

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM GREENVILLE COUNTY

SC Court of Appeals

Letitia H. Verdin, Family Court Judge

THE STATE,

RESPONDENT,

V.

ALFRED B. BLUFORD,

APPELLANT

Appellate Case No. 2012-212488

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA, )  
 )  
 PLAINTIFF, )  
 )  
 -VS- )  
 )  
 ALFRED B. BLUFORD, )  
 )  
 DEFENDANT. )  
 \_\_\_\_\_ )

2010-GS-23-07905 & 07906

TRANSCRIPT OF RECORD

JULY 10, 2012  
GREENVILLE, SOUTH CAROLINA

BEFORE:

THE HONORABLE LETITIA H. VERDIN

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

L. MARK MOYER, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

JAKE ERWIN, ESQUIRE

SUSAN W. HUDGINS  
CIRCUIT COURT REPORTER

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
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1           THE COURT: Is there anything we need to take up  
2 pretrial?

3           MR. ERWIN: I have one very brief pretrial matter.

4           THE COURT: Okay.

5           MR. ERWIN: It shouldn't really be too much of an  
6 issue.

7           THE COURT: Okay. Do you -- let's see. I don't have  
8 my law clerk here, but the strikes on this are five and ten.

9           MR. ERWIN: That's my understanding, Your Honor.

10          THE COURT: All right. Y'all want to do one alternate  
11 just in case?

12          MR. ERWIN: Sure. One would be fine.

13          THE COURT: Okay. And then do you have a witness list  
14 or anything ---

15          MR. MOYER: Oh, I do, Judge. I'm sorry.

16          THE COURT: That's okay.

17          MR. MOYER: Both indictments -- I will not go forward  
18 on the count of possession of a weapon during a violent  
19 crime, just the armed robbery and the assault and battery,  
20 first degree.

21          THE COURT: All right. So we'll do a verdict form  
22 since it's got that on there. We'll do a verdict form.  
23 Sir, any witness list you, I mean, I know -- we don't know  
24 about your client yet.

25          MR. ERWIN: Potentially the client and that'll be it,

1 Your Honor.

2 THE COURT: Okay. All right. Any proposed voir dire  
3 from either side?

4 MR. MOYER: I don't have any, Your Honor.

5 THE COURT: Okay.

6 MR. ERWIN: None, Your Honor. Just the normal  
7 questions will be fine.

8 THE COURT: All right. And I generally ask if they  
9 know anybody in the Solicitor's Office, ---

10 MR. MOYER: Yes.

11 THE COURT: --- that kind of thing. And then I'll ask,  
12 you know, if there's any reason they know whatsoever that  
13 they could not be fair and impartial. I'll ask that. But,  
14 I mean, I'll -- and then if they know everybody else.  
15 That's pretty much what I ask. All right.

16 Yes, sir, you got a matter to take up pretrial?

17 MR. ERWIN: Just very briefly, Your Honor. In one of  
18 the reports it's mentioned that there was a crack pipe found  
19 on Mr. Bluford at this arrest. Now, I know this goes  
20 without saying, but that's not relevant to this at all. And  
21 I just, you know, just want it to be understood that that's  
22 not going to be mentioned in front of the jury.

23 THE COURT: All right.

24 MR. MOYER: That's true, Judge. I've talked to both  
25 witnesses. And we don't have any intention of bringing that

1 up.

2 THE COURT: Okay. Very good. All right, then.

3 (Whereupon court was in recess at 9:55 am)

4 (Whereupon court resumed at 10:11 am)

5 (Whereupon the jury panel entered the courtroom at  
6 10:11 am)

7 THE COURT: Thank y'all. Y'all be seated. Well,  
8 ladies and gentlemen, I told you we were kind of running on  
9 a -- with some tight numbers this week. So you got to see  
10 that in action this morning. We couldn't bring part of you  
11 up here because we were waiting on another jury to be picked  
12 in another courtroom. And I think some of you might have  
13 come from that courtroom. And I appreciate your patience  
14 with us.

15 Earlier in the week I qualified you as jurors to serve  
16 here in Greenville County. Now I need to more particularly  
17 qualify you to serve on this particular jury in this  
18 particular case.

19 This is the State of South Carolina versus Alfred  
20 Bernard Bluford. And I'm going to go through a list of  
21 questions. Some of you might have been in here with me  
22 yesterday and some of you might have seen in Judge  
23 Welmaker's courtroom how this goes. But just in case that  
24 some of you haven't seen it, I'll go through it.

25 I've got a list of questions that I'm going to ask you.

1 Most of them are related to whether or not you know anyone  
2 involved in the case or know anything about the particular  
3 case.

4 If you do, then I'd ask you to stand and then -- and  
5 let's talk about it. If you'll tell us your name and juror  
6 number, then we'll talk about how you know that person and  
7 whether or not you can still be a fair and impartial juror.

