:**

25 Q Mr. Huggins, where do you live?

Mr. Huggins - Direct Examination by Ms. Lively

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1 A I live at [REDACTED], Longs, South
2 Carolina.

3 Q Okay, and how long have you lived there?

4 A A year, a little over a year now.

5 Q Mr. Huggins, do you have any brothers or
6 sisters?

7 A Yes, ma'am.

8 Q Okay, tell the who your brothers and
9 sisters are?

10 A I've got four sisters, Tonia, Teresa,
11 Susie, and I got a fourth one.

12 Audience Member: Lynn.

13 A Lynn, yeah.

14 The Court: I don't need to hear anything from
15 out there. Everything I hear comes from this witness stand
16 and this lawyer. If I hear something else from the
17 audience I'm going to put you in jail. All right, go
18 ahead, Solicitor.

19 The Witness: (Continuing)

20 A Lynn is the oldest.

21 Q Okay, what's Tonia's full name?

22 A Tonia Denise Huggins.

23 Q Tonia Denise Huggins, okay, and where does
24 Tonia live?

25 A She lives at, I don't know her address but

Mr. Huggins - Direct Examination by Ms. Lively

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1 she lives in Green Sea.

2 Q In Green Sea?

3 A Yes, ma'am.

4 Q Was there ever a time when he lived in
5 Loris?

6 A Yes.

7 Q All right, when was that?

8 A That was I'm going to say maybe six months,
9 across the railroad tracks, I don't know the address but
10 she was living with my sister, Teresa.

11 Q Okay, was there a time when she lived on
12 [REDACTED]?

13 A Yes, ma'am.

14 Q All right, and when she lived on [REDACTED]
15 Street who was living there with her?

16 A My mother, her daughter, and her daughter's
17 boyfriend.

18 Q Okay, do you know the defendant Herbert
19 Causey?

20 A Yes.

21 Q Is he your sister Tonia's boyfriend?

22 A Yes.

23 Q All right, was there a time when Mr. Causey
24 lived in that home on [REDACTED] with Tonia?

25 A He might have spent a couple of nights,

Mr. Huggins - Direct Examination by Ms. Lively

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1 yes, I'm not going to say that he lived there, no, I have
2 no recollection of that.

3 Q You were subpoenaed to be here, right?

4 A Yes, ma'am.

5 Q Okay, do you want to testify today?

6 A No, I really, I mean only the statement I
7 gave that's all I know, you know.

8 Q All right, well let's talk about the
9 statement you gave. Were you interviewed by the Loris
10 Police Department regarding a burglary that occurred at Ms.
11 Eloise Martin's home?

12 A Yes, I was.

13 Q Do you know Eloise Martin?

14 A No, ma'am.

15 Q All right, who was it that actually
16 interviewed you regarding the allegations of a burglary; do
17 you recall who that was?

18 A Chief Vaught.

19 Q Is this Chief Vaught right here?

20 A Yes, ma'am.

21 Q Okay, and do you remember when it was that
22 he actually interviewed you?

23 A No, I don't, not the date.

24 Q If I told you it was February 17th would
25 that be, does that sound accurate?

Mr. Huggins - Direct Examination by Ms. Lively

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1 A I don't know.

2 Q Okay.

3 A I know it was after work, somewhere around
4 dusk dark when I got in from work.

5 Q Okay.

6 A And ---

7 Q Okay, when you talked to Chief Vaught did
8 you tell him everything you knew?

9 A Everything I knew.

10 Q All right, well let's talk about that, did
11 you actually spend time with Herbert Causey on January 26th
12 2011?

13 A Only that morning when him and Tonia
14 carried me to work he picked me up after work we went back
15 to his house in Loris where he was staying with my sister
16 Teresa, waited around and picked up my sister Tonia that
17 got off at 8:00.

18 Q Where was your sister Tonia working on
19 January 26th?

20 A Conway Manor.

21 Q Conway Manor, okay, and what, so who had
22 Tonia's vehicle during the day while she was at work?

23 A I guess Herbert had it, I was at work.

24 Q I'm sorry?

25 A I was at work so I guess he had it.

1 Q Okay, whenever you said that you were with
2 Herbert and ya'll picked up Tonia who was driving her car?

3 A He picked me up.

4 Q Okay, who was driving Tonia's car?

5 A When?

6 Q When he picked ---

7 A When he picked me up?

8 Q Uh-huh.

9 A Herbert was.

10 Q Okay, thank you, so Herbert was driving her
11 car;, what kind of car was it that he was driving?

12 A He was driving a green Taurus.

13 Q A green Taurus?

14 A Yes, ma'am.

15 Q Whenever he picked you up in that vehicle
16 was the vehicle having any kind of mechanical problems or
17 issues that you were aware of?

18 A Other than it was hard to get in gear at
19 times.

20 Q Okay, it was hard to get in gear at times,
21 other than that was the vehicle driving, was she able, he
22 able to pick you up without any problems?

23 A Yes.

24 Q All right, after he picked up your sister
25 from work do you recall what time that was?

Mr. Huggins - Direct Examination by Ms. Lively

225

1 A After we picked her up?

2 Q Yeah, what time did ya'll pick her up from
3 work?

4 A She gets off at 8, it was shortly after 8.

5 Q 8:00?

6 A Yes, ma'am.

7 Q Okay, at night, right?

8 A Yes, ma'am.

9 Q Whenever Herbert picked you up and then you
10 picked up Tonia where did the three of you go?

11 A We left there and went straight to the Food
12 Lion.

13 Q All right, and which Food Lion was that?

14 A The one right down I guess be North Conway,
15 South Conway right on the other side of where Tonia works.

16 Q On the other side of where Tonia works,
17 okay?

18 A Yes, ma'am.

19 Q When Herbert, when you saw Herbert that
20 morning, let me back up for a minute, when you saw him that
21 morning, what was he wearing?

22 A I can't give it to the description but I
23 think he was wearing some jeans, a red cap, and maybe a
24 leather jacket, it was cold.

25 Q What kind of shirt?

Mr. Huggins - Direct Examination by Ms. Lively

226

1 A It was 6:30 in the morning, I have no clue
2 about the shirt, did not see no shirt.

3 Q Whenever he picked you up before they,
4 ya'll picked up Tonia was he wearing the same clothes?

5 A Yes.

6 Q He was, did he still have on the red ball
7 cap?

8 A Yes.

9 Q All right, so you said then around 8:00 you
10 went to the Food Lion; is that right?

11 A Yeah, it was after she got in the car, she
12 drove then, I was in the back seat.

13 Q She drove, you were in the back seat, okay,
14 when you went into the Food Lion or whenever you got to the
15 Food Lion who all went into the store?

16 A Me, Tonia and Herbert.

17 Q All right, and who purchased the items in
18 the store?

19 A I don't, I went to the beer department got
20 a twenty-four ounce beer.

21 Q Okay.

22 A And went and set my beer on the counter and
23 I'm almost positive that Tonia purchased.

24 Q Okay, did you see Herbert purchase
25 anything?

Mr. Huggins - Direct Examination by Ms. Lively

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1 A No, ma'am.

2 Q All right, and whenever you left the Food
3 Lion was there ever a conversation that you had with Mr.
4 Causey that gave you some concern?

5 A I just asked him what had he done and he
6 said he just done something he was ashamed of and I left it
7 like that, then I said you can't say at my house so the
8 next morning they carried me to work and I haven't seen
9 them since.

10 Q Okay, he said that he had done something
11 that he was ashamed of, well tell me in the context of how
12 that came up. Did he just blurt it out, I mean what, what
13 was he, how was he acting, Marty?

14 A He was acting calm, like nothing happened,
15 just like Herbert normally does.

16 Q All right, I'm going to show you a
17 statement and just ask you if it refreshes your memory
18 regarding the statement you gave to Chief Vaught, okay?

19 A Uh-huh.

20 Q I'm going to show this to you, if you'll
21 read just that paragraph there and ask you whether that
22 refreshes your memory as to the conversation you had with
23 Chief Vaught on February 17th? Just let me know when
24 you're done?

25 A Yes, ma'am.

Mr. Huggins - Direct Examination by Ms. Lively

228

1 Q Okay, thank you, now does that refresh your
2 memory as to what you told Chief Vaught?

3 A Yes.

4 Q Okay, in that statement which was close to
5 the time that you would have been with Mr. Causey did you
6 ever say he was acting calm?

7 A Yeah, he act calm. Mr. Vaught asked me
8 about what he said, he said I said that he said that he
9 done something he was ashamed of. I said well you cannot
10 stay here with me.

11 Q That's what you told Herbert?

12 A No, I told Mr. Vaught that.

13 Q Okay.

14 A In that statement right there.

15 Q Okay, and did you ever in that statement
16 state that Mr. Causey appeared to be nervous?

17 A Yes, once he told what he, you know, he was
18 ashamed of what he had done, I said what have you done? I
19 asked him twice. He said you don't want to know so I left
20 it like that said it was better not that I know then and
21 then, yes, he was acting kind of nervous so I guess, you
22 know, that's why I said you cannot live with me. and the
23 next morning they carried me to work and then I haven't
24 seen them since, told me I would have to get another ride
25 back home.

Mr. Huggins - Direct Examination by Ms. Lively

229

1 Q Okay.

2 A I guess that's when the car was having car
3 problems.

4 Q Okay, and in that statement did you relate
5 any mechanical problems of Tonia's vehicle to Chief Vaught?

6 A No, ma'am.

7 Q You didn't, but you're saying now that it
8 was having problems?

9 A Well other than backing up going in gear
10 but I have no recollection of no mechanical problems.

11 Q What happened to that car?

12 A I guess I don't know. I really didn't get
13 the whole truth out of that.

14 Q Okay.

15 A I know it's not around.

16 Q Right.

17 A Only what you told me, you know, of a prior
18 time.

19 Q Fair enough.

20 Ms. Lively: May I approach, Your Honor?

21 The Court: Sure.

22 Ms. Lively: (Continuing)

23 Q I'm going to show you what's already into
24 evidence as State's Exhibit 27 through 31 and ask you to
25 look at those photos and tell me if you recognize the

Mr. Huggins - Direct Examination by Ms. Lively

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1 people that are in those photos?

2 A Yes, ma'am.

3 Q Who is in 27, it's the first one I gave
4 you, I apologize, the numbers are on the back, who's in
5 number 27?

6 A Tonia, Herbert, and me.

7 Q Okay, and where is that?

8 A That's in Food Lion.

9 Q That's in the Food Lion at approximately
10 what time?

11 A Shortly after 8, I can't give you an exact
12 time.

13 Q Okay, so that is you, Tonia, and Herbert,
14 who's wearing the red cap in that picture?

15 A Mr. Causey.

16 Q Mr. Causey, do you recognize what's in
17 State's Exhibit 28?

18 A Yes, same three people.

19 Q Is that, you said it's the same three
20 people?

21 A Yes, ma'am.

22 Q 29?

23 A Same three people.

24 Q Same three people, and what are ya'll
25 doing, what is going on in 29?

Mr. Huggins - Direct Examination by Ms. Lively

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1 A Looks like Herbert is handing out money and
2 I'm on the cell phone texting.

3 Q Okay, so you remember that?

4 A Yes, ma'am.

5 Q Okay, so Herbert is at the register handing
6 out money, and you're behind him, is that, was that your
7 statement?

8 A Yes, I'm setting, yes, ma'am.

9 Q Okay, okay, that's fine, thank you, and,
10 Mr. Huggins, have you, you said you haven't seen them
11 since, was that your statement?

12 A Yes, ma'am.

13 Q And who is that you're referring to?

14 A Tonia and Herbert.

15 Q Tonia and Herbert?

16 A When they left dropped me off the following
17 morning of the crime, I guess, the 27th they dropped me off
18 and then I got a phone call somewhere around 2, maybe 3
19 that day, can't come and get you, got to find you a ride
20 home, so I got a friend that works with me carried me home.

21 Q And that's it?

22 A That's it, I haven't seen them since.

23 Ms. Lively: Okay, all right, that's all the
24 questions I have, answer any questions Mr. Floyd has for
25 you.

Mr. Huggins - Cross Examination by Mr. Floyd

232

1 A Okay, thank you.

2 Cross Examination

3 By Mr. Floyd:

4 Q Mr. Huggins?

5 A Yes, sir.

6 Q About the car, driving you were saying they
7 were having to slam it into gear?

8 A It was hard to put in gear at times, yes,
9 it was.

10 Q Now when you spoke to Chief Vaught did he
11 offer to tape record that statement or --

12 A He didn't say that.

13 Q Did he offer to let you hand write a
14 statement?

15 A No, sir.

16 Q So that's really your only involvement was
17 Herbert dropping you off at work that day and ya'll going
18 to Food Lion?

19 A Yes, sir, he carried me to work, dropping
20 me off at work, and picking me back up at work.

21 Q And as he drove you to work you observed
22 the car transmission problems with the car?

23 A Yes.

24 Mr. Floyd: Thank you.

25 The Court: Anything further. Solicitor?

Ms. Huggins - Direct Examination by Ms. Lively

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1 Ms. Lively: No, Your Honor.

2 The Court: All right, you may step down.

3 A Thank you, sir.

4 The Court: Call your next witness.

5 Ms. Lively: Yes, sir, Your Honor, the State
6 would call Tonia Huggins to the stand.

7 Tonia Denise Huggins

8 being first duly sworn, testified as follows:

9 Madam Clerk: Please state your full name and
10 spell your last name.

11 The Witness: It's Tonia Denise Huggins, it's h-
12 u-g-g-i-n-s.

13 Direct Examination

14 By Ms. Lively:

15 Q Tonia, what's your address?

16 A [REDACTED], Green Sea, South Carolina
17 29545.

18 Q How long have you lived there?

19 A Since February I think, the last of
20 February, middle of February, last February.

21 Q Okay, and before then where did you live?

22 A [REDACTED], Loris, South Carolina.

23 Q Okay, and before then where did you live?

24 A [REDACTED], Loris, South Carolina.

25 Q Okay, do you recognize Ms. Eloise Martin?

1 A Yes, ma'am, from the yard, walking around
2 out in the yard but I've never met her and never talked to
3 her.

4 Q Okay, and when you say her walking around
5 in the yard that would be when you lived on [REDACTED]
6 Street?

7 A Yes, ma'am, next door.

8 Q And who lived with you at [REDACTED]
9 Street?

10 A It was me, my mom, my daughter, her fiance,
11 Mr. Causey moved in with me; he was there for like three or
12 four months, maybe a little bit longer, and my nephew and
13 his girlfriend stayed there for a little while. They moved
14 out in November.

15 Q Okay, now, Tonia, did you know whether or
16 not Ms. Eloise lived alone?

17 A No, ma'am, I did not. I know she had a son
18 or someone come to visit her quite often but I did not know
19 she lived alone or not.

20 Q Okay, now, Tonia, where were you working
21 in, in January of this year, let's say January 26th?

22 A Conway Nursing Center.

23 Q Okay, how long had you worked there?

24 A I think it was like three months, I'm not
25 sure.

Ms. Huggins - Direct Examination by Ms. Lively

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1 Q Okay, and before you worked at the Conway
2 Nursing Center where did you work?

3 A Beach, not Beach Cove, Cash 'N Dash, the
4 Jim corporation.

5 Q Okay, and when you worked at Cash 'N Dash
6 did you have the opportunity to be the supervisor over a
7 Lisa Sarvis?

8 A Yes, ma'am, I was, I was assistant manager.

9 Q Okay, and were you and Lisa not only
10 coworkers but friends?

11 A Yes, ma'am, at one time I thought we were
12 best friends.

13 Q Okay, all right, now whenever you were
14 working at Conway Manor what type of vehicle did you [REDACTED]?

15 A I had a full size, I think it was a '95
16 Ford Taurus.

17 Q Okay, and what color was that car?

18 A It was green.

19 Q Okay, now, Tonia, on the date of January
20 the 26th were you, that morning were you with Mr. Causey?

21 A Yes, I was.

22 Q Okay, and what did you do first thing that
23 morning?

24 A Took my brother to work.

25 Q Okay, and that would be Marty Huggins?

1 A Yes, ma'am.

2 Q Okay, he was just testifying, correct?

3 A Yes, ma'am.

4 Q Okay, and after Marty was dropped off to
5 work where did you and Mr. Causey go

6 A Went back to the trailer, the [REDACTED], I got
7 ready for work. I had to be at work I think at 10:30 and I
8 got ready, went to work, dropped me off, and that's the
9 last I seen them until they picked me up that night about
10 8:00 from work.

11 Q Okay, and so after you dropped Marty off
12 and then you were dropped off who was left with your
13 vehicle?

14 A Mr. Causey.

15 Q Okay, and the next time that you saw Mr.
16 Causey was about what time?

17 A It was about 8:00 that night when I got off
18 of work.

19 Q Okay, and whenever, whenever you got picked
20 up from work who was in the vehicle?

21 A Herbert, Marty, and my sister Teresa.

22 Q Okay, and where did all of you go after you
23 were picked up?

24 A We left from the nursing center went to the
25 Food Lion, we walked in ---

Ms. Huggins - Direct Examination by Ms. Lively

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1 The Court: All right, hold on one second, I'm
2 hearing people talk back here at the back of the courtroom.
3 This is an important trial. It's important to me; it's
4 important to the defendant; it's important to the State and
5 to the jury. If I hear somebody talk again I'm going to
6 put you in jail until Friday; I want to make that clear you
7 will be held in contempt of court, am I clear? Anybody
8 have any questions? I apologize, you may continue.

9 Ms. Lively: Thank you, Your Honor.

10 Q (Continuing) Whenever you were picked up
11 you already, you told us who all was in the car?

12 A Yes, ma'am.

13 Q Then you went to where?

14 A To Food Lion.

15 Q Okay, and when you went to the Food Lion
16 who all went into the Food Lion?

17 A Me, Herbert, and Marty.

18 Q All right --

19 Ms. Lively: If I may approach, Your Honor?

20 The Court: Sure.

21 Ms. Lively: (Continuing).

22 Q I'm going to show you State's Exhibits 27
23 through 31 and the numbers are on the back? First I'm
24 going to show you 27, please tell us who it is in the
25 picture 27?

1 A Marty, myself, and Herbert.

2 Q Okay, all right, and that's in '27, now,
3 Tonia, let me back up something I forgot to ask you, that
4 morning whenever you left what was Herbert wearing?

5 A Blue jeans, a pair of tennis shoes and a
6 black leather jacket is the best I can remember, and they
7 asked me what kind of shirt, I couldn't tell you, but it
8 was cold that morning.

9 Q Okay, well let me ask you this, was he
10 wearing a ball cap?

11 A Yes, ma'am, he was.

12 Q What color was it?

13 A It was a burgundy.

14 Q Is it the same one that we're seeing in
15 this picture?

16 A Possible, I mean I can't say it is or it
17 ain't.

18 Q Tell this jury some things about his
19 physical appearance that, that are obvious to anyone who
20 meets Mr. Causey?

21 A He's got a lot of tattoos.

22 Q Got a lot of tattoos, okay, when you say a
23 lot of tattoos can you tell me the parts of the body?

24 A His arm ---

25 Q Just talk about the upper?

Ms. Huggins - Direct Examination by Ms. Lively

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1 A His arms and his chest.

