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STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Deadra L. Jefferson, Circuit Court Judge

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THE STATE,

SC COURT OF APPEALS
RESPONDENT,

V.

SASHA A. GASKINS,

APPELLANT

Appellate Case No. 2010-168966

RECORD ON APPEAL

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1 A No, sir.

2 Q Everyone is just sitting there waiting?

3 A Yes, sir.

4 Q Waiting for what?

5 A Him to come back and get in the car.

6 Q Does he put gas in the car?

7 A Yes, sir.

8 Q Does he buy the cigar?

9 A Yes.

10 Q What does he do with the cigar when he gets
11 back in the car?

12 A He handed the pack to Sasha.

13 Q What happens next?

14 A We go to another ATM.

15 Q What happened at that ATM?

16 A He still didn't get any money.

17 Q Anybody say anything to him at that point?

18 A No, sir.

19 Q He gets back in the car?

20 A Yes, sir.

21 Q Where do you go from there?

22 A Back to the house.

23 Q Where did you park when you go back to the
24 house?

25 A The back of the house.

1 Q Behind the house in the back, in the rear?

2 A Yes, sir.

3 Q What happens when you were at the rear of the
4 house?

5 A He says, you all can get out and come in. And
6 Stephen and Sasha got out and went inside the house.

7 Q On the trip when you first pick up Miguel and
8 from the point you get back to the house.

9 A Yes, sir.

10 Q Does Miguel say anything about what happened
11 in there, what is going on?

12 A He just says that they were -- the people
13 inside the house were taped up.

14 Q Taped up?

15 A Yes, sir.

16 Q Does he say how many people were taped up?

17 A A girl and a boy.

18 Q A girl and a boy?

19 A Yes, sir.

20 Q Does anyone say anything in reaction to
21 someone getting taped up?

22 A No, sir.

23 Q At this point did you know anyone was going to
24 get taped up?

25 A No, sir.

1 Q Did you go inside the house when you go back
2 there?

3 A No, sir.

4 Q Does anyone go inside the house?

5 A Miguel, Stephen and Sasha go inside the house.

6 Q Do they all go in together when you get back,
7 or how does that play out?

8 A At first Miguel and Stephen go inside, Sasha
9 sat there for a few minutes. And then she went
10 inside too.

11 Q So there's a period there where it's just you
12 and Sasha inside the car alone?

13 A Yes, sir.

14 Q Are the keys in the car?

15 A Yes, sir.

16 Q At any point does Sasha say to you, let's take
17 the car and get out of here, let's leave?

18 A No, sir.

19 Q Do you ever say that?

20 A No, sir.

21 Q What happens next?

22 A They stayed in the house for a little while
23 and I just sat in the car by myself.

24 Q While you were in that car, does Sasha ever
25 say anything to you about getting any threats from

1 anyone?

2 A No, sir.

3 Q Anyone forcing her to do this?

4 A No, sir.

5 Q I sorry, you said that Sasha goes inside?

6 A Yes, sir.

7 Q So it's just you out in the car now?

8 A Yes, sir.

9 Q How long are you out in the car on your own
10 for?

11 A About 10, 15 minutes maybe.

12 Q What happens after you are out there on your
13 own for 10 or 15 minutes?

14 A I call them and tell them that I'm scared,
15 they need to come on, let's go, let's leave.

16 Q What do think say?

17 A They said they were coming.

18 Q Did they come?

19 A No, sir.

20 Q What did you do?

21 A I just kept calling and telling them to come
22 on. I said I was going to leave if they didn't come.
23 And they just like brushed me off the phone and said,
24 okay, we are coming, we are coming.

25 Q At some point do they come?

1 A Yes, sir.

2 Q What happens when they come?

3 A They're coming, they start putting stuff in
4 the trunk of the car and in the car. Whatever they
5 were taking out of the house that didn't fit in the
6 trunk, they held it like in their laps and stuff in
7 the car.

8 Q Let's see if we can clear this up for the
9 jury. You're sitting out in the car on your own?

10 A Yes, sir.

11 Q Four of them are inside there?

12 A Yes, sir.

13 Q Are you acting as a lookout for them?

14 A No, sir.

15 Q You are not?

16 A No, sir.

17 Q No one asked you to do that?

18 A No, sir.

19 Q When they come back to the car, do they have
20 anything with them?

21 A Yes, sir.

22 Q What?

23 A TV, X-box, movies, coins.

24 Q Where do they put all that stuff?

25 A In the trunk and in the backseat of the car.

1 Q Did you see the defendant carrying stuff?

2 A Yes, sir.

3 Q What is she carrying?

4 A Like coins.

5 Q Small stuff?

6 A Yes, sir.

7 Q Do you ever go in the house and carry anything
8 out?

9 A No, sir.

10 Q Did you go to the backdoor and carry anything
11 out?

12 A No, sir.

13 Q Did you carry anything out of that house at
14 that point?

15 A No, sir.

16 Q Where do you go from there?

17 A After they get in the car we go back to
18 Miguel's apartment.

19 Q Who's driving?

20 A I was.

21 Q So you drove back?

22 A Yes, sir.

23 Q And what happens when you go back to Miguel's?

24 A They unload the stuff out of the car and we go
25 inside.

1 Q Do you carry anything inside?

2 A No, sir.

3 Q Why didn't you carry anything inside?

4 A I had to use the bathroom, so I was rushing to
5 use the bathroom.

6 Q So you go inside the house?

7 A Yes, sir.

8 Q You use the bathroom?

9 A Yes.

10 Q What happens after you use the bathroom?

11 A They had brought everything in the house by
12 the time I get out. And they started to divide up
13 what they wanted.

14 Q Does the defendant state anything that she
15 wants?

16 A Just the coins.

17 Q The coins?

18 A Yes, sir.

19 Q Did you ask for anything?

20 A No, sir.

21 Q What are the others asking for?

22 A Stephen wanted the TV, and Miguel was getting
23 everything else for his apartment.

24 Q Anyone talking about the robbery and sort of
25 what happened?

1 A Yes, sir.

2 Q What are they saying?

3 A They were basically saying like the guy inside
4 was scared. And he was basically putting the girl up
5 because he was scared saying take her, just leave me
6 alone, you can take everything.

7 Q Roughly how long did the robbery take that you
8 remember?

9 A About an hour.

10 Q Wasn't quick?

11 A No, sir.

12 Q Anyone smoking any drugs inside Miguel
13 apartment?

14 A Yes, sir.

15 Q Who?

16 A Miguel, Stephen, Sasha and Reggie.

17 Q Not you?

18 A No, sir.

19 Q So everyone is smoking except for you?

20 A Yes, sir.

21 Q Why aren't you smoking?

22 A I don't smoke.

23 Q Why not?

24 A It's just a choice.

25 Q Did you spend the night at Mr. Starks'?

1 A No, sir.

2 Q You don't?

3 A No, sir.

4 Q Where do you go?

5 A Back to my dorm.

6 Q How do you get back there?

7 A Miguel drives us.

8 Q Does anyone else go with you?

9 A Stephen, Reggie, Sasha and Miguel were all in
10 the car. Miguel first drove us back to Stephen's
11 dorm where him and Sasha got of the car. And then he
12 took me back to my dorm and I went inside.

13 Q On that car ride from Miguel's apartment back
14 to the dorm before anyone gets out of the car, any
15 discussion about the robbery on that trip?

16 A Yes. They were just saying it was easy.

17 Q Who was saying it was easy?

18 A Reggie.

19 Q Anything else being said.

20 A No, sir.

21 Q Where did you spend that night?

22 A In my dorm.

23 Q With anyone?

24 A No, sir.

25 Q What happens the next day?

1 A I didn't have class the next day so I worked
2 on one of -- my speech for my public speaking class.

3 Q Do you talk to any of the four codefendants
4 the next day?

5 A Yes, sir.

6 Q Who do you talk to?

7 A Well I talked to Sasha during the day. We
8 didn't really talk about anything specifically. And.

9 Q Let's talk about that. You just committed a
10 robbery. There is no discussion about the robbery?

11 A No, sir.

12 Q You didn't say to her, what the hell?

13 A No, sir.

14 Q She doesn't say anything to you?

15 A No, sir.

16 Q She doesn't mention anything about being
17 threatened, I can't believe I was forced to do that,
18 how can I get out of this, can you help me?

19 MR. SOWELL: Your Honor, objection.

20 A No, sir.

21 THE COURT: Basis of the objection?

22 MR. SOWELL: Leading.

23 THE COURT: Sustained, leading.

24 Q (By Mr. Savage) Does she ever ask you for
25 help?

1 A No, sir.

2 Q Did you ever meet with her that day?

3 A No, sir.

4 Q Did you ever meet with any of the codefendants
5 that day?

6 A Yes, sir.

7 Q Who do you meet with?

8 A Miguel and Reggie came and picked me up from
9 my dorm later on that night.

10 Q Where did you go?

11 A We go pick up Stephen and Sasha up from
12 Stephen's dorm and go back to Miguel's apartment.

13 Q And who is at Miguel's apartment now?

14 A All five of us.

15 Q What are you doing at Miguel's apartment this
16 night?

17 A Just hanging out, watching TV.

18 Q Any discussion about the robbery?

19 A No, sir.

20 Q Any discussion about any other crimes?

21 A Yes, sir. They said they were going to do
22 another one.

23 Q Who is they?

24 A Miguel and Reggie were talking about it.

25 Q What is the plan?

1 A The same thing that happened the night before.
2 They were going to use the same general plan.

3 Q Tell the jury about what the same general plan
4 is?

5 A Sasha was going to say she had car trouble,
6 and they were going to go inside and rob the house.

7 Q Who's the victim this time, do you know?

8 A No, sir.

9 Q What was your role in this? Did you have a
10 role?

11 A No, sir. Just go with Sasha.

12 Q Okay. So you were going to be there, go with
13 Sasha where?

14 A When -- this time she was going to call
15 someone. So when she went to call them, just be with
16 her.

17 Q So last time she knocked on the door?

18 A Yes, sir.

19 Q This time you're not knocking on the door?

20 A Correct.

21 Q Why not? Why the change in plans?

22 A Because of security, they couldn't get inside
23 the apartment.

24 Q How was she going to make the phone call?

25 A From a pay phone.

1 Q why a pay phone?

2 A Because she didn't want to be traced back to
3 her phone, her cell phone.

4 Q And you were going to go with her to make that
5 call?

6 A Yes, sir.

7 Q You were willing to go with her to make that
8 call?

9 A Yes, sir.

10 Q Anyone force you to make that call?

11 A No, sir.

12 Q Anyone force her to make that call?

13 A No, sir.

14 Q Anyone threaten you at any time this night?

15 A No, sir.

16 Q Do you see any guns or any weapons that night?

17 A No, sir.

18 Q No one pointed any guns at you?

19 A No, sir.

20 Q Anyone threaten your family?

21 A No, sir.

22 Q Anyone threaten anyone's family?

23 A No, sir.

24 Q Did you spend the night at Miguel's?

25 A On Thursday, yes, sir.

1 Q Thursday?

2 A Yes, sir.

3 Q Where do you sleep?

4 A Miguel's room.

5 Q Is Miguel staying in there with you?

6 A Yes, sir.

7 Q What happens the next morning?

8 A He takes Sasha and Stephen and I back to the
9 campus.

10 Q And what do you do that day?

11 A I went to class. And I went back to my room
12 and went to sleep.

13 Q Did you talk to anyone else about the crime
14 that day?

15 A No, sir.

16 Q Did you ever meet up with the defendant that
17 day?

18 A Later that night, yes, sir.

19 Q How did that come about?

20 A First me and Miguel were just supposed to be
21 hanging out together. And we weren't supposed to be
22 hanging with Sasha and Stephen that night, they were
23 going to go to a movie with another friend.

24 So Miguel came and picked me up so that we can
25 hang out. And he went back and picked up Stephen and

1 Sasha.

2 Q Was anyone else in the car with him when he
3 picked you up?

4 A Reggie.

5 Q Were you expecting Reggie to be there?

6 A No, sir.

7 Q What -- when Miguel was coming to pick you up,
8 what did you think you guys were going to be doing?

9 A Just hanging out.

10 Q Was it like a date?

11 A I guess so, yes, sir.

12 Q Did you think it was a date?

13 A I just call it hanging out.

14 Q Hanging out?

15 A Yes, sir.

16 Q So all you get picked up again and where do
17 you go?

18 A First we went to Zaxby's to get something to
19 eat. And then we went back to Miguel's apartment.

20 Q Do you go inside Zaxby's or what do you do?

21 A We went through the drive-thru.

22 Q And you go back to Miguel's?

23 A Yes, sir.

24 Q What happens when you go back to Miguel's?

25 A First we ate. And we were just hanging out.

1 Reggie was sick so he laid down to sleep. We were
2 talking.

3 Q About what?

4 A First Miguel and Stephen were just talking
5 about like hops and stuff. And then they started
6 talking about the plan for this robbery.

7 Q And was that -- when was that robbery going to
8 happen, what was the plan?

9 A The plan was for Sasha to call the guy to try
10 to get him out of the house and so they could get
11 inside the house to rob him.

12 Q What did you see inside Miguel's house at this
13 time?

14 A At first we didn't see nothing. And then he
15 pulled out two guns that him and Stephen were playing
16 with.

17 Q See any other items?

18 A He had like a samurai sword.

19 MR. SAVAGE: Your Honor, may I approach?

20 THE COURT: You may.

21 Q (By Mr. Savage) Ms. Bruster, I'm showing you
22 what is State's Exhibit No. 26. Is that what you
23 saw?

24 A Yes, sir.

25 Q Did he threaten you with that at all?

1 A No, sir.

2 Q Threaten anyone that you saw?

3 A No, sir.

4 Q The guns that he had, did he point them at you
5 at all while you were inside his apartment?

6 A No, sir.

7 Q Did you see him point them at anyone?

8 A No, sir.

9 Q Is anyone saying anything to you about, in
10 that apartment about, I don't want to do this, I want
11 to get out?

12 A No, sir.

13 Q You mentioned in the first robbery they wore
14 bandanas I believe?

15 A Yes, sir.

16 Q Are they using anything this time to cover
17 their faces?

18 A Yes, sir.

19 Q What are they using?

20 A Bandanas.

21 Q Any other items of clothing that you saw?

22 A No, sir. They had on like black hoodies.

23 Q They had on what?

24 A Black hoodies.

25 Q Okay. What's the plan for the victim in this

1 robbery coming up?

2 A Sasha was going to call him and say she needed
3 car trouble. So apparently he was supposed to be
4 like a real nice guy and he'd like help people and
5 stuff.

6 So they said they knew that he would come and
7 help her if she called. And when he came outside
8 they were going to get his key or whatever they
9 needed to get inside the house and go back upstairs
10 and rob him.

11 Q What were they going to do with him when they
12 got him back upstairs?

13 A Tape him up.

14 Q With what?

15 A Tape.

16 Q Did you see them getting tape?

17 A Yes, sir.

18 Q Who?

19 A Miguel and Stephen.

20 Q When did they get that?

21 A While we were just at his apartment that
22 night.

23 Q That Friday night?

24 A Yes, sir.

25 Q So Miguel and Stephen left?

1 A Yes, sir.

2 Q Who was left in the apartment?

3 A Sasha, Reggie and I.

4 Q Did anyone return once they left?

5 A Stephen, Miguel came back after that.

6 Q Before they came back and the period when they
7 were gone, anyone threaten you?

8 A No, sir.

9 Q Anyone threaten anyone else in there that you
10 saw or heard of?

11 A No, sir.

12 Q At some point do you leave Miguel's apartment?

13 A Yes, sir.

14 Q Where do you go?

15 A When we leave Miguel told me to drive them to
16 McDonald's. But when we get to the McDonald's he
17 says for me not to leave him there, to take him
18 across the street to some parking lot.

19 Q So are you driving at this point or who's
20 driving?

21 A I was driving.

22 Q So you don't park at McDonald's across the
23 street. Why is that?

24 A He said he saw a police car.

25 Q So did you park across the street?

1 A We stopped so that they could get out of the
2 car.

3 Q Who is they? Who got out?

4 A Stephen, Miguel and Reggie.

5 Q And what do you do now?

6 A Drive back to a gas station.

7 Q Who is driving?

8 A I was.

9 Q Who's in the car with you now?

10 A Sasha.

11 Q Does the defendant say anything to you at this
12 point?

13 A No, sir.

14 Q No one wants to leave?

15 A No, sir.

16 Q No one wants to back out?

17 A No, sir.

18 Q You were willing and able to go ahead with the
19 robbery right now?

20 A Yes, sir.

21 Q Where do you go to?

22 A To a gas station.

23 Q Why do you go there?

24 A Sasha was going to call the guy.

25 Q Does she call the guy?

1 A Yes, sir.

2 Q Tell the jury about that. How does that
3 happen at the gas station?

4 A She gets out of the car to go to the pay
5 phone. And I walk over with her and she calls the
6 guy, he doesn't answer the phone. So she calls
7 again, he didn't answer the phone again. So she
8 called him a third time and this time he answered the
9 phone.

10 Q What does she tell him?

11 A She said her name, she had an alias, I can't
12 remember what the name was, she said she had car
13 trouble, she was scared, she didn't want to be out
14 there by herself, could he come and pick her up until
15 Triple A came.

16 Q Where were you when that conversation took
17 place?

18 A I was standing away from her.

19 Q How far away?

20 A Couple feet, not too far.

21 Q What happens after she finishes that call with
22 him?

23 A She hangs up and she called Miguel and says
24 that he said he was coming.

25 Q Where do you go now?

1 A Back to the car.

2 Q And then where?

3 A To a different gas station.

4 Q What are you doing at a different gas station?

5 A Because we were supposed to drive Miguel's car
6 and it didn't have any gas in it. So we went to the
7 gas station to buy a gas canister and gas.

8 Q What kind of car did Miguel have?

9 A Black Nitro.

10 MR. SAVAGE: Your Honor, may I approach?

11 THE COURT: You may.

12 Q (By Mr. Savage) Ms. Bruster, I'm showing you
13 what is State's Exhibit 38 and 39. Do you recognize
14 those two?

15 A Yes, sir.

16 Q What are those?

17 A Miguel's Nitro.

18 Q So you go to the second gas station for what?

19 A Gas and a gas cannister.

20 Q Didn't you just come from a gas station?

21 A Yes, sir.

22 Q Why did you go to a different one to get gas?

23 A They didn't have gas canisters.

24 Q You get the canister?

25 A Yes, sir.

1 Q Put gas in it?

2 A Yes, sir.

3 Q Who does that?

4 A I do.

5 Q Who pays for the gas?

6 A I do.

7 Q Where do you go from there?

8 A Back to Miguel's apartment.

9 Q What happens when you get back to Miguel's
10 apartment?

11 A We try to put gas into the car, but we
12 couldn't get the canister to work.

13 Q What do you do?

14 A We asked some man that was walking his dog to
15 help us.

16 Q Does he?

17 A Yes, sir.

18 Q What happens there?

19 A He puts the gas in the car, and Miguel calls
20 Sasha's phone and says that he is on his way.

21 Q Let's talk a little bit about when the person
22 -- who is the person putting gas in the car?

23 A I don't know.

24 Q How did you find him?

25 A He was outside walking his dog.

1 Q What's going on as he's putting gas in the
2 car?

3 A We were just having a light conversation with
4 him.

5 Q You are there?

6 A Yes, sir.

7 Q Where is the defendant?

8 A She is standing there as well.

9 Q So all of you are talking to him?

10 A Yes, sir.

11 MR. SAVAGE: Your Honor, may I approach?

12 THE COURT: You may.

13 Q (By Mr. Savage) Ms. Bruster, I'm showing you
14 what has been marked as State's Exhibit 40 for
15 identification purposes. Do you recognize that?

16 A Yes, sir.

17 Q What is that?

18 A It's a disc with yesterday's date and my
19 initials on it.

20 Q What is on that disc?

21 A A video of --

22 MR. SOWELL: Your Honor, I object to this.

23 THE COURT: Please approach.

24 (Whereupon, the following discussion was held
25 at the bench.)

1 admitted?

2 THE COURT: Any objection to the admissability
3 of the tape, the recording?

4 MR. SOWELL: No, ma'am.

5 MR. SAVAGE: Thank you, Your Honor.

6 THE COURT: Marked and admitted. Give it to
7 Anne.

8 (Whereupon, State's Exhibit No. 40 is admitted
9 into evidence.)

10 THE COURT: Ready to proceed?

11 MR. KIDD: Yes, Your Honor.

12 THE COURT: Please bring in the jury.

13 (Whereupon, the jurors enter the courtroom.)

14 THE COURT: Ladies and gentlemen, we
15 appreciate your patience. We will now resume with
16 the testimony.

17 MR. SAVAGE: Thank you, Your Honor, may it
18 please the Court.

19 Q (By Mr. Savage) Ms. Bruster, while you were
20 at Miguel's car putting gas in it, where are the
21 three male codefendants?

22 A At the house.

23 Q What are they doing?

24 A I don't know exactly what they were doing.

25 Q What was the plan for them at this point?

1 A They were going to go inside and tape the man
2 up and get whatever they could.

3 MR. SOWELL: Your Honor, I couldn't understand
4 that.

5 THE COURT: Please repeat the answer, ma'am.

6 A They were going to go inside and tie the man
7 up and get whatever they could from the house.

8 Q (By Mr. Savage) Rob him?

9 A Yes, sir.

10 (Whereupon, the videotape is played.)

11 Q (By Mr. Savage) Who is that talking?

12 A Me and Sasha.

13 Q The defendant?

14 A Yes, sir.

15 (Whereupon, the videotape is played.)

16 Q (By Mr. Savage) All of that took place after
17 you had set up the victim with the phone call?

18 A Yes, sir.

19 Q What happens next?

20 A Miguel called and said that he was on his way.

21 Q Why was that recorded?

22 A By accident.

23 Q How by accident? How do you accidentally
24 record something?

25 A I guess from her phone has a side button or

1 something, I'm not sure.

2 Q Did Miguel come?

3 A Yes, sir.

4 Q How did he get there?

5 A He drove the person they were robbing's car.

6 Q How do you know it was the person's car?

7 A He told me.

8 Q Did you get in that car?

9 A Yes, sir.

10 MR. SAVAGE: May I approach?

11 THE COURT: You may.

12 Q (By Mr. Savage) Ms. Bruster, I'm showing you
13 what is State's 37. Do you recognize that?

14 A Yes, sir.

15 Q What is that?

16 A The car he came to pick us up in.

17 Q And that was the victim's car?

18 A Yes, sir.

19 Q All of you get in the car, all three of you?

20 A Miguel was already in the car, me and Sasha
21 got inside.

22 Q Say that again, please?

23 A Sasha and I got inside the car, Miguel was
24 already driving.

25 Q What's the plan now? Where do you go?

1 A He went to an ATM.

2 Q You say he went to the ATM. Did he go on his
3 own?

4 A Me and Sasha were in the car with him.

5 Q Okay. why did he go to an ATM?

6 A He was going to try and get money out of the
7 guy's bank account.

8 Q who?

9 A The guy's, the person they were robbing's bank
10 account?

11 A So he has his bank card?

12 A Yes, sir

13 Q Do you go to the ATM?

14 A Yes, sir

15 Q Tell me about what happens at the ATM?

16 A He couldn't get anything out.

17 Q what does he do?

18 A He goes to another ATM.

19 Q He goes?

20 A We go.

21 Q We go?

22 A Yes, sir.

23 Q In the same car?

24 A Yes, sir.

25 Q what happens at the second ATM?

1 A He gets some money out but it's not as much as
2 he thought he would be able to get out.

3 Q How much does he get out?

4 A He didn't tell us.

5 Q What happens next?

6 A He goes to another ATM.

7 Q What happens at that one?

8 A He tries to get some more money out and he is
9 successful.

10 Q Does anyone say anything to him as he's doing
11 this?

12 A Sasha told him to check the savings account.

13 Q Do you know whether he did?

14 A He did.

15 Q What happened when he did that?

16 A There was nothing in it.

17 Q Does he get back in the car?

18 A Yes, sir.

19 Q Who's driving?

20 A Miguel.

21 Q Where do you go from here?

22 A Back to the man's apartment.

23 Q And what happens when you get back to the
24 apartment?

25 A We go upstairs to his apartment.

1 Q why?

2 A He didn't say exactly why. He just said, you
3 all come on, we are going upstairs.

4 Q Did he threaten you at all to go upstairs?

5 A No, sir.

6 Q Demand you to?

7 A No, sir.

8 Q Did you see him threaten the defendant?

9 A No, sir.

10 Q Did he show a weapon to you at any point, at
11 this point?

12 A No, sir.

13 Q Show a weapon to the defendant that you saw of
14 at this point?

15 A No.

16 Q What happens when you get back up to the
17 apartment?

18 A Me and Sasha stand in the foyer of the
19 apartment and he goes over to where Stephen and
20 Reggie are standing. And they're talking, I don't
21 know what they're talking about.

22 Q So you said the foyer of the apartment. You
23 go through the front door?

24 A Yes, sir.

25 Q So both of you are inside the apartment?

1 A Yes, sir.

2 Q What do you see?

3 A There is stuff like thrown everywhere in the
4 apartment.

5 Q Where is the victim?

6 A I didn't see him.

7 Q What are you guys talking about?

8 A We weren't talking about anything. Me and
9 Sasha were just standing there and the guys were
10 standing away from us so we couldn't hear what they
11 were talking about.

12 Q Okay. What do you do next?

13 A After standing there for a few minutes, Sasha,
14 Miguel and I leave.

15 Q And go where?

16 A Back to Miguel's apartment.

17 Q How do you get there?

18 A In the guy they were robbing.

19 Q The Mustang?

20 A Yes, sir.

21 Q Why did you go back to the Miguel's apartment?

22 A To get a different car.

23 Q Why?

24 A Because there was some things in the apartment
25 that they wanted, so --

1 Q That they wanted?

2 A Yes, sir.

3 Q You didn't want it?

4 A No, sir.

5 Q Do you get in the other car?

6 A sir?

7 Q Do you get in the other car at Miguel's
8 apartment?

9 A Yes, sir.

10 Q Which car is that?

11 A It's a blue car. I don't know the make and
12 model of it.

13 Q Okay. Does Miguel get in that car with you?

14 A He was still in the Mustang.

15 Q Does anyone get in the car with you?

16 A Sasha does.

17 Q Did you ever say to Sasha at this point, I
18 want to leave, I want out?

19 A No, sir.

20 Q Did Sasha say anything to you?

21 A No, sir.

22 Q Did she ever say anything to you at this point
23 about being threatened by anyone?

24 A No, sir.

25 Q How do you get back to the apartment?

1 A I drive the blue car back to the apartment.

2 Q And what happens once you get back there?

3 A We sit outside in the parking lot.

4 Q Why?

5 A Because Miguel was going back upstairs to get
6 Stephen and Reggie.

7 Q Does he get them?

8 A Yes, sir.

9 Q Do they come back down?

10 A Yes, sir.

11 Q What happens when they were come back down?

12 A They were carrying like TVs and stuff from the
13 apartment.

14 Q Where do they put that stuff?

15 A In the car.

16 Q Did you go up into the apartment again?

17 A No, sir.

18 Q Does the defendant go up there again?

19 A No, sir.

20 Q So you don't carry anything down then?

21 A No, sir.

22 Q Defendant doesn't carry anything down?

23 A No, sir.

24 Q What happens once they load up the car?

25 A They get inside and we go back to Miguel's

1 apartment.

2 Q Who drives back there?

3 A I do.

4 Q What happens when you get back to Miguel's?

5 A They carry everything back into the house.

6 Q Did you carry anything?

7 A No, sir.

8 Q Did the defendant carry anything?

9 A Not that I recall.

10 Q What happens -- do you go inside?

11 A Yes, sir.

12 Q What happens when you go inside?

13 A They started dividing up what they wanted.

14 Q Who's wanting what? What is going on?

15 A Stephen wanted the TV. Miguel didn't want any
16 of the -- like I think he had like TVs and a Play
17 Station 3. I cannot remember what else was there,
18 but Stephen wanted the TV and Play Station 3. And I
19 don't recall what Miguel or Reggie wanted.

20 Q What did you want?

21 A Nothing.

22 Q What about the defendant?

23 A Nothing.

24 Q What happens now?

25 A I guess they were still having like an

1 adrenaline rush from the robbery. And Stephen and
2 Reggie say that they're going to take the guy's
3 credit card, because they had taken it from him, and
4 go to like a Walmart or something of that nature to
5 buy some more TVs.

6 Q Before they leave, do you guys discuss the
7 robbery at all?

8 A Yes, sir.

9 Q What do you discuss?

10 A They discussed how the guy reacted when he
11 realized they were robbing him.

12 Q What did they say? How did he react?

13 A They said like he was scared and he just threw
14 his hands up and said, you can take everything, I
15 just want my dog and I will leave.

16 Q What was their attitude towards that?

17 A They thought it was funny.

18 Q What did you think it was?

19 A I thought it was crazy because I would have
20 been scared too if someone was robbing me.

21 Q How did the defendant react?

22 A She really didn't say anything either.

23 Q What happens next?

24 A Stephen and Reggie leave the apartment. And
25 Sasha and Miguel and I stay there.

1 Q And what is the plan? What are you doing?

2 A We are just sitting there until they got back.

3 Q And do they get back?

4 A No, sir.

5 Q What happens?

6 A Sasha tries to call Stephen and he didn't
7 answer the phone. She keeps trying and he is not
8 answering. So she asked to use my phone to call him.
9 And when she does he answers and says, I'm in the
10 back of a police car.

11 Q Then what?

12 A Miguel panics and was like, put everything in
13 his closet.

14 Q Why is he panicking?

15 A Because he knew they were caught.

16 Q What is your reaction?

17 A I was scared too.

18 Q What about the defendant?

19 A She was scared as well.

20 Q What are you scared of?

21 A Getting in trouble.

22 Q By who?

23 A The police.

24 Q Did you put any stuff in the closet, hide any
25 stuff?

1 A No, sir.

2 Q Did the defendant?

3 A No, sir.

4 Q Only Miguel is touching the stuff?

5 A Yes, sir.

6 Q What happens next?

7 A Sasha and I ran outside to get into Miguel's
8 car.

9 Q Why?

10 A Because we were going to leave.

11 Q Did you leave?

12 A Yes, sir.

13 Q Did you do anything before you left?

14 A Well we sat in the car for a few minutes
15 because Miguel said that he was coming too. And he
16 finally came and got in the car and he was like, I
17 saw police don't leave yet.

18 So we sit there for a few minutes and he is
19 still saying, don't leave, don't drive in the car.
20 So Sasha calls one of our friends to come and pick us
21 up.

22 MR. SAVAGE: I apologize, I'm going to back up
23 just a little bit.

24 Your Honor, may I approach?

25 THE COURT: You may.

1 Q (By Mr. Savage) Ms. Bruster, I'm showing you
2 what is State's Exhibit 20 and 21. Do recognize
3 those?

4 A Yes, sir.

5 Q What are they?

6 A Exhibit 21 is some of the stuff that they got
7 out of the apartment. I think this is the stuff they
8 got out of the apartment on Friday.

9 Q Okay. And the other exhibit?

10 A It's the clothes and the samurai sword, the
11 bag and tape that they used during the robbery.

12 Q Where is that location?

13 A Where is what?

14 Q That photo, Exhibit 20?

15 A That looks like Miguel's room.

16 Q Okay.

17 Ms. Bruster, I'm putting Exhibit 20 up on the
18 screen behind you. Coming up in just a minute.

19 It's -- can you see that clearly? Do you need
20 to step back?

21 A I can see it.

22 Q Tell the jury what you are looking at here.
23 What do you see? What do you recognize?

24 A The black hoodie over here is the hoodie one
25 of the guys had on, I'm not sure which one. The

1 samurai sword is right there. And the tape that they
2 used during the robbery.

3 MR. SAVAGE: Your Honor, may I approach?

4 THE COURT: You may.

5 MR. SAVAGE: I apologize.

6 Q (By Mr. Savage) This is a laser pointer. If
7 you touch that top red button there's a little laser
8 there. Please point out to the jury what you are
9 seeing here.

10 A This is the hoodie, I'm not sure which guy had
11 it on. This is the samurai sword and the tape that
12 they used. And this is the black bag that they had
13 put the stuff in. These are the bandanas they had
14 on.

15 Q Near where I guess the sword is, the handle of
16 the sword, what is that, right near there? That
17 right there?

18 A Coke can.

19 Q Why is that there? Any significance to you?

20 A Because after we came back from the second
21 robbery Miguel told me that he had thrown a Coke can
22 out of the guy's car. So he said go back and pick it
23 up because he didn't want it to be traced back to
24 him.

25 Q Where you there when he went back and picked

1 it up?

2 A Yes, sir.

3 Q who picked it up?

4 A I did.

5 Q why did you pick it up?

6 A Because he told me to.

7 Q okay, why?

8 A I don't know.

9 Q You don't know?

10 A I thought it was stupid but I did it.

11 Q Did you think that would link to the crime
12 somehow?

13 MR. SOWELL: Your Honor, leading.

14 THE COURT: Sustained, leading.

15 MR. SAVAGE: I will move on, Your Honor.

16 Q (By Mr. Savage) I'm now showing you Exhibit
17 21. Using the laser pointer, can you show the jury
18 what they are looking at?

19 A These are the TVs, speakers and things they
20 got out of the house.

21 Q Okay, thank you. Do you leave Miguel's
22 apartment that night?

23 A Yes, sir.

24 Q who do you leave with?

25 A sasha and I were in Miguel's car.

1 Q And do you leave with or without Miguel?

2 A He got into the car with the Lauren, and they
3 drove out of the complex and we did as well.

4 Q How did Lauren get there? What is her
5 involvement?

6 A We had called her to come and pick us up.

7 Q Who is we?

8 A Sasha and I.

9 Q Okay. How do you know Lauren?

10 A We go to school, College of Charleston
11 together.

12 Q She's a friend?

13 A Yes, sir.

14 Q So you call her?

15 A Yes, sir.

16 Q Roughly what time of day was this?

17 A It's really late night. I'm not sure of the
18 exact time.

19 Q So she comes?

20 A Yes, sir.

21 Q What happens when she comes?

22 A When she comes Miguel gets in the car with
23 her.

24 Q Where do you guys go from there?

25 A To a gas station.

1 Q where does Miguel go?

2 A He was in the car with Lauren. They met us at
3 the gas station. And when we got to the gas station
4 Miguel got out of Lauren's car. Lauren drive off and
5 he gets back in the car with Sasha and I.

6 Q Who drives to the gas station in Miguel's car?

7 A Sasha was driving.

8 Q As you are going to the gas station, any phone
9 calls or any conversations with Lauren?

10 A No, sir.

11 Q Any conversation -- what are you and the
12 defendant talking about, Sasha?

13 A We were basically like panicking, scared, like
14 we can't believe that this is happening. We didn't
15 think that they were going to get caught.

16 Q Did you think you would get caught?

17 A No, sir.

18 Q What happens when you get to the gas station?

19 A Miguel gets out of Lauren's car. Lauren
20 drives off and Miguel gets in the car with me and
21 Sasha.

22 Q What happens next?

23 A Miguel drives back to the College of
24 Charleston campus.

25 Q What happens when you get to the campus?

1 A We were at the campus, we went back to my
2 room. Sasha was panicked. She was worried about
3 Stephen and she said that she needed to go look for
4 him.

5 So she was going to drive Miguel's car to go
6 around and find out where he was.

7 Q Does she do that?

8 A Yes, sir.

9 Q Where does Miguel go when you go back to your
10 dorm?

11 A He went with me.

12 Q Where does he stay that night?

13 A My dorm.

14 Q When you wake up the next day, where is
15 Miguel?

16 A My dorm.

17 Q At any point through that night does he
18 threaten you?

19 A No, sir.

20 Q What happens the next morning when you wake
21 up?

22 A I talked to some of my family members. I
23 tried calling Sasha and.

24 Q What are you talking to your family members
25 about?

1 A Just catching up, saying hey.

2 MR. SOWELL: I'm sorry.

3 THE COURT: Just catching up, saying hey.

4 Q (By Mr. Savage) Continue.

5 A And called Sasha. First she didn't answer.

6 Finally got her on the phone and.

7 Q Why are you calling her?

8 A To see what was happening, what was going on.

9 Q With what?

10 A With did she find GZ, did she know where he
11 was.

12 Q Tell me about that conversation?

13 A She said she hadn't found him, she didn't know
14 where he was. She had been driving around all night
15 looking for him.

16 Q Did she ever sleep anywhere that night or was
17 she driving around the whole night?

18 A She said she had been driving around all
19 night.

20 Q Okay. What happens next after get off the
21 telephone with her?

22 A Miguel talked to one of his teachers at his
23 school. He said he was supposed to have a conference
24 or something that day. And he told them that he
25 wasn't going to make it to the conference. Then

1 Sasha called his phone and told him to come outside.

2 Q So she called him?

3 A Yes, sir.

4 Q You say she said come outside. Was she
5 outside?

6 A Yes, sir.

7 Q Did you see her outside?

8 A I didn't see her.

9 Q But she calls him outside?

10 A Yes, sir.

11 Q How long is he outside there for?

12 A Maybe ten minutes.

13 Q Does he come back into the dorm after that?

14 A No, sir.

15 Q Did you talk to him after that?

16 A He called me and said that he had to go to the
17 citadel, he was caught.

18 Q He was caught?

19 A Yes, sir.

20 Q What are you doing now then?

21 A Nothing. I started doing homework.

22 Q So Miguel is caught?

23 A Yes, sir.

24 Q You have just done two home invasions?

25 A Yes, sir.

1 Q And you are doing homework?

2 A Yes, sir.

3 Q Did you talk to the defendant?

4 A Yes, sir.

5 Q what are you talking about?

6 A She asked me to go to Columbia with her to try
7 to get money for GZ's bail.

8 Q Do you go?

9 A No, sir.

10 Q why not?

11 A I didn't want to go to Columbia.

12 Q what happens next?

13 A she comes back and --

14 Q comes back where?

15 A To my dorm, and picks me up.

16 Q Is she alone or is she with someone?

17 A She is alone.

18 Q so she picks you up?

19 A Yes, sir.

20 Q In what?

21 A Miguel's Nitro.

22 Q And so you get into the car?

23 A Yes, sir.

24 Q where are you guys going?

25 A we were just driving around downtown

1 Charleston.

2 Q Why?

3 A At first she said that she was going to like
4 clean the car out.

5 Q Why?

6 A She didn't say. So I told her I wasn't
7 cleaning the car out, I wasn't going to do it.

8 Q Why weren't you going to do it?

9 A I didn't want to. Wasn't my car. I wasn't
10 cleaning it out.

11 Q Okay. What happens next?

12 A So I told her I also wasn't going to be riding
13 around in that car because of everything that had
14 just happened. So we decided to park the car and
15 just get out of it.

16 Q You guys talking about the home invasions at
17 this point?

18 A No, sir.

19 Q So you park the car. What happens now?

20 A We walk back to my dorm.

21 Q Then what?

22 A She had got in contact with Stephen's dad and
23 he was making like plane arrangements to come to
24 Charleston to find out what was going on with him.
25 So we went to his dorm to like clean up the room

1 because her and Stephen had been staying there.

2 And we walked to one of our friend, Erica's
3 house.

4 Q what do you do at Erica's house?

5 A We hung out there for a little while, and then
6 Sasha said that she was going to the police station
7 to get her keys.

8 Q Does she go to the police station?

9 A Yes, sir.

10 Q Did you go with her?

11 A No, sir.

12 Q Did you have contact with her again that day?

13 A I text her.

14 Q About what?

15 A I text her like where are you, what is going
16 on. And she text me that she couldn't leave.

17 Q couldn't leave where?

18 A The police station.

19 Q So she was -- was she arrested, do you know?

20 A At the time I didn't, no, sir.

21 Q You mentioned that Miguel had gotten money out
22 of the ATM on the second home invasion?

23 A Yes, sir.

24 Q what happened to that money?

25 A He gave some of it to Lauren for gas money.

1 He gave Sasha some gas money to ride around that
2 night to look for Stephen and to get clothes.

3 And when he left that morning when Sasha had
4 called him outside, he had left some of it in my room
5 with his other things.

6 Q So that was the morning after the second home
7 invasion?

8 A Yes.

9 Q How much did he leave you?

10 A He left \$120 on my desk.

11 Q And the rest was to the defendant, and some to
12 Lauren?

13 A Yes, sir.

14 Q At some point do you get arrested?

15 A Yes, sir.

16 Q When does that happen?

17 A March 16th I think it was.

18 Q What do you do with your portion of the money?

19 A I still had it when I was arrested.

20 Q Still had it?

21 A Yes, sir.

22 Q So let's talk a little bit about where did you
23 get arrested?

24 A I got arrested, I'm not sure the police
25 station, downtown.

1 Q Where did the police find you?

2 A They came to College of Charleston and asked
3 could I be questioned. I said yes. Then I went to
4 the police station.

5 Q About how long after the second home invasion
6 did this happen?

7 A Couple weeks.

8 Q Couple weeks?

9 A Yes, sir.

10 Q And were you arrested?

11 A Yes, sir.

12 Q Did you go to jail?

13 A Yes, sir.

14 Q When you were in jail was the defendant in
15 jail at the same time?

16 A Yes, sir.

17 Q Was she in the same jail as you?

18 A Yes, sir.

19 Q Did you ever see her in jail?

20 A Yes, sir.

21 Q Did you ever talk to her in jail?

22 A Yes, sir.

23 Q What did you talk about?

24 A She wrote me a letter talking about the
25 robberies and us being there.

1 Q Let's talk about that letter. How did that
2 happen? Did she give you a letter?

3 A Yes, sir.

4 Q Where did she give you that letter?

5 A She slid it under my door.

6 Q Under your door?

7 A Yes, sir.

8 Q Where were you?

9 A In the room.

10 Q Your jail cell?

11 A Yes, sir.

12 Q Tell me a little bit about the jail cell.

13 Could you see her on the other side?

14 A Yes.

15 Q How could you see her on the other side?

16 A It had a window.

17 Q You saw her through the window?

18 A Yes, sir.

19 Q Was she standing there with anyone or on her
20 own?

21 A On her own.

22 Q Could you hear her through there or was she
23 knocking, how does that work?

24 A I could hear her through the door.

25 Q A what is she telling you?

1 A She was just saying it's going to be okay, she
2 slid the letter under and she walked off.

3 Q Did you pick the letter up?

4 A Yes, sir.

5 Q Did she show you or wave the letter before she
6 slides it under there?

7 A Yes, sir.

8 Q So you see it in her hands?

9 A Yes, sir.

10 Q Then you pick it up?

11 A Yes, sir.

12 Q Straight away?

13 A Yes, sir.

14 MR. SAVAGE: Your Honor, may I approach?

15 THE COURT: You may.

16 Q (By Mr. Savage) Ms. Bruster, I'm showing you
17 what has been marked State's Exhibit 29. Do you
18 recognize that?

19 A Yes, sir.

20 Q What is that?

21 A The letter Sasha wrote me when I was in jail.

22 Q That day?

23 A Yes, sir.

24 MR. SAVAGE: Your Honor, state moves Exhibit
25 29.

1 THE COURT: Any objection?

2 MR. SOWELL: No, ma'am.

3 THE COURT: Marked and admitted without
4 objection.

5 (Whereupon, State's Exhibit No. 29 is admitted
6 into evidence.)

7 Q (By Mr. Savage) Ms. Bruster, I'm showing you
8 up on the screen behind you State's Exhibit 29.

9 MR. SAVAGE: Your Honor, may the witness leave
10 the stand and come down here?

11 THE COURT: Uh-hum.

12 Q (By Mr. Savage) Ms. Bruster, come stand
13 beside me, please. Can you read out loud what is
14 written on that letter?

15 MR. SOWELL: Your Honor, I think the document
16 speaks for itself. I object to this.

17 THE COURT: It can be published. She can read
18 it. She's not giving any commentary, she is simply
19 reading the words that were actually written, which
20 comes in the nature of an admission against interest.

21 Overruled. You may read the document.

22 Q (By Mr. Savage) Go ahead.

23 A It says: Do not talk to anyone, especially
24 the police, only your lawyer. They do not have shit
25 on you because you didn't do anything. Look, stay

1 strong. It took awhile for me too, but I made it.

2 Look, Jackie she's light skin and heavysset.
3 If you have anything, if you need anything, ask her
4 then she will ask me. Canteen comes every Thursday.
5 You have to order it before Sunday. Order your
6 charges and I hope you didn't talk to the cops, girl,
7 then you lying.

8 Do not believe shit they say. And you can
9 talk to your roommate, but don't shit about your case
10 because your roommate in here for killing a baby and
11 she will tell everything.

12 What did you say to your lawyer? I hope it
13 was a lawyer. What they say in bond hearing, I will
14 tell you more when you write back. But if you need
15 something like underwear or soap, something, let me
16 know.

17 And for references this shit can be beat. You
18 will come out of here with no charges on you, but I
19 believe I will have one. But you will be okay.
20 Don't stress or it will make your days here crazy. I
21 walk through, and I will get it tomorrow, WPB, please
22 write back.

23 Jackie will give you a paper and pencil, or
24 you can ask your roomie or something. These people
25 are snitches in here, girl, they will talk. It's a

1 black girl with a grill in here in her mouth, she is
2 cool to hang with and Jackie, but still don't say
3 nothing to anyone.

4 Also me and you can't be seen talking to each
5 other. That's why we have to get others to pass
6 notes and shit. But stay calm, okay. And also flush
7 every note that you get after you read it because
8 they can search your room at any time and it will
9 look good in court -- it will not look good in court.

10 I go from here Friday so we definitely have to
11 talk before Friday because they may put me in lockup.

12 Q Thank you, please take a seat.

13 At the bottom of State's 29 where it talks
14 about for reference this shit can be beat. How do
15 you interpret that?

16 A The charges --

17 MR. SOWELL: Your Honor, objection.

18 THE COURT: No interpretation. It speaks for
19 itself.

20 MR. SAVAGE: Okay, Your Honor.

21 Q (By Mr. Savage) Why did you keep that note?

22 A Just to give to my lawyer. I didn't know what
23 to do with it exactly.

24 Q And you passed it on to your lawyer?

25 A Yes, sir.

1 MR. SOWELL: Your Honor, I object to leading,
2 Your Honor.

3 THE COURT: Sustained, leading.

4 MR. SAVAGE: I have nothing further, Your
5 Honor.

6 THE COURT: Any cross-examination of the
7 witness, you may proceed when you are ready.

8 MR. SOWELL: Thank you, Your Honor.

9 THE COURT: You're welcome.

10 CROSS-EXAMINATION

11 BY MR. SOWELL:

12 Q You said that Sasha wanted the coins?

13 A Yes, sir.

14 Q Do you remember your interview you had with
15 Detective Holmes, Dasher and Wagner?

16 A Yes, sir.

17 Q Did you tell them that Sasha wanted nothing?

18 A Not that I recall.

19 Q I will show you the transcript of that
20 interview. Ask you to read the bottom three lines.
21 Don't read it out loud, just read it to yourself.

22 Now I ask you again, did you tell the police
23 officers that Sasha wanted nothing?

24 A Not that I recall.

25 MR. SAVAGE: Your Honor, I object to the form.

1 THE COURT: Basis of the objection?

2 MR. SAVAGE: If he is going to impeach her, I
3 ask he impeach her in the proper manner. He was
4 trying to use the transcript.

5 THE COURT: No speaking objections.

6 MR. SOWELL: Your Honor.

7 THE COURT: Rephrase the question, please.

8 Q (By Mr. Sowell) Did you tell the police
9 officer that Sasha wanted nothing?

10 A I might have. I don't remember my exact words
11 during the interview.

12 Q Well do you remember you saying something that
13 sounded like she wants nothing?

14 A Not I recall.

15 Q Now what do you mean by not that you recall,
16 is that a yes or a no?

17 A No.

18 MR. SAVAGE: Objection, argumentative.

19 THE COURT: Please restate the question.

20 Q (By Mr. Sowell) You said, not that I recall.
21 Is that one of those things, like, well you can't
22 catch me just so I can say no?

23 MR. SAVAGE: Objection.

24 THE COURT: Sustained, argumentative.
25 Rephrase the question.

1 Q (By Mr. Sowell) Do you know that we have
2 tapes of that interview?

3 A Yes, sir.

4 Q Do you know we are going to look at them?

5 A Yes, sir.

6 Q Now what is your response going to show on
7 that tape when the officer said, what did Sasha want,
8 and you said nothing?