8 There are a couple -- there are not very many witnesses  
9 in this case. We do not anticipate a long trial by any  
10 means in this case. And a couple of these names are  
11 somewhat common. So if you think you know someone by that  
12 name, if you will stand and let's talk about it. It's just  
13 better to be safe than sorry and have to -- have to talk  
14 about it later on. All right.

15 As I said, Mr. Bluford is charged with assault and  
16 battery in the first degree and armed robbery. Mr. Moyer,  
17 I'll ask you to stand and introduce yourself and the folks  
18 at your table.

19 **MR. MOYER:** Okay. Thank you, Judge. My name is Mark  
20 Moyer. And I'm an assistance solicitor with the Greenville  
21 County Solicitor's Office. Seated next to me is Carter  
22 Massengill. He's a law clerk in our office. He's helping  
23 me. And seated next to him is Michael Hammett. He's a  
24 Greenville police officer.

25 **THE COURT:** All right.

1 MR. MOYER: Thank you.

2 THE COURT: Any member of the jury panel related by  
3 blood or marriage or otherwise acquainted with any folks  
4 that Mr. Moyer just introduced to you or Mr. Moyer on behalf  
5 of the State? And if so, please stand.

6 (No response)

7 THE COURT: And none are standing.

8 Any member of the jury panel related by blood or  
9 marriage or otherwise acquainted with any member of the  
10 Thirteenth Circuit Solicitor's Office? Anyone related by  
11 blood or marriage or otherwise acquainted with anyone in the  
12 Solicitor's Office here in Greenville and Pickens Counties?  
13 And if so, please stand.

14 (No response)

15 THE COURT: And none are standing.

16 Mr. Erwin, will you stand and introduce yourself and  
17 introduce your client.

18 MR. ERWIN: Yes, Your Honor. My name is Jake Erwin.  
19 I'm a defense attorney here in Greenville. I'm originally  
20 from Spartanburg. And this is Mr. Alfred Bluford.

21 THE COURT: All right. Ladies and gentlemen, is anyone  
22 in the jury panel ever been represented by Mr. Erwin or have  
23 any immediate family member who's been represented by Mr.  
24 Erwin? And if so, please stand.

25 (No response)

1           **THE COURT:** And none are standing.

2           Is any member of the jury panel related by blood or  
3 marriage or otherwise acquainted with Mr. Erwin or Mr.  
4 Bluford, the Defendant in this case? And if so, please  
5 stand.

6           (No response)

7           **THE COURT:** And none are standing.

8           I do not know if these witnesses will testify in this  
9 case. One of them is Mike Hammett, whom you just met. The  
10 other is Steven Barr. Any member of the jury panel related  
11 by blood or marriage or otherwise acquainted with Steven  
12 Barr? And if so, please stand.

13          (No response)

14          **THE COURT:** And none are standing.

15          If you serve as jurors on this particular case you will  
16 hear a lot more about what an indictment is and what an  
17 indictment is not. But let me tell you that an indictment  
18 merely is the document by which the State charges someone  
19 with a crime. It's no evidence in the case whatsoever.

20          However, it does have a brief synopsis of the alleged  
21 facts in this case. So it's a good summary for me to read  
22 to you so you'll know if you know anything about this case.  
23 I'm going to read to you the two charges against Mr. Bluford  
24 to see if anyone in the jury panel is at all familiar with  
25 any of the facts of this particular case.

1           The first indictment for assault and battery in the  
2 first degree alleges that Alfred Bernard Bluford did in  
3 Greenville County on or about the 29th day of July, 2010,  
4 offer or attempt to injure Steve Barr with the present  
5 ability to do so, and the act was accomplished by means  
6 likely to produce death or great bodily injury and/or the  
7 act occurred during the commission of a robbery, burglary,  
8 kidnapping and/or theft and was in violation of the code of  
9 laws of South Carolina.

10           The second indictment for armed robbery alleges that  
11 Alfred Bernard Bluford did in Greenville County on or about  
12 the 29th day of July, 2010, while armed with a deadly weapon  
13 or while alleging either by action or words that he was  
14 armed while using representation of a deadly weapon or any  
15 object which a person present during the commission of the  
16 robbery would reasonably believe to be a deadly weapon, take  
17 by means of force or intimidation goods or monies described  
18 as beer belonging to Bi-Lo from the person or presence of  
19 Steve Barr, this in violation of the code of laws of South  
20 Carolina.

21           Any member of the jury panel know anything about the  
22 facts of this particular case? I do not know if there were  
23 any media reports or anything like that, but any member of  
24 the jury panel believe they have heard anything whatsoever  
25 or know anything whatsoever about the facts of this

1 particular case? And if so, please stand.

2 (No response)

3 **THE COURT:** And none are standing.

4 All right, ladies and gentlemen, you've met the  
5 attorneys involved in the case, you've heard the names of  
6 the potential witnesses, you've met the Defendant, you've  
7 heard the allegations that have been raised against the  
8 Defendant. Is there any reason that any member of the jury  
9 panel knows that he or she could not be a fair and impartial  
10 juror in the trial of this particular case? And if so,  
11 please stand.