2 Q Okay?

3 A And his back.

4 Q Okay, what about from his shoulders up?

5 A He's got one on the inside of his lip and I
6 think maybe a small one on the side.

7 Q Come on, Tonia, you can tell us?

8 A I just, I mean that's it, there's a small
9 one on the side, he's got them on his arms, his chest and
10 his back and he's got one inside of his lip.

11 Q Are ya'll still boyfriend and girlfriend?

12 A Yes, ma'am.

13 Q Is there anything important about that
14 relationship that we need to know about?

15 A Other than he's the father of my child or
16 the baby I'm carrying.

17 Q How do you feel about testifying against
18 him today?

19 A It's hard but I had to do what I got to do.

20 Q Okay, I'm going to show you what's already
21 in evidence as State's Exhibits Number 25 and 26?

22 A Yes, ma'am.

23 Q Okay, 25 are those the tattoos on Mr.
24 Causey's neck?

25 A It looks like it, honestly it looks like

Ms. Huggins - Direct Examination by Ms. Lively

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1 it.

2 Q All right, how about this, number 26?

3 A Yes, ma'am, that is his arm.

4 Q That's his arm, okay. Okay, so let's get

5 back to that night then, you confirmed in the photos I

6 showed you in 27 through 31 that that was you, Marty, and

7 Mr. Causey that were in ---

8 A Yes, ma'am.

9 Q --- Food Lion; is that right?

10 A Yes, ma'am.

11 Q Okay, after ya'll left the Food Lion that

12 night where did ya'll go?

13 A Went to Marty's house.

14 Q All right, and did you ever have a

15 conversation with Mr. Causey that night as to what he had

16 done all day while you were at work?

17 A Not that night, no, ma'am, we did not.

18 Q Okay, and were you around or did you have a

19 conversation in the presence of Mr. Huggins, Marty Huggins,

20 regarding Mr. Causey being ashamed of something?

21 A No, ma'am.

22 Q You weren't a party to that?

23 A No, ma'am.

24 Q Well tell me then, let's go to the next day

25 January the 27th, what did you do on the 27th?

Ms. Huggins - Direct Examination by Ms. Lively

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1 A I got up that morning, got up, got my
2 brother to work, dropped him off, went back to his house to
3 get ready for work but I had to call in because my car
4 started messing up cause the transmission was going out on
5 it. Then I called and had him to tell him that he was
6 going to have somebody from work to bring him home because
7 my car was messing up.

8 Q Okay, this was January 27th?

9 A Yes, ma'am.

10 Q All right, do you recall if that was the
11 day when you were first approached by Lorris Police
12 Department to talk about ---

13 A I think so that morning, I think.

14 Q All right, it was that morning, right?

15 A Yes, ma'am, I think so.

16 Q Okay, do you recall telling Chief Vaught
17 that you had to leave really quick and get to work cause
18 you were late?

19 A Yes, ma'am, I would had all intentions of
20 going to work when I told him that.

21 Q Okay, and at that time did you provide any
22 information to Chief Vaught regarding Herbert Causey and
23 possibly being involved in what happened at Eloise Martin's
24 house?

25 A I cannot recall. I didn't, he said that he

Ms. Huggins - Direct Examination by Ms. Lively

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1 was wanting to talk to him about he was wanted in
2 questioning.

3 Q Okay.

4 A But I was not told, all I was told it was
5 somewhere in the old neighborhood, I was not told who it
6 was to, done to or anything at that time.

7 Q Okay, well let me ask you this, okay, cause
8 you've already testified that he dropped you off at your
9 work?

10 A Yes, ma'am.

11 Q And did he have your vehicle?

12 A Yes, ma'am, he did.

13 Q Okay --

14 Ms. Lively: Your Honor, if I may approach?

15 Q (Continuing) I'm going to show you some
16 notes taken regarding the statement that you've admitted to
17 talking to Chief Vaught about. If you would just read this
18 paragraph right here where it has your name; I want you to
19 refresh your recollection of what you discussed with Chief
20 Vaught that day.

21 A Says about, I guess that's 10:00 ---

22 Q Don't read it out loud, I just want you to
23 read it to yourself and tell me when you're finished?

24 A (The Witness complies.) Okay.

25 Q Are you finished?

Ms. Huggins - Direct Examination by Ms. Lively

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1 A Yes, ma'am.

2 Q Okay, thank you. Now, do you recall that
3 conversation now that you've refreshed your memory that you
4 had the first time you spoke with Chief Vaught?

5 A Yes, ma'am.

6 Q Okay, why then are you testifying now that
7 the car was with Mr. Causey and it's different from what
8 you told Chief Vaught; can you explain that?

9 A Because when he first come in the yard I
10 did not know what was going on. I had not, did not know
11 what had happened, and he asked me did I have my car and I
12 told him yes, but I do remember telling him later that I
13 did not have my car. I didn't know if I would be in
14 trouble for letting somebody [REDACTED] my car with no [REDACTED]rs
15 license and he told me later he was not worried about
16 somebody driving it with no [REDACTED]rs license, he just needed
17 to know where the car was at.

18 Q Okay, all right, fair enough. So you at
19 first told him a lie about having your car?

20 A Yes, ma'am.

21 Q Okay, on that day whenever you were
22 interviewed by Chief Vaught do you recall giving a
23 description to him of what Causey normally wears?

24 A Yes, ma'am, I do.

25 Q Okay, and what was that?

Ms. Huggins - Direct Examination by Ms. Lively

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1 A Blue jeans, I think a tee shirt, shoes, and
2 normally a burgundy or white hat?

3 A Now after on the 28th then, okay, let's
4 move on to the very next day, tell the jury what you did on
5 the 28th?

6 Q I took my car to Allen's Scrap Metal
7 because the transmission was messed up in it, the gear
8 linkage was tore up and I scrapped it cause I needed the
9 money and it weren't because I knew anything that was going
10 on cause at the time I did not. I scrapped it because I
11 needed the money and I did not have the money to put
12 another transmission in a vehicle that I didn't pay but
13 \$300 for to start with.

14 Q Okay, did you have, I mean did you own that
15 vehicle outright?

16 A At the time but then I had a title loan on
17 it that I've been trying to make payments on that also
18 since I started back working.

19 Q Okay, so despite that title loan you went
20 and you scrapped that, is that my understanding you went
21 and scrapped the car?

22 A Yes, ma'am.

23 Q Okay, at any point in time whenever you
24 scrapped that vehicle were you concerned that you could
25 possibly be getting rid of evidence of a crime?

Ms. Huggins - Direct Examination by Ms. Lively

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1 A Not at the time, no, ma'am, cause like I
2 said I did not know what was going on.

3 Q Now had you talked to Herbert at all?

4 A Off and on ---

5 Q As to why the police was questioning you
6 about him?

7 A All I was told was I wanted in questioning.

8 Q Okay.

9 A And when I talked to him on the phone I
10 told him I remember Chief Vaught asking me to have him to
11 call him if I talked to him and I did that like Mr. Vaught
12 asked me to.

13 Q Okay, all right, when was the next time
14 that you actually talked to the police about ---

15 A I think it was February the 1st or February
16 the 2nd.

17 Q Okay, and whenever, how did you come to
18 talk to the police on that day?

19 A I was at the trailer getting my bull dog
20 named Chopper and moving from the trailer cause we were
21 moving out of it. I was with my soon to be mother in law
22 and father in law and they pulled up in the yard, him and
23 Karen, and he asked me could I give him a statement and I
24 think, I mean I'm not for sure, I said, do I have to go now
25 and to the best of my recollection I was told I could

Ms. Huggins - Direct Examination by Ms. Lively

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1 either go do it the easy way or the hard way. It was
2 either go voluntarily or I could possibly be arrested and
3 got my statement and then released with no charges.

4 Q Arrested for what, Ms. Huggins?

5 A I guess because I was not willing to give a
6 statement.

7 Q Okay, all right, and did you complain about
8 being threatened to give a statement?

9 A I didn't, I mean I was stressed out, I
10 didn't think, take it as a threat at the time.

11 Q Okay, well let's talk about that, did you
12 go to the Loris Police Department at that time and give a
13 statement?

14 A Yes, ma'am, I was took in the back of the
15 police car.

16 Q Okay, all right, and who was with you
17 whenever you went to the police department to give a
18 statement?

19 A Me. Teresa, Chief Vaught, and Karen, she
20 was driving.

21 Q All right, and were you ever told what you
22 could be charged with now that you're alleging you were
23 threatened with arrest?

24 A No, ma'am.

25 Q All right, so whenever you got to the

Ms. Huggins - Direct Examination by Ms. Lively

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1 police station tell this jury what you told or what you
2 said in your statement regarding Mr. Causey's admissions to
3 you?

4 A The best I can remember is Chief Vaught I
5 give him a good description of Mr. Causey. He asked me how
6 well did I know him and I told him I've known him pretty
7 much since I was like thirteen years old and he, I was, I
8 do remember I was crying the whole time. I ain't never
9 been hauled into a police station before. I've never been
10 through anything like this before.

11 Q Okay.

12 A And as far as remembering exactly what I
13 told him I cannot tell you exactly what I told him but I do
14 know I give him a description of Mr. Causey.

15 Q Is it fair to say, though, that you do
16 recall giving a statement on February 1st regarding Mr.
17 Causey and the investigation?

18 A Yes, ma'am, I do remember giving the
19 statement but as far as remembering what I said I cannot.

20 Q Okay, I'm going to show you a document
21 that's been marked for I.D. purposes as State's Exhibit
22 Number 34 and ask you if you recognize this as being the
23 statement that was taken from you at the Loris P.D. on
24 February 1st?

25 A Yes, ma'am, I recognize it but I don't,

Ms. Huggins - Direct Examination by Ms. Lively

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1 like I said I don't remember a lot that was, that's in
2 here. I do remember telling him what my car looked like.

3 Ms. Lively: Okay, Your Honor, the State would
4 move to introduce this as a prior inconsistent statement
5 regarding her allegations now that she cannot recall what
6 is in that statement.

7 The Court: Any objections?

8 Mr. Floyd: Yes, sir, I would object to that.

9 The Court: All right, members of the jury,
10 let's take a short break, if you'd go into the jury room,
11 do not discuss the case.

12 (Whereupon, the jury retired to the jury room at
13 12:11 p.m.)

14 The Court: All right, Solicitor, if you'd like
15 to question her on the statement?

16 Ms. Lively: Yes, Your Honor.

17 Direct Examination In Camera

18 By Ms. Lively:

19 Q Just to recap, Tonja, it's my understanding
20 from your testimony that you remember portions of giving
21 some descriptions to Chief Vaught but you don't recall what
22 you put in the statement; is that right?

23 A No, ma'am, I don't remember everything I
24 put in that statement which I remember talking to him but
25 as far as remembering everything we talked about I do not

Ms. Huggins - Direct Examination by Ms. Lively

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1 and that is the honest truth.

2 Q I understand that, and but is this your
3 signature at the bottom?

4 A Yes, ma'am.

5 Q Okay?

6 A I admitted to signing it.

7 Q Okay, and is it on every page?

8 A Yes, ma'am.

9 Q Okay, all right, so this is the statement?

10 A Yes, ma'am.

11 Q Okay, but you're saying you do not recall
12 the contents of that statement, correct?

13 A Yes, ma'am.

14 Ms. Lively: Your Honor, as I stated the State
15 would move to introduce this extrinsic evidence as prior
16 inconsistent statement. I've got case law State v. Blalock
17 clearly whenever a witness cannot fully recall and --

18 The Court: Why don't you refresh her memory,
19 let her read it?

20 Ms. Lively: Absolutely.

21 The Court: And then she can testify direct.

22 Ms. Lively: (Continuing)

23 Q I'm going to let you read this statement

24 and see if it refreshes your recollection? Now, Ms.

25 Huggins, do you recall the information you provided in this

Ms. Huggins - Direct Examination by Ms. Lively

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1 statement to Chief Vaught and Karen Baker?

2 A I remember some of it but some of it I do
3 not because the part about him loosing the stun gun I had
4 never, I did not even know he had a stun gun. I had never
5 seen one, if it was his I did not know it. I did not see
6 that stun gun until I seen it laying on Chief Vaught's
7 desk.

8 Ms. Lively: That's still my request, Your
9 Honor, that this is a prior inconsistent statement.

10 The Court: Prior inconsistent statement, any
11 objections or any questions?

12 **Cross Examination In Camera**

13 By Mr. Floyd:

14 Q Ms. Huggins, did you sign an affidavit that
15 you felt pressured by the police when you made this
16 statement?

17 A I signed a retractment saying that I was
18 stressed and felt, I think, under pressure.

19 Q And didn't remember everything that was in
20 the statement?

21 A Yes, sir, I weren't saying that I didn't
22 make it, I was just saying I did not remember what was said
23 in it.

24 Q Is that it?

25 A Yes, sir.

Ms. Huggins - Direct Examination by Ms. Lively

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1 Mr. Floyd: For purposes of this hearing, Judge,
2 I'd like to mark this as a Court's Exhibit.

3 The Court: All right, well let me take a look
4 at it when you get it marked.

5 (Whereupon, Court s Exhibit Number 1 marked for
6 identification.)

7 The Court: Go ahead.

8 Mr. Floyd: (Continuing)

9 Q Now this statement that they're referring
10 to do you, do you still have a copy of it up there with
11 you?

12 A No, sir.

13 Mr. Floyd: That's all right, I can use this
14 one, I just didn't know if she had it or not.

15 Q (Continuing) Now this is a three-page
16 thing?

17 A Yes, sir.

18 Q And you've signed each page?

19 A Yes, sir.

20 Q Now up here at the top and the bottom did
21 you initial those two spots?

22 A Yes, I did.

23 Q On the second page same question?

24 A Yes, I did.

25 Q Did you read this statement before you

Ms. Huggins - Direct Examination by Ms. Lively

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1 initialed it?

2 A I jotted through it but I was in a hurry to
3 get out that police station.

4 Q And why was that?

5 A Because I was stressed, worried and like I
6 said I cried the whole time I was giving it.

7 Q Why didn't you write out the statement
8 yourself?

9 A I wasn't asked to write out the statement;
10 Chief Vaught started writing the statement.

11 Mr. Floyd: Thank you, ma'am.

12 The Court: Anything further, Solicitor.

13 Redirect Examination In Camera

14 By Ms. Lively:

15 Q Ms. Huggins, did you know you were pregnant
16 at the time that you wrote that statement?

17 A No, ma'am, I did not.

18 Q Okay, now even though you're saying that
19 you were stressed and everything because you had been to
20 the police department and all of that you're not telling
21 this court that what you said in that statement was untrue,
22 are you?

23 A I'm not saying it's the truth and I'm not
24 saying it's a lie, I'm just saying I don't remember what I
25 told.

Ms. Huggins - Direct Examination by Ms. Lively

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1 Q You just don't remember?

2 A I just do not remember, I can't say if it's
3 the truth or a lie.

4 Q Okay, that's what I needed to know, thank
5 you, ma'am?

6 The Court: Anything further, Mr. Floyd?

7 Mr. Floyd: No, sir.

8 The Court: All right, I will allow the
9 statement as a prior inconsistent statement pursuant to the
10 rule 801(d)(1)(a).

11 Ms. Lively: And, Your Honor, I realized in
12 looking at the statement and I want to make sure that we
13 appropriately handle this, there is on the third page there
14 and I'll let you see, it says Herbert told me that this
15 incident will be hard on because of his criminal history.
16 He told me that he would kill himself before he would go
17 back to jail. We need to redact that information obviously
18 and so I would like to do that before the jury comes back.

19 The Court: All right, if you'll go ahead and
20 redact it ---

21 Ms. Lively: Can I do that?

22 The Court: -- and let Mr. Floyd look at it.

23 Ms. Lively: Yes, sir.

24 The Court: Any objections, Mr. Floyd?

25 Mr. Floyd: No, sir, I would agree with that.

Ms. Huggins - Direct Examination by Ms. Lively

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1 The Court: I understand.

2 Ms. Lively: Yeah, I'm going to actually black
3 out and make a copy so they can't read through.

4 The Court: Okay, that will be good.

5 Ms. Lively: Give me just a moment I'll be right
6 back.

7 (Whereupon, a recess was taken at this time and
8 the following takes place on the record after the recess.)

9 The Court: Okay, Mr. Floyd, have you examined
10 the statement?

11 Mr. Floyd: Yes, sir, and it does appear to be
12 properly redacted. If it's held under the fluorescent
13 lights here it doesn't appear that you can read through the
14 back of it.

15 The Court: Good, thank you, all right.

16 Ms. Lively: Thank you, Your Honor.

17 The Court: All right.

18 Ms. Lively: And that would be State's 34 into
19 evidence at this time.

20 The Court: 34 is into evidence.

21 Mr. Floyd: Can I see it one more second?

22 Ms. Lively: Sure.

23 Mr. Floyd: I apologize, I didn't look at it as
24 good as I should have.

25 (Whereupon, State's Exhibit Number 34 entered

Ms. Huggins - Direct Examination by Ms. Lively

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1 into evidence.)

2 The Court: All right, if you'd go ahead and
3 bring in the jury.

4 (Whereupon, the jury returns to the jury room at
5 12:27 p.m.)

6 The Court: All right, Solicitor, you may
7 continue.

8 Ms. Lively: Thank you, Your Honor.

9 Q (Continuing) Now, Ms. Huggins, I'm going to
10 show you State's Exhibit Number 34. I was questioning you
11 about a statement you had provided to Chief Joe Vaught; do
12 you recall that?

13 A Yes, ma'am.

14 Q Okay, and when was that statement given by
15 you?

16 A February the 1st, 2011.

17 Q Okay, and, and once again is your signature
18 on all three of those pages?

19 A Yes, ma'am.

20 Q Okay, and your initials on all three of
21 those pages?

22 A Yes, ma'am.

23 Q All right, now what does that statement
24 contain?

25 A Description of Herbert and some things that

Ms. Huggins - Direct Examination by Ms. Lively 256

1 I was asked by the Chief and like I said, you know, I can't
2 remember saying what was put in this but I do remember
3 giving him a description, even after reading it I cannot
4 remember mentioning this.

5 Q Okay, that's fine --

6 Ms. Lively: Your Honor, just for the record
7 State's Exhibit Number 34 I asked for it to be in evidence.

8 The Court: It is into evidence.

9 Ms. Lively: Okay, thank you.

10 Mr. Floyd: Over objection, of course.

11 Ms. Lively: Yes, sir.

12 Q (Continuing) All right, now, Ms. Huggins, I
13 want to ask you about some things in this statement, okay?

14 A Uh-huh.

15 Q Now just to be clear you were working on
16 the date of January 26th of 2011, correct?

17 A Yes, ma'am.

18 Q Okay, so you were not in Ms. Eloise
19 Martin's home at any time that day?

20 A No, ma'am, I was not, never been in her
21 home.

22 Q All right, now did Mr. Causey provide you
23 with information about himself going into Ms. Eloise
24 Martin's home that day?

25 A We had a, we talked and he said he would

Ms. Huggins - Direct Examination by Ms. Lively

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1 talk to me later about it.

2 Q Okay, and did he talk to you later about
3 it?

4 A We said a few things but as far as details
5 I cannot recall whether we did or didn't.

6 Q Do you recall him telling you that he
7 knocked n the door of the lady's house and asked to use her
8 bathroom?

9 A No, ma'am, I read it, I've seen it in
10 there.

11 Q Okay ---

12 A I'm not saying I did or I didn't I just
13 don't recall it.

14 Q I understand, and that's the reason why I'm
15 going to allow you to refer to your statement at times,
16 okay, so I'm going to ask you, you've read this statement
17 again, haven't you?