9 A I don't remember what I said in the interview
10 word for word. I might have said that, I'm not sure.

11 Q But you do remember the conversation you had
12 with the police officers?

13 A Yes, sir.

14 Q You do know it was taped?

15 A Yes, sir.

16 Q You do know we have a copy of it?

17 MR. SAVAGE: Asked and answered.

18 THE COURT: Overruled.

19 A Excuse me?

20 Q (By Mr. Sowell) You know we have a copy of
21 it?

22 A Yes, sir.

23 Q You know we are going to look at it?

24 A Yes, sir.

25 Q You know what perjury means?

1 A Yes, sir.

2 Q And do you know what the penalty is for
3 burglary?

4 A Excuse me?

5 Q Do you know what the penalty is for burglary?

6 A Yes, sir.

7 MR. SAVAGE: Objection, vague.

8 THE COURT: Overruled.

9 Q (By Mr. Sowell) And you told this Court that
10 you worked out a deal where you won't get charged for
11 the burglaries?

12 A Yes, sir.

13 Q You will also get the minimum charge for armed
14 robbery?

15 A Yes, sir.

16 Q That's only if you play their game.

17 MR. SAVAGE: Objection, misstating the facts
18 in evidence.

19 THE COURT: Overruled, give him some latitude
20 on credibility.

21 Q (By Mr. Sowell) You understand that if you
22 don't testify the way they want you to, they're going
23 to revoke any agreement that you have for leniency?

24 A Yes, sir.

25 Q You understand that if you were to testify

1 that Sasha was threatened, then you would be subject
2 to a full burglary charge and sentence and wouldn't
3 get this light sentence that you worked out. Do you
4 understand that?

5 A Yes, sir.

6 Q You know that you can't testify that Sasha was
7 threatened?

8 A Yes, sir.

9 Q You were kind of hesitant about that answer.
10 Do you understand if you stand up here and tell the
11 jury that Sasha was threatened, that's the reason she
12 acted the way she did, out of fear, then your
13 agreement with the solicitor's office for lenient
14 sentence would be voided?

15 MR. SAVAGE: Objection, form.

16 THE COURT: Overruled.

17 MR. SAVAGE: Compound.

18 THE COURT: Overruled.

19 Q (By Mr. Sowell) Do you understand that?

20 A Yes, sir.

21 Q So no matter what happens you can't change
22 your story, can you?

23 A No, sir.

24 Q And you were -- you were asked who Miguel
25 Starns (sic) is and you said, he is a friend of

1 Sasha's; is that correct?

2 A He is a friend of Stephen's.

3 Q Pardon me?

4 A Stephen, Sasha boyfriend.

5 Q Well you were his girlfriend, weren't you?

6 A No, sir.

7 Q He was telling everybody you were his
8 girlfriend, wasn't he?

9 MR. SAVAGE: Objection.

10 THE COURT: Basis?

11 MR. SAVAGE: Pitting, Your Honor.

12 THE COURT: That wasn't his testimony so it's
13 not pitting. And he is not asking her to comment on
14 his veracity. He was asking about her present sense
15 impression, and when she was present and what he may
16 have said.

17 You may answer the question to the best of
18 your knowledge.

19 A Can you ask the question again, please?

20 Q (By Mr. Sowell) Were you there when he told
21 the police officers that you were his girlfriend?

22 A No, sir.

23 Q You were sleeping with him, weren't you?

24 A I did.

25 Q How many nights?

1 A One.

2 Q One?

3 A Yes, sir.

4 Q Didn't you sleep with him on Thursday night?

5 A That's one night.

6 Q Pardon me?

7 A Yes, sir, that's one night.

8 Q Didn't you sleep with him on Friday night?

9 A We slept in the same room, yes.

10 Q So I ask you again, didn't you sleep with him
11 on two nights?

12 A Yes, sir.

13 Q And when are you going to tell us the truth
14 and when are you going to tell us a lie?

15 MR. SAVAGE: Objection, argumentative.

16 THE COURT: Ask a question, sustained.

17 Q (By Mr. Sowell) How do we know when you are
18 lying and when you are telling the truth?

19 MR. SAVAGE: Objection.

20 THE COURT: Sustained, rephrase.

21 Q (By Mr. Sowell) How do we know when your
22 telling the truth and when you are lying?

23 MR. SAVAGE: Objection.

24 THE COURT: Sustained. Ask a question, Mr.
25 Sowell.

1 Q (By Mr. Sowell) When I asked you were you
2 sleeping with him and you said, yes, only on one
3 night. The truth of the matter is it was two nights,
4 wasn't it?

5 A Yes, sir.

6 Q The second is the fourth night you ever knew
7 him?

8 A Yes, sir.

9 Q Were you trying to protect him?

10 A No, sir.

11 Q You said that Stephen and Ms. Gaskins changed
12 clothes to go to a party?

13 A Yes, sir.

14 Q Were they going to a party?

15 A They were supposed to be going to a party,
16 yes, sir.

17 Q Pardon me?

18 A They were supposed to be going to a party,
19 yes, sir.

20 Q Were you invited to it also?

21 A Yes, sir.

22 Q So you were invited also then?

23 A I was not going to the party.

24 Q What were you going to do?

25 A Go back to my dorm.

1 Q why did you go for a ride in the car with them
2 if you were going back to your room?

3 A Because we were going to go get something to
4 eat before they went to the party.

5 Q But the change of clothes was getting ready
6 for the party?

7 A Yes, sir.

8 Q Now did Miguel's mother call you?

9 A Yes, sir.

10 Q And did you discuss bullets in his car?

11 A She did ask me if I had seen bullets in his
12 car.

13 Q Did she ask you to remove them from the car?

14 A Yes, she did.

15 Q Did she tell you that she removed the guns
16 from his mattress?

17 MR. SAVAGE: objection, hearsay.

18 THE COURT: Rephrase the question.

19 Q (By Mr. Sowell) Did she tell you anything
20 about her removing the guns from his mattress?

21 MR. SAVAGE: objection hearsay.

22 THE COURT: Overruled, statement of a
23 coconspirator.

24 Ma'am, you may answer the question to the best
25 of your knowledge.

1 MR. SAVAGE: Your Honor, may we approach?

2 THE COURT: You may.

3 (Whereupon, the following conversation was
4 held at the bench.)

5 MR. SAVAGE: The mother is not a
6 coconspirator.

7 THE COURT: You're asking about what his
8 mother said to her?

9 MR. SOWELL: Uh-hum.

10 THE COURT: No, that's hearsay. I'm sorry, I
11 misunderstood the question.

12 MR. SOWELL: I can't ask her about the phone
13 call?

14 THE COURT: You can ask her yes or no, but she
15 can't say what his mother may have said to her. You
16 need to phrase it in a way that she can answer yes or
17 not, otherwise it's hearsay.

18 (In open court.)

19 THE COURT: Proceed.

20 Q (By Mr. Sowell) Did she tell you about her
21 removing the guns from his mattress?

22 A No, sir.

23 Q But she did tell you to dispose of the
24 bullets?

25 A Yes, sir.

1 Q Did she tell you why she wanted that done?

2 A No, sir.

3 Q Did you dispose of the bullets?

4 A No, sir.

5 Q Did you ever see the bullets?

6 A No, sir.

7 Q Do you know what happened to the bullets?

8 A No, sir.

9 Q When did she ask you about disposing of the
10 bullets?

11 A Saturday afternoon.

12 Q So she immediately knew there was an issue of
13 guns and bullets?

14 MR. SAVAGE: Objection.

15 THE COURT: Basis?

16 MR. SAVAGE: Hearsay.

17 THE COURT: Actually it's speculation and
18 foundation because it's not based on her present
19 sense impression. If you want to ask a question, you
20 need to lay the foundation, Mr. Sowell.

21 Q (By Mr. Sowell) He was arrested Saturday
22 morning; is that correct?

23 A Yes, sir.

24 Q And within a short time his mother called you
25 and said get rid of the bullets; is that correct?

1 A It was a few hours, yes, sir.

2 Q What time did she call you?

3 A I don't know the exact time. It was shortly
4 after he was arrested, or he left.

5 Q Shortly after he was arrested?

6 A After he left from where I was. I'm not sure
7 exactly when he was arrested.

8 Q Isn't that exactly what I asked you and you
9 denied that?

10 MR. SAVAGE: Objection, argumentative.

11 THE COURT: Sustained, rephrase.

12 Q (By Mr. Sowell) Didn't I ask you, did she
13 call you shortly after he was arrested, you said it
14 was a long time later?

15 MR. SAVAGE: Objection, argumentative.

16 THE COURT: Sustained. You can't pit yourself
17 against a witness. You need to rephrase the
18 question.

19 Q (By Mr. Sowell) Did she call you a short time
20 after he was arrested and ask you to get rid of the
21 bullets?

22 MR. SAVAGE: Objection, asked and answered.

23 THE COURT: Overruled.

24 A She said something about the bullets a few
25 hours after he had left from where I was.

1 Q (By Mr. Sowell) Do you know if she called a
2 short time after he was arrested?

3 A Yes, sir.

4 Q What would that answer be?

5 MR. SAVAGE: Objection, argumentive.

6 THE COURT: Overruled.

7 A Can you rephrase the question, please.

8 THE COURT: Rephrase, Mr. Sowell. I don't
9 think she understands the question.

10 Q (By Mr. Sowell) Did she call within a short
11 time after he was arrested and ask you to get rid of
12 the bullets?

13 MR. SAVAGE: Objection, asked and answered.

14 THE COURT: Overruled.

15 MR. SOWELL: If she'd answer I'd quit asking
16 it.

17 THE COURT: Do not directs any comments to
18 counsel.

19 Ma'am, you may answer the question.

20 A Yes, sir.

21 Q (By Mr. Sowell) Did she tell you why she was
22 adamant those bullets had to be disposed of?

23 MR. SAVAGE: Objection, hearsay.

24 THE COURT: Please restate the question.

25 Q (By Mr. Sowell) Did she explain that she

1 wanted the bullets removed and why?

2 THE COURT: Overruled. Ma'am, you can answer
3 the question yes or no but you cannot repeat what
4 someone said to you. You can say what you did as a
5 result of the conversation.

6 Do you understand the question?

7 THE WITNESS: No, ma'am.

8 THE COURT: Please restate question for the
9 witness.

10 Q (By Mr. Sowell) Did she explain to you why
11 she wanted those bullets removed?

12 A No.

13 Q Did you understand the importance of those
14 bullets?

15 A No.

16 Q And you don't think that the fact that he had
17 bullets in his car had any impacts on his arrest?

18 A It might have. I'm not sure.

19 Q And you are an A student at Coastal Carolina?

20 A USC upstate.

21 Q Okay. But you can't tell me the importance of
22 those -- of someone charged with these crimes having
23 bullets in their car?

24 MR. SAVAGE: Objection, argumentative.

25 THE COURT: Rephrase the question, please.

1 Q (By Mr. Sowell) Can you explain why you think
2 it was important to remove those bullets?

3 A No.

4 Q Did you think that by removing those bullets
5 you could be charged with accessory after the fact of
6 a crime?

7 A I never went back to the car.

8 Q That's not what I asked you.

9 A Can you ask the question again, please?

10 Q Did you think that by removing those bullets
11 you could be charged as accessory after the fact of a
12 crime?

13 A No, sir.

14 Q What is your major?

15 A Accounting.

16 Q And you said that you were asked if you wanted
17 to go with them, and you didn't have any idea where
18 they were going, you just had a choice on staying in
19 the apartment or going somewhere with them?

20 A Yes, sir.

21 Q Didn't know where they were going?

22 A No, sir.

23 Q Although you've testified they made these
24 plans in front of you?

25 A Not at that time.

1 Q There was no discussion about the plan until
2 you got to Herb's house; is that correct?

3 A Correct.

4 Q So if someone else testified that you all
5 planned at Kickin' Chicken and back at Miguel's, they
6 were wrong?

7 MR. SAVAGE: Objection, Your Honor.

8 THE COURT: Sustained. Speculation unless you
9 can lay the appropriate foundation.

10 Q (By Mr. Sowell) And you said that when you
11 pulled up and they got out of the car to go into
12 Herb's, that Miguel opened the trunk and got a bag
13 out of it; is that correct?

14 A When he got the bag out of the car it wasn't
15 the same time that everybody else got out of the car,
16 no, sir.

17 Q So when did he open the trunk and get the bag
18 out of the car?

19 A When he -- the second time he drove past his
20 house.

21 Q I'm sorry?

22 A The second time he drove past his house.

23 Q So they were on Herb's street, who stopped the
24 car? Who was driving?

25 A Miguel.

1 Q He stopped, went back to the trunk and got
2 something out of the trunk?

3 A Yes, sir.

4 Q The bag?

5 A Yes, sir.

6 Q Containing the guns and the tape?

7 A Yes, sir.

8 Q How do you know that?

9 A I saw him with the bag.

10 Q Pardon me?

11 A I saw him with the bag.

12 Q Did you see inside the bag?

13 A No, sir.

14 Q So do you know the guns and tapes, or how do
15 you know was in it?

16 A I later found out what was in the bag.

17 Q So he got out of the trunk, took the bag, got
18 back in the car?

19 A Yes, sir.

20 Q Now you weren't here earlier when he said he
21 had it on the floorboard all the time.

22 MR. SAVAGE: Objection, Your Honor.

23 THE COURT: Basis?

24 MR. SAVAGE: Pitting.

25 THE COURT: Sustained. You've asked her to

1 comment on what someone else said. You may rephrase
2 the question.

3 Q (By Mr. Sowell) Another question, the bag was
4 in the car until the second trip in front of Herb's
5 house. Miguel got out of the car, opened the trunk,
6 took the bag, got back in the car?

7 A Yes, sir.

8 Q Okay. And when you -- you didn't know what
9 was going on until when?

10 A They bring it out of the house.

11 Q How did you know they weren't joking?

12 A How did I know what?

13 Q Joking?

14 A They could have been.

15 Q If they had been trying to play a joke on
16 Herb, would they have acted any way differently?

17 A I'm not sure.

18 Q So you weren't sure if they were joking or
19 were really going to do a robbery, did you?

20 A No, sir.

21 Q After -- who was driving when the three of
22 them get out of the car?

23 A Miguel was driving up until they got out of
24 the car, and then Stephen drove.

25 Q Are you saying Miguel was driving until he

1 stopped the car and then Miguel, Reggie and Ms.
2 Gaskins got out of the car at that time?

3 A Yes, sir.

4 Q So Miguel drove to Herb's?

5 A Yes.

6 Q And he drove until he got out of the car and
7 went into Herb's house?

8 A Yes, sir.

9 Q You sure about that?

10 A Yes.

11 Q Now then you, and who was it that drove around
12 the neighborhood?

13 A Stephen.

14 Q Who was driving?

15 A Stephen.

16 Q And when Sasha came back to the car she said,
17 this is crazy, they just robbed somebody. Is that
18 what you said?

19 A I don't recall those being her exact words.

20 Q Didn't you say Ms. Gaskins was walking down
21 the road, she got in the car, she said, this was
22 crazy, the girl opened the door they charged in and
23 robbed them. Isn't that what you said?

24 A Verbatim, yes, sir.

25 Q So when she got back she said, this is crazy,

1 they just robbed somebody, what is going on here. Is
2 that what she said?

3 A Yes.

4 Q So she didn't know it was a robbery until
5 after they charged in the house, did she?

6 A I think she knew before.

7 Q How do you think that?

8 A Because they told her to go knock on the door
9 and say that she had car trouble so that they can get
10 inside the house.

11 Q But when she came back to you she said, this
12 is crazy, they are really robbing those people.
13 Didn't she say that?

14 A Verbatim, yes, sir.

15 Q So she is going along with the joke. She goes
16 knocks on the door like the plan was. She comes back
17 to the car and says, hey, this is crazy, they really
18 robbed that guy?

19 MR. SAVAGE: Objection, Your Honor, asked and
20 answered.

21 THE COURT: Overruled.

22 Q (By Mr. Sowell) Is that what happened?

23 A Yes, sir.

24 Q Now did you say that Ms. Gaskins wanted
25 nothing from these robberies?

1 A She wanted the coins from the first robbery.

2 Q But you told the police she wanted nothing,
3 didn't you?

4 A Not that I recall.

5 Q Transcript says you did.

6 MR. SAVAGE: Objection, Your Honor.

7 THE COURT: Give her the opportunity to say
8 yes or no, then allow her to use it to refresh her
9 memory if you have something you want her to look at.

10 Q (By Mr. Sowell) Does the transcript show that
11 you said --

12 MR. SAVAGE: Objection.

13 THE COURT: You have to show it to her and
14 give her the opportunity to refresh her recollection
15 and then ask her the question again.

16 MR. SAVAGE: Your Honor, may we approach?

17 THE COURT: Uh-hum.

18 (Whereupon, the following discussion was held
19 at the bench.)

20 MR. SAVAGE: He has got to ask a question
21 first.

22 THE COURT: He already asked a question. She
23 said I don't recall, not to the best of my knowledge.

24 MR. SAVAGE: Okay.

25 (In open court.).

1 Q (By Mr. Sowell) Bottom three lines. Does the
2 transcript say, what did Sasha want anything? And
3 you said --

4 MR. SAVAGE: Your Honor, she is reading.

5 THE COURT: Allow her to use it to refresh her
6 memory. And then ask the question again.

7 Q (By Mr. Sowell) Now does the transcript say
8 you told the police --

9 MR. SAVAGE: Your Honor --

10 THE COURT: That's not the way to phrase the
11 question, Mr. Sowell. She's already answered the
12 question, allow her to use it refresh her memory.
13 And then you can question her again. And ask her if
14 that refreshes her memory.

15 Q (By Mr. Sowell) Does that refresh your
16 memory?

17 A No, sir.

18 Q Now you said that they received \$200, Miguel
19 got \$200 out of Herb's ATM machine; is that correct?

20 A No, sir.

21 Q How much did he get?

22 A He didn't get anything out of Herb's. From
23 the first robbery, he didn't get anything from the
24 ATM.

25 Q What money did he get from the ATM machine?

1 A From the second robbery.

2 Q How much did he get from that?

3 A 200-something dollars.

4 Q How much?

5 A 200-something. I don't recall exactly how
6 much it was. It was 2-something.

7 Q And I believe you said that he gave \$40 to
8 Lauren's boyfriend?

9 A Uh-hum.

10 Q How much did he give to you?

11 A He left \$120 on my desk.

12 Q You said he gave Sasha how much?

13 A I don't remember the exact amount he gave
14 Sasha. She asked him for money to get clothes and
15 gas, and he handed her money. What was left on my
16 desk after that was \$120.

17 Q Now truth of the matter is that Miguel gave
18 you \$124, didn't he?

19 MR. SAVAGE: Objection, argumentative.

20 THE COURT: Please restate the question.

21 Q (By Mr. Sowell) Did you tell the police
22 officers that Miguel gave you \$124?

23 A 120. 120.

24 Q I will show you that same transcript, page 89.
25 Ask you to read this to yourself.

1 What was your response to him when he said,
2 what did he give you?

3 MR. SAVAGE: Objection, Your Honor.

4 THE COURT: Basis?

5 MR. SAVAGE: He is reading from the transcript
6 again. Is there a question? He's asked a question.

7 THE COURT: He asked a question, she said
8 something different. He has asked her to refresh her
9 memory. He can ask her a followup question.

10 Ask the question, Mr. Sowell.

11 Q (By Mr. Sowell) Now do you remember he gave
12 you \$124?

13 A Yes, sir.

14 Q How do you know it was \$124? Did you count
15 it?

16 A No, sir.

17 Q Who did?

18 A Sasha counted it.

19 Q Sasha counted it. And did you keep \$124?

20 A Sasha took 60.

21 Q Although you told the police officers she
22 didn't want anything; is that correct?

23 A According to the transcript, not that I
24 recall.

25 Q You said that Sasha wanted coins. What

1 happened to the coins you claim she wanted?

2 A Well when we went to clean up Stephen's room
3 when his dad was supposed to be coming, they were in
4 there.

5 Q Pardon me?

6 A The coin were in the room.

7 Q Did Sasha get them?

8 A They were in the room that her and Stephen
9 lived in, so I'm not sure if her or Stephen got the
10 coins but they were in the room.

11 Q So you're saying that the coins that you are
12 talking about were in her room?

13 A Yes.

14 Q Which room?

15 A The one that her and Stephen lived in on
16 campus.

17 Q You mean Stephen's room?

18 A Yes.

19 Q Sasha had her own room, didn't she?

20 A She didn't live in her room on campus.

21 Q Did she live there part-time?

22 A No, sir.

23 Q How often was she at his house?

24 A Every day.

25 Q Pardon?

1 A Every day.

2 Q How many days a week did you see her?

3 A I didn't see her every day in a week.

4 Q So you are telling this jury just guesses
5 then, aren't you?

6 A It's not a guess.

7 Q You are telling them what you want them to
8 believe even though it's not the truth, aren't you?

9 MR. SAVAGE: Objection, argumentative.

10 THE COURT: I'll give him a little latitude,
11 overruled.

12 A Can you ask the question again, please?

13 THE COURT: Please restate the question, Mr.
14 Sowell.

15 Q (By Mr. Sowell) You told the police officers
16 -- you told this jury what you want them to believe
17 although you have no proof or no evidence that that's
18 true, aren't you?

19 MR. SAVAGE: Objection.

20 THE COURT: Sustained. That's very
21 convoluted, Mr. Sowell. Please restate the question
22 so that the witness can understand it.

23 Q (By Mr. Sowell) Did you know how often she
24 stayed at Stephen's house?

25 A Yes.

1 Q How do you know that?

2 A Because she had taken everything out of her
3 dorm and moved it to his dorm.

4 Q Why would she ever go back to her dorm then?

5 A Because she wanted to stay with her boyfriend.

6 Q But why would she ever go back to her dorm if
7 she had nothing in it?

8 A She didn't go back to her dorm.

9 Q She didn't?

10 A No.

11 Q You didn't meet her at her dorm?

12 A No.

13 Q Now after you met Stephen, you went back to
14 your dorm, and sometime later Miguel came and picked
15 you up; is that correct?

16 A I never met Stephen.

17 Q I'm sorry Miguel.

18 A Yes, sir.

19 Q And Miguel was living there on campus?

20 A Miguel went to the Citadel. He did not live
21 on the College of Charleston campus.

22 Q But you met him and then you -- was there any
23 time after you met him that Stephanie (sic) was not
24 in your presence until Saturday?

25 A Are you talking about Sasha?

1 Q No. Was there any time, from the time you met
2 him until Saturday afternoon, that you were not with
3 him?

4 MR. SAVAGE: Objection, vague.

5 THE COURT: Basis. Please restate the
6 question.

7 Q (By Mr. Sowell) Was there any time from when
8 you first met him until four days later on Saturday
9 that you were not with Miguel?

10 A Yes.

11 Q Was there any time in that period of time when
12 Sasha was not with you?

13 A Yes, sir.

14 Q Okay. So you don't know what interaction
15 Sasha and Miguel had from the time you met him until
16 Saturday afternoon?

17 A No, sir.

18 Q You don't know if they were ever alone; is
19 that correct?

20 A Correct.

21 Q You don't know if he told her things that you
22 don't know about?

23 A Correct.

24 Q And you don't know if he threatened her or you
25 don't know anything he did in interaction with her

1 except when you were with him, do you?

2 A Correct.

3 Q So one night you stay with Miguel at his
4 place, and one night he stayed with you at your
5 place?

6 A Correct.

7 Q You all were having a sexual relationship?

8 A We did.

9 Q Now this note that Sasha left under your door,
10 I will hand this back to you. This is a duplicate to
11 what you saw up there.

12 Show me where on that note she says she's
13 guilty of anything.

14 MR. SAVAGE: Your Honor, if he is going to
15 refer to the actual exhibit, can he use the exhibit?

16 THE COURT: He gave it to her.

17 MR. SAVAGE: He is using a duplicate. The
18 exhibit is up there.

19 THE COURT: Can you give her the actual
20 exhibit?

21 MR. SOWELL: Your Honor, the copy I have is
22 much more readable.

23 THE COURT: Whichever one is more legible.

24 MR. SAVAGE: My only concern about it -- may
25 we approach, Your Honor?

1 MR. SOWELL: I don't mind giving her the
2 original. They're exactly the same.

3 MR. SAVAGE: Okay.

4 Q (By Mr. Sowell) Now show me where in that she
5 says she's guilty of anything?

6 A It doesn't say specifically that she's guilty
7 of anything.

8 Q Show me where in this she says you are guilty
9 of anything?

10 A It doesn't.

11 Q And show me where she has encouraged you to
12 keep a stiff upper lip, it's all going to work out?

13 A She says, you will come out of here with no
14 charges, but I believe I will have one.

15 Q Okay. So she believes the police officers are
16 going to charge her?

17 MR. SAVAGE: Objection.

18 THE COURT: Basis?

19 MR. SAVAGE: It's not what the note says. He
20 is asking about the note.

21 THE COURT: That's exactly what the note says,
22 overruled.

23 MR. SAVAGE: Doesn't say police officers.

24 THE COURT: That's not the question.

25 MR. SAVAGE: That's what was just stated.

1 THE COURT: It is an appropriate inference
2 that can be drawn from the note. Overruled.

3 MR. SAVAGE: Thank you very much.

4 Q (By Mr. Sowell) Was she trying to make you
5 feel more comfortable?

6 A Excuse me?

7 Q Was she trying to make you feel less worried?

8 A Yes.

9 Q Was she trying to warn you that you can't
10 trust the police officers?

11 A Yes.

12 Q Was she trying to warn you that you can't
13 trust these jailhouse snitches, they will say
14 anything just to get a favor from the solicitor?

15 A Yes.

16 Q You know what a jailhouse snitch is?

17 A No, sir.

18 Q You heard people who are in jail with
19 somebody, they'll go to the solicitor's office,
20 whether it's true or not, and say, listen, I can
21 testify about this woman what she admitted to me if
22 you will give me a better deal on my sentence.

23 MR. SAVAGE: Objection, Your Honor.

24 THE COURT: Sustained. Rephrase. Put it in
25 the form of a question.

1 Q (By Mr. Sowell) You understand that a
2 jailhouse snitch is some roommate who works out a
3 deal with the solicitor's office to get a lower
4 sentence by telling lies about something they heard
5 in jail.

6 MR. SAVAGE: Objection, Your Honor.

7 THE COURT: You need to make it into a
8 question, Mr. Sowell.

9 MR. SOWELL: I asked her did she understand
10 that.

11 THE COURT: You didn't put it in the form of a
12 question. You need to put, isn't that correct or
13 isn't that true at the end of your sentence.

14 Okay, thank you, rephrase.

15 Q (By Mr. Sowell) Do you know what a jailhouse
16 snitch is?

17 A Yes.

18 Q Okay. Tell me what a jailhouse snitch is?

19 A Someone who is in jail and basically tells a
20 corrections officer, or someone of other source, what
21 their roommate told them about their crime.

22 Q And do these jailhouse snitches quite often
23 lie about what they heard?

24 A I'm not sure what anyone else does.

25 Q And they tell these things so they'll get a

1 better sentencing agreement; is that correct?

2 A I'm not sure what anyone else does.

3 Q Is that what you are?

4 MR. SAVAGE: Objection, argumentive.

5 THE COURT: Overruled. You may answer the
6 question.

7 A No.

8 Q (By Mr. Sowell) Did you come up here and tell
9 this jury what you just told them because you worked
10 out a deal with the solicitor's office, if you tell
11 them that they will give you a low sentence?

12 A No.

13 Q That's the first thing you testified to when
14 you got here today.

15 MR. SAVAGE: Objection, Your Honor.

16 THE COURT: Put it in the form of a question,
17 Mr. Sowell.

18 Q (By Mr. Sowell) Isn't that the first thing
19 you told this jury when you sat down there today?

20 A Can you ask the question again, please?

21 Q Didn't you work out a deal with the
22 solicitor's office that you'll come up here and
23 testify against Sasha, you'll get a much better deal
24 and much better sentence?

25 A No. I pled guilty to two armed robbery

1 charges.

2 Q What was your agreement with the sentence?

3 A In order to not go to trial, I'd plead guilty
4 to two armed robbery charges.

5 Q And what was your agreement with the
6 solicitor's office? You can remember, this is the
7 first thing you told the jury.

8 MR. SAVAGE: Objection, argumentative.

9 THE COURT: Overruled.

10 Q (By Mr. Sowell) One of the very first things
11 you told this jury was that I worked out a deal with
12 the solicitor's office, if I come testify for them
13 I'll get a low sentence. Isn't that the first thing
14 you told this jury?

15 A The minimum sentence to two armed robbery
16 charges is ten years. So that's not necessarily a
17 low sentence.

18 Q Did you tell this jury that you have worked
19 out a deal with the solicitor's office that if you
20 testify against Sasha you will get a low sentence?

21 THE COURT: You need to rephrase that
22 question, Mr. Sowell, and put it in the context of
23 what the statute requires. It's misleading the way
24 you're asking it. The minimum mandatory is ten years
25 which cannot be suspended. So I need you to rephrase

1 the question.

2 Q (By Mr. Sowell) Did you tell this jury that
3 you worked out a deal with the solicitor's office?

4 A I told them I pled guilty to two armed robbery
5 charges.

6 Q Did you tell this jury that the deal was you
7 would get a minimum sentence for armed robbery if you
8 testified against Sasha?

9 MR. SAVAGE: Objection, Your Honor.

10 THE COURT: Overruled.

11 Ma'am, you may answer the question to the best
12 of your knowledge.

13 A That's not -- it would be recommended, that's
14 not necessarily what I would get.

15 Q But you told this jury you worked out a deal
16 and you will get the low sentence, didn't you?

17 A It will be a recommendation made.

18 Q Now didn't Sasha in the letter to you tell you
19 to be careful of jailhouse snitch because they'll lie
20 in order to get a low sentence with a prosecutor?

21 A That's not what she said in the letter
22 exactly, no.

23 Q Not exactly, but that's what she said, isn't
24 it?

25 MR. SAVAGE: Objection, Your Honor.

1 Mischaracterizing the evidence.

2 THE COURT: Overruled. Let him finish the
3 question.

4 Q (By Mr. Sowell) Did you understand that was
5 what her warning was?

6 A Sure.

7 Q That's exactly what you did, what she warned
8 you about?

9 A No, sir.

10 Q Did you work out a deal with the solicitor
11 that you get a minimum sentence if you'll plead the
12 way they wanted you to against Sasha?

13 A Not against Sasha, no.

14 Q Okay. When you got up here and you testified
15 against the defendant, you testified against her the
16 way they want you to, you'll get the minimum
17 sentence. Is that the deal? Was that it?

18 A Not the way they wanted me to, no.

19 Q Your exact words with the police officer was,
20 in order to get help from us you have to cooperate.
21 Those are his exact words to you, wasn't it?

22 A Not that I recall.

23 Q You remember that interview with those
24 officers?

25 A The interview was a year ago. I do not

1 remember the interview.

2 Q What do you remember then?

3 MR. SAVAGE: Objection, Your Honor.

4 THE COURT: Basis?

5 MR. SAVAGE: Argumentive.

6 THE COURT: Overruled.

7 Q (By Mr. Sowell) You are telling me that you
8 can't answer my questions because you don't remember
9 anything. That's a real convenient -- I'm sorry, I
10 shouldn't say that.

11 Are you telling me that because this all
12 happened a year ago I can't believe a word you said a
13 year ago?

14 MR. SAVAGE: Objection, misstating what she
15 said.

16 THE COURT: Overruled.

17 You may answer the question, ma'am, to the
18 best of your ability. Do you understand the
19 question?

20 THE WITNESS: No.

21 THE COURT: Please restate the question.

22 Q (By Mr. Sowell) Are you telling me that
23 because it has been a year, I can't rely on a thing
24 you told the police officers last year?

25 A No.

1 Q You just pick and choose what you want to
2 remember?

3 A No.

4 Q Did the police officer tell you, if you
5 cooperate you'll get a deal?

6 A Not that I recall.

7 Q I'll show you the transcript page 111 and 112
8 and ask you to read that first paragraph.

9 Now do you remember the police officer's
10 statement to you?

11 A I read the transcript but I don't remember
12 them saying that to me, no, sir.

13 Q If you can't remember what happened a year ago
14 in the most important weekend of your life, why are
15 you here today?

16 A To testify as to what happened during two
17 robberies.

18 Q But apparently you can't remember anything
19 about it?

20 A I can.

21 Q Did you tell the police officer that -- police
22 officer tell you, if you cooperate you'll get a deal?

23 A That's not what the police officer told me,
24 no.

25 Q What did he tell you?

1 A That I need to cooperate.

2 Q And you did cooperate, didn't you?

3 A Can you rephrase the question?

4 Q And you did cooperate the way he wanted you
5 to, didn't you?

6 A I answered the questions that were asked of
7 me.

8 Q You came up here and you testified against
9 Sasha; is that correct?

10 A I am here.

11 Q And you don't remember a lot, but you remember
12 those things you want to remember, is that it?

13 A I don't remember --

14 MR. SAVAGE: Objection, argumentative.

15 THE COURT: Overruled.

16 You may answer.

17 A I don't remember exactly what happened during
18 the interview.

19 Q (By Mr. Sowell) You know, have you ever heard
20 the expression, always tell the truth that way you
21 don't get mixed up about what you said last time?

22 A Yes.

23 Q What does that mean?

24 A The truth doesn't change.

25 Q And you don't have to remember what you said

1 last time. Isn't that what it means?

2 A Yes.

3 Q So in this letter that you read to the jury,
4 sasha is telling you to keep a stiff upper lip, don't
5 fret, don't worry, and don't talk to jailhouse
6 snitches because they will lie; is that right?

7 MR. SAVAGE: Objection, misstating.

8 THE COURT: I'm sorry, what is the objection?

9 MR. SAVAGE: Misstates the evidence.

10 THE COURT: Be careful, Mr. Sowell. The
11 letter speaks for itself.

12 Q (By Mr. Sowell) What is the importance that
13 you and solicitor want the jury to know, put a lot of
14 impact on this letter? What does this letter say?

15 MR. SAVAGE: Your Honor, may we approach?

16 THE COURT: Yes.

17 (Whereupon, the following discussion was held
18 at the bench.)

19 THE COURT: You can ask her how she interprets
20 certain provisions of the letter. Be very careful of
21 the commentary.

22 MR. SAVAGE: That's what I'm concerned about.

23 THE COURT: You've got to save that for
24 argument.

25 (In open court.)

1 THE COURT: You may proceed.

2 Q (By Mr. Sowell) You wouldn't remember, would
3 you?

4 THE COURT: Do you have any further questions
5 for the witness?

6 MR. SOWELL: Ma'am?

7 THE COURT: I didn't hear you. Did you say --
8 did you ask her a question? I couldn't hear what you
9 just said.

10 MR. SOWELL: I asked her, you wouldn't
11 remember if I asked you anything else, would you.

12 THE COURT: You need to be more specific.
13 That's a very vague question.

14 Q (By Mr. Sowell) Did you ever see Emily in the
15 house?

16 A I don't know who Emily is.

17 Q Pardon me?

18 A I don't know who Emily is.

19 Q Did you ever see a girl at Herb's?

20 A No, sir.

21 Q Did you ever know that anybody did anything
22 bad to her?

23 A No, sir.

24 Q Did you have anything to do with anybody that
25 did anything bad to Emily?

1 A No, sir. I didn't know anything was done to
2 her.

3 Q Do you have any evidence that Sasha did
4 anything bad to Emily?

5 A No.

6 Q Did you or Sasha tie up people at Herb's?

7 A No, sir.

8 Q Did you or Sasha threaten any people at
9 Herb's?

10 A No, sir.

11 Q Did you Sasha threaten to kill them?

12 A No, sir.

13 Q Did you and Sasha do anything to harm those
14 people? would you have done anything to harm those
15 people?

16 A No, sir.

17 Q Do you know anything at all bad about those
18 people?

19 A No, sir.

20 Q Have you ever heard anything bad about those
21 people?

22 A No, sir.

23 Q This may be repetitious. Tell me when you
24 first realized that not a joke or a robbery was
25 taking place?

1 A I don't know exactly when that was.

2 Q I'm sorry?

3 A I don't know exactly when that was.

4 Q Was it when Sasha came out to the car and
5 said, hey, those guys are crazy, they're really
6 robbing those people. Is that when you first knew?

7 A That a robbery was taking place?

8 Q Yes, ma'am.

9 A I knew that a robbery was going to take place
10 when they got out of the car.

11 Q Did you think it was a joke, or a real,
12 truthful robbery?

13 A I thought it was real.

14 Q But Sasha came back to the car she said, you
15 know what's going on in there, they're really robbing
16 those people is what she stated.

17 MR. SAVAGE: Objection. Is there a question?

18 THE COURT: There is a question. Overruled.

19 A Can you ask the question again, please?

20 Q (By Mr. Sowell) When Sasha got back in the
21 car she said, this is crazy, those people are really
22 being robbed in there. Is that what she said?

23 A Verbatim, yes, sir.

24 Q I'm sorry?

25 A Verbatim, yes.

1 Q I believe you testified earlier that neither
2 you nor Sasha carried any item out of Herb's house?

3 A I did not.

4 Q Didn't you say Sasha didn't either?

5 A She had coins.

6 Q Did you say that neither you nor her took
7 anything out of Herb's house?

8 A I said I didn't.

9 Q I'm sorry, out of coach's house?

10 A Correct.

11 Q So she didn't -- neither you nor her took
12 anything out of coach's house?

13 A Correct.

14 Q Do you have any idea what the total value of
15 the property you all took out of Herb's house was?

16 A I didn't take anything out of Herb's house.

17 Q I'm sorry. Do you have any idea what the
18 total value of the property that was taken out of
19 Herb's house was?

20 A No, sir.

21 Q Do you have any idea the total value of what
22 was taken out of coach's house?

23 A No, sir.

24 Q What you know is two TVs, do you know what
25 those TVs are probably worth?

1 A I don't know the price of TVs.

2 Q And video games, how old was the video games?

3 A I'm not sure.

4 Q And do you know what the value of the video
5 game was?

6 A No, sir.

7 Q Besides the electronic stuff, TVs and a little
8 bit of cash, do you know anything else that was taken
9 from either house?

10 A No, sir.

11 MR. SOWELL: Nothing further, Your Honor.

12 THE COURT: Mr. Foreman, ladies and gentlemen,
13 we are going to take a brief restroom break. During
14 the break please do not discuss the case and please
15 leave your notepads in your seats.

16 If you all do not discuss the case and please
17 leave your notepads in your seats. If you would go
18 with the bailiff for me, please.

19 (Whereupon, the jurors exit the courtroom.)

20 THE COURT: You may take your seats. We will
21 be at ease for ten minutes.

22 (Whereupon, a recess was taken.)

23 THE COURT: Is the state ready to proceed.

24 MR. SAVAGE: Yes, Your Honor. I still have
25 one question.

1 MR. SOWELL: None from the defense.

2 THE COURT: Sir, you are excused.

3 You may call your next witness.

4 MR. KIDD: Thank you. State calls Emily
5 Michalak.

6 THE COURT: Ma'am, if you would come to the
7 witness stand to be sworn.

8 MS. EMILY MICHALAK,
9 after having first been duly sworn to state the
10 truth, the whole truth and nothing but the truth,
11 testified on her oath as follows:

12 THE COURT: You may proceed.

13 MR. KIDD: Thank you, Your Honor.

14 THE COURT: You're welcome.

15 DIRECT EXAMINATION

16 BY MR. KIDD:

17 Q Good afternoon, Emily?

18 A Good afternoon.

19 Q I'm going to start out by, how do you know
20 Herbert Butler?

21 A I met him my freshman year at Bishop England,
22 and we ran cross-county together.

23 Q Do you remember what year that was?

24 A I was going into my freshman year so it would
25 be '04.

1 Q Around 2004?

2 A Yes.

3 Q What was the nature of your all's relationship
4 in February of 2010?

5 A We had been dating for a couple of months. Or
6 I'd say since June of '09.

7 Q And in February of 2010, where did you live?

8 A [REDACTED], downtown.

9 Q And were you in school, were you are working,
10 what were you doing at the time?

11 A I had been working at Roper Hospital for five
12 years, and I have been in school ever since I
13 graduated Bishop England in '07. So in school during
14 the day, and working during the night.

15 Q Let me get right to it. On February 24, 2010,
16 in the evening hours, can you tell the jury a little
17 bit about what happened that evening?

18 A Yes. We hadn't -- we had been staying at my
19 house downtown for quite a while and so we ended up
20 going to Herb's house that one night.

21 Q Let me stop you real quick. Where does Herb
22 live? Or where was he living?

23 A James Island, [REDACTED].

24 MR. SOWELL: I'm sorry.

25 THE COURT: I need you to speak up and I need

1 you to speak directly into the microphone for me,
2 please.

3 A [REDACTED]

4 Q (By Mr. Kidd) Okay. Thank you. I'm sorry,
5 go ahead.

6 A And we were going to have dinner that night
7 and then just have a couple drinks and go to bed
8 because I had to be up for school in the morning.

9 And I was sitting on the couch while Herb was
10 out back grilling steaks. And there is music
11 playing. And I think I was probably on my phone.

12 And then I hear a knock at the door. And I go
13 out to the kitchen to see if Herb was there because I
14 thought that one of his friends might have been
15 stopping by. But he wasn't there, he was out back.

16 So I went up to the door and I opened it. And
17 there was a young female standing there saying that
18 her car had just broken down down the street and that
19 she needed a cell phone so that she could call for
20 help. So I said --

21 Q Let me stop you real quick. Do you see that
22 female in the courtroom here today?

23 A Yes, sir.

24 Q Can you point to her?

25 A (Whereupon, the witness indicates.)

1 Q what is she wearing?

2 A A purple plaid shirt.

3 MR. KIDD: Your Honor, may the record reflect
4 the witness has identified Ms. Gaskins?

5 THE COURT: Let the record so indicate. You
6 may proceed.

7 MR. KIDD: Thank you.

8 A So I said okay, so I shut the door. But it
9 was an old house so it was one of those doors where
10 the wood swells. So it wasn't necessarily shut where
11 it latched, but it was -- you'd have to give it a
12 good push in order to open it.

13 So I shut the door because my charger was
14 across the room, or my phone was on the charger
15 across the room. So I go to the table stand that it
16 was on. I removed my phone from the charger. And as
17 I turned around I noticed that the defendant was
18 standing in Herb's house. She had pushed open the
19 door. I would say she was about 4 feet inside the
20 house.

21 I got kind of got confused at the time. And
22 right as I hand her the phone, she looks over her
23 right shoulder towards the entry of Herb's house.
24 And within two seconds two big males come in with
25 guns. They were fully masked, they had on gloves and

1 sweat shirts and sweat pants and just demanding us to
2 get on the ground.

3 Q And let me stop you real quick. Do you know
4 anyone, or before this had ever happened, do you know
5 anyone by the name of Reginald Rice?

6 A No.

7 Q Miguel Starks?

8 A No.

9 Q Stephen Francois?

10 A No.

11 Q Breanna Bruster?

12 A No.

13 Q Had you known anyone named Sasha Gaskins?

14 A No, sir.

15 Q So they come in the house and what happens in
16 there?

17 A I go to the kitchen and I run inside the
18 kitchen and Herb had just walked in from outside from
19 the steaks. And I go, there's some people here with
20 guns like what's going on.

21 So he walks out the kitchen door and they just
22 demand us to get on the ground, get on the ground.
23 And Herb keeps saying, what are you guys doing, why
24 are you guys here, what do you want. And they just
25 keep saying, shut up, shut up, get on the ground.

1 And they are pointing guns at us. And then
2 they point us to where we should get on our knees.
3 And to stand like this with our heads down so we
4 couldn't see anything. Then they duct-taped us up.

5 Q Now who was in the house at this time, do you
6 know?

7 How many people are still in the house? Is
8 the defendant still in the house?

9 A Yes, she was. Because I walked back in the
10 kitchen to go get Herb. Then we both walked out and
11 she was still standing by the doorway..

12 And so they duct-tape us up. And then they
13 separate Herb and I. They bring Herb into his room.
14 And they start -- I don't know, they shut the door
15 behind them and all I can hear is just like cussing
16 and like loud words saying like I hear money and just
17 certain key words.

18 And I'm just sitting on the ground like this.
19 And they are speaking in this weird high-pitched --
20 like I don't know that I would say Gullah, but I
21 guess so we wouldn't recognize their voice.

22 And they both just keeping coming in and out
23 of the door, Herb's room, to try to get information
24 out of him. They keep switching.

25 Q Let me slow you down just a little bit. How

1 are you duct-taped up? Your hands in front of you,
2 behind you?

3 A My hands are in front of me like this, and my
4 head is like this. (Whereupon, the witness
5 indicates.) And my legs are duct-taped. And my
6 wrists. And I have duct-tape all over my eyes.

7 Q Let me slow you down for one more moment.

8 MR. KIDD: If I may approach the court
9 reporter, Your Honor?

10 THE COURT: Uh-hum.

11 Q (By Mr. Kidd) I'm going to show you what has
12 been marked for identification purposes as State's
13 Exhibit No. 30. Do you recognize that?

14 A Yes.

15 Q What is that?

16 A That was the jacket I was wearing that night.

17 MR. KIDD: Your Honor, at this time we move
18 State's Exhibit 30 into evidence.

19 THE COURT: Any objection?

20 MR. SOWELL: No, ma'am.

21 THE COURT: Marked and admitted without
22 objection.

23 (Whereupon, State's Exhibit No. 30 is admitted
24 into evidence.)

25 Q (By Mr. Kidd) What are the marks on this

1 jacket?

2 A From the duct tape.

3 Q Where on the jacket are those marks?

4 A Up there, all around. Because in the end they
5 were going untie me, they untied one. At the end
6 they put me one arm free, but around the wrists too.

7 Q So once you get duct-taped up on the floor,
8 are you able to move around or are you tightly
9 constrained?

10 A I'm tightly constrained with my head in my
11 hands like this.

12 Q Is there any duct-tape on your face?

13 A My eyes are duct-taped.

14 Q What happens next?

15 A Like I said, they keep switching going in and
16 out of the room and I just hear a bunch of commotion
17 in there. And one of them comes out and like in a
18 really high tone voice saying, you better tell your
19 boyfriend to shut up or he is going to be in some
20 serious trouble.

21 And I'm not saying anything at that point.
22 I'm just crying like I was in the beginning. And I
23 just hear things like being flipped around. And I
24 think at one point he does leave, one of the guys
25 leaves with Herb's credit card.

1 And I can't remember if it was before or after
2 he left with the credit card, but I guess when he
3 came back one of the guys went into Herb's room. And
4 then the other guy was standing -- came and sat right
5 besides me. I was sitting like on my butt with my
6 knees in front me.

7 Q Was he saying anything to you at that time?

8 A No, he just came and sat right beside me.

9 Q Did he start touching you?

10 A Yes.

11 Q How was he touching you?

12 A He was touching me through my jeans.

13 Q Where was he touching you?

14 A On my vagina.

15 Q Then what happened next?

16 A I kept crying and saying, no, please, why are
17 you doing this. And he just kept telling me to shut
18 up. And then after he had been touching me --

19 Q Did he have a gun?

20 A He had a gun but he wasn't pointing it at me
21 at that point. He was sitting to the left of me and
22 he was touching me I would say like for a minute or
23 so. Then I was just saying, no, please don't do
24 this.

25 And then he undid his pants and then told me

1 to get up. And I couldn't get up because I was
2 duct-taped. So he picked me up and put me on my
3 knees in front of him. And I kept saying, no, why
4 are you doing this. And he had the gun to my head
5 and he is saying, if you don't do this or if you bite
6 it then I'm going to blow your -- I'm going to kill
7 you basically.

8 So then he had one hand on the back of my head
9 and like a gun right here. And then just kept
10 (whereupon, the witness indicates) like forcing it on
11 me. And then that happened for like ten seconds and
12 then another guy came out and told him to stop, this
13 is not why we are here, you don't want to do this.

14 He was like why. He was like, none of them
15 know who we are, it doesn't matter. He was like
16 trust me, I have been there, you don't want to go
17 through this.

18 So after I guess 10 or 15 seconds he stopped.
19 And then --

20 Q And just to be clear, what was he doing?

21 A He inserted his penis in my mouth for like 15
22 seconds. And then I guess the other guy came out and
23 he said, no, this is not what we are here for.

24 Then they both, they kind of just since I was
25 on my knees, they kind of just like pushed me over so

1 I was laying on my side on the other side of the
2 living room now by like this glass table.

3 And after that they both went in the kitchen
4 and I could hear them whispering saying, we are not
5 getting anything. I don't know if they were on the
6 phone or if they were talking to each other but
7 they're saying, no, we are not getting anything out
8 of this robbery. We can't find anything. He is not
9 confessing to anything.