12 (No response)

13 **THE COURT:** And none are standing.

14 Mr. Moyer, any more voir dire from the State?

15 **MR. MOYER:** No voir dire, Your Honor.

16 **THE COURT:** All right. Anything else from the Defense?

17 **MR. ERWIN:** None, Your Honor.

18 **THE COURT:** All right, then.

19 **MR. MOYER:** Could we approach real quickly?

20 **THE COURT:** Certainly.

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

23 **THE COURT:** Mr. Tierney, sir, would you step up here  
24 for me, please.

25 **MR. TIERNEY:** Sure.

1           **THE COURT:** It's nothing bad. We just wonder if you  
2 know somebody.

3           (Whereupon a bench conference was held on the record in  
4 the presence of the jury panel, but out of their hearing)

5           **THE COURT:** What's the law clerk's name?

6           **MR. MOYER:** Carter Massengill.

7           **THE COURT:** His parents, do you know what their names  
8 are?

9           **MR. MOYER:** He said they have different last names, but  
10 they lived across the street. He said that he knew -- he  
11 said you may not recognize him, but his parents knew you and  
12 that he knew you a little bit.

13           **MR. TIERNEY:** Massengill. What's his first name?

14           **MR. MOYER:** Carter.

15           **MR. TIERNEY:** I do know Carter. I didn't make any  
16 connection, but, yeah, I know Carter.

17           **THE COURT:** Is the fact that he might be assisting Mr.  
18 Moyer in the trial of this case, do you feel like you could  
19 still be a fair and impartial juror?

20           **MR. TIERNEY:** I think so. I knew him when he was like  
21 really small, really young.

22           **THE COURT:** Thank you so much. All right. Any  
23 objections?

24           **MR. ERWIN:** No, Your Honor.

25           **THE COURT:** Okay. Five and ten, and one and two with

1 one alternate.

2 (Whereupon the bench conference was ended)

3 THE COURT: All right, ladies and gentlemen. In just a  
4 moment when your name is called, if your name is called,  
5 then I'll ask you to come forward, stand sort of in between  
6 these tables. The bailiffs will show you exactly where, but  
7 turn and face your fellow jurors. Don't face me, face your  
8 fellow jurors.

9 The State will then decide -- they will say whether to  
10 present you or excuse you. And if you're presented, then  
11 the Defense will say whether to excuse you or seat you. And  
12 if you are seated, then the bailiff will show you exactly  
13 where to sit.

14 And for the first person who comes up, don't worry  
15 about it. I know it's always tough on the first person, but  
16 we'll guide you through it. I promise.

17 Let me just say a couple of quick things to you. When  
18 you come up here, bring everything you've got with you just  
19 in case you do get picked. And then that way you won't have  
20 to go back to your seat and get your things.

21 And then secondly, do not take it personally if you do  
22 not get picked for the jury. There are a million different  
23 reasons that somebody does not get picked for a jury. I  
24 know it probably won't hurt your feelings, but just in case  
25 it does I say to you, I practiced law for a while before I

1 did this, and I can tell you, it was never anything personal  
2 whatsoever. All right. Ready?

3 MADAME CLERK: Yes. All right. Juror number 11, Carol  
4 Bauer-Lopis.

5 (Whereupon Carol Bauer-Lopis, a white female, came  
6 forward)

7 MADAME CLERK: What says the State?

8 MR. MOYER: Please present Ms. Bauer.

9 MADAME CLERK: What says the Defendant?

10 MR. ERWIN: Please excuse Ms. Bauer.

11 MADAME CLERK: All right, ma'am, you may be seated.  
12 You've been excused from this case. Juror 13, James  
13 Belcher.

14 THE COURT: And I promise you that you all are chosen  
15 at random. We're not just trying to pick people on the very  
16 end over there.

17 (Laughter)

18 (Whereupon James Belcher, a white male, came forward)

19 MADAME CLERK: What says the State?

20 MR. MOYER: Please present Mr. Belcher.

21 MADAME CLERK: What says the Defendant?

22 MR. ERWIN: Please seat the juror.

23 MADAME CLERK: Mr. Belcher, please have a seat in the  
24 jury box. Juror 117, John Rainey.

25 (Whereupon John Rainey, a white male, came forward)

1 MADAME CLERK: What says the State?

2 MR. MOYER: Please present Mr. Rainey.

3 MADAME CLERK: What says the Defendant?

4 MR. ERWIN: Please seat the juror.

5 MADAME CLERK: Mr. Rainey, please have a seat in the  
6 jury box. Juror 27, Jami Carroll.

7 (Whereupon Jami Carroll, a white female, came forward)

8 MADAME CLERK: What says the State?

9 MR. MOYER: Please present Ms. Carroll.

10 MADAME CLERK: What says the Defendant?

11 MR. ERWIN: Please seat the juror.

12 MADAME CLERK: Ma'am, please have a seat in the jury  
13 box. Juror 160, Lori Fay.

14 (Whereupon Lori Fay, a white female, came forward)

15 MADAME CLERK: What says the ---

16 MR. MOYER: Please present Ms. Fay.

17 MADAME CLERK: What says the Defendant?

18 MR. ERWIN: Please excuse Ms. Fay.

19 MADAME CLERK: All right, ma'am, please be seated. You  
20 have been excused from this case. Juror 71, Leslie  
21 Hollingsworth.