18 A Yes, ma'am.

19 Q All right, in this statement isn't it true
20 that you said that Mr. Causey told you he went to the
21 lady's house and asked to use her bathroom?

22 A In the statement, yes, ma'am, that is what
23 I said.

24 Q That's what you said, okay, and according
25 to your statement, you're saying you don't remember, but

Ms. Huggins - Direct Examination by Ms. Lively

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1 the one that you've read, did Mr. Causey tell you he went
2 into Ms. Eloise Martin's home?

3 A We had a brief conversation about him
4 knocking on someone's door but I was never told who or
5 where it was. I did not know where anything happened until
6 I talked to Mr. Vaught.

7 Ms. Lively: Your Honor, I'd ask for some
8 leniency in handling this witness as a hostile witness.

9 The Court: All right, any objections, Mr.
10 Floyd?

11 Mr. Floyd: If she lays the proper ground work
12 for it, Judge.

13 The Court: I will allow you, go ahead.

14 Ms. Lively: Thank you.

15 Q (Continuing) Tonia, isn't it true that
16 actually you told the Chief in providing your statement
17 that Herbert did go into Eloise Martin's house on Sunset
18 Street on January 26th of 2011?

19 A It's in my statement, yes, ma'am, I did.

20 Q Okay.

21 A Tell him that in that statement but until
22 read it I never remembered mentioning anything about it.

23 Q Okay, well it's true that this statement
24 was given February 1st which would have only been seven
25 days from the date of the robbery?

Ms. Huggins - Direct Examination by Ms. Lively

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1 A Yes, ma'am.

2 Q Okay, so in all fairness and common sense
3 and logic it would mean that your memory probably was
4 better then than it is now; would you agree?

5 A No, ma'am.

6 Q Okay, well then that's, all right, well
7 then let's just talk about this then, were you able to just
8 magically come up with the fact that this stun gun was
9 found at Ms. Eloise Martin's house?

10 A I never remember mentioning a stun gun
11 found.

12 Q Okay, in your statement, isn't it true,
13 that you said Herbert told me that he had lost his stun gun
14 at the lady's house after he took the money?

15 A No, ma'am, I don't remember saying that
16 cause I didn't even know Herbert had a stun gun.

17 Q Okay, all right. ---

18 A I had never seen one in the trailer we were
19 staying in.

20 Q All right, do you recall stating that
21 whenever he dropped you off at work that morning he had no
22 money but when he went to Food Lion he had money?

23 A Yes, ma'am, I do.

24 Q Do you recall making the statement that the
25 clothes he was wearing when he dropped you off that morning

Ms. Huggins - Direct Examination by Ms. Lively

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1 were the same as the ones that he picked you up in that
2 night?

3 A Yes, ma'am.

4 Q Okay, and once again you've already told us
5 what those clothes were?

6 A Yes, ma'am.

7 Q All right, and would those be jeans that
8 you believe to be black?

9 A If blue jeans are black, I can't remember.

10 Q Okay, well in your statement isn't it true
11 that you at that time stated that he was wearing black
12 jeans, a greenish gray button up shirt and a red hat?

13 A That's possible.

14 Q No, well I'm just asking you, isn't this
15 your statement?

16 A Yes, ma'am, it is.

17 Q Is that's what's in your statement?

18 A That's what's in the statement, yes, ma'am.

19 Q Thank you, now did Herbert describe who the
20 woman was to you?

21 A No, ma'am.

22 Q He didn't tell you that it was the elderly
23 lady that lived on [REDACTED]?

24 A No, ma'am.

25 Q Okay ---

Ms. Huggins - Direct Examination by Ms. Lively

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1 A I didn't even know where it happened until
2 he said it was somewhere in the old neighborhood.

3 Q Who's he?

4 A Mr. Vaught, I think, I mean I don't want to
5 say it and be telling a lie.

6 Q Okay?

7 A But all I know it was somewhere in the old
8 neighborhood, I didn't know who it was or whose house it
9 was.

10 Q Okay, well let me just show you your
11 statement again, isn't it true you said Herbert told me
12 that the lady was elderly and lived near our old house on
13  in Loris?

14 A Honest I don't remember saying that.

15 Q I understand that, but is this your
16 statement?

17 A Yes, ma'am, that's what's in there but I
18 don't remember saying that part.

19 Q Okay, and in that statement isn't it true
20 that you even admit to calling Lisa Sarvis, your old friend
21 and co worker from the Cash 'N Dash?

22 A Oh, yes, ma'am, I did.

23 Q Okay, all right, and you remember during
24 that conversation with Lisa that Herbert was with you?

25 A Yes, he was.

Ms. Huggins - Direct Examination by Ms. Lively

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1 Q Okay, what was he saying when you were on
2 the phone with Lisa?

3 A He was not saying anything in the
4 background, I called to tell her cause she said that she
5 heard that I was telling people I was at her house, no, I
6 was not, I was just calling to let her know I never
7 mentioned her name about anything, and she ain't talked to
8 me since then.

9 Q All right, when Herbert was in Ms. Eloise's
10 house, according to what he told you, where did he find the
11 money?

12 A My statement says in the bedroom.

13 Q Okay, but he told you he found money,
14 right?

15 A Yes, ma'am.

16 Q Okay, and he had money when ya'll went to
17 Food Lion, right?

18 A A few dollars.

19 Q I'm not asking you how much, did he have
20 money?

21 A Yes, ma'am.

22 Q Was it hard on ya'll because he couldn't
23 get a job or that he didn't have a job?

24 A No, ma'am, cause I was working, I was
25 paying my part, our part of the bills.

Ms. Huggins - Direct Examination by Ms. Lively

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1 Q Okay, when did you find out you were
2 pregnant?

3 A March, after I lost one in August.

4 Q Have you been visiting Mr. Causey at the
5 jail?

6 A Yes, ma'am.

7 Q How often do you visit him?

8 A Sometimes twice a week, sometimes once a
9 week.

10 Q And have ya'll talked about you coming to
11 court?

12 A Yes, ma'am.

13 Q What have ya'll discussed about that prior
14 statement you gave?

15 A I just told I didn't remember everything I
16 put in and he told, the only thing I know it was about
17 three pages and honest to God I did not remember what I put
18 in it.

19 Q But you remember enough to file an
20 affidavit to recant that statement; isn't that true?

21 A Yes, ma'am, but I weren't trying to say I
22 was lying in it, I was just saying I don't remember what I
23 put in it.

24 Q Well you actually provided me with an
25 affidavit saying you were taking back your statement; isn't

Ms. Huggins - Direct Examination by Ms. Lively

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1 that right?

2 A Yes, ma'am.

3 Q All right, when was that?

4 A I can't remember what day it was post
5 marked on.

6 Q So this would have been after you found out
7 you were pregnant, right?

8 A I was twenty two weeks pregnant when I put
9 that in there.

10 Q Was this the first time that you came to
11 talk to me about this case?

12 A I think.

13 Q Okay, so you were twenty two weeks pregnant
14 and you came in recanting your statement; isn't that right?

15 A Yes, ma'am, I just didn't want the stress
16 of a trial trying and risk loosing another child.

17 Q All right ---

18 A I weren't trying to hide anything.

19 Q I'm sorry?

20 A I said I wasn't trying to hide anything, I
21 was just trying not to be under so much stress.

22 Q Okay, and the same thing with your car
23 being crushed, you weren't trying to hide anything?

24 A No, ma'am, cause at the time I didn't even
25 know what was going on.

Ms. Huggins - Direct Examination by Ms. Lively

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1 Q I understand, now did you come up with this
2 idea to recant your statement after visiting with Mr.
3 Causey?

4 A Not solely, no, ma'am, I did not.

5 Q Not solely, then just partially?

6 A We had talked about it and cause I told
7 him, I says, well I don't remember, you know, what I, all I
8 said.

9 Q Well what did he tell you to do, Tonia,
10 you're under oath, tell us what did he tell you?

11 A He told me about going to the lawyer and
12 recanting my statement saying not that I was lying about it
13 that I just don't remember what all was put in it.

14 Q Okay, and he told you to say that you don't
15 remember what was in your statement?

16 A No, he didn't say I don't remember, he said
17 don't remember all of what was put in it.

18 Q Okay, I got you, I got you?

19 A I was not trying to hide anything.

20 Q I'm going to show you what's been marked as
21 State's Exhibit Number 35 and ask you is this you, your
22 name on this document?

23 A Yes, ma'am.

24 Q And when you go to J. Reuben Long Detention
25 Center to visit someone are you required to sign a visitors

Ms. Huggins - Direct Examination by Ms. Lively

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1 log?

2 A Yes, ma'am.

3 Q Okay, and is that a visitors log that you
4 signed on one or a couple of the times that you visited Mr.
5 Causey in jail?

6 A I have to sign it every time I go.

7 Q Every time, okay?

8 A Every time you go to visit.

9 Q Okay, and in looking at that document do
10 you recall when these times would have been, what month was
11 that?

12 A February and July, August.

13 Q Okay, all right, and that is your signature
14 on there?

15 A No, that's not my handwriting.

16 Q Okay, but is that, would that be accurate
17 in stating that you had visited Mr. Causey around that
18 time?

19 A Yes, ma'am.

20 Q Okay ---

21 A Cause my name ain't spelled right on some
22 of them.

23 Q Okay, fair enough, and what are you
24 required to provide, what information do you have to
25 provide when you sign in?

Ms. Huggins - Cross Examination by Mr. Floyd

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1 A The address, that's on your I.D. at the
2 time.

3 Q What was the address on your I.D.?

4 A [REDACTED].

5 Q [REDACTED], okay --

6 Ms. Lively: All right, Ms. Huggins, thank you
7 so much.

8 A Thank you.

9 Ms. Lively: Answer any questions that Mr. Floyd
10 might have for you.

11 Cross Examination

12 By Mr. Floyd:

13 Q Ms. Huggins, you stated at one time Lisa
14 and you, Sarvis and you were best friends, what do you mean
15 by that?

16 A Well we talked about everything, we'd go
17 out together, we'd go shopping together, and it's like
18 after she was told that I was saying that I was at her
19 house I called her to verify that I had not mentioned her
20 name about anything and she has not talked to me since
21 then.

22 Q Okay?

23 A She will not even talk to me when I go into
24 the store and I very seldom stop there when she's working.

25 Q So tell me about the problems you were

Ms. Huggins - Cross Examination by Mr. Floyd

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1 having with your car?

2 A The transmission was leaking, transmission
3 fluid and the gear linkages, you'd have to work with it to
4 get it in reverse and [REDACTED].

5 Q And how much did you pay for this car?

6 A \$300.

7 Q And when you sold it how much did you get
8 when you sold it?

9 A I think it was a little over three hundred,
10 it weren't much, just like three fifteen, three twenty,
11 somewhere around in there, I'm not sure.

12 Q When you gave this statement the solicitor
13 is talking about to the police tell me what went on then?

14 A The day that I give it I remember Chief
15 Vaught and I know as Ms. Baker but I think her name is
16 Shepherd now, they come to the house, we were loading up
17 the dog, and he was there to talk about wanting us to go
18 give a statement and I think I asked do I have to go right
19 now, I'm not sure, and the best of my recollection I was
20 told I could either do it the easy way, we could do it the
21 easy way or the hard way and I took that as either I could
22 go willingly or I could be arrested and made to give it and
23 then released. Maybe I took it the wrong way but that's
24 the way I took it.

25 Q How were you emotionally during the time

Ms. Huggins - Cross Examination by Mr. Floyd

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1 that this statement was taken?

2 A I remember crying the whole time I was
3 giving it.

4 Q Now did you write that statement out?

5 A No, I did not.

6 Q Who actually wrote the statement out?

7 A Chief Vaught.

8 Q All right, did he offer to tape record the
9 statement?

10 A No, sir, never mentioned a tape recorder.

11 Q Did he offer to let you write the statement
12 out?

13 A No, sir, I was not asked to write it.

14 Q Had you ever seen a stun gun or taser
15 around?

16 A Other than t.v., no, sir, not till I seen
17 it laying on his desk.

18 Q Now Herbert also he makes money putting on
19 tattoos, doesn't he, for other people?

20 A Yes, sir, he does or did.

21 Q And you don't know what he did that day
22 while you were working, he could have been putting on
23 tattoos?

24 A Yes, sir, he could have been I don't know,
25 I was at work from 10:30 to 8:00.

Ms. Huggins - Redirect Examination by Ms. Lively

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1 Mr. Floyd: Thank you, ma'am.

2 The Court: Anything further, Solicitor?

3 Redirect Examination

4 By Ms. Lively:

5 Q Were you under the influence of any alcohol
6 or drugs when you were at the police department?

7 A No, ma'am, I was not, I don't drink and do
8 drugs.

9 Ms. Lively: Okay, thank you, that's all.

10 The Court: All right, you may step down. At
11 this time let's take a lunch break; let's be back at 2:15.
12 All right, while you're on lunch break don't watch the
13 news, don't investigate this case, don't talk about it like
14 I told you yesterday. We'll see you back at 2:15.
15 Everybody else remain seated.

16 (Whereupon, the jury was excused for lunch at
17 12:45 p.m.)

18 The Court: All right, how many more witnesses
19 do you have, Solicitor?

20 Ms. Lively: I have two very, well actually the
21 rest of my witnesses are going to be pretty brief. I think
22 I just have three and one of them is a SLED agent; they
23 were not able to get a profile so she'll be really quick,
24 so we probably could finish today. I don't know how Your
25 Honor feels about, you know, doing the closings and charges

Ms. Huggins - Redirect Examination by Ms. Lively

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1 today, but --

2 The Court: What suits ya'll, you want to go
3 ahead and finish all the testimony today and come back in
4 the morning and do the closing arguments?

5 Ms. Lively: That would be my preference, just
6 because that way the jury would be rested.

7 Mr. Floyd: Yes, sir.

8 The Court: All right, let's do that, we'll try

9 ---

10 Ms. Lively: I mean I don't know if the defense,
11 do you have any witnesses or not, so that's, I'm assuming
12 that my witnesses today we might, I know that the State
13 will rest at that time.

14 The Court: All right, sounds good.

15 Ms. Lively: Thank you, Your Honor.

16 The Court: We'll be back at 2:15.

17 Ms. Lively: Sounds good.

18 Mr. Floyd: Thank you, Judge.

19 (Whereupon, court was recessed for lunch.)

20 (Whereupon, State's Exhibits Numbers 36, 37 and
21 38 marked for identification.)

22 The Court: If you'll go ahead and bring in the
23 jury.

24 (Whereupon, the jury returns to the jury room at
25 2:21 p.m.)

Ms. Webb - Direct Examination by Ms. Lively

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1 Madam Clerk: The jury is present.

2 The Court: Thank you very much, Solicitor,
3 we're ready to proceed when you are.

4 Ms. Lively: Thank you, Your Honor, yes, sir,
5 the State would call Amanda Webb to the stand.

6 Amanda Webb

7 being first duly sworn, testified as follows:

8 Madam Clerk: Please state your full name and
9 spell your last name.

10 The Witness: Amanda Webb, w-e-b-b.

11 Direct Examination

12 By Ms. Lively:

13 Q Hello, Ms. Webb, where are you currently
14 employed?

15 A With the South Carolina Law Enforcement
16 Division.

17 Q And what are your duties at SLED?

18 A I'm a forensic DNA analyst.

19 Q And in your capacity as a forensic DNA
20 analyst exactly what is it that you do?

21 A In forensics for DNA cases it's generally
22 to try to possibly place someone at the scene of a crime or
23 exclude them from the scene of a crime looking for an
24 individual's DNA at the crime scene. I receive samples of
25 evidence from the crime scene and then what we also get are

Ms. Webb - Direct Examination by Ms. Lively

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1 known standards and known standards are swabs of DNA from
2 individuals that we know came from them so we know it's
3 that person's, that person's DNA and if anything is
4 developed from an evidence sample you can compare it to
5 that person and either match or exclude them.

6 Q Okay, and do you have to have special
7 education training in order to become a forensic DNA
8 analyst?

9 A Yes, that's correct.

10 Q Well you give this jury the benefit of what
11 your educational and experience background is?

12 A I have a bachelors of science degree ---

13 The Court: Excuse --

14 Mr. Floyd: I think I might can stipulate.

15 Ms. Lively: I don't have that, Tom, I'm sorry.

16 Mr. Floyd: Okay.

17 The Court: Go ahead.

18 Ms. Lively: Thank you.

19 A I have a bachelors of science degree in
20 forensic chemistry and I have a masters of science degree
21 in forensic science both from Marshall University and after
22 completion of graduation I was hired on at SLED and trained
23 for approximately a year and a half under a court qualified
24 analyst. I've taken multiple courses and tests and
25 training and passed all of those in order to become an

Ms. Webb - Direct Examination by Ms. Lively

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1 independent analyst.

2 Q Okay, and are you now an independent
3 analyst?

4 A Yes, I have been for about two and a half
5 years.

6 Q And by becoming an independent analyst are
7 you, have you ever ben qualified in court as an expert
8 regarding forensic DNA analysis?

9 A Yes, I have.

10 Q And how many times?

11 A Approximately ten times.

12 Q Okay, and specifically in regards to DNA
13 analysis the training that you have or that you've already
14 received do you continue to be trained throughout your
15 career?

16 A Yes, we continuously have course work and
17 training workshops throughout the year and then also each
18 time we work a case and write reports two other qualified
19 analysts must review those reports before they are sent
20 out.

21 Ms. Lively: Okay, all right, well, Your Honor,
22 at this time the State would offer Amanda Webb as an expert
23 in forensic DNA analysis.

24 The Court: Any objections?

25 Mr. Floyd: No, sir.

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1 The Court: All right, granted.

2 Ms. Lively: Thank you, Your Honor.

3 Q Now, Ms. Webb, did you have an opportunity
4 to become involved in some DNA analysis or attempted DNA
5 analysis with the suspect Herbert Causey?

6 A Yes, I did.

7 Q Okay, will you, please, tell this jury how
8 you came in possession of certain items which were
9 presented to you for analysis?

10 A I received swabs from a stun gun which had
11 a request for touch DNA to be performed and I also received
12 some known standard swabs from Herbert Causey and Karen
13 Shepherd.

14 Q Okay, and at any, were any of those items
15 that you received actually include the stun gun itself?

16 A No, it did not.

17 Q All right, so, so what you received were
18 just actual swabs; is that correct?

19 A Yes, that's correct, a cotton swab like a
20 q-tip, a sterile cotton swab is used to rub over an item to
21 try to get skin cells or sweat like if someone touches an
22 item you can transfer skin cells which contain DNA or sweat
23 will also contain DNA and so in an item like this, like a
24 stun gun if someone has handled it then it's possible that
25 they could have transferred some skin cells and so a cotton

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1 swab is used to try to remove those and then I received the
2 swab.

3 Q And how are those items packaged to ensure
4 that the reliability of the information you're getting?

5 A The swabs I receive are in a plastic pouch
6 that's sealed by heat and it has the initials of the
7 investigator and the date and it has its on lab case number
8 and when I receive the swabs I look at the pouch to make
9 sure it hasn't been opened by anyone else and then I open
10 it and check, there's usually like a small like manila
11 envelope that contains the swabs, and I check to make sure
12 that it's what is labeled as said to contain and then I
13 perform my analysis.