10 And he is like, he is talking to one other guy
11 saying, no, if you come in here they're not going to
12 recognize you. No one can recognize who you are.

13 And after that they had just gone through the
14 whole house. I just hear things like being flipped
15 upside down, and things like falling on the floor and
16 those two were talking to each other.

17 And after that third guy came in and --

18 Q How do you know a third guy came in?

19 A Well there was a guy with a different tone of
20 voice than I had heard the other two. He was in like
21 more of like a screechy, like I don't even know,
22 Jamaican or something. I don't know. It could have
23 been one of the others but he came in just like where
24 is he, where is he.

25 From what I know he just went straight -- that

1 person never talked to me or that tone of voice never
2 talked to me. And he went in I guess to where Herb
3 was and I just heard a bunch of commotion and yelling
4 in there.

5 Then he comes out and just says, take
6 whatever, take whatever we can get. And then at that
7 point I hear, as they're gathering equipment, I hear
8 a girl's voice in the background saying, should I
9 take this? And I guess one of them nodded their
10 heads because I didn't hear an answer.

11 And after that I just heard like footsteps
12 going back and forth between the back door and like
13 the living room and I guess Herb's room. And then --

14 Q We are going through this pretty quickly, but
15 about how long did all this take?

16 A Three hours. Two and a half to three hours.

17 Q At some point did someone go through your car?

18 A Yes.

19 Q How do you know that?

20 A They asked for my keys. They told me that
21 Herb had said I have the money. And I was the one
22 with the credit cards and to go check her car, maybe
23 they're in her car.

24 So my keys were sitting on the table. And
25 they took my keys to go through my car and see if

1 they could find anything.

2 Q At what point did they start to leave?

3 A Once they couldn't find anything or any money
4 I guess or drugs, then they just started taking
5 anything they could get, anything that was of value.
6 Then loading it up and then they left.

7 Q Do you know what they were able to get?

8 A I mean the place was a wreck. But his TV was
9 gone that I noticed, and some DVDs I noticed that
10 were gone.

11 Q Do you know if they got any marijuana?

12 A At one point I heard him say he thought he
13 found like a bag of something up in the attic. But
14 then they asked Herb about it and he said, no, man,
15 that's not what that is, that's not marijuana.

16 Q Was there any other marijuana in the house?

17 A Not that I know of.

18 Q Did -- I'm sorry, I got sidetracked a little
19 bit. Did you know if Herb sold marijuana?

20 A No. I knew that he did it in the past. But
21 in November when he had gotten arrested, I had
22 threatened to break up with him if he didn't stop
23 selling. So he did it behind my back for three or
24 four months I guess. I found out that February night
25 that he was hiding it.

1 Q And what point -- let me get back on track
2 now. At what point do they start to leave? How does
3 that happen?

4 A Like I said after the -- I guess if there was
5 a third guy, the third guy came in and talked to
6 Herb. And then as they were coming out, one of the
7 guys comes up to me and says, I'm sorry for what my
8 friend did.

9 And then he tells his friend to apologize to
10 me. And but during throughout the whole incident
11 they were just talking to me saying, you know, I'm
12 sorry you're here. You weren't supposed to be here.
13 Our intent was to rob Herb.

14 I guess after the third guy had come in and
15 said he couldn't get anything out of Herb, then they
16 decided to get whatever they could. And that
17 probably took about 20 minutes, and then after that
18 they left.

19 Q Did they leave you duct-taped up or how was
20 that?

21 A Well at one point a guy started to unduct-tape
22 me because they said I had been cooperating the whole
23 time, I hadn't said anything, I hadn't moved. And
24 then another guy comes in and says, you don't know
25 what she's capable of. She could undue herself right

1 here and now. We don't know what she's cable of.

2 so he was like, fine. Then tape her -- give
3 her one arm free and tape her back up. So I had one
4 arm was behind my back and they taped me around my
5 whole body with like this arm free. Then they said
6 they left a pair of little scissors on the glass
7 table I was sitting by.

8 Q How did you get free?

9 A I mean at that point -- or once they had left
10 I went like this pretty hard -- (whereupon, the
11 witness indicates.) -- because I was so frustrated.
12 And I kind of like hopped to all the doors and just
13 locked them is the first thing I did.

14 Q Where was -- when you were able to get the
15 duct tape off your face, where did you find Herb?

16 A I kept calling his name because he was nowhere
17 to be found. But I found him in the closet with the
18 closet door shut.

19 Q What did he look like when you found him?

20 A He was naked, and his pants were pulled down,
21 and he had wads of duct tape all along his head, and
22 all in his hair and all over his mouth.

23 Q What did you do then?

24 A I slapped him in the face because I realized
25 that I had just been lied to for three months. Then

1 I was so shaken up I had to go outside and find my
2 dog.

3 Q What had happened to your dog, do you know?

4 A They just let her out. Like right as the door
5 was opened she had gone outside.

6 Q What kind of dog do you have?

7 A She's a black lab mix.

8 Q Did you cut Herb loose?

9 A Yeah.

10 Q Then what do you all do next?

11 A I go outside and try to find my dog for a
12 little bit but I didn't go very far because right as
13 they had left they told me that if they ever saw me
14 out smoking or if they ever caught me doing anything
15 or ever heard of me calling the police or anything of
16 that nature that they were going to come back and
17 find me, no matter where I was, and kill me.

18 Q So what did you do?

19 A I walked the streets once. Then like every
20 time a car came I was ducking because I didn't know
21 if it was them. And I heard my dog yelping in the
22 back, her paw had gotten caught in the fence. So I
23 found out where she was, between the neighbor's
24 house, got her out and we went back to my house
25 downtown.

1 Q You and Herb went back to your house downtown?

2 A Yeah.

3 Q About what time of the night or morning is
4 this?

5 A Almost 2:00 a.m.

6 Q And what do you all do when you get back to
7 your house downtown?

8 A I went to sleep. I had recently been
9 prescribed Klonopin. So at that time I had taken one
10 and just fallen asleep and felt like I was going to
11 deal with it and go to Roper in the morning, and just
12 get away from that house.

13 Q What did you do when you woke up in the
14 morning?

15 A Went to Roper.

16 Q Why did you go to Roper?

17 A Because I felt safe there. I knew when I had
18 talked to my boss that everything, he would have
19 taken care of me and everything would have been okay
20 rather than calling the police and whatnot.

21 Q What did -- after you got to Roper, what did
22 you do then?

23 A My boss took me right down to the ER to get me
24 examined for the sexual assault. Then they called
25 Detective Church and Detective Wagner and they came

1 down.

2 Q And did they take your statement at that
3 point?

4 A Yes.

5 Q Where did you go after Roper?

6 A I went to the North Charleston clinic, the
7 sexual assault and I got a sexual assault kit and
8 everything. Then I went to my family doctor. And
9 then I stayed with my mom.

10 Q Did you have any further interaction with the
11 police over the next few days?

12 A Yeah, the next day.

13 Q The next day.

14 I'm going to show you what has been marked and
15 entered into evidence as State's Exhibit No. 41. Can
16 you look through those two pages.

17 Do you recognize those?

18 A Yes, sir.

19 Q Can you tell the jury what that is?

20 A It's the lineup that I had to pick the
21 defendant out of.

22 Q Were you able to pick a photograph out of that
23 lineup?

24 A Yes.

25 Q Were you sure who it was?

1 A I think I wrote down I was 80 percent sure.

2 MR. KIDD: Court's indulgence.

3 Q (By Mr. Kidd) When you were being shown that
4 photograph, group of photographs, who were you being
5 asked to identify?

6 A Sasha Gaskins, the girl that was at the door.

7 Q Did you know her name at that time?

8 A No.

9 Q So you were just being asked to identify?

10 A The face that I had seen that night.

11 Q And that would be the person who knocked on
12 your door?

13 A Yes.

14 Q Is that who you picked out of that lineup?

15 A Yes.

16 MR. KIDD: Court's indulgence.

17 Q (By Mr. Kidd) Are you and Mr. Butler still in
18 a relationship?

19 A No.

20 Q When did you get out of the relationship with
21 Mr. Butler?

22 A That following week after the robbery
23 occurred.

24 MR. KIDD: I have no further questions, Your
25 Honor.

1 THE COURT: Any cross-examination for the
2 witness?

3 MR. SOWELL: Yes, ma'am.

4 THE COURT: You may proceed.

5 CROSS-EXAMINATION

6 BY MR. SOWELL:

7 Q Emily, do you remember the statement you gave
8 to the police?

9 A Probably not verbatim, but, yes.

10 Q If I were to hand that to you, can you
11 recognize your handwriting?

12 A Yes.

13 Q Now do you remember telling the police that
14 the girl, which would be Sasha, came in and asked for
15 your phone. And then she went outside and you
16 thought that she must be the watch person because she
17 was gone. Do you remember that?

18 A Vaguely, yes.

19 Q And a question was asked of you during your
20 statement, where was the girl when the two men were
21 inside. What is your response there in the yellow?

22 MR. KIDD: Objection, Your Honor.

23 THE COURT: Basis?

24 MR. SOWELL: I'm sorry, Your Honor.

25 Q (By Mr. Sowell) Is this your handwriting?

1 A Yes.

2 Q Did you write all this?

3 A Yes.

4 Q Was it all true?

5 A Yes.

6 Q Okay. Now when the question was asked, where
7 was the girl when the two men were inside, do you
8 remember what you told them?

9 A I mean from what you had just said I said she
10 was the watch girl. She seemed like the watch --
11 yeah.

12 Q Is that what you told them?

13 A That's what I told them.

14 Q Why did you think she was the watch girl,
15 because she left the house?

16 A I mean I didn't know she had left the house
17 but I didn't hear her voice during any of it.

18 Q Well why did you think she was the watch girl
19 just because you didn't hear her voice?

20 A I mean I would think that someone would have
21 the house being watched. If there was any activity
22 outside, to let them know if there was somebody
23 coming.

24 Q You didn't hear her voice and you didn't see
25 her?

1 A I saw her towards the end. I heard her voice
2 towards the end.

3 Q Well this is your statement. Can you tell me,
4 show me where you said that in the statement?

5 A No, it's not in here.

6 Q So you didn't put it in your statement. And
7 you said, she must be the watch girl because you
8 didn't hear her voice. And your statement never said
9 you heard her come back in, did you?

10 A No, I don't believe it's in here.

11 Q Now I know it has been a year, but the fact
12 that she wasn't in the house is what made you think
13 she was the watch girl, right?

14 A Excuse me?

15 Q The fact that she left the house and was not
16 in the house is what made you think she must be the
17 watch girl; is that correct?

18 A That's what made me think she would be the
19 watch girl? Is that what you said?

20 Q Yes, ma'am.

21 A Yes.

22 Q And hearing her in the house would have been
23 real important, wouldn't it?

24 A Excuse me?

25 Q Hearing her voice in the house would have been

1 real important, wouldn't it?

2 A Yes. But I know I made a lot of statements.
3 And I'm pretty sure it might have been in one those,
4 I know I have talked about it before.

5 Q Can you show me any statement, any one, show
6 me any statement where you put that in a statement?

7 A If it's not, then no.

8 Q Now do you think the girl Sasha was present
9 when you were being assaulted?

10 A No.

11 Q And when was the last time you saw her?

12 A At the door. She was standing to the left of
13 the door as they were coming in.

14 Q That's the last time you saw her?

15 A Yes.

16 Q So if I were to tell you that she left
17 immediately as soon as the two guys came in, would
18 you have any information to dispute that?

19 A No.

20 Q Do you have anything to show that she knew
21 anything about any taping?

22 A No.

23 Q Did she know anything about the molesting of
24 you?

25 A I don't know. No.

1 Q Let me see if I understand this. The last
2 time you saw her was right after the guys charged in
3 and she was standing over near the door?

4 A Yes.

5 Q And you didn't see her again?

6 A My eyes are duct-taped so no.

7 Q You didn't hear her voice?

8 A Not until the end. I don't know if it was her
9 voice, I don't know. All I heard was a female voice
10 saying, should I carry this.

11 Q Okay.

12 A Or should I take this.

13 Q How long after she knocked at the door had you
14 heard that voice say something like, should I take
15 this?

16 A Two hours.

17 Q And you have no reason at all -- no -- nothing
18 to show or nothing that would tell you or that would
19 tell us that she was in the house at any other time?

20 A No.

21 Q And the only reason you think she was involved
22 is because she knocked on the door, and you thought
23 she was a watch person because she was not in the
24 house?

25 A I didn't hear her voice so I thought she was

1 in the house, yes.

2 Q You never saw her, never heard her voice. You
3 heard some female at the very end?

4 A Right.

5 Q Everything else was already done, and you
6 heard some female say, should I take this?

7 A Right.

8 Q Okay. I'm sorry for what you have been
9 through.

10 MR. SOWELL: Nothing further, Your Honor.

11 THE COURT: Any redirect of the witness?

12 MR. KIDD: Just briefly, Your Honor.

13 THE COURT: You may proceed.

14 REDIRECT EXAMINATION

15 BY MR. KIDD:

16 Q I'm going to show you that statement that Mr.
17 Sowell was just talking about. When did you give
18 that statement?

19 A The 25th of February.

20 Q And when he was referring to -- if you need to
21 refresh your recollection, please do so. But when he
22 was referring to what made you think that she might
23 be the watch person, and why did you think she might
24 be the watch person?

25 A I mean she had already done the initial -- she

1 was the gateway to open the door for those two people
2 to come in. So basically without her the whole thing
3 couldn't have been done.

4 Q Was there something -- was there ever any
5 warnings given?

6 A That she was --

7 Q Like someone coming or anything of that
8 nature?

9 A Well I heard once I think Herb's roommate had
10 pulled up. But, I don't know.

11 Q I believe the question, the last couple of
12 lines?

13 A Yeah, cause his roommate had come up. And
14 then they -- someone had informed the two that they
15 thought there was a cop outside and they all started
16 freaking out.

17 Q And based on that, is that what made you think
18 someone, who knows who, but someone was a watch
19 person?

20 A Right.

21 Q When you heard that female voice, where were
22 you in the house?

23 A Still in the living room but on the other side
24 that I was duct-taped on.

25 Q Could you tell about how far away that voice

1 was from you? Was it right next to you, across the
2 room?

3 A Well the living room, living room is like
4 this. And I was over here in the beginning, and then
5 they moved me over here and I heard it out of my left
6 ear.

7 Q Let me show you what has been marked as
8 State's Exhibit No. 34, coming up on the screen
9 behind you. Do you recognize that photograph?

10 A Yes.

11 Q What is that?

12 A Herb's living room.

13 MR. SOWELL: I'm sorry, I couldn't understand
14 that?

15 A Herb's living room.

16 Q (By Mr. Kidd) Where in that living room were
17 you located when you heard that voice?

18 A That coach extends all the way over here where
19 there is a glass table, and that's where I was
20 sitting.

21 Q And do you know where about the voice came
22 from in the room?

23 A Right around there I think. Because I heard
24 it out of my left ear.

25 Q Would the person who -- or whoever spoke, that

1 female voice, have been able to see you?

2 A Yes.

3 Q And you were duct-taped up?

4 A Yes.

5 MR. KIDD: No further questions.

6 THE COURT: Any objection to the witness being
7 excused?

8 MR. SOWELL: May I ask a question?

9 THE COURT: Uh-hum.

10 RECROSS-EXAMINATION

11 BY MR. SOWELL:

12 Q It appears to be a door behind the couch. Was
13 the couch moved after this event?

14 A Excuse me?

15 Q That appears to be the door behind the couch?

16 A No. That's a window.

17 Q Okay.

18 MR. SOWELL: Nothing further, Your Honor.

19 THE COURT: Any further questions?

20 MR. KIDD: No, ma'am.

21 THE COURT: Any objection to the witness being
22 excuse from the state.

23 MR. KIDD: No, ma'am.

24 MR. SOWELL: No, ma'am.

25 THE COURT: Ma'am, you are excused.

1 to be sworn.

2 MR. JOSHUA SHELTON HARPE,
3 after having first been duly sworn to state the
4 truth, the whole truth and nothing but the truth,
5 testified on his oath as follows:

6 THE COURT: You may proceed.

7 MR. SAVAGE: Thank you, Your Honor, may it
8 please the Court.

9 THE COURT: Yes, sir.

10 DIRECT EXAMINATION

11 BY MR. SAVAGE:

12 Q Good morning, Mr. Harpe.

13 A Good morning.

14 Q How old are you?

15 A 25.

16 Q Where do you live?

17 A I live in West Ashley.

18 Q Could you briefly explain your educational
19 background?

20 A I graduated from a high school in Columbia in
21 2003. I graduated from the Citadel in 2007 at the
22 rank of cadet first lieutenant.

23 Q Back in February of 2010, where were you
24 working?

25 A I was a graduate-assistant football coach at

1 the Citadel.

2 Q Do you remember the day you were robbed?

3 A Absolutely.

4 Q Who is Miguel Starks?

5 A Miguel Starks was the quarterback for the
6 Citadel football team. He is also one of the three
7 armed men that came and robbed me.

8 Q How did you get to meet Miguel Starks?

9 A When you play college football there is a
10 recruiting process. And my relationship with Miguel
11 started on his official visit in January of 2008, I
12 believe.

13 We meet all the prospects, all the coaches
14 meet the prospects. I got to know him. And then he
15 came in as a freshman in August and was a member of
16 the football team.

17 Q So you were constantly -- or were you
18 constantly dealing with him as an assistant coach?

19 A More so towards the end of our relationship.
20 I didn't really have a whole lot to do with the
21 quarterbacks as my position was wide receiver. So I
22 interacted with him, but not every single day.

23 Q How did it change towards the end? What was
24 the relationship difference there?

25 A I had been promoted to the military liaison to

1 the core of cadets for the football team. And Miguel
2 was in danger, he was having trouble, he wasn't going
3 to class, he wasn't going to formation.

4 So as the liaison to the corp, I had to make
5 sure he was going to class. Actually for two weeks
6 had to get up every single morning at 5 o'clock to
7 make sure Miguel was at formation.

8 Q So you are trying to keep him on the straight
9 and narrow when he goes off the path?

10 A Yes, sir. Miguel's biggest problem was
11 immaturity, he wouldn't grow up.

12 Q Who is Reggie Rice?

13 A Reginald Rice, I first met Reggie when he
14 matriculated to the Citadel in 2006. He was a knob
15 of mine. I was the athletic cadre operations
16 officer, which means I coordinated everything with
17 the administration on the details of the training of
18 the freshman. He was on that cadre.

19 Q Was he involved in the football team as well,
20 or just a student?

21 A He was, he was a linebacker on the football
22 team.

23 Q Did he graduate from the Citadel?

24 A He did not.

25 Q Do you know why not?

1 A During the middle of the season, the 2008
2 season, Reggie had gone AWAL, which means he had left
3 when he wasn't supposed to. And had been pulled over
4 by a Charleston police officer who recognized him and
5 the guy he was with as Citadel football players and
6 let the coach know that they were out.

7 And there was some other issues going on with
8 Reggie that I wasn't aware of. And he was -- we
9 pulled the scholarship. We didn't necessarily remove
10 him from the Citadel, but we said, you know, this
11 semester you haven't held up to your end of the
12 bargain, we are going to take your scholarship from
13 you. You can come back in the fall as a walk-on if
14 you want, but we are not going to pay for you to
15 come. So he left after that first semester.

16 Q I want to turn your attention to the week of
17 the robbery, in particular Sunday, February 21st. Do
18 you remember that day?

19 A Yes, sir, I do.

20 Q Did you see any of the codefendants that day?

21 A I saw Reggie Rice.

22 Q Where did you see Reggie?

23 A I saw Reggie Rice at Groucho's on Sam
24 Rittenburg in West Ashley.

25 Q What is Groucho's?

1 A It's a restaurant.

2 Q Who were you there with?

3 A I was there with my best friends, David
4 Morbitzer and Dwight House.

5 Q Did Reggie see you?

6 A Yes, he did.

7 Q Did you talk to him?

8 A I did. Reggie actually, when I got there he
9 came up and gave me a hug and I hadn't seen him in
10 well over a year. He gave me hug and said he was
11 glad to see me and asked me how I was doing.

12 Q Any problems with him then?

13 A Absolutely no.

14 Q No arguments?

15 A No arguments, no.

16 Q You had no beef with him?

17 A Absolutely not.

18 Q Were you aware of any beef he had with you?

19 A No, I was not.

20 Q The next day, Monday, February 22nd, did you
21 talk to Miguel Starks that day?

22 A I did.

23 Q Tell me about that conversation?

24 A We had given Miguel a little bit of room. We
25 had backed my following him around, we backed that

1 down to see if he had grown up any.

2 And Coach Higgins had asked me to e-mail his
3 professors to make sure he was going to class, that
4 he was going to formation, that he was doing what he
5 was supposed to be doing.

6 Q So you take your directions from Coach Higgins
7 as far as what you are doing with Miguel?

8 A Yes, sir.

9 Q Okay. I'm sorry, go ahead.

10 A I had been getting e-mails back for several
11 days and I had finally gotten all the e-mails back
12 from the professors. They weren't good at all. He
13 wasn't going to class, he'd actually missed a test.
14 I told him earlier that the professor was willing to
15 let him make the test up, all he had to do was go in
16 and take the test.

17 Q Did you talk to Miguel about this?

18 A I did. I went in Monday and told him that I
19 have to go to Coach Higgins with this. I have to
20 tell -- I have to report back to him on the e-mails
21 that I had received.

22 Q How did he respond to that information?

23 A He pretty much blew it off, he was like okay.

24 Q Did he seem mad at you or anything?

25 A No, he did not.

1 Q Threaten you at all?

2 A He did not.

3 Q When was the next time that you talked to
4 Miguel?

5 A The next time I talked to him was that Friday.

6 Q Okay. At any point between that Friday --
7 when you met with him on Friday was that in person or
8 was it on the telephone?

9 A It was on the telephone.

10 Q Did you have any telephone conversations with
11 Miguel Starks between that Monday and that Friday?

12 A I don't believe so.

13 Q Okay. Did you go out of town at any point
14 that week?

15 A I did.

16 Q Where did you go out of town?

17 A I went to Columbia. My father had eye surgery
18 or was having eye surgery, so I went to Columbia to
19 be with him.

20 Q When you were out of town did you ever talk to
21 Miguel Starks?

22 A I did not.

23 Q Let's go forward to that Friday. How did that
24 conversation come up?

25 A I was at a high school basketball game that

1 was being played at the Citadel. I got a phone call
2 from Miguel and he asked me what time practice was.
3 I told him it was at 8 o'clock.

4 He asked me what I was doing after the game.
5 I said I'm just going to go home and go to bed
6 because we had to be -- practice was at 8:00 which
7 meant we had to be there at 7:00.

8 Q Tell the jury a little bit about that. Was --
9 he's asked you about practice. Is he on the team at
10 this point, off the team, what's going on?

11 A On Tuesday we had, I say we, the coaching
12 staff, had decided to suspend Miguel for spring
13 practice. So Miguel, when we say we suspended
14 Miguel, he could not attend our position meetings, he
15 could not participate in weight-lifting or
16 participate in practice.

17 Q So he is barred from any official capacity
18 under the rules?

19 A Yes, sir.

20 Q When he was contacting you about practice,
21 what capacity is he wanting to participate I guess?

22 A He is asking what time it is so he can
23 participate as a spectator. He said he was going to
24 come out and watch practice. And all of our
25 practices are open.

1 Q what did you tell him?

2 A I thought it would be a good idea. I thought
3 that he was finally growing up. That he's -- the
4 light went on, he is getting it. He realized that he
5 messed up and he is going to try to be around the
6 football team more.

7 Q Describe his attitude towards that
8 conversation. Did he seem mad at you?

9 A No, he did not. It was the same tone that we
10 had in every other conversation.

11 Q What happened next? This was on a Friday
12 night, so what time was that?

13 A This was about 9:00 or 10:00 Friday night.

14 Q What time did you get home that night?

15 A 10:30, 11:00.

16 Q And were you alone when you came home?

17 A I was.

18 Q What did you do for the rest of the night?

19 A I --

20 Q Did you go out?

21 A I do not.

22 Q You stayed in for the evening?

23 A I did.

24 Q Anything unusual happen that evening?

25 A I went to bed around 11:30 I'd say. Around

1 1:15 I woke up to my phone ringing. I have city
2 identification on my phone, so the number came up as
3 a Dallas, Texas number. And I had never seen that
4 number before and I hit the ignore button and figured
5 if it was important then they would call back.

6 Q what happened next?

7 A I tried to get back to sleep and the phone
8 rang again, it was the same number so I figured it
9 was important so I answered the phone call.

10 Q what happened when you answered it? who was
11 it?

12 A When I answered the phone call there was a
13 young lady's voice on the phone. She said her name
14 extremely fast, it sounded like Ashley to me, but I
15 couldn't be certain what name she said.

16 She said he was Dwight's ex-girlfriend, that
17 her car had broken down in the Lowe's parking lot,
18 and that she had called Tripple A. She knew my house
19 was close would I come get her and let her stay in my
20 condo until Tripple A got there because she was
21 frightened, she said she didn't want to be alone.

22 Q Did you say earlier that Dwight was one of the
23 people, persons you were with that Sunday at
24 Groucho's at the restaurant?

25 A Yes, sir, that's correct.

1 Q And that's the same time when you met Reggie
2 Rice?

3 A Yes, sir.

4 Q And what did the girl want you to do?

5 A She wanted me to come pick her up from the
6 Lowe's parking lot.

7 Q Ashley, did you know who Ashley was?

8 A I did not. But she had my phone number and
9 she said she was Dwight's ex-girlfriend and she was
10 in trouble and I didn't want to leave somebody out
11 there by herself.

12 Q What did you do?

13 A I told her I would be there in 5, 10 minutes.
14 I started getting ready. I put up some sweat pants
15 and a hoodie.

16 Q So did you just blindly go out and go just get
17 some girl you didn't know who it was?

18 A I did not. I called Dwight to confirm that he
19 knew the number and the girl. He answered the phone,
20 but he was at a party and there was some loud music
21 going on. He told me he couldn't hear me, so that I
22 should text him.

23 Q Did you text him?

24 A I was texting him as I was walking to my car.

25 Q And what happened as you were texting him?

1 A A man put a silver revolver in my face.

2 Q Exactly whereabouts did that happen?

3 A It happened in the parking garage underneath
4 the complex.

5 Q Where you live?

6 A Yes, sir.

7 Q What happened next?

8 A They forced me -- they told me to get on my
9 knees. The one with the gun told me to get on my
10 knees. I kind of blanked out for a minute. And he
11 struck me once in the back of the head with the
12 pistol.

13 I went down on my knees and I remember
14 thinking to myself, is that supposed to knock me out.
15 I told them they could take whatever they wanted,
16 that they could have my car, they could have anything
17 in my house as long as they didn't kill me or my dog.

18 Q Did it knock you out?

19 A No, sir, it did not.

20 Q How many did you see down there?

21 A At first there was the one. But as I was down
22 on my knees two more people came from my left.

23 Q Could you see their faces?

24 A I could not.

25 Q Why not?

1 A They had bandanas on. The first man had a
2 bandana covering his eyes. He had a Dickies jacket
3 with the hood up over his head.

4 Q What about the other two, could you see their
5 faces?

6 A I could not see their faces, they were also
7 covered.

8 Q Describe the guns to me?

9 A There was a -- the first one I saw was a
10 silver revolver.

11 Q Like a small handgun?

12 A Yes, sir.

13 Q The second one?

14 A I didn't see it, I just felt it against the
15 back of my head.

16 Q Okay. So you are down on your knees, what
17 happens next?

18 A I get up. They tell me to get up and take me
19 to the elevator to the door outside. And they press
20 me against the wall and put both of the guns to --
21 one to the back of my head, one to the side of my
22 head and ask me if there are any cameras in the
23 building.

24 Q What did you tell them?

25 A I told them there were not. And the gentleman

1 behind me was saying, I swear to God I'm going to
2 blow your ef-ing head off if there are any cameras.
3 Tell me again, tell me again are there any cameras.

4 Q Did you recognize any voices or who they are
5 at this point?

6 A Not at this point. They're disguising their
7 voices in the geechy dialect, so I didn't know.

8 Q So you're at the elevator, what is going on
9 there?

10 A They -- one of them has my keys which has the
11 electronic fob on it that you have to have to be able
12 to get into my building.

13 Q Do they get into the building?

14 A They do.

15 Q How do they do that?

16 A They use the fob that is on my key chain to
17 open the door.

18 Q Do you go up there with them, what happens?

19 A They tell me to open the elevator and press
20 the floor where I live so I did. I was standing in
21 front. The three of them were behind me with the two
22 guns to my back or to my head. I pressed the one
23 button. And since I had a hoodie on, I threw my hood
24 up.

25 MR. SAVAGE: Your Honor, may I approach the

1 witness?

2 THE COURT: You may.

3 Q (By Mr. Savage) Mr. Harpe, I'm showing you
4 State's Exhibit 18. Do you recognize that?

5 A Yes, sir, I do.

6 Q Okay. Mr. Harpe, I am showing you State's
7 Exhibit 18 on the projector there behind you.

8 I'm going to give you a laser pointer here.
9 What I want you to do is sort of show me where you
10 were, and where they were when they came down.
11 Explain that to the jury.

12 A May I step around?

13 MR. SAVAGE: Your Honor, may the witness step
14 down?

15 THE COURT: Yes, sir.

16 Q (By Mr. Savage) Go ahead. Where were you
17 when you first saw the first gunman?

18 A I came out of this door right here.

19 Q What is that door?

20 A There is a stairwell that runs beside my house
21 or my condo, so it's actually faster for me to take
22 the stairs down than to walk down the hall and go to
23 the elevator.

24 Q Do you need the security fob to get into the
25 stairwell?

1 A Not into the stairwell, but you have to have
2 the fob to get into the door that leads into the
3 building.

4 Q Okay. Where is the elevator door in this
5 picture?

6 A Right here.

7 Q Can you see your car in this picture?

8 A Yes, sir, I can.

9 Q Where is that?

10 A That's right here.

11 Q That's a grey -- what kind of car is that?

12 A It's a silver, charcoal, mineral grey 2001
13 Ford Mustang.

14 Q Show me where you were when you first faced
15 the first gunman?

16 A I came out of this door right here. I noticed
17 a man standing in a black hoodie or jacket. He was
18 standing looking into the car that was parked in that
19 space. So I attempted to walk kind of around him. I
20 thought he was trying to break into a car and I
21 didn't want any part of that.

22 Q So then you go to that elevator?

23 A I do not. I walk kind of around here. The
24 man takes a step back. And I honestly remember
25 thinking to myself, okay good, he is leaving, he is

1 gone, I just got to lock my door when I get in.

2 I feel someone approaching me. After that I
3 turned around. And when I turned around I'm right in
4 here and that's when the pistol is staring me in the
5 face.

6 Q Thank you. Take a seat.

7 What happens once you get to your apartment?

8 A They asked me while we are outside if there is
9 anybody in the apartment. I say there is not, just
10 my dog, let me get her and you can have whatever you
11 want. They told me that if there was anybody
12 in there that they were going to shoot them.

13 Q What did they do to you?

14 A Once inside the apartment I got my dog, I
15 picked her up, I put her in the bathroom. I actually
16 thought about staying in the bathroom, but one of
17 them came in and yanked me out.

18 They put me down on my knees beside the guest
19 bedroom. And one of them stood behind me and pointed
20 the gun in the back of my head and said, now would be
21 the time to start praying. And I thought it was
22 done.

23 Q What do you mean by you thought it was done?

24 A I thought I was going to die. And I remember
25 thinking that I'm not going to beg, I'm not going to

1 do anything. If the last thing I do on this earth is
2 going to be to die like a man, that's all I can
3 control.

4 Q What happens next?

5 A They begin to duct-tape my hands behind my
6 back. They duct-tape my ankles together. And they
7 put a sock over my eyes and duct-tape that around my
8 head.

9 Q What happens next?

10 A They begin to go through the place and I can
11 hear things breaking. I can hear them moving the TVs
12 and gathering electronics and other valuables.

13 Q Does anyone leave the apartment that you are
14 aware of?

15 A Not at that time, no, sir.

16 Q So what is going on after they're breaking
17 stuff? Does anyone else come in?

18 A No one else has come in, no, sir, not yet.

19 Q Where is your wallet and your keys at this
20 point?

21 A When the revolver was in my face, I put my
22 keys and my cell phone on the guy's chest. And I
23 gave them my wallet I think while I was on my knees.
24 They have it, I don't have it.

25 Q At some point did someone leave your

1 apartment?

2 A Yes, sir. I had been laying there for a while
3 and I heard one of them whisper to the other one, did
4 you make the call. And then I hear another one say,
5 well at least let's make him comfortable.

6 At that time two of them approached me. They
7 asked for my PIN number to my debit card. They told
8 me if I did not give them the right number that they
9 would, excuse my language, cut my balls off. So I
10 gave them the PIN number. They picked me up to move
11 me into the guest bedroom.

12 Q Did they put you on the ground, on the bed,
13 what did they do?

14 A They threw me on the bed. They stood in the
15 doorway and swung and threw me on the bed.

16 Q At this point now that they're sort of talking
17 to you and you are hearing voices, are you starting
18 to recognize any of their voices?

19 A I believe I've recognized Reginald Rice's
20 voice at this point.

21 Q What is he asking you?

22 A He is not really asking me anything, they're
23 talking to each other. And when they're talking to
24 each other they're not doing a very good job of
25 disguising their voices.

1 Q Do you call out his name or say anything at
2 this point?

3 A No, sir.

4 Q Why not?

5 A I am thinking that if I let on that I know who
6 they are, that they have no reason to keep me alive,
7 that they're going to kill me.

8 Q Now that they have got you PIN number, what
9 happens?

10 A I heard a car start that sounded a lot like my
11 Mustang.

12 Q Describe that, describe your Mustang?

13 A It has flood masters on it.

14 Q Is that an exhaust system?

15 A Yes, sir, it is. So it makes a very distinct
16 noise when it's cranked. I have had the car for ten
17 years, so I know what my car sounds like when it's
18 being cranked.

19 Q So you hear a car that sounds like yours
20 leave?

21 A Yes, sir. My window happens to be at the exit
22 of the garage. So every car coming in and out has to
23 go by my window and I heard it go by that window.

24 Q Do you know whether you're alone in the
25 apartment now, or what's going on now?

1 A At this point I can still hear two people in
2 the apartment.

3 Q Males, females, do you know?

4 A They're males.

5 Q Male, okay.

6 A They keep gathering stuff. At one point they
7 stopped, and I could hear cans being opened. They
8 were laughing and having a drink.

9 Q At any point do you hear your car come back?

10 A I do. I don't really know how much later it
11 was, but I did hear by car come back.

12 Q Does anyone else enter the apartment that you
13 are aware of?

14 A I can't say for certain. I hear sets of feet
15 coming back and forth in the apartment and
16 downstairs. They were kind of loud. I could hear
17 multiple sets of feet.

18 Q Do you know if anyone tried to get money out
19 of your bank account?

20 A Not at that time, I didn't. But now yes, they
21 took money out of my debit account.

22 Q Approximately how much?

23 A I think it was \$217 I think.

24 Q Did you have more than that in your account at
25 that time?

1 A No, sir.

2 Q So that's it, they took everything you had?

3 A They took everything I had.

4 Q Was there anything taken from your apartment?

5 A Yes, sir.

6 Q What was taken?

7 A My TV that was in the living room that had a
8 surround sound system with it; that was gone. My
9 laptop was gone. The 18 inch TV in my bedroom was
10 gone. My Citadel ring was gone. My watch was gone.
11 Pretty much everything was gone except for the
12 furniture.

13 MR. SAVAGE: Your Honor, may I approach?

14 THE COURT: (Affirmative head shake.)

15 Q (By Mr. Savage) Mr. Harpe, I'm showing you
16 State's Exhibit 42. Do you recognize that?

17 A Yes, sir, I do.

18 MR. SOWELL: Your Honor.

19 THE COURT: Basis?

20 MR. SOWELL: Some of the defense witnesses
21 have come in. I've advised them to go outside.

22 THE COURT: I can tell they just walked in.
23 You may continue.

24 MR. SAVAGE: Thank you, Your Honor.

25 Q (By Mr. Savage) What is State's Exhibit 42?

1 A This is a picture showing the duct tape on my
2 legs and on my arms.

3 Q Where is that photo taken?

4 A This was taken at my condo.

5 Q Is that from that night?

6 A It is.

7 MR. SAVAGE: Your Honor, the state moves
8 Exhibit 42 into evidence.

9 THE COURT: Any objection?

10 MR. SOWELL: No, ma'am.

11 THE COURT: Marked and admitted without
12 objection.

13 (Whereupon, State's Exhibit No. 42 is admitted
14 into evidence.)

15 Q (By Mr. Savage) Mr. Harpe, I'm showing you
16 what is State's Exhibit 42. Can you tell the jury
17 what they're looking at there?

18 A This is a picture of me. This is the duct
19 tape that was around my legs. This is the duct tape
20 that was around my wrist, my arms.

21 Q At some point did the robbers leave your home?

22 A They kept coming back and forth, eventually
23 they left.

24 Q What happened when they left? Did you get
25 free?

1 A Several times I had heard silence in the
2 apartment and I thought they had gone. But one time
3 I actually kind of started to get myself loose and
4 they -- one of them came in and asked me if I wanted
5 my golf clubs and I said, no, you can have them.

6 He popped me on the head with the grip end a
7 couple times. And I don't know how long they were
8 there.

9 Q During those periods of silence, what were you
10 doing?

11 A I was trying to wrestle, kind of getting my
12 hands behind my back and trying to loosen the tape a
13 little bit so that I could at some point get my hands
14 free.

15 Q Tell me about when they finally did leave,
16 what did you do?

17 A I heard my car come back again. One of the
18 attackers came in and turned the light off in my
19 condo, in the room I was in. He shut the door. I
20 heard my front door close. I counted to 100 before I
21 started to try to get myself free..

22 Q Why did you count to 100?

23 A I wanted to make sure that they were gone. I
24 didn't want to escape and then them be standing there
25 when I got out and shoot me. So I didn't want them

1 to know that I had gotten free.

2 Q What did you do once you did get free?

3 A I rolled off the bed because my legs were
4 still bound together, and I was still blindfolded. I
5 rolled to where the door was. I pressed my body up
6 against the door and locked it with my hands. I
7 turned the light on.

8 Q Why did you lock the door?

9 A Just in case they were still there. At least
10 if they were in there then I'm safe in this room for
11 as long as it takes them to get in.

12 Q Okay. And do you end up freeing yourself?

13 A I do. After -- takes me a little bit to pull
14 the duct tape and the sock off my eyes. And then out
15 of sheer force, by this time I'm -- excuse my
16 language again -- but I'm pretty pissed. And I just
17 take my legs and pull them apart and the duct tape
18 broke.

19 Q Where is your dog at this point?

20 A She is locked in the bathroom. They had
21 brought her in with me. One of them had asked me to
22 put her on a leash, which I at the time though was
23 pretty funny since I had my hands duct-taped behind
24 me and I was blindfolded. So that took a while to
25 put her on the leash.

1 Q So you put her on the leash?

2 A I did.

3 Q With your hands tied behind your back?

4 A Yes, sir.

5 Q How did you do that?

6 A She came in and sat down.

7 Q When you say she, are we talking she as in
8 human or she as in dog?

9 A She as in a dog.

10 Q Okay.

11 A She sat down. And I had my hands -- just they
12 tossed it on the bed on me. So I had the leash and I
13 was really trying to just feel around trying to get
14 the little clip on the collar.

15 Q Okay, did you do that?

16 A Yes, sir, I did.

17 Q Do you know what happened to your dog after
18 that?

19 A I had no idea. I honestly when they took her
20 out thought it was the last time I was ever going to
21 see her again.

22 Q Was your dog ever harmed that you're aware of?

23 A Not that I'm aware of.

24 Q Tell me about what your apartment looked like
25 once you were able to free yourself?

1 A It looked like a war zone. There was stuff
2 everywhere. There was broken glass in the living
3 room. My bedroom was destroyed, it was unbelievable.

4 Q You mentioned some of the stuff that was
5 taken, did they take any of your personal valuable
6 items?

7 A They took a couple of watches, they took my
8 citadel ring. That was a big deal that they took my
9 ring.

10 Q Why is that a big deal?

11 A You don't just get a Citadel ring, you have to
12 earn it. They don't just give them out. And
13 everybody who has that ring is proud to wear it.

14 Q Did you call the police?

15 A They had my cell phone, so I ran right next
16 door and knocked on my neighbor's door but she was
17 not awake. So I ran down the stairs that I had first
18 come out of and I ran next door to a physical
19 rehabilitation center that's next door and I knocked
20 on the door.

21 Q Did you go inside?

22 A Not at first. Two nurses came, they were
23 pretty apprehensive of me.

24 Q About what time day is this now?

25 A Sometime early in the morning, after 1:15.

1 That's the last time I knew what time it was.

2 Q Roughly how long did the robbery last?

3 A Two and a half hours.

4 Q So the nurses, did they come out?

5 A I tell them that I have just been robbed and
6 that they need to call the police. They call the
7 police and they opened the door with the dispatcher
8 asked to talk to me.

9 Q Do you talk to the dispatcher?

10 A I do.

11 Q What do you tell the dispatcher?

12 A I tell the dispatcher that I have just been
13 robbed by three men. She asked me to describe them. I
14 described them as best I could.

15 Q Where do you go next?

16 A They tell me to stay there. They actually
17 asked me if this had recently happened and I said
18 yes, it had. I waited until the police got there.

19 Q And what happened once the police got there?

20 A After the police got there we took a right out
21 of the rehabilitation center and it struck me as odd
22 because my complex was back to the left.

23 I told the police officer that we were going
24 the wrong way. And she said, well, we may have two
25 suspects in custody, can you identify them if we

1 showed them to you. I said I can identify at least
2 two of them, I don't know who the third guy is.

3 Q At this point as you are going up to make --
4 to look at someone, who do you think is involved in
5 the robbery now?

6 A Reginald Rice and Miguel Starks.

7 Q How certain are you?

8 A I'm 95 percent certain Miguel is involved, and
9 I'm 100 percent certain that Reginald Rice is
10 involved.

11 Q Do you go to a location to look at someone?

12 A We do.

13 Q Tell me about that, what do you see?

14 A They pull the first person out. I didn't
15 recognize his face, however in the brief glimpse I
16 got of him I remembered grey sweat pants and black
17 shoes.

18 when they pulled him out of the police car he
19 was wearing grey sweat pants and black shoes. So I
20 told the officer, I don't know this guy's face, I
21 don't know who he is, but I recognize the grey pants
22 so he may be the third guy.

23 Q Do you know who that person is now?

24 A Yes, sir.

25 Q Who was that?

1 A Stephen Francois.

2 Q Were you shown anyone else?

3 A Reginald Rice was next.

4 Q Where were you at this time? Were you outside
5 the police car, inside the police car?

6 A I was in the back of a police car.

7 Q So Reginald Rice, does he come out of the
8 police car? Where does he come?

9 A They pull Reggie out of the police car. And
10 the second they pull him out, I knew it was him.

11 Q You told the police that?

12 A I did. I said, that's Reginald Rice, that's
13 Reggie.

14 MR. SAVAGE: Court's indulgence, Your Honor.

15 Q (By Mr. Savage) Inside the apartment when the
16 robberies are occurring, how many people do you think
17 are in there towards the end?

18 A Towards the end I heard four sets of footsteps
19 which surprised me because I thought Miguel had gone.
20 And by the time we got in the elevator and they got
21 me in the house, I realized that whoever made the
22 phone call was leading me into an ambush.

23 So I figured if there were four sets of
24 footprints that would be three attackers and the
25 person who called.

1 MR. SAVAGE: I have nothing further, Your
2 Honor.

3 THE COURT: Any questions for the witness?

4 MR. SOWELL: Yes, ma'am.

5 THE COURT: You may proceed.

6 MR. SOWELL: Thank you.

7 CROSS-EXAMINATION

8 BY MR. SOWELL:

9 Q Josh?

10 A Yes, sir.

11 Q The picture we've seen.

12 A Which one?

13 Q With you with the duct tape?

14 A Yes, sir.

15 Q This picture.

16 A Yes, sir.

17 Q When was that taken?

18 A That was taken the morning that happened -- I
19 was actually writing my statement. So that was taken
20 right after the incident, right after the police
21 crime scene guy got there.

22 Q So he was the one that took the picture?

23 A Yes, sir.

24 Q How long had you known Reggie Rice?

25 A Like I said, I met Reginald when he

1 matriculated to the Citadel in August of 2006. But I
2 wouldn't say that I knew him well.

3 Q You met him through football?

4 A First I met him through the training cadre.

5 Q I'm sorry?

6 A The training cadre. I was on his cadre. I
7 was in charge of training him. I knew Rice, comma, R
8 and his Citadel identification number. So I knew of
9 him through cadre first.

10 Q I'm not sure what cadre first is?

11 A Cadre is the period of time in which the
12 freshman cadets are taught how to be not only knobs
13 but cadets.

14 Q Now doesn't the football team come a couple
15 weeks, three weeks before the rest of the cadets?

16 A Yes, sir, that's called athletic cadre.

17 Q So you met him through athletic cadre?

18 A Yes, sir.

19 Q How many times do you think you interacted
20 with him?

21 A At the Citadel or out of the Citadel?

22 Q Anywhere.

23 A I would say at the Citadel a couple times a
24 week. I mean, I'd see him every day. But just
25 because I saw him, he was a defensive player, I

1 really didn't have a lot to do with the defensive.
2 so I saw him but I didn't really talk to him every
3 day.

4 Q He played defensive end?

5 A Linebacker.

6 Q Linebackers -- I never played -- but the
7 linebackers are always the big guy. was he a big
8 guy?

9 A He was pretty stout, yes, sir.

10 Q Did he have a reputation for violence?

11 A He had a reputation of a pretty good temper.
12 He did have a temper, yes, sir.

13 Q Did he retain that temper for a while after he
14 got back?

15 A I guess. Like I said, I didn't really have a
16 lot of interaction. When he would get upset it would
17 be the defensive coaches that were dealing with him
18 while I was off with the offense.

19 Q And did -- if he got mad at someone,
20 threatened someone, did they have reason to be afraid
21 of him?

22 MR. SAVAGE: Objection, speculation.

23 THE COURT: Overruled.

24 A I can't honestly say. I could say yes or no.

25 Q (By Mr. Sowell) Did -- when he was in your

1 condo, had the gun to your head, do you think you had
2 reason to be afraid from him?

3 A I didn't know it was him at the time. But,
4 yes, whoever was pointing the gun at my head, I had
5 reason to be afraid.

6 Q Did you know how big he was?

7 A Not really, he was shorter than me. Like I
8 said, I got a very quick glimpse of kind of all three
9 of them. But he was built, he was built.

10 Q How about Miguel. How do you pronounce his
11 name?

12 A Miguel.

13 Q How often did you see him?

14 A I would say I saw him every day.

15 Q How often did you hear Reggie and Miguel's
16 voice?

17 A Reggie had been gone for over a year so I
18 hadn't heard his voice in a very long time. But I
19 heard Miguel's voice quite often.

20 Q Is there any way possible that anybody planned
21 to break in and rob you and talk in your presence,
22 and you not recognize Miguel and Reggie's voice?

23 A Like I said, they were trying to disguise
24 their voices. But when they had me shut in the room
25 I could hear their voices and I remember thinking to

1 myself, there is no way they could be this stupid.

2 Q My thoughts exactly.

3 MR. SAVAGE: Objection, Your Honor.

4 THE COURT: Overruled.

5 Q (By Mr. Sowell) Tell me, did they threaten to
6 harm you if you were to report this?

7 A No, sir.

8 Q Why did they threaten to harm you?

9 A Why did they?

10 Q Yes.

11 A They wanted what I had.

12 Q How many different times did they threaten to
13 harm or kill you, estimate?

14 A Three or four.

15 Q And did you think you had reason to be afraid?

16 A Yes, sir.

17 Q You waited until you counted to 100 to make a
18 getaway?

19 A Yes, sir.

20 Q Did you do that because you were likewise
21 afraid?

22 A Yes, sir.

23 Q Would a reasonable person who is threatened by
24 those two gentlemen with guns have reason to be
25 afraid of what they might do?

1 MR. SAVAGE: Objection, speculation.

2 THE COURT: Sustained, speculation.

3 Q (By Mr. Sowell) They threatened to kill you
4 if there was a camera, a security camera?

5 A Yes, sir. I believe it was more if I didn't
6 tell them if there were security cameras. But, yes,
7 sir.

8 Q They told you that if there is anyone in the
9 condo that you didn't tell them about they were going
10 to shoot the other person?