22 (Whereupon Leslie Hollingsworth, a white female, came  
23 forward)

24 MADAME CLERK: What says the State?

25 MR. MOYER: Please present Ms. Hollingsworth.

1 MADAME CLERK: What says the Defendant?

2 MR. ERWIN: Please excuse Ms. Hollingsworth.

3 MADAME CLERK: All right, Ms. Hollingsworth, you may be  
4 seated. Juror 59, Mark Gouge.

5 (Whereupon Mark Gouge, a white male, came forward)

6 MADAME CLERK: What says the State?

7 MR. MOYER: Please present Mr. Gouge.

8 MADAME CLERK: What says the Defendant?

9 MR. ERWIN: Please excuse the juror.

10 MADAME CLERK: Sir, you may be seated. Juror 25,  
11 Donald Burke.

12 (Whereupon Donald Burke, a white male, came forward)

13 MADAME CLERK: What says the State?

14 MR. MOYER: Please excuse the juror.

15 MADAME CLERK: All right, sir, you may be seated. You  
16 have been excused from this case. Juror 43, Francina Downs.

17 (Whereupon Francina Downs, a black female, came  
18 forward)

19 MADAME CLERK: What says the State?

20 MR. MOYER: Please excuse the juror on this case.

21 MADAME CLERK: All right, ma'am, you may be seated.  
22 You have been excused from this case. Juror 94, Thomas  
23 Moran.

24 (Whereupon Thomas Moran, a white male, came forward)

25 MADAME CLERK: What says the State?

1 MR. MOYER: Please present Mr. Moran.

2 MADAME CLERK: What says the Defendant?

3 MR. ERWIN: Please seat the juror.

4 MADAME CLERK: All right, sir, please have a seat in  
5 the jury box. Juror 15, Jeffrey Bogdanski.

6 (Whereupon Jeffrey Bogdanski, a white male, came  
7 forward)

8 MADAME CLERK: What says the State?

9 MR. MOYER: Please present Mr. Bogdanski.

10 MADAME CLERK: What says the Defendant?

11 MR. ERWIN: Please excuse the juror.

12 MADAME CLERK: All right, sir, please be seated. You  
13 have been excused from this case. Juror 110, Reid Polstra.

14 (Whereupon Reid Polstra, a white male, came forward)

15 MADAME CLERK: What says the State?

16 MR. MOYER: Please present Mr. Polstra.

17 MADAME CLERK: What says the Defendant?

18 MR. ERWIN: Please seat the juror.

19 MADAME CLERK: Sir, have a seat in the jury box,  
20 please. Juror 127, Jill Schmidt.

21 (Whereupon Jill Schmidt, a white female, came forward)

22 MADAME CLERK: What says the State?

23 MR. MOYER: Please present Ms. Schmidt.

24 MADAME CLERK: What says the Defendant?

25 MR. ERWIN: Please excuse the juror.

1           **MADAME CLERK:** All right, ma'am, you may be seated.

2 Juror 121, Mark Ring.

3           **THE COURT:** Yes, sir, you need to approach?

4           **MR. RING:** Yes, ma'am.

5           **THE COURT:** I would ask the attorneys to approach,  
6 please.

7           (Whereupon Mr. Ring, a white male, came forward)

8           (Whereupon a bench conference was held on the record in  
9 the presence of the jury panel, but out of their hearing)

10          **MR. RING:** Does Jon Gregory work for the Solicitor's  
11 Office?

12          **THE COURT:** He does.

13          **MR. RING:** Okay. I know him. He goes to my church.

14          **THE COURT:** Okay.

15          **MR. RING:** I'm fine.

16          **THE COURT:** You think you could still be ---

17          **MR. RING:** Yeah, I'm fine. But I just -- I didn't know  
18 if that was ---

19          **THE COURT:** I'm glad you mentioned it. Can you -- you  
20 think you could still be fair and impartial?

21          **MR. RING:** Oh, yeah, if they call me.

22          **MR. ERWIN:** If that's good enough for you, Your Honor,  
23 ---

24          **THE COURT:** That's fine. Thank you for letting us  
25 know.

