

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY

C. Victor Pyle, Jr., Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

STEPHANIA MURRAY,

APPELLANT

RECORD ON APPEAL

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 2 COUNTY OF GREENVILLE) COURT OF GENERAL SESSIONS
 3) 2008-GS-23-8615
 4)
 4 State of South Carolina) TRANSCRIPT OF RECORD
 5 vs)
 6 Stephania Murray)
 7)

8 April 06, 2011
 8 Greenville, South Carolina

9 B E F O R E:

10 THE HONORABLE C. VICTOR PYLE, Judge

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

12 John Gregory, Esquire
 13 Assistant Solicitor
 13 Attorney for the State

14 Elizabeth Wygul, Esquire
 15 Attorney for the Defendant

16
 17 Caroline Hiskell
 17 Circuit Court Reporter
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Jackson - Biggers Hearing Carol Wilborn- Direct

1 P R O C E E D I N G S

2 (Whereupon, State Exhibit Nos. 1 through 6
3 were pre-marked for identification.)

4 (Whereupon, Defendant's Exhibit No. 1 was
5 pre-marked for identification.)

6 THE BAILIFF: Come to order, the Honorable
7 Victor C. Pyle presiding.

8 THE COURT: Please be seated.

9 As I understand it, you've got two motions?

10 MR. GREGORY: The State has a Neil V. Biggers
11 for the photo line-up, Your Honor, and a Jackson V. Denno
12 Hearing. And we can take care of them both with testimony
13 from Detective Weiner if there are no objections.

14 THE COURT: Are there any objections?

15 MS. WYGUL: No objection.

16 THE COURT: All right, let's go ahead and
17 have those motions.

18 MS. GREGORY: The State calls Carol Wilborn.

19 THE CLERK: Good morning, would you come
20 forward to be sworn in.

21 THE COURT: Ms. Wygul, do you have a list of
22 potential witnesses?

23 MS. WYGUL: The only potential witness we
24 have is the defendant.

25 THE COURT: Thank you.

Jackson - Biggers Hearing Carol Wilborn- Direct

1 THE CLERK: Place your left hand on the Bible
2 and raise your right.

3 JACKSON V. DENNO - NEIL V. BIGGERS HEARING

4 CAROL WILBORN, having been duly sworn,
5 testified as follows:

6 Thank you, you may be seated.

7 Would you please state your name for the
8 record.

9 THE WITNESS: Carol Wilborn.

10 JACKSON V. DENNO HEARING - NEIL V. BIGGERS

11 DIRECT EXAMINATION

12 BY MR. GREGORY:

13 Q. Good morning, Ms. Wilborn, how are you doing?

14 A. Fine.

15 Q Ms. Wilborn, did you have an opportunity to be
16 involved in this case.

17 A. I'm sorry.

18 Q. Did you have an opportunity to become involved in
19 this case? Were you involve with this individual?

20 A. Yes, sir.

21 THE COURT: Would you pull up closer to the
22 microphone, please.

23 THE WITNESS: I'm sorry.

24 MS. WYGUL: Your Honor, I would object to the
25 phrasing of that question as to Mr. Gregory asking if she

Jackson - Biggers Hearing Carol Wilborn- Direct

1 was involved with this individual. That's kind of goes
2 towards the ultimate issue in this case.

3 MR. GREGORY: I'm sorry, I'll move on.

4 BY MR. GREGORY:

5 Q. Carol, did you have an opportunity to meet with
6 Investigator Weiner in this case?

7 A. Yes.

8 Q. And when you met with Investigator Weiner, were
9 you shown a line-up?

10 A. Yes, sir.

11 Q. Do you remember what day you were shown a line-
12 up?

13 A. I think it was the day after the robbery, which I
14 think was the 17th of 2008.

15 Q. The 17th was the day you were shown the line-up?

16 A. Yes.

17 Q. Do you remember what time of day you were shown
18 the line-up?

19 A. It was in the afternoon when I met with me.

20 Q. Do you remember where you were when you were
21 shown the line-up?

22 A. At the police station?

23 Q. How many people were present when you were shown
24 the line-up?

25 A. Just the detective and myself.

Jackson - Biggers Hearing Carol Wilborn- Direct

1 Q. And when Investigator Weiner showed you the line-
2 up did he say anything to you about the line-up?

3 A. He just asked me to pick, to look and see if one
4 of those particular individuals was the person who had
5 taken my purse and robbed me.

6 Q. Did he indicate in any way to you the person that
7 took your purse was in this line-up?

8 A. No, sir.

9 Q. Did you feel any pressure from Investigator
10 Weiner to pick somebody in that line-up?

11 A. No, sir.

12 Q. Did Investigator Weiner suggest to you in any way
13 to pick someone in that line-up?

14 A. No, sir, just there was someone there?

15 Q. Did Investigator Weiner influence your decision
16 at all?

17 A. No.

18 Q. Let's talk about the incident on March 16, 2008.
19 What time of day was it, do you know?

20 A. It was about 10 minute until 6 p.m.

21 Q. And that was in March you said.

22 A. Yes, sir.

23 Q. Was it light outside?

24 A. Yes, sir, it was.

25 Q. Did you have an opportunity to see the person

Jackson - Biggers Hearing Carol Wilborn- Direct

1 that grabbed your purse?

2 A. Yes, sir.

3 Q. How close to you did that person get?

4 A. As close as from here to here may be.

5 Q. Within arm's reach?

6 A. Most definitely.

7 Q. Did you have any trouble seeing the individual's
8 face?

9 A. No.

10 Q. Was he wearing a mask of any type?

11 A. No.

12 Q. Was his face covered, distorted?

13 A. No.

14 Q. Did he use sun glasses?

15 A. No.

16 Q. How long are you able to observe this individual?

17 A. Six to seven minutes.

18 Q. Six to seven minutes?

19 A. (Witness nods).

20 Q. And is there any impairments, do you have any
21 impairments that would hinder you from seeing this
22 individual?

23 A. No, sir.

24 Q. Do you use glasses?

25 A. Just to drive for distance.

Jackson - Biggers Hearing Carol Wilborn- Direct

1 Q. Did you have glasses on at the time?

2 A. No.

3 Q. And after the incident were you asked to describe
4 the individual that took your purse?

5 A. Yes.

6 Q. And how did you describe that individual to
7 police?

8 A. About 6, 2, tall, black male.

9 Q. Okay, now back to the line-up, when you were
10 shown the line-up did you see the person that took your
11 purse in that line-up?

12 A. Yes, sir.

13 Q. And did you look at each picture closely?

14 A. Yes, sir.

15 Q. Do you look at each picture carefully?

16 A. Yes, sir.

17 Q. You took your time?

18 A. Yes.

19 Q. You had enough time to take?

20 A. Yes, sir.

21 Q. Did you pick someone out of that photo line-up?

22 A. Yes, I did.

23 Q. Was there any doubts in your mind that the person
24 you picked was the person you saw on the incident date?

25 A. No, sir.

Jackson - Biggers Hearing Carol Wilborn- Direct

1 Q. And let me show you what has been mark as State's
2 Exhibit Number 5 and Number 6. Do you recognize those
3 exhibits?

4 A. Yes, sir.

5 Q. Let's look at State Exhibit Number 6. Is that
6 the line-up that you were shown on March 17, 2008?

7 A. Yes.

8 Q. Has it been changed in any way?

9 A. No, sir.

10 Q. Do you make any marks on that line-up?

11 A. Yes, I did, sir, I circled it and put my
12 initials.

13 Q. What exactly did you circle?

14 A. I circled Number 5 and I initialed it.

15 Q. And that circle and that initial indicates what?

16 A. That's the person who took my purse and robbed
17 me.

18 Q. Did you select anyone else from this line-up or
19 any other line-up?

20 A. No, sir.

21 Q. Let's look at the State's Exhibit Number 5, the
22 other piece of paper right in front of you, and do you
23 recognize the handwriting on that page?

24 A. Yes, that's my handwriting.

25 Q. Did you sign it?

Jackson - Biggers Hearing Carol Wilborn - Cross

1 A. That's my signature.

2 Q. And that is an affidavit saying that you picked
3 Number 5; is that correct?

4 A. That is correct, yes, sir.

5 Q. And is that the same condition it was when you
6 sign it?

7 A. Yes.

8 MR. GREGORY: Your Honor, at this time, the
9 State would seek to introduce 5 and 6 for purposes of this
10 hearing only.

11 MS. WYGUL: Your Honor, I would object and I
12 would ask to question the witness.

13 THE COURT: All right. Subject to your
14 objection go ahead.

15 MR. GREGORY: That's all the question I have
16 at this time.

17 (Whereupon, Affidavit, previously marked as
18 State's Exhibit No. 5 for identification admitted into
19 evidence.)

20 (Whereupon, Photo Line-up, previously marked
21 as State's Exhibit No. 6 for identification was admitted
22 into evidence.)

23 THE COURT: Okay, all right.

24 CROSS-EXAMINATION

25 BY MS. WYGUL:

Jackson - Biggers Hearing David Weiner - Direct

1 Q. Ms. Wilborn, whenever you went to look at the
2 photo line-up, did Investigator Weiner tell you that the
3 suspect may not be in that line-up?

4 A. Yes.

5 Q. He did.

6 A. Yes, he might not be in there.

7 Q. And to the best of your knowledge, was your
8 meeting with Detective Weiner and your viewing of the
9 line-up was that video tape or recorded in any fashion?

10 A. I don't think so. I don't remember anything
11 about that

12 Q. Did you wear your glasses when you looked at the
13 photo line-up?

14 A. No, I didn't.

15 MS. WYGUL: I have no further question.

16 THE COURT: Okay, step down.

17 (Whereupon, the witness left the witness
18 stand.

19 MR. GREGORY: Your Honor, the State calls
20 Investigator Weiner.

21 THE CLERK: Would you please place your left
22 hand on the bible and raise your right.

23 DAVID WEINER, having been duly sworn,
24 testified as follows:

25 Thank you. Would you please state your name

Jackson - Biggers Hearing David Weiner - Direct

1 for the record.

2 THE WITNESS: David Weiner.

3 BY MR. GREGORY:

4 Q. Investigator Weiner, where are you employed?

5 A. Greenville County Sheriff's Office.

6 Q. In what capacity are you employed there?

7 A. I'm assigned as an investigator to the arm
8 robbery unit and criminal investigations.

9 Q. How long have you been employed in the arm
10 robbery unit?

11 A. Four years now.

12 Q. Did you conduct a photo line-up this case?

13 A. I did, yes, sir.

14 Q. And did you personally put that line-up together?

15 A. Yes.

16 Q. And can you please explain how you put that line-
17 up together?

18 A. Using a photograph database that the Sheriff's
19 Office maintains six photographs. I chose images that
20 are similar in nature to the potential suspect.

21 Q. And how many pictures are in that photo of line-
22 up?

23 A. Six.

24 Q. Did you include this defendant in that photograph
25 line-up?

Jackson - Biggers Hearing David Weiner - Direct

1 A. Yes, sir.

2 Q. And you mentioned this before but were the other
3 five individuals in that line-up were of similar
4 characteristics?

5 A. Yes, sir.

6 Q. And in what manner?

7 A. I believe at the time the picture I used, very
8 short hair almost bald headed slight facial hair,
9 obviously being a black male, the birth date being of
10 similar range, the facial characteristics being similar.

11 Q. Who did you show that line-up to?

12 A. To the victim.

13 Q. Carol Wilborn?

14 A. Yes, Ms. Wilborn.

15 Q. On what day did you show her the line-up?

16 A. If I recall, I think it was March 17th was the
17 day of the robbery.

18 Q. Do you remember what time of day that was?

19 A. It was in the afternoon. The actually affidavit
20 there of identification has the date and time on it if you
21 want me to take a look at it.

22 Q. These were entered as State's Exhibit 5 and 6.

23 A. Yes, sir. It shows here it says 4:56 p.m. on
24 March 17, 2008.

25 Q. Okay. And where were you when you showed

Jackson - Biggers Hearing David Weiner - Direct

1 Ms. Wilborn that?

2 A. At the Law Enforcement Center in my office.

3 Q. And did Ms. Wilborn provided with you any prior
4 description of the individual?

5 A. Basically what had been stated in the original
6 report, and what I talked to her about her statement, that
7 it was a tall slender black male short hair or baldhead
8 like I said.

9 Q. When did Ms. Wilborn given up that statement?

10 A. I always take the statement before I do a
11 photograph line-up. I kind of like to have people's mind
12 set be back to where it was. I don't like to show people
13 pictures right off the bat. I like to let me think about
14 the incident a little bit to refresh their memory.

15 Q. Did she describe him to you that day or the day
16 before or after the incident?

17 A. She described him to me that day. And she
18 described him to the uniformed patrol deputies the day of
19 the incident.

20 Q. Was there any variance between what she describe
21 the day before and the day --

22 A. No, sir.

23 Q. How did you present this line-up to Mr. Wilborn?

24 A. Everybody who gets a line-up get's a very similar
25 speech from me basically that there is six photographs

Jackson - Biggers Hearing David Weiner - Direct

1 that I'm about to hand you, that the person responsible
2 for this incident may or may not be in this line-up, when
3 I hand it to you review each of the pictures carefully. If
4 you see somebody that you know tell me which one and tell
5 me why.

6 Q. Did you indicate to Ms. Wilborn that the suspect
7 was in this line-up?

8 A. No.

9 Q. Did you indicate in any way that Ms. Wilborn
10 should pick someone in this line-up?

11 A. No, sir.

12 Q. Did you assert any pressure on her to pick
13 anyone?

14 A. No, sir.

15 Q. And did Ms. Wilborn select a person in this line-
16 up?

17 A. Yes.

18 Q. And how long did it take for her to select a
19 person in this picture?

20 A. Very quickly, less than a minute.

21 Q. Did she seem confident in her pick?

22 A. Yes, sir.

23 Q. Which photograph did she pick?

24 A. She identified the one marked as Number 5?

25 Q. Whose picture is Number 5?

Jackson - Biggers Hearing David Weiner - Direct

1 A. The defendant's, Mr. Murray.

2 Q. You have the named information of everyone on
3 that page, correct?

4 A. Correct.

5 Q. Now, State's Exhibit Number 6, which is in front
6 of you, Number 6, is that the photo line-up that you
7 showed Ms. Wilborn on March 17th?

8 A. Yes, sir, the same one.

9 Q. Is that substantially the same condition that it
10 was when you showed it to her?

11 A. Yes, sir.

12 Q. Has it been altered or changed in any way?

13 A. No, sir.

14 MS. GREGORY: Your Honor, that's all the
15 questions I have as far as the photo line-up goes.

16 THE COURT: All right, Ms. Wygul.

17 MS. WYGUL: I have no question, Your Honor.

18 THE COURT: Thank you, you can step down.

19 THE WITNESS: Yes, sir.

20 MR. GREGORY: Your Honor we may go ahead and
21 go into the Jackson v Denno hearing as well..

22 THE COURT: Any objection?

23 MS. WYGUL: No objection.

24 THE COURT: Okay, go ahead.

25 MR. GREGORY: We call Investigator Weiner.

Jackson - Biggers Hearing David Weiner - Direct

1 incident. I spoke with the registered owner of that
2 vehicle and she advised me who had possession of her
3 vehicle, and then, basically, said I will contact him and
4 let him know you would like to speak to him, and about an
5 hour after I spoke with her, I got a phone call from the
6 defendant.

7 Q. Did you give your personal phone number and
8 personal information to the owner of the vehicle?

9 A. Just my name and my office number.

10 Q. And you received a call?

11 A. About an hour later, yes, sir.

12 Q. Do know where the defendant was when he said the
13 phone call was made?

14 A. I believe he said it was from his parent's house.

15 MS. WYGUL: I object, Your Honor, there's
16 been no evidence presented that the individual on the
17 phone was actually Mr. Murray.

18 THE COURT: Overruled. Go ahead.

19 BY MR. GREGORY:

20 Q. Did the individual on the phone indicate who he
21 was?

22 A. Yes, sir.

23 Q. And who did he say he was?

24 A. He said he was Stephania Murray.

25 Q. And the phone conversation, where were you?

Jackson - Biggers Hearing David Weiner - Direct

1 (Examination of Detective Weiner continues.)

2 BY MR. GREGORY:

3 Q. Investigator Weiner, did you take a statement
4 from the defendant in this case?

5 A. No, sir, I spoke to him on two occasions; one on
6 the telephone and one as he was being booked into
7 detention.

8 Q. Now, let's talk about the first conversation
9 which was on the phone.

10 A. Yes, sir.

11 Q. When was that conversation held?

12 A. That was on March 17.

13 Q. And that's the day after the incident; is that
14 correct?

15 A. Yes, sir.

16 Q. What time of day was that?

17 A. I can't recall. I think it was some time late
18 morning, lunchtime or somewhere close to then. I'm not
19 really sure.

20 Q. You said that phone conversation was on the
21 phone.

22 A. Yes, sir.

23 Q. Can you tell the Court a little bit about how
24 that conversation came about?

25 A. Yes, sir. A vehicle had been seen in this

Jackson - Biggers Hearing David Weiner - Direct

1 A. In my office sitting at my desk.

2 Q. You were not in the same room with the individual
3 during the phone conversation?

4 A. No, sir.

5 Q. Was there any coercion put on the individual to
6 give a statement?

7 A. No, sir.

8 Q. Did he sound to be intoxicated?

9 A. No, sir.

10 Q. Was he able to answer your question?

11 A. Yes, sir.

12 Q. Seem to understand your questions?

13 A. Yes, sir.

14 Q. Did you read the individual his rights at that
15 time?

16 A. No, sir.

17 Q. Why did you not read him his rights?

18 A. He wasn't in custody in any way shape or form.

19 It's just as easy for him to hang up the telephone; he's
20 done.

21 Q. How long did that conversation last?

22 A. Three minute four minutes tops, it was very
23 short.

24 Q. Did he at any time say I want to stop the present
25 phone conversation?

Jackson - Biggers Hearing David Weiner - Direct

1 A. No, sir.

2 Q. Did he provided you with a statement during that
3 phone conversation?

4 A. Yes, sir.

5 Q. What did he say in the phone conversation?

6 A. He told me that initially that he was at his
7 parent's house in Spartanburg when this incident
8 occurred. I told him that the important thing to me was
9 recovering the property, and I did ask him what he had
10 done with property and he told me that he had thrown it
11 out of the of his car. I asked him what he had taken and
12 he told me all he took was the cash and gave my an
13 approximate \$30 or \$40 is the what he said.

14 Q. And that was the phone conversation on March 17,
15 2008?

16 A. Yes.

17 Q. And let's talk about the second conversation you
18 had with the defendant.

19 A. Yes, sir.

20 Q. When was that conversation held?

21 A. On the 26th of September of 2008.

22 Q. Where was the defendant at that time?

23 A. He was at the Detention Center.

24 Q. Was he in custody at that time?

25 A. Yes, sir.

Jackson - Biggers Hearing David Weiner - Direct

1 Q. Was he handcuffed at that time?

2 A. Yes, sir.

3 Q. Did you go to the Detention Center and get him
4 out.

5 A. I did. He was arrested on September 24 and I was
6 told that he wanted to talk to me and so I went on the 26
7 to talk to him.

8 Q. You went to the Detention Center, you pulled him
9 out of his area; is that correct?

10 A. Yes.

11 Q. What did you do with him?

12 A. I asked him if he wanted to talk to me and he
13 told me no.

14 Q. And at the time what did you do?

15 A. I started to walk away and he told me -- he made
16 a statement to me as I was walking, "If it was something
17 like taking something from the store and running out with
18 it may be but not no robbery, that's not me."