11 A They did. While we were standing outside for
12 a quick second they said, is there anyone in here, if
13 there is anyone in here we are going to shoot them so
14 tell us now.

15 Q Did you believe them?

16 A Absolutely.

17 Q Did they tell you, now is the time to start
18 praying?

19 A Yes, sir.

20 Q What did they mean by that? What did you
21 understand them to mean by that?

22 A I understood that to mean that they were about
23 to shoot me in the back of my head.

24 Q You said you didn't let them know you
25 recognized their voices because they would have no

1 reason not to kill you?

2 A That was my logic at the time, yes, sir.

3 Q Golf clubs?

4 A Yes, sir.

5 Q Did the police give those back to you?

6 A Yes, sir.

7 Q And they picked up a golf club and hit you
8 with it?

9 A They were not in the room that I was in. They
10 walked in and one of them had it in his hand. And he
11 said, I believe this his words were, hey, white boy,
12 you want these golf clubs? And popped me on the head
13 a couple of times.

14 Q Pretty violently or just playing with you?

15 A Pretty violently. I was in shock so I didn't
16 feel it, but.

17 Q Did you have any question, within 15 minutes
18 of them getting there, you interacting with them,
19 that that was Reggie?

20 A I can't tell you a frame of time. But after
21 going in the bedroom, I was on that floor, on that
22 hardwood floor facedown it seemed like forever. So
23 at least 30 minutes I didn't know who anybody was. I
24 had a suspicion, but I didn't know.

25 Q How long was it until you recognized Reggie?

1 A I cannot accurately tell you because I was
2 blindfolded and duct-taped, so I don't really have a
3 concept of time.

4 Q Did it take you a long time to recognize his
5 voice?

6 A Wasn't doing a whole lot else so I tried to
7 concentrate on anything that I could hear that was
8 going on.

9 Q You have no question it was Reggie's voice?

10 A Now? No question.

11 Q At the time did you have any question?

12 A Not once I had freed myself and was going over
13 what just happened as I was running to the nursing
14 home, or the rehabilitation facility.

15 Q Until you felt safe you really didn't do much
16 contemplation as to the voice?

17 A Correct.

18 Q How about Miguel? Did you have any problem
19 recognizing him after you thought about it?

20 A Not after I thought about it. When he stuck
21 his head in the door and said, hey, Baba, are you all
22 right? That sent off something that said, hey, this
23 is probably Miguel. This is Miguel.

24 Q Whoever it was knew you?

25 A Yes, sir.

1 Q whoever it was didn't want to kill your dog?

2 A I'm sorry, I didn't completely hear you.

3 Q whoever it was didn't want to kill your dog?

4 A At the time I didn't know that, but sure.

5 Q You heard the female who called?

6 A Yes, sir.

7 Q Did you ever hear any female voice inside the
8 condo?

9 A No, sir, I did not.

10 Q But you said you heard four sets of footprints
11 at sometime?

12 A Yes.

13 Q That was just before they left?

14 A Shortly before they left.

15 Q You didn't hear --

16 MR. SOWELL: Nothing further, Your Honor.

17 THE COURT: Any redirect?

18 MR. SAVAGE: No, Your Honor.

19 THE COURT: Any objection to the witness being
20 excused from the state?

21 MR. SAVAGE: No, Your Honor.

22 THE COURT: From the defense?

23 MR. SOWELL: No, ma'am.

24 THE COURT: Sir, you are excused.

25 THE WITNESS: Thank you, Your Honor.

1 further at this time?

2 THE DEFENDANT: No, ma'am.

3 THE COURT: Ma'am, do you wish to testify?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: You may take your seat.

6 Are you ready to proceed?

7 MR. SOWELL: Yes, ma'am.

8 MR. KIDD: Your Honor, may we take a quick
9 break?

10 THE COURT: Yes, absolutely.

11 MR. KIDD: Thank you.

12 (Whereupon, a recess was taken.)

13 THE COURT: Is the state ready to proceed?

14 MR. KIDD: We are.

15 THE COURT: Is the defense ready to proceed?

16 MR. SOWELL: Yes, Your Honor.

17 THE COURT: Please bring in the jury.

18 MR. SAVAGE: Your Honor, I think we have a
19 matter of law we need to discuss.

20 THE COURT: Close that door, please.

21 Yes, sir.

22 MR. SAVAGE: Defense counsel has handed me a
23 document that he has given to his doctor and what
24 he's going to testify to. I'm going to object to
25 anything he's going to testify based on what is in

1 this document. It's inaccurate.

2 THE COURT: I have no idea what is in the
3 document and I think I already gave you very clear
4 instructions as to what the parameters of his
5 testimony is.

6 MR. SAVAGE: I think he's gone outside those
7 parameters, Your Honor.

8 THE COURT: Well I don't know, I haven't see
9 it.

10 Mr. Sowell, what's the doctor going to testify
11 to?

12 MR. SAVAGE: Would you like to see the
13 document, Your Honor?

14 THE COURT: Sure.

15 MR. SAVAGE: May I approach?

16 THE COURT: Uh-hum. Is this what he's going
17 to testify to, Mr. Sowell, or did you just provide
18 this to the state as the information that you
19 provided to the doctor?

20 MR. SOWELL: She will provide that testimony.

21 THE COURT: She is going to testify?

22 MR. SOWELL: She will testify to all those
23 facts. He is answering a hypothetical.

24 THE COURT: He can't answer hypothetical about
25 what she could have done, would have done or is

1 capable of doing. He can only testify in general as
2 to human behavior, and the effects of fear on the
3 human being generally situated.

4 He cannot say what she -- because the laws
5 says that he cannot -- no expert can testify as to
6 the propensity for someone to do something, past or
7 future, except in SVP cases we have testimony about
8 propensity in the future because that's one of the
9 elements of that civil commitment which is, is a
10 person likely to do something in the future. That's
11 the only time that type testimony is appropriate.

12 otherwise, it's prohibited by the rules
13 civilly and in the civil rules of procedure -- not
14 civil rules of procedure, evidence, evidence rules,
15 and there is case law that indicates -- and usually
16 this comes up in, at least the cases that I have
17 read, it's come up in the context of a criminal
18 sexual conduct or like case where someone would want
19 to come in and testify that the person was not
20 capable of doing this on that particular date. And
21 that's not permissible. That's a jury question.

22 He can testify in general as to what he does
23 for a living; his expertise; that he evaluates
24 people; and that from his experience the effects
25 generally of fear on a person.

1 I don't know if I'm using the right term fear,
2 coercion, duress, whatever terms that you would use,
3 I guess I'm using them interchangeably, but he cannot
4 say he examined her and in his professional opinion
5 she didn't do it on this date, or that she doesn't
6 have the capacity to do it in the future because
7 that's off limits.

8 Now she can testify that she didn't do it and
9 that she was fearful and all of that. But that would
10 be the extend of the parameters of his testimony.

11 MR. SAVAGE: And his testimony can't be based
12 on anything that was provided before?

13 THE COURT: Mr. Sowell didn't say he was going
14 to, he said his client was going to testify to that.
15 He provided that to you as a courtesy so that you
16 would know what she is going to testify to.

17 MR. SAVAGE: Yes, Your Honor.

18 THE COURT: Are we ready?

19 MR. SOWELL: Yes, Your Honor. One more
20 question. I had hoped to present this hypothetical
21 to him.

22 THE COURT: You can't do a hypothetical if
23 it's going to have him say what she could have done
24 or what she would do. That's a jury question.

25 MR. SOWELL: Yes, ma'am.

1 THE COURT: You can always argue to the jury
2 that, you know, of the effects of fear, and that you
3 presented an expert as to the effect of fear, duress
4 and coercion on a person. It's up to the jury to
5 draw that conclusion.

6 The jury is the ultimate fact-finders whether
7 something took place or didn't take place. But you
8 can't have an expert supplant that and say that I
9 think that they didn't do it or that they did do it
10 or that they have the capacity to do it. That's off
11 limits.

12 MR. SOWELL: I will do my best to stay within
13 those parameters.

14 THE COURT: Okay.

15 (Whereupon, the jurors enter the courtroom.)

16 THE COURT: You may be seated. Ladies and
17 gentlemen, I hope you all had a good break. We will
18 now resume with testimony.

19 The defense may proceed.

20 MR. SOWELL: Your Honor, we call Dr. Randolph
21 Waid.

22 THE COURT: Dr. Waid, if would you come to the
23 stand to be sworn.

24 DR. LEWIS RANDOLPH WAID,
25 after having first been duly sworn to state the

1 truth, the whole truth and nothing but the truth,
2 testified on his oath as follows:

3 THE COURT: You may proceed, Mr. Sowell.

4 And, Doctor, if you could speak directly into
5 the microphone for us that would be helpful.

6 THE WITNESS: Sure.

7 DIRECT EXAMINATION

8 BY MR. SOWELL:

9 Q Dr. Waid, where do you practice?

10 A My current practice is in Mount Pleasant. And
11 I also remain on the faculty at the Medical
12 University of South Carolina in the Department of
13 Psychiatry and Neurology.

14 Q I believe Mount Pleasant is the wonderful town
15 over across the bridge, South Carolina?

16 A It is indeed.

17 Q And where did you go to college?

18 A I got my bachelor's degree in psychology from
19 Temple University in Philadelphia. I got a master's
20 degree in psychology from the University of Richmond
21 in Richmond, Virginia.

22 I attained the doctoral degree in clinical
23 psychology from the University of North Texas. That
24 followed an internship here here at the Medical
25 University of South Carolina in 1980 and '81. I

1 returned to Charleston and joined the faculty in 1983
2 at the Medical University of South Carolina.

3 Q So you're a member of the faculty at the
4 Medical University?

5 A Yes, I have been on the faculty since 1983.

6 Q Do you know my brother, Dr. Sowell, from
7 Charlotte?

8 A I do know Dr. Sowell, of him. I know some
9 people in Charlotte, and he's certainly one of the
10 group of psychiatrists I know there.

11 Q What certificates or certifications do you
12 have in the field of psychiatric?

13 A Well I am in many divisions and certificates.
14 My specialties are in forensic psychology, which is
15 assessment of psycho-legal issues. In the criminal
16 world that would have to do with state of mind
17 issues, competency issues, insanity issues or
18 mitigating factors.

19 I do sexual predator evaluations. I also do a
20 great deal of probate court, civil commitment also as
21 well as civil court because I also have a specialty
22 in neuropsychology which has to do with the pathology
23 affecting the brain; head injury, dementia, and so
24 forth.

25 Q And how long have you been practicing in this

1 field?

2 A I have been in this field and doing that type
3 of work since 1983. At the Medical University I was
4 the director of the assessment center, so we were
5 greatly involved in evaluations of people for a
6 variety of reasons, including psycho-legal issues and
7 courtroom issues.

8 Q How much experience do you have involving an
9 individual in fear?

10 A A lot. It's certainly a state of mind issue
11 involves at times fear, fear or retaliation and so
12 forth.

13 So ultimately that's a question that does come
14 up sometimes as a mitigating factor for why actions
15 or certain criminal actions might have taken place.

16 MR. SOWELL: Your Honor, I would present Dr.
17 Waid as an expert.

18 THE COURT: Any objections or questions?

19 MR. SAVAGE: Just a couple, Your Honor.

20 VOIR DIRE EXAMINATION

21 BY MR. SAVAGE:

22 Q Dr. Waid, have you ever been admitted as an
23 expert?

24 A Yes, sir.

25 Q Have there ever been occasions where you have

1 been denied being admitted as an expert?

2 A Not over 30 years, in multiple states.

3 Q Never been denied?

4 A Never been denied.

5 Q In what courts have you been admitted in?

6 A I have been admitted in South Carolina,
7 Georgia, North Carolina. And courts, civil courts
8 and federal court and also military court.

9 Q Have you ever prosecuted -- have you ever
10 testified for the prosecution before?

11 A Yes, sir.

12 Q Where is that?

13 A I have done some work even here and some work
14 in Greenville.

15 Q For the prosecution here?

16 A Yes.

17 Q Who was that for?

18 A I'll get her name wrong, Deborah Lang-Trip in
19 the sexual predator. I have done some witnessing for
20 her.

21 MR. SAVAGE: May we have a brief moment, Your
22 Honor.

23 THE COURT: Uh-hum.

24 MR. SAVAGE: Nothing further, Your Honor.

25 THE COURT: Any objection?

1 MR. SAVAGE: No, Your Honor.

2 THE COURT: So admitted.

3 You may proceed, Mr. Sowell.

4 MR. SOWELL: Thank you, ma'am.

5 THE COURT: You're welcome.

6 Q (By Mr. Sowell) Dr. Waid, give me a rough
7 estimate of how many trials, court trials you have
8 testified in as an expert in the field of psychology,
9 psychotherapy?

10 A Well I actually testify more in criminal
11 courts because civil courts tend to be deposition and
12 they get resolved seemingly at the last moment.

13 I was in court last week. I will tell you
14 that I have 40 to 50 depositions in a year. And I
15 would say I'm in court about 10 to 15 times a year.

16 Q Is that civil and criminal?

17 A That is civil and criminal.

18 Q Have you assisted both defense and
19 prosecution?

20 A Yes, in terms of plaintiffs and defendants I
21 have been involved in both of them, that is correct.

22 Q And I believe you said you have a lot of
23 experience in the field of fear?

24 A I do have. Obviously my greatest experience
25 is involved with psychiatric disturbance and

1 psychological disturbance, and the ultimate role it
2 may play in terms of criminal action.

3 But, indeed, I have dealt with people under
4 fear or duress or entrapment in terms of their
5 involvement in a criminal behavior.

6 Q In your field, can you offer testimony
7 concerning the effect of fear on someone's propensity
8 or acceptance or willingness to commit a crime?

9 A That is correct. I have done that on occasion
10 in the work that I have done.

11 Q Can you tell me how fear affects someone so
12 that they would agree to commit a crime they would
13 otherwise never commit?

14 A Well basically the classic example of fear or
15 duress is the absolute threat of loss of life to
16 either you or another individual or to family
17 members. And this is the classic example --

18 Q You said this?

19 A -- of duress or fear. That you have a fear
20 for your own life, or a fear for someone other that
21 they're threatening that's close to you or family
22 members.

23 This happens in a variety of types of cases,
24 even sexual predator cases. So ultimately that is a
25 level of duress or fear that may impact on the

1 decision to engage in a behavior or not, even a
2 criminal behavior or not.

3 Q Could fear result in a otherwise completely
4 normal, reasonable, non-criminal person, could fear
5 force them to commit a crime, such as a burglary or
6 armed robbery?

7 A Yes, it can. And ultimately it's considered
8 something of duress or fear that would be so -- would
9 be such for any reasonable person. So there is no
10 need to kind of asses whether they have a psychiatric
11 problem, that most of us would consider this a
12 reasonable fear or reasonable threat in which it
13 would impact on a person to maybe make them -- render
14 them to make a decision to violate -- do a behavior
15 that violates the law.

16 Q Would a -- would having a gun placed against
17 your head and threatened that you either commit this
18 crime or I'm going to kill you --

19 MR. SAVAGE: Objection, Your Honor.

20 THE COURT: Rephrase the question. Keep it
21 within the instructions, Mr. Sowell.

22 MR. SOWELL: Yes, ma'am.

23 Q (By Mr. Sowell) If you could explain how a
24 threat of bodily injury or death would affect someone
25 to the degree that they would commit the crime of

1 burglary?

2 A Yes. Again from a psycho-legal point of view,
3 it's the more there is a reasonable belief that the
4 only way to avoid imminent threat, death or the
5 danger, then that certainly can mediate why you would
6 engage in conduct that is in violation of a criminal
7 law.

8 So obviously the more the manner in which the
9 threat presents itself will certainly heighten that
10 for all of us. Obviously somebody having a gun
11 available to them, or in their midst, or pointed
12 towards someone obviously raises the ante that it's a
13 reasonable threat.

14 MR. SAVAGE: Your Honor, I'm going to object.

15 THE COURT: Basis of the objection?

16 MR. SAVAGE: May we approach?

17 THE COURT: Uh-hum. Yes.

18 (Whereupon, the following discussion was held
19 at the bench.)

20 MR. SAVAGE: He has starting to talk about
21 pointing a gun. His testimony is about the note he
22 has been provided from the defense counsel.

23 THE COURT: He is talking in general. He
24 isn't talking about pointing some gun to the head.

25 MR. SAVAGE: That's exactly what he was asked.

1 THE COURT: Stay away from the facts.
2 Proceed.

3 (In open court.)

4 THE COURT: Proceed.

5 Q (By Mr. Sowell) Let me make sure I understand
6 you, Dr. Waid. If someone had a reasonable, normal
7 cause to be afraid for their life or immediate death
8 or bodily injury --

9 MR. SAVAGE: Objection, Your Honor.

10 THE COURT: I haven't heard the whole
11 question.

12 Q (By Mr. Sowell) Could that person be -- would
13 it be reasonable for that person to submit to a
14 demand to commit a crime?

15 A Yes.

16 MR. SAVAGE: Objection, Your Honor.

17 THE COURT: I'll give you a little latitude.
18 But you need to rephrase the question, Mr. Sowell,
19 and stop the leading. Keep it general.

20 Q (By Mr. Sowell) Maybe I didn't fully
21 understand or didn't hear what you said earlier.
22 Explain to me how a fear can cause someone to commit
23 a crime?

24 A Basically fear or being -- having a threat of
25 one's life is -- forces an individual to make choice

1 of evils. And choosing the lesser evil in their
2 mind, if they believe that the threat of harm or
3 death is real, choosing the lesser evils, which in a
4 case might be to participate in some action, whether
5 it be a robbery or something like that, is how fear
6 or duress acts on individuals.

7 There is absolutely a tendency for such an
8 individual with those two, being confronted with
9 those two evils, to then act criminally in order to
10 avoid a more greater evil, or greater threat in this
11 case, of whether or not that is a legitimate threat
12 of harm or death to them.

13 Q How long after a threat of harm would this
14 propensity or this result of committing a crime --
15 how long -- does it have to be a real short period of
16 time from the threat to the crime, or can it be a
17 longer period of time?

18 A A period of time in which an individual may
19 continue to engage in behavior or not comport with
20 the behavior has to do with the continuing period of
21 time in which they feel there is a continuing threat,
22 either to them or to family members.

23 Obviously there are prototype cases in sexual
24 abuse where the perpetrator has threatened to do harm
25 to the family and so forth, often leading that person

1 not to come forward for extended periods of time,
2 years, with regard to what really occurred.

3 So it really has to do with an individual case
4 where you evaluate that and try to assess the degree
5 of threat that continues to persist and has
6 reasonable -- and it's reasonable. So if a person
7 thinks, if I do come forward and they will harm me,
8 or they will harm my family, then it can be
9 perpetuated until that fear, or that reasoning
10 dissipates and goes away.

11 MR. SOWELL: Nothing further, Your Honor.

12 THE COURT: Any questions for the witness?

13 MR. SAVAGE: Yes, Your Honor.

14 THE COURT: You may proceed.

15 MR. SAVAGE: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. SAVAGE:

18 Q Dr. Waid, when were you first hired in this
19 case?

20 A I was first contacted this past weekend.

21 Q And who hired you?

22 A The counsel hired me.

23 Q Have you met with the defendant in this case?

24 A I have not.

25 Q You have not?

1 A I have not.

2 Q Have you met with any police officers?

3 A I have not.

4 Q Have you meet with any victims?

5 A I have not.

6 Q Have you met with any codefendants?

7 A I have not.

8 MR. SAVAGE: Your Honor --

9 THE COURT: Be careful. You are about to open
10 a door you don't want to open.

11 A I have not.

12 Q (By Mr. Savage) Are you forming an opinion at
13 all in this case?

14 A No, I'm talking hypothetically about duress
15 and the impact it can have on a person. I have not
16 evaluated anybody, and that would be necessary for me
17 to offer a specific opinion about this case.

18 MR. SAVAGE: Court's indulgence, Your Honor.

19 THE COURT: Uh-hum.

20 MR. SAVAGE: Nothing further, Your Honor.

21 THE COURT: Any redirect of the witness?

22 MR. SOWELL: One Moment, Your Honor.

23 Nothing further, Your Honor.

24 THE COURT: Any objection to the witness being
25 excused from the state?

1 MR. SAVAGE: No, Your Honor.

2 THE COURT: From the defense?

3 MR. SOWELL: No, ma'am.

4 THE COURT: Sir, you are excused.

5 THE WITNESS: Thank you.

6 THE COURT: You may proceed.

7 MR. SOWELL: Defense called Ms. Barksdale.

8 MS. ALVENES BARKSDALE,

9 after having first been duly sworn to state the
10 truth, the whole truth and nothing but the truth,
11 testified on her oath as follows.

12 THE WITNESS: First of all, I am a Christian.

13 THE COURT: Ma'am, I need you to tell us your
14 name.

15 THE WITNESS: My name is Alvenes Rice
16 Barksdale.

17 THE COURT: Spell your last name for us.

18 THE WITNESS: B-A-R-K-S-D, as in dog, A-L-E.

19 THE COURT: Can you spell your first name for
20 us as well.

21 THE WITNESS: My first name is spelled A-L-V,
22 as in Victor, E-N-E-S.

23 THE COURT: Thank you.

24 You may proceed.

25 DIRECT EXAMINATION

1 BY MR. SOWELL:

2 Q Ms. Barksdale, are you over 21 years old?

3 A Yes, sir.

4 Q Do you mind telling us how old you are?

5 A I'm 83 years old.

6 Q 83?

7 A 84.

8 Q Congratulations.

9 A Thank you.

10 Q Do you work?

11 A I am a retired educator.

12 Q Retired?

13 A More specifically -- I am a retired educator,
14 more specifically a guidance counselor.

15 Q And when did you retire?

16 A I retired June 11th, 1988. So it has been a
17 while.

18 Q Your memory is holding up real well. Where do
19 you live?

20 A I live in Clinton, South Carolina.

21 Q Where in Clinton?

22 A [REDACTED]

23 Q And do you know Sasha?

24 A Yes, I do.

25 Q And do you live near her?

1 A In the neighborhood.

2 And Clinton is small, so almost everybody
3 knows almost everybody else.

4 Q And how long have you known her?

5 A All of her life. As a matter of fact, her
6 mother and the mother's siblings were my students at
7 one time or another at Bell Street High School.

8 Q In Laurens?

9 A In Clinton, yes.

10 Q That's Laurens County?

11 A Yes, it is.

12 Q And how did you meet Sasha?

13 A I met Sasha through the church. I was at the
14 time a member of Hebron Baptist Church in Clinton.
15 Since that time, of course, I have changed
16 memberships, I joined another church out of the area.

17 She was a little working girl in the church
18 having sung on the church junior choir, having been a
19 usher, and every other capacity that she could serve
20 she did.

21 My sorority also chose her, along with some
22 other young ladies from the Clinton -- well from the
23 Laurens County area as specifically choice young
24 ladies of reputation from Clinton. These young
25 ladies participated in something similar to a

1 debutant cotillion where they were presented to
2 society. That was at her senior year.

3 Q Were you ever a guidance counsel in her
4 school?

5 A I was not a guidance counsel in her school, I
6 was retired long before she got to my school.

7 Q Had you not retired, you would have been her
8 guidance counselor?

9 A Yes, I would have.

10 Q Do you have any idea you would need to give
11 her counseling?

12 A It depends on what type counseling.

13 MR. SAVAGE: Objection.

14 THE COURT: Basis?

15 MR. SAVAGE: Leading.

16 A I'm sorry?

17 THE COURT: I'm going to give him a little
18 latitude, overruled.

19 Ma'am, you may answer the question.

20 Q (By Mr. Sowell) Ms. Barksdale, if this
21 gentlemen gets up and says something, he's trying to
22 tell the judge I have done something wrong, and that
23 happens sometimes. So if he stands up and says
24 something, you wait until the Judge responds and
25 tells you to go forward.

1 A I thought I had done something wrong.

2 THE COURT: No, ma'am, not at all. You may
3 answer the question.

4 THE WITNESS: Okay. All right.

5 Q (By Mr. Sowell) Now I think my last question
6 was, do you anticipate ever having to give her any
7 type of guidance, Sasha guidance?

8 A Well I did indicate that she was not as a
9 school counselor because I was retired long before
10 she got to any of the schools where I was employed.
11 However, with my having known her and having worked
12 with her through the sorority as we were preparing
13 our young ladies for their major presentation, we did
14 talk on occasions.

15 Q What was your opinion of her?

16 A Beautiful young lady. Reputable, highly
17 reputable. Very good manners. Highly thought of.
18 And I could not think of any negatives that I could
19 use for her at this time.

20 Q Are you familiar with her reputation in the
21 community?

22 A Yes, I am. Very much similar to mine.

23 Q Tell me, does she have a good reputation for
24 honesty?

25 A Yes.

1 Q Among the community?

2 A Yes.

3 Q Before these charges, did you ever hear
4 anything at all that she had done wrong?

5 A No, sir, I did not.

6 Q Can you imagine her doing anything wrong at
7 any time?

8 A Indeed not. No.

9 Q She about the nicest little girl in town?

10 A One of the nicest, that's why she was chosen

11 --

12 MR. SAVAGE: Objection, Your Honor.

13 THE COURT: Basis.

14 MR. SAVAGE: Leading.

15 THE COURT: Overruled.

16 Q (By Mr. Sowell) You can respond to that
17 question now.

18 A She was, that's why she was chosen by my
19 sorority because we all thought highly of her
20 reputation.

21 MR. SOWELL: Thank you, ma'am.

22 Your Honor, I have no further questions.

23 THE COURT: Any cross-examination of the
24 witness?

25 MR. SAVAGE: Yes, Your Honor.

1 THE COURT: You may proceed.

2 CROSS-EXAMINATION

3 BY MR. SAVAGE:

4 Q Ms. Barksdale, do you know Stephen Francois?

5 A Sir?

6 Q Do you know Stephen Francois?

7 A No.

8 Q Do you know Miguel Starks?

9 A No.

10 Q Do you know Reginald Rice?

11 A No.

12 Q And do you know Breanna Bruster?

13 A No.

14 Q Where did the defendant go to college?

15 A College of Charleston.

16 Q Did you ever come down and visit her while she
17 was at the College of Charleston?

18 A No, I did not come down to visit her. I
19 chatted with her from time to time when she made her
20 visited home, but I never visited her at the College
21 of Charleston.

22 Q Did you know she was dating Stephen Francois
23 at the time?

24 A I didn't know she was dating anyone, no.

25 MR. SAVAGE: Nothing further, Your Honor.

1 William DeLaine, if so please raise your right hand.

2 Let the record reflect that there was a
3 negative response.

4 Sir, if you would come forward to be sworn.

5 MR. WILLIAM EUGENE DELAINE, III,
6 after having first been duly sworn to state the
7 truth, the whole truth and nothing but the truth,
8 testified on his oath as follows:

9 THE COURT: Sir, if you would speak directly
10 into the microphone for me, please. Thank you.

11 You may proceed, Mr. Sowell.

12 MR. SOWELL: Your Honor, for correction show
13 that this gentleman was listed as Number N in my
14 responses.

15 THE COURT: We will deal with that later, I
16 have already ruled on it. Proceed.

17 DIRECT EXAMINATION

18 BY MR. SOWELL:

19 Q Mr. DeLaine, where do you live?

20 A [REDACTED], Clinton, South Carolina.

21 Q That's Laurens County?

22 A Yes, sir.

23 Q And do you know Sasha Gaskins?

24 A Yes, sir.

25 Q Do you live near her?

1 A Live in the same town. She is probably two
2 miles from my home.

3 Q That's all the way across town, isn't it?

4 A Yeah.

5 Q How do you know her?

6 A She is a good friend of my stepdaughter.

7 Q And as such, do you have interaction with her
8 also?

9 A Yes. She spent considerable amount time at
10 our home spending the night, we work together at
11 church, she sung in the choir that I played for also.

12 Q How long have you known her?

13 A Eight years.

14 Q And you said she is also a friend of your
15 daughter's?

16 A Yes, sir.

17 Q And is your daughter outside waiting to come
18 in?

19 A Yes, sir.

20 Q And what is your opinion about her honesty?

21 A She is extremely honest.

22 Q Are you familiar with her reputation in the
23 community?

24 A Yes, sir.

25 Q Tell me what the general community thinks

1 about Sasha?

2 A She is the highest of standards. Sasha is a
3 very intelligent young lady, very smart, very
4 courteous, very kind. She attends church regularly.
5 The community thinks of lot of Sasha.

6 Q Does she do things around the community to
7 help the elderly?

8 A Yes, sir.

9 Q Does she help the dogs?

10 A Yes, she helped my dog. She's good with my
11 dogs. You said dogs?

12 Q Yes, sir..

13 A Yes, she is good with my dogs, yes.

14 Q Are you familiar with her reputation in the
15 community for her honesty?

16 A Sir, I want to say around me she has been
17 extremely honest. Around the church she has been
18 extremely honest, and as far as other people.

19 Q Have you ever heard anything bad said about
20 her?

21 A No. No.

22 Q Have you ever heard anything good said about
23 her?

24 A Yes. Good things -- on.

25 Q I'm sorry?

1 A I was going to say the good things that I
2 heard about Sasha is that everybody put Sasha to be
3 more to succeed, primarily because she is very smart.
4 And she is also willing to help the church a lot,
5 help the elderly people at the church like you said
6 earlier.

7 She also brought a lot of social activity at
8 our church.

9 Q And is she a member of the choir?

10 A Yes.

11 Q Can you ever imagine her getting involved in a
12 crime without force upon her?

13 A No.

14 MR. SOWELL: Nothing further.

15 THE COURT: Be careful, Mr. Sowell, stick
16 within 608(B).

17 Anything from the defense? Any questions from
18 the defense?

19 I'm so sorry. Any questions from the state?

20 MR. SAVAGE: I understand.

21 THE COURT: You may proceed when you are
22 ready.

23 CROSS-EXAMINATION

24 BY MR. SAVAGE:

25 Q Mr. DeLaine, do you know Stephen Francois?

1 A No.

2 Q Do you know Miguel Starks?

3 A No.

4 Q Breanna Bruster?

5 A No.

6 Q Do you know that she lives up near your area?

7 A I'd heard but no, I don't know her.

8 Q So you have heard from her?

9 A Heard from her? No, I haven't heard from her.

10 Q You heard about her?

11 A I heard about this when I read it in the
12 papers.

13 Q No my question was were you aware that she
14 lived up in your area?

15 A I heard that she was from Greer.

16 Q And that's near where you live?

17 A No, sir, that's about 40-some miles away.

18 Q How long away?

19 A 30 to 40 miles away.

20 Q Did you know that Ms. Gaskins was attending
21 the College of Charleston at the time of these
22 crimes?

23 A Yes, sir.

24 Q Who was she dating at the time?

25 A I don't know.

1 Q would it surprise you to find out she was
2 planning on dropping out of school?

3 A would it surprise me?

4 Q Yes.

5 A Yes.

6 Q It would.

7 MR. SAVAGE: I have nothing further, Your
8 Honor.

9 THE COURT: Any redirect of the witness?

10 MR. SOWELL: No, ma'am.

11 THE COURT: Any objection to the witness being
12 excused from the state?

13 MR. SAVAGE: No, Your Honor.

14 THE COURT: From the defense?

15 MR. SOWELL: No, ma'am.

16 THE COURT: Sir, you are excused.

17 You may proceed.

18 MR. SOWELL: We call Sa'datrius Alston.

19 MS. SA'DATRIUS ALSON,
20 after having first been duly sworn to state the
21 truth, the whole truth and nothing but the truth,
22 testified on her oath as follows:

23 THE COURT: You may proceed.

24 DIRECT EXAMINATION

25 BY MR. SOWELL:

1 Q Sa'datrius, where do you live?

2 A Currently I live in Ladson, South Carolina but
3 I was born and raised in Clinton, South Carolina.

4 THE COURT: I'm going to need you to speak up
5 a little bit more than that for me.

6 A I currently live in Ladson, South Carolina,
7 but I'm from Clinton, South Carolina.

8 Q What are you saying?

9 A Ladson.

10 Q Ladson?

11 A Yes, sir.

12 Q And how old are you?

13 A 19.

14 Q Was that your dad that came in, your
15 stepfather that came in a minute ago?

16 A Yes, sir.

17 Q And do you know Sasha Gaskins?

18 A Yes, sir.

19 Q How do you know her?

20 A I met her when we were probably about six or
21 seven through mutual friends. We have gone to school
22 together since about sixth grade.

23 Q And where did you all go to school?

24 A Martha Dendy Middle School, Bell Street Middle
25 School and Clinton High School.

1 Q Did you continue in your education after you
2 finished high school?

3 A Yes, sir.

4 Q Where are you in school?

5 A Charleston Southern University.

6 Q Are you currently there?

7 A Yes, sir.

8 Q What is your major?

9 A Right now it's communications.

10 Q And are you familiar with Sasha's reputation
11 in the community?

12 A Yes, sir.

13 Q Now are you familiar with her reputation in
14 the community for honesty?

15 A Yes, sir.

16 Q Can you expand on that, please?

17 A Sasha has always been known to be honest,
18 straightforward, you can even go as far as to say
19 blunt. But she has always been respected for her
20 honesty.

21 Q Did you go to church with her?

22 A Yes, sir.

23 Q And what church was that?

24 A Hebron Baptist Church.

25 Q Did you sing in the choir with her?

1 A Yes, sir.

2 Q Do you all do things around the community to
3 help the elderly people?

4 A Yes, sir.

5 Q What do you all do?

6 A There was a particular gentleman, we would go
7 in and help him clean his house and everything. We
8 would run errands for other --

9 MR. SAVAGE: Objection, Your Honor.

10 THE COURT: Basis?

11 MR. SAVAGE: Relevance.

12 THE COURT: I'm going to give him a little
13 latitude.

14 MR. SAVAGE: Specific incidents, Your Honor.

15 THE COURT: I'm well aware of how the rule is
16 articulated. I said I'm giving him some latitude.
17 Overruled, you may proceed.

18 Q (By Mr. Sowell) What is your opinion of her?

19 A Sasha is one of the best people I have known.
20 She has become my best friend over the years that I
21 have known her. There is probably no other person I
22 would trust with my life as much as I do her. That's
23 how caring she is.

24 Q Can you ever imagine her being involved in a
25 crime?

1 A No, sir.

2 MR. SOWELL: Nothing further, Your Honor.

3 THE COURT: Any questions for the witness?

4 MR. SAVAGE: Yes, Your Honor.

5 THE COURT: You may proceed.

6 MR. SAVAGE: Thank you, Your Honor.

7 THE COURT: You are welcome.

8 CROSS-EXAMINATION

9 BY MR. SAVAGE:

10 Q Ms. Alston, were you ever Facebook friends
11 with Ms. Gaskins?

12 A Yes, sir.

13 Q Would you ever describe her as being
14 untouchable?

15 A If you are referring to her middle name on
16 Facebook at one point --

17 Q Would you ever describe her as being
18 untouchable?

19 MR. SOWELL: Your Honor.

20 THE COURT: Rephrase the question within the
21 context of the facts.

22 A Untouchable as how? It's just a word.

23 THE COURT: Ma'am, I have instructed him to
24 rephrase the question. Rephrase the question.

25 Q (By Mr. Savage) Have you ever referred to her

1 as being untouchable?

2 A Have I personally, no, because I don't
3 understand.

4 Q Have you ever heard of anyone refer to her as
5 being untouchable?

6 A No, sir.

7 Q Never heard of anyone else refer to her as
8 being untouchable?

9 A If you are referring to a Facebook name,
10 that's the only time I have seen that. So.

11 Q So have you heard of anyone else refer to her
12 as being untouchable?

13 A I guess herself.

14 Q Herself. She refers to herself as being
15 untouchable?

16 A At that time, yes, sir, I guess.

17 MR. SAVAGE: Court's indulgence, Your Honor.

18 Nothing further, Your Honor.

19 THE COURT: Any redirect.

20 MR. SOWELL: No, ma'am.

21 THE COURT: Any objection to the witness being
22 excused from the state?

23 MR. SAVAGE: No, Your Honor.

24 THE COURT: From the defense?

25 MR. SOWELL: No, ma'am.

1 THE COURT: Ma'am, you are excused.

2 You may proceed.

3 Mr. Sowell, you may proceed.

4 MR. SOWELL: Call Ms. Gaskins to the stand,
5 please.

6 THE COURT: Ma'am, if you would come to the
7 witness stand to be sworn.

8 THE COURT: Could counsel approach for me.

9 (Whereupon, the following discussion was held
10 at the bench.)

11 THE COURT: Did you plan to call any of these
12 other witnesses?

13 MR. SOWELL: No.

14 THE COURT: Okay.

15 (In open court.)

16 MS. SASHA ALAJAWON GASKINS,
17 after having first been duly sworn to state the
18 truth, the whole truth and nothing but the truth,
19 testified on her oath as follows:

20 THE COURT: You may proceed, Mr. Sowell.

21 DIRECT EXAMINATION

22 BY MR. SOWELL:

23 Q Sasha, how old are you?

24 A I'm 19 years old.

25 Q When is your birthday?

1 A [REDACTED] [REDACTED] [REDACTED].

2 Q Where were you born?

3 A I was born in Laurens County.

4 Q Laurens County?

5 A Yes.

6 Q Have you lived in Laurens County all your
7 life?

8 A Yes. I came here for school. And I went to
9 school in Columbia. So I've lived in Columbia for a
10 little while.

11 Q Where did you go to school in Columbia?

12 A Columbia College this past fall.

13 Q This past fall, just three or four months ago?

14 A Yes.

15 Q Where did you go to high school?

16 A Clinton High School.

17 Q And what kind of grade did you make at Clinton
18 High School.

19 A I was in the Beta Club and different types of
20 organizations. I made A's and B's, I've never made a
21 C. So pretty great grades.

22 Q What school activities were you involve in?

23 A I played basketball for about five years. I
24 was in the Beta Club, Pep Club, weight training, I
25 ran track for four years. Teacher cadet, also taught

1 at other elementary schools, other schools, I was
2 part of that. That's all I can remember right now.

3 Q Were you involved in Junior ROTC?

4 A No, sir.

5 Q Did you go to Laurens High School?

6 A Clinton High School.

7 Q Clinton high school?

8 A Yes.

9 Q Are you member of any church, are you an
10 active member of any church?

11 A Of course.

12 Q Where?

13 A Hebron Baptist Church in Clinton, South
14 Carolina.

15 Q Did you grow up in that church?

16 A Yes.

17 Q Is that the first church you ever remember
18 attending?

19 A No, sir, I did attend Mount Zion AME church
20 with my grandmother when I was younger, three or
21 four. But I went to Hebron and I got baptized two
22 years ago.

23 Q And what church activities are you involved
24 in?

25 A I'm on the Hebron Ensemble choir, usher board,

1 and just like a lot of organizations, a lot of tips
2 and things that we do.

3 Q Church things?

4 A Yes, sir.

5 Q Have you ever been in trouble at any time in
6 your life except for this situation?

7 A No, sir.

8 Q And when you finished high school at Clinton
9 High, what did you do that summer after you
10 graduated? Let's back up a little bit. When did you
11 graduate from high school?

12 A I graduated in May 2009.

13 Q And were you in the college prep section of
14 the high school?

15 A I got accepted into Spectra, Spectra at
16 College of Charleston is kind of a minority program.
17 You have to get accepted to if you write a letter.

18 Q I'm talking about in high school, taking this
19 in chronological order. Did you ever get involved in
20 any activities like that in high school?

21 A I don't understand.

22 Q Did your high school have a general diploma
23 and a college prep diploma?

24 A Oh, yes. They had an English 101 and 102. I
25 took English 101, 102 and a teach cadet class which

1 gave me college credits.

2 Q So when you finished high school you had
3 college credits?

4 A I came in with six credits, yes, sir.

5 Q And the summer after you finished high school,
6 what did you do then?

7 A I got accepted into the Spectra Program. Like
8 I said --

9 Q What is that?

10 A It's a program for minorities to kind of get
11 you ready for school, and gives you the opportunity
12 to earn more credits. And just kind of stay ahead in
13 school. Learn the downtown area and College of
14 Charleston where your resources are and things of
15 that nature.

16 And I had to leave early because I wanted to
17 continue actually with AKA, so I had to leave so I
18 didn't get to make it for that but I did go to the
19 Spectra.

20 Q That was in the Fall of 2007?

21 A That was the spring -- that was in the summer
22 actually.

23 Q And what did you do that Fall?

24 A I went to school there.

25 Q Where?

1 A The College of Charleston.

2 Q And that was in the Fall of 2007?

3 A 2009.

4 Q okay. And was -- when you came to Charleston
5 College, was this your first time you ever lived away
6 from home?

7 A First time.

8 Q And did you meet a gentleman named Stephen?

9 A I did, I met him in September, or either
10 August or September.

11 Q And --

12 A October.

13 Q October?

14 A I met him in October and we started dating in
15 September.

16 Q And how long did you date him?

17 A I dated him for about seven months.

18 Q And where was his hometown?

19 A His hometown was in Georgia, I don't remember
20 the exact town.

21 Q Did he have any connections with the Citadel?

22 A Not that I knew of at that moment.

23 Q And in February, near the end of February of
24 the next year, did you happen to meet -- when did you
25 meet a guy named Miguel?

1 A I had before the incident I met him maybe a
2 month earlier. He just came to the room quickly to
3 speak to Stephen.

4 Q Slow down and speak louder.

5 A I'm sorry. I met him maybe a month before the
6 incident happened. He came to the -- to Stephen's
7 room, dorm room, I met him --

8 Q Stephen is your boyfriend?

9 A Yes. And he came there a quick second just to
10 talk to Stephen. I spoke to him and that was it.
11 That was my first time meeting him.

12 Q Did he have anything to do with the Citadel?

13 A He told me that he went to the Citadel and he
14 played football there.

15 Q Did he tell you he was quarterback?

16 A Yes, he did.

17 Q So you met him sometime in January?

18 A Sometime in January, yes, sir.

19 Q Okay. And what discussions, interactions did
20 you have with him over that next month?

21 A None.

22 Q How often would he come to Stephen's room?
23 Did you all live in a room or a condo?

24 A A dorm. It's kind of like apartment style but
25 we had two other roommates.

1 Q A little efficiency?

2 A Sir?

3 Q Like a little efficiency?

4 A Yes, sir.

5 Q How often would Miguel come to Stephen's room?

6 A Since I had met him? He didn't come as often.

7 He didn't come at all actually except for the
8 incident.

9 Q Now where did you meet him?

10 A I met him at the dorm.

11 Q And how long did you speak with him the first
12 time you met with him?

13 A Maybe two minutes. I had to go to class so I
14 really didn't talk with him.

15 Q Did you see him anytime during that next
16 month?

17 A No, sir. Towards the end of the month.

18 Q I'm sorry?

19 A Toward the end of month in February, yes, I
20 did see him.

21 Q Now do you remember where you met Reggie Rice?

22 A Yes.

23 Q Where did you meet him?

24 A I met him in the dorm room.

25 Q Who's dorm room?

1 A Stephen's dorm room February 24th. It was a
2 Wednesday.

3 Q So when all this happened you had known him
4 one day?

5 A Yes.

6 Q And did he also play football at the Citadel?

7 A From my understanding he had played football
8 for the Citadel but he went back home.

9 Q Did the two of them, Miguel and Reggie, did
10 they try to act like they were big men on campus?

11 A Not that I know of.

12 Q Did they try to act like they were muscular
13 and tough.

14 MR. KIDD: Your Honor, I object to leading.

15 THE COURT: Sustained, leading.

16 Q (By Mr. Sowell) What type of appearance did
17 Reggie and Miguel portray?

18 A They both were big. I know I didn't want to
19 mess with them, but they were big.

20 Q When did you meet Reggie?

21 A I met him at the apartment, he was kind of
22 like the jokey type.

23 Q When did you meet him?

24 A When? At the apartment, at Stephen's
25 apartment, the dorm room.

1 Q What month did you meet him?

2 A February.

3 Q Near the end?

4 A Yes.

5 Q So you had just met Miguel and Reggie when all
6 this happened?

7 A Yes.

8 Q And you said someone was jovial like, who was
9 that?

10 A Reggie was kind of always joking, laughing,
11 had this crazy laugh. Miguel was just kind of -- he
12 joked around, too, but he joked around a lot..

13 Q So met both Miguel and Reggie just a couple
14 days before all this happened?

15 A The same day actually.

16 Q The same day?

17 A Yes, sir.

18 Q What day was that?

19 A Wednesday.

20 Q Wednesday?

21 A Yes, sir.

22 Q Which was the 24th of February, 2010?

23 A I believe so, sir.

24 Q And tell me about some trick or some prank
25 they were going to play?

1 A Sir?

2 Q Did they tell you anything about a trick of a
3 prank they were going to play on somebody?

4 A They were just saying that they wanted to go
5 play this trick on this guy that they knew, didn't
6 know the guy's name, whatever. Then they started
7 bringing out papers and describing the house. Just
8 that they wanted to play a trick on this guy.

9 Q And how did you get involved?

10 A I was there. I didn't stay long, left the
11 room to change because me and Stephen had just woke
12 up from a nap. But they were just like, we want you
13 to do something with us. We want you to help play a
14 trick on the guy. I was like, no.

15 Later on I asked Stephen, were they playing or
16 were they serious. He was like, no, they were just
17 playing, they play like that all the time. So I just
18 left it alone, went to class. Well after I
19 introduced them to Bree I left and went to class.

20 Q Do you have a friend named Breanna?

21 A Yes, she was my friend.

22 Q And that's the girl that came in here
23 yesterday?

24 A Yes.

25 Q And did you -- did you introduce her to

1 Reggie?

2 A To Miguel, yes, sir.

3 Q You introduced her to Miguel?

4 A Yes, sir. He said he wanted to meet one of
5 our friends because he thought I was cool, so he went
6 to see what the type of friends I hung around with.

7 And I told him I think I have the perfect
8 person for him. And after Stephen left and went to
9 his meeting, I introduced the two.

10 Q Speak up a little more.

11 A When Stephen went to his meeting, I introduced
12 the two.

13 Q Where did they meet?

14 A They met at the caf.

15 Q Cafeteria?

16 A Yes.

17 Q At the College of Charleston?

18 A Yes.

19 Q And how long were you with them before the
20 group separated?

21 A Maybe five minutes, probably not even that
22 long because I was pushing time to make it to class
23 on time.

24 Q Were they talking and getting together, or did
25 you join the conversation or what were you guys

1 talking about?

2 A I just kind of sat there and let them both
3 talk. They exchanged numbers and kind of talk a
4 while and he told her who he was. I really didn't
5 engage, just kind of looked down and smiled.

6 Q So five minutes later you left to go back to
7 class?

8 A Yes.

9 Q And did you have class, choir practice that
10 night?

11 A I had three classes actually that night before
12 I went to this class.

13 Q What classes did you have?

14 A Sociology, and then me and Stephen had math
15 together, and then me and Stephen also had choir
16 practice together after math.

17 Q So you were in the choir at the College of
18 Charleston?

19 A Yes.

20 Q You didn't get any college credits for that,
21 that's just extracurricular activity?

22 A I think it was one credit. It was just an
23 extra class that I wanted to take because I wanted to
24 be a part of the choir.

25 Q You have been a part of the choir all of your

1 life at home?

2 A Yes.

3 MR. SAVAGE: Objection, Your Honor, leading.

4 THE COURT: Sustained, leading.

5 Q (By Mr. Sowell) After you got out of choir
6 practice, what happened?

7 A Stephen said that Miguel had -- he wanted us
8 to go eat with him. I was like, okay, that's fine.
9 He and Bree wanted to go eat out, I was like okay.
10 Me and Stephen dropped our books off.

11 Q Speak louder.

12 A He said he wanted to go eat with us -- wanted
13 us to go eat with them. Me and Stephen went to our
14 room, well his room, and dropped our books off and
15 got in the car with them.

16 Q Where did you go eat?

17 A Kickin' Chicken.

18 Q Okay. What is the deal with the party later
19 that night?

20 A We were supposed to go to a party, we get our
21 clothes and things to change for the party.

22 Q So you were going to the chicken place to eat
23 and then what?

24 A Then supposed to go to our friend, Cheyenne,
25 had a birthday party. And Stephen also was going to

1 go promote there.