1 (Whereupon the bench conference was ended)

2 MADAME CLERK: What says the State?

3 MR. MOYER: Please present Mr. Ring.

4 MADAME CLERK: What says the Defendant?

5 MR. ERWIN: Please excuse the juror.

6 MADAME CLERK: All right, sir, you may be seated. You  
7 have been excused from this case. Juror 31, Mark Cofer.

8 (Whereupon Mark Cofer, a white male, came forward)

9 MADAME CLERK: What says the State?

10 MR. MOYER: Please present Mr. Cofer.

11 MADAME CLERK: What says the Defendant?

12 MR. ERWIN: Please excuse the juror.

13 MADAME CLERK: All right, sir, please be seated. Juror  
14 16, Sandra Bond.

15 (Whereupon Sandra Bond, a white female, came forward)

16 MADAME CLERK: What says the State?

17 MR. MOYER: Please present Ms. Bond.

18 MADAME CLERK: What says the Defendant?

19 MR. ERWIN: Please seat Ms. Bond.

20 MADAME CLERK: All right, Ms. Bond, please be seated in  
21 the jury box. Juror 161, Shunterika Hawkins.

22 (Whereupon Shunterika Hawkins, a black female, came  
23 forward)

24 MR. MOYER: I'm so sorry. What was that number?

25 MADAME CLERK: Shunterika Hawkins, 161.

1 MR. MOYER: Okay. Thank you.

2 MADAME CLERK: What says the State?

3 MR. MOYER: Please excuse the juror in this case.

4 MADAME CLERK: All right, ma'am, please be seated. You  
5 have been excused from this case. Juror 133, Jonathan  
6 Smith.

7 (Whereupon Jonathan Smith, a white male, came forward)

8 MADAME CLERK: What says the State?

9 MR. MOYER: Please present Mr. Smith.

10 MADAME CLERK: What says the Defendant?

11 MR. ERWIN: Please excuse the juror.

12 MADAME CLERK: All right, sir, please be seated. Juror  
13 number 4, Lorenza Ashley.

14 (Whereupon Lorenza Ashley, race unknown, came forward)

15 MADAME CLERK: What says the State?

16 MR. MOYER: Please present Ms. Ashley.

17 MADAME CLERK: What says the Defendant?

18 MR. ERWIN: Please seat the juror.

19 MADAME CLERK: All right, ma'am, please be seated in  
20 the jury box. Juror 34, Donna Cox.

21 (Whereupon Donna Cox, a white female, came forward)

22 MADAME CLERK: What says the State?

23 MR. MOYER: Please present Ms. Cox.

24 MADAME CLERK: What says the Defendant?

25 MR. ERWIN: Please seat the juror.

1           **MADAME CLERK:** Ms. Cox, please have a seat in the jury  
2 box. Juror 159, James Borkey.

3           (Whereupon James Borkey, a white male, came forward)

4           **MR. MOYER:** I apologize. What was the last name?

5           **MADAME CLERK:** Borkey, B-o-r-k-e-y, 159.

6           **MR. MOYER:** Please present Mr. Borkey.

7           **MADAME CLERK:** Thank you. What says the State -- the  
8 Defendant? Pardon me.

9           **MR. ERWIN:** Please seat the juror.

10          **MADAME CLERK:** Sir, have a seat in the jury box,  
11 please. Juror 20, Margaret Brightman.

12          (Whereupon Margaret Brightman, a white female, came  
13 forward)

14          **MADAME CLERK:** What says the State?

15          **MR. MOYER:** Please present Ms. Brightman.

16          **MADAME CLERK:** What says the Defendant?

17          **MR. ERWIN:** Please excuse Ms. Brightman.

18          **MADAME CLERK:** All right, ma'am, you may be seated.  
19 Juror 163, John Knox.

20          (Whereupon John Knox, a white male, came forward)

21          **MADAME CLERK:** What says the State?

22          **MR. MOYER:** Please present Mr. Knox.

23          **MADAME CLERK:** What says the Defendant?

24          **MR. ERWIN:** Please seat the juror.

25          **MADAME CLERK:** Sir, have a seat in the jury box. Juror

1 83, Ricky Logan.

2 (Whereupon Ricky Logan, a black male, came forward)

3 **MADAME CLERK:** What says the State?

4 **MR. MOYER:** Please excuse the juror in this case.

5 **MADAME CLERK:** All right, sir, please be seated. Juror  
6 74, Rebecca Huskey.

7 (Whereupon Rebecca Huskey, a white female, came  
8 forward)

9 **MADAME CLERK:** What says the State?

10 **MR. MOYER:** Please present Ms. Huskey.

11 **MADAME CLERK:** What says the Defendant?

12 **MR. ERWIN:** Please seat the juror.

13 **MADAME CLERK:** Ms. Huskey, please have a seat in the  
14 jury box. Juror 114, Jennifer Prosser.

15 (Whereupon Jennifer Prosser, a white female, came  
16 forward)

17 **MADAME CLERK:** What says the State?

18 **THE COURT:** Can the attorneys approach for just a  
19 moment?

20 (Whereupon a bench conference was held on the record in  
21 the presence of the jury panel, but out of their hearing)

22 **MR. ERWIN:** I just noticed that as well.

23 **THE COURT:** She is a manager -- she's a co-manager at  
24 Bi-Lo.

25 **MR. MOYER:** Should we call her up and question her?

1           **THE COURT:** I just feel -- I think that's too close.  
2 I'm probably going to cut her loose for cause.