14 Q Okay, and were the items that you received
15 packaged in a, in appropriate manner that, that SLED would
16 have determined as being not tampered with and consistent
17 with how it should be packaged?

18 A Yes, they were.

19 Q Okay, and did you actually at that time
20 perform an analysis on a particular item?

21 A Yes, I did, I attempted to get a DNA
22 profile from the touch swabs from the stun gun to see if I
23 could find out who might have handled the stun gun and upon
24 attempting the analysis I actually was unable to develop a
25 DNA profile from that item.

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1 Q Now let me ask you this when, when you look
2 at the actual piece of evidence that is brought to you, not
3 the standards of a suspect or an elimination standard, but
4 when you receive the item that you are to test when you
5 don't find a profile what do you do next?

6 A Well in this instance it wasn't really much
7 of a surprise that I didn't find a profile simply because
8 touch DNA is really hard to recover. It depends on how
9 long an item has been handled, if the person's hands were
10 sweaty, in this case, you know, sometimes things get wiped
11 clean if, if or also someone could have been wearing
12 gloves. It, it's just not a surprise to not recover any
13 DNA from a, a touch DNA request, so in this case I didn't
14 perform any other analysis and I didn't perform any
15 analysis on the known standards from the individuals simply
16 because since I didn't develop anything from the evidence I
17 didn't have anything to compare to the individuals so I
18 just stopped analysis altogether.

19 Q Okay, all right, so once if there's not a
20 profile, a DNA profile, we've already heard about profiles,
21 then there's nothing else for you to do; is that a fair
22 statement?

23 A Yes, that's correct.

24 Q Okay, and once again in your expert opinion
25 based upon being a forensic DNA analyst would that be

Ms. Webb - Direct Examination by Ms. Lively

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1 unusual with the type of item that was swabbed in this
2 particular case?

3 A No, it wouldn't, I've seen it in many cases
4 that I've worked on.

5 Q Okay, are there certain materials where
6 there would be more likely to have some touch DNA present
7 that you would test as a DNA analyst?

8 A Yes, it's common that we find, it's easier
9 to get touch DNA off of like a fabric, like cotton fabrics
10 like clothing or items like that. The harder plastic items
11 or door handles those are a little bit harder simply
12 because the skin cells or sweat might not be absorbed into
13 the material.

14 Q Okay, all right, and I'm just going to show
15 you this document and ask you if you recognize it, it's
16 State's Exhibit Number 36?

17 A Yes, that's copy of my report.

18 Q That's a copy of your report, and was this
19 report performed or documented in the standard course of
20 business through SLED?

21 A Yes, it was.

22 Q Okay --

23 Ms. Lively: Your Honor, the State would move to
24 introduce State's Exhibit Number 36 into evidence.

25 The Court: Any objections?

Ms. Yearout - Direct Examination by Ms. Lively

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1 Mr. Floyd: No, sir.

2 The Court: State's Number 36 into evidence
3 without objection.

4 Ms. Lively: Thank you.

5 (Whereupon, State's Exhibit Number 36 entered
6 into evidence.)

7 Q And one thing I did, one more small thing I
8 wanted to ask you, why would you need a swab from the
9 person who actually obtained the piece of evidence to be,
10 let me see how I want to say this, why would you need one
11 from Karen Shepherd?

12 A I was informed that she was the one on the
13 scene who collected the item.

14 Q Okay?

15 A And it's, it's, it's possible especially
16 with touch DNA it's such a low level DNA if someone might
17 have handled or talked over the object it was just to
18 ensure that if any DNA was found I could compare it to her
19 standard as well and just eliminate her as a possible
20 source of the DNA and that way I would know whether or not
21 it came from her or someone else.

22 Q Okay, all right, so it's just the
23 elimination standard?

24 A An elimination standard.

25 Q Okay, and is that, that a normal thing to

Ms. Yearout - Direct Examination by Ms. Lively

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1 do in situations where you have an officer who admits to
2 actually handling the particular item of evidence?

3 A Yes, it is, we actually prefer it.

4 Q Okay, all right, so you can do everything
5 at one time; is that correct?

6 A Yes, correct.

7 Ms. Lively: Okay, thank you, answer any
8 questions that Mr. Floyd might have.

9 The Court: Mr. Floyd?

10 Mr. Floyd: I don't have any questions, Judge.

11 The Court: All right, you may step down.

12 A Thank you.

13 The Court: Thank you, call your next witness.

14 Ms. Lively: Yes, sir, Your Honor, the State
15 would call Linda Yearout.

16 Linda Yearout

17 being first duly sworn, testified as follows:

18 Madam Clerk: Please state your full name and
19 spell your last name.

20 The witness: Linda Yearout, y-e-a-r-o-u-t.

21 Direct Examination

22 By Ms. Lively:

23 Q Ms. Yearout, where are you employed?

24 A Conway Manor.

25 Q And what are your job duties at Conway

Ms. Yearout - Direct Examination by Ms. Lively

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1 Manor?

2 A I'm the food service director.

3 Q All right, and do you know a Tonia Huggins?

4 A Yes.

5 Q And how do you know Tonia?

6 A We employed her for employment about in
7 November of last year.

8 Q Of last year, okay, all right, and do you
9 know the defendant Herbert Causey by chance?

10 A Not really, I may have met him one time.

11 Q Okay, all right, now, Ms. Yearout, do you
12 recall when Tonia's last day at Conway Manor was?

13 A It was around the end of January.

14 Q Okay, and do you recall speaking with me as
15 well as Chief Vaught about her not returning back to work?

16 A Right.

17 Q All right, and did you have records that
18 reflect dates and times that Ms. Huggins actually worked
19 through that last month of December?

20 A Right, her pay ---

21 Q Of January?

22 A Her payroll time sheet.

23 Q You do, okay, I'm going to show you what's
24 been marked as State's Exhibit Number 38 and ask you if
25 this is, ask you first of all if you recognize that?

Ms. Yearout - Direct Examination by Ms. Lively

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1 A Okay, yes, that's her time sheets.

2 Q That's her time sheets?

3 A Uh-huh.

4 Q Tonia Huggins time sheets?

5 A Uh-huh.

6 Q You need to answer yes or no?

7 A Yes.

8 Q Okay, and are these records kept in the
9 ordinary course of business whenever you have an employee?

10 A Yes.

11 Q All right, and once again these do appear
12 to be accurate?

13 A Yes.

14 Q And just let me ask you this you, the third
15 page would be an indication of what?

16 A Okay, I suppose that's her checks, her
17 checks.

18 Q Okay, all right, but it's also part of, is
19 that also Ms. Huggins part of her documents as an employee?

20 A Yes.

21 Q Okay, all right, but it just looked
22 different, I wanted to make sure it was all dealing with
23 Ms. Huggins?

24 A Okay, I don't ever see that other, if I see
25 anything, if I'm okaying the time it's usually those other

Ms. Yearout - Direct Examination by Ms. Lively

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1 sheets is what I normally see.

2 Q I understand, okay --

3 Ms. Lively: Your Honor, at this time the State
4 would offer State's Exhibit Number 38 into evidence.

5 The Court: Any objections?

6 Mr. Floyd: No, sir.

7 The Court: State's 38 into evidence without
8 objection.

9 Ms. Lively: Thank you, Your Honor.

10 (Whereupon, State's Exhibit Number 38 entered
11 into evidence.)

12 Q (Continuing) Would you, please, if you
13 could for the jury's benefit look at the second page and
14 tell the jury on January the 26th what the stated arrival
15 time of Tonia Huggins was?

16 A It was Wednesday, she punched in at 11:25
17 and she punched out at 7:58 giving her exactly eight hours.

18 Q Okay, and that was on January 26th of 2011?

19 A Yes, it was.

20 Q So she punched in at about 11, let me see
21 here, that is hard to see, all right, she punched in at
22 11:25 and punched out about 7:58 p.m.?

23 A Uh-huh.

24 Q Okay, now after the 26th of January could
25 you tell me the next time that Tonia Huggins worked at

Ms. Page - Direct Examination by Ms. Lively

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1 Conway Manor?

2 A That was her last day of work.

3 Q Why was that her last day of work?

4 A She, well some of those that, some of those
5 days she might have been unscheduled but she was a no call,
6 no show for the rest of this period and then she was
7 terminated.

8 Q Okay, all right, before that time had she
9 been a problem employee?

10 A No.

11 Q So up until January 26th, 2011, did you
12 have any reason to have terminated Ms. Huggins?

13 A No.

14 Q All right, after she failed to appear was
15 that actually what happened to her was that she was then
16 terminated?

17 A Right.

18 Ms. Lively: Thank you, answer any questions
19 that Mr. Floyd may have for you.

20 A Thank you.

21 The Court: Mr. Floyd?

22 Mr. Floyd: Judge, I've got no questions.

23 The Court: All right, you may step down, thank
24 you. All right, if you'd call your next witness.

25 Ms. Lively: Yes, sir, Your Honor, the State

Ms. Page - Direct Examination by Ms. Lively

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1 would call Lisa Page.

2 Lisa Page

3 being first duly sworn, testified as follows:

4 Madam Clerk: Please state your full name and
5 spell your name.

6 The Witness: Lisa Page, p-a-g-e.

7 Direct Examination

8 By Ms. Lively:

9 Q Ms. Page, where do you work?

10 A Allen's Scrap Metal.

11 Q And how long have you worked at Allen's
12 Scarp Metal?

13 A November will be seven years.

14 Q What are your duties at Allen's Scrap
15 Metal?

16 A Mostly bookkeeping but I also run the
17 scales, run different errands, I guess the official title
18 would be office manager.

19 Q Okay, and were you working on January the
20 28th of 2011?

21 A Yes.

22 Q You were, and on that date were you doing
23 office work or scale work or maybe a little bit of both?

24 A I was doing both, we had just hired a new
25 girl in our office and I was actually in the process of

Ms. Page - Direct Examination by Ms. Lively

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1 training her on the scales so she wasn't allowed to run the
2 scales by herself yet.

3 Q Okay, all right, so you were assisting?

4 A Uh-huh.

5 Q Okay, and, Ms. Page, whenever you were
6 assisting on that day did you have an opportunity to come
7 into contact with a Tonia Huggins?

8 A Yes, I believe she was one of our customers
9 that day.

10 Q All right, and do you recall why she was
11 there?

12 A She sold a car for scrap metal.

13 Q Okay, do you happen to remember what kind
14 of vehicle it was that she brought?

15 A Not off the top of my head but we see like
16 maybe a hundred to a hundred and fifty cars every day so
17 it's kind of hard to keep track of exactly what car someone
18 particular brought in unless there's something significant
19 about it, you know, like an unusual model or something.

20 Q Okay, well do you keep records in the
21 normal course of business regarding customers that you have
22 and the items that they bring in for scrap?

23 A Yes, ma'am, we have, we're completely
24 computerized now so we have everything backed up on our
25 computer plus we also keep paper records just as kind of a

Ms. Page - Direct Examination by Ms. Lively

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1 fail safe, we keep those for up to seven years.

2 Q Okay, did you have an opportunity to be
3 interviewed by someone from the Loris Police Department who
4 requested certain documents from you?

5 A Yes, ma'am, they actually came out to our
6 office and we looked everything up. I was actually the one
7 that printed everything out and handed it over to them.

8 Ms. Lively: Okay, Your Honor, if I may
9 approach?

10 The Court: Sure.

11 Ms. Lively: (Continuing)

12 Q I'm going to show you what's been marked as
13 State's Exhibit Number 37, it's three documents. I'm going
14 to ask you if you recognize these documents and whether
15 these documents are the type of documents you keep in the
16 normal course of business?

17 A Yes, ma'am, this top one is our license
18 report; the second one is a bill of sale and that's
19 actually our computerized copy and the last ticket is our
20 weigh ticket, that's the actual scale ticket from when the
21 come on the scales and go off the scales.

22 Ms. Lively: Okay, Your Honor, at this time the
23 State would move to introduce State's Exhibit Number 37, I
24 think it was, yes, 37 into evidence.

25 The Court: Any objections?

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1 Mr. Floyd: No, sir.

2 The Court: State's 37 into evidence without
3 objection.

4 (Whereupon, State's Exhibit Number 37 entered
5 into evidence.)

6 Ms. Lively: (Continuing)

7 Q Okay, and on this date would you tell the
8 jury then who this picture I.D. is of and what's the address
9 that's reflected from that picture I.D.?

10 A The name is Tonia Huggins and the address is
11 [REDACTED] Loris, South Carolina.

12 Q Okay, and when this vehicle was brought in do
13 you recall whether it was [REDACTED] in, towed in, or what; do
14 you recall?

15 A I don't recall off the top of my head, we get
16 them all kinds of ways.

17 Q That's fine, and you said that you get about
18 a hundred and fifty a day; is that right?

19 A Well that's on a busy day and actually
20 December through January was actually a busy period for us so
21 we got a large volume of customers. I believe that was also
22 when our price was a little bit higher so it wasn't unusual
23 to get at least a hundred and fifty people a day.

24 Q And what was the price that you paid for her
25 vehicle?

Ms. Page - Direct Examination by Ms. Lively

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1 A I don't recall off the top of my head.

2 Q Well you can look at that document that's in
3 evidence to see if it reflects how much was paid to her?

4 A It was \$324.

5 Q And would you, please, tell the jury what
6 vehicle make and model was brought in by Ms. Huggins to your
7 facility?

8 A It was a 1995 Ford Taurus.

9 Q When you receive a vehicle such as this do
10 you do any type of background check in regards to whether or
11 not there's a lien on the vehicle?

12 A No, we don't, if we bring them in ourselves
13 we do require that they have title in their name but that's
14 if our [REDACTED] picks them up. I could tell by looking at the
15 ticket that that wasn't one of ours that was picked up. If
16 they bring it in themselves we don't really do a background
17 check,. Now we have, if we're suspicious of one we will but
18 that's usually it has to be like a brand new car like a 2007
19 or 2009 for us to, you know, say they're obviously not
20 scrapping that so we don't normally do background checks.

21 Q Okay, all right, and this one was a 1995 Ford
22 Taurus as you stated?

23 A Yes, ma'am, uh-huh.

24 Ms. Lively: Okay, all right, thank you, answer
25 any questions Mr. Floyd may have for you.

1 The Court: Mr. Floyd?

2 Mr. Floyd: I don't have any questions, Judge.

3 The Court: All right, you may step down thank
4 you. If you'd call your next witness?

5 Ms. Lively: Your Honor, at this time the State
6 rests.

7 The Court: All right, members of the jury, if you
8 would step into the jury room for just a brief moment so we
9 can take up some motions, I'll be back with you. Do not
10 discuss the case.

11 (Whereupon, the jury retired to the jury room at
12 3:36 p.m.)

13 The Court: All right, thank you very much,
14 motions?

15 Mr. Floyd: Yes, sir, Judge, we would move for a
16 directed verdict with dismissal. We base that on pretrial
17 motions and objections that we made and what we feel to be
18 the insufficiency of the evidence to prove the offense as
19 charged.

20 The Court: All right, Solicitor, would you like
21 to briefly respond to that?

22 Ms. Lively: Your Honor, we believe there is
23 overwhelming circumstantial evidence as well as direct
24 evidence to substantiate each charge in this case and believe
25 it would be proper to go to the jury.

1 The Court: All right, I'll deny the motion,
2 anything further, Mr. Floyd?

3 Mr. Floyd: No, sir.

4 The Court: Does your client intend to testify?

5 Mr. Floyd: Judge, we have discussed that and just
6 recently he has informed me that he did not want to testify.
7 I'd ask the court to make that inquiry.

8 The Court: If you'd stand up, Mr. Causey? Ms.
9 Clerk, if you'd swear him in real quick.

10 **Examination of Defendant Causey Regarding Rights**

11 **By The Court:**

12 The Court: All right, Mr. Causey, I want to
13 explain to you that you have the constitutional right to
14 remain silent. You do not have to testify and nobody can
15 make you testify. In fact, if you choose to not testify in
16 this case I'll instruct the jury that they cannot use that
17 against you in any way whatsoever. I will charge the jury
18 that they cannot even discuss that fact in the jury room and
19 I will charge them that it is to have absolutely no prejudice
20 against you; do you understand your right to remain silent?

21 Defendant Causey: Yes, sir.

22 The Court: However, I want you to understand that
23 if you would like you can testify, however, if you testify I
24 want you to understand that you may be cross examined on any
25 and all relevant issues in connection with this case.

1 Furthermore, if you testify and you have a criminal record
2 that involves crimes of false statements or dishonesty your
3 criminal record will be introduced to attack your
4 credibility.

5 Furthermore, if you have a criminal record that
6 involves crimes that carry more than one year and the court
7 determines that the probative value of admitting same
8 outweighs its prejudicial affect then your criminal record
9 will be introduced to attack your credibility; do you
10 understand those risks in testifying?

11 Defendant Causey: Yes, sir.

12 The Court: Have you talked with your lawyer about
13 whether or not you would like to testify?

14 Defendant Causey: Yes, sir.

15 The Court: All right, has he answered all of your
16 questions?

17 Defendant Causey: Yes, sir.

18 The Court: All right, and what's your decision
19 again?

20 Defendant Causey: I will not testify.

21 The Court: All right, thank you very much. You
22 may be seated and I'll find for the record that the defendant
23 made his decision freely and voluntarily and with the advice
24 of competent counsel. All right, we'll bring the jury back
25 out and if you would like to rest on the record you can do

1 seated while the jury is excused.

2 (Whereupon, the jury was excused for the evening at
3 3:50 p.m.)

4 The Court: Let's go to the charge real quick just
5 to see if everybody is in agreement with what I intend to do.
6 First of all I'm going to give them a brief introduction, go
7 over reasonable doubt and I get that from Victor v. Nebraska.

8 Direct and circumstantial evidence, duties of the
9 judge and jury, defendant's right to remain silent, prior
10 record of witnesses; do we need that?

11 Mr. Floyd: No, sir.

12 Ms. Lively: We never got into that.

13 The Court: All right, we'll scratch that.
14 Expert testimony of police officer charge, kidnaping, armed
15 robbery, strong armed robbery, burglary first degree, assault
16 with intent to commit criminal sexual conduct, then a
17 closing; is that everything?

18 Mr. Floyd: Yes, sir.

19 Ms. Lively: Yes, sir, that's everything.

20 The Court: All right, and my law clerk has passed
21 out the verdict form to both of you?

22 Ms. Lively: Yes, sir.

23 The Court: Does it look like it's in order, Mr.
24 Floyd?

25 Mr. Floyd: Yes, sir, I hadn't gone over it all

1 the way but ---

2 The Court: Go ahead and look at it right now and
3 let me know.

4 Mr. Floyd: --- looked through the majority of it.

5 Ms. Lively: Your Honor, in your armed robbery
6 charge I understand you're also going to charge the lesser
7 included of, of just the common law strong armed robbery?

8 The Court: Correct, correct.

9 Ms. Lively: Okay, and that's how you've got it
10 explained in the jury verdict form I see here.

11 Mr. Floyd: Judge, the only thing that I would
12 suggest and it's really petty on my part --

13 The Court: What's that?

14 Mr. Floyd: It's that number three as to the
15 robbery you've got questions here and then the back page is
16 their response not guilty or guilty, just to move that back
17 so it's all on the same page for consistency.