2 Q Stephen was going to promote?

3 A Yes.

4 Q He was part of the organization?

5 A Yes, sir.

6 Q And how did you get from -- to your apartment
7 of Stephen's condo apartment over to the Kickin'
8 chicken?

9 A Miguel drove this blue car. Later I found out
10 it was a Yaris.

11 Q So the five of you get in the little Yaris and
12 go to the chicken place?

13 A Yes, sir.

14 Q When you left the chicken place, who was
15 driving?

16 A Miguel.

17 Q Okay. Now at this point did you know very
18 much about downtown Charleston?

19 A I knew about downtown, but nowhere else.

20 Q How did you know about downtown?

21 A I lived there. I knew around my school, but
22 other than that.

23 Q So you knew the immediate area of the city
24 around the College of Charleston?

25 A Yes, I did.

1 Q And did you know anything at all about James
2 Island?

3 A No, sir, I've never heard of James Island.

4 Q And when you left the chicken restaurant, did
5 you think you were going to the party?

6 A I did. I was getting ready to change at
7 Miguel's apartment, but I didn't have everything that
8 I needed. And I told Bree, asked Bree for it and
9 told her, could I change at her apartment and she was
10 like yeah. So I thought we was going back to the
11 apartment.

12 Q So you thought you were going to her apartment
13 to change clothes and then to the party?

14 A Yes.

15 Q Now did you know where Miguel was driving to?

16 A No, sir. I thought he was driving to the
17 party but obviously not.

18 Q And do you remember crossing over a bridge, a
19 drawbridge?

20 A Yes.

21 Q Had you ever gone over that bridge before?

22 A No, sir.

23 Q And when you got across the bridge, did you
24 realize now that you were in James Island?

25 A I didn't know I was in James Island, but I

1 eventually found out.

2 Q Now when Miguel was driving across the bridge
3 and you got to James Island, did you stop at any
4 house?

5 A Yes.

6 Q And Miguel was driving, he stopped at a house.
7 What house?

8 A He didn't stop exactly in front of the house,
9 he rode by the house first. And then he went and
10 parked on the side street, kind of close to the
11 house, maybe two houses away.

12 Q Did you know what was going on?

13 A At that point they were pointing at this house
14 and describing it, but, no, I don't know what was
15 going on.

16 Q And you said you went up and down back in
17 front of the house?

18 A Sir?

19 Q You drove -- Miguel drove up and back in front
20 of the house a couple of times?

21 A He rode past the house.

22 Q Past the house. And did he return to the
23 house?

24 A Yes, he did.

25 Q When he stopped what happened?

1 A He didn't stop at the house, that's when he
2 got out.

3 Q How far did he stop from the front of the
4 house?

5 A Maybe like 100 feet.

6 Q So in front of the neighbor's house?

7 A Yes.

8 Q And what did he do when he stopped at the
9 neighbor's house?

10 A He stopped. He said to Stephen, get in the
11 front seat. And I want you -- when I get out I want
12 you to drive to the end of the road.

13 Q To the end of the road?

14 A Yes, that's what he tells me.

15 Q What did he do?

16 A And then he told me to get out.

17 Q Miguel is the one that told you that?

18 A Yes.

19 Q So did Reggie remain in the car, did he get
20 out?

21 A He got out also.

22 Q Did they go in the trunk of the car?

23 A Yes, they did.

24 Q Did they bring out a bag?

25 MR. KIDD: Objection, Your Honor, leading.

1 THE COURT: Sustained, leading.

2 Q (By Mr. Sowell) What did they do when they
3 opened the trunk?

4 MR. KIDD: Objection, Your Honor, leading.

5 THE COURT: Sustained, leading.

6 Q (By Mr. Sowell) What did they do when they
7 got out of the car?

8 A He opened the trunk already and he pulled out
9 a bag and shut the trunk. And that's when Stephen
10 drove off.

11 Q What were you doing at this time?

12 A Just standing there looking at them.

13 Q Were they telling you what was going on?

14 A No, not at that moment.

15 Q When they -- what was the next thing that they
16 did?

17 A I just looked at them and said, what's going
18 on? He said, come on. So I'm like, okay. Walked
19 across the street with both of them.

20 Q Was he touching you at any point?

21 A He was grabbing my arm.

22 Q And is he dragging you somewhere?

23 A To this house.

24 Q And when you got to the house, did he take
25 something out of the bag.

1 MR. KIDD: Objection, Your Honor, leading.

2 THE COURT: Sustained, leading.

3 Q (By Mr. Sowell) When you got to the house
4 what did he do?

5 A He was taking guns and things out of the bag.

6 Q And what did he do with those guns?

7 A He gave one on to Reggie, and Reggie got
8 behind a bush. And he grabbed me to walk to the
9 porch. And he said, I want you to go knock on this
10 door. And a guy's going to come to the door and I
11 want you to tell him that you need to use his cell
12 phone.

13 I said I don't want to. He said, you are
14 going to do it. If you don't do it I will kill you.
15 I will kill you or I'll kill Stephen and I know where
16 you guys stay.

17 Q And did you knock on the door?

18 A I did.

19 Q Did someone come to the door?

20 A Yes, a girl came to the door.

21 Q And what did you ask her?

22 A I --

23 MR. KIDD: Objection, Your Honor, leading.

24 THE COURT: Sustained.

25 Q (By Mr. Sowell) what did you do? Did you

1 have a conversation with her?

2 A Yes, I did. I asked her could I use her
3 phone. I told her that my car had broke down just as
4 he told me to. She said okay.

5 Q And what happened next?

6 A As I was coming in for her to give me her cell
7 phone, Miguel rushed in, kind of pushed me out of the
8 way, and start cursing and told her to get down. And
9 at that time I heard a guy in the back that said, you
10 know, what the hell is going on.

11 Q Did you recognize that person as Emily?

12 A Now I do.

13 Q The girl that was here yesterday?

14 A Yes, now I do.

15 Q And the person that came in the backdoor, did
16 you recognize him today or yesterday,

17 A I didn't see him at all. This was my first
18 time seeing him.

19 Q You never saw him?

20 A Yes, sir, I never saw him.

21 Q So you heard Herb come in the backdoor and
22 what happened?

23 A I heard the man, he said that, I turned around
24 to leave, I was scared. Reggie came to the door,
25 came through the door. Me and him kind of bumped

1 against each other.

2 I had to open the door, because Miguel had
3 shut it, open the door and me and Reggie collided
4 with each other. And that's when the dog came behind
5 me and the dog ended up going outside.

6 Q And so you and the dog went outside?

7 A Yes.

8 Q And what did you do when you got outside?

9 A Didn't know what to do. I just took off
10 running, ran. That's when I saw the car, I saw
11 Stephen and Breanna and I got in the car with them.

12 Q What did you tell them when you got in the
13 car? Q I was just like, you all, I was like
14 begging Stephen. I was like, your brother is crazy.
15 I was like, they're really in there robbing those
16 people.

17 Q What did you mean by brother?

18 A That's what I called Miguel to him because
19 they both grew up together. And he always told me it
20 was like his brother so I called him his brother.

21 Q And why didn't you tell Stephen, let's get the
22 devil out of here?

23 MR. KIDD: Objection, Your Honor, leading.

24 THE COURT: Sustained, leading.

25 Q (By Mr. Sowell) why didn't you tell Miguel --

1 I'm sorry, why didn't you tell Stephen to do
2 something?

3 MR. KIDD: Objection, Your Honor, leading.

4 THE COURT: Sustained, leading.

5 Q (By Mr. Sowell) What did you do next?

6 A I just -- I told them I wanted to leave. And
7 that's when we rode around a little bit. And Miguel
8 called and told them to come back. I'm like, I don't
9 know what I'm going to do because I don't want to
10 hurt Stephen at all so I just kind of sat there.

11 Q When you got -- when you all drove back to the
12 house, what did Stephen do?

13 A Miguel told him to get out and let him drive.
14 Bree got in the back with me and Stephen got in the
15 front seat and we drove to an ATM.

16 Q And what happened at the ATM?

17 A He was trying to get money out of the ATM.
18 And I was just telling him that he was stupid for it.

19 Q What was your state of mind at the time?

20 A I was just kind of distraught at the time. I
21 didn't know what to think. I was mad at the same
22 time. I felt like I didn't know what to do.

23 Q Did you know what your options were?

24 A I didn't have any options at that point. The
25 only option I had was just to do it or I died, or

1 Stephen died.

2 Q And when you left the ATM, what did you do?

3 A We went to gas station.

4 Q Why?

5 A I think the car was running out of gas.

6 Q And did you buy -- is that where you all
7 bought the gas in the gas can?

8 MR. KIDD: Objection, Your Honor, leading.

9 THE COURT: Sustained, leading.

10 Q (By Mr. Sowell) Did you buy gas at the gas
11 station?

12 A Yes. Miguel told me to give him some money.
13 I can't remember if I gave him my debit card or cash,
14 but I did give him money and I asked him could he
15 please buy me a Black and Mild.

16 Q What is a Black and Mild?

17 A It's a cigar. That's what I smoked at the
18 time.

19 Q What happens next?

20 A I gave it to him. And he put gas in and then
21 he gave me the cigar back.

22 Q He gave you what?

23 A A cigar.

24 Q And what happened next?

25 A I think we went to another ATM, but I can't

1 remember. But I'm pretty sure we probably did.

2 Q And did you get anything from that second ATM?

3 A No, sir. He ended up calling Reggie on the
4 phone and Reggie asked him what was taking so long.
5 He said that the account was in the negative. So
6 Reggie told him that he needed to come back to the
7 house because he had been gone for like an hour.

8 Q And what did you all do?

9 A We went back to the house.

10 Q When you got back to the house, what did you
11 do?

12 A I sit in the car for a little bit. Just
13 sitting there really.

14 Q Who was in the car?

15 A Me, Breanna, and Stephen.

16 Q And did you go to the house anytime after
17 that?

18 A Yes, I did.

19 Q When?

20 A I needed a lighter. Me and Breanna had been
21 sitting there. Stephen said he would go get one. He
22 had been calling Miguel, telling him that he needed
23 to come on.

24 So Stephen went inside and me and Breanna sat
25 outside. Then a car pulled up. Well, Breanna said

1 she thought she saw a car. That's when she called
2 Miguel and Miguel came outside and looked -- kind of
3 looked behind past the driveway. And he didn't see a
4 car so he went back inside.

5 Q What did you do?

6 A I just sat there and tried to call Stephen.

7 Q Did you go back in the house at any time?

8 A Yes, I did. I didn't have a lighter at the
9 time. And I thought about it and I'm like, okay,
10 these people are actually robbing these people and I
11 touched this door.

12 So I went in the inside and I told Stephen
13 that I touched the door, that I opened the door. I
14 was like, and these people right here are robbing,
15 you know, Miguel is robbing these people. I don't
16 want to have anything to do with it. So Stephen
17 wiped the door for me. I asked him for a lighter, he
18 gave me a lighter.

19 Q Did you hear either Miguel or Reggie threaten
20 to kill those people?

21 MR. KIDD: Objection, Your Honor, hearsay.

22 THE COURT: Basis -- overruled.

23 MR. KIDD: Not hearsay, leading.

24 THE COURT: Sustained, leading.

25 Q (By Mr. Sowell) Did you hear any conversation

1 from the people in the house and Reggie and Miguel?

2 A No, sir.

3 Q Now after you went in the house, what was your
4 state of mind at that time?

5 A I think I was more focussed on just lighting
6 my cigar and just trying to relax but I couldn't. I
7 just couldn't relax. I was so scared of him. I didn't
8 want -- him and Stephen had been arguing because
9 Stephen wanted to leave and he wanted to stay. So I
10 just -- I didn't want to say anything to him.

11 Q And what happened next?

12 A As I was leaving the house he gave me a box
13 and told me to carry the box outside.

14 Q Did you do that?

15 A I looked at Stephen first, Stephen didn't say
16 anything so I did.

17 Q And where did you take the box?

18 A To the car and I sat in the passenger side.

19 Q I'm sorry?

20 A I took it to the car and I sat on the
21 passenger side.

22 Q Where was the box?

23 A Sitting on my lap.

24 Q What was in that box?

25 A I want to say like DVD's, maybe games.

1 Q And how long was it after that that the three
2 guys came out?

3 MR. KIDD: Objection, Your Honor, leading.

4 THE COURT: Sustained, leading.

5 Q (By Mr. Sowell) What happened next?

6 A Me and Breanna was just sitting there. She
7 was getting really, really frustrated. I was just
8 kind of sitting there, I ended up lighting my cigar.
9 She said she saw a car pull up again.

10 So we told the boys to -- they needed to come
11 on, you know, this just wasn't right. And they ended
12 up coming maybe after 20 minutes after that.

13 Q And when they boys did finally come, what did
14 you all do?

15 A We left.

16 Q Where did you go?

17 A To Miguel's apartment.

18 Q And what did you do when you got to Miguel's
19 apartment?

20 A Just told everybody to pick something up and
21 carry it. And I had the box in my lap, so that's
22 what I carried.

23 Q And where did you carry it?

24 A To his apartment.

25 Q What do you all do next?

1 A We went inside the apartment and kind of just
2 sat there. I looked at --

3 Q Did you all divide the items from the robbery?

4 A No, sir.

5 Q What did you all do next?

6 A Kind of just sat there, hung out maybe for
7 about an hour. And I told Stephen to tell Miguel
8 that I was ready to go home because I had a project
9 the next day, due the next day. And I just didn't
10 want to be there.

11 Q Did you get anything from that robbery?

12 A No, sir.

13 Q Did you want anything from that robbery?

14 A No, sir. I didn't want to have anything to do
15 with it.

16 Q Did you even know that there was going to be a
17 robbery going on?

18 A No, sir.

19 Q When you went home that night, did you go to
20 your place or to Stephen's?

21 A I went to Stephen's.

22 Q How did you get there?

23 A Miguel.

24 Q Miguel drove you?

25 A Miguel, Reggie, Breanna and me, Stephen.

1 Q And Stephen?

2 A Yes.

3 Q Where did you all stop first?

4 A He dropped us off first.

5 Q And this was what night?

6 A This was wednesday night, Thursday morning.

7 Q And later that next day on Thursday, what did
8 you all do?

9 A Well I went to class. After I got out of
10 class Stephen had told me that Miguel wanted us to
11 come with him, wanted to hang out. I told him I
12 didn't want to go. And Stephen was just like, well
13 just come anyway. So he came and picked us up.
14 Everyone was in the car.

15 Q All five of you?

16 A Yes, sir.

17 Q Where did you go?

18 A We went to Zaxby's, I hadn't eaten, just got
19 out of class, I hadn't eaten. I think Breanna bought
20 me, her and Reggie food from Zaxby's.

21 Q And when you left Zaxby's, where did you go?

22 A To Miguel's apartment.

23 Q And then what happened next?

24 A Kind of just sat there and chilled and smoked
25 and watched -- I think it was Cat Williams, the

1 Longest Yard, one of the two movies.

2 Q Did anyone discuss the robbery?

3 A Not at that point.

4 Q Anyone discuss a future robbery?

5 A No, sir.

6 Q And after the movie was over, what did you do?

7 A Well Breanna -- me and Stephen was actually
8 just watched the movie. Breanna and Miguel was just
9 kind of sitting off to the side. We ended up leaving
10 and going back to College of Charleston.

11 Q And what time was this?

12 A Kind of late maybe Thursday night, Friday
13 morning.

14 Q And did anyone threaten you that night?

15 A Yes, they did.

16 Q Who?

17 A It was just me, Miguel, Stephen and Breanna in
18 the car, Reggie had stayed back. He dropped Breanna
19 off first and then he dropped me and Stephen off.

20 I was in the backseat. And as Stephen was
21 getting out of the car he kind of whispered my name
22 and I turned around.

23 Q Who is he?

24 A Miguel. I turned around and he had the gun
25 pointed kind of under in between the seats. He was

1 just like, don't mess this up. If you do you know I
2 will kill you. I just got out of the car.

3 Q Were you scared?

4 A Very scared.

5 Q Were you afraid if you refused to do what he
6 said --

7 MR. KIDD: Objection, Your Honor, leading

8 THE COURT: Sustained, leading.

9 Q (By Mr. Sowell) Why did you do what he said
10 to do?

11 A I felt like if I didn't then someone will get
12 killed. If not me Stephen or someone else.

13 Q And after you and Stephen got out of the car,
14 Breanna had already been taken home, you and Stephen
15 got home next at Stephen's, what did you all do?

16 A Just went in the room. I started on my
17 project and I started crying. Stephen was talking to
18 me and telling me it will be okay. I just told him I
19 didn't want to go. I didn't want to do anything
20 anymore. And he just kind of said.

21 Q Speak louder.

22 A I said he didn't say too much.

23 Q What did you all do next?

24 A We laid down, took a nap.

25 Q What time of day or night was this?

1 A It was Friday morning, it was before class.

2 Q Did you go to class the next day?

3 A No -- yes, I did go to class that day on
4 Friday.

5 Q And when did you complete classes that day?

6 A I honestly don't remember what time I
7 completed classes.

8 Q When you get out of class, what did you do?

9 A Miguel came and picked us up.

10 Q And who did he pick up?

11 A All of us. Me, Stephen, Breanna, and Reggie
12 was in the car. But he didn't pick up Breanna,
13 Breanna was already in the car.

14 Q So was Reggie already in the car, too?

15 A Yes, sir.

16 Q So the three of them came to pick up you and
17 Stephen?

18 A Yes, sir.

19 Q Where did you all go?

20 A We went to, I think, Miguel's apartment.

21 Q And what did you talk about?

22 A Sitting there. He was just like that he
23 wanted to do a robbery. At the other robbery, he
24 said that he needed one of us to make a phone call,
25 either me or Breanna. I kind of looked over at Bree

1 and she was just, I'm not making it.

2 I didn't say anything. He was like, Sasha,
3 why don't you make this phone call. I said, okay. I
4 was like, what do you want me to say? He told me
5 what to say.

6 Q What did -- did anyone -- do you know who the
7 second robbery was against? Who the victim was?

8 A He didn't say. He just said -- I just know it
9 was a guy named Harpe because he had called him
10 earlier. He said he was going to call him and see if
11 he's at home. And I remember him calling him asking
12 him about football practice.

13 Q And after that conversation between Miguel and
14 Harpe, what happened?

15 A He just said -- well him and Breanna went in
16 the room. And me and Stephen stayed out in the
17 living room just kind of sat there. Reggie was kind
18 of sick and he asked me would I make him some tea and
19 I said sure. I made him some tea. And basically
20 sitting there maybe two or three hours.

21 Q Speak louder, more clearly.

22 A Just sitting there about two or three hours I
23 think. Made Reggie some tea and waited on Breanna.

24 Q Waited on Breanna, where was Breanna?

25 A In the bedroom with Miguel.

1 Q And what happened next?

2 A Miguel kept coming back and forth to talk to
3 Reggie and back to the bedroom. Then he was just --

4 Q Could you hear what they were talking about?

5 A No, I didn't.

6 Q And what happened next?

7 A He just said, let's go.

8 Q Who is he?

9 A Miguel.

10 Q And who went where?

11 A All of us got in the car. He told Breanna to
12 get in the driver's side. Told me to get in the
13 passenger side. And the boys got in the back.

14 Q And where did you all go?

15 A We drove to McDonald's at first. Then Miguel
16 told Breanna to take him across the street, directed
17 her where to go.

18 Q So Breanna was driving?

19 A Yes, she was driving. We got to this parking
20 lot. I couldn't tell what parking lot it was, but it
21 was like abandoned. And he just told her to stop
22 there that, they were going to get out.

23 And he told me to go to this specific gas
24 station to make the phone call. He said, I will be
25 calling Breanna to make sure the phone call was made.

1 Q And did you make the phone call?

2 A Yes, I did.

3 Q Why did you make it?

4 A Because he told me to. And I felt like, you
5 know, Stephen was with him so if I didn't make the
6 phone call then he had Stephen.

7 Q So you made the phone call. Who gave you the
8 number?

9 A He did.

10 Q Who is he?

11 A Miguel.

12 Q Did he write it down for you, did he tell you,
13 what?

14 A He actually put it in Breanna's phone? Put in
15 one of our phones.

16 Q Did you call from that phone?

17 A I called from the pay phone. He instructed me
18 to use the pay phone.

19 Q So you read the number out of the cell phone
20 and used the pay phone to call him?

21 A Yes, sir.

22 Q And when you called him, what did you tell
23 him?

24 A I told him exactly what Miguel told me. I
25 can't remember the name, but I was supposed to be

1 Dwight's ex-girlfriend, and that I needed him to come
2 get me, that my car had broken down.

3 I was waiting for Triple A to come get me.
4 And I was in this particular parking lot. And asked
5 him to come get me to wait for Triple A.

6 Q After you made the phone call, what did you
7 do?

8 A Breanna was already on the phone with Miguel
9 at that time and she said that I had made the phone
10 call.

11 Q What happened next?

12 A Breanna was just like, she wanted to leave,
13 she wanted to go back to College of Charleston. She
14 said she asked Miguel to use his car and he said yes.
15 So we went in the store to see if they had a gas can
16 because we remembered that Miguel didn't have any gas
17 for his car. So we went to another gas station to
18 get gas.

19 Q Then what?

20 A We went back to the apartment complex.

21 Q And what did you do when you got back to the
22 apartment complex?

23 A We was trying to put gas in the Nitro, but I
24 couldn't figure out how to pull -- it's like a new
25 gas tank, I couldn't figure out how to open it to put

1 gas in it.

2 I saw this guy walking his dog and I asked him
3 could he help us. And he came over to help us.

4 Q And is this when you took -- I'm sorry.
5 What's this got to do with the film we saw yesterday
6 about some gas can?

7 A Yes, my phone was a blackberry. And easy user
8 it kind of has a light on the side which you can use
9 while you are recording, you can get a light that you
10 can use to see things.

11 Q That's what you used to light the gas?

12 A Yes.

13 Q Then what happened?

14 A Breanna had got a phone call, Miguel had said
15 don't go anywhere that he was coming. I'm like,
16 okay, what is he going to pull up in, clearly both of
17 the cars are here. Less than two minutes later he
18 pulls up in this Mustang.

19 Q What happens next?

20 A He tells us to get inside, don't touch
21 anything. And I think he took some golf gloves out
22 and put them in his Nitro.

23 Q What happened next?

24 A I got in the car and he drove off and went to
25 a couple of ATM's, told us just to wait.

1 Q And what happened next?

2 A We went back to the apartment, he told us to
3 get into the Yaris and follow him.

4 Q Where did you all go?

5 A We went to -- up the street from his house, we
6 went to this --

7 Q What do you mean his house?

8 A Up the street from Miguel's house, we went to
9 this apartment complex.

10 Q And do you know what that address is?

11 A No, sir, I don't.

12 Q Do you know what complex it is?

13 A No, sir, I don't.

14 Q So you went to this apartment, what happened
15 then?

16 A Sat in the car for a little while, he was back
17 and forth in this guy's car. Then he says, tells us
18 to get out, to get out of Yaris and come with him.
19 So we did.

20 Q And what happened next?

21 A He uses this fob to get inside the, I guess it
22 was the elevator door. Got in the elevator and went
23 up the elevator and followed him into this apartment
24 building, one apartment.

25 Q And when you got in the apartment, what did

1 you see?

2 A Just stuff was like broken. Everything was
3 pulled out. It was a mess.

4 Q Did you see the person that lived there?

5 A No, sir.

6 Q Did you see a dog?

7 A No, sir.

8 Q What did you do?

9 A I just stood in the kitchen, just stood there.

10 Q The entire time you were in the house, did you
11 touch anything?

12 A No.

13 MR. KIDD: Objection, Your Honor, leading.

14 THE COURT: Sustained, leading.

15 Q (By Mr. Sowell) Did you do anything while you
16 were in the house?

17 A No, sir, I just stood there.

18 Q And when you got ready to leave what happened?
19 why did you get ready to leave?

20 A They had bags already like packed up. He just
21 kind of gave me a bag, me and Breanna a bag.

22 Q What did you do with that bag?

23 A He told us to go to the car. We went to the
24 Yaris and sat in the car.

25 Q Did you get in the car?

1 A Yes, I got in the car.

2 Q How long was it before the guys came back?

3 A They kept going back in.

4 Q Why?

5 A Bringing other stuff down.

6 Q What happened next?

7 A We went back to the apartment.

8 Q Whose apartment?

9 A Miguel's apartment, excuse me.

10 Q What happened then?

11 A We were just sitting there. Breanna was
12 pretty pissed. She was saying how stupid they were,
13 and I was kind of agreeing with her.

14 Q What was your emotional state at that time?

15 A I was just so shocked. I was just sitting
16 there, just sitting there.

17 Q What happened next?

18 A Reggie said he wanted to go to Walmart to use
19 the debit card they had gotten from whoever house it
20 was. Miguel was like, no, that's stupid, I don't
21 think you guys need to go, that's stupid. This is
22 someone else's card, you're trying to go to Walmart
23 with it.

24 I guess they refused so he gets the keys and
25 he tells Stephen to come with him to drive for him

1 because he had been drinking. So Stephen gets the
2 keys and he drives for him. And maybe not even like
3 five minutes after that Stephen calls me and he tells
4 me that they have been pulled over. The cops said
5 that they were --

6 MR. KIDD: Objection, Your Honor, hearsay.

7 MR. SOWELL: Present sense impression, Your
8 Honor.

9 THE COURT: I'm not sure it's being offered
10 for the truth. I'm going to give her a little bit of
11 latitude.

12 You may answer the question.

13 A Stephen called and he said that he had been
14 arrested and that the cops said that they were
15 suspects in a robbery that just happened.

16 Q (By Mr. Sowell) Did you ever benefit a single
17 penny from either of these two robberies?

18 MR. KIDD: Objection, Your Honor, leading.

19 THE COURT: Sustained, leading.

20 Q (By Mr. Sowell) What did you get from these
21 two robberies?

22 MR. KIDD: Objection, Your Honor, leading.

23 THE COURT: Sustained, leading.

24 Q (By Mr. Sowell) What happened to the items
25 you all took from these two robberies?

1 A Most of the items were still in Miguel's
2 apartment. And later I found out a TV had been
3 taken. But other than that I never saw anything
4 taken out of the house.

5 Q Did you have plans to move in with Erica?

6 MR. KIDD: Leading, Your Honor.

7 THE COURT: Basis?

8 MR. KIDD: Leading.

9 THE COURT: Sustained, leading.

10 Q (By Mr. Sowell) Where did you live at the
11 time?

12 A I lived in McConnell Dorm. But I kind of
13 moved most of my stuff to Stephen's because me and
14 him were getting closer, we were dating in our
15 relationship. And he had just moved to George Street
16 Apartments from CSU. So I stayed with him most of
17 the time.

18 Q And tell me about the air force?

19 A I planned to go to the air force. I had
20 already been sworn in. Kind of getting myself
21 together. Had got sworn in. I had made arrangements
22 to take my exams early because I had been doing
23 pretty good that semester.

24 I didn't do good last semester because of some
25 other reasons, but doing good in school, getting

1 ready to take my exams early. Had to get kind of get
2 our teacher to sign for that to take your exams
3 early.

4 I was planning to go into the air force, do my
5 basic training. I was supposed to have left May 4th,
6 done it up until July basic training, and up until
7 that point. And I was going to come back to the
8 college of Charleston, had to sign a paper that said
9 I was going to come back in the fall. But I just
10 wasn't going to go to summer school, but I definitely
11 was coming back.

12 Q How were you going to come back to the college
13 of Charleston if you were in the air force?

14 A Actually it was the air force reserve. I was
15 doing reserve. I was going to work at the base while
16 I was going to school.

17 Q Now after you finished school, were you
18 supposed to do active duty with the air force?

19 A No, sir. I asked about it already. He said I
20 could attend school and keep going to school. I told
21 him that I wanted to be a Jaguar in the military.
22 And we kind of started working on that.

23 Q You were supposed to go active duty after you
24 finished, graduated college of Charleston?

25 A Yes, sir, I was going to go active. I had

1 planned to for a little while.

2 Q What was your emotional state from the time
3 that you realized the first robbery was a real
4 robbery and until after the second robbery?

5 A Can you repeat the question?

6 Q What was your emotional state when you first
7 realized the first robbery was a real robbery and
8 until after the completion of the second robbery?

9 A Kind of felt like Miguel needed me. And the
10 reason why he threatened me because he knew no one
11 else would do it. He needed me because I was
12 Stephen's girlfriend. I was just, I was just scared.

13 Q Were you afraid for your life?

14 A Yes.

15 MR. KIDD: Objection, Your Honor, leading.

16 THE COURT: Sustained, leading.

17 Q (By Mr. Sowell) Tell me what you mean by you
18 were scared?

19 A I was definitely afraid for my life and
20 Stephen's and anyone else's.

21 Q What affect did that fear have on your ability
22 to say no?

23 A A lot. I felt like I had to say yes. If I
24 didn't, I was going to be killed.

25 Q Have you ever done anything wrong before?

1 A Never.

2 Q Did you know this was a crime that you were
3 committing?

4 A Yes, sir, I did know it was a crime.

5 Q Did you know your involvement was the lesser
6 of the two evils?

7 MR. KIDD: Objection, Your Honor, leading.

8 THE COURT: Sustained, leading.

9 Q (By Mr. Sowell) If you had known anyone was
10 going to get hurt, what would you have done?

11 MR. KIDD: Objection, Your Honor, leading.

12 THE COURT: Sustained leading.

13 Q (By Mr. Sowell) If you had known the end
14 result was going to be as it was, what would you have
15 done? MR. KIDD: Same objection.

16 THE COURT: Sustained, leading.

17 MR. SOWELL: Nothing further, Your Honor.

18 THE COURT: Any cross-examination of the
19 witness?

20 MR. KIDD: Yes, Your Honor.

21 THE COURT: You may proceed.

22 MR. KIDD: Thank you. Court's indulgence one
23 moment.

24 CROSS-EXAMINATION

25 BY MR. KIDD:

1 Q Good morning, Ms. Gaskins.

2 A Good morning.

3 Q Where did you hide the two pistols?

4 A I didn't hide the two pistols.

5 Q When you were first arrested, did you make a
6 statement to police?

7 A Yes, sir, I did.

8 Q Did you lie to the police?

9 A Yes, sir, I did.

10 Q Why did you lie?

11 A Because I felt like my life depended on it.

12 If --

13 Q Were the police threatening your life?

14 MR. SOWELL: Your Honor, I think she has got
15 the right to answer.

16 THE COURT: She does. She answers yes or no
17 then she may explain. But she completed her answer
18 then hesitated.

19 Ma'am, have you completed your answer to the
20 first question?

21 THE WITNESS: I believe so.

22 THE COURT: You may continue.

23 Q (By Mr. Kidd) Were the police threatening
24 your life?

25 A Not really, but they were very, very

1 disrespectful.

2 Q When you were making that statement to police,
3 where was Miguel Starks?

4 A At that time I had dropped him off, he told me
5 to drop him off at the Citadel, that he needed to
6 talk to someone there so I did. I dropped him off
7 there.

8 Q You knew he was in custody at this point,
9 didn't you?

10 A No, I didn't.

11 Q What about Stephen?

12 A I knew Stephen and Reggie were.

13 Q You knew Stephen and Reggie were in custody?

14 A I knew they were arrested because Stephen had
15 called me and told me that.

16 Q So their lives weren't in danger, were they?

17 A But mine were.

18 Q Your life in danger while you were in the
19 interview room with the police officers?

20 A Miguel was still out. I didn't know what he
21 was going to do.

22 Q Was he going to kill you in the interview room
23 with the police officers?

24 A He could kill my parents. I just didn't know
25 what to do. I was just so scared.

1 Q Did Miguel know where your parents lived?

2 A I don't know if he knew where my parents
3 lived.

4 Q How well did you know Miguel?

5 A Not well.

6 Q So how would he know where your parents lived?

7 A I wouldn't know that. We just -- kind of
8 plenty of ways to find that out.

9 Q In that first interview with the police
10 officers they were only questioning you about the
11 Joshua Harpe robbery; is that correct?

12 A Yes, sir.

13 Q Through that entire interview did you ever
14 mention anything about the Herbert Butler robbery
15 that happened on the 24th?

16 A I believe what I was telling them is the joke,
17 I kind of got them mixed up, yes, sir.

18 Q You did mention something about it?

19 A No, I didn't. I was kind of telling him that I
20 thought that the call was a joke, but I kind of got
21 that mixed up.

22 Q Right. And the call was referring to the
23 Joshua Harpe robbery, correct?

24 A Yes.

25 Q And that robbery occurred on Thursday night,

1 early Friday -- excuse me, Friday night early
2 Saturday morning the 27th?

3 A Yes, sir.

4 Q And the Herbert Butler robbery occurred on the
5 24th, right?

6 A Wednesday, yes, sir.

7 Q Wednesday the 24th. When you were arrested
8 and making that statement to the police, that was on
9 the 27th, right?

10 A I believe so, Saturday?

11 Q Well let's go through it.

12 A It was Saturday.

13 Q It was Saturday the 27th?

14 A Yes.

15 Q Which is the same day that the Joshua Harpe
16 robbery occurred, right?

17 A Friday night, Saturday morning.

18 Q Right, so Friday night, Saturday morning. And
19 then you were arresting Saturday a little bit later
20 in the morning, in the afternoon?

21 A In the afternoon yes, sir.

22 Q On Saturday. So you had a -- you were
23 arrested Saturday afternoon, a number of hours after
24 the Joshua Harpe robbery occurred; is that correct?

25 A Yes, sir.

1 Q And at that point were the police officers
2 asking you anything at all about the Herbert Butler
3 robbery?

4 A Not that I can remember.

5 Q But they were asking you about a robbery,
6 right?

7 A Yes, they were.

8 Q And when they were questioning about that
9 robbery, you didn't mention anything at all about the
10 Herbert Butler robbery, did you?

11 A Not that I remember.

12 Q And in fact you were pretending like you
13 didn't know anything about the Joshua Harpe robbery,
14 correct?

15 A Yes, I was scared, didn't know what to do. I
16 didn't know whether to tell them or whether to not
17 tell them or what to say. I just didn't feel safe at
18 all. They were cursing at me. I actually --

19 Q They were cursing at you? Are you sure about
20 that?

21 A Yes, it's not in the statement. I actually
22 was in the room by myself at first. I went to the
23 police station, I took a taxi there, went to the
24 police station. They came and got me down and brung
25 me upstairs to the room.

1 And they were just asking me questions, did I
2 know I was there. And I was like no. I was like,
3 well, do you know why you are here? And I was like,
4 no I don't. I was like, I would like to leave. I've
5 not been arrested, I would like to leave.

6 Q So you told them you didn't know why you were
7 there?

8 A That's what I told them, yes, I did.

9 Q Later when they confronted you with a little
10 more information, you told them why you -- you told
11 them why you thought you were there?

12 A Could you repeat the question?

13 Q Once they confronted you with a little more
14 information that they already knew of, you told them
15 your reasoning why you thought you were there?

16 A They arrested me because I had -- they
17 wouldn't let me leave. Kept telling me that I had to
18 talk to them, I better talk to them, and cursing at
19 me and telling me that I had to pay the cab fare.

20 And I'm like, no, because I'm leaving in that
21 cab. And they were like, no, you're not, you're
22 going to stay here. You can't make me stay here. So
23 at the time I started crying and I called my dad,
24 tell him that I'm here and that Stephen had just been
25 arrested. They said he was a suspect in a robbery,

1 that I was scared and I didn't know what to do.

2 And that's when the cops came, well, he said
3 he would make some phone calls and he was actually
4 coming. So that's when they came in and said I would
5 be detained. So later they put me in another room
6 and that's when they're like they already know, don't
7 lie to them. And all kinds of stuff.

8 Q And then when they started saying they already
9 know don't lie to them, did you tell the truth at
10 that point?

11 A I think it was towards the middle of the
12 conversation. I felt like I told it just a little
13 bit because I felt like I didn't know what to do,
14 either to trust them or what.

15 Q Did you ever tell the officers in that
16 interview that you were threatened?

17 A No, sir, I didn't.

18 Q Did you ever tell them you were in fear for
19 your life?

20 A No, sir, I didn't.

21 Q Did you ever tell them Stephen Francois was
22 threatened?

23 A Not that I recall. But I did later tell
24 another set of police that I was threatened and
25 that's in the statement also.

1 Q During that first statement you told them that
2 you thought you were playing a joke on Joshua Harpe,
3 didn't you?

4 A That's what I told them, yes, sir.

5 Q But based on your testimony just a few minutes
6 ago you knew you weren't playing a joke on Joshua
7 Harpe, didn't you?

8 A Yes, sir. I was definitely scared when I gave
9 that statement, didn't know who to trust, didn't know
10 who to believe, in fear for my parents, my life, a
11 lot of things.

12 Q If anyone in the world could have helped
13 dispel that fear, wouldn't it have been the police?
14 Who else would you go to?

15 A My parents.

16 Q Your parents are better equipped to deal with
17 a threat toward your life than the police are?

18 A I just didn't know what to think at that time.

19 Q After the Butler robbery, you get dropped off
20 at Stephen's dorm room, correct?

21 A After --

22 Q I mean much later in the night. You all go
23 back to Starks' house, but eventually Starks drops
24 you and Stephen off at his dorm?

25 A Yes.

1 Q And is Starks staying with you there that
2 night?

3 A No, he didn't.

4 Q So you spend the night in that dorm room, and
5 who's in that dorm room?

6 A Just me and Stephen.

7 Q Just you and Stephen. Did you tell Stephen
8 your life had been threatened?

9 A No, because I felt like if I said something to
10 him he would probably say something to Miguel and
11 Miguel probably would kill him or kill me. And I
12 just didn't want to risk that so I didn't say
13 anything. I just was crying to him.

14 Q What were you crying about?

15 A I was crying. I was scared.

16 Q So your boyfriend of seven months, six, seven
17 months, who you were living with at this time, you
18 wouldn't tell him that his friend just threatened
19 your life?

20 A No, sir, I didn't tell him.

21 Q And you just testified earlier that on
22 Thursday you went to class, right?

23 A Yes, I went to class later in the afternoon.
24 Yes, sir.

25 Q And then later that afternoon on Thursday --

1 no robbery takes place Thursday, does it?

2 A No, sir.

3 Q You go over to the guy's house who just
4 threatened your life, threatened your family's life,
5 put a gun to your head, to hang out? That's what
6 your testimony is?

7 A What was I going to do if -- I felt like, what
8 was I going to do if I didn't go? What would he do
9 to me if I didn't go? What would he do to Stephen?

10 I knew he was going to call Stephen probably
11 talk to Stephen so I'm like, what do I do? Do I stay
12 or do I go? And to help myself and make sure I
13 wasn't killed or Stephen I left and I went with him.

14 Q And you are a smart girl, A's and B's, right?

15 A Yes, sir.

16 Q And it's safer to go to the house where
17 someone has threatened your life than it is to not
18 go? Is that what you're saying?

19 A I felt like if I didn't go he would come. He
20 knew where I stayed with Stephen most of the time.

21 Q He was going to kill you for not hanging out
22 with him?

23 A Just for not going with him. He told me he
24 called so I'm pretty sure he told me, don't do
25 anything to mess it up, to mess anything up. So I

1 felt like I had to do whatever he said. If he said
2 come -- if he said jump, I would jump.

3 Q where did you spend the night Thursday night?

4 A Thursday night, I think spent the night at his
5 apartment. I think he took us home later.

6 Q Did you spend the night there, did he take you
7 home the next day?

8 A Most times we left it was after 12:00, so I
9 mean I don't know whether to say spend the night or
10 what because it was after 12:00.

11 Q Did you sleep there?

12 A No, sir, I never slept there.

13 Q So he takes you home the next day?

14 A That morning.

15 Q Next morning. You go to class again?

16 A When is this?

17 Q Friday.

18 A Friday, yes, I believe so.

19 Q During any of this time did you ever call the
20 police?

21 A No, sir.

22 Q Have you told a single soul on the face of
23 this planet that you have been threatened?

24 A I actually did.

25 Q who did you tell?

1 A Thursday in one of my classes, Thursday after
2 the first robbery I ended up telling this girl. I
3 don't even know why I told her, I just felt
4 comfortable with her. We were talking about our
5 Wednesday and what we both had done. And I just told
6 her what had happened that day.

7 Q Who is this girl?

8 A Her name is Natalie Endorino (phonetic).

9 Q Where is she at?

10 A I don't know where she is now but I know she
11 attends the College of Charleston. We actually tried
12 to get her here today.

13 Q So you go back again to Miguel Starks house on
14 Friday?

15 A Yes, sir.

16 Q And you know there is going to be a robbery
17 that night, right?

18 A I don't think I knew right then.

19 Q Wasn't the robbery discussed at the end of the
20 Butler robbery?

21 A No, sir, it wasn't.

22 Q You had no idea there was another robbery
23 being planned?

24 A No, sir. No, sir, I didn't.

25 Q So you go back on Friday?

1 A Yes, sir.

2 Q Miguel comes and picks you up again?

3 A Yes, sir.

4 Q Do you have a car?

5 A Yes, sir, I have a car. It was parked -- my
6 car is parked at the old abandoned church. It's on
7 George Street, but it's maybe like a mile and a half
8 way. And it's only like six parks there, so
9 definitely I rarely moved the car not wanting to lose
10 my parking spot because it's like \$600 to park under
11 the school's parking garage.

12 So just to save money that's where I park my
13 car and I leave it there most of the time unless I am
14 going somewhere where I need to go.

15 Q And so you go back to Miguel Starks' house
16 even though he has now threatened your life how many
17 times?

18 A At that moment --

19 Q Twice?

20 A Twice, yes. But I felt threatened plenty of
21 times.

22 Q Never called the police?

23 A No, sir, I didn't.

24 Q Told your parents?

25 A Later I did, yes, sir.

1 Q When did you tell your parents?

2 A After I got out I ended up telling them
3 everything. Well, no, actually when I was locked up
4 I told them what happened.

5 Q You told them what happened when you were
6 locked up?

7 A Yes.

8 Q You told them you were threatened when you
9 were locked up?

10 A Yes, sir, I did.

11 Q Do you remember a phone call that you made to
12 them from the jail?

13 A Do I remember the phone call?

14 Q Uh-hum.

15 A Do I remember what phone call?

16 Q Do you know your phone calls from the jail
17 were recorded?

18 A Yes, sir.

19 Q And do you remember the phone call you made to
20 your parents from the jail?

21 A I don't remember the exact phone call.

22 Q Would it surprise you that you didn't mention
23 being threatened in that phone call?

24 A It was --- I either told them when they came
25 to see me or I told them on the phone, one of the

1 two. But I ended up telling my parents because my
2 dad is like, he is kind of a tell-me-what-happened
3 type of guy.

4 And I tell him what happened. But I don't
5 recall, but I want to say I did tell my dad. But I
6 don't recall. I don't remember if I told him on the
7 phone or told him in person but, yes, I did tell my
8 parents.

9 Q But in that phone call from the jail, you
10 didn't tell your parents you were threatened, did
11 you?

12 A I don't remember.

13 Q Do you remember that video we played earlier
14 of you all putting gas in the car?

15 A Yes, sir, I do.

16 Q Is that your voice in that video?

17 A I hear my voice a couple times, but most of
18 the time it's kind of Breanna. She is kind of louder
19 than me. But, yeah, I talk a little bit. Trying to
20 act as normal as possible.

21 Q And that somewhat answers my next question.
22 Do you think you sounded scared on that video?

23 A I usually talk a lot, actually. But I was
24 scared, trying to be as normal as possible around
25 this guy. He was pretty nice.

1 MR. KIDD: Court's indulgence.

2 Q (By Mr. Kidd) You testified on direct that on
3 the way to the first robbery in the car you didn't
4 know what was going on; is that correct?

5 A Excuse me?

6 Q You testified on your direct examination a few
7 minutes ago that when the five of you all were in the
8 Toyota Yaris on the first robbery on the way to the
9 house that you didn't know what was going on?

10 A I really didn't know what was going on. I
11 kind of knew that they were going to play a joke on
12 someone. But they kept driving by his house and they
13 pointed out the house like this is the house, but
14 they never said anything direct.

15 Q What kind of joke was that that they were
16 going to play?

17 A I don't know they just said that they knew
18 this guy, some guy Reggie knew. And I ended up
19 thinking that it was a joke because.

20 Q But you had already discussed in your dorm
21 room this, sketched it out on a napkin and everything
22 earlier that day?

23 A And actually I really didn't get to see that
24 diagram, but I knew that he had wrote something on a
25 napkin. But I really didn't get to see it.

1 Like I said, I was kind of in a rush for class
2 and I kept going to the restroom. But he did mention
3 that he wanted me to do something with him. But I
4 asked Stephen about it, Stephen said he is just
5 playing, leave it alone, don't take him serious.

6 Q Well that conversation was on the Tuesday
7 meeting in the dorm room, right?

8 A No, sir, it was actually Wednesday.

9 Q Wasn't there also a meeting on Tuesday in the
10 dorm room?

11 A On Tuesday it was just Miguel and --

12 Q Miguel, Stephen and you, right?

13 A Yeah, and he really didn't say too much.

14 Q He didn't discuss the robbery then, too?

15 A Not that I can recall but -- not that I
16 remember at this moment.

17 Q Not that you remember? Don't you think you'd
18 remember a conversation about committing a home
19 invasion?

20 A If I thought it was real, I think I would
21 remember it.

22 Q Well after you commit a home invasion the next
23 night, that would make you think back about the
24 Tuesday conversation, wouldn't it?

25 A I don't know. It was a year ago. I don't

1 know exactly.

2 Q That was a pretty important week, wasn't it?

3 A It was a very, very stressful week. I didn't
4 know who to trust, who to believe. I was just so, so
5 scared. I had never been in that predicament before
6 so I didn't know how to react or what to do. I
7 didn't know, just to stay alive and to survive just
8 do it, do whatever he said.

9 THE COURT: Counsel approach for me, please.

10 (Whereupon, the following discussion was held
11 at the bench.)

12 THE COURT: How many questions do you have?

13 MR. KIDD: A good bit.

14 THE COURT: Okay.

15 (In open court.)

16 THE COURT: Mr. Foreman, ladies and gentlemen,
17 we are going to take this opportunity to break for
18 lunch, we will break until 2:15.

19 During the break, please do not discuss the
20 case among yourselves or with anyone else. Please do
21 not have contact with anyone in or about the
22 courthouse. Please leave your notepads in your
23 seats. And please be especially diligent and do not
24 allow yourselves to be exposed to any media coverage
25 regarding this case.

1 character witness?

2 MR. SOWELL: Yes, ma'am.

3 THE COURT: What's her name?

4 MR. SOWELL: Brenda Ligon. I believe the
5 solicitor has already run her social security number.

6 MR. KIDD: Your Honor, my position would be
7 that if it's a character witness who is going to
8 testify to the same thing we have already heard, I
9 think at this point it's cumulative.

10 THE COURT: I'll think about it. I'll give
11 him some latitude.

12 (Whereupon, the jurors enter the courtroom.)

13 THE COURT: You may be seated. You may resume
14 your cross-examination of the witness.

15 MR. KIDD: Thank you, Your Honor.

16 THE COURT: You're welcome.

17 Q (By Mr. Kidd) All right, Ms. Gaskins, I want
18 to talk a little bit more about this jail phone call.
19 Isn't it true that you told your parent you didn't
20 have anything to do with the robberies during that
21 phone call?

22 A I don't remember. But I do remember telling
23 my parents exactly what happened. I spent four hours
24 telling them what happened.

25 Q I'm not talking about a four-hour.

1 conversation, I'm talking about a 15-minute phone
2 call from the jail?

3 A I don't remember.

4 Q Would it refresh your recollection to hear
5 that phone call?

6 A It may.

7 MR. KIDD: Your Honor, may I play that?

8 THE COURT: Any objection?

9 MR. SOWELL: No, ma'am.

10 THE COURT: You may proceed.

11 (Whereupon, the audiotape is played in open
12 court.)

13 Q (By-Mr. Kidd) So on that phone call you told
14 your parents you didn't know what happened, didn't
15 you?

16 A Yes, I also told them I was forced.

17 Q You told them you were forced?

18 A Yes, I told them they had a gun. It clearly
19 says that.

20 MR. KIDD: Your Honor, may I play the tape
21 again?

22 THE COURT: Sure.

23 MR. SOWELL: Your Honor, the tape has been
24 played, it's in evidence. I don't think he needs to
25 keep playing it all day.

1 A I didn't say it in those exact words that I
2 was forced, but I said plenty of times that Stephen
3 was and I also said that I was. I said they made me
4 do it. I clearly said that also.

5 And it's a phone call and I had 15 minutes so
6 I had to kind of talk to my parents really, really
7 fast. Half the stuff I couldn't barely hear anyway.

8 And, yeah, basically kind of rushed through
9 everything, kind of telling them everything right
10 then because my Mama is kind of an adamant person,
11 you tell me right now. So I just tell her. And when
12 she starts yelling, don't like when my Mama yells, I
13 just said, okay, Mama, I didn't do nothing.