3           **MR. ERWIN:** Thank you, Your Honor.

4           **THE COURT:** All right. Thank you.

5           (Whereupon the bench conference was ended)

6           **THE COURT:** Ms. Prosser, you can be seated. Thank you.

7           **MADAME CLERK:** Juror 123, Barbara Robinson.

8           (Whereupon Barbara Robinson, a black female, came  
9 forward)

10          **MADAME CLERK:** What says the State?

11          **MR. MOYER:** Please present Ms. Robinson.

12          **MADAME CLERK:** What says the Defendant?

13          **MR. ERWIN:** Please seat the juror.

14          **MADAME CLERK:** Ms. Robinson, please have a seat in the  
15 jury box. For alternate, juror 33, Hannah Coppins.

16          (Whereupon Hannah Coppins, a white female, came  
17 forward)

18          **MADAME CLERK:** What says the State?

19          **MR. MOYER:** Please present Ms. Coppins.

20          **MADAME CLERK:** What says the Defendant?

21          **MR. ERWIN:** Please excuse Ms. Coppins.

22          **MADAME CLERK:** All right, ma'am, you may be seated.  
23 Juror 135, Caroline Strange.

24          (Whereupon Caroline Strange, a white female, came  
25 forward)

1 MADAME CLERK: What says the State?

2 MR. MOYER: Please present Ms. Strange.

3 MADAME CLERK: What says the Defendant?

4 MR. ERWIN: Please seat the juror.

5 MADAME CLERK: All right, ma'am, please have a seat in  
6 the jury box.

7 THE COURT: Any matters we need to take up regarding  
8 jury selection? From the State?

9 MR. MOYER: Not from the State, Your Honor.

10 THE COURT: Any from the Defense?

11 MR. ERWIN: Your Honor, I do have a challenge.

12 THE COURT: Okay.

13 MR. ERWIN: And I don't know the appropriate time. I  
14 don't know if you want to send the jury out ---

15 THE COURT: We'll handle that in just a moment. Ladies  
16 and gentlemen, I'm going to ask you to step to your jury  
17 deliberation room. Please don't discuss what little you  
18 know about this case with anyone. Thank you.

19 (Whereupon the jury exited the courtroom at 10:41 am)

20 THE COURT: Will you take the remainder of the jury  
21 pool out in the hall for a moment, please.

22 THE BAILIFF: Yes, ma'am.

23 (Whereupon the remaining members of the jury pool  
24 exited the courtroom at 10:41 am)

25 THE COURT: Mr. Erwin.

1           MR. ERWIN: Your Honor, I'm just going to -- I'd just  
2 like to challenge this jury under Batson.

3           THE COURT: Okay.

4           MR. ERWIN: And I'll admit, I'm just trying to keep a  
5 clean record for the Defendant. So all I'm asking is for  
6 the Solicitor to make a, you know, put a non-racially biased  
7 reason on the record ---

8           THE COURT: And you're talking ---

9           MR. ERWIN: Three strikes.

10          THE COURT: --- about the three ---

11          MR. ERWIN: Yes, ma'am.

12          THE COURT: --- African Americans that were struck?

13          MR. ERWIN: Yes, ma'am.

14          THE COURT: All right. Okay. Yes, sir.

15          MR. MOYER: Thank you, Your Honor. May it please the  
16 Court. The State struck four jurors, juror number 25,  
17 number 43, number 161 and number 83, three African Americans  
18 and one white man. Every one the State struck had a  
19 criminal record and has been prosecuted. And so --  
20 including the white man that was -- that was struck as well.

21                 I can give particulars as to the charges, if necessary.  
22 We do a background check on jurors. And so I do have all of  
23 that information at my disposal.

24                 As Your Honor will note, also there's one black African  
25 American who was seated on the jury. And she does not have

1 a criminal record.

2 THE COURT: All right. Mr. Erwin.

3 MR. ERWIN: That's good. If that's good enough for the  
4 record, Your Honor, that's good enough for me.

5 THE COURT: All right. I think he's set forth a  
6 racially neutral reason for striking them and, in fact,  
7 struck equally so far as when persons with criminal records  
8 came forward. I don't know of any others that had criminal  
9 records. Did you seat anyone who had a ---

10 MR. MOYER: I did not ---

11 THE COURT: --- criminal record?

12 MR. MOYER: --- seat anybody with a criminal record or  
13 even charged.

14 THE COURT: All right then. All right. So your motion  
15 to Batson is denied. And the jury's fine. We'll bring this  
16 pool back in real quickly and let them go back downstairs.  
17 Are y'all ready to start once we ---

18 MR. MOYER: Yes, ma'am.

19 (Whereupon the remaining jurors entered the courtroom)

20 THE COURT: Ladies and gentlemen, we brought you back  
21 in just to let you go. I need -- but the first thing I need  
22 for you to do is go back downstairs to your jury assembly  
23 room for some further instructions on when you need to call  
24 in. I'm not entirely sure when the next time you need to  
25 call in will be, but if you will go back down there and

1 check in before you leave. Thank you so much.