18 The Court: Okay, can you do that, all right,
19 we'll do that.

20 Mr. Floyd: Like I said that is kind of petty.

21 Ms. Lively: I think that's a good point to have
22 that on one page.

23 The Court: We'll do it, okay, I'll make sure
24 that's done. Everything else look okay to you, Mr. Floyd?

25 Mr. Floyd: Yes, sir, Judge.

1 The Court: How about you, Solicitor?

2 Ms. Lively: Yes, sir.

3 The Court: All right, sounds good, I'll see all
4 of you at 9:30 in the morning.

5 Ms. Lively: Yes, sir.

6 Mr. Floyd: Thank you, Judge.

7 (Whereupon, court was adjourned for the evening and
8 resumes on September 8, 2011, at 9:30 a.m.)

9 The Court: Go ahead and bring in the jury.

10 (Whereupon, the jury returns to the jury room at
11 9:40 a.m.)

12 Madam Clerk: The jury is present.

13 The Court: All right, thank you, good morning.

14 All right, Solicitor, you're recognized for your closing
15 statement?

16 Ms. Lively: Thank you, Your Honor.

17 Closing Argument

18 By Ms. Lively:

19 Ladies and gentlemen, thank you very much, for all
20 of your attention this week. As your duty as jurors you were
21 to listen to the facts of the case, hear from witnesses, look
22 at the evidence, and now it's your time to be the most
23 important part of our judicial system and that is to make a
24 decision about everything that you've seen and heard.

25 And remember whenever I came to you at the very

1 beginning of this case one of the things I said was a man's
2 home is his castle and that is so true. For a woman who
3 takes care of her home, a woman who maybe is not even the
4 breadwinner of her family or whatever the situation may be
5 her home is her heart and her security, and what we have here
6 is Ms. Eloise Martin. You all have met her, heard her,
7 listened to her, observed her in that witness stand, come
8 before you, twelve strangers, a judge, a courtroom full of
9 people she doesn't know, and to face the man who took away
10 that security, to face the man with evil intent, who walked
11 into her house that day, who used to be her neighbor, who
12 knew she was alone, who knew she was old, to take advantage
13 of a formidable woman, but, ladies and gentlemen, what he
14 didn't count on is that she's made it to eighty two, she
15 might make it another twenty years.

16 She sat in that stand, and I told you we don't have
17 DNA, but I brought everything in here we have. I, you heard
18 the expert and I'll talk to you about that in a minute, we
19 don't have a full fingerprint but I'll tell you what we have
20 that's even better. We have the perseverance of an eighty-
21 one-year-old woman who is not going to be a victim any more,
22 that's what we have and that is strong, that's direct
23 evidence.

24 Now one of the things I need to do before I get
25 into some of the details, you've heard from a lot of

1 witnesses, some of them more substantial than others, but
2 every single one of them I brought before you to fill in any
3 gaps that there might be to make sure all of you could see a
4 total picture of what happened to Ms. Eloise and I think that
5 picture is crystal clear; but I'm going to make sure if any
6 of you are sitting there with any doubts today that I go
7 through it so I'm going ask for your patience. It's an
8 important case, important for everyone, even the defendant,
9 so I'm going to go through that.

10 One of the things that you'll have to understand is
11 during a case like this not only do you have to hear facts
12 and evidence but you're going to have to at the end of the
13 case when Your Honor reads to you the law, you're going to
14 have to be able to put everything that you've received during
15 this trial and apply it to the elements of each crime. Now
16 sometimes that's the most difficult part for a juror. You
17 haven't necessarily sat through a trial before. I see these
18 cases, I see the law, I have to deal with it every day. So
19 sometimes that kind of stuff is easy to me and I might skim
20 over it, but I'm going to take the time because I want to
21 make sure you understand why this defendant was charged with
22 each crime he was charged with and why based on the evidence
23 we've presented to you we've proved beyond a reasonable
24 doubt, it's not every possible doubt, beyond a reasonable
25 doubt, all of you are reasonable, all of you have common

1 sense, all of you can see it for what it is.

2 He's charged with burglary first degree and what
3 I've put on thee posters is what Your Honor is going to tell
4 you again in the case to apply the facts to, okay, so what we
5 have is burglary first degree. What is that, entering a
6 dwelling, okay, when you enter a dwelling that's a place
7 where somebody resides. I think that that is pretty obvious;
8 it speaks for itself. Ms. Eloise's house is her home; that's
9 where she lives.

10 Without consent and with the intent to commit a
11 crime therein. okay, without consent, if someone
12 misrepresents why they want to come in your house does that
13 take away the consent. Your Honor is going to tell you about
14 that. If someone uses trickery or deceit or
15 misrepresentation to get into your house. Excuse me, ma'am,
16 can I use your bathroom, she lets him in. She hasn't
17 consented for him to come in there and take her money and
18 point that stun gun in her face. That's without consent,
19 ladies and gentlemen, but Your Honor will explain that to
20 you.

21 Intent to commit a crime therein, he went in, he
22 took money, that's pretty obvious. Even his statements said
23 all I did was taken money, I didn't hurt anybody, but I'll
24 get into that in a minute.

25 While making entry or while in the dwelling that

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1 perpetrator is armed with a deadly weapon or causes physical
2 injury to a non participant, which obviously would be Ms.
3 Eloise, or uses or threatens use of a dangerous instrument or
4 displays what appears to be a knife or a firearm, okay, so
5 that's what we're looking here. Did he threaten the use of
6 a dangerous instrument; did he point that stun gun with how
7 ever many volts it was, nine thousand volts, I don't know,
8 did he point that at an eighty one year old woman and say
9 give me your money. That's for you to decide; that's for
10 your to apply to the law in the case. That's burglary first
11 degree and I'll go through some of the facts and as I said
12 before beyond a reasonable doubt, ladies and gentlemen, he is
13 guilty of that crime.

14 Armed robbery, taking or attempting to take and
15 carrying away the personal property of another. Did he take
16 her money, yes; did he attempt to deprive her of possession,
17 yes. He didn't take it and say, ah, I've changed my mind,
18 sorry, I shouldn't have done this and gave it back. We see
19 him at Food Lion later that night spending her money.

20 By use of force, threats, or intimidation, well I
21 think we all know you're at home alone minding your own
22 business and somebody you don't, this tall, big, tattoos,
23 comes up to you, points a stun gun in your face, I don't
24 know, I think that's threatening and intimidating, but that's
25 for you to decide.

1 While armed with a deadly weapon or while having in
2 possession an object which the victim reasonably believed to
3 be a deadly weapon. Ms. Eloise, eighty one years old,
4 sitting in her house minding her own business, sitting there
5 and has this tall man pointing this at her. Remember she
6 told you I could see the red glow, see the red glow, that has
7 to be scary, give me your money, go to the bedroom, unbutton
8 your pants. I mean how far does it have to go for it be
9 intimidating, threatening, use of a weapon, guilty beyond a
10 reasonable doubt.

11 Then we have kidnaping, and like I said before
12 kidnaping is not what we see on t.v. the glorified, somebody
13 throw them in the van, I don't know, there are some of
14 those, but that's not normally what we deal with, and the law
15 understands that and Your Honor is going to read this to you
16 because kidnaping a lot of times can be very subtle in the
17 way it appears. She's sitting in her home, well she's in her
18 home how could it be kidnaping, okay, well I'll tell you how
19 it can be kidnaping.

20 You're in there with a stranger who's threatening
21 you, who's taking your money, doing something without
22 authority of law. Did he have authority of law to go in
23 there and take her money, to confine her in her own home. He
24 made her get on that bed and with that robe that I put on
25 pulled the inner strings out and tried to tie her up as if

1 she's going to jump on him or something, as if she couldn't
2 even get on the high bed, she had to go to the other bedroom.
3 He doesn't even waste his time, he says, oh, you can't get on
4 that bed, well I'm not finished with you, you're getting on
5 the low bed, we're going to get you on that bed.

6 She tries to stop him from grabbing her buttons so
7 he ties her up or tries but Ms. Eloise is a fighter. She
8 wasn't going to sit there and let him do it. She struggled;
9 she was pushing away from him. She's not going to let him do
10 it; she's not going to be a victim, not going to do it. He
11 can't get the strings around her arms.

12 She starts crying out for her son. She tells you
13 she starts crying out for the good Lord, I don't know why,
14 and you can think about it yourself, why is usually the
15 question I can't answer for people. I'm not required to; I
16 just have to show you these things beyond a reasonable doubt,
17 but he stopped, he left, but he confined her by any means he
18 could without authority of law, beyond a reasonable doubt.

19 Now here's the one crime nobody wants to think
20 about, consider. We want to all block out of our mind that
21 there would not be enough evil intent in this world by a
22 person to want to do this to an eighty-one-year-old woman
23 living alone, and again remember how I just told you I can't
24 give you why. I can't answer those questions, again I don't
25 have to, that's for you to decide, and we may never know, but

1 Ms. Eloise told you he told me to get on that tall bed and I
2 told him I couldn't do it. Did he assault her? An assault,
3 putting something in the fear, not wanting to be touched, do
4 you think she wanted him to touch her? That's an assault,
5 upon the victim by the defendant who intended to commit a
6 sexual battery against the victim.

7 Sexual battery can be intercourse, any slight
8 penetration of her genital area. He never got to that point,
9 good, I can live with that. that's fine, but let's think
10 about why someone would put an eighty one year old woman on
11 the bed and tell her to unbutton her pants. Are they going
12 to compare tattoos, I don't think so. What is he doing
13 having that woman get on the bed and when he can't her on the
14 tall bed he could have stopped there and hauled right out of
15 that house but he didn't. Okay, let's move to this other
16 bed, come on, get up here. Well she can get on that one,
17 he's like pull your pants down, unbutton those pants and
18 whenever she wouldn't do it he was going to do it for her.
19 Only when she cried out for her son, only when she started
20 praying for the Lord did that rape which might have been
21 accomplished because of that bravery of that woman right
22 there did it not happen. That is the only reason why.

23 And Your Honor is going to read out the law. If
24 I've misrepresented anything in regards to what the law is
25 you disregard me, you listen to the judge. He is the one

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1 who's going to tell you what the law is, what you are to
2 apply, okay, so what I want to do now is we've called several
3 witnesses in this case.

4 I'm not going to get into every single witnesses
5 statement but I just want to kind of list out the people to
6 you so you can remember and I can explain to you why maybe
7 like why did she call that person, they weren't really very
8 helpful, but I'm just trying to lay out an entire picture for
9 you and sometimes it gets tedious; and that part of it is a
10 part of my job I don't like but it's the part of my job that
11 I have to do because I do not want nay of you to go into that
12 jury room and sit there and wonder what about this, what
13 about that. I'm giving you everything that's relevant and
14 admissible.

15 Now I'll tell you, you've obviously heard from
16 Eloise Martin and I've talked about her and I think she just
17 basically stands for herself. I mean there's not really much
18 else I can tell you about Ms. Eloise.

19 Joyce Grate, if you remember she's from Loris P.D.
20 and she's the one that took the call. She confirmed that she
21 got a call from Ms. Eloise like, you know, minutes after this
22 happened that a man came into her house with tattoos and a
23 gray button down shirt and had robbed her, okay, so we
24 already have somewhat of a description of who came into her
25 home.

1 Then we have Lieutenant Karen Baker, now Shepherd,
2 she comes in there, Alicia Miller, Officer Miller, comes in
3 there, and Karen is the one that finds the stun gun in the
4 yard. Alicia Miller is the one that observes Ms. Eloise
5 right away, says she's distraught, can't even write her own
6 statement. So she sits there with her, goes through her
7 statement, witnesses the statement, gets all these details
8 from her, from what he looks like, and, you know, he's a
9 white male, kind of a dark complected white male, has acne
10 scarring on his face or some type of pot marks on his face.
11 He has neck tattoos, tattoos on his forearms. You know, she
12 could have just said he has tattoos everywhere, I mean she's
13 specific, a gray button down shirt, a red hat, work boots,
14 dark jeans. I mean I don't even know if I could be that
15 detailed. She tells you everything about this guy, what he
16 says, how he gets into the house, the color of the car that
17 pulls up in his yard. I saw it was a South Carolina tag but
18 I just couldn't get the number. She almost apologetic to the
19 police, okay.

20 All right, so we get all of that within minutes of
21 this happening, Then Ms. Shepherd, Lieutenant Shepherd, she
22 gets the stun gun, she thinks it's a cell phone. She picks
23 it up, looks at it and realizes this is what that black box
24 is that Ms. Eloise was talking about with the light on it, so
25 she knows at that point to bag it, let's see if we can get

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1 some type of evidence off of this item, okay, but she's
2 touched it, you know, and that happens in a crime scene. I
3 mean that's just inevitable, so she puts it in the bag, you
4 know, we'll get to that later.

5 Then we have Chief Vaught, but Chief Vaught doesn't
6 know the defendant, he doesn't know Ms. Eloise, well he knows
7 them both very well now. What he does is he starts his
8 investigation. He talks to Randy Lucas, do you remember
9 Randy, he's the one that lives across from Ms. Eloise. He's
10 the one that came in and said, you know what, Ms. Eloise
11 she's been living by herself for longer than I can remember.
12 She was there whenever I moved into the neighborhood, [REDACTED]
13 Street, okay. He said he cuts her grass sometimes. He
14 remembers Herbert Causey. He's one of the first people that
15 Mr. Vaught talks to, Chief Vaught does, and what he finds out
16 is I'm getting information as to who this person can be
17 already within, you know, hours. I mean that is phenomenal
18 because what you have is, you know, a description of this
19 person and then you go and talk to a neighbor says, oh, yeah,
20 I know somebody who looks like that, Herbert Causey. He
21 lived next door, wow, then that's probably somebody who knows
22 Ms. Eloise would be alone, and he said I know his girlfriend
23 Tonia Huggins. She lived next door to her, too. What kind
24 of car did she [REDACTED]; I don't know dark green Ford Taurus or
25 Mercury Sable. Boom, check another thing off we know now.

1 Does he have tattoos, yeah, all over his body.

2 Then we have Tonia Huggins, the first time she
3 talks to Chief Vaught she admitted to you that she lied to
4 him. That was January the 27th, the day after the crime.
5 She tells you Chief Vaught came to me and I lied to him and
6 told him my vehicle was with me the whole day I worked at
7 Conway Manor on January the 26th. Well we know that's a lie
8 and she admitted it to you. She was already covering up for
9 his crime, already within twenty four hours, but it continued
10 to unravel, okay.

11 Then she said, told Chief Vaught on January 27th,
12 oh, I got to go, I got to go, I got to get to work, I'm going
13 to be late. Well we all know she never went back to working
14 at Conway Manor. It was January the 27th, you've got her
15 work records; they're going to be in evidence. You can look
16 at them; she never went back to her job that even Linda
17 Yearout who's from Conway Manor said she was a good employee,
18 making money, doing fine but what did she do, she just
19 doesn't show up again. Coincidence, that's up to you. She
20 doesn't go back; she has to help keep him from getting in
21 trouble or she just has to lay low to avoid being put in the
22 middle of it but we all know it catches it up to you and it
23 did.

24 Then Teresa Martin, she confirmed she was with
25 Marty Huggins, Tonia, and Herbert on the evening of January

1 26th, okay, so we have everybody together on that evening.
2 What we have is confirmation that these three individuals,
3 Marty Huggins, who is Tonia's brother, Tonia and Herbert,
4 going to the Food Lion and you've seen pictures of that.

5 Then we have Lisa Sarvis on January 31st she's
6 interviewed by Chief Vaught as well and she tells you she's
7 on the phone with Tonia and she used to work with Tonia,
8 Tonia was her supervisor. She used to see her; she said a
9 hundred percent sure she knew it was Tonia that called her
10 and that Herbert was in the background and what did she say
11 Herbert said, and you can, you know, ask to listen to any of
12 the testimony if you forget, but she clearly says I could
13 hear him in the background and he was saying I just went in
14 and took some money and left, I didn't hurt anyone. How sure
15 are you, Ms. Sarvis, that it was Herbert Causey that you
16 heard, a hundred percent sure. Well tell us what he looks
17 like; he's got tattoos all over his body, neck and forearms.
18 She tells you Tonia was making excuses for Herbert saying he
19 didn't have a job, that's why he did it.

20 Then I've told you about Linda Yearout, she is the
21 one from Conway Manor.

22 Lisa Page, she comes in here and tells you from
23 Allen's Scrap Metal that Tonia Huggins crushed her car. Well
24 I mean she's just doing her job. She doesn't know why it was
25 crushed. They don't ask why it's crushed. That's the reason

1 why I asked her, you know, what do you do and background
2 checks and things like that, she crushed it. That's it. Is
3 that a coincidence that on January 28th, two days after the
4 crime that the vehicle used in the crime is crushed, but, oh,
5 I'm sorry, I forgot the transmission wouldn't go, you know,
6 the transmission, that's why it was crushed, had nothing to
7 do with the crime. We'll just, we'll forget about that.

8 All right, Karen Narcisi, the Food Lion employee.
9 The reason why I called her is because one of the things I
10 have to do as working for the state is I have to show a chain
11 of where everything comes from cause I don't want to sit up
12 here and tell you this is something and claim it's something,
13 I've got to show you where it came from. It helps with its
14 authenticity. That's the reason why she was up there. She
15 doesn't offer anything else but she does help us get to the
16 point of the security surveillance and you've seen the still
17 shots of that and I'll show them to you again.

18 Then we have Tonia Huggins and Marty Huggins.
19 Trust me they did not want to be here. Tonia was interviewed
20 again on February 1st of 2011. This time Chief Vaught finds
21 her at her house with her sister Teresa. She doesn't
22 remember anything, ladies and gentlemen. She's stressed.
23 She's pregnant with his baby so she's going to figure out a
24 way to make that statement she gave six days after the crime
25 or five days, she's going to figure out a way to not make it

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1 count and how does she do that. Um, I don't know, she
2 doesn't do it real quick; she waits until June to recant her
3 statement but that's because it's taken that long from her
4 visits with the defendant at J. Reuben Long Detention Center
5 to figure out what she should do. She admitted that to all
6 of you that they thought of it.

7 Now why is her statement so bad? Well you're going
8 to have the entire statement back there but this one this is
9 it, page two, we took our brother Marty to work at Expert
10 Air. We came back to [REDACTED] about 10:30 January
11 26th, 2011. Herbert took me to work at Conway Manor Nursing
12 Home, Conway, South Carolina. Herbert left me at work and
13 left with my car. I next saw Herbert about 8:00 January
14 26th, 2011. Now remember she's not writing this; this is
15 Chief Vaught and Karen Shepherd who were witnessing it, but
16 she initials it and signs it. We drove to Marty's house on
17 [REDACTED] Circle in Longs. On the way to Marty's house Herbert
18 told that he had done something I would not forgive him for.
19 He told me that he would talk to me later about it. We spent
20 the night at Marty's house.

21 The next day Herbert told me that he was going to
22 jail. He told me that he knocked on a door and asked a lady
23 if he could use the bathroom. According to Herbert the lady
24 let him in the house and she saw, and he saw an envelope on
25 the bed and that he took it. Herbert said then there was

1 money in the envelope. I do not know how much money. When
2 Herbert took me to work on January 26th he did not have
3 money. When he picked me up at work we stopped at a store
4 and Herbert had money. I saw twenty dollar bill, a five
5 dollar bill, and some ones.