14 But when they got there I definitely explained
15 everything later and talked to them about it. But
16 clearly in there I did say that he made me do it.
17 And clearly said that I was threatened.

18 Q (By Mr. Kidd) You also said you didn't know
19 anything, right?

20 A Yes, I said a lot of other things as my Mama
21 was yelling because my Mama yells at me. And when
22 she yells at me I said something, but then I did
23 explain it later. Because when we are face-to-face,
24 I don't lie to them at all, can't. I don't have no
25 choice but not to because when they look at me, they

1 look at me and they will know if I'm lying or not.

2 Q So you can lie to them on the phone but not in
3 person?

4 A Actually we was kind of -- you could say that
5 was a lie, but I ended up, you know, telling them
6 anyway. Those are my parents. They're going to know
7 everything that happens anyway. And also I felt like
8 -- I don't think I said it all at one time, but I
9 told the police what happened and Wagner is sitting
10 right there.

11 I also told him I was forced also and it's
12 actually in all of my statements.

13 Q When was that? When did you make that
14 statement?

15 A That was afterwards.

16 Q So that was a few days later?

17 A The next day.

18 Q March 1st, wasn't it?

19 A I don't remember. I went to the bond hearing
20 and I was getting ready to get out actually. And
21 they had a hold on me and that's when Wagner came to
22 pick me up and I talked to him.

23 Q You had been -- I'm sorry, go ahead.

24 A I think I had been in there for maybe a day,
25 maybe a day.

1 Q So you had been in there a couple days, and
2 then you told the police you were threatened?

3 A I told him what happened on the first one,
4 yes, how it started.

5 Q That's when those officers came and got you to
6 talk about the first robbery, right?

7 A Yes.

8 Q And until they confronted you with that first
9 robbery, you never mentioned it, did you?

10 A I mean who was I going to tell? I was locked
11 up, who was I going to tell?

12 Q Could have told your parents.

13 A I didn't tell my parents -- I didn't talk to
14 my parents again after they told me they would be
15 there that next morning with the lawyer. You know,
16 don't talk to nobody, I will be there the next
17 morning.

18 So I wasn't just going to go volunteer
19 information until I was --

20 Q Because you didn't want to get caught?

21 A No, that's not it.

22 Q You didn't tell your parents your life was in
23 danger, did you?

24 A No, I didn't tell them my life was in danger
25 because they were on their way here. I knew that

1 Reggie had been arrested by then because I was locked
2 up. And I overheard their conversation about the
3 guns at a bond hearing, so I knew that he was locked
4 up at that point.

5 Q So you weren't scared anymore at that point?

6 A A little bit. But I was just trying keep my
7 composure. And I was around maybe 50 other people,
8 girls that I didn't know.

9 Q And you were lying to your parents about
10 living with GZ, weren't you?

11 A I actually wasn't living with Stephen. Well,
12 you could maybe if you wanted to say that, you could
13 say that if you want to, but I definitely could go
14 back to my dorm if I wanted to.

15 And I did invited him, they knew I was there,
16 I talked to my parents almost everyday.

17 Q They were okay with that?

18 A Yes. I even took Stephen to Clinton to meet
19 my parents. He met my parents. He went, my parents
20 met Chris and Lauren. And we, instead of them
21 staying at my house, we all got a room and then came
22 and ate dinner with my parents. So, yes, my parents
23 knew.

24 Q When you told your parent you really didn't
25 know what was going on, that was a lie, wasn't it?

1 A Yes. I was kind of just saying stuff right
2 then because I couldn't explain four days worth of
3 stuff right then, but I ended up telling them exactly
4 what happened.

5 MR. SOWELL: Your Honor, can we approach?

6 THE COURT: Yes.

7 (Whereupon, the following discussion was held
8 at the bench.)

9 MR. SOWELL: This may cause the parents to be
10 witnesses.

11 THE COURT: Have them leave.

12 (In open court.)

13 THE COURT: You may proceed.

14 Q (By Mr. Kidd) You also told your parents in
15 that phone call you were honest with the police,
16 didn't you?

17 A Yes.

18 Q And that was a lie?

19 A You could say yes, but they were very, very
20 disrespectful to me, very disrespectful. And I told
21 my parents they were very disrespectful cursing me
22 out.

23 Q And that interview is videotaped, isn't it?

24 A Yes, it was videotaped.

25 Q Would it surprise you if there were no curse

1 words used in that entire videotape?

2 A When they cussed at me I was definitely in
3 another room. When I was in the other room before
4 that, I wish they had that tape. I wish we could get
5 that.

6 Q So you're going to the air force?

7 A Yes, sir, I was air force reserve.

8 Q Is that an easy thing to get involved in?

9 A No, sir. I actually had to go through certain
10 steps. I had kept going to meet my recruiter. First
11 I knew that that's what I wanted to do, but first I
12 went to kind of talk to him.

13 went to meet him. Talk to him about it. Told
14 him what I wanted to do. I had to take the A-S --
15 the ASVAB tests. I ended up getting -- I told Mr.
16 Delaney about it, he sent me a pamphlet to study. I
17 studied, took the test, got in.

18 Q What kind of person --

19 A Drug tests. I went through all -- went to
20 Columbia, did all that.

21 Q So you passed a drug test?

22 A Passed a drug test. Did the blood. I took
23 off all my clothes and they examined me basically.

24 Q You were doing drugs this week, though,
25 weren't you?

1 A Yes, I did smoke this week.

2 Q Does a strong person, kind of person who
3 enters the army or the air force, what kind of
4 character would a person who enters the armed
5 forces --

6 MR. SOWELL: Your Honor --

7 THE COURT: Sustained, rephrase.

8 Q (By Mr. Kidd) You are a smart girl, right?

9 A Yes, sir.

10 Q Athlete?

11 A Yes, sir.

12 Q How many opportunities did you have to get
13 away from those guys?

14 A I had a lot of opportunities but I felt like I
15 couldn't.

16 Q When Reggie and Miguel are inside Herbert
17 Butler's house, why didn't you leave?

18 A I don't know, just so scared. And they are --
19 I'm 5'1" and they're 6'5", 220 pounds. There is
20 clearly nothing I could do with either one of them.

21 Q But you, your boyfriend and your friend Bree
22 are all in the car, Reggie and Miguel are in the
23 house, why didn't you leave?

24 A I don't know why they didn't pull off. At
25 that moment as I told you they were actually in there

1 robbing those people and I'm scared. My mind just
2 went blank. I just sit there and I say nothing.

3 Q You didn't tell Francois, they just pulled a
4 gun on me let's get you of here?

5 A No, I didn't tell they just pulled a gun on
6 me. I just said, baby, I was like, your brother is
7 very, very crazy. I was like, they are in there --
8 they're robbing those people, and I'm scared. But,
9 no, I didn't tell him they pulled a gun on me.

10 Q And you didn't tell anyone that you were
11 threatened before you were locked up except for some
12 girl that we can't find?

13 A Yes. She goes to the College of Charleston,
14 but trying to get in touch with her, the public
15 defender said we wouldn't be able to use her anyway.
16 So they kind of just gave up. And that's when I
17 retrieved an attorney.

18 Q The Sasha Gaskins who smokes marijuana, smokes
19 Black and Mild, is hanging out with these three
20 football players, that's not the same Sasha Gaskins
21 in Clinton, South Carolina, is it?

22 A Actually I smoked Black and Mild for a while.
23 But as far as marijuana, no, I didn't smoke marijuana
24 back home. I started when I got to school kind of a
25 little after I met Stephen.

1 So I'm not saying he kind of started me, but I
2 started like maybe right before this incident when
3 this stuff happened. The first beginning of the
4 year, stressing over a lot.

5 Q Stephen was a pretty big guy, wasn't he?

6 A Yes, but to me he was kind a like a big
7 teddy-bear.

8 Q He played football in college, didn't he?

9 A He did, but I don't think he played anymore.
10 He didn't play anymore when he came to College of
11 Charleston.

12 Q Where did he play football at?

13 A CSU.

14 Q Do you know what position he played?

15 A No, sir, I don't.

16 Q You like the idea of hanging out with these
17 three athletes, didn't you?

18 A I didn't really thing Reggie was an athlete.
19 Stephen wasn't playing football anymore. But at
20 first they seemed okay, but I usually don't hang out
21 with a lot of people. I hang out with -- usually
22 it's not with three boys, usually it's girls.

23 Q You liked the idea of hanging out with these
24 three kind of big men on campus, didn't you?

25 A You said did I like the idea?

1 Q Yeah.

2 A I don't understand the question. No, I didn't
3 like it.

4 Q Well then why are you hanging out with them?

5 A I introduced him to Breanna. No, I didn't
6 know that they were going to do those other things or
7 even threaten me. But I mean I wouldn't say I liked
8 the idea. I wouldn't say that.

9 Q You obviously thought enough of Miguel at that
10 time to introduce him to Breanna, right?

11 A Yeah. I mean he played football. He seemed
12 like a nice guy. He was like real, real jokey. So
13 I'm like, okay, he is jokey. Bree kind of liked
14 those type of guys so I introduced them.

15 Q And you had already been in your dorm room on
16 that Wednesday and had a plan of a home invasion laid
17 out before you introduced him to your friend Bree,
18 didn't you?

19 A No, sir. I kept going -- like I went to the
20 restroom. I don't know exactly what was talked
21 about. But definitely overheard a conversation and
22 definitely saw a map with a plan laid out.

23 But I asked Stephen about it, he said it was
24 just a -- I said, is he playing or is he being
25 serious? He is like, no, he is joking, that's what

1 he does. He left it like that.

2 I didn't say nothing because Stephen didn't
3 press the issue so I left it alone. Then I
4 introduced him to Breanna. I already told him that I
5 was going to introduce him to Breanna the day before
6 actually.

7 Q You knew Miguel's gun was broken, didn't you?

8 A No, sir. I never saw the guns until the day
9 of the robbery as I was walking to the house.

10 Q Didn't you tell officers in that second
11 interview that the gun was broken?

12 A Yes.

13 Q So you were threatened by a broken gun?

14 A I didn't find out it was broken until later.

15 Q When did you find out?

16 A I don't remember exactly when I found out it
17 was broken. I don't remember exactly when. But I
18 later found out it was broken.

19 Q So the gun Miguel --

20 A I don't know which one he had. I just know
21 one of the guns was broken and one of them was
22 loaded. I wasn't trying to figure out which one.

23 Q In your statement to Detective Church on March
24 1st, didn't you say that the gun Miguel had was small
25 and it was silver with a rusted end like it was

1 broken?

2 A Yes.

3 Q So you saw the gun Miguel had and you knew
4 which gun he had, right?

5 A The gun at the time I don't remember what time
6 I'm telling them about the gun. But it was dark the
7 first night when I saw the gun, so I clearly couldn't
8 tell him that it was rusted then.

9 But I must have saw it later again when he had
10 it and ended up telling them what type of gun it was
11 or what kind of gun it was.

12 Q So you felt like your life was threatened by a
13 broken gun? Like he was going to shoot you with a
14 broken gun?

15 A Later I found out.

16 MR. SOWELL: Your Honor, he's gone over --

17 THE COURT: Overruled.

18 A Later I found out that the gun was broken.
19 But the other one was loaded. I knew the other one
20 was loaded. I actually saw the bullets in the gun so
21 didn't know which one was broken and which one was
22 not. And I was not trying to find out.

23 Q (By Mr. Kidd) Well in your direct testimony
24 earlier you never said that Reggie threatened you?

25 A I didn't say that he threatened me.

1 Q Well Reggie had the other gun, didn't he?

2 A There are two guns. I'm pretty sure they can
3 switch up. I don't know if they switched up the
4 guns. I don't know which one was which.

5 Like I just said, I knew that one of them was
6 broke afterwards. That statement was on March the
7 1st. I knew that afterwards and that's when I told
8 them where the guns were when I was locked up, bond
9 hearing, overheard a conversation with them about the
10 guns. And I told him the exact thing.

11 Q The second time that you testified that Miguel
12 threatened you, you said he whispered it to you in
13 the car; is that right?

14 A He just told me, yeah, told me I better not
15 interfere with nothing or better not say anything.

16 Q Is that the words he used, interfere?

17 A I actually don't know the exact words, but
18 basically that's what he said.

19 Q Don't you think a threat like that would stick
20 out in your mind where you could remember those
21 words?

22 A I just feel like it's a threat no matter, you
23 know, I can't remember the exact words but I took it
24 as a threat.

25 Q Don't you think you'd remember those exact

1 words?

2 A I mean I don't -- I really can't say that I
3 would remember or not, remember the exact words. But
4 it was a threat.

5 Q And no one else was able to hear that threat,
6 were they?

7 A No. It seemed later thinking about it, it
8 seemed like I felt like he knew he needed me. I feel
9 like that's why he got in touch with Stephen to --
10 got in touch with Stephen because he knew that I -- I
11 felt like he knew he could say or say anything to
12 Stephen and then he knew that Stephen had a
13 girlfriend, so who else was he going to use?

14 And he knew that he could keep me quiet. I'm
15 small and he knew I loved Stephen.

16 Q So you love Stephen?

17 A No one else -- I loved Stephen. No one else
18 would make the phone call. So he probably knew that
19 I would make it. I don't know why me. I don't know.

20 Q Did Stephen love you?

21 A I don't know, you have to ask him that.

22 MR. KIDD: Court's indulgence a moment.

23 Q (By Mr. Kidd) After this second robbery had
24 taken place, Stephen and Reggie are arrested, what
25 are you doing that night?

1 A The house -- in Miguel's apartment with Miguel
2 and Breanna.

3 Q Then where do you all go?

4 A In his car. Me and Breanna are like we are
5 going to leave. So we left and go to his car and
6 five minutes later he is running out too jumping in
7 the backseat.

8 So I'm like, okay, I'm going to have to call
9 Lauren. I call Lauren and tell Lauren to come get
10 me. I call her and she comes.

11 Q And then you all go to that gas station,
12 right?

13 A I was getting ready to get out and get in the
14 car with Lauren. He jumps in the car with Lauren.
15 Went to the gas station and I was getting ready to
16 get out with Lauren and Lauren took off. And I asked
17 him I said, I was like why did Lauren took off? He
18 was like, I just told her that Stephen and Reggie
19 just robbed somebody.

20 I was like, why did you tell her that? So I
21 called her and I tried to -- I asked her why she
22 left. And she just went off on me and hung up and I
23 didn't call her back.

24 Q You all followed Lauren to the gas station,
25 right?

1 A I don't know who followed who.

2 Q All right. You all end up at the gas station
3 together, right?

4 A Yes.

5 Q Then what happens?

6 A Miguel pays for gas and he gets in the car and
7 tells me to go to the C of C.

8 Q So now he is back in his Dodge Nitro with you
9 and Bree, right?

10 A Yes.

11 Q You didn't try to get in Lauren's car then?

12 A Lauren had took off before I even got a chance
13 to get out of the car and go see. She took off. He
14 got out of the car, she took off.

15 Q At this point you know there has been two
16 armed robberies, two home invasions, right?

17 A Yes.

18 Q And you drop Bree and Miguel off at Bree's?

19 A I actually go inside and I'm like freaking out
20 saying, you know, I need to go find Stephen, at that
21 moment not knowing what to do just I need to find
22 Stephen. Yes, I get ready to call to try to find a
23 way there and he just said, take my car.

24 Q So the guy who had been threatening your life
25 gave you his car?

1 A Gave me the keys to his car.

2 Q And you did?

3 A Yes, I was looking for my boyfriend.

4 Q Then you went back to Miguel's apartment,
5 right?

6 A No, sir, I never went back there. I don't
7 even know my way there.

8 Q You have been living in Charleston for how
9 long?

10 A At the time maybe since June. Yes, since
11 June.

12 Q Little under a year?

13 A Yes, sir.

14 Q And you had a car, right?

15 A Yes, sir.

16 Q Why didn't you take your car?

17 A It was actually broke at the time.

18 Q Did you need money to get your car fixed?

19 A No, my parents were coming to get it to pay
20 for it to get it fixed. They were getting it towed,
21 it actually hadn't gotten it towed.

22 Q Then you cleaned out Miguel's apartment with
23 the guns, right?

24 A No, I never went back to his apartment.

25 Q You cleaned out his car, didn't you?

1 A No, I didn't clean out his car like he asked
2 me to do. I didn't do it.

3 Q What did you do with his car?

4 A Bree was in the car with me then. We both
5 just like --

6 Q I thought you just said you left Bree and
7 Miguel at Bree's place?

8 A You asked me what did I do with his car.

9 Q Right. Well I'm not quite there yet.

10 A Okay.

11 Q So you don't go to the police?

12 A I went to the police station to look for
13 Stephen, but I didn't know whether to say something
14 because Miguel was still out. What am I going to
15 tell the police? What am I supposed to say?

16 I didn't really know what to say. I figured
17 if I said anything they would probably lock me up. I
18 didn't know what to say or how to say it or what.

19 Q You're a smart girl, couldn't you have told
20 the police that there has just been two home
21 invasions and Miguel Starks did it and has threatened
22 me and they need to lock him up and he is at my
23 friend Bree's house?

24 A I could have, but I didn't. I was just
25 scared. I didn't know what to do, like I said.

1 Q But you could have?

2 A I could have but I can't -- at that moment I
3 just couldn't. I didn't do it. I was so shaken up
4 and I just couldn't do it.

5 Q Because you didn't want to get in trouble for
6 those two home invasions, did you?

7 A No, I didn't want to get in trouble for those
8 home invasions.

9 Q Because you were involved in them, weren't
10 you?

11 A No, I wasn't involved in it. Well I was
12 involved in it, but unwillingly.

13 Q Then later that day you take Miguel's car and
14 you go pick Miguel up from Bree's house, don't you?

15 A Yes. He tells me to come get him. He tells
16 me he needs to be dropped off at the Citadel and to
17 take his car back to Bree.

18 Q So the guy who has threatened your life twice
19 now, whose car you have, who has just committed two
20 home invasions, duct-taped people up, pulled guns on
21 people, you go pick him up?

22 A Yes, I have his car.

23 Q And that car --

24 A So, yes, I go pick him up.

25 Q And that car is more important than your life?

1 A I feel like if I didn't pick him up, you know,
2 he can do anything, put out an APB, I can get locked
3 up for having his car, he can try to come back and
4 kill me, try to figure out where I am, anything, I
5 don't know.

6 Q You didn't have to keep his car.

7 A I didn't keep his car.

8 Q But you went and picked up the guy who had
9 been threatening your life?

10 A Yes, he told me to come get him and take him
11 to the Citadel, yes.

12 Q That's what you did?

13 A I took him. And then he told me to take his
14 car to Bree and I took -- well went and got Bree.

15 Q Then you and Bree started driving around,
16 right?

17 A Yes. At that time Stephen's parents is
18 calling me, crying, I don't know what to say to them.
19 Talking to them. She's on -- his parent, his mom
20 called her, talking to her so both of us are on the
21 phone on the ride downtown.

22 And then she tells me that his mom says for
23 her to clean out his car and get out some bullets.
24 And her Mama tells him to take -- bring the car to
25 the police station after she do that.

1 And she said, Sasha, I'm done with this. I'm
2 not taking his car nowhere. So we just parked the
3 car somewhere and we walk.

4 Q So you just abandon the car on a strange
5 street? Where did you leave it?

6 A I don't remember the street.

7 Q Was it downtown, North Charleston?

8 A It was downtown. We ended up walking back to
9 Bree's.

10 Q How long a walk was that?

11 A Pretty, pretty long walk. Felt like -- felt
12 like they were.

13 Q Were the police asking you to bring that car
14 to them?

15 A They never asked me, but Bree later told me
16 that his mom wanted her to take the car to the police
17 station.

18 Q So you knew the police wanted the car?

19 A Not really. I'm guessing that they wanted the
20 car because the mom wanted him -- her to take the car
21 to the police station. But I don't exactly know for
22 sure.

23 Q And you knew that the police wanted the car,
24 you also knew that Miguel was arrested, didn't you?

25 A Like I said, I didn't exactly know that the

1 police wanted the car, I just know that the mom told
2 her to take them.

3 Q Miguel's mom?

4 A Yes, Miguel's mom.

5 Q So Miguel's mom would want this because Miguel
6 has been arrested, right?

7 A At this point I didn't know if Miguel was
8 arrested or not.

9 Q When did you find out Miguel was arrested?

10 A After I make my statement, the first statement
11 they arrested me and I leave out of the room to sit
12 and wait for someone to come get me and he walks by.
13 Well they bring him in. He is in handcuffs.

14 Q After -- I apologize for jumping around a
15 little bit. During that first robbery, what did you
16 do with the cell phone that Emily Michalak gave you?

17 A Reggie took it from me.

18 Q When did he take it from you?

19 A I can't remember when he took it from me but
20 he took it from me and threw it in the river. I
21 think it was the river.

22 Q And you've lived in Charleston for 9, 10
23 months?

24 A About 9, 10 months, yes, sir.

25 Q You are saying you didn't even know what James

1 Island was?

2 A I didn't know what James Island was, I had
3 never been there, but I knew what West Ashley was.
4 But I didn't know my way around. I didn't travel
5 much like around Charleston. I mostly went to North
6 Charleston and downtown. Never went to those other
7 places.

8 Q why didn't you insist on calling the police
9 at any point during these three days?

10 A Scared.

11 Q When you finally realized they were robbing
12 someone, why didn't run next door, run to another
13 house, why didn't you do that?

14 MR. SOWELL: Objection, Your Honor.

15 THE COURT: Basis?

16 MR. SOWELL: Asked and answered 15 times.

17 THE COURT: I'm going to allow you this last
18 question, but it has been asked and answered.

19 Ma'am, you may answer the question.

20 A Because I was scared. He had just pulled a
21 gun out on me and at that point I was just trying to
22 survive, trying to stay alive, trying to do exactly
23 whatever he said to do.

24 Q You knew what you were doing was wrong, didn't
25 you?

1 A Yes, but I had to stay alive like I said.

2 Q From the broken gun?

3 A I didn't know if it was broken until later.

4 Q It was a thrill for you, wasn't it?

5 A No, it wasn't a thrill at all.

6 Q When you're sitting in the back of the car
7 behind Herbert Butler's house you were more concerned
8 about getting a lighter than anything else?

9 A That was one of the things that I asked for,
10 but most of the time I was just sitting there just
11 scared, just thinking and trying to figure out what
12 to do.

13 Q Not one time during any of your testimony
14 today or anytime else have you expressed any sympathy
15 for the victims, have you?

16 A I said that I didn't want anyone to get hurt.
17 I also said that I didn't want to get killed and I
18 didn't want anyone else to get killed also. I said
19 that.

20 And to them, I apologize to them but I don't
21 know them. I have never seen Herb, I have never seen
22 the coach but I've seen Emily. But until this day I
23 could never tell you what she looked like until I saw
24 her today. I couldn't look back and remember what
25 she looked like, anything.

1 Q And you know without you none of this would
2 have happened, would it?

3 A I feel like if I wouldn't have done it, if I
4 wouldn't have went to the door like they made me do
5 it, I feel like they would have either found another
6 way to get in, or probably killed them.

7 Q But you were sure to wipe those fingerprints
8 off the door, weren't you?

9 A I didn't wipe those fingerprints off the door.

10 Q But you made sure they were, weren't you?

11 A I just said something about them. I actually
12 don't know if he did it or not.

13 Q So you just went inside for a lighter?

14 A I went inside for a lighter. And then that's
15 when Stephen and them were arguing. And I told him
16 about, you know, the fingerprints. I was like,
17 they're in there robbing these people.

18 And they get to arguing. I try to calm both
19 of them down and say I'm ready to go, and that's when
20 they tell me to get the box. I went back in there
21 once. I never went back in there again.

22 Q And you said, what should we take?

23 A No, I didn't say that at all.

24 Q So you went into a house where there was a
25 home invasion taking place, where people were taped

1 up?

2 A I didn't know they were taped up at that
3 moment either.

4 Q Well you went into a house where you knew
5 there was a home invasion taking place, right?

6 A Yes, and I didn't go there willingly either.

7 Q But no one forced you out of the car when it
8 was just you and Bree in the car, did they?

9 A What do you mean?

10 Q When you went in for a lighter, you went into
11 a house where a home invasion was taking place for a
12 lighter?

13 A I mean they were already in there. I wanted
14 them to hurry up, I wanted to leave. But I also
15 wasn't going to try to -- I mean, I was going to try
16 to rush them as sweetly as I could because I didn't
17 want them to kill me.

18 Q In fact you were looking out for the guys,
19 weren't you?

20 A I actually wasn't looking out for the guys.
21 Actually Bree said she saw a car. I wasn't looking
22 out for anyone.

23 Q So you were helping by looking out?

24 A No, sir, I wasn't.

25 Q You were helping by knocking on the door?

1 A That probably helped them, but I wasn't doing
2 it intentionally.

3 Q You were helping by carrying stuff out of the
4 house?

5 A Not intentionally. I didn't do it willingly
6 either.

7 Q You were helping by calling Josh Harpe?

8 A I didn't do it willingly.

9 Q You were helping by carrying stuff out of that
10 house?

11 A I didn't do it willingly.

12 Q And in your own words in direct testimony you
13 said after that first robbery we hung out?

14 A I just say hung out just when a whole group of
15 people is together and they're just sitting there,
16 that's how I say hung out. But I can act elaborate
17 on it if you want me to.

18 Q Why didn't you call any one of these people
19 who testified earlier who were so impressed with your
20 character and your honesty, why didn't you call any
21 one of those people you impressed and tell them what
22 happened?

23 A Scared.

24 Q Isn't that your safety net?

25 A You can say that.

1 Q Your family?

2 A You can say that.

3 Q Those are the people you trust?

4 A Yes, sir.

5 Q Those are the people when something bad
6 happens you call, right?

7 A And they're also two hours away and I'm in
8 Charleston by myself with my boyfriend. With someone
9 that I don't know who's threatening me. I feel like
10 that's hard, I didn't know -- like I said, I didn't
11 know what to say. My mind was racing, didn't know
12 what to do, crying.

13 Q You were so distraught after that first armed
14 robbery that you could work on a project and go to
15 class and take a nap?

16 A Actually I ended up starting a project but
17 didn't finish it.

18 Q You were so broken up over this armed robbery
19 you were able to sit through class.

20 A I did. I just sat in class, I sat there.

21 Q Wasn't a big enough deal to skip class?

22 A I just sit there in class, didn't even
23 participate but I went.

24 Q Didn't tell the teacher?

25 A I didn't tell the teacher.

1 Q Now on direct you said that first Miguel asked
2 Breanna to make the phone call; is that right?

3 A Yes, I think I remember saying that.

4 Q She said no?

5 A She said she wasn't doing it.

6 Q Did he threaten her?

7 A No. He said, Sasha, you're going to make the
8 phone call. I already knew that he was going to ask
9 me anyway.

10 Q When you are putting gas in the car outside of
11 Miguel's house and that guy is helping you, you
12 didn't ask him for help, did you?

13 A I asked him to help us put the gas in the car
14 because I couldn't figure out how to get the top off
15 to put gas in it.

16 Q Right. But you didn't ask him for help out of
17 the situation you were in?

18 A No, sir. Just scared, just trying to stay
19 out, trying to make sure I do exactly what he said.

20 Q Because you were in it with the others, right?

21 A No, sir.

22 Q One for all, all for one?

23 A No, sir.

24 MR. KIDD: Court's indulgence.

25 Q (By Mr. Kidd) You had a cell phone with you

1 this whole time, right?

2 A Not the whole time. Sometimes he took the
3 cell phone.

4 Q Who took your cell phone?

5 A Miguel. Sometimes he had my cell phone.

6 Q That's the first time we're hearing about
7 that, isn't it?

8 A Yeah. But I mean it kind of doesn't matter if
9 I had it or not.

10 Q Well it does matter. If you had your cell
11 phone you could have called the police at any time,
12 couldn't you?

13 A I could have but I didn't. As I said I was
14 scared. What was I going to tell them? What was I
15 going to do?

16 I felt like, you know, no one else was in that
17 situ -- I feel like unless you are in that situation,
18 you can't really say what -- people can tell you what
19 you should have done, but until you are in that
20 situation, until they know exactly how you feel then
21 people really can't come in and tell you, you know,
22 you should have done this or they would have done
23 something different because you never really know
24 until you are in that situation.

25 I was just trying to stay alive and keep

1 Stephen alive and do whatever he said.

2 Q Breanna is a small girl, too, isn't she?

3 A She is bigger than me, but she is kind of
4 small.

5 Q She is not near the size of Miguel or Reggie
6 or Stephen, is she?

7 A No, sir.

8 Q She wasn't scared of Miguel, was she?

9 A Oh, I don't know.

10 Q She said no to him, didn't she?

11 A Yes. I'm not her.

12 Q There were no consequences to her for that,
13 were there?

14 A I don't think she was threatened. I was.

15 Q Let's talk a little bit about this note you
16 wrote to Bree in jail. Do you remember writing that
17 note?

18 A Yes, sir.

19 Q Why do you tell her to flush these notes down
20 the toilet?

21 A Because of the girl -- a girl just told me
22 that a lot of people around there just tell on
23 people, snitches a lot. And she was like, they
24 search your room, you know, you just don't want to
25 get no one to try to talk against you or anything

1 like that, so.

2 Q well if you did all this unwillingly, what do
3 you have to hide?

4 A I don't have anything to hide, that's why I
5 didn't say anything when she gave it to you guys. I
6 don't have anything to hide. And I feel like nothing
7 that I said in the letter is bad really.

8 Q What about when you said, I hope you didn't
9 talk to the cops?

10 A Yes. I hope she didn't.

11 Q That's not bad?

12 A No, I hope she didn't because the cops that I
13 talked to were very, very disrespectful to me. And
14 just trying to help her out about it too.

15 Q What about the officers you met with on March
16 1st, were they disrespectful to you?

17 A No, he was very, very nice to me. Wagner was
18 very nice.

19 But he -- when I told him that I overheard the
20 conversation about where the guns were he said he
21 would help as much as he can. Then later me and my
22 public defender went to see him, and he later said he
23 wouldn't talk to me and just kind of left it like
24 that. But other than that he was very, very nice to
25 me.

1 Q When you say, don't say too much to no one,
2 because you don't want anyone to find out anything
3 about what you did, right?

4 A No. Like I said a lot of people in jail they
5 talk, they'll kind of will do anything and tell lies
6 and say anything to kind of compromise your case or
7 either just try to get you in trouble or just try to
8 get less time for themselves. A lot of people do
9 that and I kind of felt that out.

10 Q The truth of the matter is Miguel never
11 threatened you, did he?

12 A He did threaten me.

13 Q Reggie never threatened you?

14 A Reggie never threatened me. I was scared of
15 him, but Miguel did threaten me.

16 Q Stephen never threatened you?

17 A No, he didn't.

18 Q You entered into these crimes willingly,
19 didn't you?

20 A No, sir. Also later I found out that Stephen
21 was threatened later. Ended up reading the statement
22 and I found out that he was threatened when I wasn't
23 there.

24 Q Stephen was threatened?

25 A Yes. I later found out in his written

1 statements that he was threatened. Yes, later I
2 found that out.

3 Q I wonder why that didn't come up when he was
4 testifying.

5 THE COURT: Be very careful, close to pitting.
6 Do not answer, ma'am.

7 Q (By Mr. Kidd) You are here today testifying
8 like you just, like you say in this letter, because
9 you think the shit can be beat?

10 A I think hers can be beat, yes, that's what I
11 told her, I was talking to her. Because Bree
12 actually didn't do anything. And I don't understand
13 why she testified things against me. But I don't
14 understand why, but she did.

15 Q And that's because you are Sasha Untouchable
16 Gaskins, right?

17 MR. SOWELL: Your Honor, objection.

18 THE COURT: Be very careful. Sustained,
19 character.

20 MR. KIDD: No further questions.

21 THE COURT: Any questions in redirect?

22 MR. SOWELL: Yes, ma'am.

23 THE COURT: You may proceed.

24 REDIRECT EXAMINATION

25 BY MR. SOWELL:

1 Q Was it safer to joke at Miguel's apartment or
2 to have him think you turned on him?

3 MR. KIDD: Objection, Your Honor, leading.

4 THE COURT: Sustained, leading.

5 MR. SOWELL: Can I give her a choice?

6 THE COURT: It's leading, sustained.
7 Rephrase.

8 Q (By Mr. Sowell) Question was asked of you
9 what kind of person joins the air force. Do you know
10 some nice people in the air force?

11 A Yes, sir.

12 Q Do you know if an air force recruiter came and
13 told the solicitor what kind of person joins the air
14 force?

15 A I believe he did.

16 Q Do you think someone should tell the solicitor
17 what kind of people risk their life to take him in
18 the air force?

19 A Sir?

20 Q Do you think the solicitor needs to find out
21 what kind of people would risk their life to protect
22 him through air force service?

23 A Yes, sir.

24 Q What does hung out mean?

25 A I kind of just say hung out just blatantly,

1 like I just say it. Basically just like of group of
2 people just sitting around or doing whatever, just
3 say hung out, just kind of said it.

4 Q Like visit?

5 A You could say that, just something you say.

6 Q Did you feel like you could discuss your
7 entire defense to your parents over a jailhouse phone
8 when they're taping your conversations?

9 MR. KIDD: Objection, Your Honor, leading.

10 THE COURT: I'll give him a little latitude,
11 overruled. You may answer the question.

12 A I knew not to say much on the phone. I knew
13 not to say much and I didn't want to say anything to
14 incriminate myself. But I ended up telling my
15 parents what happened.

16 Q And in that tape we listened to you say, I was
17 scared, real scared. Who were you talking to?

18 A In the tape? To my parents?

19 Q Yes, ma'am.

20 A Yes, I was talking to my parents.

21 MR. SOWELL: Nothing further, Your Honor.

22 THE COURT: Ma'am, you may step down.

23 THE COURT: Defense have any further
24 witnesses.

25 MR. SOWELL: Yes, ma'am

1 You may proceed, Mr. Sowell.

2 MR. SOWELL: Thank you, Your Honor, may it
3 please the Court.

4 THE COURT: Call your witness, Mr. Sowell.

5 MR. SOWELL: Brenda Ligon.

6 MS. BRENDA LIGON,
7 after having first been duly sworn to state the
8 truth, the whole truth and nothing but the truth,
9 testified on her oath as follows:

10 THE COURT: You may proceed.

11 DIRECT EXAMINATION

12 BY MR. SOWELL:

13 Q Ms. Ligon, how old are you?

14 A I'm 51.

15 Q Where do you live?

16 A I live in Laurens, South Carolina.

17 Q What is that, in Clinton County?

18 A It's in Laurens County. It is about ten miles
19 from Clinton, South Carolina.

20 Q Do you know Sasha?

21 A Yes, I do.

22 Q How do you know her?

23 A I know her from high school. My son and her
24 were good friends. And we all became to be friends.
25 we watched sports and they've both played sports.

1 And we spent a lot of time with Sasha in my home. My
2 son and her were good friends, you know, and had some
3 meals together.

4 Q Where do you work?

5 A I work, I own a business, Preset Staffing, and
6 also Sasha worked for me in my business.

7 Q Is that in your home?

8 A No, it's not. It's in front of the new
9 courthouse in Laurens, Hillcrest Drive. Preset
10 Staffing and Advanced Drug Testing Services.

11 Q Do you find jobs for job applicants?

12 A Yes, I do. And I do drug testing for our
13 companies.

14 Q How long have you been in business?

15 A 12 years.

16 Q Okay. And how long have you known Sasha?

17 A About 8.

18 Q Do you know her well enough to tell me what
19 her character is like?

20 A Yes. Sasha -- shall I proceed? Yes, Sasha is
21 a great individual. I love her like my own daughter.
22 She is very smart, intelligent.

23 She was also one of the ushers at one of my
24 business functions, a very prestigious business
25 functions. She was selected from the high school to

1 usher the business leaders to their seats and hand
2 out programs.

3 She worked for me. She handled confidential
4 documents in my office pertaining to my businesses
5 and clients. And she was very smart. And I just,
6 you know, I try to mentor girls like Sasha to teach
7 them about business during the summers.

8 Q Can you judge her honesty?

9 A Oh, yes. She never broke confidentiality
10 dealing with some very, I would say, confidential
11 documents. And she is just a smart girl.

12 Q Would you trust her with your bank account?

13 A Oh, yes. She did some bookkeeping for me.
14 She went through some receipts for me. And I didn't
15 try to -- I didn't feel threatened in any way with
16 her working there with my personal documents in the
17 office.

18 Q Are you familiar with her reputation around
19 the community?

20 A Yes, it is good. Like I said, my son was real
21 good friends with her and we wouldn't have taken with
22 her if she was not a good person because I'm
23 particular about my children and who they deal with.

24 So she is good. She even helped my son with
25 his work in school because she's very intelligent.

1 And my son was an A student, but she was able to help
2 him.

3 Q Do you know anything at all bad about her?

4 A No, I do not. I wouldn't be here today if I
5 did.

6 Q Has she ever gotten in trouble with anything?

7 A I don't know anything Sasha has done negative.

8 Q Can you think of anything else about her you
9 haven't told me about already?

10 MR. SAVAGE: Objection, Your Honor,
11 cumulative.

12 THE COURT: Overruled.

13 A What was the question?

14 Q (By Mr. Sowell) Can you tell me anything good
15 about her that you haven't already told me?

16 A Well, I know that I trust Sasha. And if she
17 got in any kind of trouble she had to have been under
18 some kind of serious duress. She's just been too
19 good of a person, sweet, smart, helpful, great
20 personality, she's a loving person.

21 And I can't see her doing anything that she
22 has been accused of, not without being under serious
23 duress. That's my opinion.

24 MR. SOWELL: Nothing further.

25 THE COURT: Any questions for the witness?

1 MR. SAVAGE: Yes, Your Honor.

2 THE COURT: Proceed.

3 CROSS-EXAMINATION

4 BY MR. SAVAGE:

5 Q Ms. Ligon, let's talk a little bit about your
6 business. It's a staffing company?

7 A Staffing.

8 Q And it's drug testing?

9 A Yes.

10 Q Would you employ someone to do drug testing
11 who takes drugs?

12 A Not knowingly, no.

13 Q You talked about what a good person is. Would
14 you describe someone who smokes a lot of marijuana as
15 a good person?

16 A I would say the person has some bad habits.
17 I don't --

18 Q Would you allow your son --

19 MR. SOWELL: Your Honor --

20 THE COURT: Let her finish her answer, Mr.
21 Savage.

22 MR. SAVAGE: Yes, Your Honor.

23 A I can't determine if a person is good, I can
24 say that their habits may be bad.

25 Q (By Mr. Savage) Well would you employ them to

1 work with you?

2 A If they smoked marijuana?

3 Q Yes, in drug testing.

4 A Not knowingly, no.

5 Q Have you talked to the defendant at all about
6 her defense?

7 A No, not -- I mean not too much. I think she
8 said that she was innocent. And she said there is a
9 lot of things that people don't know. But I did not
10 go into it with her because I really didn't want to
11 hear it.

12 Q You mentioned about some of the work that she
13 was handling, she was handling confidential
14 documents. What kind of confidential documents?

15 A Drug testing results that we have to send out
16 and file. And also applications with people's
17 records. We have to take up background checks. So
18 she had to deal with their records, and also social
19 security numbers, addresses and phone numbers which
20 are all confidential.

21 Q Do you have any legal training?

22 A Me?

23 Q Yes.

24 A I worked at the probation/parole office for
25 about three years and I learned a lot about the legal

1 system, but I do not have any legal training per se.
2 I have signed documents for the probation/parole
3 office.

4 Q You mentioned twice in your direct examination
5 the term duress. Where did you learn that?

6 A I am 51 years old. I have been around and I
7 know words. So I worked for the probation/parole
8 office for three years, so I'm not ignorant.

9 Q Specifically in relation to your direct
10 testimony to this defendant's defense twice you
11 mentioned duress. Where did you learn about the
12 defense?

13 A Well I'm saying, this is what I'm saying, if
14 she did anything wrong she couldn't -- she couldn't
15 -- she had to have been in a -- not in her right mind
16 and be afraid of being scared of what she was doing
17 because that's what I feel.

18 Q Okay, but that wasn't my question. My
19 question was, where did you learn about the defense
20 duress in relation to this case?

21 A Well, Sasha may have told me she didn't do it.
22 But I'm saying --

23 Q That's not what I'm asking. My question is
24 where did you learn --

25 THE COURT: Approach.

1 (Whereupon, the following discussion was held
2 at the bench.)

3 THE COURT: You are not going to get the
4 answer you're looking for. And you're
5 mischaracterizing it. She didn't put it in the
6 context of a defense of
7 duress --

8 MR. SAVAGE: I understood --

9 THE COURT: Listen to what I said. She said,
10 if she did it she would have had to have been forced
11 or under duress. You're using it in a legal point,
12 she is using it in a common sense point. If you want
13 to rephrase it, do it that way.

14 But do not mix the common sense terms because
15 you're not going to get the answer. She doesn't
16 understand what you are asking.

17 MR. SAVAGE: She might, she got cut off.

18 THE COURT: She doesn't. Move on.

19 (In open court.)

20 THE COURT: Rephrase.

21 Q (By Mr. Savage) When was the last time you
22 saw the defendant?

23 A About a week ago.

24 Q Tell me about that.

25 A Well we were helping her come up with the

1 money to hire an attorney to help defend her. So I
2 had some money to give her. And I had some money
3 that other people had given me to give her, some
4 churches and whatnot.

5 Q Okay, so what happened from there?

6 A She picked the money up and we talked about
7 her nice outfit and she left.

8 Q Did you know that Sasha went to the College of
9 Charleston?

10 A Excuse me?

11 Q Did you know that the defendant went to the
12 college of Charleston?

13 A Oh, yes.

14 Q Did you ever come to visit her at the college
15 of Charleston?

16 A No, I hadn't. Did not get an opportunity. My
17 son was in college also so he was in Greenville at
18 North Greenville University and she was down here.

19 Q Did you ever see her during that time period
20 when she was at the College Charleston?

21 A Maybe once or twice she would pop into the
22 office and speak when she was home.

23 Q Are you guessing or are you saying she
24 definitely visited you?

25 A I'm sure I saw her once. She dropped in I'm

1 sure once to see me.

2 Q Tell me about that time. When was it?

3 A I don't remember. It would be she was in the
4 neighborhood. Her grandmother or one of her
5 grandparents lived in Laurens and she was on her way
6 over there to see them and she just stopped in to say
7 hello. And I just hugged her and she talked and she
8 left.

9 Q Let's talk about that. What month?

10 A I don't remember.

11 Q Don't even remember what month? What season?

12 A I think it was in the summer.

13 Q In the summer?

14 A I'm not sure. I don't remember what day or
15 what month.

16 Q I'm just asking what season. We've got four
17 seasons a year.

18 A I don't remember the season. I'm a very busy
19 woman. I run a business. I see so many people
20 everyday. I try to give everyone equal time and then
21 I'm off to the next task, so I don't remember.

22 Q So you are very busy you can't remember what
23 season, but you are testifying truthfully that you
24 know positively without a doubt in your mind that she
25 came and visited you while she was at the College of

1 Charleston?

2 A I have seen her since she has been in college
3 I'm sure. One time I know.

4 Q You just cannot remember what season it was?

5 A No, sir, I do not remember the season.

6 MR. SAVAGE: Nothing further, Your Honor.

7 THE COURT: Any redirect of the witness?

8 MR. SOWELL: No, ma'am.

9 THE COURT: Any objection to the witness being
10 excused from the state?

11 MR. SAVAGE: No, Your Honor.

12 THE COURT: From the defense?

13 MR. SOWELL: No, ma'am.

14 THE COURT: Ma'am, you are excused.

15 Defense may proceed.

16 MR. SOWELL. Thank you, ma'am. Call Roseitta
17 Nance.

18 THE COURT: Please approach.

19 (Whereupon, the following discussion was held
20 at the bench.)

21 (Whereupon, the following discussion was held
22 at the bench.)

23 THE COURT: Is this the defendant's mother?

24 Okay. I just wanted to make sure it wasn't another
25 character witness.

1 MR. SOWELL: No, ma'am.

2 (In open court.)

3 MS. ROSEITTA GASKINS NANCE,
4 after having first been duly sworn to state the
5 truth, the whole truth and nothing but the truth,
6 testified on her oath as follows:

7 MR. SAVAGE: Your Honor, may we approach
8 briefly?

9 THE COURT: You may.

10 (Whereupon, the following discussion was held
11 at the bench.)

12 MR. SAVAGE: I'm trying to figure out how we
13 are going to go through this testimony when she has
14 been in the courtroom the whole time.

15 THE COURT: You brought it into evidence when
16 you started asking her about whether she reported it
17 to her mother. You ran that risk when you opened
18 that door. I'm not going to restrict them from
19 asking them about whether she said it to them.

20 They have been in here. They've heard it.
21 You can question her about having heard it, but it's
22 unlikely that -- if they contrived it they contrived
23 it long before now. You live with it.

24 MR. KIDD: This is my only concern. She is on
25 the witness list yet she has been in the courtroom.

1 THE COURT: Apparently he decided not to call
2 her until you all brought it into evidence. When you
3 did, he asked that they be excused from the
4 courtroom.

5 MR. SAVAGE: The problem is, she is on the
6 witness list.

7 THE COURT: I'm done with it. He had already
8 made the decision not to. The door was opened.

9 (In open court.)

10 THE COURT: Thank you, you may proceed.

11 DIRECT EXAMINATION

12 BY MR. SOWELL:

13 Q (By Mr. Sowell) Mrs. Nance, how old are you?

14 A 39.

15 Q Where do you live?

16 A Clinton, South Carolina.

17 Q How long have you lived in Clinton, South
18 Carolina?

19 A All my life.

20 Q That's in Laurens County?

21 A Yes, sir.

22 Q Right outside of Greenville County?

23 A Yes.

24 Q Are you the mother of Sasha?

25 A Yes.

1 Q would you do nearly anything that was not
2 criminal to try to help her?

3 A Yes.

4 Q would you lie for her?

5 A No.

6 Q If I ask you something today you will tell me
7 the truth?

8 A Yes.

9 Q Do you work?

10 A Yes.

11 Q Where do you work?

12 A Walmart distribution.

13 Q What do you do there?

14 A A little bit of everything.

15 Q And where did you go to school?

16 A Clinton High.

17 Q Did you graduate?

18 A Yes.

19 Q Have you taken any courses since then?

20 A Online courses.

21 Q And are you working toward an Associates
22 Degree?

23 A Yes.

24 Q What college would be offering that course?

25 A Colorado Tech.

1 Q Do you have any other children?

2 A Yes.

3 Q Which ones?

4 A I have a son named Roderick Gaskins, he is 21.

5 Q Where does he live?

6 A He is in Afghanistan right now.

7 Q He is in the Air Force?

8 A Yes, in the Army Reserve.

9 Q What kind of person would join the Army?

10 MR. SAVAGE: Objection, Your Honor.

11 THE COURT: Sustained, not relevant. Next
12 question, Mr. Sowell.

13 A My son is very smart, strong-minded.

14 MR. SAVAGE: Your Honor, objection.

15 THE COURT: Ma'am, the objection was
16 sustained.

17 Ask your next question, Mr. Sowell.

18 Q (By Mr. Sowell) Do you have any other
19 children?

20 A Yes.

21 Q Who?

22 A Roderick Gaskins and Sierra Nance.

23 Q How old are they?

24 A Roderick is 21 and Sierra is 12.

25 Q Okay. Now all of those are full-blooded

1 children?

2 A Yes, sir.

3 Q You have a different last name than Sasha, how
4 is that?

5 A I got married after I had Sasha.

6 Q And do you remember the night she got in
7 trouble?

8 A Yes.

9 Q Tell me about Sasha's upbringing. Has she
10 ever gotten in trouble ever before?

11 A Never, never been in trouble.

12 Q What is her reputation around the community?

13 A Very good child. Respectful.

14 Q Is she smart?

15 A Yeah, very smart.

16 Q Does she engage extracurricular activities
17 when she was in high school?

18 A Yes.

19 MR. SAVAGE: Objection, leading.

20 THE COURT: I'm go to give him a little
21 latitude in the interest of time.

22 You may continue.

23 Q (By Mr. Sowell) Did she engage in
24 extracurricular activities in high school?

25 A Yes, basketball, she was an assistant teach

1 fourth grade. Lots of stuff.

2 Q I didn't understand that, she was what kind of
3 teacher?

4 A Like an assistance teacher, a teacher's aid.

5 Q Did she -- is she member of the church?

6 A Yes.

7 Q Does she engage in activities at the church
8 besides listening to the sermons?

9 A The choir.

10 Q How much members are in that choir?

11 MR. SAVAGE: Objection, Your Honor,

12 cumulative. THE COURT: Mr. Sowell, I will
13 give you some latitude but you need to move along.