2 (Whereupon the remaining jurors exited the courtroom)

3 **THE COURT:** You want to bring our jury panel back in if  
4 they're -- Mr. Moyer, are y'all ready to start? I'll give  
5 an initial charge that'll take about ten minutes.

6 **MR. MOYER:** Okay.

7 **THE COURT:** And if y'all are ready to start after that  
8 -- anybody need a break or anything?

9 **MR. MOYER:** No, Your Honor.

10 **THE COURT:** Anybody need a break?

11 **MADAME CLERK:** No, ma'am.

12 **MADAME COURT REPORTER:** No, ma'am.

13 (Pause)

14 **THE COURT:** Just wait just one minute, one second. I  
15 do want to say something, Mr. Moyer. I apologize. Mr.  
16 Bluford, can I just -- I want to just mention something to  
17 you even though we're very early in this proceeding. I  
18 don't know how -- it sounds like this case is going to move  
19 along fairly quickly.

20 And so, in other words, we're going to probably finish  
21 with the State's case maybe this morning. I don't know.  
22 And that means we're going to come to the time where you've  
23 got to make the decision whether or not you want to testify  
24 in this case.

25 I'm not going to go through the series of questions

1 with you right now. It's just I want you to be prepared on  
2 a break to talk to your attorney about that because this  
3 whole thing, as I said, may be moving pretty quickly.

4 He'll go over some questions that I'll have for you  
5 about your decision to testify. And we'll also hear from  
6 the State at a later time about any charges they might use  
7 against you if you were to testify. All right?

8 **MR. BLUFORD:** Yes, ma'am.

9 (Whereupon the jury entered the courtroom at 10:49 am)

10 **THE COURT:** I see a few familiar faces from yesterday  
11 on the jury in this courtroom that did not actually sit for  
12 a case and you've been chosen again. So I am going to bore  
13 you for the next couple of minutes going through my  
14 preliminary charge just to give you the lay of the land  
15 about this case.

16 What I will say to you now is not intended to serve as  
17 a charge on the law. You will be instructed on the law by  
18 me at the end of this case before you retire to consider  
19 your verdict. This is merely an explanation of the  
20 procedure that we will follow so you can better understand  
21 what is going on in this case.

22 The Defendant is charged by two indictments filed in  
23 this court with the crimes of assault and battery in the  
24 first degree and armed robbery, the elements of which will  
25 be explained to you later. As I said to you during

1 qualification, an indictment is simply the document by which  
2 someone is charged and brought into court. And it is not in  
3 any sense evidence of any allegations it contains.

4 The Defendant has pled not guilty to these indictments.  
5 And the State, therefore, has the burden of proving each and  
6 every element of the indictment beyond a reasonable doubt.  
7 It will be your duty to determine whether the State has met  
8 that burden.

9 Your purpose as jurors is to find and determine the  
10 facts. And you are the sole judges of the facts. If at any  
11 time I make any comment regarding the facts in this case, I  
12 ask you to disregard it. The law does not allow me to have  
13 an opinion on the facts of this case, and I do not.

14 You are to determine the facts from the testimony you  
15 hear and other evidence introduced in court. It is up to  
16 you to determine what inferences are to be drawn from that  
17 evidence and testimony. It's especially important that you  
18 perform your task of determining the facts diligently  
19 because ordinarily there is no way to correct an erroneous  
20 determination of facts by a jury.

21 As I said, you are the judges of the facts. And by the  
22 same token, I am the judge of the law. The law as I give it  
23 to you must be the only law that you follow and consider.  
24 You must accept it and follow it even though you may not  
25 disagree [sic] with it. You may have a different idea about

1 what the law is or what the law should be, but you must only  
2 follow the law as I give it to you. You will apply the  
3 facts to that law and then render your verdict.

4 Until I advise you to begin your deliberations you must  
5 not discuss this case with anyone. And I went over this at  
6 length with the folks yesterday, but I want to be sure that  
7 I've said it fully.

8 Sometimes folks are surprised to know that they cannot  
9 discuss the case with their fellow jurors as the case is  
10 progressing. However, the reason you cannot discuss it with  
11 your fellow jurors as the case is progressing is we want you  
12 to have a full picture before you begin discussing it with  
13 anyone. And we do not want you to be influenced by anyone.  
14 Do not discuss this case.

15 We do not anticipate that this will be an overnight  
16 case. In other words, a case that you will come back  
17 tomorrow or another day and hear more testimony and  
18 evidence, but please do not discuss this case with anyone,  
19 friends, family, anyone like that. And certainly everyone  
20 in this case is -- has been instructed and they understand  
21 they are not to discuss this case with you in any form or  
22 fashion.

23 I told you yesterday that we were fortunate to have two  
24 excellent attorneys that were going to try a case with us  
25 yesterday. We are equally fortunate today to have two of

1 the best attorneys to try this case.