19 Q. Did you ask any questions to elicit that
20 information?

21 A. No, sir.

22 Q. Did you do anything to have him tell you that?

23 A. No, sir.

24 Q. Did you read him his rights before that
25 statement?

Jackson - Biggers Hearing David Weiner - Direct

1 A. No, sir. He told me he didn't want to make a
2 statement so I didn't even get that far.

3 Q. And all this happened right there in the Law
4 Enforcement Center?

5 A. At the Detention Center.

6 Q. Where he was under arrest?

7 A. Yes.

8 Q. He was handcuffed no question about that?

9 A. Yes, sir.

10 Q. He was not free to leave at any time?

11 A. No, sir.

12 Q. Did you do or say anything to coerce or elicit
13 this statement?

14 A. No, sir.

15 Q. Did the defendant sound intoxicated at the time
16 of this second statement?

17 A. No, sir.

18 Q. Did he seem to understand what was going on?

19 A. Yes, sir.

20 Q. In that conversation?

21 A. Yes, sir.

22 Q. Was there any threats or promises made to him as
23 to giving that statement?

24 A. No, sir.

25 MR. GREGORY: I have no further questions,

Jackson - Biggers Hearing David Weiner - Cross

1 Your Honor.

2 THE COURT: Okay, Ms. Wygul.

3 CROSS-EXAMINATION

4 BY MS. WYGUL:

5 Q. Investigator Weiner, are you aware that there was
6 a third party listening in on your phone conversation?

7 A. I was told that this morning, but not at the time
8 I didn't?

9 Q. Are you aware of how much cash was actually taken
10 from Ms. Wilborn?

11 A. The original report I looked at this morning I
12 think it marked it as was \$50.

13 Q. \$50.

14 A. Yes, ma'am, I think that was in the original
15 report.

16 Q. And it's your statement that Mr. Murray told you
17 over the phone he took the cash, \$30 to \$40, correct?

18 A. Correct, yes, ma'am.

19 Q. Did you know Mr. Murray personally?

20 A. No, ma'am.

21 Q. Had you ever met him prior to this phone
22 conversation?

23 A. No, sir.

24 Q. Did you have any reason to believe you would
25 recognize his voice?

Jackson - Biggers Hearing David Weiner - Cross

1 A. Not at that time.

2 Q. So the only indication you had that the
3 individual you were speaking with was Mr. Murray was the
4 fact that individual identified himself as Mr. Murray,
5 correct?

6 A. Correct.

7 Q. Is the way you took the statement is the way that
8 the General Orders instruct you to take statements from
9 witnesses or suspects?

10 A. I'm not understanding -- as in -- there is
11 nothing in the General Orders that refer to phone calls
12 with people.

13 Q. Correct. Is there a particular format that is
14 laid out and a particular procedure to follow when taking
15 the statements from the suspect?

16 A. I believe there are some guidelines in there from
17 the General Orders but, again, nothing that pertains to
18 phone calls.

19 Q. But in the guidelines they are laid out in the
20 General Orders, correct?

21 A. Sure.

22 Q. And those guidelines weren't followed in this
23 case, were they?

24 A. I wasn't able to.

25 Q. But they weren't followed, were they?

Jackson - Biggers Hearing David Weiner - Cross

1 A. No, ma'am. Like I said, the guidelines are for
2 face to face visits.

3 Q. And do the guidelines indicate why they are
4 there? The procedures laid out, are they there to protect
5 reliability?

6 A. I think it deals with Constitutional rights of
7 defendants. I think that's what the guidelines are.

8 MS. WYGUL: I have no further questions.

9 THE COURT: Anything else?

10 MR. GREGORY: No further motions, Your Honor.

11 THE COURT: Ms. Wygul, do you have anything
12 to present?

13 MS. WYGUL: Your Honor, if Ms. Randall is in
14 the courtroom, the defense would call Ms. Randall to the
15 stand.

16 THE CLERK: Ms. Randall, if you would come
17 forward to be sworn in. Place your left hand on the Bible
18 and raise your right, please.

19 BARBARA T. RANDALL, having been duly sworn,
20 testified as follows:

21 Please state your full name for the record.

22 THE WITNESS: Barbara Theopolus(ph) Randall.

23 THE CLERK: Thank you.

24 DIRECT EXAMINATION

25 BY MS. WYGUL:

Jackson - Biggers Hearing Barbara Randall - Direct

1 Q. Ms. Randall, are you familiar or do you recall a
2 telephone conversation between Mr. Murray and Detective
3 Weiner?

4 A. Uh-hum.

5 THE COURT: You have to say yes or no.

6 THE WITNESS: Yes.

7 BY MS. WYGUL:

8 Q. During the conversation, did you hear Mr. Murray
9 say that he threw anything out of the window or took
10 anything?

11 A. No.

12 Q. Were you in the courtroom just a moment ago to
13 hear Detective Weiner's testimony?

14 A. Yes.

15 Q. Does that match your recollection of that phone
16 call?

17 A. No.

18 MS. WYGUL: I have no further question.

19 Thank you

20 THE COURT: All right, Solicitor.

21 MR. GREGORY: Briefly, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. GREGORY:

24 Q. Ms. Randall, you were on the phone call, correct?

25 A. Correct.

Jackson - Biggers Hearing Barbara Randall - Cross

1 Q. And it was this defendant on the phone?

2 A. Yes.

3 Q. And he called Investigator Weiner; is that
4 correct?

5 A. Yes.

6 Q. No question about who was on the phone as far as
7 the defendant goes?

8 A. No.

9 Q. It was definitely him. You recognized his voice
10 in other words?

11 A. Yes.

12 Q. And you lived with him?

13 A. Yes.

14 Q. And how long have you lived with him?

15 A. A year or two.

16 Q. But you recognized his voice?

17 A. Yes.

18 Q. And it was no doubt in your mind that it was this
19 defendant on the phone with Investigator Weiner?

20 A. Yes.

21 Q. And that happened on March 17, 2008, does that
22 sound about right?

23 A. Yes.

24 MR. GREGORY: That's all I have, Your Honor

25 MS. WYGUL: Just very briefly, Your Honor.

Jackson - Biggers Hearing Barbara Randall - Redirect

REDIRECT-EXAMINATION

BY MS. WYGUL:

Q. Ms. Randall, at the time of the phone call you were in a relationship with Mr. Murray, correct?

A. Yes.

Q. Are you currently in a relationship with Mr. Murray?

A. No.

Q. Approximately how long ago did your relationship end? More than a year?

A. Yeah, maybe like a year-and-a-half, off and on for two years of something.

THE COURT: Anything further you would like to present?

MS. WYGUL: No, Your Honor.

MR. GREGORY: No, Your Honor.

THE COURT: Thank you. You can step down.

All right, anything else, Ms. Wygul?

MS. WYGUL: No, Your Honor. We would like to object to the introduction of either of those statements.

THE COURT: And with respect to the telephone call to the meeting in the Law Enforcement Center, the first telephone call was a voluntary statement Miranda, of course would not apply, and the discussion he had in jail while he was in custody when the officer went to talk to

Jackson - Biggers Hearing Barbara Randall - Redirect

1 him at his alleged requests, he said he wasn't going to
2 talk to him and when he walked away he again makes this
3 voluntary statement, so again Miranda is the not
4 applicable.

5 MS. WYGUL: Your Honor, again we would state
6 the second statement would not be applicable as an
7 admission by a party opponent because it doesn't admit to
8 anything except for it draws the defendant's character
9 into issue without him taking the stand.

10 THE COURT: I disagree so I'm going to admit
11 both statements. I'm going to admit the photo line-up.
12 It certainly was not impermissibly suggestive, and she was
13 certainly sure it was the defendant. She had a good
14 opportunity to view him at the time of the alleged crime,
15 gave a good description of the subject, and under the
16 totality of the circumstances, I found that it was not the
17 result of any of tactics of the police and it will be
18 admitted.

19 Anything else?

20 MR. GREGORY: Nothing from the State, Your
21 Honor.

22 MS. WYGUL: Nothing from the defense, Your
23 Honor.

24 THE COURT: All right, bring up our fellow
25 jurors, please. The strikes are five for the State and

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1 five for the defense.

2 THE CLERK: Your Honor, Juror 21 had a
3 problem with her babysitter getting ill.

4 THE COURT: Counsel, Juror 21, Jennifer
5 Palmer is not able to come this morning. She come down
6 with the flu so strike her off the list.

7 THE CLERK: The juror number is 156.

8 (Whereupon, the jury panel enters the
9 courtroom.)

10 THE COURT: Ladies and gentlemen of the jury
11 at this time we will select the jury in the case of State
12 of South Carolina against Stephania N. Murray.

13 Mr. Murray, would you stand up a moment and
14 turn around and face the juror panel for me, please, sir.

15 Thank you. You can be seated.

16 He is indicted for strong armed robbery. The
17 Indictment alleges that on or about March 16, 2008, he
18 feloniously took from the person of Carol Wilborn by means
19 of force, threats or intimidation goods or money alleged
20 to be money, debit, credit cards, a purse and it's
21 contents.

22 Now, potential witnesses in the case
23 will be David Weiner and Craig Welch with the Greenville
24 County Sheriff's Office, Carol Wilborn, Walter Todd
25 Saunders, Anthony Stone, Bill Tarbutton, Pat Tarbutton,

State versus Murray - Jury Selection

1 Barbara T. Randall, Sandy Smith.

2 I would inquire at this time if any member of
3 the juror panel is related by blood or marriage or
4 connected by employment to the defendant or to any of the
5 potential witnesses in the case, or are you sensible or
6 aware of any bias or any prejudice with respect to the
7 defendant or to the State or the subject matter of the
8 case, or do you know of any reason why you could not give
9 this defendant and the State a fair and impartial trial
10 based on the law and evidence to be presented? If so
11 would you please stand and give me your name.

12 (Whereupon, there was no response.)

13 Do I have any of member of the panel that has
14 any connection, family, business, social or otherwise with
15 Walt Wilkins, the Solicitor or any member of his staff
16 including John Gregory who is handling this case for the
17 State or with law enforcement whether be Federal, State,
18 County or Municipal? If so would you please stand and
19 give your name.

20 Yes, sir. Please stand and give me your
21 name.

22 JUROR NO. 127: Alan Lohr. My son-in-law is
23 a Greenville County Police Officer.

24 THE COURT: Would that fact interfere with
25 your able to be a fair and impartial juror on this case?

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1 JUROR NO. 127: No, sir.

2 THE COURT: Yes, sir, in the back.

3 JUROR NO. 187: Jason Simon. My brother is
4 an. FBI agent.

5 THE COURT: Would that fact in any way
6 interfere with you ability to be a fair and impartial
7 juror in this case?

8 JUROR NO. 187: No, sir, it would not.

9 THE COURT: Yes, sir.

10 JUROR NO. 164: Michael Powell. My daughter-
11 in-law works third shift as a Greenville County
12 dispatcher.

13 THE COURT: Thank you, sir, I would not put
14 you on this case. Thank you for telling me that.

15 Your name, please, ma'am.

16 JUROR NO. 225: Cheryl Woods. I'm a former
17 police officer for Mauldin and my ex-husband, the father
18 of my child, is police chief.

19 THE COURT: Would that fact, in any way
20 interfere with your ability to be a fair and impartial
21 juror on this case?

22 JUROR NO. 225: No, sir.

23 THE COURT: Thank you, ma'am.

24 Elizabeth Wygul represents the defendant in
25 this case. Do I have any client's now or formally of her,

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1 if so, please stand and give me your name.

2 (Whereupon, there was no response.)

3 Do I have any member of the panel that's been
4 the victim of a violent crime including the type alleged
5 in this indictment, if so, would you please stand and give
6 me your name.

7 (Whereupon, there was no response.)

8 Okay. The strikes are five for the State and
9 five for the defense.

10 Ladies and gentlemen when your name is
11 called, please come around to the podium, turn around,
12 face counsel and await further instructions. Thank you.

13 THE CLERK: When you come forward, would you
14 please bring your personal belongings so that if you're
15 seated, you can bring them right into the jury box.

16 Juror No. 54, James Cyrek.

17 MR. GREGORY: Please present this juror.

18 MS. WYGUL: Please seat this juror.

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

21 (Whereupon, Juror No. 54, James Cyrek, white
22 male, was seated in the jury box.)

23 Juror No. 59, William Downey.

24 What says the State?

25 MR. GREGORY: Please present this juror.

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1 THE CLERK: What says the defendant?

2 MS. WYGUL: Please seat the juror.

3 THE CLERK: Thank you. You may be seated in
4 the jury box.

5 (Whereupon, Juror No. 59, William Downey,
6 white male, was seated in the jury box.)

7 Juror No. 97, Heather Henderson.

8 What says the State?

9 MR. GREGORY: Please present this juror.

10 THE CLERK: What says the defendant?

11 MS. WYGUL: Please excuse this juror.

12 THE CLERK: Thank you. You may be seated.
13 You're excused from the trial of this case..

14 Juror No. 86, William Greenway.

15 What says the State?

16 MR. GREGORY: Please present this juror.

17 THE CLERK: What says the defendant?

18 MS. WYGUL: Please seat the juror.

19 THE CLERK: Thank you. You may be seated in
20 the jury box.

21 (Whereupon, Juror No. 86, William Greenway,
22 white male, was seated in the jury box.)

23 Juror No. 195, Mark Somero.

24 What says the State?

25 MR. GREGORY: Please present this juror.

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1 THE CLERK: What says the defendant?

2 MS. WYGUL: Please seat the juror.

3 THE CLERK: Thank you. You may be seated in
4 the jury box.

5 (Whereupon, Juror No. 195, Mark Somero, white
6 male, was seated in the jury box.)

7 Juror No. 52, Denroy Craig.

8 What says the State?

9 MR. GREGORY: Please present this juror.

10 THE CLERK: What says the defendant?

11 MS. WYGUL: Please seat the juror.

12 THE CLERK: Thank you. You may be seated in
13 the jury box.

14 (Whereupon, Juror No. 52, Denroy Craig, black
15 male, was seated in the jury box.)

16 Juror No. 163, Michael Peirce.

17 What says the State?

18 MR. GREGORY: Please excuse this juror.

19 THE CLERK: Thank you, you may be seated.

20 You have been excused from the trial of this case.

21 Juror No. 41, Michael Chappell.

22 What says the State?

23 MR. GREGORY: Please present this juror.

24 THE CLERK: What says the defense?

25 MS. WYGUL: Please excuse this juror.

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1 THE CLERK: Thank you. You may be seated,
2 you're excused from the trial of this case.

3 Juror No. 197, Emory Stapleton.

4 What says the State?

5 MR. GREGORY: Please present this juror.

6 THE CLERK: What says the defendant?

7 MS. WYGUL: Please excuse this juror.

8 THE CLERK: Thank you, you may be seated.
9 You're excused from the trial of this case.

10 Juror No. 152, Farhad Nematollahi.

11 What says the State?

12 MR. GREGORY: Please seat this juror.

13 THE CLERK: What says the defendant?

14 MS. WYGUL: Please present this juror.

15 THE CLERK: Thank you. You may be seated int
16 he jury box.

17 (Whereupon, Juror No. 152, Farhad Nematollah,
18 white male, was seated in the jury box.)

19 Juror No. 90, Helen Hahn.

20 What says the State?

21 MR. GREGORY: Please present this juror.

22 THE CLERK: What says the defendant?

23 MS. WYGUL: Please excuse this juror.

24 THE CLERK: Thank you, you may be seated.
25 You're excused from the trial of this case.

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1 Juror No. 128, Donna Lollis.

2 What says the State?

3 MR. GREGORY: Please present this juror.

4 THE CLERK: What says the defendant?

5 MS. WYGUL: Please seat the juror.

6 THE CLERK: Thank you. You may be seated in
7 the jury box.

8 (Whereupon, Juror No. 128, Donna Lollis,
9 white female, was seated in the jury box.)

10 Juror No. 113, Kevin Jones.

11 What says the State?

12 MR. GREGORY: Please present this juror.

13 THE CLERK: What says the defendant?

14 MS. WYGUL: Please seat the juror.

15 THE CLERK: Thank you. You may be seated in
16 the jury box.

17 (Whereupon, Juror No. 113, Kevin Jones, white
18 male, was seated in the jury box.)

19 Juror No. 171, Brandon Rogers.

20 What says the State?

21 MR. GREGORY: Please excuse this juror.

22 THE CLERK: Thank you. You may be seated.
23 You're excused from the trial of this case.

24 Juror No. 225, Cheryl Woods.

25 What says the State?

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1 MR. GREGORY: Please present this juror.

2 MS. WYGUL: Your Honor, we would challenge
3 this. She is a former officer and is married to a current
4 chief of police.

5 THE COURT: I understand. Out of an
6 abundance of caution, I will grant that motion.

7 Thank you. Just have a seat.

8 THE CLERK: You may have a seat.

9 Juror 106, Scarlett Huse.

10 What says the State?

11 MR. GREGORY: Please present this juror.

12 THE CLERK: What says the defendant?

13 MS. WYGUL: Please seat the juror.

14 THE CLERK: Thank you. You may be seated in
15 the jury box.

16 (Whereupon, Juror No. 106, Scarlett Huse,
17 white female, was seated in the jury box.)

18 Juror No. 124, Ronald Liddy.

19 What says the State?

20 MR. GREGORY: Please present this juror.

21 THE CLERK: What says the defendant?

22 MS. WYGUL: Please seat the juror.

23 THE CLERK: Thank you. You may be seated in
24 the jury box.

25 (Whereupon, Juror No. 124, Ronald Liddy,

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1 black male, was seated in the jury box.)

2 Juror No. 65, Sandra Edwards.

3 What says the State?

4 MR. GREGORY: Please present this juror.

5 THE CLERK: What says the defendant?

6 MS. WYGUL: Please excuse this juror.

7 THE CLERK: Thank you, you may be seated.

8 You've been excused from the trial of this case.

9 Juror No. 215, Thomas Treffinger.

10 What says the State?

11 MR. GREGORY: Please excuse this juror.

12 THE CLERK: Thank you, you may be seated.

13 You're excused from the trial of this case.

14 Juror No. 19, Carol Black.

15 What says the State?

16 MR. GREGORY: Please present this juror.

17 THE CLERK: What says the defendant?

18 MS. WYGUL: Please seat the juror.

19 THE CLERK: Thank you. You may be seated in
20 the jury box.

21 (Whereupon, Juror No. 19, Carol Black, white
22 female, was seated in the jury box.)

23 THE COURT: Ms. Black, take that seat and
24 serve as foreperson for me, please, ma'am.

25 THE CLERK: Juror No. 49, Iris Cook.

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1 What says the State?

2 MR. GREGORY: Please excuse this juror.

3 THE CLERK: Thank you, you may be seated.

4 You've been excused from the trial of this case.

5 Juror 193, Steven Smith.

6 What says the State?

7 MR. GREGORY: Please excuse this juror.

8 THE CLERK: Thank you, you may be seated.

9 You've been excused from the trial of this case.

10 Juror No. 127, Alan Lohr.

11 MR. GREGORY: Please present this juror.

12 THE CLERK: What says the defense?

13 MS. WYGUL: The defense would challenge this
14 juror, Your Honor. His sister-in-law is an officer
15 presently.

16 THE COURT: I would deny that motion.

17 MR. GREGORY: Please present the juror.

18 THE CLERK: You may be seated in the jury
19 box.

20 (Whereupon, Juror No. 127, Alan Lohr, white
21 male, was seated in the jury box.)