14 Q (By Mr. Sowell) Do you remember when she had
15 gotten arrested here in Charleston?

16 A Yes.

17 Q And she called home?

18 A Yes.

19 Q Did she tell you any details about what had
20 happened?

21 A All I wanted -- when she called, that's -- I
22 just wanted to know what happened, did she have
23 anything to do with it. That's all I wanted to know.

24 I was just kind of upset when she called her
25 father the first time. The first time she called her

1 father, he told me about it, I was kind of upset.

2 Q Did she discuss with you her emotional state

3 --

4 MR. SAVAGE: Objection, leading.

5 THE COURT: I'm going to give him a little
6 latitude. Overruled.

7 A I think it was two to three days later.

8 Q (By Mr. Sowell) What do you mean?

9 A She discussed some of it over the phone, but
10 she -- I didn't hear everything that she said. After
11 we went to the bond hearing I didn't get to see her.
12 So I think it was like a few days later after I came
13 to the county to visit her, then she told me
14 everything that happened and how scared she was.

15 MR. SOWELL: Your Honor, I believe the door
16 has been opened.

17 THE COURT: Excuse me?

18 MR. SOWELL: I believe that door has been
19 opened.

20 THE COURT: You've lost me. Approach.

21 (Whereupon, the following discussion was held
22 at the bench.)

23 THE COURT: What are you referring to?

24 MR. SOWELL: She was getting ready to tell us
25 everything Sasha has told her about what happened

1 THE COURT: That doesn't eliminate it from
2 being hearsay and self-serving. She can say what she
3 told her, and that's it. She can't repeat what she
4 said. I'm not aware of any hearsay exception.

5 MR. SOWELL: The solicitor opened that door
6 about that's what she told her parents.

7 THE COURT: The solicitor opened the door for
8 you to have her come in and say that she told her
9 everything. But it doesn't open the door to her
10 repeating everything she said. That's still hearsay.

11 (In open court.)

12 THE COURT: You may proceed.

13 Q (By Mr. Sowell) You were in the courtroom
14 during most of this trial?

15 A Yes.

16 Q And you heard all of the testimony?

17 A Yes.

18 Q Did Sasha's statement to you about she was
19 telling what happened, did that match what you heard
20 today?

21 MR. SAVAGE: Objection, Your Honor.

22 THE COURT: Please approach for me.

23 (Whereupon, the following discussion was held
24 at the bench.)

25 THE COURT: Actually, there is a rule that

1 once you opened the door and implied that she
2 fabricated that he can use extraneous evidence to
3 rehabilitate his witness.

4 MR. KIDD: That doesn't allow hearsay.

5 THE COURT: Yeah, it does. I just need to
6 look at the rule right quick. Because I got reversed
7 one time. I know exactly because I wouldn't let
8 somebody testify, the Court of Appeals -- matter of
9 fact it wasn't even preserved. They took it up on
10 there own and told me I messed up because I wouldn't
11 let him rehabilitate the witness through hearsay and
12 extraneous evidence.

13 MR. SAVAGE: Judge, I'm not disagreeing with
14 you. One little thing, he can't ask a leading
15 question. He's going to have her questions. He
16 can't tell her what to say.

17 THE COURT: I agree with that. But in the
18 interest of time, we can get through this quick, it's
19 the same result.

20 MR. SAVAGE: Not if he can't ask the question
21 properly.

22 THE COURT: I say whether the question is
23 asked properly, and whether it was framed probably.
24 You might want to color in the lines because you are
25 sort of getting out of your lane.

1 MR. SAVAGE: I wasn't referring to you, Your
2 Honor.

3 THE COURT: Uh-hum, thank you.
4 (In open court.)

5 THE COURT: Bear me one moment please.

6 Before you ask another question, Mr. Sowell, I
7 need you to wait a second.

8 He will be allowed to rehabilitate his
9 witness, however watch the leading, Mr. Sowell. And
10 it is limited to any charge of expressed or implied
11 recent fabrication of evidence.

12 You may proceed.

13 MR. SOWELL: Thank you, ma'am.

14 Q (By Mr. Sowell) Mrs. Nance, can you tell me
15 what Sasha told you on the phone the night she was in
16 jail, and what she told you when you first met her
17 after she was released from jail, with special
18 emphasis on why she did what she did.

19 MR. SAVAGE: Objection, hearsay.

20 THE COURT: Sustained, leading. It is not
21 hearsay to the extent he can rehabilitate his
22 witness. But that's overly broad the way you asked
23 that question. It has to be far more specific and
24 limited.

25 Q (By Mr. Sowell) Can you tell me what she told

1 you the night you spoke to her on the phone when she
2 was in the jail, and what she told you --

3 THE COURT: Approach please.

4 (Whereupon, the following discussion was held
5 at the bench.)

6 THE COURT: What she said on the telephone is
7 self-evident. She never told her anything. She
8 can't now come in here and say she told her anything,
9 that she was threatened. Because there's no -- your
10 witness has admitted that, so there is no
11 rehabilitation.

12 She said that she told her mother later during
13 a subsequent conversation. You need to confine our
14 questions to that subsequent conversation. And not
15 everything that was said because that doesn't come
16 within the ambit of rehabilitation.

17 The only thing you get to rebut is their
18 allegation that she reasonably fabricated this
19 duress.

20 MR. SOWELL: What about she was scared about
21 threats.

22 THE COURT: She never said anything about
23 threats on the phone.

24 MR. SOWELL: No, when she met with her mother.

25 THE COURT: You want to ask that question?

1 Do you have any objection to that? It does
2 cut to the chase.

3 MR. KIDD: Hearsay.

4 THE COURT: You questioned his witness and
5 implied that she recently fabricated it, and that she
6 never told her mother. Under the rules he can
7 provide extraneous proof to rehabilitate his witness.
8 In other words that it was not recently fabricated.

9 MR. KIDD: We never alleged that she didn't
10 tell her mother eventually, we just alleged not on
11 the phone call.

12 THE COURT: That's not the way you questioned
13 her. She said, I told her later, and you questioned
14 her credibility. You may not remember but I have got
15 a transcript right here. I just don't have time to
16 look it up. I listened very intently --

17 MR. KIDD: I don't doubt you do, Your Honor.

18 THE COURT: -- because I knew he was going to
19 call them as witnesses. Because he had already told
20 me he wasn't calling them as witnesses. He had
21 already eliminated them.

22 MR. KIDD: As long as we limit it to the
23 subsequent conversation.

24 THE COURT: Period.

25 MR. KIDD: If we can make sure it's the

1 question.

2 THE COURT: This is a very pointed question, I
3 think that's why he is asking. Do you have any
4 exception to asking it that way because it eliminates
5 the rest of the conversation. Is that acceptable?

6 MR. KIDD: It is.

7 THE COURT: Proceed.

8 (In open court.).

9 THE COURT: You may proceed, Mr. Sowell.

10 MR. SOWELL: Thank you, ma'am.

11 Q (By Mr. Sowell) During your conversation,
12 face-to-face, that you had with Sasha after you came
13 down to Charleston when she got out of jail, what did
14 she tell you about why she did what she did?

15 MR. SAVAGE: Objection, Your Honor, may we
16 approach?

17 THE COURT: Yes.

18 (Whereupon, the following discussion was held
19 at the bench.)

20 MR. SAVAGE: He said when she got out of jail.

21 THE COURT: She's already testified that
22 that's when she talked to her.

23 MR. SAVAGE: I thought he said when she first
24 met her mother at the jail. I'm trying --

25 THE COURT: There is some confusion because

1 they didn't get to talk to her at the bond hearing,
2 she saw her a few days after at the jail. That would
3 be the first conversation.

4 He is not limited to the first conversation,
5 it can be any conversation where she told her mother
6 that. You all waived it.

7 MR. SAVAGE: I thought that's what your ruling
8 was, to limit it to that.

9 THE COURT: Limit it to subsequent
10 conversations. I don't know whether it was the first
11 one, the second one or the third one. But she
12 testified when she saw her in jail, she said she --
13 how scared she was.

14 So that really implies that that's the first
15 time she told her, Mr. Sowell. She has already
16 testified to that. She didn't see her at the bond
17 hearing, but a few days later she saw her at the jail
18 and she told her how scared she was.

19 MR. SOWELL: I'm trying to make sure I
20 followed your orders right. And I asked her what she
21 told you concerning about why she did what she did.

22 THE COURT: Why are you leading? Why don't
23 you just ask her, what did your daughter tell you
24 when you first saw her at the jail. What did she
25 tell you.

1 MR. SOWELL: I'm trying to remember.

2 THE COURT: Okay.

3 (In open court.)

4 MR. KIDD: Note our objection for the record.

5 THE COURT: Already been noted and overruled.

6 You may proceed.

7 Q (By Mr. Sowell) Mrs. Nance, when you saw
8 Sasha after the bond hearing, what did she tell you?

9 A She told me what happened with both of the
10 robberies. And she was made to do it.

11 Q What do you mean by that?

12 A She was threatened.

13 Q By whom?

14 A By Miguel.

15 MR. SOWELL: Your Honor, is this examination
16 limited --

17 (Whereupon, the following discussion was held
18 at the bench.)

19 MR. SOWELL: Is this examination limited to
20 just telling --

21 THE COURT: It's your witness, you told me you
22 weren't calling them at all. And the only reason you
23 wanted to call them is to rehabilitate your client.

24 So I assume that's the purpose for which you
25 called the witness since they were in the courtroom

1 the whole time and not subject to sequestration.

2 MR. SOWELL: My point is if I stop at this
3 time, and they go into --

4 THE COURT: I don't know what they're going to
5 go into. That's why they have redirect.

6 MR. SOWELL: If they are going to go into --

7 THE COURT: I don't know, I'm not clairvoyant.
8 I don't know what they're going to go into. That's
9 why you have redirect examination.

10 MR. SOWELL: I want to rehabilitate my client.

11 THE COURT: You limited yourself when you said
12 you weren't going to call them as witnesses and they
13 were in here for all the testimony. What else would
14 they testify to? They weren't an eyewitness. You've
15 already had them testify to character. You've
16 already had them rehabilitate your witness. What
17 else would they testify to?

18 MR. SOWELL: I don't know. I'm not sure what
19 they're going to go into.

20 THE COURT: Whatever they ask you have
21 redirect examination. Isn't that what it's designed
22 for?

23 MR. SOWELL: Yes, ma'am.

24 (In open court.)

25 THE COURT: Proceed.

1 MR. SOWELL: Nothing further, Your Honor.

2 THE COURT: Any cross-examination of the
3 witness?

4 MR. SAVAGE: Nothing, Your Honor.

5 THE COURT: Any objection to the witness being
6 excused from the state?

7 MR. SAVAGE: No, Your Honor.

8 THE COURT: From the defense?

9 MR. SOWELL: No, ma'am.

10 THE COURT: Ma'am, you may step down.

11 You may proceed.

12 MR. SAVAGE: Your Honor, may we approach?

13 THE COURT: Uh-hum.

14 MR. SAVAGE: Court's indulgence, Your Honor, I
15 think there has been a problem.

16 THE COURT: Please don't make an extraneous
17 comments in the presence of the jury, and I would ask
18 that you approach.

19 (Whereupon, the following discussion was held
20 at the bench.)

21 MR. SAVAGE: I'm sorry, I didn't know they
22 were coming.

23 THE COURT: Mr. Sowell, do you have any
24 witness?

25 MR. SOWELL: No.

1 THE COURT: Are you about to rest?

2 MR. SOWELL: All right.

3 THE COURT: What are you going to tell me.

4 MR. SAVAGE: The problem is the detective
5 heard the mother talking outside the courtroom about
6 what questions were going to be asked and as to their
7 testimony.

8 THE COURT: Well I can find her in contempt
9 and fine her. If they were going to contrive stuff,
10 they would have contrived it long before now. She
11 was sitting in here. She heard the questions you all
12 asked.

13 MR. SAVAGE: She clearly --

14 THE COURT: You know what, this is getting
15 real personal and I'm not getting in the mud with you
16 all. Stand back.

17 MR. SAVAGE: Okay. All right.

18 (In open court.)

19 THE COURT: Defense may proceed.

20 MR. SOWELL: Defense rests, Your Honor.

21 THE COURT: Motions will be reserved. Does
22 the state have any rebuttal witnesses?

23 MR. KIDD: No, Your Honor.

24 THE COURT: Does the state rest?

25 MR. KIDD: Yes, Your Honor.

1 Are there going to be any requests for any
2 lesser-included offenses from the state?

3 MR. KIDD: No, Your Honor.

4 THE COURT: From the defense?

5 MR. SOWELL: No, Your Honor.

6 THE COURT: Are there any exceptions to the
7 charges proposed from the state?

8 MR. KIDD: Your Honor, I'm under the belief
9 that there is -- pardon me. I'm under the belief
10 that there is a character evidence charge that must
11 be charged. I don't want it to be charged, but I
12 think it has to be.

13 THE COURT: I don't believe so. Just because
14 they gave character testimony? I'm not aware of any.
15 I have never given one in the past. I would perceive
16 that as an impermissible comment on the facts and on
17 the testimony.

18 MR. KIDD: I'm just kind of reading off the
19 notes on one of my rule books, Your Honor. It says,
20 generally we are requested, when there is evidence of
21 good character, the defendant is entitled to an
22 instruction to the effect that evidence of good
23 character and good reputation may in of itself create
24 doubt as to guilt should be considered by the jury
25 along with other evidence to determine the guilt or

1 innocence.

2 THE COURT: I think that's about the
3 admissability, not about an instruction. I have
4 never given an instruction on character testimony or
5 any particular testimony. Nor is there one that we
6 have that is crafted, or that I'm aware of that has
7 ever been used.

8 I will look, but I don't have one, nor have I
9 ever done it. I think it might border on being an
10 impermissible comment on the facts as to how the jury
11 is to weigh the testimony.

12 I think in giving the general instruction
13 regarding how they're to weigh the testimony and
14 witness credibility and believability, I think it's
15 within their ambit when you start talking about -- I
16 guess without belaboring it, I'm just not aware.

17 If he requested it, and he hasn't at least at
18 this point. But I'd have to look but I have never in
19 15 years given an instruction on character testimony.

20 MR. KIDD: Thank you.

21 THE COURT: I'm not aware of one. And I can
22 look through my books again and see, but I have never
23 seen one.

24 Any further exceptions to the instruction.

25 MR. KIDD: None from the state.

1 conclusions thereon based on what you've heard, then
2 ignore what I'm telling you, let's go with what you
3 heard. I'm not trying to mislead you, I'm just
4 trying to bring out the points we think are relevant
5 in the testimony you heard.

6 This is most important decision of your life.
7 You are going to decide, each and every one of you,
8 is going to decide if that sweet little girl over
9 there, her life. It is not a question what the jury
10 votes, it's a question of what you individually vote.

11 When this case is over, when the jury is asked
12 how they vote, the judge is going to poll you. And
13 each one of you is going to have to stand up and say,
14 yes, I voted in the minority then I voted she was
15 guilty. So it's not the situation where you show
16 somebody, well we're going to try to get you to
17 change your vote. No one can make you change your
18 vote.

19 If this ends up as a hung jury, Judge
20 Jefferson will bring you back in here and she will
21 tell you, consider your fellow voters, your fellow
22 jurors, consider what their opinions are.

23 And if you can do so without violating your
24 conscious, then consider it, put your other jurors to
25 the vote, especially if you are in the minority. But

1 have promised to vote not guilty.

2 Now we don't contest that a crime was
3 committed. We contest a bunch of crimes were
4 committed. I mean we admit a bunch of crimes were
5 committed. The only thing we are contesting is why
6 Sasha was involved in those crimes.

7 You saw the list of crimes. We admit all of
8 those things were done. We admit we were in either
9 there or outside or somewhere close every time one of
10 those horrendous acts occurred. What we do contest
11 is why we were there.

12 Now if you remember each one of these
13 defendants gave a story. And each one of these
14 defendants think they have bought their mercy. In
15 fact one of them even sat there and told you, yes,
16 the solicitor's office has told me, promised to me if
17 I come up here and testify against Sasha, I'm going
18 to get the minimum sentence for armed robbery.

19 What she forgot to tell you is that they're
20 also going to drop two burglary charges which could
21 result in life in prison. So she thinks that -- she
22 even testified. And they didn't put up anyone to
23 deny what she said.

24 She said, the solicitor's office has promised
25 me if I come up here and tell you Sasha did all those

1 bad things, and Sasha was not scared, and Sasha was
2 not threatened, they promised me if I come up here
3 and tell you that, then I get a minimum sentence on
4 one charge. And the other three charges, that I can
5 go to jail for the rest of my life from, are going to
6 go away.

7 Ladies and gentlemen, I know very few people,
8 I don't even think my minister would refuse a deal
9 where he was going to get life in prison on the one
10 hand, and he's going to say that this person was not
11 scared he is going to get the minimum sentence, I
12 can't think of anybody that wouldn't take that deal.

13 These people that stood here in front of you
14 and testified that Sasha was not scared, every one of
15 them has bought either a promise that they won't
16 spend the rest of their life in jail, or they think
17 that's what's going to happen, they think they're
18 buying their mercy.

19 Based on that, I don't see how anybody who
20 ever wanted to have a daughter, who ever wanted to
21 have a grandchild, anybody who ever wanted to go to
22 Mama's house, wouldn't take that deal and change
23 their story to whatever it took to convince you that
24 she was not scared.

25 Reggie, Miguel, no question they spent time

1 and time and time and time threatening their victims.
2 If you don't tell me where the money is; if there's
3 anybody at the house; if you don't tell me about the
4 burglar alarm, security system; if you don't give me
5 your money; if you don't do what I tell you to do,
6 I'm going to kill you. And they spent time talking
7 about how they were going to cut off his own body
8 members.

9 They all admitted that Reggie Rice and Miguel
10 Starns (sic) were violent people. And they all
11 admitted that anybody who got threatened by Miguel
12 and Reggie had reason to fear for their life. Each
13 one of them, every one of them admitted, if he
14 threatened you, you had good reason to fear for your
15 life. They even told her, it's now time for you to
16 start praying. How does that make you feel.

17 I need to check my notes. I didn't have two
18 years to prepare for this. I've got to make sure I
19 don't leave out anything. And there are going to be
20 things I'm going to leave out. Because I can't go
21 over four days of testimony in 30 minutes and give
22 you a good synopsis of what is going on and what
23 happened. I am trying to give you my opinion about
24 what is most important.

25 Now all your life you have heard the violent

1 argument, when you and your brother got into a fight,
2 you always want to be the last one to say, Mama, he
3 hit me first. He who argues last, argues strongest.

4 Now when I finish today, I have to go sit over
5 there and be real quiet and sweet and nice and just
6 sit there. But the solicitor's office is going to
7 come back and say, Kenny made a mistake on this, and
8 Kenny made a mistake on that.

9 Our version is that, no, they tell you what
10 their version is, I will contest it, that's tough. I
11 don't get to come up and tell you our response to
12 their version.

13 The only thing that can at least make this
14 half-way fair is if they come up here, stand here and
15 tell you things that you know are in dispute, please
16 try to imagine in your mind what I would say if I
17 could come back up here.

18 And please try to remember what you heard. I
19 can't refresh your memory on everything, I can't
20 possibly do that in 30 minutes from four days. But
21 try to remember some of the things that you've heard
22 that I didn't tell you about.

23 Sasha tells that Miguel, on two different
24 occasions, pointed a gun at her and threatened to
25 kill her if she messed this up. I will tell you what

1 She was 18 years old. She had never been away
2 from home. She was the sweetest, nicest girl in
3 town, everybody said. She was sweet, she was nice,
4 she was helpful, she was generous with her time and
5 everything she could spare, tried to save her life.
6 Second day she was afraid, she didn't know what to
7 do.

8 And Miguel said, come back over to my place.
9 She is young. She had not -- he would have been
10 afraid she was going to tell Miguel something. She
11 couldn't have him think she was turning him in so she
12 went to his apartment like he demanded.

13 There is somebody talking about going back and
14 forth, back and forth to another restaurant, to
15 another restaurant, giving people's apartments and
16 condos. She was never alone except that night when
17 Miguel had some -- the second night and Miguel takes
18 her to her house. Instead gets out of the car and
19 Miguel leans over her and whispers, mess this up and
20 I will kill you.

21 She had no choice. If she was a 35-year-old
22 muscular football player, if she was a 35-year-old
23 lady who knew all about the ins and outs of life, she
24 could have done something else. But she wasn't. She
25 was a 18-year-old girl, afraid for her life, didn't

1 an 18-year-old girl who had never been away from
2 home, never hurt anybody in her entire live.

3 Now the solicitor's office tried to make a big
4 deal of it. This is not a good girl, she smokes
5 marijuana. Ladies and gentlemen, I don't smoke
6 marijuana. I bet you go down to the high school and
7 the students will tell you the truth, there's a large
8 percentage of them smoke marijuana, and there a large
9 percentage of them are nice people.

10 Kids are stupid. 18-year-old, 19-year-old kids
11 are stupid. College kids are stupid. They think
12 marijuana is okay. And even the guy who used to be
13 our state treasurer, one of the big wheels here in
14 Charleston, gets on national TV and tells everybody
15 he thinks that marijuana should be legalized. That's
16 a stupid thing to think about.

17 My point is just because a 19 or 18-year-old
18 kid smokes marijuana does not mean that they're a bad
19 person. And except the stupidity of smoking
20 marijuana, that little girl over there has never done
21 anything wrong in her entire life, except for what he
22 had her do when she was trying to save her life.

23 Her mother says, call home first. Don't call
24 the police, you always come home first. You heard
25 her yelling. Call home first. She didn't know what

1 classic example of exactly what Dr. Waid told us.
2 Fear of death can make a good individual do bad
3 things.

4 sasha also testified to you that she would
5 have risked the death if she had known Emily and
6 those other two guys were going to get injured.
7 Emily suffered a great deal. Pain, I don't know that
8 she had a lot of pain, emotional scars that she'll
9 never get over. We are sorry that happened.

10 sasha told you she would have risked her own
11 death if she thought this was going to happen in any
12 way. If she had even known that Emily was there, she
13 wouldn't have done it. Sasha is not charged with
14 raping Emily. Sasha is extremely sorry that it
15 happened. If she had any idea that the other crime
16 would have been committed, she would have said, Okay,
17 Reggie, kill me.

18 Now lets examine very shortly the evidence
19 presented. Sasha -- I'm in a hurry, sorry. Sasha
20 told you about the threats to kill her unless she
21 obeyed them. She didn't know the injures that would
22 be subjected on Emily. She said she never should
23 have had to go through this. She said had she known
24 what was going to happen, she would have told them,
25 you all kill me. I'm not going to do it.

1 All of her character witnesses came up here
2 from Clinton/Laurens and said she is the sweetest,
3 nicest 18-year-old girl in the world. said she would
4 do things for church members, for school members, the
5 older people in town. She's just a wonderful,
6 cooperative, generous, honest, loving person. She
7 would never commit a crime if she had any choice.

8 We all know what a choice between two evils
9 means; one is bad and the other is bad.

10 Breanna testified that Sasha was not
11 threatened, but she admitted she was not present at
12 the time when Miguel threatened her. So she tells
13 you that Sasha wasn't threatened, but she says -- she
14 admitted that if she did get threatened, then I
15 wasn't there. That doesn't tell us anything.

16 But she didn't do something extremely
17 important, we have gone over this before, she said
18 the solicitor's office has promised me a deal. You
19 know what that means, it means she gets to avoid most
20 of the criminal and substantially less criminal if
21 she testifies against Sasha.

22 Stephen testified he was not present when the
23 bad guys, Miguel and Reggie, threatened Sasha. He
24 didn't know except that's what he admitted to the
25 stand. He had previously testified that they

1 MR. SAVAGE: There is no testimony in the
2 court about that.

3 THE COURT: I think there is. I think he did
4 question him about it from his statement is my
5 recollection.

6 (In open court.)

7 THE COURT: Overruled.

8 MR. SOWELL: Thank you, Your Honor.

9 In addition, Stephen testified he was not
10 present at the time Sasha was threatened. There is
11 no question he wasn't there at the doorstep, wasn't
12 there on the doorstep when the two bad guys rush in,
13 and Sasha drugged up and told, if you don't knock on
14 the door I'm going to kill you.

15 sasha (sic) further testified that if he
16 expects mercy from his testimony, he expects the
17 solicitor's office to give him mercy. His testimony
18 changed after he was promised by the police officers
19 that he would get mercy if he testifies and tells the
20 story that they wanted to hear.

21 Do we want to believe his original story, or
22 the story he told after he was promised from the
23 police officer to get mercy? Reggie is important.
24 Not only does his best friend Miguel say, he's going
25 to kill somebody if he gets pissed off. He further

1 with my gun, they darn well better be afraid of their
2 life.

3 He is the one that told her, it's time to
4 start praying. And you want to listen to him and
5 believe him? Or do you want to believe his version
6 in contact after the solicitor's office helping him.
7 He thinks he bought her.

8 Please don't let the facts that they purchased
9 deals, and facts they purchased promises of mercy
10 ruin the life of a sweet girl who is trying to
11 protect herself. Remember Dr. Waid's testimony that
12 the fear continues even after a period of time.
13 Mercy is cheap. Sasha has a history, has a future,
14 but not unless all 12 of you take that away from her.

15 If I had more time I would discuss everything
16 that happened. Please remember, this is a promise,
17 before they change the story.

18 Let me spend a couple of seconds discussing
19 other important things. The police officer said,
20 tell me what I want or you will get sentenced to life
21 in prison. Starks said that Sasha was doing all
22 this. She agreed to do this with people she had only
23 known two days.

24 The solicitor made a big deal about how she
25 had hung around all these football players. She had

1 when they had guns in their hands, better believe
2 them. Miguel told us, if Reggie gets pissed off,
3 he'll kill you.

4 The solicitor's office is trying to make a big
5 deal out of this little note that Sasha sent to
6 Breanna. The only thing it says was, don't talk
7 about this to jail-mates, jailhouse snitches will
8 lie, and they will do anything possible to tell the
9 solicitor, hey, this guy committed something.

10 Because they think they're going to get a
11 get-out-of-jail free card if they testify. This
12 happens all the time. Inmates, fellow inmates in
13 jail will call the solicitor's office and say, hey,
14 if you give me a deal and let me out of here, I will
15 testify this guy admitted he committed a crime.

16 That happens. You read it in the paper all
17 the time. Jailhouse snitches are famous for that, or
18 should I say infamous. Sasha sent the note to
19 Breanna, don't get tricked by a jailhouse snitch.
20 That's what this thing says.

21 It says, don't worry. They don't believe us
22 about the threats, don't be tricked by a jailhouse
23 snitch.

24 The solicitor brought you all these pictures,
25 you know why? Because when the solicitor brings all

1 conscious.

2 Don't strip away the entire life of a pretty
3 little girl, the sweet little girl over there, who
4 did nothing but try to save her life. Thank you.

5 THE COURT: Mr. Foreman, ladies and gentlemen,
6 I'm going to give you a very brief restroom break.
7 During the break please do not discuss the case and
8 please leave your notepads in your seats. As soon as
9 you are done using the restroom, knock on the door
10 and advise the bailiff. And at that point we will
11 resume argument. Go with the bailiff, please.

12 (Whereupon, the jurors exit the courtroom.)

13 (Whereupon, a recess was taken.)

14 THE COURT: Is the state ready to proceed?

15 MR. KIDD: We are, Your Honor.

16 THE COURT: Is the defense ready to proceed?

17 MR. SOWELL: Yes, ma'am.

18 THE COURT: Please bring in the jury.

19 (Whereupon, the jurors enter the courtroom.)

20 THE COURT: State may proceed.

21 MR. KIDD: Yes, ma'am.

22 May it please the Court, Mr. Sowell. Ladies
23 and gentlemen, I'm not quite sure what trial Mr.
24 Sowell was listening to this week, but I want you to
25 know that any words that come out of his mouth are

1 not evidence. In the same vein, anything that I say
2 is not evidence.

3 MR. SOWELL: Your Honor.

4 THE COURT: Basis of the objection?

5 MR. SOWELL: Basically it's harassment.

6 THE COURT: Overruled. It's an accurate
7 statement of the law. Argument is not evidence, nor
8 is it the law. You may proceed.

9 MR. KIDD: Anything that comes out Mr.
10 Sowell's mouth or my mouth is not evidence. The
11 evidence that you hear comes from exhibits, comes
12 from testimony from the witness stand.

13 He makes comments about that phone call. And
14 I apologize to you because it's not entered into
15 evidence so you are not going to get to listen to it
16 again. Mr. Sowell could have put it in evidence, but
17 it wasn't entered. And it was hard to understand.

18 I hope you were able to hear it. I hope you
19 were able to hear Ms. Gaskins say, I didn't know what
20 was going on. I hope you were able to hear her say,
21 I was with Bree the whole time. I hope you were able
22 to hear the things that were actually said on that
23 tape.

24 Now 90 percent Mr. Sowell's case has been
25 about painting his client as the sweetest little girl

1 in town. And, ladies and gentlemen, I'm not arguing
2 that this case isn't a tragedy as it relates to the
3 codefendants in this case.

4 You have five young people, athletes,
5 scholarship students, families who were involved in
6 their lives, who had every opportunity in life to be
7 successful. They have got the world at their
8 fingertips, and they threw it all away. Threw it all
9 away and it's a tragedy. It's a tragedy.

10 But save your sympathy for the victims in this
11 case. Save your sympathy for Joshua Harper, Emily
12 Michalak, save your sympathy for Herbert Butler.
13 They're the victims in this case. They're the ones
14 who were duct-taped up on the floor of their homes,
15 who were stripped of dignity and respect.

16 Ms. Gaskins, she made her choices. My parents
17 always told me growing up, we set our own tables in
18 live. Ms. Gaskins set her table, she made her
19 choices. She chose to hang out with these people.
20 She chose to knock on the door, involve herself in
21 these crimes. She chose to go in these residences
22 and carry things out.

23 She chose to make the phone call. She chose
24 to go inside again. She chose to participate in
25 these crimes. She made her choices. Duct-taped up

1 on the floor staring down the barrel of a gun, you
2 have no choices.

3 Joshua Harper, Emily Michalak, they weren't
4 allowed to make any choices. Save your sympathy for
5 them.

6 Now I'm going to talk to you a little bit, I'm
7 going to run through what took place on those days,
8 and I'm going to talk about the witness's testimony.
9 I'm not going to go through every little piece of
10 testimony that came off the witness stand, there is
11 too much.

12 But I do want to address the allegations that
13 there has been some sort of arrangement between me or
14 my office and those witnesses. If you think for one
15 second that me or my office is going to show leniency
16 to Miguel Starks in exchange for his testimony
17 against Ms. Gaskins, you're out of your mind.

18 If you think for one second me or my office is
19 going to show leniency to Reggie Rice in exchange for
20 his testimony, you are out of your mind. If you
21 think for one second that we are going to show
22 leniency to Stephen Francois in exchange for his
23 testimony, you are out of your mind.

24 They're much worse than Ms. Gaskins. They
25 pled guilty. They plead guilty to armed robbery, two

1 counts; burglary first, two counts; kidnapping, two
2 counts; possession of a firearm during a violent
3 crime. Starks pled to criminal sexual conduct in the
4 first degree, that's rape.

5 And we are going to show them mercy and
6 leniency for their testimony? I don't think. Ms.
7 Gaskins isn't near as culpable as they are, but she
8 is just as guilty. Everything Mr. Sowell presented
9 to you is mitigation. It's something that should be
10 considered as sentencing, not toward guilt.

11 MR. SOWELL: Your Honor.

12 THE COURT: Yes, sir.

13 MR. SOWELL: He is not quoting the law.

14 THE COURT: Please approach.

15 (Whereupon, the following discussion was held
16 at the bench.)

17 (Whereupon, the following discussion was held at the
18 bench.)

19 THE COURT: What is basis of the objection?

20 MR. SOWELL: He told them that coercion is not
21 to be considered by the jury.

22 THE COURT: It's not an absolute defense.

23 It's to be weighed by the jury. It's to be weighed

24 by the jury. He didn't misstate the law, he said

25 it's something they can consider. They don't have to

1 consider it.

2 MR. SOWELL: I understand that. He said it
3 has to be considered by the Judge at sentencing.

4 THE COURT: That's not what he said. I'm
5 reading exactly what he said.

6 MR. SOWELL: It's to be considered at
7 sentencing.

8 THE COURT: That's not what he said, he said
9 it's to be considered as mitigation.

10 MR. SOWELL: At sentencing.

11 THE COURT: That's not what he said. I'm
12 reading it exactly verbatim.

13 MR. SOWELL: He didn't say that?

14 THE COURT: He didn't say that. That's what
15 you think you heard but that's not what he said.

16 (In open court.)

17 THE COURT: Overrule. You may proceed.

18 MR. KIDD: Ladies and gentlemen, no one is
19 seeking a life sentence against Ms. Gaskins. And you
20 are not to concern yourself with what sort of
21 sentence she may or may not receive. It's not up to
22 you, it's not up to me, it's up to the Judge. The
23 Judge determines sentencing. The Judge determines
24 what sentence is appropriate.

25 Your job, as jurors, you are the judges of the

1 facts, much like Judge Jefferson is the Judge of the
2 law. She is the authority on the law, she is going
3 to change you with the law. And you apply the facts,
4 as your find them, to the law as she charges it. And
5 you determine whether she's guilty or not guilty.
6 You don't concern yourself with the sentencing,
7 that's for the Judge to do.

8 Now let's go through a little bit about the
9 story from beginning to end. Not so much a story,
10 it's actually what happened. What happened? Tuesday
11 Miguel Starks goes to Sasha and Stephen Francois'
12 place, they talk about an armed robbery for the first
13 time. You heard from Stephen, you heard from Miguel,
14 everyone is in, everyone is in agreement, no one is
15 being threatened.

16 What happened next? Wednesday. Wednesday in
17 the afternoon go back over to Francois' dorm room,
18 Sasha is there, Miguel and Reggie talking about the
19 armed robbery, drawing it out on a napkin, they have
20 got a plan. Sasha is going to knock on the door, she
21 is in agreement, she is part of it. No one is being
22 threatened.

23 What happens next? Miguel meets Bree, they
24 all end up going to the Kickin' Chicken. What does
25 Sasha say? We're really going to do this tonight?

1 We about to do something crazy.

2 What happens next? They drive back to
3 Miguel's place. In the car what are they talking
4 about? They are telling Bree what they're about to
5 do. Bree doesn't admit that. You wondered why
6 certain testimony don't match up by people, they're
7 minimizing. They're minimizing. All those
8 codefendants aren't telling 100 percent of the truth.
9 They're not. They're minimizing. They're
10 downplaying their own involvement.

11 So they go back to Miguel's place. They are
12 getting ready for this armed robbery, this home
13 invasion. She said she didn't know what they were
14 planning on doing? Thought they were going to a
15 party?

16 You think they were getting dressed in club
17 gear? Or are they getting dressed in dark clothes
18 and hoodies and masks getting ready for a home
19 invasion. Getting guns, duct tape, sword. It's
20 common sense, use your common sense. That's what
21 juries are for, to put 12 people together to use your
22 common sense.

23 What do they say? She is willing, she is in
24 it, even offered to leave Bree behind. They say, not
25 sure you want to get involved in this. You can stay

1 behind if you want. She says no, I will go with you.
2 on the way, you want us to drop you off at the dorm?
3 No, I will stick it out.

4 They go to Herbert Butler's house. Scoping
5 out the house, drive by a few times. She wants you
6 to believe she didn't know what they were doing
7 there.

8 Get out of the car. Says she is forced out.
9 Does Reggie testify to that? Does her boyfriend
10 testify to that? Did Miguel testify to that? Did
11 Bree testify to that? No. They were all there.

12 They walk up to the house. She says, Miguel
13 put a gun to my head, the gun which she knows is
14 broken, but a gun to my head. He said, I will kill
15 you if you don't knock on the door. Reggie was right
16 there. Reggie is right there, does he see that
17 happen? Nope.

18 You think Reggie would jump at the opportunity
19 to throw Miguel under the bus if he could if he saw
20 something like that? You know he would.

21 what happens next? She knocks on the door.
22 Emily answers it. What does Emily see? Did Emily
23 say she sees a girl with a gun pointed at her head?
24 Nope. Someone asked her for her phone. She turned
25 around to get her phone. Once she grabs her phone,

1 she turns back around and she is shocked because
2 Sasha is now inside her house, has opened the door.

3 She says there is about a 2 or 3 seconds pause
4 there, after Sasha grabbed her phone from her, where
5 she looks back at the door and she waits. Because
6 she knows that Miguel and Reggie are on the way in.

7 she goes back to the car after they start
8 getting duct-taped up in the middle of the living
9 room. Sasha leaves, she goes back to the car. If
10 she is threatened, if her life has just been
11 threatened, if someone has just put a gun in her
12 face, and she goes back to the car where her
13 boyfriend of seven months and her college friend who
14 just met these people that day are and she just had a
15 gun in her face, you tell me, what would a reasonable
16 person do?

17 would a reasonable person hang out for a few
18 hours while this home invasion is occurring? Means
19 to escape? Means to get away from the harm?

20 Stephen, your friend just put a gun in my face
21 and threatened my life, get me out of here. That's
22 not done. That's not said.

23 What does she do? Hangs out, waits for the
24 phone call because it's part of the plan. It's part
25 of the plan she has been involved in all along. Gets

1 the phone call. They go back. They pick up Miguel.
2 They go to the ATM. What do you hear her say? Check
3 the savings accounts.

4 Is that what someone who has just been
5 threatened says? Check the savings account? Common
6 sense. It's all about common sense.

7 What happens next? Go to the gas station.
8 She buys a pack of cigarettes and puts \$5 of gas in
9 the car. Go back to the house. She is waiting. She
10 has just been threatened, she's going to go into a
11 home where she knows people are duct-taped up on the
12 floor for a lighter?

13 It's common sense. No, that's not what
14 happens. She goes to wipe her fingerprints off the
15 door. She goes to help them carry stuff out. You
16 heard the testimony of the codefendants, that's
17 exactly what happened. It's common sense. She is in
18 it. She is in it from the beginning to the end.
19 It's common sense.

20 Where do they go next? Go back to Miguel's
21 house, the guy who just threatened her life, and they
22 hang out. Carrying stuff from the robbery back
23 inside the apartment.

24 What happens the next day, Thursday? Did she
25 tell anybody? Did she tell her boyfriend that she

1 was just threatened? Did she tell anybody?

2 She goes to class. Works on a project. What
3 does she do Thursday night? She goes back to
4 Miguel's house to hang out, with a guy who just put a
5 gun in her face and said, I will kill you. It's
6 common sense, ladies and gentlemen. It's common
7 sense.

8 Spends the night Thursday night at Miguel's
9 house. Allows her college friend to sleep with the
10 guy who has just threatened her life. Common sense.

11 Friday, what happens? Went to hang out with
12 this guy who just threatened your life again. Go
13 over to his house, hang out, watch movies. He says,
14 make a phone call. I was afraid for my life. Common
15 sense, ladies and gentlemen, it didn't happen like
16 that.

17 What does she do? Her and Bree drive, drop
18 the guys off near Harpe's apartment, and they go to
19 make the phone call. Reasonable means of escaping
20 imminent harm? Her and Bree are in the car by
21 themselves. They don't have to make that phone call.
22 No one has a gun to her head. She can drive away,
23 she can go to the police, she can go home, she can go
24 anywhere. If she does anything but make that phone
25 call, that robbery does not occur. Joshua Harpe

1 never comes out of his apartment, except for the fact
2 that Sasha makes a phone call.

3 Then what happens next? She goes and makes
4 the call. She calls the guys says, he is coming, he
5 is on his way.

6 They go and get gas. You saw that video of
7 them putting gas in the car. Does that look like
8 someone who's under duress to you? Someone who's
9 being threatened? Whose life is in imminent danger?
10 Common sense. It's all common sense.

11 Then what happens? Miguel comes and picks
12 them up. They get in the Mustang, Joshua Harpe's
13 Mustang, go to ATM, get money out. They go back and
14 get the other car. They follow him to Harpe's place.
15 She is following Miguel to Harpe's place. She could
16 have just turned off the road, gone somewhere else.
17 She could have drove away.

18 What would a reasonable person do?
19 Opportunity to get away from the threat, to escape
20 the harm? No. She goes, she goes upstairs, she goes
21 inside, packs stuff up, she carries it down, she
22 takes it back to Miguel's place. Because that was
23 the plan. That was the plan all along. It was the
24 plan that they were all in on, they were all involved
25 in.

1 Then what happens? Reggie and Francois leave,
2 they get arrested. What does she do? She calls her
3 friend, need to get out of here, something bad is
4 going on. They leave, leave with friends, meet at a
5 gas station.

6 She takes Miguel and Bree back to Bree's dorm
7 room and leaves in Miguel's car. Someone who has
8 just put a gun in your face and threatened your life
9 lets you borrow their car? It's common sense. So
10 she drives around looking for Stephen, trying to find
11 where he is in jail, whatever she does over those
12 next few hours, handful of hours.

13 Then what does she do the next day? She goes
14 and she picks up Miguel, by herself she goes and
15 picks up Miguel. Do you pick up someone who has
16 threatened your life? Someone who has put a gun in
17 your face, do you go and pick them up? Walk into the
18 lion's den? Common sense. It doesn't make sense.

19 She is arrested, and you heard us talk about
20 that first police interview. She admits, she said I
21 lied to them. You know why? It's because there are
22 two separate police departments, there is a
23 Charleston City Police Department, and there's the
24 sheriff's office.

25 Joshua Harpe's case was a city case. Herbert

1 Butler's case is a county case. So when she is being
2 questioned on the 27th, a handful of hours after this
3 second robbery, they don't know that it's related to
4 the Herbert Butler incident. They're not questioning
5 her about that.

6 what does she say? She says, you know, I
7 thought it was a joke. I didn't know what was going
8 on. She is lying. She is arrested. You heard the
9 phone call. I hope you were able to hear it. I know
10 it was hard to hear, I hope you heard enough of it.

11 what does she tell her parents? I was with
12 Bree the whole time. I didn't know what was going
13 on. She never tells her parents on that phone call
14 that she was threatened.

15 And then what do we get next? We get a jail
16 note. It says a lot more than defense counsel
17 alleged. It says, don't talk to the cops. It says,
18 we can beat this shit. It says, flush this note.
19 And you'll have an opportunity to see it. You'll
20 have an opportunity to see what it means. She says,
21 it won't look good in court. She is right about
22 that. It does not look good in court.

23 Ladies and gentlemen, sweetest little girl in
24 town is not the same person who those people from
25 Clinton came and told you who she was. She lied to

1 her parents. She lied to the police. She came in
2 here, she put her hand on that bible and she lied to
3 you.

4 MR. SOWELL: Your Honor.

5 THE COURT: Basis?

6 (No response.)

7 MR. KIDD: Ladies and gentlemen, I just want
8 you to use your common sense. That's all we ask.
9 And to be honest with you, if you believe every word
10 that came out of Sasha Gaskin's mouth, if you think
11 she was 100 percent truthful with you, it does not
12 matter. She is still guilty.

13 She can only successfully assert the duress
14 defense if she had no reasonable means to escape the
15 harm. She had three days of reasonable means to get
16 out of that harm's way, to get out of that danger.
17 And that's just if you believe her.

18 When you are deciding who to believe, think
19 about who has a reason to lie and who has the reason
20 to tell you the truth. Is it some defendants who
21 already pled guilty, who they're going to do their
22 time. Let there be no mistake about that.

23 Are we recommending a little leniency on Ms.
24 Bruster? We are. Absolutely. Is it in exchange for
25 her testimony? No, it is not.

1 And to be perfectly honest, Ms. Gaskins is
2 guilty of criminal sexual conduct, she is guilty of
3 kidnapping. We are not seeking convictions on those.
4 Accomplice liability, when you are involved in a
5 crime with other people, you are responsible for
6 everything that happens incidental to that plan,
7 incidental to those actions.

8 In order for her to successfully assert a
9 duress defense, even if you believe everything she
10 said, she would have had to have no reasonable means
11 to get out of harm's way. What about when she is in
12 the car with Bree? What about when she is in the car
13 with Stephen? What about when she's in
14 the street after knocking on the door. She could
15 have run to the neighbor, she could have just gotten
16 out of there. She had a plethora of reasonable means
17 of escape.

18 Now I appreciate all the attention you paid. I
19 know it has been a long week, you've had to hear the
20 same story recounted five, six, seven times. It can
21 be a little painstaking. I appreciate the time and
22 the attention that you've paid.

23 I hope that I have never offended you. And if
24 I have, I hope you don't hold it against me. But
25 what I'm asking you is to use your common sense, to

1 judge the credibility of the witnesses that were on
2 that stand, to do your job and determine the facts
3 and decide what happened. Then apply it to the law
4 as Judge Jefferson charges you.

5 We only have one type of criminal justice
6 system and it's the best one in the world. But it
7 treats everybody the same. It treats 18-year-old
8 little girls the same as grown men as far as whether
9 they're guilty or not guilty.

10 whether they are a pillar in the community, an
11 active member of the church, or have a great
12 reputation, that's mitigation that's to be given to
13 the Judge at sentencing, so you can either
14 down-depart. Or if they have the opposite
15 reputation, if they have a reputation for being a bad
16 guy they might get a stiffer sentence.

17 But that's for sentencing, that's not for you
18 to consider, that's not for me to consider, that's
19 for the Judge. You are not to concern yourself with
20 sentencing, you are to concern yourself with guilt.

21 I'm confident that when you look at the facts,
22 when you view the evidence, there can only be one
23 decision. And that is Sasha Gaskins made her
24 choices, she decided to involve herself in this plan,
25 and there can be no doubt that she is guilty of armed

1 robbery, and she is guilty of burglary.

2 Thank you for your time.

3 THE COURT: Does anyone need to use the
4 restroom?

5 Please stand up and stretch.

6 Could counsel approach for me?

7 (Whereupon, the following discussion was held
8 at the bench.)

9 THE COURT: I do have an instruction on good
10 character and reputation. I found it last night. I
11 have never used it. It generally says that they can
12 consider it like any other evidence in deciding
13 whether or not the defendant committed the crime.

14 I was contemplating giving it. I'm now
15 convinced I need to because you argued that her good
16 character can only be considered in mitigation and
17 that's not the law. So I cannot leave them with that
18 misapprehension. Because they can consider it in
19 whether she committed the offense or not.

20 So it simply says, the defendant has presented
21 evidence of her good reputation and character to show
22 that it would be inconsistent with the defendant
23 committing the crime. The weight you give to that
24 testimony, like all other testimony in the case, is
25 for you to decide in your good judgment.

1 You may consider the testimony of the
2 defendant's good character along with the other
3 evidence in deciding whether or not the defendant
4 committed crime. And that's the extent of it, it
5 comes straight out of case law.

6 Now the other thing, because you all have
7 appealed to the jury's passion, I'm going to instruct
8 them that that has no place in their decision. That
9 their only decision is whether the state has met
10 their burden of proof beyond a reasonable doubt.
11 They are to completely exclude any passion,
12 prejudice, sympathy or any other emotion, that
13 that's not part of the evidence.

14 I wanted to make you aware that I'm going to
15 instruct that as well.

16 MR. KIDD: Thank you, Your Honor.

17 THE COURT: Are there any exceptions from the
18 state?

19 MR. KIDD: No, ma'am.

20 THE COURT: From the defense?

21 MR. SOWELL: No, ma'am.

22 (In open court.)

23 THE COURT: You all can sit down when you're
24 ready.

25 THE COURT: During this trial, ladies and

1 gentlemen, you and I have certain duties to perform.
2 As the trial judge it is my responsibility to preside
3 over the trial of this case. I also have the duty to
4 rule upon or pass upon the admissibility of the
5 evidence offered during this trial.

6 You are to consider only the competent
7 evidence that is before you. And you are to
8 disregard and disabuse from your mind any testimony
9 ordered stricken from the record in this case if
10 there has been any. You are to consider
11 only the testimony which has been presented to you
12 from the witness stand, together with the other
13 exhibits and any stipulations, which is an -- a
14 stipulation is an agreement -- which have been made
15 between the attorneys and made a part of the record
16 in this case.

17 I have the additional duty to charge or
18 instruct you on the law applicable to this case. As
19 the presiding judge, I'm the sole judge of the law of
20 this case. And it is your duty as jurors to accept
21 and apply the law as I now state it to you.