6 On January 27th Herbert told me that he had lost
7 his stun gun. He told me that he had it at the lady's house
8 when he took the money. Herbert said he was afraid that he
9 would be charged with armed robbery if he lost it at the
10 lady's house. He said that he did not use the stun gun, and
11 you can read the rest of it for yourselves, but details,
12 ladies and gentlemen, truth lies in the details. That's a
13 lot of detail and we know she wasn't there; she was at work.

14 And then Heather Brommett and Amanda Webb were
15 called because they actually were the ones who do the crime
16 scene and process the stun gun and the swabs and everything
17 like that and one of the things that, that Amanda Webb, the
18 expert told you was, you know, I don't always expect to find
19 something. It depends a lot on the actual type of item, the
20 material that is used, the material that I'm testing, what
21 was swabbed. She said that a harder or a slicker or some
22 type of object like that is not necessarily going to be one
23 that's going to have touch DNA cause touch DNA comes from
24 sweat and oils off of your fingers. It's amazing, I mean you
25 could leave it anywhere and I'm sure the defense is really

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1 going to hammer on that and I completely understand that but
2 that's why we check for it. We did everything; it wasn't
3 there, but you know what, she told you that usually fabric or
4 something like that might hold in or absorb the touch DNA
5 more so and what's interesting to me and what you should
6 think about whenever if you're worried about the fact that no
7 touch DNA was found remember Karen touched it, too, so if
8 you're worried about the fact that the defendant's wasn't
9 there she touched it hers wasn't there. That's why we get
10 swabs from the officers who collect things at crime scenes so
11 if they do find a DNA profile on there we want to eliminate
12 the officer so we can see whether or not it's the defendant
13 or the suspect. We didn't even get to do that. We didn't go
14 that far cause we never even got a profile. There was not
15 enough but we tried, so everything goes back to Ms. Eloise.
16 Everything goes back to the witnesses. Everything goes back
17 to the statements that you've been provided on that witness
18 stand which is still direct evidence. You are to use that.
19 You are to use your common sense. Don't let the lack of the
20 DNA or the partial fingerprint that couldn't be matched be
21 the thing that sticks out in your mind. It is just one small
22 portion of the investigation and when you look at all of the
23 overwhelming evidence, the overwhelming testimony it's clear
24 that this defendant did this crime.

25 He even puts himself in there when he talked to

1 Chief Vaught. He's in there complaining to the people who
2 are booking him that he's being charged wrong. He's
3 complaining about his charges. He's not saying I didn't do
4 it, I'm being charged wrong. Then when he finally is
5 Mirandized he says Tonia had nothing to do with it, well,
6 thank you, we've figured that out ourselves.

7 Now I'm going to show you, I came up with a time
8 line so you could see how quickly everything unfolded and to
9 help you put it in perspective. Okay, here we go, so you can
10 see how quickly everything unfolded because, you know, when
11 you start to look at everything that happens you sometimes
12 forget, gosh, you know what, this really all did come out
13 really quickly and whenever you look at it that way you can
14 see why when you're able to piece it together clearly it's
15 all about the defendant and the mistakes he made.

16 This is what we have, date of the crime, okay,
17 January 26th. We've got confirmation Tonia and Causey drove
18 to pick up her brother Marty and take him to work. They went
19 to, she got to work around 11:30 a.m. You've got her work
20 records, and then at 3:10, okay, this is the gap right here.
21 This is when the crime is being committed; this is when Ms.
22 Eloise is being burglarized, kidnaped, terrified. 3:10 Loris
23 P.D. dispatched to victim's home, wow, look how quick that
24 is, 3:11 they were there. 3:21 she provides that detailed
25 statement that you saw. 8:03 this gentleman here, Marty

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1 Huggins, and Tonia, I'm sorry, that Huggins should be Tonia
2 right there, enter the Food Lion. Well you've got pictures
3 of that right here. Who's that, Tonia, Herbert, and Marty.
4 What's Marty wearing, gosh, I bet he wish he had changed his
5 clothes that day. I bet he does cause Ms. Eloise told you
6 all about it, told you what he was wearing, sure enough,
7 there he is on camera.

8 8:19 they leave Food Lion. Now the actual security
9 video is in evidence, if you want to see it you can come back
10 out and watch it. It's just, there's no sound, there's no
11 nothing. That's the reason why I gave you the still shots.
12 It basically gives you the information that you need.
13 January 27th, the very next day, oh, I'm sorry, let me talk
14 about that photo I.D. lineup, very very important, cause I
15 know the defense is going to talk about that and I would,
16 too.

17 She couldn't pick out one individual, okay, and you
18 can look at it yourself, but she picked out five and six.
19 It's one of those two, she's distraught. It was the same day
20 where she had been burglarized, terrorized, she couldn't
21 write her own statement, but you know what, guess who's in
22 one of those two, Mr. Causey, okay, so we have that. So
23 we've got a little bit more confirmation on the day of it
24 that he's involved but it gets better; we've got more than
25 that.

1 All right, then that's just the letters from the
2 other page, January 26th where she was saying to Tonia said
3 to the police I drove my car to work and it stayed in the
4 parking lot all day until I left for work that night. Well
5 we know that's not true. Then January the 28th, two days
6 later, Tonia Huggins went to Allen's Scrap Metal and crushed
7 the car because of the transmission obviously. Then we have
8 Tonia Huggins resigned from job at Conway Manor. Well we
9 don't really know she resigned because this is what we have.
10 We have that she just never showed back up. This good
11 employee just doesn't come back.

12 January 31st, interview of Lisa Sarvis, 6:15 p.m.
13 This is the one where remember she said I don't want to be
14 here. She admits Tonia called her and she could hear Causey
15 in the background and you know what it was that was said.

16 Then February 1st Tonia Huggins and Teresa Martin
17 unpacking the trailer. We don't know where they were going
18 or what they were doing, but guess what, Chief Vaught wasn't
19 going to let it go. He wasn't going to let her get away with
20 her attempts and her lies. He found her. She went in to the
21 police department. I bet she didn't want to be there. I bet
22 she was scared because she knew at that point cause Herbert
23 had told her everything. By that time the defendant had
24 spilled the beans so she knew right there when she gave that
25 statement I'm either going to save myself or I'm going to

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1 have to give up my boyfriend. That's what she was worried
2 about. She wasn't worried about Ms. Eloise and what she had
3 been through. She was worried about saving her tail.

4 So by the time they get the statement from Tonia
5 that plugged in all the holes, if there were any at that
6 point, then the arrest warrants are issued, so we have arrest
7 warrants out for Mr. Causey, then February 9th he's finally
8 picked up.

9 Now he's being booked, and remember I told you that
10 he's complaining that he isn't being charged right, why, all
11 I did was ask to use the bathroom, I was invited in by that
12 woman, I did not have a weapon. Now what does that do,
13 whether you want to believe everything or nothing he puts
14 himself in her home just by that comment. He's probably
15 thinking why are ya'll charging me with all this stuff, all
16 I did was go in her house, I didn't hurt that woman. You
17 know what if you can live with yourself by saying that that's
18 fine, maybe that's how he sleeps at night.

19 Then after he was Mirandized he said Tonia had
20 nothing to do with it. I guess he figures at that point I
21 might as well save my girlfriend and he has nothing else.
22 Tonia Huggins signs an affidavit recanting her earlier
23 statement June 27th, after she's visited him, talked to him,
24 figured what can we do because it don't look good.

25 And here the picture of them entering the Food

1 Lion, look at that red hat, look at that gray button up
2 shirt, oh, what's that right there, that's a neck tattoo. I
3 guess she could see it, all right. Here we have, who's that
4 at the register, we've got Tonia, we've got Herbert, red hat,
5 gray shirt, dark jeans, work boots, that's the detail, ladies
6 and gentlemen, where's Tonia. Same thing, and here we have,
7 what in the world, Mr. Causey has some money.

8 Yeah, that might seem a little insignificant if you
9 take each little piece apart, but when you put it all
10 together, ladies and gentlemen, there's only one thing it can
11 be, only one thing, Herbert Causey broke into Ms. Eloise's
12 house. Herbert Causey had a moment, thank you, Heather, he
13 could have kept on getting in that car after he made that
14 ruse about needing some mail but, no, he had evil intent.
15 He's like I walked in there and sure enough she's alone. He
16 had to check that out first. He walked off. He comes back
17 in, got to use your bathroom. He don't want to use the
18 bathroom, he don't care. It never was meant to be. It was
19 always an intent to rob what he believed to be a vulnerable
20 eighty one year old woman who lived alone. He met his match;
21 he met his match.

22 The bravery of an eighty-one-year-old woman, it's
23 amazing. She came in here and told every single one of you
24 about it. You know Randy told you she used to speak well,
25 she used to not stutter, she would [REDACTED] herself around. You

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1 know what she might stutter now, she might have a little bit
2 of fear, she might not would open the door for you if you
3 knocked on her door anymore, maybe that's a good thing, but
4 I tell you what that woman right there she is not a victim,
5 and that defendant over there he had evil intent. He
6 burglarized that woman with a weapon. He tried to tie her
7 up. I think we can all be glad she wasn't raped but there is
8 no explanation for why he put her on that bed and had her
9 unbutton her pants.

10 I am asking each and every one of you to talk about
11 it, look at the evidence. You have everything, make the
12 right decision, find him guilty on all four counts. Today is
13 Ms. Eloise's day for justice, thank you for listening.

14 The Court: Thank you. Mr. Floyd?

15 Mr. Floyd: May it please the court, Your Honor?

16 The Court: Yes.

17 **Closing Argument**

18 **By Mr. Floyd:**

19 Good morning, ladies and gentlemen. Let me start
20 off by telling you that what I say at this point in time or
21 the solicitor says is not evidence in this case. Ya'll have
22 heard the evidence in this case from the witness stand and
23 from various exhibits that have been put into evidence.
24 You'll have them with you back in your jury room.

25 What I want to do and I may refer to some witnesses

1 statement and if I'm wrong then you take what you remember
2 hearing from this witness stand back to you in the courtroom
3 or back into your jury room, excuse me, but I do want to talk
4 to you about the facts of this case and the law and what my
5 opinion of the evidence shows.

6 The first thing, well I take that back last, let's
7 talk about the taser, the stun gun that has been referred to.
8 Ms. Martin, the only time she mentions it in this statement
9 that the state referred to as being a detailed statement is
10 to say a black box with a red light on it. When she
11 testified in the courtroom she referred to it as a little
12 black gun like for the boys. At another point referred to it
13 as a, I believe as a water gun. That's important because it
14 wasn't until everything was over she testified to that the
15 police department told her what it was. I'm not saying Ms.
16 Martin wasn't scared; I'm not saying she wasn't frightened,
17 but that gun, stun gun, taser, however you want to refer to
18 it, was never a threat to her. She never saw it as a threat.
19 You heard that in her handwritten statement and from the
20 witness stand.

21 The state referred to it as being up in her face,
22 that was never in her statement. That was never from the
23 witness stand. It was never used on her because as she said
24 she thought it was for the boys, water gun type pistol.
25 That's important, I think, very important when I come back

1 and talk to you about the law.

2 Now a lot of stuff is what it is and we've heard
3 talk about touch DNA. The State even mentioned how it can be
4 brought off with cloth a lot better than hard, it could be
5 brought off of cloth a lot easier, wasn't anything attempted.

6 Now this happened to Ms. Martin in her home, no
7 question about that, that hadn't been denied. The police go
8 in, they tape record nobody's statement. The ones that are
9 written are not written by the individual; they were written
10 by the police, and the reason the defense attorneys always
11 make a big deal out of that is because there are a handful of
12 people that can take down accurately everything and even they
13 use tape recorders, they're called court reporters.

14 Let's talk about what went on, we've heard all the
15 evidence, all the testimony, all the differences. Let's
16 start with assault with intent to commit criminal sexual
17 conduct. Intended to commit sexual battery, there's no easy
18 way to say this other than just put it right out there for
19 you, there was nobody around, there was nobody to interrupt
20 you, there was nobody anywhere near there. If there had been
21 attempt to commit a sexual battery it would have been
22 accomplished. There's no easier way to say it. You're going
23 to hear the judge, I'm pretty certain of his charges, bring
24 your common sense to the courtroom with you. Look at the
25 pictures of the houses, if there had been an attempt for that

1 it would have occurred but it didn't, what occurred was
2 robbery.

3 Kidnaping, under South Carolina's law there's not
4 much you can say about kidnaping. I know what my view of it
5 is but South Carolina's law is what it is. Ms. Martin was
6 standing at her window of her house watching the green car
7 pull away and if you look at the pictures of the victim's
8 house the green car was parked right in front of the door and
9 the porch isn't any bigger than this, in short Ms. Martin
10 pretty much walked out the door. The judge is going to
11 charge you the law, I submit to you that that is not
12 kidnaping.

13 Armed robbery, the big one to get into here armed
14 with a deadly weapon with possession of a object which the
15 victim reasonably believed to be a deadly weapon. I submit
16 to you first of all the taser is not a deadly weapon. As you
17 heard law enforcement, Loris police officer all over the
18 place, they've gotten rid of what they call the batons that
19 they've hit people and went to tasers. That's because
20 they're designed not to be deadly weapons. Reasonably
21 believed to be a deadly weapon, Ms. Martin testified she
22 didn't know what it was until after the fact when the police
23 told her. Up until that time thought it was a water gun type
24 thing for the kids.

25 Now let's talk about the burglary, entering a

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1 dwelling without consent, didn't happen. Herbert Causey
2 walked up to the door and asked if he had gotten any mail
3 there, that he used to live next door, and you've heard from
4 the Loris Police Department, several witnesses, Herbert lived
5 right next door up until just a couple of months prior to
6 that. Herbert Causey asked to go to the bathroom and he went
7 to the bathroom. No trickery, did right what he said he was
8 going to do and Ms. Martin allowed him to go to the bathroom.

9 She was scared, no question about that, I think
10 anybody would have been, but the charge is all wrong here.
11 What went on here the judge is going to tell you about, it's
12 called strong armed robbery or also people refer to it
13 sometimes as common law robbery, and it involves stealing
14 from a person using threats or intimidation. That's what
15 happened that day; that's what the evidence shows.
16 Everything else, this evidence, is far reached; that's all it
17 is. That's why we're here today.

18 We ask you to look at all the evidence cause this
19 is an important case and we ask you to return a verdict of
20 common law robbery and nothing but common law robbery cause,
21 Ladies and Gentlemen, that is all that happened that day,
22 thank you.

23 The Court: Mr. Floyd, would you move that easel
24 for me, please, sir.

25 Mr. Floyd: Yes, sir, I apologize.

1 The Court: Thank you.

2 Jury Charge

3 By The Court:

4 All right, members of the jury it is now my duty to
5 instruct you on the law applicable to this case and it is
6 your duty as jurors to accept and apply the law as I now
7 state it to you.

8 Furthermore, it is your exclusive duty to decide
9 all the issues of fact in this case and to determine the
10 effect, value, weight, and truth of the evidence.

11 Both the state and the defendant have the right to
12 expect that you will carefully consider and evaluate the
13 evidence and apply the law of this case to it so that in the
14 end both the State of South Carolina and this defendant will
15 have received a fair and impartial trial.

16 I want you to understand that when I use the word
17 defendant I refer to Mr. Herbert Leonard Causey.
18 Furthermore, it is important to understand that the State of
19 South Carolina charges the defendant Herbert Causey with the
20 offenses known as kidnaping, armed robbery, burglary first
21 degree, and assault with intent to commit criminal sexual
22 conduct first degree.

23 To these charges the defendant has entered a plea
24 of not guilty. This plea of not guilty places the burden of
25 proof on the State of South Carolina to prove the guilt of

1 the defendant to you the jury beyond a reasonable doubt.

2 It is vital to understand that the defendant is
3 presumed under the law to be innocent of these charges. It
4 is a fundamental rule of our law that a defendant
5 irrespective of the seriousness of the charges against him is
6 always presumed innocent of the crimes for which he is
7 charged unless and until his guilt has been proved by
8 evidence that satisfies you the jury beyond a reasonable
9 doubt.

10 The presumption of innocence is not a mere legal
11 theory or legal phrase. The presumption of innocence is very
12 important and you need to understand that this presumption
13 accompanies the defendant from the time of his arrest and
14 appearance in this court and continues with the defendant
15 even after you retire to the jury room to deliberate.

16 In other words, the defendant receives the benefit
17 of the presumption of innocence until the very end of this
18 trial when you the jury would deliberate upon the evidence
19 and decide whether the state has proved his guilt beyond a
20 reasonable doubt.

21 Proof beyond a reasonable doubt is proof that
22 leaves you firmly convinced of the defendant's guilt. There
23 are few things in this world that we know with absolute
24 certainty so even in criminal cases the law does not require
25 proof that overcomes every possible doubt, however, if based

1 upon your consideration of the evidence you are firmly
2 convinced the defendant is guilty of the crime charged you
3 must find him guilty. However, if on the other hand you
4 think there is a real possibility that he is not guilty you
5 must give him the benefit of the doubt and find him not
6 guilty.

7 Please understand that reasonable doubt may arise
8 from evidence which has been presented in the case and from
9 the lack of evidence in the case. It is your responsibility
10 to determine whether or not reasonable doubt exists as to the
11 guilt of this defendant.

12 I charge you that the defendant is entitled to
13 every reasonable doubt arising in the whole case or arising
14 at any defenses asserted by the defendant. If upon any
15 issues of fact essential to conviction and a verdict of
16 guilty you have a reasonable doubt as to how that issue
17 should be resolved it would be your duty to resolve that
18 reasonable doubt in favor of the defendant.

19 Thus in summary it is important to understand that
20 a defendant is not required to prove his innocence. Instead
21 the state is required by law to prove every essential element
22 of the offense charged against the defendant by evidence
23 which satisfies you of his guilt beyond a reasonable doubt.
24 Only then can you convict a defendant and find him guilty.

25 Evidence may be direct or circumstantial. Direct

1 evidence is testimony by a witness about what the witness
2 personally saw or heard or did

3 Circumstantial evidence is indirect evidence. That
4 is it is proof of one or more facts from which one can find
5 another fact.

6 You are to consider both direct and circumstantial
7 evidence. The law permits you to give equal weight to both
8 but it is for you to decide how much weight to give to any
9 evidence.

10 During this trial you and you have separate duties
11 to perform. As the trial judge it is my responsibility to
12 preside over this trial. I also have the duty to rule upon
13 the admissibility of the evidence offered during the trial.
14 In that regard you are to consider only the evidence before
15 you. Thus you are to consider only the testimony which has
16 been presented from this witness stand together with any
17 exhibits admitted into the record of the case.

18 Furthermore, I have the additional duty to charge
19 you on the law applicable to this case and in that regard it
20 is your duty to accept and apply the law as I now state it to
21 you. If you have any preconceived ideas as to what the law
22 is or what the law ought to be and it does not agree with
23 what I tell you the law is you are obligated under your oath
24 as jurors to abandon these preconceptions because you are
25 sworn to accept the law as I now state it to you.

1 In this trial you are the sole and exclusive judge
2 of the facts and I am the judge of the law. Do not infer
3 that I have any opinion about the facts in this case from
4 anything I have said during the course of this trial. In
5 this regard the law simply does not permit me to have an
6 opinion about the facts.