22 THE COURT: One alternate, one for the State
23 and two for the defense.

24 THE CLERK: Juror No. 207, Thomas Taylor.

25 What says the State?

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1 MR. GREGORY: Please present the juror.

2 MS. WYGUL: Please excuse this juror.

3 THE CLERK: Thank you. You may be seated.

4 You're excused from the trial of this case.

5 Juror 140, Jennifer Thomas.

6 What says the State?

7 MR. GREGORY: Please present this juror.

8 What says the defendant?

9 MS. WYGUL: Please excuse this juror.

10 THE CLERK: Thank you. You're excused from

11 the trial of this case.

12 Juror No. 32, James Bryant.

13 What says the State?

14 MR. GREGORY: Please present this juror.

15 THE CLERK: What says the defendant?

16 MS. WYGUL: Please seat the juror.

17 THE CLERK: Thank you. You may be seated in

18 the jury box.

19 (Whereupon, Juror No. 32, James Bryant, white

20 male, was seated in the jury box.)

21 THE COURT: Okay. Swear the jury, please.

22 THE CLERK: Would you please stand to be

23 sworn in. The response to the oath is "I will."

24 You shall well and truly try case No.

25 2008-GS-23-8615, State versus Stephania N. Murray indicted

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1 from strong armed robbery and a true verdict render
2 according to the law and the evidence, so help you God.

3 (JURY PANEL COLLECTIVELY): I will.

4 THE CLERK: Thank you, you may be seated.

5 THE COURT: Ladies and gentlemen, I'll give
6 you a short recess before we start. And while on recess,
7 please don't talk about this case.

8 (Whereupon, jury exits the courtroom.)

9 Take the jury out, please.

10 I'll ask that the remainder of the jury panel
11 report back down to the jury assembly room. Thank you
12 very much.

13 (Whereupon, jury panel exits the courtroom.)

14 All right, does anyone need a short recess
15 before we begin.

16 MS. WYGUL: Yes, sir, if we could have about
17 five minutes.

18 THE COURT: Okay. Now, please understand
19 when you make your opening statements, do not argue in
20 your opening statement, okay.

21 MS. WYGUL: Yes, sir.

22 MR. GREGORY: Yes, sir.

23 THE COURT: Okay. Very short.

24 (Whereupon, there was a brief recess.)

25 (Whereupon, the jury returns to the

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1 courtroom).

2 OPENING STATEMENTS

3 THE COURT: All right, solicitor.

4 MR. GREGORY: If it please the Court, Your
5 Honor. Ms. Wygul.

6 Ladies and gentlemen of the jury, I'm the
7 assistant solicitor here in Greenville County and I've
8 been assigned to prosecute the case of Stephania Murray
9 for strong armed robbery.

10 Seated here at the table with me is Beth
11 Fletcher. She's my paralegal and lead investigator. She
12 will be assisting me through the trial today. Also at the
13 table is Investigator Weiner of the Greenville County
14 Sheriff's Office.

15 I'm going to take a few minutes this morning
16 right now to tell you what we have to prove and how the
17 State intends to prove it. Criminal cases in South
18 Carolina, this State, this table bares the burden of
19 proof, and it is our responsibility to prove beyond a
20 reasonable doubt that this defendant did what we said we
21 did beyond a reasonable doubt. That's my burden of proof.

22 He's being charged with strong armed robbery.
23 Strong armed robbery is the taking and carrying away the
24 property of another with the intent to permanently deprive
25 by using force, intimidation, or threats. That's what I

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1 have to prove, and I'm going to tell you how I'm going to
2 prove it.

3 I'm going to call witnesses to the stand one
4 by one. The first witness you'll hear from is Carol
5 Wilborn. Ms. Wilborn will testify that on March 16, 2008,
6 she was at the Bi-lo on Pelham Road, right there at Pelham
7 Road and 85 in Greenville County. She was getting dish
8 detergent for her dish washer. As she was coming outside,
9 an individual in a black car pulled in next to her,
10 grabbed her arm, and grabbed her purse. A struggle ensued
11 and the car fled.

12 The next two witnesses will be Anthony Stone
13 and Mr. Todd Saunders. Both of these individuals were at
14 that parking lot on March 16th of 2008 at that time.
15 Mr. Stone will testify that he saw the incident occur. He
16 was in his car, he saw everything happen, he began blowing
17 his horn trying to get attention. Mr. Saunders will
18 testify to you that he was pulling in, he hears a horn
19 blaring and he sees a scuffle. Mr. Saunders was in his
20 car and began to follow the black car involved in this
21 incident. Mr. Saunders is the one that called the police,
22 called 911, to tell them where he was going and what kind
23 of car he was following.

24 Mr. Tarbutton will testify next.

25 Mr. Tarbutton is a former Greer City police officer. He

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1 will testify that he found a purse on the side of the road
2 in Greer. He will testify that he opened the purse and
3 went through the purse and the purse belonged to a Carol
4 Wilborn. He returned the purse.

5 You will also hear from Barbara Randall.
6 Ms. Randall will testify that she was a girlfriend and a
7 roommate of the defendant at this time. She will also
8 testify that she was the owner of a older model 1996,
9 black Lexus, the kind of car that was used in this
10 incident.

11 Investigator Weiner will then testify that he
12 began gathering all the information and began following it
13 up. The first piece of information that he gathered was a
14 license plate number from the black Lexus that was used on
15 that car. He called Ms. Randall -- he's going to testify
16 that he called Ms. Randall. Ms. Randall is going to
17 testify that the defendant had her car that whole Sunday
18 during incident.

19 Investigator Weiner then put together a photo
20 line-up for the victim to see, and the victim after seeing
21 the photo line-up picked this defendant, Stephania Murray
22 out of a photo line-up. That's the evidence the State is
23 going to present to you today.

24 At the end of the case, the State is going to
25 come back before you and talk about the facts that have

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1 actually come out in trial and talk a little bit more
2 about the law, the State's burden and how we met that
3 burden. At the end of the case, I'm going to ask you to
4 find the defendant guilty of strong armed robbery.

5 Thank you.

6 THE COURT: Ms. Wygul.

7 MS. WYGUL: Thomas Jefferson said it was
8 better a 100 guilty men go free than one innocent man be
9 convicted. That's important. That's the basis of the
10 country that we live in. And over the years as our police
11 procedures and our justice system progressed, everyone
12 felt like that was an important thing. Nobody wants to
13 see an innocent man go to jail.

14 And so to prevent that from happening,
15 procedures were set in place. Because everybody is human,
16 everybody makes mistakes, procedures were set in place to
17 make sure that human error did not result in an innocent
18 man going to jail; that human perceptions which are faulty
19 did not result in an innocent man going to jail; that bad
20 memory did not result ---

21 THE COURT: Ms. Wygul, you're arguing and
22 that's not a proper argument. Just tell this jury what
23 this case is about.

24 MS. WYGUL: Yes, Your Honor.

25 The State is correct. They bare the burden

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1 of proof in this case. They have to prove to you that
2 Stephania Murray did what they say he did and they have to
3 prove it beyond a reasonable doubt, because right now
4 Mr. Murray is innocent. He comes in this court cloaked in
5 innocence. It is up to the State to remove that cloak if
6 they can.

7 Mr. Gregory told you a lot about what the
8 State would be presenting as evidence. There's one thing
9 I want you to keep an eye out for and it's something you
10 won't see, and these are the numbers to remember,
11 17-53-17. Just keep those numbers in mind and look for
12 them and ask yourself why you don't get to see what they
13 wrote. At the end of this case we're confident that
14 you're to find that Mr. Murray is innocent.

15 Thank you.

16 THE COURT: Call your first witness.

17 MR. GREGORY: The State calls Carol Wilborn
18 to the stand.

19 THE CLERK: Ms. Wilborn, if you would come
20 forward to be sworn in, please.

21 Place your left hand on the Bible and raise
22 your right.

23 CAROL WILBON, having been duly sworn,
24 testified as follows:

25 Thank you. You may be seated.

Carol Wilborn - Direct Examination

1 THE COURT: Pull in real close to the
2 microphone and speak into it, please.

3 THE CLERK: State your full name for the
4 record.

5 THE WITNESS: Carol Wilbon.

6 DIRECT EXAMINATION

7 BY MR. GREGORY:

8 Q. Ms. Wilborn, get comfortable where you can see me
9 and talk into the mic. Are you comfortable?

10 A. Yes, sir.

11 Q. Ms. Wilborn, how old are you?

12 A. I'm 51.

13 Q. What city do you live in?

14 A. I live in Greenville.

15 Q. How long have you lived in Greenville?

16 A. Since 1980 so that's 31 years.

17 Q. Are you employed?

18 A. Yes, I am.

19 Q. Where are you employed?

20 A. At Baptist Easley in Easley, South Carolina.

21 Q. And what do you do at Baptist Easley?

22 A. I'm a registered nurse.

23 Q. What kind of place is Baptist Easley?

24 A. It's a hospital in Easley.

25 Q. What kind of education have you received as a

Carol Wilborn - Direct Examination

1 nurse?

2 A. I have a Associate Degree from Clemson University
3 in Nursing.

4 Q. What year did you graduate from Clemson?

5 A. In 1980.

6 Q. Are you married?

7 A. No, sir.

8 Q. I want to take you back to March 16, 2008. Do
9 you remember that day?

10 A. Yes, sir.

11 Q. What day of the week was that?

12 A. It was a Sunday.

13 Q. What were you doing that Sunday?

14 A. That Sunday afternoon my mother and I went to
15 walk. I did some errands. I actually got home about 5:30
16 and I realized that I had forgotten to get dishwasher
17 detergent so I decided I'd run back to Bi-lo's and get
18 dishwashing detergent that afternoon.

19 Q. What Bi-lo did you go to?

20 A. I went to Bi-lo on Pelham Road.

21 Q. Is that the Bi-lo there on 85?

22 A. Yes, sir.

23 Q. Do you know what county that Bi-lo's is located
24 in?

25 A. In Greenville.

Carol Wilborn - Direct Examination

1 Q. What time of day did you get to Bi-lo?

2 A. It was about 10 minutes til 6:00 p.m.

3 Q. Were you alone that day?

4 A. Yes. I had told my mom I was just going to go
5 and get the dishwashing detergent and come right back so I
6 was by myself. I pulled in. I parked kind of on the
7 side, if you're familiar with Bi-lo, kind of on the side
8 where the pharmacy -- it's a large Bi-lo -- where the
9 pharmacy and the detergent is. It's kind of in that
10 section midway near the carts, I think, and I actually
11 went in, got my dishwashing detergent, and came back out.

12 Q. Was the parking lot busy at that time?

13 A. No, sir, not really. I wouldn't say it was busy.
14 It was probably about 15 cars or something like that.

15 Q. How far away from the Bi-lo store were you
16 parked?

17 A. Kind of midway where the carts, you put your cart
18 in, that section, I think.

19 Q. And when you were leaving the store, did you have
20 anything in your hands?

21 A. I had just the dishwasher detergent and my
22 pocketbook and my keys.

23 Q. Were the keys in your hands or in the pocketbook?

24 A. The keys were in my hand, I think -- yeah.

25 Q. What kind of pocketbook did you have that day?

Carol Wilborn - Direct Examination

1 A. I had a brown leather big Liz Clayborne purse.
2 It had two compartments and I had it on my left arm, and I
3 had my keys in my right and I had my dishwashing detergent
4 in my left hand. And I walked to my car and I opened the
5 car, the back door.

6 Q. Before we get to your car, I want to talk a
7 little more about the bag. You said it was a big bag.
8 How big of a bag was it?

9 A. This purse is kind of like this.

10 Q. When it is hanging on your shoulder, how far does
11 it come down?

12 A. It had rather large straps so it came down to
13 about here I'd say.

14 Q. And you said you went to your car.

15 A. Yes.

16 Q. What did you do once you got to your car?

17 A. I put the dishwashing detergent in the back seat
18 and I turned to open the driver's side of the door and as
19 I did, I saw this car backing in, which I thought was very
20 odd. Nobody really backs in a parking place, but it
21 backed in and I turned and I had to close my door and
22 lean. I thought it was going to hit me. So when I did, I
23 turned and I still had the pocketbook here and I had
24 opened my door. So I pushed the driver's side door and I
25 had to lean back because I thought it was going to hit me.

Carol Wilborn - Direct Examination

1 Q. How close was that car to you? Can you give an
2 estimation in feet?

3 A. Close enough to me to think it was going to hit
4 you.

5 Q. Were you able to tell what kind of car was
6 backing in?

7 A. I know it was dark. I really wasn't paying
8 attention because I was trying to see what was going so I
9 turned, and as I did, this particular person -- individual
10 -- got out and I thought, God he's probably going to say
11 I'm sorry I almost hit you and it kind of scared me. And
12 when he came toward me, he grabbed my arm here, my left
13 arm which I still had my pocketbook. I hadn't gotten it
14 to the car yet and I had the strap still here, and he
15 grabbed my arm and he squeezed it which pulled the strap
16 loose and then he started pulling the strap.

17 Well, then I realized, oh, my gosh, he's
18 trying to take my pocketbook. So I started screaming I
19 need help, I need help, and I just kept looking at him and
20 saying why are you doing this. I kept screaming I need
21 help and I could hear people's horns blowing and all the
22 commotion going on but I was looking at him. And then he
23 started struggling and it was like I fight.

24 All I could think about was everything in the
25 world was in my pocketbook. Most women carry everything

Carol Wilborn - Direct Examination

1 with them as most people know. I had credit cards. I had
2 an extra car key. I had money; I had my nursing license
3 and all my nursing certification things that I've had for
4 years that I've had to update; some of my momma's cards,
5 insurance cards and those type of things; my cell phone.
6 I had things that can be replaced but are really hard to
7 replace I'm sure you know.

8 So what I was thinking although my mind is
9 spinning about my car keys -- oh, no, he's going to come
10 back and get my car. All this stuff is going through your
11 mind and I'm in shock because this has never happened to
12 me, of course.

13 And so he struggled and I was trying to fight
14 for my pocketbook. So he grabbed the strap and I grabbed
15 a strap and when he grabbed the strap and I would only get
16 a lead on it, he would grab my arm. The whole time the
17 leather straps are going up and down on my arm and then
18 he's grabbing it to. It should hurt but of course you're
19 in shock when that's going on, so you react. You're still
20 trying to fight.

21 At one point in time, I trying to actually
22 kick him in the groin and I had on clog-like shoes and my
23 shoe actually fell off and flipped over my head and
24 actually went flying. So then I've got one foot on the
25 ground and one higher up and I'm still trying to struggle,

Carol Wilborn - Direct Examination

1 and all he's doing is he keeps trying to take me back
2 towards his car. And all this is going on for about two
3 to three minutes, maybe four minutes, I can't say exact.

4 Q. I want to back up just a little bit.

5 A. Okay.

6 Q. You just gave us a lot of information I want to
7 talk about. When he backed the car in and he got out,
8 what kind of individual got out of the car? Were you able
9 to see?

10 A. Dark, black male, about 6' 2", short hair. His
11 eyes were very red and he seemed very strong. His eyes
12 just looked like he was almost angry. His strength was
13 just tremendous because I'm a nurse and I lift 300 pound
14 people sometimes and I thought, you know, I'm pretty
15 strong. But he had a lot of strength and he was very
16 strong pulling back and forth.

17 Q. When he got out of the car, did he say anything
18 to you?

19 A. He never said a word.

20 Q. Did he have a mask on?

21 A. No.

22 Q. Did he have a hat on?

23 A. No.

24 Q. He have sunglasses?

25 A. No.

Carol Wilborn - Direct Examination

1 Q. Did he have anything that would hinder your
2 vision of this individual?

3 A. No, I saw his whole face and I kept looking at
4 his eyes because I couldn't believe he was doing this to
5 me.

6 Q. And you said this individual grabbed your left
7 arm; is that correct?

8 A. Yes, sir.

9 Q. What arm did he use to grab your arm?

10 A. I think he used both at different time. I'm not
11 sure at first but he grabbed it and loosened the straps
12 and then the straps would go and he would pull and I would
13 pull and it was back and forth trying to get -- and like I
14 said he would hold me and he would pull me and he would
15 grab my arm and it was just like this back and forth.

16 Q. Did he ever turn his car off?

17 A. Not that I know of. No, it was running and he
18 just went back in.

19 Q. You said it was about three or four minutes this
20 struggle went on?

21 A. Something like that.

22 Q. And you were within arms reach length?

23 A. Yes, back and forth.

24 Q. What time of day was this?

25 A. 6:00.

Carol Wilborn - Direct Examination

1 Q. Was the sun out?

2 A. Yes.

3 Q. Was there anything that would hinder your vision
4 of this individual?

5 A. No.

6 Q. Ms. Wilborn, I'm going to show you what's been
7 previously marked as State's Exhibit Nos. 1 through 4.
8 Would you take a look at these for me, please.

9 A. Yes, sir.

10 Q. Do you recognize those pictures?

11 A. Yes, sir.

12 Q. Do those pictures substantially -- have you seen
13 those pictures before?

14 A. Yes, sir.

15 Q. Are they fair and accurate?

16 A. Yes, sir.

17 Q. What are those pictures of?

18 A. They are pictures of my arm after this incident
19 and my hand.

20 MR. GREGORY: Your Honor, the State seeks to
21 introduce Exhibits 1 through 4.

22 THE COURT: Any objection?

23 MS. WYGUL: No objection.

24 THE COURT: Without objection.

25 (Whereupon, State's Exhibit Nos. 1 through 4

Carol Wilborn - Direct Examination

1 phtographs previously marked for identification was
2 admitted into evidence.)

3 BY MR. GREGORY:

4 Q. Would you please hold up State's Exhibit No. 1?
5 It's located on the back. Can you describe to the jury
6 what we're looking at?

7 A. It's a picture of my arm, the bruise I developed
8 after this incident occurred. The would have been like my
9 arm from the deltoid muscle that comes down here this
10 section of my arm and the strap that was going up and
11 down.

12 Q. What day was this picture taken, do you remember?

13 A. It was the next day afterwards which would have
14 been the 17th.

15 Q. Would you please hold up State's Exhibit No. 2
16 and describe to the jury what is in that picture?

17 A. This is my hand. I also had an abrasion. You
18 can see here on my hand here from the straps coming down.

19 Q. Can you do the same thing with State's Exhibit
20 No. 3?

21 A. That is also my hand.

22 Q. And there are abraisons on your knuckles; is that
23 correct?

24 A. Yes, sir.

25 Q. Can you do the same thing with State's Exhibit

Carol Wilborn - Direct Examination

1 No. 4? Is that the same part of your left arm?

2 A. Yes, sir.

3 Q. Are the injuries that we see in these pictures
4 the only injuries you sustained?

5 A. Yes, sir.

6 Q. Can you please describe for the jury when he
7 grabbed you, how hard was the grab?

8 A. When you take the fingers and you pinch in like a
9 grabbing motion here to make it hurt to make you want to
10 let go of the straps of your purse.

11 Q. When you were struggling with him, you said he
12 eventually got back in his car and drove away?

13 A. Yes.

14 Q. Please describe for the jury what happened as he
15 was driving away?

16 A. He kept going towards the car and I kept thinking
17 I was going to gain on him and be able to get it back and
18 so I kept going over towards the car. And when I got to
19 the car I kind of let go a little more because of the
20 getting in the car part, and I thought I was really going
21 to get it at that point in time and then he really started
22 accelerating and he was going really fast and I thought I
23 was really going to get hurt so eventually I had to let
24 go. But he did drag me I'd say two or three feet. I
25 don't know really what amount of feet. I can't really say

Carol Wilborn - Direct Examination

1 honestly.