22 If you have a preconceived idea as to what the
23 law is or what the law ought to be in a case, or in
24 this case, and it should not agree with what I tell
25 you the law is, you are obligated under your oath to

1 abandon this preconception on your part because you
2 are sworn to accept the law and apply the law
3 precisely as I now state it to you.

4 In every case tried in this court before a
5 jury, the jury becomes the sole and exclusive judges
6 of the facts. You the jury are the judges of the
7 facts in this case. The Court is the judge of the
8 law.

9 The constitution of our state has declared
10 that a trial judge shall not intimate, state, comment
11 upon or make any statement to a trial jury about the
12 facts in a case.

13 Since you, the jury, are the sole judges of
14 the facts in this case, you are not to infer anything
15 from what I have said to you during the progress of
16 this trial in ruling upon the admissability of
17 evidence or otherwise, or anything that I now say to
18 you during the course of this instruction, that I
19 have any opinion about the facts.

20 The constitution of our state does not allow
21 me to have an opinion about the facts. This is a
22 matter solely for you, the jury, to determine.

23 As jurors then it is your duty, as I have
24 instructed, to determine the effect, the value, the
25 weight, and the truth of the evidence presented

1 during this trial. Necessarily, you must assess the
2 credibility of witnesses who have testified.
3 Credibility is simply a legalistic term meaning the
4 believability of each witness who has testified.

5 It becomes your duty as jurors to analyze and
6 to evaluate the evidence, and determine that evidence
7 which convinces you of its truth.

8 Some of the things you may consider as you
9 decide whether or not to believe a witness's
10 testimony about a particular matter include, what was
11 the manner and appearance of the witness who
12 testified; was he or she straightforward or hesitant
13 in answering; was the testimony of a witness
14 consistent or inconsistent; how did the witness come
15 to know the facts and he or she testified to; or what
16 was his or her ability to know these facts; is there
17 some reason a witness would want to give testimony
18 which would help or hurt one side or the other, in
19 other words was the witness biased or prejudiced; and
20 was the testimony of a witness strengthened or
21 weakened by other testimony or evidence.

22 Again, as I have instructed, in determining
23 the question of the credibility or believability of
24 witnesses, you may believe one witness as against
25 several witnesses, or several witnesses as against

1 one witness. You may believe a part of the testimony
2 of a witness and reject the remaining part of the
3 testimony of that same witness.

4 If you have a good and sound reason, you may
5 believe the testimony of a witness in its entirety,
6 or reject the testimony of a witness in its entirety.
7 You may consider whether any witness has exhibited to
8 you any interest, any bias, any prejudice or other
9 motive.

10 You may consider the demeanor of a witness,
11 that is the manner and appearance of the witness from
12 the witness stand. You can believe as much or as
13 little of each witness's testimony as you think
14 proper. Throughout this process, ladies and
15 gentlemen, you have but one objective, to seek the
16 truth.

17 I further instruct you that a person who has a
18 past criminal record is competent to testify during a
19 trial. A past record does not affect the ability of
20 that witness to testify. The past record may be
21 considered by you, if at all, in determining the
22 witness's believability.

23 Remember, ladies and gentlemen, you are the
24 sole judges of the facts, and of the believability of
25 any and all of the witnesses.

1 I further instruct you that the defendant has
2 presented evidence of her good reputation and
3 character to show that it would be inconsistent with
4 the defendant committing the crime.

5 The weight you give to that testimony, like
6 all other testimony in this case, is for you to
7 decide in your good judgment. You may consider
8 testimony of the defendant's good character, along
9 with all the other evidence in the case, in deciding
10 whether or not the defendant committed the crime.

11 I further instruct you, ladies and gentlemen,
12 that the rules of evidence do not ordinarily permit a
13 witness to testify to opinions or conclusions. An
14 exception to this rule exists for witnesses we call
15 expert witnesses.

16 A witness who by education, training and
17 experience, has become an expert in some art, science
18 or profession or calling, may state an opinion as to
19 relevant and material matters in which the witness
20 claims to be an expert, and may also state the
21 reasons for that opinion.

22 You should consider any expert opinion
23 received in evidence like any other evidence. Give
24 it the weight you think it deserves. If you decide
25 that the opinion of an expert witness is not based on

1 sufficient education and experience, or if you
2 conclude that the reasons given in support of the
3 opinion are not sound, of that the opinion is
4 outweighed by other evidence, you may disregard the
5 opinion entirely.

6 An expert witness's testimony is to be given
7 no greater weight than that of other witnesses simply
8 because the witness is an expert. Further, you are
9 not required to accept an expert's opinion, even
10 though it is not contradicted.

11 Ladies and gentlemen, I instruct you that an
12 issue in this case is the identification of the
13 defendant as the person who committed the crime
14 charged. The state has the burden of proving
15 identity beyond a reasonable doubt.

16 You must be satisfied, beyond a reasonable
17 doubt, of the accuracy of the identification of the
18 defendant before you may convict the defendant.

19 Identification testimony is an expression of
20 belief or impression by a witness. You must
21 determine the accuracy of the identification of the
22 defendant. You must consider the believability of
23 each identification witness in the same way as any
24 other witness.

25 You may consider whether the witness had an

1 adequate opportunity to observe the offender at the
2 time of the offense. This will be affected by things
3 like how long or short a time was available; how far
4 or close the witness was; the lighting conditions;
5 and whether the witness had the chance to see or know
6 the person in the past.

7 Once again I instruct you, the burden of proof
8 on the state extends to every element of the crime
9 charged. And this specifically includes the burden
10 of proving beyond a reasonable doubt the identity of
11 the defendant as the person who committed the crime.

12 If after examining the testimony you have a
13 reasonable doubt as to the accuracy of the
14 identification, you must find the defendant not
15 guilty.

16 Ladies and gentlemen, I further instruction
17 you that you have heard testimony concerning the
18 potential for penalty that a person can serve for the
19 crimes alleged in the indictments. I instruct you
20 that in determining the guilt or innocence of the
21 defendant, you cannot consider any possible penalty
22 for any particular crime. That would be improper.

23 The punishment for the crimes is a matter of
24 law for the Court to determine, and should never be
25 considered in any manner whatsoever in your

1 consideration, and in arriving at a fair and
2 impartial verdict as to the guilt or innocence of the
3 defendant.

4 There are two types of evidence, ladies and
5 gentlemen, which are generally presented during a
6 trial; direct evidence and circumstantial evidence.
7 Direct evidence is the testimony of a person who
8 asserts or claims to have actual knowledge of a fact,
9 such as an eyewitness.

10 Circumstantial evidence is proof of a chain of
11 facts and circumstances indicating the existence of a
12 fact. The law makes absolutely no distinction
13 between the weight or value to be given to either
14 direct or circumstantial evidence. Nor is a greater
15 degree of certainty required of circumstantial
16 evidence than of direct evidence.

17 You should weigh all of the evidence in this
18 case. After weighing all of the evidence, if you are
19 not convinced of the guilt of the defendant beyond a
20 reasonable doubt, you must find the defendant not
21 guilty. Conversely, if you are convinced of the
22 guilt of the defendant beyond a reasonable doubt,
23 then you must find her guilty.

24 I instruct you, ladies and gentlemen, that the
25 fact that the defendant was arrested, charged and

1 indicted is not evidence in this case, and cannot be
2 considered by you as evidence of guilt in this case.
3 Nor does it create any presumption or inference of
4 guilt.

5 This documentation is simply the formal
6 written instrument which contain the charge or
7 changes made against a defendant. They simply serve
8 as the formal documentation by which the case is
9 processed or brought into this Court.

10 The defendant has pled not guilty to the
11 indictments. And that plea casts the burden on the
12 state to prove the defendant guilty.

13 A person charged with committing a criminal
14 offense in South Carolina is never required to prove
15 himself or herself innocent.

16 I instruct you, ladies and gentlemen, that
17 this is a cardinal and important rule of the law of
18 evidence, that the defendant in a criminal trial, no
19 matter what the seriousness of the charge or charges
20 made against him may be, will always be presumed to
21 be innocent of the crime for which they are indicted,
22 unless their guilt has been proven by evidence
23 satisfying you of that guilt beyond a reasonable
24 doubt.

25 This presumption of innocence does not cease

1 when you retire to deliberate, but it accompanies the
2 defendant from the time of their appearance,
3 throughout the trial, until you reach a verdict
4 satisfying you, based upon evidence satisfying you
5 beyond a reasonable doubt.

6 Our Supreme Court has said that the
7 presumption of innocence is like a robe of
8 righteousness placed about that shoulders of the
9 defendant. And it assigns them and remains -- it
10 remains with them and assigns them to that class, the
11 innocent, until that presumptive robe of
12 righteousness has been stripped from their person by
13 evidence satisfying you of that guilt beyond a
14 reasonable doubt.

15 Mr. Foreman, ladies and gentlemen, the
16 presumption of innocence is not mere legal theory.
17 It is not just a legal phrase. It is a substantial
18 right to which every defendant is entitled, unless
19 you, the jury, are satisfied from the evidence of
20 their guilt beyond a reasonable doubt.

21 The state has the burden of proving the
22 defendant guilty beyond a reasonable doubt. Some of
23 you may have served as jurors in civil cases where
24 you were told that it is only necessary to prove that
25 a fact is more likely true than not true, such as by

1 the greater weight or the preponderance of the
2 evidence.

3 In criminal cases the state's proof must be
4 more powerful than that, it must be beyond a
5 reasonable doubt. Proof beyond a reasonable doubt is
6 proof that leaves you firmly convinced of the
7 defendant's guilt. There are very few things in this
8 world that we know with absolute certainty, and in
9 criminal cases the law does not require proof that
10 overcomes every possible doubt.

11 If based on your consideration of the evidence
12 you are firmly convinced that the defendant is guilty
13 of the crime charged, you must find her guilty. If
14 on the other hand, you think there is a real
15 possibility that the defendant is not guilty, you
16 must give her the benefit of that doubt and find her
17 not guilty.

18 The defendant is charged with armed robbery.
19 In order to prove this offense, the state must first
20 prove beyond a reasonable doubt that the defendant
21 took personal property from the person or presence of
22 another person.

23 Property is in the presence of a person if it
24 is within the person's reach, inspection, observation
25 or control. So that the person could, if not

1 overcome with violence or prevented by fear, keep
2 possession of the property.

3 The state must also prove beyond a reasonable
4 doubt that the defendant carried the property away
5 intending to permanently deprive the owner of the
6 property, and to keep the property for the
7 defendant's own use.

8 The slightest removal of the property, or the
9 complete possession of the property, even for an
10 instant, by the defendant, is sufficient to show a
11 taking and carrying away of the property. The taking
12 and carrying away of the property must have been done
13 with violence, or by putting the owner of the
14 property in fear of violence.

15 Finally, the state must prove beyond a
16 reasonable doubt that the defendant was armed with a
17 deadly weapon during the robbery. A deadly weapon is
18 any article, instrument or substance which is likely
19 to cause death or great bodily harm.

20 whether an instrument has been used as a
21 deadly weapon depends on the facts and circumstances
22 of each case. The following are examples of
23 instruments which may be deadly weapons. A pistol, a
24 shotgun, a rifle, a dirk, a dagger, a knife, a
25 slingshot, metal knuckles, a razor, gasoline, a

1 firebomb or Molotov cocktail, and lighter fluid. A
2 gun may be a deadly weapon even if it is not
3 operating.

4 Ordinary objects may become deadly weapons
5 when the facts show that they have been used to
6 inflict serious bodily harm or death. Ladies and
7 gentlemen, I instruct you that these are simply
8 evidentiary facts to be considered by you, along with
9 the other evidence in this case, and it is for you,
10 the jury, to give it the effect, value and weight you
11 decide it should have.

12 The defendant is charged with first degree
13 burglary. The state must first prove beyond a
14 reasonable doubt that the defendant entered a
15 dwelling without consent. A dwelling is any building
16 or portion of a building in which a person ordinarily
17 sleeps.

18 A building constructed as a dwelling which has
19 never been occupied cannot be considered a dwelling
20 for purposes of burglary. But a building is a
21 dwelling, even if the residents are temporarily
22 absent from the building.

23 In order to prove that the defendant entered
24 the dwelling, the state does not have to show that
25 the defendant's entire body entered the dwelling.

1 The smallest entry is sufficient. It may be any part
2 of the body, such as a hand or foot, or even an
3 instrument such as a hook or other instrument.

4 In addition, the state does not have to prove
5 that force was used to gain entry. If a person
6 enters a building by using deception, artifice, trick
7 or misrepresentation to get consent to enter, this is
8 an entry without consent.

9 Next the state must prove beyond a reasonable
10 doubt that the defendant intended to commit a crime,
11 either a felony or misdemeanor, at the time of the
12 entry.

13 The mere entry into a dwelling without consent
14 is not burglary. If the intent to commit a crime is
15 formed after the entry, it is not burglary. On the
16 other hand, if the defendant intended to commit a
17 crime at the time of the entry, it is a burglary even
18 if that intent was abandoned after the entry. It
19 does not matter that the intended crime was not
20 completed.

21 Intent may be shown by acts and conduct of the
22 defendant, and other circumstances from which you may
23 naturally and reasonably infer intent. Finally,
24 ladies and gentlemen, the state must prove beyond a
25 reasonable doubt one or all of the following things.

1 when entering, while in the dwelling, or when
2 fleeing, the defendant or accomplice was armed with a
3 deadly weapon or explosive. A deadly weapon is any
4 article, instrument or substances which is likely to
5 cause death or great bodily harm. Whether an
6 instrument has been used as a deadly weapon depends
7 on the facts and circumstances of each case.

8 And as I have instructed, the following are
9 examples of instruments which may be deadly weapons.
10 A pistol, a shotgun, a rifle, a dirk, a dagger, a
11 knife, a sling-shot, metal knuckles, a razor,
12 gasoline, a firebomb or Molotov cocktail, and lighter
13 fluid. A gun may be a deadly weapon even if it is
14 not operating.

15 And, again, ordinary objects may become deadly
16 weapons when the facts show that they have been used
17 to inflict serious bodily harm or death. And as I
18 previously instructed, ladies and gentlemen, these
19 are simply evidentiary facts to be considered by you,
20 along with the other evidence in the case. And it is
21 for you, the jury, to give it the effect, value and
22 weight you decide it should have.

23 when entering, while in the dwelling, or when
24 fleeing the defendant or accomplice used or
25 threatened to use a dangerous object. When entering,

1 while in the dwelling, or when fleeing, the defendant
2 or accomplice displayed what was or appeared to be a
3 knife, pistol, revolver, rifle, shotgun, machine gun
4 or other firearm.

5 And the defendant entered or remained in the
6 dwelling in the nighttime. Nighttime is the period
7 between sunset and sunrise during which there is not
8 enough daylight to recognize a person's face, except
9 by artificial light or moonlight.

10 Ladies and gentlemen, I instruct you that if a
11 crime is committed by two or more people who are
12 acting together in committing the crime, the act of
13 one is the act of all. A person who joins with
14 another to committed an unlawful act is criminally
15 responsible for everything done by the other person
16 which happens as a probable or natural consequence of
17 acts done out in carrying out the common plan and
18 purpose.

19 For example, two people can be guilty of
20 killing another person when only one of the two had a
21 gun, there was only one bullet, and only one of the
22 two fired the shot that caused the death.

23 If two or more people are acting together, are
24 together, acting together, assisting each other in
25 committing the offense, the act of one is the act of

1 all. or it is sometimes said, then hand of one, is
2 the hand of all.

3 Prior knowledge that a crime is going to be
4 committed without more, is not sufficient to make a
5 person guilty of that crime. Mere knowledge that
6 another person is going to commit a crime, even if
7 the defendant is present when the crime is committed,
8 is not sufficient to convict the defendant as a
9 principal.

10 Guilt as a principal is shown by actual or
11 constructive presence at the scene as a result of
12 prior arrangement. Therefore, a finding of a prior
13 arranged plan or common scheme is necessary for a
14 finding of guilt as a principal.

15 The state must prove beyond a reasonable doubt
16 by competent evidence the theory of the hand one, is
17 the hand of all.

18 A principal in a crime is one who either
19 actually commits the crime, or who is present, aiding
20 abetting or assisting in committing the crime. When
21 a person does an act in the presence of, and with the
22 assistance of another, the act is done by both.

23 where two or more, acting with a common plan
24 or intent, are present at the commission of a crime,
25 it does not matter who actually commits the crime,

1 all are guilty. The hand of one, is the hand of all.

2 Present at the commission of a crime means to
3 be sufficiently near to aid and abet and assist in
4 the commission of the crime. However, mere presence
5 at the scene of a crime is not sufficient to convict
6 one as a principal on the theory of aiding and
7 abetting.

8 Intent is also a necessary element, for there
9 must have been a common design or intent to commit
10 the crime, and the crime must have been committed
11 pursuant thereto, with the person aiding and abetting
12 by some overt act.

13 Intent means intending the result which
14 actually occurs, not accidentally or involuntarily.
15 Intent may be shown by acts and conduct of the
16 department, and other circumstances from which you
17 may naturally and reasonably infer intent. The state
18 must also prove these elements beyond a reasonable
19 doubt.

20 Ladies and gentlemen, the defendant has raised
21 the defense of coercion or duress. Coercion or
22 duress is when a person makes another person commit a
23 crime against someone else's person or property by
24 the threat of immediate physical violence.

25 The coercion or duress must be present,

1 imminent and of the type to create a well-grounded
2 fear of death or serious bodily harm if the act is
3 not done. The fear of injury must be reasonable.

4 Coercion or duress is not a defense if there
5 is any reasonable way, other than committing the
6 crime, for the defendant to escape the threat of
7 harm. If you find that the defendant was coerced
8 into committing the crime, you must find the
9 defendant not guilty.

10 Ladies and gentlemen, I instruct you that
11 there are several indictment in this case.
12 Indictment 2010-GS-10-4793, armed robbery; 4794,
13 burglary in the first degree. And these will go into
14 the jury room with you, so you don't have to try to
15 write these down. 4761, armed robbery; and 4738,
16 burglary in the first degree.

17 Each indictment charges a separate and
18 distinct offense. You must decide each indictment
19 separately on the evidence and the law applicable to
20 it, uninfluenced by your decision as to any other
21 indictment.

22 The defendant may be convicted or acquitted on
23 any or all of the offenses charged. You will be
24 required to write a separate verdict for each
25 indictment of the guilty or not guilty.

1 Ladies and gentlemen, there are two possible
2 verdicts for each offense in this case. There is no
3 significance whatsoever to the order in which these
4 verdict options are read, so please didn't assign any
5 importance to that, it is simply that one must be
6 stated first and so forth.

7 And these will go into the jury room with you,
8 so again you don't have to try to write these down.
9 and For each indictment, that being for burglary and
10 armed robbery, the option are: we, the jury, by
11 unanimous consent, find the defendant guilty or armed
12 robbery or not guilty; or guilty of burglary in the
13 first degree, or not guilty.

14 Again there is absolutely no significance
15 whatsoever to the order in which these potential
16 verdicts are stated.

17 Ladies and gentlemen, your verdict must be a
18 unanimous one which means all 12 of you must agree in
19 order to reach a verdict. I instruct you, ladies and
20 gentlemen, that your verdict cannot be based on
21 sympathy, passion, prejudice, emotion, or any other
22 consideration that is not found in the evidence of
23 this case.

24 Again your verdict must be unanimous, which
25 means all 12 of you must agree.

1 Mr. Foreman, when the jury has reached a
2 verdict, it is your responsibility to fill out the
3 verdict forms, to sign and date the forms, and also
4 to knock on the door and advise the bailiff that the
5 jury has reached a verdict.

6 If the jury has any questions during
7 deliberations, it is also your responsibility to
8 write out those questions. Ladies and gentlemen,
9 if you have any questions during deliberations,
10 please know that there will be a delay, because there
11 is procedure that we have to follow in answering your
12 questions.

13 So if there is a question, I tell you in
14 advance that there will be a delay. Do not think we
15 are ignoring you, we are simply following the
16 procedure to answer your questions.

17 Again, ladies and gentlemen, your verdict must
18 be unanimous, which means that all 12 of you must
19 agree. I'm go to ask you to return to your jury
20 room, but do not yet begin your deliberations. I
21 have some matters of law that I need to take up with
22 the attorneys that may require further instruction or
23 clarification of an instruction.

24 However, if there is no further instruction we
25 will send in the evidence, your notepads. We will at

1 that time dismiss the alternate, and you will then be
2 allowed to begin your deliberations.

3 Ladies and gentlemen, we have ordered your
4 lunch and I have requested that it arrive between
5 quarter to 12:00 and 12:00. Hopefully the restaurant
6 will comply with my wishes. Generally they're -- we
7 sent it in early, so they should have that available
8 to us.

9 So I just wanted to tell you that for purposes
10 of your planning. If you would go with the bailiff
11 for me, please, and again yet do not begin your
12 deliberations, leave your notepads in your seats.

13 (Whereupon, the jurors exit the courtroom.)

14 THE COURT: Are there any exceptions from the
15 state.

16 MR. KIDD: No, ma'am.

17 THE COURT: From the defense?

18 MR. SOWELL: Two, Your Honor. I would like to
19 have the Court to charge that reasonable doubt is a
20 doubt that would cause a reasonable person to
21 hesitate to act as Reed v State sets out.

22 And also, I object to the notebooks going back
23 to the jury room. Anybody who took notes is more
24 powerful for the jury, it should be equal power.
25 whoever has got the notebooks has more power.

1 THE COURT: I have already instructed the jury
2 regarding note-taking. And I instructed them during
3 the preliminary instructions that their notes are for
4 their own purposes, they're not to be shared with
5 anyone, and it's only to be used to refresh their own
6 memory.

7 I also instructed them that someone else's
8 memory is just as reliable as notes as someone else
9 may have taken. I will note your exception and it is
10 overruled.

11 As it regard to request for reasonable
12 doubt, the Court charges Victor versus Nebraska. It
13 is approved by the U.S. Supreme Court, and the South
14 Carolina Supreme Court. The reasonable doubt
15 instruction will stand.

16 Any further exceptions for the record?

17 MR. SOWELL: Not to argue with Your Honor --

18 THE COURT: Well the rules provide that once
19 the Court has ruled there is to be no further
20 argument.

21 Are there any additional exceptions for the
22 record that I have not already ruled upon?

23 MR. SOWELL: No, ma'am.

24 THE COURT: Thank you very much. Please make
25 sure all the evidence is in place.

1 you can get lunch as well.

2 (Whereupon, a recess was taken.)

3 THE COURT: The jury has reached a verdict.
4 Is the State ready to proceed?

5 MR. KIDD: We are, Your Honor.

6 THE COURT: Is the defense ready to proceed?

7 MR. SOWELL: Yes, ma'am.

8 THE COURT: When are the other defendants
9 going to be sentenced, Mr. Kid?

10 MR. KIDD: Your Honor, at this point it will
11 probably be the later half of next week. I know we
12 have to give all of the defense attorneys time to get
13 their mitigation together.

14 (Whereupon, the jurors enter the courtroom.)

15 THE COURT: You may be seated.

16 Mr. Foreman, is it correct that the jury has
17 reached a verdict?

18 A JUROR: Yes, ma'am.

19 THE COURT: Give the verdict form to the
20 bailiff for me, please.

21 Mr. Clerk, if you would publish the verdict.

22 If you would stand for publication of the
23 verdict.

24 You may proceed when you are ready.

25 THE CLERK: State of South Carolina, County of

1 Charleston, Case No. 2010-GS-10-4761, State of South
2 Carolina versus Sasha Gaskins, indictment for armed
3 robbery: We, the jury, unanimously find guilty.

4 State of South Carolina, County of Charleston,
5 Case No. 2010-GS-10-4794, State of South Carolina
6 versus Sasha Alajawon Gaskins, indictment for
7 burglary in the first degree: We, the jury,
8 unanimously find the defendant guilty, signed Paul
9 Osbun, foreperson of the jury, dated March 4th, 2011.

10 State of South Carolina, County of Charleston,
11 Case No. 2010-GS-10-4793, State of South Carolina
12 versus Sasha Alajawon Gaskins, indictment for armed
13 robbery: We, the jury, unanimously find the
14 defendant guilty, signed Paul Osbun, foreperson of
15 the jury dated March 4th, 2011.

16 State of South Carolina, County of Charleston,
17 Case No. 2010-GS-10-4738, State of South Carolina
18 versus Sasha Alajawon Askins, indictment for burglary
19 in the first degree: We, the jury, unanimously find
20 the defendant guilty. Signed Paul Osbun, the
21 foreperson of the jury, dated March 4, 2011.

22 Jury, if you would please stand. Mr. Foreman,
23 ladies and gentlemen of the jury, if this is your
24 verdict and this is still your verdict, please raise
25 your right hand.

1 (Whereupon, all so indicate).

2 THE CLERK: Your Honor, the verdict stands.

3 THE COURT: You may be seated.

4 Is there any request to poll the jury from the
5 state?

6 MR. KIDD: No, Your Honor.

7 THE COURT: Any request from the defense?

8 MR. SOWELL: Yes, Your Honor.

9 THE COURT: Please poll the jury, Mr. Clerk.

10 Ladies and gentlemen, the clerk is going to
11 ask you two questions. After he calls your name and
12 your juror number you'll need to raise your right
13 hand.

14 He will ask, is this your verdict and you will
15 answer. And is this still your verdict, and you will
16 answer.

17 You may proceed, Robert.

18 THE CLERK: Yes, ma'am.

19 Paul Osbun, Juror Number 165. Is this your
20 verdict?

21 A JUROR: Yes, sir.

22 THE CLERK: Is this still your verdict.

23 A JUROR: Yes.

24 THE COURT: You can take your seat, sir.

25 THE CLERK: Joseph Walker, Juror Number 221.

1 reasonable doubt, Your Honor.

2 THE COURT: The Court would find that there is
3 direct evidence, as well as substantial
4 circumstantial evidence supporting the jury's
5 verdict, and therefore the motion is denied.

6 Actually the standard is any evidence. And
7 certainly it's not within the Court's province to
8 substitute its judgment for that of the jury, and the
9 matter was well-articulated by both sides, and it
10 came down to a credibility contest, who the jury
11 believed, and whose testimony they gave weight to.

12 And taking all that into consideration, the
13 verdict will stand.

14 Are there any other post-trial motions from
15 the state?

16 MR. KIDD: No, Your Honor.

17 THE COURT: From the defense?

18 MR. SOWELL: No, Your Honor.

19 THE COURT: I'm going to hold sentence in
20 abeyance until the other codefendants are sentenced,
21 so you need to let me know when that will take place,
22 after which I will sentence Ms. Gaskins.

23 MR. KIDD: Would you like to sentence all of
24 the codefendants as well?

25 THE COURT: It's about to you all. You all

1 STATE OF SOUTH CAROLINA
2 COUNTY OF CHARLESTON

COURT OF GENERAL SESSIONS

2010-GS-10-04793

2010-GS-10-04794

2010-GS-10-04738

2010-GS-10-04761

3 STATE OF SOUTH CAROLINA)

4 Plaintiff)

5 V.)

TRANSCRIPT OF RECORD

6 SASHA A. GASKINS,)

7 Defendant.)
8 _____)

9 MARCH 31, 2011
10 CHARLESTON, SOUTH CAROLINA

11
12 B E F O R E:

13 THE HONORABLE DEADRA L. JEFFERSON, JUDGE
14
15
16

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

18 MS. SCARLET WILSON, SOLICITOR
19 REPRESENTING THE STATE

20 MR. KENNETH SOWELL, ESQUIRE
21 REPRESENTING THE DEFENDANT GASKINS

22 ALSO PRESENT:

23 MR. DEMAL I. MATTSON, JR., ESQUIRE
24 REPRESENTING THE DEFENDANT BRUSTER

25 ANNE BOULEY MEYER, RPR
26 CIRCUIT COURT REPORTER

1 the defendants in this case but also the victims, and
2 the long-ranging impacts that these actions will have
3 on their lives as they have already articulated for the
4 record.

5 Having taken all these things into
6 consideration, as well as the arguments of the state
7 and the arguments of defense counsel, it is the
8 sentence of this Court, and consistent with the
9 recommendation of the state, that Ms. Bruster on both
10 indictments on the offenses of armed robbery that you
11 be sentenced to the state department of corrections for
12 a period of ten years.

13 You will get credit for any time that you have
14 served on these sentences. That time to be calculated
15 and applied by the department of corrections. And I
16 have not had any indication that she needs any drug
17 treatment or otherwise, so I'm not going to make any
18 other recommendations regarding that, Mr. Mattson.

19 MR. MATTSON: That has never been a problem.

20 THE COURT: Exactly. I wanted to make sure you
21 knew I was not making any other recommendations or any
22 other treatment or otherwise for her as it simply is
23 not necessary.

24 As it regards Ms. Gaskins, on two counts of
25 armed robbery, as well as two counts of burglary in the

1 first degree, you are sentenced to the state department
2 of corrections for a period of 18 years. These
3 sentences are to run concurrent with one another and
4 you'll get credit for any time that you've served. And
5 There is likewise no indication that she is in need of
6 any additional services.

7 I appreciate you all giving me the opportunity
8 to reflect on this matter. I know that I do not take
9 your time for granted and I appreciate you all being
10 very patient.

11 MS. WILSON: Thank you, Your Honor.

12 (Whereupon, the proceedings in this matter
13 before the Court were adjourned.)

14 * * * * *

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
 COUNTY OF CHARLESTON)

2010-CP-10-
 WARRANT NO:

2010-CP-10-
 WARRANT NO:

2010-CP-10-
 WARRANT NO:

2010-CP-10-
 WARRANT NO:

THE STATE OF S.C.)
 PLAINTIFF)
 -vs-) MOTION FOR RECONSIDERATION
) and MOTION FOR NEW TRIAL
 SASHA GASKINS)
 DEFENDANT)

TO THE CHARLESTON COUNTY SOLICITOR:

YOU WILL PLEASE TAKE NOTICE that on a date and time to be set by the court, the undersigned attorney for defendant will move before the court that the court set aside the prior convictions and grant to defendant a new trial on all issues.

WHEREAS during the trial on the above indictments, on and between February 28, 2011 and March 4, 2011 during closing argument, the solicitor told the jury that the defense of Coercion was an issue to be determined during sentence proceedings after the jury convicted the defendant on the indicted charges. The defense attorney immediately objected to such argument, and presented an argument to the court that such argument by the assistant solicitor, and the denial of defendant's objection by the judge, gave the jury the impression that the job of the jury was to determine if by the facts presented, the

defendant committed the initial crime, and if so, the judge would determine the impact and effect of the defense of Coercion. By such implication, rulings and statements, the defendant was deprived of a fair trial and jury decision. The defendant's attorney attempted to present the basis and law to support the objection and was not allowed to present the grounds and law to support that objection.

AND WHEREAS during the trial on the above indictments, on and between February 28, 2011 and March 4, 2011 the defendant requested that the court charge that the term "Proof Beyond a Reasonable Doubt" means a "Doubt That Causes A Reasonable Man to Hesitate to Act." The court declined to charge that definition. The S.C. Supreme Court has approved and ordered that the definition as requested by the defendant is the charge to be delivered during that judge's charges. Such refusal to charge the law of S.C. violated the defendant's right to a fair trial. The defendant objected to such charge and the refusal to charge the terms of the law as requested by the defendant. The S.C. Supreme Court has directed and held that the law of S.C. as requested by a parties' attorney SHALL be charged.

~~Not give sufficient definition of coercion~~
AND WHEREAS the jury has been discharged and the presiding judge can no longer issue a corrective charge to the jury.

WHEREFORE your defendant would move for a New Trial on all issues before the court.

GREENVILLE, S.C.

March 4, 2011

KENNETH E. SOWELL
1711 COUNTRY MEADOWS
ANDERSON, S.C. 29626
864-271-7777
sowellken@aol.com
ATTORNEY FOR DEFENDANT

FILED

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON MAR 23 PM 4:08 OF THE NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)
CLERK OF COURT)
BY _____)
vs.)
) Indictment Numbers: 2010-GS-10-4793
) 2010-GS-10-4794
) 2010-GS-10-4738
) 2010-GS-10-4761

SASHA A. GASKINS,
Defendant.

ORDER DENYING DEFENDANT'S
MOTION FOR RECONSIDERATION
AND MOTION FOR NEW TRIAL

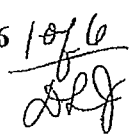
APR 05 2011

SC Court of Appeals

Date of Trial: February 28, 2011 – March 4, 2011
Presiding Judge: Deadra L. Jefferson
Assistant Solicitors: E. Culver Kidd, Esq.
Dale Savage, Esq.
Defendant's Attorney: Kenneth E. Sowell, Esq.
Court Reporter: Anne Meyer

This matter comes before the Court on Defendant's Motion for Reconsideration and Motion for New Trial dated March 8, 2011. A trial by jury was held from February 28, 2011 until March 4, 2011, at which time the Defendant Sasha Gaskins was found guilty of two counts of Armed Robbery, pursuant to S.C. Code Ann. § 16-11-330(A), and two counts of Burglary in the First Degree, pursuant to S.C. Code Ann. § 16-11-311. Sentencing of the Defendant is held in abeyance until all Co-Defendants in the case are sentenced.¹ The State filed its response on March 21, 2011.

¹ There are four Co-Defendants in this case—Miguel Starks, Reginald Rice, Stephen Francois, and Breanna Bruster—all of whom testified in this case against Defendant Sasha Gaskins. The Co-Defendants pled guilty before the Honorable R. Markley Dennis, Jr. on January 19, 2011 and January 31, 2011 in anticipation of testifying in this trial, and their sentencing was held in abeyance until the conclusion of this trial. Defendant Starks pled guilty to two counts Armed Robbery, two counts Burglary 1st, two counts Kidnapping, two counts Possession of a Firearm During the Commission of a Violent Crime, and one count Criminal Sexual Conduct, 1st degree. Defendants Rice and Francois pled guilty to two counts Armed Robbery, two counts Burglary 1st, two counts Kidnapping, and two counts Possession of a Firearm During the Commission of a Violent Crime. Defendant Bruster pled guilty to two counts Armed Robbery. The sentencing of Co-Defendants Starks, Rice, and Francois was held on March 22, 2011 by the Honorable R. Markley Dennis, Jr., at which time they were each sentenced to the South Carolina Department of Corrections for a period of thirty (30) years. At the time of filing this Order, neither the sentencing of the Defendant, nor Co-Defendant Bruster, has been held.

10/6


STANDARD OF REVIEW

"It is well settled that the grant or refusal of a new trial is within the discretion of the trial judge and will not be disturbed on appeal absent a clear abuse of that discretion." State v. Dicapua, 373 S.C. 452, 455, 646 S.E.2d 150, 152 (Ct. App. 2007); see also State v. Prince, 316 S.C. 57, 63, 447 S.E.2d 177, 181 (1993). In criminal cases, the appellate court sits to review errors of law only. An abuse of discretion occurs when the trial court's ruling is based on an error of law or the ruling is without evidentiary support. State v. Allen, 370 S.C. 88, 94, 634 S.E.2d 653, 656 (2006). "However, when there is competent evidence to sustain the jury's verdict, the judge may not substitute his judgment for that of the jury." Prince, 316 S.C. at 63, 447 S.E.2d at 181.

ANALYSIS

The Defendant contends that she was deprived of a fair trial as the basis of the Motion for Reconsideration and Motion for a New Trial. Rule 29(a), SCRCrimP, provides in relevant part,

Except for motions for new trials based on after-discovered evidence, post trial motions shall be made within ten (10) days after the imposition of the sentence. . . . The time within which to make the motion shall not be affected by the ending of a term of court or departure of the judge from the circuit, and the circuit judge shall retain jurisdiction of the action for the purpose of hearing and disposing of the motion if not heard and disposed of during the term. . . . The motion may, in the discretion of the court, be determined on briefs filed by the parties without oral argument.²

First, the Defendant argues that during closing argument, the State informed the jury that the defense of coercion was an issue to be determined during sentence proceedings after the jury convicts the Defendant on the indicted charges. The Defendant's counsel made a contemporaneous objection to such argument which was overruled by the Court. Upon review

² Defendant's Motion for Reconsideration and Motion for New Trial was received by the Court on March 11, 2011, seven (7) days after trial. The Court finds Defendant's Motion to be timely pursuant to Rule 29(a), SCRCrimP.

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of the trial transcript, the Court finds the Defendant's argument to be without merit. During the State's closing argument, the Solicitor stated that "ninety percent of Mr. Sowell's case has been about painting his client as the sweetest little girl in town." Subsequently, the Solicitor stated to the jury, "Everything Mr. Sowell presented to you is mitigation. It's something that should be considered in sentencing, not towards guilt." In essence, the State argued that the Defendant's character and reputation is mitigation and is not an issue for the jury to consider when determining guilt. The State never argued that coercion was mitigation and should not be considered. The Defendant's attorney made a contemporaneous objection stating, "He's not quoting the law." A bench conference was held with counsel during which the Court asked for the basis of the objection, and Defendant's counsel stated, "He told them not to consider mitigation." The Court replied, "It's not an absolute defense, it's to be weighed by the jury. . . . He did not misstate the law, he said it's something they can consider. They don't have to consider it."

Subsequent to the State's closing argument and prior to the Court's closing instructions, the Court held another bench conference with counsel. The Court informed counsel that an instruction on good character and reputation was warranted, in response to the objection and because the State argued in closing that the Defendant's good character may only be considered in mitigation. The Court informed counsel that the State's assertion was not the law, as a Defendant's good character and reputation may be considered by the jury, along with all other evidence, in deciding whether or not the Defendant committed the crime. Neither counsel for the State nor for the Defendant took exception to the Court's instruction on good character and reputation. Therefore, any possible error in the State's closing argument was addressed by the Court's instruction on good character and reputation.

Second, the Defendant argues that the Court erroneously declined to charge the jury with the Defendant's requested charge that the term "Proof Beyond a Reasonable Doubt" means a "doubt that causes a reasonable man to hesitate to act."³ The Defendant contends that the Court's refusal to charge the law of South Carolina violated the Defendant's right to a fair trial.

A court's jury charge should be reviewed for error "as a whole in light of the evidence and issues presented at trial." State v. Mattison, 388 S.C. 469, 478, 697 S.E.2d 578, 583 (2010). "A jury charge is correct if, when the charge is read as a whole, it contains the correct definition and adequately covers the law." Id. "The law to be charged must be determined from the evidence presented at trial. . . . The substance of the law is what must be charged to the jury, not any particular verbiage." Id. at 479, 697 S.E.2d at 583 (internal citation omitted). The South Carolina Supreme Court has held, as the Defendant contends, that "[a] request to charge a correct statement of the law on an issue raised by the indictment and the evidence presented at trial should not be refused." Id. "However, if the trial judge refuses to give a specific charge, there is no error if the charge actually given sufficiently covers the substance of the request." Id.

Regarding reasonable doubt the Court instructed the jury with its standard charge from Victor v. Nebraska, 511 U.S. 1, 114 S. Ct. 1239 (1994). In Victor v. Nebraska, the Supreme Court noted that the instruction from the Federal Judicial Center "plainly informs the jurors that the prosecution must prove its case by more than a mere preponderance of the evidence." Id. at 27, 114 S. Ct. at 1253 (Ginsberg, J., concurring in part and concurring in the judgment). The instruction referred to reads,

[T]he government has the burden of proving the defendant guilty beyond a reasonable doubt. Some of you may have served as jurors in civil cases, where you were told that it is only necessary to prove that a fact is more likely true than not true. In criminal cases,

³ The Court advised the parties during charge conference that it would be utilizing Victor v. Nebraska in charging reasonable doubt. Neither party objected to the Court's proposed instruction.

the government's proof must be more powerful than that. It must be beyond a reasonable doubt.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. There are very few things in this world that we know with absolute certainty, and in criminal cases the law does not require proof that overcomes every possible doubt. If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crime charged, you must find him guilty. If on the other hand, you think there is a real possibility that he is not guilty, you must give him the benefit of the doubt and find him not guilty.

Id. (quoting Federal Judicial Center, Pattern Criminal Jury Instructions, at 17–18 (instruction 21)).

The South Carolina Supreme Court “approved the use of the ‘real possibility’ language in State v. Needs, 333 S.C. 134, 508 S.E.2d 857 (1998), and the Court of Appeals approved the language in State v. Lowery, 332 S.C. 261, 503 S.E.2d 794 (Ct.App.1998).” State v. McHoney, 344 S.C. 85, 99, 544 S.E.2d 30, 37 (2001). The South Carolina Supreme Court held that the “real possibility” language does not lessen the State’s burden of proof in the context of the preceding language requiring that the juror be “firmly convinced” of the defendant's guilt. Id. at 98, 544 S.E.2d at 36–37. The court has also found there is nothing in this language to suggest the defendant bears the burden of proof. Id. at 98, 544 S.E.2d at 37.

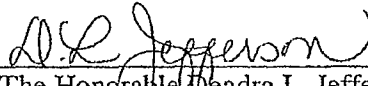
The court in Needs identified two appropriate ways to define reasonable doubt. The court stated that a trial court may use the instruction from Victor v. Nebraska, as endorsed by State v. Darby, 324 S.C. 114, 477 S.E.2d 710 (1996), or combine it with the charge from State v. Manning, 305 S.C. 413, 409 S.E.2d 372 (1991). See Needs, 333 S.C. at 156 n.12, 508 S.E. at 868 n.12. The charge from Manning, which is that requested by the Defendant, reads, “A reasonable doubt is the kind of doubt that would cause a reasonable person to hesitate to act.” Manning, 305 S.C. at 417, 409 S.E.2d at 375.

However, neither charge is mandatory. It is within the trial judge's discretion to refuse to define reasonable doubt at all. State v. Adams, 322 S.C. 114, 470 S.E.2d 366 (1996). The Defendant's argument is analogous to that in Adams in that the Defendant "requested a jury instruction that reasonable doubt 'is the kind of doubt that would cause a reasonable person to hesitate to act.'" Id. at 126, 470 S.E.2d at 373 (quoting State v. Manning, 305 S.C. 413, 409 S.E.2d 372 (1991)). As in Adams, the Defendant "does not argue the reasonable doubt charge given by the judge was incorrect or misleading, but asserts the refusal to give the [requested] definition constituted legal error." Id. As the court found in Adams, the Defendant's argument is without merit. The Court finds the law charged on reasonable doubt adequately covers the substance of the law and sufficiently covers the substance of the Defendant's request. Accordingly, the Court will not grant a new trial on the basis of its failure to charge the jury with the Defendant's requested charge on reasonable doubt.

CONCLUSION

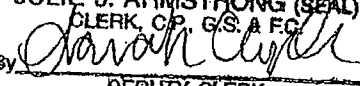
Having fully considered the Defendant's Motion, the State's response, a full review of the record, as well as the South Carolina Rules of Evidence and pertinent South Carolina case law, the Court respectfully **DENIES** the Defendant's Motion for Reconsideration and Motion for a New Trial.⁴

IT IS SO ORDERED!


The Honorable Deadra L. Jefferson
Presiding Judge, Ninth Judicial Circuit

3/23, 2011
Charleston, South Carolina

⁴ This motion has been determined on briefs filed by the parties without oral argument, pursuant to SCRPC Rule 29(a).

APPEARED: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, CP, G.S. & FC
By 
DEPUTY CLERK

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on June 7, 2010, the Grand Jurors of Charleston County present upon their oath:

BURGLARY - FIRST DEGREE

That in Charleston County, South Carolina, on or about February 27, 2010, in concert with others, the Defendant, **SASHA ALAJAWON GASKINS**, did enter the dwelling of Joshua Harpe, located at _____, during the nighttime, without consent and with the intent to commit a crime therein. This in violation of Section 16-11-311 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SCARLETT A. WILSON
SOLICITOR

SAW20100301122

DOCKET NO. 2010GS1004738

WITNESSES

Richard Holmes
Charleston City Police Department

AGENCY CASE NUMBER

1003307

ARREST WARRANT NUMBER

DIRIND1090

DATE OF ARREST

June 7, 2010

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

JUN 07 2010

VERDICT

Foreperson of Petit Jury

Date:

INDICT.DOT

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

June 2010 Term

THE STATE

vs.

SASHA ALAJAWON GASKINS

DOB:

B/F

Indictment for

BURGLARY - FIRST DEGREE

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CLERK OF COURT

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STATE OF SOUTH CAROLINA)

INDICTMENT

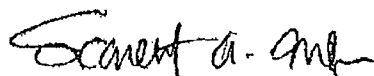
COUNTY OF CHARLESTON)

At a Court of General Sessions, convened on June 7, 2010, the Grand Jurors of Charleston County present upon their oath:

ARMED ROBBERY

That on or about February 27, 2010, in Charleston County, South Carolina, at Unit [REDACTED] [REDACTED], Charleston, in concert with others, by use of force, threats or intimidation and while armed with a deadly weapon, to wit: a handgun, the Defendant, **SASHA ALAJAWON GASKINS**, did take and carry away goods and/or monies from the person or immediate presence of Joshua Harpe with the intent to permanently deprive him of possession thereof, in violation of Section 16-11-330(A) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



SCARLETT A. WILSON
SOLICITOR

SAW20100301122

DOCKET NO. 2010GS1004761

WITNESSES

Richard Holmes
Charleston City Police Department

AGENCY CASE NUMBER

1003307

ARREST WARRANT NUMBER

DIRIND1091

DATE OF ARREST

June 7, 2010

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date

JUN 07 2010

VERDICT

Foreperson of Petit Jury

Date

INDICT.DOT

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

June 2010 Term

THE STATE

vs.

SASHA ALAJAWON GASKINS

DOB:

B/F

Indictment for

ARMED ROBBERY

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JULIE J. ARMSTRONG

CLERK OF COURT

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STATE OF SOUTH CAROLINA)

INDICTMENT

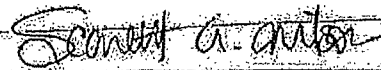
COUNTY OF CHARLESTON)

At a Court of General Sessions, convened on June 7, 2010, the Grand Jurors of Charleston County present upon their oath:

ARMED ROBBERY

That on or about February 24, 2010, in Charleston County, South Carolina, at [REDACTED] [REDACTED], in concert with others, by use of force, threats or intimidation and while armed with a deadly weapon, to wit: a handgun, the Defendant, **SASHA ALAJAWON GASKINS**, did take and carry away goods and/or monies from the person or immediate presence of Herbert Butler III with the intent to permanently deprive him of possession thereof, in violation of Section 16-11-330(A) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



SCARLETT A. WILSON
SOLICITOR

SAW20100301178

DOCKET NO. 2010GS1004793

WITNESSES

NICHOLAS WAGNER
Charleston County Sheriff

AGENCY CASE NUMBER

2010003169B

ARREST WARRANT NUMBER

K304805

DATE OF ARREST

March 2, 2010

ACTION OF GRAND JURY

Date: *[Signature]*
Foreperson of Grand Jury

JUN 07 2010

VERDICT

Foreperson of Petit Jury

Date:

INDICT.DOT

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

June 2010 Term

10 1132 (b)
THE STATE

vs.

SASHA ALAJAWON GASKINS

DOB:

B/F

Indictment for
ARMED ROBBERY

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CLERK OF COURT

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STATE OF SOUTH CAROLINA)

INDICTMENT

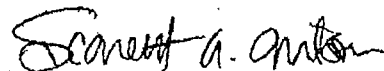
COUNTY OF CHARLESTON)

At a Court of General Sessions, convened on June 7, 2010, the Grand Jurors of Charleston County present upon their oath:

BURGLARY - FIRST DEGREE

That in Charleston County, South Carolina, on or about February 24, 2010, in concert with others, the Defendant **SASHA ALAJAWON GASKINS**, did enter the dwelling of Herbert Butler III, located at _____ during the nighttime, without consent and with the intent to commit a crime therein. This in violation of Section 16-11-311 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



SCARLETT A. WILSON
SOLICITOR

SAW20100301178

DOCKET NO. 2010GS1004794

WITNESSES

NICHOLAS WAGNER
Charleston County Sheriff's Office

AGENCY CASE NUMBER

2010003169B

ARREST WARRANT NUMBER

K304806

DATE OF ARREST

March 2, 2010

ACTION OF GRAND JURY

TRUE BILL

For person of Grand Jury

Date:

JUN 07 2010

VERDICT

For person of Petit Jury

Date:

INDICT.DOT

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

June 2010 Term

THE STATE

vs.

SASHA ALAJAWON CASKINS

DOB:

B/F

Indictment for

BURGLARY - FIRST DEGREE

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CLERK OF COURT

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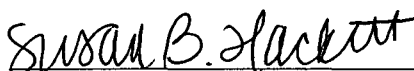
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CERTIFICATE OF COUNSEL FOR APPELLANT

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."

November 21st, 2012



Susan B. Hackett
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