7 As jurors it is your duty alone to determine the
8 effect, value, weight and truth of the evidence presented
9 during the course of this trial.

10 Furthermore it is your job as jurors to determine
11 the credibility and believability of the witnesses who have
12 testified in this case. You must evaluate the evidence and
13 determine which evidence convinces you of its truth.

14 In determining the believability of witnesses who
15 have testified in this trial you may believe one witness over
16 many or many over one. You may believe a part of the
17 testimony of a witness and reject the remaining part. You
18 may believe the testimony of a witness in its entirety or
19 reject it in full. You may consider whether the witness has
20 an interest in the result of the trial, whether the witness
21 is prejudiced toward either party, the opportunity for the
22 witness to have seen the matters and things about which the
23 witness may testify, and the way the witness acts on the
24 witness stand.

* 25 I further instruct you the fact that the defendant

1 in this trial did not testify on his own behalf is not a
2 factor to be considered by you in any way in your
3 deliberations and in your consideration on the question of
4 guilt or innocence.

5 In this regard a defendant has the constitutional
6 right to remain silent and the exercise of this right must
7 not be considered by you in your deliberations. The fact
8 that the defendant did not testify should not even be
9 discussed in the jury room.

10 The burden of proof as I stated to you is on the
11 State. The defendant is not obligated to prove his
12 innocence. The burden of proof remains with the State to
13 prove the defendant's guilt beyond a reasonable doubt and the
14 fact that a defendant did not testify is not a factor to be
15 considered by you in deciding the guilt or innocence of a
16 defendant.

17 When you consider the whole case if you have a
18 reasonable doubt as to the guilt or innocence of the
19 defendant then he is entitled to that reasonable doubt and
20 would be entitled to a verdict of not guilty.

21 However, if upon considering the whole case you
22 find that the State has proved by evidence which satisfies
23 you of the guilt of the defendant beyond a reasonable doubt
24 then in such circumstance it would equally be your duty to
25 convict the defendant and find him guilty.

1 Furthermore, you have heard testimony from persons
2 described as experts. Persons who by their education and
3 experience have become expert in some field may state their
4 opinion on matters in that field and may also state their
5 reasons for their opinions. You should judge expert opinion
6 testimony just like any other testimony. You may accept it
7 or reject it and give it as much weight as you think it
8 deserves considering the witness' education and experience.
9 the reasons given for the opinion, and all the other evidence
10 in the case.

11 Also, please, understand that the testimony of a
12 police officer is not entitled to more weight than that of
13 any other witness. You are the sole judges of the
14 credibility of a witness and you are not to give more weight
15 to a police officer's testimony solely because he is a police
16 officer, rather you should judge an officer's testimony by
17 the same standards that you apply to all other witnesses.

18 Please understand that you have the right to
19 believe a small portion of a witness' testimony and disregard
20 the larger portion or vice versa. You may believe all of a
21 witness' testimony or none. You may believe the testimony of
22 a single witness against that of many or the other way
23 around.

24 In exercising your mental processes and attempting
25 to decide the truth the law simply requires that you exercise

1 your good judgment, your common sense, your sense of logic
2 and reason and your experiences in life. You then apply
3 these attributes to the evidence and apply the law as I now
4 state it to you and thus arrive at a verdict.

5 The defendant is charged with kidnaping. The State
6 must prove beyond a reasonable doubt that the defendant
7 knowingly and unlawfully seized, confined, inveigled,
8 decoyed, kidnaped, abducted, or carried away another person
9 without authority of law. To do a thing unlawfully is do it
10 willfully against the law.

11 * Knowingly means with knowledge, consciously, not
12 accidentally. Seize means to take hold of suddenly or
13 forcibly. Confine means to limit, restrict, or enclose
14 within bounds, imprison or shut or keep in.

15 Inveigle means to lure, entice, or lead astray by
16 false representation, promises or other deceitful means.

17 Decoy means to lure by or as if by decoy. A decoy
18 is something to entice a person into a trap.

19 Kidnap is to remove a person against his will by
20 unlawful force or by fraud.

21 Abduct means to carry off secretly or by force for
22 an illegal purpose.

23 Carry away means to remove.

24 The State does not to prove that the defendant did
25 all of these things. Instead if you find beyond a reasonable

1 doubt that the defendant did any of these things you may find
2 the defendant guilty of kidnaping.

3 Something done without authority of law is
4 something which the law does not sanction, permit, allow,
5 condone, or provide justification for.

6 The kidnaping does not have to be for any personal
7 or monetary gain, for any illegal purpose, but may be for any
8 reason whatsoever.

9 The defendant is also charged with armed robbery.
10 In order to prove this offense the State must first prove
11 beyond a reasonable doubt that the defendant took personal
12 property from the person or presence of another person.

13 Property is in the presence of a person if it is
14 within the person's reach, inspection, observation, or
15 control so that the person could if not overcome with
16 violence or prevented by fear keep possession of the
17 property.

18 The State must prove beyond a reasonable doubt that
19 the defendant carried the property away intending to
20 permanently deprive the owner of the property and to keep the
21 property for the defendant's own use. The slightest removal
22 of the property or the complete possession of the property
23 even for an instant by the defendant is sufficient to show a
24 taking and carrying away of the property.

25 The taking and carrying away of the property must

1 be done with violence or by putting the owner of the property
2 in fear of violence.

3 Finally the State must prove beyond a reasonable
4 doubt that the defendant was armed with a deadly weapon
5 during the robbery.

6 A deadly weapon is any article, instrument, or
7 substance which is likely to cause death or great bodily
8 harm. Whether an instrument has been used as a deadly weapon
9 depends on the facts and circumstances of each case.

10 The following are examples of instruments which may
11 be deadly weapons, a pistol, shotgun, rifle, dirk, dagger,
12 knife, slingshot, metal knuckles, razor, gasoline, fire bomb,
13 molotov cocktail, and lighter fluid. A gun may be a deadly
14 weapon even if it is not operating. Ordinarily objects may
15 become deadly weapons when the facts show that they have been
16 used to inflict serious bodily harm or death.

17 If you find that the State has failed to prove that
18 the defendant was armed with a deadly weapon you may then
19 consider whether the State has proved beyond a reasonable
20 doubt that the defendant committed robbery.

21 In order to prove robbery the State must prove
22 beyond a reasonable doubt all of the elements I have just
23 explained except that the defendant was armed with a deadly
24 weapon.

25 The defendant is also charged with first degree

1 burglary. The State must first prove beyond a reasonable
2 doubt that the defendant entered a dwelling without consent.
3 A dwelling is any building or a portion of a building in
4 which a person ordinarily sleeps. A building constructed as
5 a dwelling that has never been occupied cannot be considered
6 a dwelling for purposes of burglary but a building is a
7 dwelling even if the residents are temporarily absent from
8 the building.

9 In order to prove that the defendant entered the
10 dwelling the State must not have, the State does not have to
11 show that the defendant's entire body entered the dwelling.
12 The smallest entry is sufficient. It may be any part of a
13 body such as a hand or foot or even an instrument such as a
14 hook or other instrument. In addition the State does not
15 have to prove that force was used to gain entry.

16 If a person enters a building by using deception,
17 artifice, trick, or misrepresentation to get consent to enter
18 this is an entry without consent.

19 Next the State must prove beyond a reasonable doubt
20 that the defendant intended to commit a crime either a felony
21 or a misdemeanor at the time of the entry.

22 The mere entry into a dwelling without consent is
23 not burglary. If the intent to commit a crime is formed
24 after the entry it is not burglary. On the other hand if the
25 defendant intended to commit a crime at the time of the entry

1 it is a burglary even if the intent was abandoned after the
2 entry. It does not matter that the intended crime was not
3 completed.

4 Intent may be shown by acts and conduct of the
5 defendant and other circumstances from which you may
6 naturally and reasonably infer intent.

7 Finally the State must prove beyond a reasonable
8 doubt that when entering while in the dwelling or when
9 fleeing the defendant was armed with a deadly weapon or
10 explosive.

11 Earlier in this charge when I charged you on the
12 elements of armed robbery I gave you the definition of a
13 deadly weapon and provided examples of instruments which may
14 be deadly weapons. That same definition of a deadly weapon
15 and those same examples apply to this charge of burglary
16 first degree or when entering while in the dwelling or when
17 fleeing the defendant used or threatened to use a dangerous
18 object or when entering while in the dwelling or when fleeing
19 the defendant displayed what was or appeared to be a knife,
20 pistol, rifle, shotgun, revolver, machine gun, or other
21 firearm.

22 The defendant is also charged with assault with
23 intent to commit first degree criminal sexual conduct. The
24 State must prove beyond a reasonable doubt that the defendant
25 committed an assault on the victim with the intent to commit

1 first degree criminal sexual conduct.

2 The first element which the State must prove beyond
3 a reasonable doubt is that the defendant committed an
4 assault. An assault occurs when a person violently or
5 forcibly attempts to injure or hurt another person and has
6 the present ability to complete the attempted injury.

7 An assault is the intentional creation of fear of
8 immediate bodily harm.

9 Next the State must first, next the State must
10 prove beyond a reasonable doubt that the defendant intended
11 to engage in a sexual battery with the victim.

12 Intent means intending the result which actually
13 occurs and not accidentally or involuntary. Intend may be
14 shown by acts and conducts of the defendant and other
15 circumstances from which you may naturally and reasonably
16 infer intent.

17 A sexual battery is sexual intercourse,
18 cunnilingus, fellatio, anal intercourse or any intrusion
19 however slight of any part of a persons body or of any object
20 into the genital or anal openings of another persons body
21 except when the intrusion is accomplished for medically
22 recognized treatment or diagnostic purposes.

23 The State must also prove beyond a reasonable doubt
24 that the defendant intended to use aggravated force to
25 accomplish the sexual battery.

1 Aggravated force means the use of physical force or
2 physical violence of a high and aggravated nature to overcome
3 the victim.

4 This includes the threat of using a deadly weapon
5 or the defendant intended for the victim to submit to sexual
6 battery while the victim was also the victim of forcible
7 confinement, kidnaping, robbery, extortion, burglary,
8 housebreaking, or any other similar act or offense.

9 Ladies and gentlemen, I'm now drawing near the end
10 of my charge and I want you to clearly understand that you
11 are not partisans or advocates for the State or this
12 defendant. You do not serve as jurors to award your friends
13 or punish your enemies. In this regard you have been
14 selected by both the State of South Carolina and this
15 defendant to be fair and impartial jurors.

16 It is your duty by your joint deliberations to
17 determine the truth in this case giving to this defendant the
18 benefit of every reasonable doubt on each and every issue
19 then to the facts which you determine to be true you should
20 take and apply the law which has been given to you by this
21 court and thus arrive at a verdict which speaks the truth in
22 this case.

23 In fact the word verdict which has a Latin
24 derivative means a true saying, thus when you have
25 accomplished those responsibilities you will have satisfied

1 your oath as jurors and you will have discharged your duty to
2 this court.

3 Now, Mr. Bailiff, if you, Ms. Bailiff, if you would
4 hand the foreman the verdict form?

5 Now, Mr. Foreman, I have handed you the verdict
6 form. When you arrive at a verdict in this case you will
7 write your verdict on the form. For the charge if the State
8 has failed to prove the guilt of the defendant beyond a
9 reasonable doubt your verdict, of course, will be not guilty.

10 However, should the State have proved their case
11 against the defendant beyond a reasonable doubt then your
12 verdict would be one word, guilty.

13 Mr. Foreman, once the decision has been made just
14 check whichever choices are your verdict.

15 The verdict that you render in this case must be
16 the verdict of each and every juror. It must be your
17 unanimous verdict, all twelve jurors must agree on the
18 verdict which you authorize the foreman to write for the
19 jury.

20 Mr. Foreman, and members of the jury, I want you to
21 further understand that the order in which the choices of the
22 verdict appear on the verdict form are not suggestive of any
23 verdict on the part of this court. The verdict in this case
24 is to be determined by you the jury and not this court. The
25 verdict in this case is to be determined only by you and

1 nobody else in this court.

2 Furthermore, ladies and gentlemen, please
3 understand that even though I have given the verdict form to
4 the foreperson it is not his verdict alone. Again I
5 emphasize the verdict must be unanimous, it must be all
6 twelve of your decisions.

7 In a moment I'm going to ask that you retire to the
8 jury room but when you do so please do not begin your
9 deliberations. I need to check with the attorneys and make
10 sure that this charge has been given to you correctly and
11 that I have not left anything out of this charge. Once I
12 have checked with them I will authorize the bailiff to take
13 the items of evidence back to the jury room with you and the
14 bailiff will at that time instruct you to begin your
15 deliberations and only then will you begin your deliberations
16 and start discussing this case.

17 So, Mr. Foreman, if you and the jury and alternate
18 would go back into the jury room but do not begin your
19 deliberations at this time.

20 (Whereupon, the jury retired to the jury room at
21 10:49 a.m.)

22 The Court: Door closed?

23 The Bailiff: Yes, sir.

24 The Court: All right, any objections from the
25 State?

1 Ms. Lively: None from the State, Your Honor.

2 The Court: Any from the defense?

3 Mr. Floyd: No, sir, I don't believe so.

4 The Court: All right, if the two of you would
5 take a look at the items of evidence and make sure they're in
6 order and put on the record if they are we'll send them back
7 with the bailiff.

8 (Whereupon, the exhibits were counted and
9 determined to be in order.)

10 The Court: So it's 1 through 38 but not 35; is
11 that right?

12 Mr. Floyd: Yes, sir.

13 The Court: All right, is everything in order, Mr.
14 Floyd?

15 Mr. Floyd: As far as I can tell, Judge.

16 The Court: Yes or no?

17 Mr. Floyd: Yes, sir.

18 The Court: All right, how about, Solicitor?

19 Ms. Lively: It's fine, Your Honor, it's ready to
20 go.

21 The Court: All right, if you will send all of the
22 items of evidence back to the jury room and bring the
23 alternate out and tell them to begin.

24 (Whereupon, the verdict forms and exhibits were
25 delivered to the jury room 10:37 a.m. with instructions to

1 a.m.)

2 The Court: We got a note, said please definition
3 of law related to the charge, so I figured what I'd do is we
4 go ahead and send them the written charge back there and let
5 them have it. Any objections from you, Mr. Floyd?

6 Mr. Floyd: No, sir.

7 The Court: Solicitor?

8 Ms. Lively: No, Your Honor.

9 The Court: All right, she's printing it out as we
10 speak.

11 Mr. Floyd: I would ask you to print me out a copy
12 of it also.

13 The Court: That's up to her.

14 Mr. Floyd: Please.

15 (Whereupon, Court's Exhibit Number 2 marked for
16 identification.)

17 The Court: Ms. Court Reporter, if you would
18 please mark the jury charge as Court Exhibit Number 3, we'll
19 give it to the bailiff and send it on back.

20 (Whereupon, Court's Exhibit Number 3 marked for
21 identification.)

22 (Whereupon, Court's Exhibit Number 3 delivered to
23 the jury room.)

24 The Court: We'll be at ease until we hear
25 something.

1 The Court: We'll wait on them. That applies to
2 everybody.

3 Ms. Lively: Thank you.

4 (Whereupon, the jury entered the courtroom at 12:13
5 a.m. to deliver its verdict.)

6 Madam Clerk: The jury is present.

7 The Court: All right, thank you. Mr. Foreman,
8 have you reached a verdict?

9 Mr. Foreman: Yes, sir, Your Honor.

10 The Court: If you would be so kind as to hand it
11 to the bailiff and if you would hand it to me.

12 Thank you very much. All right, I find that the
13 verdict form is in order. Ms. Clerk, if you would publish
14 the verdict.

15 Madam Clerk: State of South Carolina County of
16 Horry v. Herbert Leonard Causey, indictment numbers 2011-GS-
17 26-1000, 1001, 1002, 1003 as to the charge of kidnaping we
18 the jury unanimously find the defendant Herbert Leonard
19 Causey guilty.

20 As to the charge of armed robbery we the jury
21 unanimously find the defendant Herbert Leonard Causey guilty.

22 As to the charge of burglary first degree we the
23 jury unanimously find the defendant Herbert Leonard Causey
24 guilty.

25 As to the charge of assault with intent to commit

1 criminal sexual conduct first degree we the jury unanimously
2 find the defendant Herbert Leonard Causey not guilty.

3 Dated September 8th, 2011, signed by foreperson
4 Coleman Randall.

5 Ladies and gentlemen of the jury, if this is your
6 verdict so signify by raising your right hand.

7 (Whereupon, all jurors responded affirmatively.)

8 Madam Clerk: Thank you.

9 The Court: All right, let the record reflect that
10 every juror raised their right hand. Is there need for
11 further polling from the defense?

12 Mr. Floyd: Yes, sir, we'd ask for polling.

13 The Court: All right, Ms. Clerk, if you'd poll
14 the jury.

15 Madam Clerk: Please stand and when I call your
16 juror number.

17 362, is this your verdict?

18 Jury Panel Member: Yes.

19 Madam Clerk: Is this still your verdict?

20 Jury Panel Member: Yes.

21 Madam Clerk: Thank you, 17, is this your verdict?

22 Jury Panel Member: Yes, ma'am.

23 Madam Clerk: Is this still your verdict?

24 Jury Panel Member: Yes, ma'am.

25 Madam Clerk: Thank you, 155, is this your

1 The Court: All right, members of the jury, I want
2 to thank you for your service. You have done your job. You
3 worked diligently; you have been here on time and you have
4 been attentive. You are hereby dismissed and I thank you
5 personally and on behalf of the State of South Carolina. You
6 also will receive a check in the mail and I want you to fully
7 understand that I did not authorize the amount of money that
8 you receive. If I was paying you I would pay you a whole lot
9 more but it is a small token of our appreciation. You are
10 free to go and welcome to go if you would like or you can
11 stay for the remainder of the trial, all right, free to go if
12 you would like.

13 (Whereupon, the jury was excused at 12:19 p.m.)

14 The Court: All right, any motions from the
15 defense?

16 Mr. Floyd: Yes, sir, Your Honor, we would renew
17 our motions made at the close of the case. We would also
18 move for a new trial in the alternative for an order and
19 arrest of judgment the criminal equivalent of JNOV motion.
20 We make those motions based upon the objections, pretrial
21 hearings made during the case.

22 The Court: Thank you very much, those motions are
23 denied. All right, Solicitor, do you have the sentencing
24 sheets prepared?

25 Ms. Lively: I do, Your Honor, if you'll give me

1 one moment I'll provide them to the defense.

2 The Court: Sure.

3 Mr. Floyd: Judge, one other motion I think I need
4 to make is this is a life without parole case under the
5 strikes law. I would move that that is unconstitutional
6 under the 8th Amendment, cruel to unusual punishment. Mr.
7 Causey's record consists of a 1987 grand larceny of a motor
8 vehicle, a 1987 burglary third degree, a '94 some magistrate
9 court convictions for driving open container and I think
10 public drunk, and his '94 conviction which is being used as
11 a strike was for assault and battery with intent to kill.

12 The Court: All right, would you like to respond
13 to that, Solicitor?

14 Ms. Lively: Just briefly, Your Honor. I believe
15 our Supreme Court has clearly held that that is not
16 considered a violation of the 8th Amendment regarding cruel
17 and unusual punishment. Our legislature has made these rules
18 for specific reasons in regards to violence and most serious
19 offense and I believe it's appropriate.