2 Q. Was he driver's side door open at the time?

3 A. Yes, sir. And he started accelerating and I knew
4 I was going to fall and get really hurt if I didn't let
5 go.

6 Q. What part of the purse did you have a hold of at
7 that time?

8 A. I think it was at the bottom of the strap. I was
9 still grasping for that little bit.

10 Q. You said there was credit cards, miscellaneous
11 items?

12 A. Insurance cards, certifications, an extra car key
13 that I was really concerned about, my cell phone, some of
14 my mother's cards and her insurance cards, you know, all
15 the things you have in your possession.

16 Q. Did you have any cash?

17 A. Bout \$50.

18 Q. And after the purse was taken, tell the jury what
19 happened?

20 A. Actually two guys came running towards me and
21 there was another guy that was in his car that came by,
22 and the two guys that came towards me were very nice and
23 tried to comfort me. They actually called 911 and gave me
24 a cell phone to call my mom and I got one of the neighbors
25 to bring her to Bi-lo. The manager from Bi-lo came out.

Carol Wilborn - Direct Examination

1 The guy that was in the car was actually
2 chased him and called 911 and telling where he was, and
3 the other two guys stayed with me and my hand was bleeding
4 and the other guy was trying to get some ice from Bi-lo to
5 put on my arm.

6 We were waiting for the detective. Detective
7 Welch came later, about a half an hour or so later I think
8 it was, and took my statement.

9 Q. Did you ever get your purse back?

10 A. Yes. We stayed there and did my statement and
11 then my mom and I went by my apartment to get some clothes
12 because I didn't want to stay by myself that night because
13 I was actually pretty torn up about things so I was going
14 to stay with my mom.

15 When we went by my apartment, there was a
16 message on my answering machine from a very sweet lady
17 that lives in Greer and she and her husband had been
18 actually to Blum Grocery Store in Greer and had found my
19 pocketbook later, thrown out, and had gathered a lot of
20 the stuff that were in it and taken it home. Her husband
21 was a police man in Greer and he had called the police
22 department.

23 I called her. She had left her name and
24 number and I called her and I called the police department
25 and ask for Detective Welch who had taken my statement

Carol Wilborn - Direct Examination

1 earlier. He actually called me back and I went to Greer
2 and got my pocketbook back, they were sweet people, and
3 brought it to my mom's house later that night.

4 Q. Once you got your pocketbook back, was there
5 anything missing? |

6 A. Yes, there was.

7 Q. What was missing?

8 A. The money was missing and my cell phone was
9 missing, and I wasn't sure about cards and stuff. It took
10 me a little while to go through that and try to figure
11 that out but I think I got most of that back.

12 Q. I'm going to show you what's been marked as
13 State's Exhibit No. 5 and No. 6. Were you shown a photo
14 line-up regarding this case?

15 A. Yes.

16 Q. What day were you shown that line-up?

17 A. The 17th.

18 Q. The 17th of?

19 A. March, 2008.

20 Q. Do you remember what time of day you were shown
21 that line-up?

22 A. It was late in the afternoon.

23 Q. Do you remember who showed you the line-up?

24 A. Detective Weiner.

25 Q. Where were you when you viewed the line-up?

Carol Wilborn - Direct Examination

1 A. At the police station.

2 Q. How did Investigator Weiner present the line-up
3 to you?

4 A. Just told me to see if any of these pictures were
5 the person that robbed me.

6 Q. Did he indicate to you that you should pick
7 somebody out of this line-up?

8 A. No.

9 Q. Did he tell you that the person who robbed you is
10 in this picture?

11 A. No.

12 Q. Did he do anything to coerce you to making an
13 identification?

14 A. No.

15 Q. Did you view the line-up?

16 A. Yes, sir.

17 Q. Did you look at each picture carefully?

18 A. Yes, sir.

19 Q. You took your time?

20 A. Yes, sir.

21 Q. Were you able to identify the person in the line-
22 up?

23 A. Yes, sir.

24 Q. Was that the person that committed this -- took
25 your purse?

David Weiner -Cross-Examination

1 A. Yes, sir.

2 Q. How did you note on there that is the individual
3 who that took your purse?

4 A. I will never forget those eyes.

5 Q. I'm sorry. How did you indicate it on the photo
6 line-up? Did you do anything special?

7 A. Yes, I circled it and I initialed it.

8 Q. And your initials are what?

9 A. "C.W."

10 Q. Meaning what?

11 A. Carol Wilborn.

12 Q. When you initialed it, what are you telling us?

13 A. That that is the person that robbed me.

14 Q. And you were not coerced to pick anyone?

15 A. No, sir.

16 Q. And did he tell you that this person was
17 definitely going to be in this line-up?

18 A. No, he did not.

19 Q. And if you'll look at State's Exhibit No. 5, do
20 you recognize the handwriting on that piece of paper?

21 A. Yes.

22 Q. Whose handwriting is that?

23 A. That's mine.

24 Q. Is your signature on that paper?

25 A. Yes, and my initials and my signature.

Carol Wilborn - Cross-Examination

1 Q. And is that substantially in the same condition
2 it was when you signed it?

3 A. Yes.

4 Q. Ms. Wilborn, on May 16, 2008 when your purse was
5 taken, is that individual in the courtroom here today?

6 A. He is.

7 Q. Where is he, ma'am?

8 A. He's sitting right there.

9 MR. GREGORY: Please answer any questions
10 Ms. Wygul has for you.

11 THE COURT: Ms. Wygul.

12 CROSS-EXAMINATION

13 BY MS. WYGUL:

14 Q. Ms. Wilborn, did you give a statement to
15 Detective Weiner when you went up to the police
16 department?

17 A. Yes.

18 Q. And in that statement, did you give a description
19 of the individual that robbed you?

20 A. Yes.

21 Q. And do you recall what your description of him
22 was in that statement?

23 A. I don't think it was any different than ---

24 THE COURT: Could you pull a little closer to
25 the mic, ma'am.

Carol Wilborn - Cross-Examination

1 THE WITNESS: I don't think it was any
2 different from the statement that I had given Detective
3 Welch the day before, tall, black male.

4 MS. WYGUL: Permission to approach, Your
5 Honor.

6 THE COURT: Sure.

7 BY MS. WYGUL:

8 Q. Ms. Wilborn, could you take a look at this and
9 identify it?

10 A. Yes, that was my statement.

11 Q. Could you review that just to refresh your
12 memory?

13 This all occurred approximately three years
14 ago, correct?

15 A. That's correct.

16 Q. 2008?

17 A. That's correct.

18 Q. Having reviewed your statement, do you recall how
19 you described the suspect at that time?

20 A. Tall, black male, short hair; I said he was
21 wearing a red shirt. His eyes were reddened.

22 Q. Looking in this affidavit, do any of those
23 descriptive terms -- did you give any of those descriptive
24 terms in this statement?

25 A. I don't see anything other than tall, rough

Carol Wilborn - Cross-Examination

1 looking, and wearing a red shirt in this statement.

2 Q. Did you notice anything odd when the person
3 approached you in the parking lot or odd in retrospect?

4 A. The only thing I thought was odd was someone
5 backing in beside you, I thought that was odd.

6 Q. Did he approach you smiling?

7 A. He may have been smiling at first, I really don't
8 remember now.

9 Q. When you gave this statement to Detective Weiner,
10 did you state that the individual was wearing a red shirt
11 and walked towards you smiling?

12 A. Yes, that's what is down. Yes, ma'am.

13 Q. And all this occurred about three years ago,
14 right?

15 A. Yes, it did.

16 Q. Ms. Wilborn, do you wear glasses?

17 A. I wear glasses to drive.

18 Q. Did you have your glasses on, on the date of this
19 incident?

20 A. No, I did not. I was not driving when this
21 happened.

22 Q. And you stated that Officer Welch came out to the
23 scene?

24 A. Yes.

25 Q. Is that correct?

Carol Wilborn - Redirect Examination

1 A. That's correct.

2 MS. WYGUL: I have no further questions.

3 Thank you.

4 THE COURT: Anything else?

5 MR. GREGORY: Just briefly, Your Honor.

6 REDIRECT EXAMINATION

7 BY MR. GREGORY:

8 Q. Your glasses you said you wear to drive. Is that
9 because you're near-sighted or far-sighted?

10 A. I'm near-sighted. I can't see far away.

11 Q. You had no trouble seeing this defendant?

12 A. No. I was very close to him.

13 MR. GREGORY: No further questions, Your
14 Honor.

15 THE COURT: Thank you. You can step down.

16 (Witness leaves the witness stand.)

17 MR. GREGORY: Your Honor, at this time the
18 State calls Mr. Anthony Stone.

19 THE CLERK: Mr. Stone, please come forward to
20 be sworn in.

21 Please place your left hand on the Bible and
22 raise your right..

23 ANTHONY STONE, having been duly sworn,
24 testified as follows:

25 Thank you. You may be seated. Would you

Anthony Stone - Direct Examination

1 please state your full name for the record.

2 THE COURT: Anthony Stone.

3 THE CLERK: Thank you.

4 DIRECT EXAMINATION

5 BY MR. GREGORY:

6 Q. Mr. Stone, how old are you?

7 A. Forty-two.

8 Q. What city do you live in?

9 A. Greer.

10 Q. How long have you lived there?

11 A. About six years.

12 Q. Are you employed?

13 A. Yes.

14 Q. And where do you work?

15 A. Mutual Manufacturing.

16 Q. How long have you worked there?

17 A. About a year.

18 Q. What education do you have?

19 A. I have a college Bachelor's Degree.

20 Q. Where did you get your Bachelor's Degree?

21 A. Abbey College in North Carolina.

22 Q. What year did you graduate?

23 A. 1991.

24 Q. I'd like to take you back to March 16th, do you

25 remember that day?

Anthony Stone - Direct Examination

1 A. Yes.

2 Q. Around 6:00 in the evening, do you remember where
3 you were?

4 A. Yes, I was in the Bi-lo parking lot.

5 Q. Which Bi-lo was that?

6 A. On Pelham Road.

7 Q. Why were you at Bi-lo?

8 A. We were getting there getting groceries getting
9 ready to leave.

10 Q. Who were you there with?

11 A. I was there with my wife and my son.

12 Q. Were you inside the store or outside the store?

13 A. We were outside in the parking lot.

14 Q. Were you inside your car?

15 A. Yes, I was.

16 Q. Would you please tell the jury what you saw
17 outside the store?

18 A. As we were getting ready to leave, we had gone in
19 separate cars for some reason and my wife was in her car
20 and was already leaving and I had just gotten into my
21 truck. I had noticed there was a car that had circled
22 around a few times. It seemed unusual to me because there
23 were lots of spaces available so it to see this car
24 looking for a space seemed unusual. And as it went back
25 up the next isle over, it started backing into a space and

Anthony Stone - Direct Examination

1 I saw what looked like to me he was going to hit someone
2 so I started watching more closely because I was afraid he
3 was going to back into someone because there was a person
4 standing beside the car at that space.

5 As the black car backed in, it went from my
6 view thinking that their going to hit them, the person
7 stood up, got out real quickly and reached for the woman's
8 purse so then it was, oh, gosh, he's taking her purse and
9 I knew that I couldn't get over there to try to help so I
10 started blowing the horn on my truck to try to attract
11 attention from someone else or maybe try to scare him off.

12 Q. How far away were you in your truck from that
13 incident?

14 A. Approximately 30 feet maybe.

15 Q. Were you able to see the car that was backing in?

16 A. Yes.

17 Q. What kind of car was that?

18 A. It was an older model black four-door Lexus.

19 Q. About how long did the whole incident take?

20 A. Just a couple of minutes, very short.

21 Q. And the individual that you said almost got hit,
22 were you able to find out the identity of that person?

23 A. Yes.

24 Q. Who was that?

25 A. Ms. Wilborn.

Anthony Stone - Direct Examination

1 Q. After you blew the horn, what did you do?

2 A. After the black car pulled away, she was trying
3 to chase the car. I jumped out and tried to run towards
4 her because I couldn't move my vehicle because it was
5 parked at the cart corral so I couldn't go forward. So I
6 jumped out and ran around and as I did that, she was going
7 down the isle trying to follow that car and he was pulling
8 away and I saw another car pulling beside me to chase the
9 car out of the parking lot.

10 Q. Did you get a good look at the individual driving
11 the Lexus?

12 A. I saw when he got out of the car. I could tell
13 it was a tall, black male. I could see him easily over
14 the top of the other cars.

15 Q. Were you able to tell if the driver's door of the
16 Lexus was open or closed when it was leaving?

17 A. It was opened. As he had backed into the space,
18 he opened the door almost to the point to where she was
19 trapped between that car door and her car and she couldn't
20 go anywhere and as they struggled for the purse, he kept
21 the door open until he got back in and was driving away
22 and she was still trying to pull the purse out of his
23 hand. And at some point, either as ran she kicked or was
24 running towards the car I saw her shoe go into the parking
25 lot.

Anthony Stone - Cross-Examination

1 Q. The individual that got into the Lexus, did he
2 have a hood on?

3 A. No.

4 Q. Did he have a hat on?

5 A. No.

6 Q. Sunglasses or anything that would prevent you
7 from seeing his face?

8 A. No.

9 MR. GREGORY: Please answer any questions
10 Ms. Wygul has for you.

11 THE COURT: Ms. Wygul.

12 CROSS-EXAMINATION

13 BY MS. WYGUL:

14 Q. Mr. Stone, did Detective Weiner ever contact you
15 to come down and look at a photo line-up in this case?

16 A. No.

17 MS. WYGUL: No. I have no further questions.

18 THE COURT: Thank you. You can step down.

19 (Witness leaves the witness stand.)

20 MR. GREGORY: Your Honor, we'd ask that
21 Mr. Stone be allowed to leave.

22 MS. WYGUL: Without objection.

23 THE COURT: He is released.

24 MR. GREGORY: Your Honor, at this time, the
25 State calls Todd Saunders.

Todd Saunders - Direct Examination

1 THE CLERK: Mr. Saunders, would you please
2 come forward to be sworn in.

3 Please place your left hand on the Bible and
4 raise your right.

5 WALTER TODD SAUNDERS, having been duly sworn,
6 testified as follows:

7 Thank you, you may be seated. Please state
8 your full name for the record.

9 THE WITNESS: Walter Todd Saunders.

10 THE CLERK: Thank you.

11 DIRECT EXAMINATION

12 BY MR. GREGORY:

13 Q. Mr. Saunders, how old are you?

14 A. Forty-four.

15 Q. What city do you live in?

16 A. Greenville -- I live in Greenville County.

17 Q. How long have you lived in Greenville?

18 A. Thirteen years.

19 Q. Are you employed?

20 A. Currently unemployed.

21 Q. Have you worked previously to your unemployment?

22 A. Yes. Corporately downsized, I was a sales
23 engineer for the southeast United States.

24 Q. And would you tell the jury about your
25 educational background?

Todd Saunders - Direct Examination

1 A. I have a BBA of Business Administration from
2 James Madison University in Virginia.

3 Q. I want to take you back to March 16, 2008. Do
4 you remember that day?

5 A. Yes, sir.

6 Q. Do you remember what day of the week it was?

7 A. Sunday.

8 Q. About 5:50 to 6:00 do you remember where you
9 were?

10 A. I was traveling from Charlotte, the ACC
11 Tournament.

12 Q. Was that in Charlotte?

13 A. I was in Charlotte that day, yes, sir.

14 Q. You were coming down 85?

15 A. I come down 85 and exited onto Pelham Road,
16 received a phone call from my wife to go get groceries --
17 go to the grocery store at Bi-lo on Pelham and I pulled
18 into that parking lot at that time.

19 Q. When you pulled into the parking lot, what did
20 you see?

21 A. Well, it wasn't a very busy parking lot. There
22 were a lot of empty spaces and the reason I know that is
23 because instead of going down perpendicular on lines, I
24 just travelled laterally through the parking lot because
25 there were very few cars in the spots. As I approached, I

Todd Saunders - Direct Examination

1 could hear a car horn blaring and I could hear a ladies
2 voice yelling help, help. As I got closer, I could see a
3 blond haired woman running perpendicular to my vehicle but
4 on the other side of the isle and she was the one
5 obviously in distress.

6 Q. Could you tell what was going on?

7 A. My initial reaction is a woman is either being
8 abducted, her car has been hit or somebody is trying to
9 steal her purse.

10 Q. And what did you do?

11 A. At that point, I pulled my vehicle on into the
12 oncoming traffic of a black Lexus and we were
13 perpendicular and my attempt was just to cut him off.

14 Q. How close did you get to the black Lexus?

15 A. Eight feet -- eight feet from driver to driver.

16 Q. Okay. When you say perpendicular, was your car
17 facing the driver's seat or the passenger's seat of the
18 other car?

19 A. My hood was facing the driver's seat of the other
20 car.

21 Q. And what kind of car was it you were trying to
22 stop?

23 A. It was a black, late model, Lexus.

24 Q. Were you able to see the person driving that car?

25 A. Yes, sir.

Todd Saunders - Direct Examination

1 Q. And what kind of description would you give for
2 the person driving the car?

3 A. It was a black male, high forehead, high
4 cheekbones, definitely distinctive looking individual with
5 creases along his forehead.

6 Q. Do you see that individual in the courtroom
7 today?

8 A. Yes, because he and I had a nice little stare
9 down for about 40 seconds looking at each other eye to eye
10 and that is that gentlemen right there.

11 Q. After you tried to stop this car, what did you
12 do?

13 A. I stayed there to see what he was going to do.
14 He pulled around me and he exited onto Pelham Road.

15 Q. Which direction was he going on Pelham Road?

16 A. He was going toward Hayward so it would be
17 southwest and I called 911 at that point. He then turned
18 right on Boiling Springs. I continued pursuit, talked to
19 the 911 operator at that time.

20 Q. Boiling Springs, can you describe what's on that
21 road?

22 A. I took a right, right beside I believe it's
23 Graves Church on Pelham Road at that intersection, took a
24 right at Boiling Springs and following him while talking
25 with the 911 operator.

Todd Saunders - Direct Examination

1 Q. How close were you able to get to that black
2 Lexus?

3 A. It was just he and I so my objective was to
4 retrieve the license plate number and relay that
5 information to the authorities, stay in pursuit until the
6 authorities would come, and apprehend the person or that
7 person would hopefully wreck and that would make
8 everybody's job a lot easier.

9 Q. Were you able to get a license plate number off
10 of that Lexus?

11 A. Yes, sir.

12 Q. And what did you do with that license plate
13 number?

14 A. I relayed that information to the 911 operator.

15 Q. Did you get a good look at the license plate
16 number?

17 A. Yes, sir.

18 Q. And no doubt in your mind that you got the
19 correct number off of it?

20 A. I know I got the correct number off of it, sir.

21 Q. Were you able to tell how many people were in
22 that black Lexus?

23 A. One individual, the driver.

24 Q. That's it?

25 A. That is it.

Todd Saunders - Direct Examination

1 Q. After he turned right on Boiling Springs past
2 Graves Church, where did he go?

3 A. He continued to travel. We came out onto, I
4 believe, Old Spartanburg at some point. I had my GPS on
5 my windshield so I know exactly where I was at all times
6 just relaying those coordinates to the 911 operator
7 because I did not want to get pulled over for any traffic
8 violations. I'm just trying to be a good citizen. At
9 that point, we got to Hudson Corners and at that point you
10 got to turn into another Bi-lo at Hudson Corners. He
11 slowed down. He knew he was being tailed because I was
12 right on him, went up to -- came back out onto Hudson
13 Road, took a right on -- by the Eastside Y, took a left
14 went down Saint Marks.