20 The Court: All right, that motion is denied.

21 Ms. Lively: Thank you.

22 Mr. Floyd: Thank you, Judge.

23 The Court: All right, after you look at the
24 sentencing sheets if you would hand them up to me. All
25 right, thank you very much. All right, if you would have the

1 defendant please stand.

2 All right, Solicitor, if you would give me his
3 prior record if it's any different from what Mr. Floyd just
4 told me.

5 Ms. Lively: Your Honor, no, actually it's not,
6 what I, did he, he did render all of the information
7 accurately and just for the record since this is a life
8 without parole case so the Court will know, I served the
9 defendant on May 19th of this year with notice of my intent
10 to seek life without the possibility of parole. At that time
11 I also went ahead and got a certified copy of the prior
12 conviction of the defendant. He was originally charged back
13 in 1994 with assault and battery with intent to kill and
14 kidnaping. He was found guilty of the assault and battery
15 with intent to kill.

16 Your Honor, he received a 20-year sentence at that
17 time and I do have that copy and as a matter of fact, Your
18 Honor, we may want to actually make it a court's exhibit for
19 the record since we are seeking life without parole.

20 The Court: Sure.

21 (Whereupon, Court's Exhibit Number 4 marked for
22 identification.)

23 The Court: Thank you very much. All right,
24 Solicitor, I'll be glad to hear from any of the victims if
25 they would like to address the court.

350

1 Ms. Lively: One moment, Your Honor. Ms. Eloise
2 Martin, Your Honor, would like to just make a, would like to
3 address the Court, Your Honor.

4 The Court: Be glad to hear from you, Ms. Martin.

5 Ms. Martin: I thank you for your time and all and
6 I appreciate all of you attention and time and prayers, thank
7 you.

8 The Court: Thank you. All right, anybody else?

9 Ms. Lively: State your name for the record.

10 Family Member: My name is Patricia Martin, Eloise
11 Martin is my mother. Judge, I appreciate your time, the
12 jury's time and everyone that's put interest in this case.
13 I also realize that the defendant has a family. I'm sorry
14 for their family. There's a loss for my mother; there's also
15 a loss for their family no matter what the judgment comes
16 down to be or what your decision is, but this man walked in
17 my mother's home. He maliciously attacked her. He
18 maliciously stole from her and he has a
19 record. We just heard the record.

20 The reason my mother went through this, the reason
21 my mother came to this stand in front of all these strangers,
22 because she is not an outgoing person at all, she's very shy,
23 quiet, keeps to herself, the reason for this is he's never
24 allowed to hurt anyone else the way he hurt us. He stretched
25 to Houston Texas where I've lived for thirty years; he

1 stretched to Anderson South Carolina where my other brother
2 is. They were in no emotional state to come to this trial.
3 He stretched to Charleston South Carolina where my other
4 brother lives.

5 My father passed away right before this trial
6 started Saturday. This man has destroyed some things in our
7 home that will never be the same. My mother sleeps with
8 lights on. She stutters; she never did this before this man
9 entered her home, maliciously and cruelly, and she was
10 terrified, so that's just all I have to say. He just
11 affected so many people's lives; it wasn't just my mother.

12 The Court: Thank you, anybody else?

13 Ms. Lively: That would be all, Your Honor.

14 The Court: Thank you. Mr. Floyd, be glad to hear
15 from you.

16 Mr. Floyd: Judge, I've got nothing to add,
17 Herbert is 43 years old, 42 years old, excuse me.

18 The Court: All right, the sentence of the court in
19 regards to indictment 2011-GS-26-01002 the defendant is
20 committed to the State Department of Corrections for life.

21 In reference to 2011-GS-26-01001 the defendant is
22 committed to the State Department of Corrections for a term
23 of 30 years; that is concurrent.

24 In reference to 2011-GS-26-01000 the defendant is
25 committed to the State Department of Corrections for a term

1 of 30 years and that is also concurrent.

2 All right, that concludes this case.

3 Ms. Lively: Thank you, Your Honor.

4 The Court: Thank you.

5 End of requested transcript - - - -

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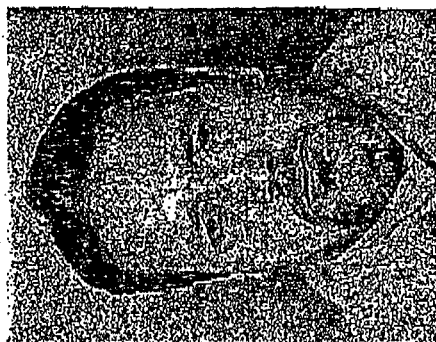
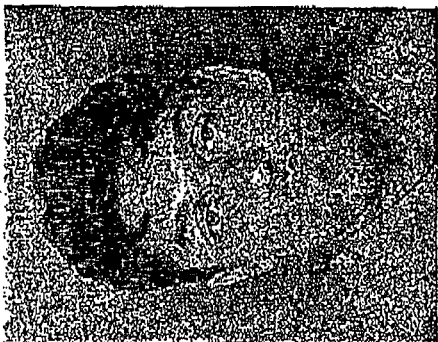
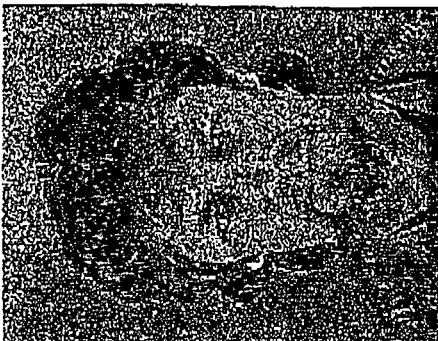
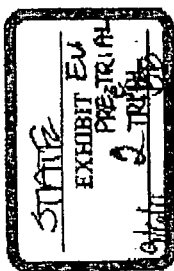
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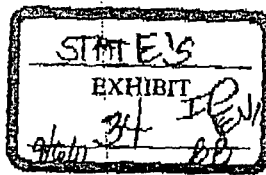
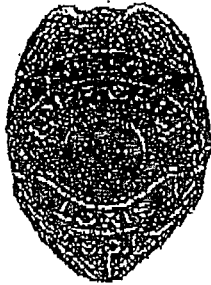
24

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Ref Number: D12611

Lineup Name: LORIS BELL
Horry County Lineup





11-0326

Loris Police Department
Criminal Investigations

Voluntary Statement

Date: Feb 1, 2011 Time: 0945 Location: Loris PD Page 1 of 3
 I, Tonia Denise Huggins, am 41 years old and live
 at 709 Loop Circle, Longs, SC Phone: 843-742-7886
 Social Security Number 249-31-7537 Date of Birth 11-7-1969

I am giving this statement to J.W. Vaughn of the Loris Police Department. I volunteer to give the following information of my own free will, for whatever purpose it may serve.

TH

I have known Herbert Causey all my life. He is a white male over 6 feet tall. He has tattoos all over his body. I have been his girlfriend since June 2010. Herbert lived with me for about 2 months at 1905 Sunset Street, Loris, SC during the last half of 2010. On January 26, 2011, Herbert was living with me at 3205 Lake Drive, Loris, SC. At about 0630, January 26, 2011, Herbert and I drove my dark green Ford Focus to take my

I have read each page of this statement, consisting of _____ page(s), each page of which bears my signature and corrections, if any, bear my initials and I certify that the facts contained herein are true and correct.

TH

"I have" _____ "I have not" _____ received a copy of this statement.

Signature: _____

Date: 2-1-2011Witness: Karen Baker

Tovia O. Huggins

Statement of, continued.

brother Marty, To Work at EXLent 17,
on Highway 707, We Came Back to 3205 Lakes
Drive. About 1030 January 26, 2011, I then went
Took Me To Work at Conway Manor Nursing
Home Conway, SC. I then went left me at work
and left with my car. I then saw I then went
about 2000, January 26, 2011, When I picked me
up at work, We drove to Marty's house on
Loop Circle in Lees, SC. On the way to Marty's
house I then told that he had done something
that I would not forgive him for. He told me
that he would talk to me later about it. We
Spent the night at Marty's house. The next
day, I then told me that he was going to jail.
He told me that he knocked on a door and asked
a lady if he could use the bathroom.
According to I then told the lady let him in the
house and he saw an envelope on the bed
and that he took it. I then said that then
was money in the envelope. I do not know
how much money when I then took me to
work on January 26, 2011, He did not have
any money. When he picked me up at work
about 2000, January 26, 2011, He stopped at
a store and I then had money - I saw a
20 dollar bill and some coins.
On January 27, 2011, I then told me that he had
lost his ~~case~~ ^{case} ~~stungun~~, He told me that he had
lost the stungun. I then told him that he
was changed with armed robbery, it he lost it
at the lady's house. He said that he did not
use the stungun. I then told him that he

Person giving statement to place initials behind
last word of statement as appears on last page

[illegible]

VOLUNTARY STATEMENT
SUPPLEMENTAL

11.0326

Tonia D

Statement of, Continued.

HA regrets what he did. On January 26, 2011, when Herbert took me to work, he was wearing jeans I believe they were black. He had on a greenish gray button-up shirt and a red hat. I don't know about his shoes. Herbert was born on September 7, 1969. When Herbert came to get me at work at 2000 January 26, 2011, he was wearing the same clothes.

Herbert has not told me where he got the Stun gun. I did not know he had it. He told me that he did not touch the lady. Herbert told me that the lady was elderly and lived near our old house on Sunset Street in Lodi. After January 26, I telephoned Lisa Sanusi. During our conversation Herbert was in the background saying something. I don't recall what he said. I knew that Herbert was wanted for questioning. I did not know what he had done. I had tried to get him to contact the Police. At my request, this statement was written by Joe Knight. I have read. It is accurate as I told it to him and true.

(END OF STATEMENT)

Tonia Higgins

DOCKET NO. 2011-GS-26-01000

WITNESSES

Alicia Miller Loris Police Department

C The State of South Carolina

County of Horry

Candice Lively

11H00525

COURT OF GENERAL SESSIONS

April, 2011 TERM

ARREST WARRANT NUMBER

M508001

CDR: 0095 16-03-0910

DOA: 2/9/2011

THE STATE

vs.

ACTION OF GRAND JURY

Herbert Leonard Causey

W/ M

Loris, SC 29569

DOB: 1969-09-07

SSN: 251531327

Foreperson of Grand Jury

Date: MAY 26 2011

ATTORNEY: Floyd, W. Thomas

VERDICT

Indictment for

KIDNAPPING

ORIGINAL

95-3-11-21-000000 Hembree, Solicitor

Foreperson of Petit Jury

Date:

FILED
HORRY COUNTY

2011 SEP 12 PM 4:01
CERTIFIED COPY
CLERK OF COURT
HORRY COUNTY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)

INDICTMENT

CERTIFIED COPY
 2011 SEP 12 PM 4:01
 Melanie Huggins-Ward
 CLERK OF COURT
 HORRY COUNTY

At a Court of General Sessions, convened on April 28, 2011, the Grand Jurors of Horry County present upon their oath:

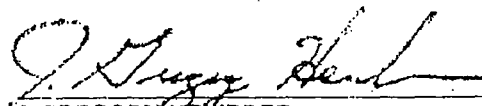
KIDNAPPING

CDR: 0095 16-03-0910

That Herbert Leonard Causey did in Horry County on or about January 26, 2011, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one Eloise Martin, without authority of law, in violation of Section 16-03-0910, S. C. Code of Laws, 1976, as amended.

FILED
 HORRY COUNTY
 2011 SEP 12 PM 3:56
 MELANIE HUGGINS-WARD
 CLERK OF COURT

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 J. GREGORY PEMBREE
 FIFTEENTH CIRCUIT SOLICITOR

DOCKET NO. 2011-GS-26- 01001

WITNESSES

Alicia Miller Loris Police Department

**The State of South Carolina
County of Horry**

Candice Lively 11H00525

COURT OF GENERAL SESSIONS

April, 2011 TERM

ARREST WARRANT NUMBER

M508002
CDR: 0139 16-11-0330(A)
DOA: 2/9/2011

THE STATE

vs.

Herbert Leonard Causey
W/ M
[REDACTED]
Loris, SC 29569
DOB: 1969-09-07
SSN: 251531327

ATTORNEY: Floyd, W. Thomas

ACTION OF GRAND JURY

TRUE BILL
Blue Pen
Foreperson of Grand Jury...
Date: **MAY 26 2011**

VERDICT

Indictment for

ARMED ROBBERY

ORIGINAL

Gregory Hembree, Solicitor

Foreperson of Petit Jury
Date:

2011 SEP 12 PM 3:56

FILED
HORRY COUNTY

CERTIFIED COPY
2011 SEP 12 PM 4:01
Clerk of Court
Horry County
William Huggins-Ward

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

331
CERTIFIED COPY
2011 SEP 12 PM 4:01
Melanie Huggins-Walsh
CLERK OF COURT
HORRY COUNTY

At a Court of General Sessions, convened on April 28, 2011, the Grand Jurors of Horry County present upon their oath:

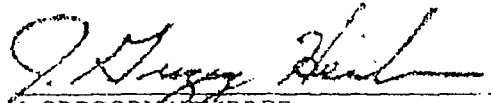
ARMED ROBBERY

CDR: 0139 16-11-0330(A)

That Herbert Leonard Causey did in Horry County on or about January 26, 2011, while armed with a deadly weapon, to wit: a stun gun, take and carry away personal property of Eloise Martin from or in the immediate presence of Eloise Martin with intent to deprive Eloise Martin of possession by use of force, threats or intimidation, in violation of Section 16-11-0330(A), S. C. Code of Laws, 1976, as amended.

FILED
HORRY COUNTY
2011 SEP 12 PM 3:56
MELANIE HUGGINS-WALSH
CLERK OF COURT

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


J. GREGORY HEMBREE
FIFTEENTH CIRCUIT SOLICITOR

WITNESSES

Karen Baker Loris Police Department

DOCKET NO. 2011-GS-26- 01002

The State of South Carolina

County of Horry

Candice Lively

11H00525

COURT OF GENERAL SESSIONS

April, 2011 TERM

ARREST WARRANT NUMBER

M508131

CDR: 0079 16-11-0311

DOA: 2/17/2011

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: MAY 26 2011

VERDICT

Foreperson of Petit Jury

Date:

THE STATE

vs.

Herbert Leonard Causey
W/ M

Loris, SC 29569
DOB: 1969-09-07
SSN: 251531327

ATTORNEY: Floyd, W. Thomas

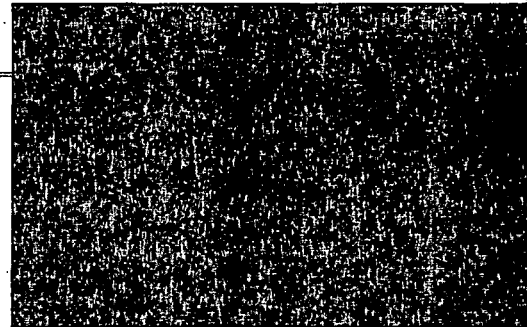
Indictment for

BURGLARY, FIRST DEGREE

ORIGINAL
CLERK OF COURT
HARRIS HUGHES-WARD

Gregory Hembree, Solicitor

FILED
HORRY COUNTY



2011 SEP 12 PM 4:01
CLERK OF COURT
HORRY COUNTY
HARRIS HUGHES-WARD

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on April 28, 2011, the Grand Jurors of Horry County present upon their oath:

BURGLARY, FIRST DEGREE

CDR: 0079 16-11-0311

That Herbert Leonard Causey did in Horry County on or about January 26, 2011, enter the dwelling of Eloise Martin located at [REDACTED], Loris, without consent and/or by use of deception and/or misrepresentation; and with the intent to commit a crime therein and the defendant did so while using or threatening to use a dangerous instrument, in violation of Section 16-11-0311(A), S. C. Code of Law, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

13:56

COUNTY OF Horry
 STATE VS.
Herbert Leonard Causey

AKA: _____
 Race: _____ Sex: M Age: 41
 DOB: 09-07-1969 SS#: 251-53-1327
 Address: _____
 City, State, Zip: Loris, SC 29569
 DL#: 007226921 SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Kidnapping / Kidnapping

INDICTMENT/CASE#: 2011GS2601000
 A/W#: M508001
 Date of Offense: 1/26/2011
 S.C. Code §: 16-03-0910
 CDR Code #: 0095

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)
☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
☐ Negotiated Sentence by the State.

SCB12123

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

☒ Limited to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 30 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.

☐ 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 _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ _____

§ 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) \$ 3.90

TOTAL \$ 133.90 + 40.00 = 173.90

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA 017 (02/2011)

Presiding Judge

Judge Code:

Sentence Date:

FILED
 2011 SEP 12 PM 3:56
 Horry County
 CLERK OF COURT
 MELANIE HUGGINS-WARD

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Presiding Judge

Judge Code:

Sentence Date:

2157
 Sept 8, 2011

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Horry

VS.

Herbert Leonard Causey

AKA:

Race: Sex: M Age: 41

DOB: 09-07-1969 SS#: 251-53-1327

Address:

City, State, Zip: Loris, SC 29569

DL#: 007226921 SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
☐ Negotiated Sentence, ☐ Recommendation by the State.

SCB12123

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

Committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 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.☐ 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

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

\$

\$

\$100

\$

\$100

\$

\$12

\$

\$25

\$

\$500

\$

\$25

\$

\$150

\$

\$50

\$

\$40/ea

\$

\$5

\$

\$

\$

\$133.90

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

335

INDICTMENT/CASE#: 2011GS2601001

A/W#: M508002

Date of Offense: 1/26/2011

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
☐ Negotiated Sentence, ☐ Recommendation by the State.

SCB12123

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

Committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 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.☐ 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

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

\$

\$

\$100

\$

\$100

\$

\$12

\$

\$25

\$

\$500

\$

\$25

\$

\$150

\$

\$50

\$

\$40/ea

\$

\$5

\$

\$

\$

\$133.90

PTUP days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code:

Sentence Date:

COUNTY OF Horry
STATE VS.Herbert Leonard Causey

AKA: _____

Race: _____ Sex: M Age: 41DOB: 09-07-1969 SS#: 251-53-1327

Address: _____

City, State, Zip: Loris, SC 29569DL#: 007226921 SID#: _____*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Burglary / Burglary (After June 20, 1985) - First degreein violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 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	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

Clerk of Court/Deputy Clerk

Court Reporter: Brenda Bunn

SCCA/217 (03/2011)

Presiding Judge

Judge Code: _____

Sentence Date: _____

FILED
Horry County
2011 SEP 12 PM 3:56
CLERK OF COURT
MELANIE HUGGINS-WARD

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."

November 9th, 2012

Susan B. Hackett for

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

STATE OF SOUTH CAROLINA

 ORIGINAL

IN THE COURT OF APPEALS

Appeal from Horry County

William H. Seals, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

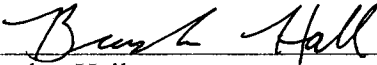
HERBERT CAUSEY,

APPELLANT

Appellate Case No. 2011-199367

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Christina J. Catoe, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and on Mr. Herbert Leonard Causey, at McCormick Correctional Institution, 386 Redemption Way McCormick, SC 29899, this 9th day of November, 2012.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 9th day of November, 2012.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: October 30, 2022.

RECEIVED

NOV 09 2012

SC COURT OF APPEALS