15 At this time he was passing multiple vehicles
16 on a double line and I was relaying this information to
17 the operator. I'm also passing people on double lines and
18 I'm relaying that to them as well, but I'm doing it much
19 more cautiously than the driver of the black Lexus.

20 Q. How far did you follow the black Lexus?

21 A. I followed him to the point where there was about
22 a 10-car back-up that he had passed and he took a right
23 on, I forget the name of the road but I know where it is
24 in Greer, Taylors area and at that point I lost him
25 because I could not risk my life or somebody else's life

Todd Saunders - Cross-Examination

1 any further.

2 Q. Do you know about how many miles you covered in
3 this chase?

4 A. I would say approximately three to four-
5 and-a-half miles. At that point I just came back to the
6 scene of the crime.

7 Q. Did you talk to Investigator Weiner at the scene
8 of the crime?

9 A. To Investigator Weiner, no, sir, Officer Welch I
10 did, and I wanted to make sure the victim was okay.

11 Q. Did you later talk to Investigator Weiner?

12 A. Yes, sir.

13 Q. Do you remember at all what day you talked to
14 Investigator Weiner?

15 A. I do not recall that date. It was shortly after.

16 Q. And an individual you saw driving that black
17 Lexus is this defendant?

18 A. Yes, sir.

19 Q. Please answer any questions Ms. Wygul has for
20 you.

CROSS-EXAMINATION

22 BY MS. WYGUL:

23 Q. Mr. Saunders, when you met with Detective Weiner,
24 did he ask you to look at a photo line-up?

25 A. He didn't ask me to pick anyone out.

Bill Tarbutton - Direct Examination

1 Q. Did he ask you to look at a photo line-up?

2 A. He said, well, we have a line-up but it's not
3 necessary for you to pick one out. I know it was that
4 person right there.

5 Q. Did Investigator Weiner ask you to pick someone
6 out in a photo line-up in this case?

7 A. No.

8 MS. WYGUL: Thank you. No further questions.

9 THE COURT: Thank you. You can step down.

10 (Witness leaves the witness stand.)

11 MR. GREGORY: Your Honor, at this time the
12 State calls Mr. Tarbutton to the stand.

13 THE CLERK: Mr. Tarbutton, would you step
14 forward to be sworn in.

15 Please place your left hand on the Bible and
16 raise your right.

17 BILL TARBUTTON, having been duly sworn,
18 testified as follows:

19 Thank you. You may be seated. Please state
20 your full name for the record.

21 THE WITNESS: Bill Tarbutton.

22 DIRECT EXAMINATION

23 BY MR. GREGORY:

24 Q. Mr. Tarbutton, how old are you?

25 A. Sixty-seven right now, sir.

Bill Tarbutton - Direct Examination

1 Q. What city do you live in?

2 A. I live in Greer, sir.

3 Q. How long have you lived in Greer?

4 A. About 25 years.

5 Q. Are you currently employed?

6 A. No, sir, I just retired.

7 Q. Where did you retire from?

8 A. Greer City Police Department.

9 Q. And how long were you with the Greer City Police
10 Department.

11 A. Twenty-five years.

12 Q. Did you have an opportunity to become involved in
13 this case?

14 A. Yes, sir, I did.

15 Q. What day was that, do you remember?

16 A. It was mid March on a Sunday.

17 Q. Tell the jury how you became involved in this
18 case?

19 A. My wife and I had been to Blum's Shopping Store
20 located on Highway 29 and we left the store. We had
21 picked up some items. Coming down back around the road in
22 back of Blum's towards the library past Bergus Road which
23 is a north-south road and we were going east, we came
24 across when we got to the side part of the library on
25 Aaron Tippin drive we both said there's a pocketbook in

Bill Tarbutton - Direct Examination

1 the road and my wife stopped the car. I was in the
2 passenger's side.

3 We got out, picked up the items that were all
4 sprue out, put them in the purse, put them in the car,
5 went around the bend and said, look there's some other
6 items and it looked like the purse out of the pocketbook
7 and there were some items there. We put that in the
8 pocketbook, drove to the house, looked through it and
9 found a driver's license, found a number and called the
10 owner. Shortly thereafter an officer came to the house
11 and retrieved the items.

12 Q. When you were going through the purse to find the
13 ID, did you find any cash in the purse?

14 A. We did. We found some change and I think a
15 dollar bill or two. I can't remember right off hand.

16 Q. And you didn't see who threw the purse out?

17 A. No.

18 Q. And you didn't see anything that happened at the
19 Bi-lo?

20 A. No.

21 Q. Please answer any questions Ms. Wygul has for
22 you.

23 THE COURT: Ms. Wygul.

24 MS. WYGUL: I have no questions.

25 THE COURT: Thank you. You can step down.

Barbara Randall - Direct Examination

1 THE WITNESS: Thank you.

2 (Witness leaves the witness stand.)

3 MR. GREGORY: Your Honor, at this time the
4 State calls Barbara Randall.

5 THE CLERK: Ms. Randall, if you would please
6 come forward to be sworn in please. Place your left hand
7 on the Bible and raise your right.

8 BARBARA T. RANDALL, having been duly sworn,
9 testified as follows:

10 Thank you. You may be seated. Please state
11 your full name for the record.

12 THE WITNESS: Barbara Theopolus(ph) Randall.

13 THE CLERK: Thank you.

14 DIRECT EXAMINATION

15 BY MR. GREGORY:

16 Q. Ms. Randall, you are here under subpoena today;
17 is that correct?

18 A. Correct.

19 Q. You were given a subpoena by someone in my
20 office, correct?

21 A. Correct.

22 THE COURT: Pull in closer to the mic.

23 BY MR. GREGORY:

24 Q. Do you know why you're here today?

25 A. Because my car was involved in some kind of

Barbara Randall - Direct Examination

1 crime.

2 Q. That's what I want to talk about. Do you
3 recognize this defendant?

4 A. Yes.

5 Q. Who is the defendant?

6 A. My ex-boyfriend.

7 Q. And what is his name?

8 A. Stephania Murray.

9 Q. How long have you known this defendant?

10 A. About five or six years.

11 Q. Would you please describe your relationship with
12 the defendant?

13 A. Kind of rocky. We didn't want the same things so
14 we just kind of grew apart.

15 Q. On March 16 of 2008, were you together with the
16 defendant? When I say "together" were you living
17 together?

18 A. Yes.

19 Q. Where were you living?

20 A. In Seneca.

21 Q. And what county is that located in?

22 A. Oconee County.

23 Q. Is that where you currently live?

24 A. Yes.

25 Q. Are you employed right now?

Barbara Randall - Direct Examination

1 A. Yes.

2 Q. Where are you employed?

3 A. Liberty Dental.

4 Q. Back in 2008, March 16th, did you own a car?

5 A. Yes.

6 Q. What kind of car did you have?

7 A. A black Lexus 1996.

8 Q. And it was registered to you?

9 A. Yes.

10 Q. You had proper tags on it; is that correct?

11 A. Yes.

12 Q. Were you called concerning your car in March of
13 2008?

14 A. Yes.

15 Q. Who called you?

16 A. Detective Weiner.

17 Q. Do you recall when he called you?

18 A. I know it was on a Monday.

19 Q. In March?

20 A. Yes.

21 Q. What did Detective Weiner ask you?

22 A. If I was in my car the day prior and I told him
23 no.

24 Q. Where was your car the day prior?

25 A. I let, at the time, my boyfriend have it.

Barbara Randall - Direct Examination

1 Q. Your boyfriend being Stephania Murray?

2 A. Yes.

3 Q. Why did you let him borrow your car?

4 A. He was supposed to be meeting his mom at the
5 church or somewhere over in Greenville.

6 Q. In Greenville. You said you lived in Seneca at
7 that time.

8 A. Uh-hum.

9 Q. What time did the defendant leave with your car?

10 A. About 9:00 or 10:00 I think. I was sleep so I
11 don't know the exact time.

12 Q. Would that be a.m. or p.m.?

13 A. A.M?

14 Q. Was there anybody with the defendant when he left
15 your house with your car?

16 A. Not that I know of.

17 Q. Did anyone else have permission to use your car?

18 A. No.

19 Q. And you did not report your car stolen; is that
20 correct?

21 A. No.

22 Q. Did you get your car back that Sunday?

23 A. Uh-hum.

24 Q. What time did you get your car back?

25 A. I would say like 9:00 or 10:00.

Barbara Randall - Direct Examination

1 Q. Would that be a.m. or p.m.?

2 A. P.M., I'm sorry.

3 Q. So your car left at 9:00 a.m. from Seneca and
4 returned at 9:00 p.m. back in Seneca; is that correct?

5 A. Correct.

6 Q. Who returned your car?

7 A. Stephania did.

8 Q. Was there anybody with Stephania?

9 A. No.

10 Q. After you received a phone call from Investigator
11 Weiner, what did you do?

12 A. I called Stephania and asked him what did he do
13 with my car and that the detective had called me.

14 Q. Did you talk to him over the phone?

15 A. Uh-hum.

16 Q. And you recognized his voice?

17 A. Uh-hum.

18 Q. He was the person on the phone that day when you
19 asked him about the car?

20 A. Yes.

21 Q. What did the defendant say to you?

22 A. He didn't know what I was talking about or
23 whatever and I told him that I gave the detective his
24 name.

25 Q. What did he say once you told him you gave the

Barbara Randall - Direct Examination

1 police his name?

2 A. Why did I give him his name.

3 Q. Was he upset?

4 A. Not really upset, no.

5 Q. What did Investigator Weiner ask you to do?

6 A. He wanted me to bring my car over to the police
7 department, I guess, so he could look at it.

8 Q. Did you do that?

9 A. No.

10 Q. What else did he ask you to do?

11 A. I think that was it. He just wanted me to bring
12 my car over.

13 Q. You told him who was using your car, correct?

14 A. Correct.

15 Q. Do you recall having another conversation with
16 this defendant and Investigator Weiner on the phone?

17 A. Yes.

18 Q. When was that, do you remember?

19 A. I want to say it was the same day. It was the
20 same day the detective got in contact with me.

21 Q. Tell the jury how that conversation came about?

22 A. I had called Stephania and he called three-way
23 because I made him call three-way because I didn't believe
24 anything he was saying.

25 Q. Why did you call Stephania?

Barbara Randall - Direct Examination

1 A. Because the detective had called me.

2 Q. And did you ask Stephania to do anything?

3 A. Yeah. I asked him what did he do with my car and
4 he said nothing.

5 Q. And then who called who?

6 A. And then I gave Stephania the number.

7 Q. Whose number?

8 A. The detective's number.

9 Q. Okay.

10 A. And then he placed me on hold while he called and
11 then he clicked back and all three was on the phone.

12 Q. Did Investigator Weiner know that you were on the
13 phone at that time?

14 A. I'm not really sure.

15 Q. Why was there a three-way call going on?

16 A. Because I wanted to know what was going on and
17 why did I have to come to Greenville with my car.

18 Q. And that conversation between Investigator
19 Weiner, yourself, and this defendant -- that was this
20 defendant, correct?

21 A. Correct.

22 Q. And you recognize his voice on the phone?

23 A. Yeah.

24 Q. No doubt about it in your mind?

25 A. No.

Barbara Randall - Direct Examination

1 Q. Do you remember the defendant giving a statement
2 in this case concerning what he did?

3 A. No, there was no statement given. Detective
4 Weiner was just trying to get him to come in and talk
5 about what happened on that date.

6 Q. How long did the conversation last?

7 A. Not long, maybe four or five minutes.

8 Q. So this defendant did not admit to doing anything
9 with your car that day on the phone?

10 A. No.

11 Q. Ms. Randall, you've been convicted of several
12 crimes before, correct?

13 A. Correct.

14 Q. 1987 shoplifting, does that sound right?

15 A. Yes.

16 Q. A couple of fraud checks, two counts of fraud
17 check in 2000?

18 A. Uh-hum.

19 Q. Obtaining false pretenses in 2005?

20 A. Uh-hum.

21 Q. Is that correct?

22 A. Yes.

23 Q. I have no further questions. Please answer any
24 questions Ms. Wygul may have.

25 THE COURT: Ms. Wygul.

Barbara Randall - Cross-Examination

1 CROSS-EXAMINATION

2 BY MS. WYGUL:

3 Q. Ms. Randall, had you previously had some
4 difficulty with the insurance on your car?

5 A. Uh-hum.

6 Q. And as a result of that insurance, was there a
7 time period around the time of this incident when the
8 plates on your car were switched out with other plates and
9 then switched back?

10 A. No.

11 Q. The plates on your car were never switched out?

12 A. Not at that particular time that this was going
13 on, no.14 Q. When you were living with Mr. Murray, was it his
15 practice to go to church with his family most Sundays?

16 A. Yeah.

17 Q. And where did he go to church, in Spartanburg?

18 A. It was different. Occasionally we went to Greer
19 and sometimes we went to Spartanburg and then sometimes we
20 went to his brother's church in Clinton, I think.21 Q. Do you recall going to church with him that
22 morning?23 A. We did go one morning I'm not really sure about
24 this date thing that's going on here, but we did go one
25 Sunday to hear his father preach for the last time, but I

Barbara Randall - Cross-Examination

1 don't know -- I'm totally lost on these dates.

2 Q. So it could have been the Sunday that this
3 occurred the day before you spoke to Detective Weiner?

4 A. It couldn't have been that date. I didn't go
5 anywhere that Sunday before.

6 Q. Would you have any knowledge if Mr. Murray let
7 someone else drive your car that day?

8 MR. GREGORY: Objection, Your Honor, that's
9 speculative.

10 THE COURT: I'll sustain your objection to
11 the form of the question.

12 BY MS. WYGUL:

13 Q. Ms. Randall, you're not with Mr. Murray at this
14 time, are you?

15 A. No.

16 Q. And about how long had you guys had split up?

17 A. Maybe a year and a half, two years.

18 Q. To the best of your knowledge, did Detective
19 Weiner or any detective ever come and inspect your car?

20 A. No.

21 Q. Did you ever notice any scratches or anything on
22 the door of your car?

23 A. No.

24 Q. Did any police officer ever, to the best of your
25 knowledge, make any attempt to view that vehicle?

Barbara Randall - Cross-Examination

1 A. No.

2 MS. WYGUL: I have no further questions.
3 Thank you.

4 THE COURT: Thank you. You may step down.

5 (Witness leaves the witness stand.)

6 Take the jury our for a recess, please.

7 (Whereupon, there was a brief recess.)

8 How are we doing, solicitor?

9 MR. GREGORY: Your Honor, the State would
10 call Investigator Weiner and then the State would rest.

11 THE COURT: Okay.

12 Do you know, ma'am, Ms. Wygul, if you'll have
13 some testimony?

14 MS. WYGUL: Your Honor, Mr. Murray indicated
15 that he does not wish to testify.

16 THE COURT: All right, I'll question him
17 later.

18 I received word that Mr. Cyrek, No. 1 on my
19 list, recognized one of the witnesses in this case so I
20 need to bring him out and ask him about that.

21 So if you'll bring him in please.

22 (Whereupon, James Cyrek, Juror No. 54,
23 returned to the courtroom.)

24 You can stand right there, sir. I understand
25 that you think you recognize one of the witnesses in this

Barbara Randall - Cross-Examination

1 case.

2 JUROR CYREK: Yes, sir.

3 THE COURT: And who is that?

4 JUROR CYREK: Mr. Stone.

5 THE COURT: Would that fact in any way
6 interfere with your ability to be a continuing fair and
7 impartial juror on this case?

8 JUROR CYREK: No, it would not.

9 THE COURT: Would you put any greater or
10 lesser weight on his testimony because you know him?

11 JUROR CYREK: No, sir.

12 THE COURT: Thank you. I appreciate you
13 telling me that.

14 (Whereupon, Juror Cyrek returned to the jury
15 room.)

16 Anything before I bring the jurors in?

17 MR. GREGORY: Nothing from the State.

18 MS. WYGUL: Nothing from the defense, Your
19 Honor.

20 THE COURT: All right, bring the jury.

21 MS. WYGUL: Your Honor, there may be one
22 matter that we might need to bring up before the jury is
23 reseated regarding the complaints filed against Detective
24 Weiner. It is our intention to, depending on what his
25 testimony is, it is our intention during cross-examination

Barbara Randall - Cross-Examination

1 just to bring out the fact of the four founded complaints
2 against him, not go into detail, but just to state that he
3 received a letter of caution and what the specific finding
4 was for, and that three of the four were black males.

5 MR. GREGORY: Your Honor, I'd like to inquire
6 as to which four. There are 14 and I'd like to know to
7 which four and what the circumstances. I would object to
8 if it doesn't go off his truthfulness -- I think he
9 followed the evidence and the evidence led to the
10 defendant.3

11 MS. WYGUL: Your Honor, it goes to his
12 performance of his duties and how he performs those
13 duties.

14 THE COURT: What four are you talking about?

15 MS. WYGUL: One is a 2009 complaint for
16 unlawful entry and one is a 2006 complaint for false
17 arrest and improper search. Only the false arrest was a
18 founded complaint, and one was a counseling report and
19 that was regarding an attempt to arrest and just improper
20 use of procedure.

21 THE COURT: How in the world would that have
22 any barring on his truthfulness as a witness in this case?

23 MS. WYGUL: Your Honor, it goes to his
24 following the procedures and a history of not following
25 the procedures.

David Weiner - Direct Examination

1 THE COURT: I'm talking with the overwhelming
2 evidence you have in this case, how would any jury
3 conclude that ---

4 MS. WYGUL: Your Honor, it goes to his
5 creditability and how he performs his duties.

6 THE COURT: I disagree with that in this case
7 so I will not allow that line of questioning.

8 MS. WYGUL: Thank you.

9 THE COURT: Okay. Bring in the jury.

10 (Whereupon, the jury returned to the
11 courtroom.)

12 MR. GREGORY: Your Honor, the State would
13 call Investigator Weiner.

14 THE CLERK: Investigator Weiner, please come
15 forward to be sworn in.

16 Place your left hand on the Bible and raise
17 your right hand.

18 DAVID WEINER, having been duly sworn,
19 testified as follows:

20 Thank you. You may be seated. Please state
21 your full name for the record.

22 THE WITNESS: David Weiner.

23 THE CLERK: Thank you.

24 DIRECT EXAMINATION

25 BY MR. GREGORY:

David Weiner - Direct Examination

1 Q. Investigator Weiner, where are you employed?

2 A. Greenville County Sheriff's Office.

3 Q. How long have you been employed there?

4 A. Eleven years now.

5 Q. What is your current position at the Greenville
6 County Sheriff's Office?

7 A. I'm assigned as an investigator in Criminal
8 Investigations and specifically to the Armed Robbery Unit.

9 Q. And how long have you been an investigator in the
10 Armed Robbery Unit?

11 A. Almost four years now.

12 Q. What are your duties as an investigator?

13 A. Basically when the cases get reported to the
14 Sheriff's Office, they make it through their paperwork
15 channels, they make it to my supervisor's desk and he'll
16 assign a robbery case whether it be strong armed, an armed
17 robbery, home invasion, and he'll put it on your desk and
18 you'll work the case.

19 Q. What type of education did you receive to become
20 an investigator?

21 A. I have a Bachelor's Degree from the Citadel that
22 I got in 2000.

23 Q. Do you receive any ongoing training?

24 A. Yes, sir.

25 Q. What kind of ongoing training do you receive?

David Weiner - Direct Examination

1 A. Obviously take numerous classes for law
2 enforcement things, supervision classes I've received.
3 Every year at the Sheriff's Office we do a three-
4 and-a-half day in-service class. In fact, mines is coming
5 up in April in just a couple of weeks here. Again,
6 everything is work-related. I've had investigative
7 classes in the past and things of that nature.

8 Q. In your four years as an investigator, how many
9 cases have you had?

10 A. I think I just logged over 800 just the past
11 week.

12 Q. Let me take you back to March 16, 2008, were you
13 the investigator at that time?

14 A. Yes, sir.

15 Q. Did you have the opportunity to become involved
16 in this case?

17 A. Yes, sir, I did.

18 Q. Can you tell the jury how you became involved in
19 the case?

20 A. Again, the same procedure. This incident
21 occurred on Sunday with the exception of like it's an
22 on-call status of a violent crime, I'll find out about it
23 Monday morning when I come to work, and this case was
24 assigned to me by my supervisor.

25 Of course, initially, in reading the report I

David Weiner - Direct Examination

1 go over it with a fine tooth comb, talk to any people. I
2 need to talk to or things I need to follow up on to
3 generate leads so I try to identify a person of interest.

4 Q. What was the first step you took in the
5 investigation of this case?

6 A. The report had a real good lead, it had a license
7 plate in it. When I ran the license plate, of course, it
8 matched the vehicle description that I had.

9 Q. What was the vehicle description you had?

10 A. A 1996 -- it said a black four-door Lexus and the
11 license plate came back to a 1996 Lexus.

12 Q. Were you able to determine who the registered
13 owner of the car?

14 A. Yes. It was shown that it was registered to
15 Barbara Randall.

16 Q. Did it show where Barbara Randall lived?

17 A. In Seneca.

18 Q. At that time, what did you do?

19 A. I went through some records and found a phone
20 number for Ms. Randall and made a phone call to her and
21 asked her who had her car on the day prior.

22 Q. Who had her car?

23 A. The defendant, Mr. Murray, had her car.

24 Q. Did she tell you what time period he had her car?

25 A. She said he left early in the morning and came

David Weiner - Direct Examination

1 back that night with it.

2 Q. And after you received that information, then
3 what did you do?

4 A. I asked her -- she didn't give me a phone number
5 or anything for him so I asked her to contact him and have
6 him contact me so I could speak with him.

7 Q. And did you get in contact with him?

8 A. I did. About an hour later he called me back.

9 Q. Where were you when he called you?

10 A. Sitting at my desk at the Law Enforcement Center.

11 Q. Was that your cell phone or a ---

12 A. Just one of the office land line.

13 Q. When he called you, how did he identify himself?

14 A. As Stephania Murray.

15 Q. Can you tell the jury about that conversation?

16 A. I told him that I was investigating a robbery
17 that had occurred at a Bi-lo on Pelham Road. He told me
18 he was at his parents at Spartanburg that day. I told him
19 basically the important thing to me here is that the
20 victim of this crime get their property back, at which
21 time he made a statement to me that, "I threw it out the
22 window." I asked him if he took anything and he said,
23 "Just the cash, \$30 or \$40."

24 Q. At that time ---

25 MS. WYGUL: Your Honor, I would renew my

David Weiner - Direct Examination

1 previous objection.

2 THE COURT: Subject to your objection.

3 Go ahead.

4 BY MR. GREGORY:

5 Q. At that time, do you know if there was another
6 person besides the defendant that was on the phone with
7 you?

8 A. I had no idea.

9 Q. So as far as you know it was just the defendant
10 on the phone?

11 A. Yes, sir.

12 Q. And where was he? Did he tell you where he was
13 at that time?

14 A. No, sir. I don't remember.

15 Q. Was he under arrest at that time?

16 A. No.

17 Q. Was he in custody at that time?

18 A. No, sir.

19 Q. Was anyone else present with you when you spoke
20 to the defendant?

21 A. No, sir, I was sitting at my desk.

22 Q. How long did you talk to the defendant?

23 A. Just a couple of minutes, three or four minutes.

24 Q. Did the defendant volunteer this information to
25 you?

David Weiner - Direct Examination

1 A. Yes, sir.

2 Q. Did you do anything to coerce the defendant into
3 giving you a statement?

4 A. No, sir.

5 Q. Did you withhold anything from him to get a
6 statement from him?

7 A. No, sir.

8 Q. Did you read him the Miranda Rights before ---

9 A. No, sir.

10 Q. Why didn't you read him the Miranda Rights?

11 A. Miranda, of course in our ongoing education in
12 law enforcement, is our first topic. Supreme Court
13 decisions come down all the time, but Miranda applies if
14 somebody is in custody, if they're detained, if their
15 sitting in the back of a patrol car or if I'm restricting
16 their movements or they're handcuffed and things of that
17 nature. He's on the telephone and he could just as easily
18 hang it up on me. There's no problem.

19 Q. And he was not in custody at that time?

20 A. No.

21 Q. He was on the phone and not in your office?

22 A. No, sir.

23 Q. And he freely and voluntarily gave a statement?

24 A. Yes.

25 Q. Did he appear to be intoxicated?

David Weiner - Direct Examination

1 A. No, sir. I didn't hear any slurring of the
2 speech. I didn't notice any slow responses to questions
3 or anything like that.

4 Q. Was the responses to you intelligent? Did they
5 make sense?

6 A. Yes, sir.

7 Q. Did you say how long the conversation lasted?

8 A. Just a couple of minutes.

9 Q. And you said the defendant told you he threw the
10 purse out?

11 A. Right. I asked him -- I told him the important
12 thing to me was getting the victim's property back. I
13 didn't go into we'd recovered anything. I didn't tell
14 that and he basically just said, "I threw it out of the
15 window driving down the road." And I asked him what he
16 got and he told me I got the cash, \$30 or \$40.

17 Q. Had you previously told him what was taken?

18 A. No. Other than that it was a robbery of a purse,
19 I did say that and I advised him what the case was about.

20 Q. Did you tell him how much cash was in the purse?

21 A. No, sir.

22 Q. After the telephone conversation, what did you
23 do?

24 A. I started tracking down witnesses and of course
25 the victim being primary. She came to my office --

David Weiner - Direct Examination

1 Ms. Wilborn came to my office that afternoon late in the
2 day and I took a written statement from her. Obviously I
3 had generated Mr. Murray as a suspect so I created a
4 six-person line-up photograph for her to look at.

5 Q. Let me show you what's been previously marked at
6 State's Exhibit Nos. 5 and 6. Would you take a look at
7 those.

8 A. Yes, sir.

9 Q. Do you recognize State Exhibits Nos. 5 and 6?

10 A. Yes, sir. The one marked six is the actually
11 photo array that I generated and then the one that's five
12 is basically the Sheriff's Office piece of paper that if
13 you identify somebody on a photo line-up, we have you fill
14 it out.

15 Q. Let's talk about six first. Did you personally
16 put that line-up together?

17 A. Yes.

18 Q. Would you tell the jury what your procedure is in
19 putting together a line-up?

20 A. Yes, sir. I took a known picture of Mr. Murray
21 and then using a database that the Sheriff's Office
22 maintains. I find five similar pictures through facial
23 characteristics: Facial hair, hair length and things of
24 that nature.

25 Q. Are all six pictures similar?

David Weiner - Direct Examination

1 A. Yes, sir.

2 Q. In what way are they similar?

3 A. Obviously they're all black males, all have very
4 short hair, some small amount of facial hair and then
5 again facial characteristics appear to be similar.

6 Q. Where did you show Ms. Wilborn this photo line-
7 up.

8 A. In my office.

9 Q. And what date was that again?

10 A. It was March 17th.

11 Q. Do you know what time it was?

12 A. According to the form I filled out it was
13 4:56 p.m.

14 Q. When you show a photo line-up to a witness, what
15 is your procedure?

16 A. Everybody gets the same statement from me, there
17 are six pictures in this photograph line-up, the person
18 that did this to you may or may not be in this line-up,
19 when I show it to you, please look it over carefully, if
20 you see somebody in there that you recognize, please tell
21 me who and why you recognize them.

22 Q. Did you suggest to her that the person you
23 thought committed this crime was in this line-up?

24 A. No, sir.

25 Q. Did you do anything to suggest that she needs to

David Weiner - Direct Examination

1 pick somebody out of this line-up?

2 A. No, sir.

3 Q. Did you say or do anything to suggest that this
4 defendant was in that line-up?

5 A. No, sir.

6 Q. Once you handed Ms. Wilborn the line-up, what did
7 you do?

8 A. She reviewed over the pictures. I always like to
9 look at people's eyes because you can actually see, if you
10 look at them close, you could see them track between the
11 pictures. She reviewed each picture and then stopped on
12 the defendant, Mr. Murray's picture, and identified him.

13 Q. In your opinion, did she take adequate time to
14 look at the pictures?

15 A. Yes, sir.

16 Q. And did Ms. Wilborn pick a picture?

17 A. She did. She identified the defendant,
18 Mr. Murray.

19 Q. And how did you have her identify which picture
20 she picked?

21 A. Circled the photograph and placed her initials
22 next to the circle.

23 Q. Did you write her initials or did she write them?

24 A. No, she did that.

25 Q. Did she circle the picture?

David Weiner - Direct Examination

1 A. Yes, sir.

2 Q. Did she say anything to you after she picked the
3 picture?

4 A. She identified that as being the person that
5 robbed her the day prior.

6 Q. Did she seem confident in her selection?

7 A. 100 percent, yes, sir.

8 Q. Did you influence her in any way whatsoever to
9 pick that picture?

10 A. No, sir.

11 Q. Let's look at State's Exhibit No. 5, please. Do
12 you recognize that exhibit?

13 A. Yes.

14 Q. What is that exhibit?

15 A. It's marked as an "Affidavit of Photograph
16 Identification." If you identify somebody in the
17 photograph line-up, it gets filled out.

18 Q. And is that substantially in the same condition
19 it was when it was filled out?

20 A. Yes, sir.

21 Q. And is your name on that piece of paper.

22 MR. GREGORY: Your Honor, at this time the
23 State seeks to enter 5 and 6 into evidence.

24 MS. WYGUL: Without objection.

25 THE COURT: It's in.

David Weiner - Direct Examination

1 (Whereupon the Affidavit, which was
2 previously marked as State's Exhibit No. 5 was entered
3 into evidence.)

4 (Whereupon the photo line-up which was
5 previously marked as State's Exhibit No. 6 was entered
6 into evidence.)

7 BY MR. GREGORY:

8 Q. Would you please tell the jury what that No. 5
9 is?

10 A. Right. The picture marked as No. 5 is the
11 defendant seated there, Mr. Murray.

12 Q. I'm sorry, State's Exhibit No. 5.

13 A. No. 5. This is the Affidavit. It has the date,
14 it has the time, the location where it's performed, the
15 victim's information, my information, and of course, what
16 picture they identify and why.

17 Q. While you were meeting with Ms. Wilborn on March
18 17, 2008, did you do anything else?

19 A. Took her written statement from her.

20 Q. Was there anything else that you did that day?

21 A. Photograph her injuries.

22 Q. I'm going to show you what's been already entered
23 at State's Exhibits 1 through 4. Do you recognize those?

24 A. Yes, sir.

25 Q. Are those the pictures you took?

David Weiner - Direct Examination

1 A. Yes, sir.

2 Q. Would you please describe the injuries that
3 Ms. Wilborn had when she came into your office?

4 A. Yes, sir. Very common place for us to photograph
5 these in the office. A lot of times, with the exception
6 of the bruises on her left knuckle, bruises don't show up
7 immediately. You might get some redness but it won't show
8 up. When came to the office, I made sure I talked to her
9 about any injuries she may have and on her left arm was a
10 pretty substantial bruise on her biceps.

11 Q. Did you see any other marks on her?

12 A. The bruising and the abrasions on her left hand
13 towards her knuckle.

14 Q. And you took those pictures?

15 A. I did, yes, sir.

16 Q. After you talked to Ms. Wilborn and took her
17 statement and went through the line-up, what did you do
18 next?

19 A. She obviously -- I completed what I need to speak
20 with her at the time and she went home and I then went to
21 obtain warrants on the defendant, Mr. Murray.

22 Q. You talked to any other witnesses in this case?

23 A. I did. Do you mind if I review the statement I
24 took?

25 Q. Yes, sir, if it will refresh your memory.

David Weiner - Direct Examination

1 A. Yes, sir, just the full name. I spoke with Todd
2 Saunders.

3 Q. Do you remember when you spoke with him.

4 A. Again at my office.

5 Q. What day was that?

6 A. March 24th.

7 Q. He gave you a statement?

8 A. He did, yes, sir.

9 Q. The incident location, do you know where the
10 incident took place?

11 A. It's marked as 3619 Pelham Road which is the
12 Bi-lo. There's a lot of stuff out there. There's a
13 Wachovia and a McDonalds across the street, the new
14 Walmart on Pelham is right behind it. It's close to 85.

15 Q. Did you go to Bi-lo?

16 A. I didn't drive out to Bi-lo. I spoke to the
17 manager on the telephone.

18 Q. What did you talk to the manager about?

19 A. In the initial report it's marked as there was
20 video of the incident. It states that they have no
21 ability to zoom but you can see a vehicle and an
22 individual in a red shirt get into a confrontation with
23 the victim.

24 Q. And did you personally see this video?

25 A. I did not.

David Weiner - Direct Examination

1 Q. Did you get a copy of this video?

2 A. I attempted. The manager, they were having some
3 trouble with their video system. We went back and forth
4 several times over the next few weeks and we were unable
5 to get a hard copy of that video.

6 Q. You attempted over a period of weeks you said?

7 A. Yes, sir, over several weeks we tried.

8 Q. Did you have an opportunity to talk to the
9 defendant -- after the telephone conversation the day
10 after this incident, did you have an opportunity to talk
11 to him again?

12 A. I did, yes, sir.

13 Q. When was that?

14 A. Again, let me just review this from my notes. He
15 was arrested on this case regarding this incident on
16 September 24, 2008 and the arresting officer had indicated
17 to me that he wanted to talk. So on September 26 he was
18 still in our Detention Center and we have like a transport
19 area I can call and they can pull him out of the cell that
20 he's in and bring him downstairs where I can talk to him.

21 I walked up to him and identified myself and
22 told him what I was there for and he told me he didn't
23 want to talk to me. As I turned and walked away he made a
24 statement that I have in quotations here: "If it was
25 something like taking something from a store and running

David Weiner - Direct Examination

1 out with it, maybe, but not no robbery, that's not me."

2 Q. You said he was in the Law Enforcement Center at
3 the time.

4 A. Yes, sir.

5 Q. Was he in handcuffs?

6 A. Yes, sir.

7 Q. Was he arrested at that time?

8 A. Yes, sir.

9 Q. In custody?

10 A. Yes, sir.

11 Q. Did you read him Miranda at that time?

12 A. No, sir.

13 Q. Explain why you didn't read Miranda at that time?

14 A. Didn't even have the chance. I walked up to him
15 and said do you want to talk? If he had said, yes, then I
16 would have verbally Mirandized him first just in case. We
17 would have walked back to my office. If he wants to say
18 something while we're walking back to my office, Miranda
19 is covered. When we get back to my office, I'll do it in
20 writing, but at this time he said, no, I don't want to
21 talk. That's fine, I'm done, and I'll walk back to my
22 office. As I turned around he said this and I didn't
23 elicit it from him or anything. He just spoke his mind.

24 Q. You didn't ask him any questions to get this
25 statement?

David Weiner - Cross-Examination

1 A. Other than, do you want to talk to me, nothing.

2 Q. You didn't coerce him?

3 A. No, sir.

4 Q. Did you promise anything to give you a statement?

5 A. No, sir.

6 Q. How long did this encounter last?

7 A. A minute, less. It was quick.

8 Q. After he gave you this statement, what did you
9 do?

10 A. Well, whenever somebody makes a statement like
11 that to me when it's not in writing, I always like to
12 generate stuff on it as quickly as possible, so I went
13 back to the office and typed it up so I could get the
14 statement he said to me in quotation marks.

15 Q. Did he appear to be intoxicated?

16 A. No. He had been in jail for a couple of days.

17 Q. Did he seem to understand what the substance of
18 the conversation was about?

19 A. Yes, sir.

20 Q. While you were there?

21 A. Yes, sir.

22 Q. And the incident location, what county was that?

23 A. Greenville County.

24 MR. GREGORY: Your Honor, at this time I'd
25 like to seek permission to publish to the jury Exhibits 1

David Weiner - Cross-Examination

1 through 6.

2 THE COURT: Go ahead.

3 MR. GREGORY: I have no further questions for
4 this witness, Your Honor.

5 THE COURT: All right, Ms. Wygul.

6 CROSS-EXAMINATION

7 BY MS. WYGUL:

8 Q. Detective, did you say you did a supplemental
9 report after that second statement?

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

11 Q. What date is that dated?

12 A. It shows it was signed off on the 26th.

13 Q. September 26th, 2008?

14 A. Correct, the day I talked to him.

15 Q. You stated that you went over the reports with a
16 fine tooth comb; is that correct?

17 A. Yes, ma'am.

18 Q. And do you have those reports up there if you
19 need to refresh your memory?

20 A. Yes, ma'am.

21 Q. Are you familiar with the supplemental report
22 prepared by Officer Welch, the responding officer?

23 A. Yes, ma'am.

24 Q. And are you aware that the Bi-lo manager not only
25 said that there was a video but also said that they had

David Weiner - Cross-Examination

1 the incident on digital video surveillance ---

2 MR. GREGORY: I'm going to object to hearsay.

3 THE COURT: I'm going to sustain the
4 objection to the form of that questions.

5 BY MS. WYGUL:

6 Q. In the course of your investigation, did you
7 become aware that not only a video existed of this that
8 there was actually recorded digital surveillance?

9 A. Yes, ma'am.

10 Q. And that the time on that video was 17-53-17?

11 A. Yes, ma'am.

12 Q. But you never saw it?

13 A. No, ma'am, I never saw it.

14 Q. And you never got it?

15 A. No, ma'am. We tried for like I said several
16 weeks, but the system does not have a disc drive on it.
17 We tried junk drives. They actually have like a loss
18 prevention supervisor for Bi-lo and he went over there and
19 we were still unable to download it.

20 Q. Is that loss prevention officer here today?

21 A. No, ma'am, I haven't seen him.

22 Q. Do you have any IT people or computer technical
23 people in the Sheriff's Office that work on these things?

24 A. Back in 2008 I don't believe that we did. We do
25 now. I can't remember what they're called to be honest

David Weiner - Cross-Examination

1 with you but there's three guys, a sergeant and two
2 deputies that work specifically if we have difficulty like
3 this because of cases like this that came up and we had to
4 get this done.

5 Q. And is it your testimony that this particular
6 Bi-lo that their video was defective, their video machine?

7 A. I don't know. Again, I have no knowledge of how
8 their machine works or anything. They just told me they
9 made attempts to download it and they were unsuccessful.

10 Q. In your General Orders -- do you have a copy of
11 those up there with you?

12 A. No.

13 Q. Are you familiar with the Greenville County
14 Sheriff's Office General Orders regarding investigations?

15 A. Yes, ma'am.

16 Q. And does that kind of act as your guide when
17 you're conducting an investigation?

18 A. Yes, ma'am.

19 Q. Would you agree that in preliminary
20 investigations ---

21 MR. GREGORY: Objection, Your Honor. I'm
22 going to object to hearsay unless Ms. Wygul would like to
23 put it into evidence and lay a foundation. I would be
24 happy to do it that way.

25 MS. WYGUL: I'll be happy to, Your Honor.

David Weiner - Cross-Examination

1 THE COURT: All right.

2 MS. WYGUL: I'm looking for my pre-marked
3 copy. I apologize.

4 BY MS. WYGUL:

5 Q. Detective, could you identify this document?

6 A. General Order 213 which deals with criminal
7 investigations for the Sheriff's Office. This one is
8 revised '09. I'm sure there's a newer version but it
9 would substantially be the same.

10 MS. WYGUL: At this time we would move to
11 enter this document into evidence, Your Honor.

12 THE COURT: Any objection?

13 MR. GREGORY: No objection, Your Honor.

14 THE COURT: Without objection.

15 (Whereupon, Sheriff's Office Guidelines
16 previously marked as Defendant's Exhibit No. 1 was
17 admitted into evidence.)

18 BY MS. WYGUL:

19 Q. Detective, on Page 2 of this document, as a guide
20 to preliminary investigations, would you agree that two of
21 the steps that are listed are maintain the integrity of
22 the crime scene and protect all evidence?

23 A. No. 3, yes, ma'am, that's what's listed there.

24 Q. And would you agree that one of the steps is to
25 arrange for the collection of evidence?

David Weiner - Cross-Examination

1 A. Yes, ma'am.

2 Q. And would you agree that the video in this case
3 would have been pretty good evidence?

4 A. Absolutely.

5 Q. Under the next paragraph down where it talks
6 about what detailed investigations include, would you read
7 the first sentence in No. 3?

8 A. "Collection, preservation and presentation of
9 physical evidence are always the most rival factors in
10 determining the identity of an offender."

11 Q. Thank you. On Page 4 of this document in
12 procedures used in conducting follow-up investigations,
13 would you agree that the collecting of physical evidence
14 is one of their steps listed.

15 A. No. 9, yes, ma'am.

16 Q. On Page 6 of this document under Field Interviews
17 and Interrogations, would you agree that it's highly
18 recommended that, "Interrogations of suspects takes place
19 in a controlled setting preferably at the Law Enforcement
20 Center"?

21 A. Absolutely, yes, ma'am?

22 Q. Did you complete a field contact form after
23 speaking with Mr. Murray on the phone?

24 A. No, those cards don't apply when obtained through
25 NCID.

David Weiner - Cross-Examination

1 Q. That's why you did the supplement report?

2 A. Correct. Basically a field contact card is a
3 notebook sized piece of paper, very small. When deputies
4 run across people in high crime areas or the suspect them
5 but -- let's say they had a burglary at the house and they
6 catch this guy two blocks away but they can't charge him
7 with it, he's fill out this FI card and we'll get a copy
8 of it. It prevents them from writing any kind of report.

9 Q. On Page 8 of this document regarding photographic
10 line-ups, is it permissible for more than one witness to
11 view a photo line-up in a case?

12 A. Absolutely, yes, ma'am.

13 Q. Except in this case you only had Ms. Wilborn
14 review a photo line-up; is that correct?

15 A. That's correct, yes, ma'am.

16 Q. In reviewing Officer Welch's reports, did he, in
17 his report from on the scene, give a description of the
18 suspect?

19 A. Do you mind if I take a look at it?

20 Q. No, not at all.

21 A. It says suspect description is a "black male, 6
22 feet, 180, 200 pounds, late 20's, early 30's, short hair,
23 red shirt and possibly blue jeans."

24 Q. Are you aware of how old Mr. Murray is? Do you
25 have a copy of his warrant up there.

David Weiner - Cross-Examination

1 A. Yes, I do. Just give me one minute.

2 Q. Would you agree with me that he's 48 years old
3 now?

4 A. Yes.

5 Q. When did you become aware there was a third
6 person listening in on your phone call with Mr. Murray?

7 A. About two or three hours ago.

8 Q. And at the time of that call, you were already
9 aware that the purse had been found on the side of the
10 road and returned to Ms. Wilborn?

11 A. Yes.

12 Q. You never examined Ms. Randall's car, did you?

13 A. No. I made several attempts for her to come down
14 but she never cooperated.

15 Q. Did you ever make an attempt to go out where her
16 car was located?

17 A. Yes, ma'am. That address that I had for her was
18 no good and apparently she's moved several times since,
19 but I never saw the car.

20 Q. Did you generate any supplemental reports
21 documenting your attempts to view this vehicle?

22 A. I don't see it marked. I wrote two supplementals
23 to this report.

24 Q. Do either of those supplements mention any
25 efforts to go look at the vehicle involved in this

David Weiner - Cross-Examination

1 incident?

2 A. No, ma'am.

3 Q. Did you send any other officers out to look for
4 the vehicle involved in this incident?

5 A. No, ma'am.

6 Q. Now, part of your job under those General Orders
7 is to assist the State in preparing for court, correct?

8 A. Yes, ma'am.

9 Q. And in the process of preparing for court, you
10 knew that Ms. Randall would be called as a witness,
11 correct?

12 A. Correct.

13 Q. The State knew where to find her, didn't they?

14 A. Actually it was quite a process. I don't know
15 how they found her because I was unable to, but I know it
16 was very recently in the past couple of weeks they were
17 able to track her down.

18 Q. Did you ask her if she still had the car?

19 A. No, ma'am.

20 Q. Were any forensics done at the scene of the
21 incident?

22 A. No, ma'am.

23 Q. Were any forensics and by forensics I mean did
24 you attempt to look for fingerprints or anything of that
25 nature on the purse?

David Weiner - Cross-Examination

1 A. No, ma'am, I never saw the purse.

2 Q. What about from the wallet from the purse?

3 A. Never saw it.

4 Q. You never even saw the purse?

5 A. No, ma'am. It was returned to the victim that
6 night prior to my knowledge of the case.

7 Q. Did you do any fingerprint testing, forensic
8 testing of any nature in this case?

9 A. Just when the defendant was arrested.

10 Q. And that's just booking him in?

11 A. Uh-hum.

12 Q. Did you attempt to compare his fingerprints?

13 A. I had nothing to compare it to. The vehicle was
14 gone, the purse was gone and had gotten returned that
15 night to the victim before I could see it so there was no
16 forensics for me to process.

17 MS. WYGUL: I have no further questions.

18 THE COURT: Any redirect.

19 MR. GREGORY: Thank you, step down.

20 (Witness leaves the witness stand.)

21 THE WITNESS: Thank you, sir.

22 MR. GREGORY: Your Honor, at this time the
23 State rests.

24 THE COURT: Take the jury out, please.

25 (Whereupon, the jury exits the courtroom.)

State versus Stephania Murray

1 Any motions?

2 MR. GREGORY: Not from the State, Your Honor.

3 MS. WYGUL: Your Honor, we would move for a
4 directed verdict.

5 THE COURT: And I'd have to deny your motion.

6 MS. WYGUL: Your Honor, Mr. Murray has
7 indicated that he does not wish to testify.

8 THE COURT: Okay. Put him under oath,
9 please.

10 THE CLERK: Please raise your right hand.

11 STEPHANIA N. MURRAY, having been duly sworn,
12 testified as follows:

13 THE COURT: You can sit down now, Mr. Murray.
14 Mr. Murray we are now at a point in your trial where
15 you'll make a decision as to whether you'll take the stand
16 and testify or not to do so.

17 Now, I need to tell you that you don't have
18 to take the stand to testify. You don't have to otherwise
19 present any evidence because that's your Constitutional
20 Right. The burden is on the State to prove your guilty
21 beyond a reasonable doubt. Do you understand that right?

22 DEFENDANT MURRAY: Yes, sir.

23 THE COURT: You have a perfect right to take
24 the stand and testify and tell the jury your side of the
25 story, do you know that?

State versus Stephania Murray

1 DEFENDANT MURRAY: Yes, sir.

2 THE COURT: If you take the stand and
3 testify, then you become like any other witness in the
4 case. You become subject to cross-examination by the
5 solicitor. I don't know whether you have any criminal
6 record for which you can be impeached, but if you do then
7 the State could bring that out. You know that? You
8 understand that?

9 DEFENDANT MURRAY: Yes, sir.

10 THE COURT: Now, I understand that you made a
11 decision that you will not take the stand or otherwise
12 present any evidence; is that correct?

13 DEFENDANT MURRAY: Yes, sir.

14 THE COURT: Is this your decision?

15 DEFENDANT MURRAY: Yes, sir.

16 THE COURT: Ms. Wygul, has not put any
17 pressure on you to take the stand and testify?

18 DEFENDANT MURRAY: No.

19 THE COURT: So this is a decision that you,
20 yourself, has made?

21 DEFENDANT MURRAY: Yes, sir.

22 THE COURT: Are you under the influence of
23 any alcohol, drug or any other substance right at this
24 moment?

25 DEFENDANT MURRAY: No, sir.

State versus Stephaniea Murray

1 THE COURT: You're sober and you know what
2 you're doing and you've made the decision not to testify?

3 DEFENDANT MURRAY: Yes, sir.

4 THE COURT: And you've made the decision not
5 to testify?

6 DEFENDANT MURRAY: Yes, sir.

7 THE COURT: Are you satisfied with the
8 services of your lawyer?

9 DEFENDANT MURRAY: Yes, sir.

10 THE COURT: Well, then we'll take a short
11 recess and then we'll come back for arguments. The
12 solicitor gets the final argument.

13 (Whereupon, there was a short recess.)

14 Bring the jury in.

15 (Whereupon, jury returns to the courtroom.)

16 Ladies and gentlemen, in the trial of a
17 criminal case, the defendant has absolutely no burden.
18 The defendant does not have to take the take the stand and
19 testify or otherwise present evidence and that's because
20 that's his or her Constitutional Right. The burden is
21 always on the State to prove a defendant guilty beyond a
22 reasonable doubt.

23 The defendant in this case has exercised his
24 Constitutional Right now to take the stand and testify
25 or present evidence and I will charge you more fully on

State versus Stephania Murray

1 that right during the course of my charge.

2 So the testimony in this case is complete.

3 The time has arrived for the attorneys to make their
4 closing arguments to you and when they have concluded
5 their arguments then I'll charge you the law with respect
6 to this case.

7 Ms. Wygul.

8 CLOSING ARGUMENTS - BY MS. WYGUL

9 MS. WYGUL: Ladies and gentlemen of the jury,
10 at the beginning of this case I asked you to remember
11 three numbers, 17-53-17. That's the time stamp. That's
12 the time stamp that's on the digital video surveillance of
13 this entire incident. If it were here today you could see
14 who robbed Ms. Wilborn, but we don't have it.

15 We don't have it because Detective Weiner did
16 not follow the General Orders of the Greenville County
17 Sheriff's Office. Those General Orders are there and in
18 place as a procedure for our officers to follow to insure
19 that an innocent man doesn't go to jail. Those procedures
20 are in place to protect the Constitutional Rights of the
21 citizens of this country. 17-53-17 it would have been so
22 simple. We live in a day of modern technology.

23 Three years ago in 2008, we still lived in a
24 day of modern technology. That video was there, it was
25 available, it was known about immediately after the

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1 incident and we should have it.

2 An old childhood chant says sticks and stones
3 may break my bones but words can never hurt me.

4 Unfortunately in the grown-up world, that's not true.

5 Words can hurt a lot. Testimony can hurt a lot. The
6 perceptions of people can hurt a lot.

7 Let's think about what Ms. Wilborn went
8 through on that day and I actually wrote it down because
9 her quote just struck me as being so descriptive. "All
10 the stuff was going through my mind, I was screaming I
11 need up. Of course, you're in shock while all this was
12 going on." This is a terrible thing to happen to this
13 lady. She was in shock, she was scarred. She wasn't
14 memorizing someone's face. She was trying to get her
15 purse back and worried about getting dragged down the
16 parking lot.

17 Remember Mr. Stone spoke with Detective
18 Weiner, he didn't feel it necessary to show him to photo
19 line-up. Whenever the other gentlemen went in -- and
20 Mr. Stone did not identify Mr. Murray. When Mr. Saunders
21 went in he testified that Detective Weiner told him it's
22 not necessary for him to look at a line-up because he
23 figured that he had what he needed even though he didn't
24 have any fingerprints, even though he didn't have that
25 video that showed the entire incident, even though he did

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1 not even bother to exam the vehicle in that incident.

2 Our officers are pretty good in Greenville
3 County. If they want to find you, they're going to find
4 you. I submit to you that the General Orders, and you're
5 going to have them in the jury room for you to review,
6 give you an idea what kind of resources are available for
7 our officers to solve a crime, to make sure they get the
8 right person. They'll lay out the procedures that our
9 officers follow, the right procedures, and they weren't
10 followed in this case.

11 Ms. Wilborn was so upset by this incident
12 that she didn't even stay alone. She knew what was
13 missing from her purse, cash and a cell phone -- \$50 cash
14 and a cell phone. Well, we never heard what happened to
15 the cell phone. It was never mentioned. Why didn't
16 somebody go up there and look on the side of the road and
17 see if it was there, see if it had been overlooked, see if
18 it had some fingerprints on it, something, some type of
19 physical evidence, some of those sticks and stones to
20 really make it stick. We don't have any of that today. I
21 submit to you that we should.

22 As a jury, you are entitled to view all the
23 evidence and as the investigator officer, it was Detective
24 Weiner's job to bring that evidence before you today.

25 Ms. Randall told you that when she asked

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1 Mr. Murray to call Detective Weiner, he wasn't upset. He
2 was confused but he wasn't upset. Detective Weiner told
3 you that in the second statement when Mr. Murray was
4 arrested, he admitted that he could have done bad things.
5 He could have grabbed something from the store and run
6 with it. That's called shoplifting, but he wouldn't do no
7 robbing. That's just not who he is.

8 We don't know where that car went on that
9 Sunday. We don't know who had it. We're not even 100
10 percent sure if that was the car used. We could be if
11 anybody from the Sheriff's Office had looked at the car.
12 With all that flaying, shoes flying off, there would have
13 been scratches. Ms. Randall never saw any scratches, any
14 dents, no damage to her car.

15 Take a look at the photo line-up, keep in
16 mind the description of the suspect, 20's to early 30's,
17 no mention of gray hair, no mention of missing teeth
18 although Mr. Murray walked towards the victim, according
19 to the victim, smiling.

20 Ms. Wilborn gave the officers the best
21 description she could to the officers and she gave that
22 statement and the best she could do was tall and rough
23 looking in a red shirt heading towards me smiling until
24 she had time to think about. And she told you she didn't
25 have her glasses on. She's nearsighted. She believes

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1 that Mr. Murray is the one that robbed her. That doesn't
2 mean that he is.

3 The State's job today is not to tell you who
4 the victim thinks did it. The State's job was to prove to
5 you beyond a reasonable doubt that Mr. Murray is guilty of
6 this crime and with all the resources at their disposal,
7 they have not done that. They have not met that burden.
8 It's a very high burden.

9 I'd ask you to listen very carefully when the
10 Judge instructs you on reasonable doubt and what that
11 details. I'd ask that you think very carefully and review
12 the evidence that you do have, the general procedures, the
13 photo line-up. Think about what you have and more
14 importantly think about what you don't have in this case
15 and I'm confident that you'll find Mr. Murray not guilty.
16 Thank you.

17 THE COURT: Solicitor.

18 MR. GREGORY: Your Honor, Ms. Wygul, ladies
19 and gentlemen of the jury.

20 Ladies and gentlemen, you have heard all the
21 evidence from the stand and in a couple of minutes Judge
22 Pyle is going to instruct you on the law and talk to you
23 about burden of proof and he's going to talk to you about
24 what you need to do to deliberate and the case will be
25 yours. And then you'll go back there and come up with a

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1 verdict. Verdict means to speak the truth and that's what
2 we're asking you to do today is to speak the truth in this
3 case.

4 Before that happens, I'm going to take a few
5 minutes and talk to you about the law and offense being
6 charged today and the facts that we think support a
7 conviction today.

8 The defendant is being charged with strong
9 armed robbery. Strong armed robbery, again, is the taking
10 away the property of another with force, intimidation or
11 threats. That's what we have to prove. The basic
12 elements are this defendant did the crime, taking and
13 carrying away the purse. He did with intent to permanently
14 deprive and he did it with threats, force or intimidation.

15 We also heard that this table has the burden
16 of proof. The State has the burden of proving it beyond a
17 reasonable doubt. Well, what is a reasonable doubt
18 because we've all heard the term reasonable doubt thrown
19 around whether it's been on TV or in the courtroom today,
20 what is beyond a reasonable doubt?

21 There are very few things in this life that
22 we know with 100 percent certainty. With that said, the
23 law does not require me to prove this case with 100
24 percent certainty. If you are firmly convinced that this
25 defendant did the crime of strong armed robbery, then I

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1 have met my burden beyond a reasonable doubt; firmly
2 convinced, that's my burden. Keep that in mind.

3 Let's talk about the facts of the case that
4 we heard today. There's no doubt that Ms. Wilborn's purse
5 was taken on March 16, 2008. There is no dispute in that.
6 I think the defense would tell you that they are not
7 disputing that. What they are disputing is who took the
8 purse. So the element I want to focus on the most is the
9 defendant. We know somebody took and carry away the
10 purse. They did intend to permanently deprive because it
11 was found in the road by Mr. Tarbutton, the road in Greer
12 and Mr. Tarbutton returned the purse.

13 We know he did it with force and
14 intimidation, ladies and gentlemen; because of the bruises
15 on her arm and cuts she sustained from the incident.

16 So what do we have to show that this
17 defendant committed the crime of strong armed robbery.
18 Well, let's follow the evidence. Let's do exactly what
19 Investigator Weiner did. He gets the case file. As he
20 said he's made 800 cases and in the last four years.
21 That's a lot of cases. He gets the paperwork and he
22 starts running the leads.

23 What's the first thing he did? Take the tag
24 number that Mr. Saunders gave him. Mr. Saunders who
25 followed the car for four or five miles, who he knows he

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1 got the tag number, no doubt about that. The tag number
2 came back to Barbara Randall. The car matched the
3 description of the tag. The tag was proper on that car.
4 It was a 1996 black Lexus. That's exactly what Mr. Todd
5 Saunders said and exactly what Mr. Stone said. And who
6 did Barbara Randall said had her car that day? The
7 defendant, Stephaniea Murray.

8 What does Investigator Weiner do? He goes
9 back to Ms. Wilborn. He puts together a photo line-up
10 because he has an idea now of who we're possibly looking
11 at for a suspect. Ms. Wilborn had an opportunity to see
12 him in the parking lot that day so he puts together a
13 six-person photo line-up. He hands this to her. Now,
14 keep in mind this is March 17, 2008, the day after the
15 incident.

16 We are three years later and she did identify
17 him in court today but this is the day after. Ms. Wilborn
18 took the line-up, turned it over looked at it carefully in
19 her words and picked the defendant. She had no idea, no
20 way to know, that this defendant and the owner of that
21 vehicle were boyfriend and girlfriend and they lived
22 together. She had no idea of that at the time.

23 So with the probability that we got a license
24 number and tracked it and Ms. Wilborn just happened to
25 pick this defendant out of a photo line-up I would say is

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1 astronomical, ladies and gentlemen.

2 What else did Mr. Saunders say? Mr. Saunders
3 said that as he was pulling into the parking lot, he saw
4 the black Lexus coming out. He got within eight feet of
5 it and that was driver to driver so you can imagine how
6 close the cars were. He said he got a clear look at him.
7 There was no mask on his face, no glasses, no hat, no
8 hood, no mask. You heard me ask that question of all
9 three witnesses and all three witnesses said the same
10 thing, nothing on his face. They all got a good look at
11 him. And who do that point to? The two people that saw
12 him, who did they point to? They pointed to that man right
13 there, Stephania Murray. Even three years later they
14 pointed to him without hesitation and said that's him,
15 he's the one that did this. Of course, Ms. Wilborn's
16 story has never changed.

17 Let's talk about the Bi-lo video. As you've
18 heard Bi-lo has surveillance video both inside their store
19 and outside their store. Most places now have video.
20 Investigator Weiner tried to get that video. He went
21 there several times over a period of several weeks is what
22 he said and they were not able to capture it and give him
23 the video. Don't hold that against Greenville County
24 Sheriff's Office. Greenville County Sheriff's Office has
25 a lot of power, but they can't go breaking doors down and

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1 grab what they want to. This is not Russia. Ladies and
2 gentlemen, do not hold the lack of video against this
3 officer.

4 Also, we heard talk about the General Orders.
5 The defense put this in. She made a big deal about the
6 protection and collection of all evidence. Well, part of
7 the collection of the evidence is the bodily video. Had
8 we gotten the video from Bi-lo, he would have collected it
9 and protected it in the course of his investigation.
10 Again, that's a Bi-lo issue that we did not get the video,
11 ladies and gentlemen.

12 Also, we talked about photo line-ups. Why
13 didn't he show the photo line-up to Todd Saunders or
14 Mr. Stone? Investigator Weiner made his decisions as he
15 was following the evidence. He decided that he didn't
16 need the photo line-up. Who did Todd Saunders say did the
17 crime then? The defendant.

18 Ladies and gentlemen, the taking and carrying
19 away the property of another with force, that's what's
20 happened and this defendant is the one who did it. Carol
21 Wilborn told you that.

22 There are certain things that are kept in our
23 lives that we will never forget, the birth of a son,
24 graduation. For Ms. Wilborn, she will never forget that
25 day. That face is burned in her own memory for the rest

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1 of her life. I'm not sure if she could forget that face
2 if she wanted to.

3 Investigator Weiner followed the tag to
4 Barbara Randall. Barbara Randall said this defendant had
5 the car. Two witnesses came into court today and said
6 he's the one. I'm asking you ladies and gentlemen of the
7 jury, find the defendant guilty of strong armed robbery.

8 Thank you.

9 THE COURT: Now, ladies and gentlemen as you
10 know the defendant in this case has been indicted for
11 strong armed robbery. In order for you to understand
12 this, I must first define for you larceny because the two
13 are somewhat related.

14 Larceny, ladies and gentlemen, is the taking
15 and carrying away by ---

16 MS. WYGUL: Your Honor, may I approach.

17 THE COURT: Certainly you may.

18 (Whereupon, the jury left the courtroom.)

19 (Whereupon, there was a bench conference.)

20 I will not charge your request concerning the
21 preservation of evidence. I'll file that with the clerk.
22 How about the other request?

23 (Request for jury charge was marked as
24 Court's Exhibit No. 1 for identification.)

25 MR. GREGORY: The purse snatching?

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1 THE COURT: Yeah.

2 MR. GREGORY: Your Honor, I think the only
3 facts in the case was the taking was done with force and I
4 think it's either a strong armed robbery or it's nothing
5 because it talks about the circumstances not constituting
6 grand larceny and robbery. All the testimony so far today
7 constituting robbery. I don't believe the circumstances
8 would warrant the purse snatch charge.

9 THE COURT: The State v. Bland, a 1995 case,
10 hold that purse snatching is not a lesser included offense
11 of armed robbery so I decline to charge that.

12 I'll give that the court reporter.

13 (Request for jury charge was marked as
14 Court's Exhibit No. 2 for identification.)

15 Okay, bring them on in.

16 (Whereupon, the jury returns to the
17 courtroom.)

18 Okay, ladies and gentleman, I'm going to
19 define larceny for you and then I'll tell you about strong
20 armed robbery.

21 Larceny is the taking and carrying away by
22 any person the thing or things, personal property of
23 another, with the felonious, that is the unlawful intent
24 to permanently deprive that owner of his or her property
25 and to convert it to the takers own use. That's what

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1 constitutes larceny.

2 Now, robbery, on the other hand ladies and
3 gentlemen, is the felonious, that is the unlawful taking
4 of money or goods or things personal from the person of
5 another by using violence or by putting that person in
6 fear. Now, robbery includes all of the evidence necessary
7 to constitute larceny as I have defined that term to you,
8 but the aggravating circumstances necessary to constitute
9 robbery as distinguished from larceny are first of all,
10 the taking must not only be without consent, but it must
11 also be accomplished with violence or by putting that
12 person in fear. And secondly, the property must be taken
13 from the person of another. That, ladies and gentlemen,
14 is what constitutes strong armed robbery.

15 Ladies and gentlemen, as jurors in this case
16 you have a function or a responsibility that is entirely
17 separate and distinct from my function in this case as the
18 trial judge. The Constitution of our State does not allow
19 me to charge you on the facts of this case or discuss the
20 facts with you or in any way or manner let you know what
21 my personal feelings, if any, are about this case. And
22 that's because you and you alone are the judges of the
23 facts; therefore, if during the course of this trial or
24 during the course of my charge, you were left with the
25 feeling I have a personal feeling about this case one way

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1 or another, then you disregard that feeling or that
2 impression.

3 Now, it's your duty and your duty alone to
4 weigh the testimony and the evidence in this case and to
5 pass upon the credibility or believability of the
6 witnesses you heard testify. In this connection you have
7 a right to believe all that a witness told you or you can
8 disbelieve all that a witness told you. You can believe a
9 part of what a witness told you and disbelieve a part of
10 what a witness told you. You can believe one witness
11 against several or you can believe several against one.
12 You also have the right to take into consideration any
13 bias or prejudice or sympathy you might have.

14 As I told you I am the judge of the law in
15 this case and I am required to charge the law that applies
16 to the facts of this case. It's not a question of what
17 you feel the law might be or what it should be. It is not
18 necessarily what the lawyers told you it is because under
19 your oath you are required to take the law as I give it to
20 you, apply that law the facts as you determine those facts
21 to be, and to write your verdict accordingly.

22 In this case, as in all criminal cases, this
23 defendant comes into this courtroom presumed to be
24 innocent and this presumption continues and carries
25 through this entire trial until and unless it is removed

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1 by evidence that satisfies his guilty beyond a reasonable
2 doubt.

3 The burden is on the State in this case to
4 prove the defendant guilty and to prove each and every
5 element of the offense for which he is charged beyond a
6 reasonable doubt. Some of you may have in the past served
7 as jurors on civil cases and if so you were most likely
8 told that it was only necessary to prove that a fact was
9 more likely true than not true. But in criminal cases,
10 the State's burden is more powerful. As I have told you
11 it must be beyond a reasonable doubt.

12 Now, proof beyond a reasonable doubt is proof
13 that leaves you firmly convinced that this defendant is
14 guilty. There are very few things that we know with
15 absolute certainty and in criminal cases our law does not
16 require proof that overcomes every possible doubt.

17 If based on your consideration of the
18 testimony and evidence in this case you are firmly
19 convinced that this defendant is guilty, then you must
20 find him guilty. If on the other hand you think there's a
21 real possibility that he is not guilty, then you must give
22 him the benefit of that doubt and find him not guilty.

23 As I told you earlier, ladies and gentlemen,
24 the defendant has no burden in this case. I charge you
25 further at this time that the law does not compel a

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1 defendant in a criminal case to take the witness stand and
2 testify or otherwise present testimony or evidence, and no
3 presumption of guilt can be raised or no inference of any
4 kind may be drawn from his decision not to testify.

5 Our law never imposes on a defendant in a
6 criminal case the burden or duty of calling any witnesses
7 or producing any evidence or testifying; therefore, the
8 decision of this defendant not to take the stand and
9 testify in his behalf cannot be taken, ever discussed, or
10 considered against him in any manner whatsoever.

11 Now, under the oath you took in this case,
12 ladies and gentlemen, you swore to try this case based
13 only and solely on evidence presented in this courtroom.
14 I tell you that it is your duty to lay aside all outside
15 opinions, bias, prejudice or sympathy that you may have in
16 reaching your verdict. The word verdict is taken from the
17 Latin word veredicto which means to speak the truth. You
18 have no friends to reward or enemies to punish in this
19 case. I charge you to abide by your oath and return a
20 verdict that speaks the truth.

21 You'll have in the jury room with you the
22 indictment in this case. This indictment does not
23 constitute evidence. It simply sets forth the allegations
24 of the State. This indictment is a legal document that
25 brings this case into the courtroom and presents it to you

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1 for your determination.

2 There are one of two possible verdicts in
3 this case: Guilty or Not Guilty. And whatever that
4 verdict is it must be unanimous which means that all 12 of
5 you must agree.

6 Madame foreman, whatever it unanimous verdict
7 of the jury is, guilty or not guilty, you'll find a place
8 on the back of the Indictment where is says verdict,
9 please write that verdict, guilty or not guilty, and then
10 sign your name on the line where it says fore person.

11 Now, at this time, I'm required to go over my
12 charge with the lawyers so I need you to go back into your
13 jury room but do not begin deliberating before I send word
14 in for you to do so. Thank you.

15 (Whereupon, jury exits the courtroom.)

16 Anything further from the State?

17 MR. GREGORY: No, Your Honor.

18 THE COURT: From the defense?

19 MS. WYGUL: No, Your Honor.

20 THE COURT: All right. You got all the
21 exhibits together.

22 (Whereupon, the exhibits were examined and
23 sent back to the jury room.)

24 Tell them to deliberate and bring the
25 alternate in to me.

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1 THE BAILIFF: Yes, sir:

2 (Whereupon, deliberations began at 12:00.)

3 THE COURT: Mr. Bryant, you are the alternate
4 on this case and hopefully the 12 jurors will make it
5 through this case without having call you in for further
6 service. What I need to do right now is have you sit in
7 another jury room by yourself and if for any reason I got
8 an excused one from the jury, then I'll bring you up and
9 let you start deliberating. We've ordered lunch so just
10 be at ease until your lunch comes and be as comfortable as
11 you can.

12 JUROR BRYANT: Yes, sir.

13 THE COURT: Be at ease and do not leave the
14 building.

15 ---

16 THE BAILIFF: Remain seated, court is now in
17 session.

18 THE COURT: All right, they say the want a
19 transcript of the sheriff, transcript of Randall's phone
20 conversation and transcript of the investigator, two phone
21 calls, and they want to know when was the defendant
22 arrested.

23 That's in the record, isn't it?

24 MR. GREGORY: The phone conversation should
25 be, Your Honor.

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1 MS. WYGUL: Your Honor, if you're talking
2 about the date he was arrested, that's in the record.

3 Your Honor, are they asking for a transcript
4 of the actually phone call or just the testimony regarding
5 the phone call?

6 THE COURT: That's what I don't know.

7 MS. WYGUL: Could we have a bailiff clarify
8 that?

9 THE COURT: Yeah. Tell them to be a little
10 more specific if they want me to just play back the
11 testimony of Randall -- find out if that's what they want.

12 When was he arrested?

13 MR. GREGORY: I believe he was arrested on
14 September 24, 2008.

15 MS. WYGUL: I would agree with that, Your
16 Honor.

17 THE COURT: Okay.

18 THE BAILIFF: They want to hear the testimony
19 about the phone calls, both of them.

20 THE COURT: Caroline, get Randall's testimony
21 and Investigator Weiner's testimony.

22 THE BAILIFF: They want to hear the testimony
23 about the phone call.

24 THE COURT: Bring them back in.

25 (Whereupon, the jury enters the courtroom.)

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1 back. Let's play Ms. Randall first.

2 (Whereupon, Barbara Randall's testimony was
3 played back for the jury in open court.)

4 Ladies and gentleman, I'm going to excuse you
5 to your jury room while we run down the other testimony
6 you requested.

7 (Whereupon, the jury exited the courtroom.)

8 MS. WYGUL: Your Honor, we can stipulate that
9 on cross all I asked him about the telephone conversation
10 was when did he find out there was a third-party on the
11 line.

12 THE COURT: Solicitor.

13 MR. GREGORY: We can stipulate that as well.

14 THE COURT: Okay. Bring the jury back in.

15 (Whereupon, the jury enters the courtroom.)

16 Ladies and gentleman, it has been stipulated
17 by both parties that the only reference on cross-
18 examination of Detective Weiner regarding the three-way
19 telephone conversation was limited to when he found out
20 there was a third party on the line.

21 Okay, play it back.

22 (Whereupon, the portion of Detective Weiner's
23 testimony requested was played back.)

24 Is that what you needed?

25 FORE PERSON: Yes, Your Honor.

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1 THE COURT: Okay. Return to your jury room
2 and continue your deliberation.

3 (Question from the jury marked as Court's
4 Exhibit No. 3 for identification.)

5 (Whereupon, jury exits the courtroom to
6 continue deliberations.)

7 (The trial stood at ease awaiting verdict.)

8 (Verdict reached at 3:04 p.m.).

9 I understand that we have a verdict in this
10 case, and of course, we do not know what that verdict is
11 but I need everyone in the courtroom to understand that
12 regardless of what the verdict is, I will not permit or
13 condone any displays of emotion, no laughing, no crying,
14 not outbursts and should there be any, that would
15 constitute contempt of court and I will punish
16 accordingly.

17 Now, do I have anyone in the courtroom that
18 does not understand what I just said? If so, stand up and
19 let me know.

20 (No response.)

21 Bring the jury.

22 (Whereupon, jury enters the courtroom.)

23 Madam Foreman, if you've reached a verdict,
24 please hand it to the bailiff, please, ma'am.

25 Publish the verdict.

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1 THE CLERK: Your Honor, this is Case No.
2 2008-GS-23-8615, Stephania N. Murray, indicted for strong
3 armed robbery. The verdict is guilty signed Carol Black,
4 fore person. If this your verdict, please raise your
5 right hand.

6 (Jury complies.)

7 THE COURT: Anything further for the jury?

8 MR. GREGORY: No, Your Honor.

9 MS. WYGUL: No, Your Honor.

10 THE COURT: Thank you, ladies and gentleman
11 for your service on this case. This will conclude your
12 service and we're probably going to need you for something
13 tomorrow. We need you to report back to the jury assembly
14 room at 9:00 in the morning.

15 Thank you.

16 (Jury exits the courtroom.)

17 Bring Mr. Bryant in so he can be dismissed
18 from this case.

19 (Alternate enters the courtroom.)

20 The jury has made it through this case so
21 this will conclude your services today but I need for you
22 to report back to the jury assembly room at 9:00 tomorrow.

23 Thank you.

24 Any motions?

25 MS. WYGUL: We would make a judgement not

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1 withstanding the verdict.

2 THE COURT: And I will deny your motion.

3 MR. GREGORY: Nothing from the State.

4 MS. WYGUL: At this time we would just renew
5 our objections.

6 SENTENCING - STEPHANIA N. MURRAY

7 THE COURT: You're protected.

8 Come on around, please.

9 Mr. Murray, you exercised your Constitutional
10 Right not to testify during the trial but you have a
11 perfect right at this time to address the Court during
12 sentencing. Is there anything you'd like to say before I
13 sentence you?

14 DEFENDANT MURRAY: Yes, sir. It's been a lot
15 of thing, you know what I am saying, in my life that I
16 have done. A lot of times we do things in life and we get
17 convicted; a lot of times we do things in life and we get
18 away with it. This is one of the things that I can truly
19 say, you understand, how the circumstances did and I don't
20 know what happened, but this is one of the things I didn't
21 do. Like I say it's my mistake and I should have had my
22 attorney subpoena some of the investigators that I have
23 dealt with in the past because when I do wrong and I get
24 caught with it, I admits it.

25 I have made statements on everything in the

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1 past that I have done. I'm sorry that everybody had to be
2 here to go through this, but that's all I have to say.

3 THE COURT: Okay. Ms. Wygul.

4 MS. WYGUL: Your Honor, Mr. Murray is 48
5 years old. He has no children. This case has been
6 dragged out for three years now. He's always shown up for
7 his court appearances and I just ask Your Honor for mercy.

8 THE COURT: Does he have a record?

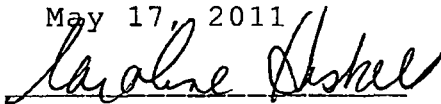
9 MR. GREGORY: He does, Your Honor. It starts
10 back in 1980 failure to stop for police, simple possession
11 of marijuana, housebreaking; 1982 breaking and entering at
12 night time, grand larceny; 1983 shoplifting, housebreaking
13 and grand larceny, resisting arrest; 1987 resisting
14 arrest, shoplifting, five counts of grand larceny, six
15 counts of burglary in the second degree; 1993 three counts
16 of shoplifting; 1994 failure to stop for a blue lights,
17 two counts of shoplifting; 1995 petty larceny, DUS, giving
18 false information, petty larceny, simple assault and
19 battery, four counts of petty larceny; 1996 assault and
20 battery, two counts of shoplifting, false information to
21 police; 1997 shoplifting, failure to appear, petty
22 larceny, possession of stolen goods, another petty
23 larceny; 1998 burglary third degree, petty larceny,
24 possession of crack cocaine, two counts of petty larceny
25 and grand larceny.

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1 I, the undersigned Caroline Hiskell, Official
2 Court Reporter for the Thirteenth Judicial Circuit of the
3 State of South Carolina, do hereby certify that the
4 foregoingt is a true, accurate, and complete transcript of
5 record of all the proceedings had and evidence introduced
6 in the trial of the captioned case, relative to appeal, in
7 the Circuit Court of Greenville County, South Carolina on
8 the 6th day of April, 2011.

9 I do further certified that I am neither of
10 kin, counsel, nor interest to any party hereto.

11
12
13 May 17, 2011

14 

15 Caroline Hiskell
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WITNESSES

David Weiner



Greenville County Sheriffs Office

9/24/2008

ARREST WARRANT NUMBER

1475096

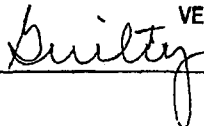
ACTION OF GRAND JURY
TRUE BILL



FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT



Carol D. Black 4-6-2011

Foreperson of Petit Jury

Date:

DOCKET NO. 2008-GS-23-^{JMG} 000615

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

June TERM 2008

THE STATE

vs.

STEPHANIA N. MURRAY

Indictment for

0137

STRONG ARM ROBBERY

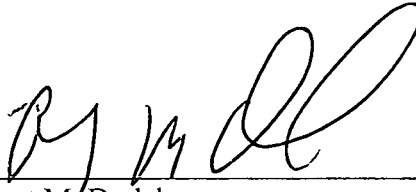
VIOLATION § 16-11-0325

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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."

May 8, 2012



Robert M. Dudek
Chief 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

IN THE COURT OF APPEALS

ORIGINAL
RECEIVED

MAY 08 2012

SC Court of Appeals

Appeal from Greenville County

C. Victor Pyle, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

STEPHANIA MURRAY,

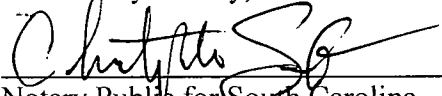
APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at the Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, South Carolina 29201, this 8th day of May, 2012.


Emily Bryson
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 8th day of May, 2012.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: May 16, 2021.