2 And there is no way that any -- that either of them or  
3 anyone from their offices would try to approach you about  
4 this case. But if anyone were to, identify yourself as a  
5 juror and immediately let one of the bailiffs know about  
6 this, and they will let me know about it. And I assure you,  
7 I will take care of it. When you see them and they're being  
8 unfriendly, don't speak a word to you in the hall, it's just  
9 because that's what they have to do, okay?

10 During this trial don't watch any TV reports, if there  
11 are any, about this case or read any newspaper articles, if  
12 there are any, about this case. I had to admit to some of  
13 you yesterday candidly, I have no idea what a tweet is, but  
14 you cannot tweet about this case, you cannot put anything  
15 about a -- anything about it on your Facebook page, you  
16 cannot blog about it while this case is ongoing.

17 It's important that you keep an open mind and listen to  
18 all the testimony and all the evidence before you make your  
19 decision. It's your solemn responsibility to determine the  
20 guilt or innocence of the Defendant.

21 You must base your decision on the testimony and  
22 evidence. That's going to necessarily require that you  
23 decide the credibility of certain witnesses. You will  
24 determine credibility or believability of witnesses in the  
25 same way you do in your daily life, and that is you look at

1 someone's demeanor on the stand, you listen to how their  
2 story might match up with other witnesses and how it matches  
3 up with the evidence in this case. And you determine -- you  
4 are the sole ones who determine the believability of any  
5 witness.

6 You can believe part of a witness' testimony or all of  
7 it or you can disregard part of it or all of it. You can  
8 believe one witness over many witnesses or many witnesses  
9 over one witness. You are to determine the credibility of  
10 those witnesses yourself.

11 In just a moment the Solicitor is going to make what is  
12 called an opening statement in which the Solicitor will tell  
13 you what he believes the issues in this case to be. The  
14 attorney for the Defendant may also make an opening  
15 statement if he chooses to do so, but he is not required to  
16 do so. What the attorneys tell you during these opening  
17 statements is not evidence in this case, it's only their  
18 contention as to what the issues are.

19 Now, from time to time you may hear the attorneys say  
20 that they need to approach to discuss a matter of law with  
21 me or that we need to excuse you to your jury room for a  
22 brief time to discuss a matter of law. And I just want to  
23 explain what that's all about.

24 We are not trying to hide the ball from you in any way.  
25 We do not have any secrets. However, I told you earlier

1 that the law does not allow me to have any opinion on the  
2 facts of this case. And sometimes when I rule on a matter  
3 of law I must make a comment on the facts of the case.

4 And so in order to not influence you in any way, then  
5 we'll either -- if it's something we can take up quickly,  
6 we'll take it up at the bench very quickly. If not, I'll  
7 ask you to step to your jury room, but we will try to keep  
8 any delays for you at a minimum. All right.

9 Now, Ms. Robinson, I'm going to appoint you as  
10 Foreperson of this jury. You are in the exact, correct  
11 seat. If you'll just stay there throughout the trial, then  
12 that's perfect.

13 Your responsibilities will be as follows; you will  
14 lead the discussions in the jury room. No one's opinion is  
15 anymore important than another's opinion because your  
16 verdict must be a unanimous one.

17 So everyone's opinion is equally important. But I need  
18 someone to lead those discussions. And, Ms. Robinson, I'm  
19 going to appoint you to do that. Also, you will be the  
20 person who will sign and date the verdict form once you have  
21 -- you and the other jurors have come to your verdict.

22 Now, Ms. Strange, you are our alternate in this case.  
23 That means you will stay with us throughout the duration of  
24 this trial. You will listen to the testimony and the  
25 evidence just as if you were one of these twelve jurors.

OPENING STATEMENTS - MR. MOYER

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1           If it turns out that I had to remove a juror for any  
2 reason or there was some unforeseen emergency and you had to  
3 step in the shoes of one of the jurors, then you would be  
4 prepared to do so just as if you'd been a juror all along.  
5 If we get to the end of the trial and we have not needed you  
6 to step in anyone's shoes before the jury begins their  
7 deliberation, I'll excuse you.

8           And as I said, I will give you further instructions on  
9 the law and further instructions on your deliberations at  
10 the end of this trial, after the presentation of all the  
11 witnesses and evidence and after the closing arguments of  
12 the attorneys. Any objection to my initial charge from the  
13 State?

14           **MR. MOYER:** No, Your Honor.

15           **THE COURT:** Any from the Defense?

16           **MR. ERWIN:** None, Your Honor.

17           **THE COURT:** All right, ladies and gentlemen, we're now  
18 ready to begin with opening statements. Mr. Moyer.

19           **MR. MOYER:** Thank you, Your Honor. May it please ---

20           **THE COURT:** Oh, ---

21           **MR. MOYER:** Okay.

22           **THE COURT:** --- I almost forgot a very important thing.  
23 You go right ahead.

24           **MADAME CLERK:** Please stand and raise your right hand  
25 for the oath in this case. And the proper response is. I

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1 will.

2 You shall well and truly try the case 2010-GS-23-7905,  
3 the State versus Alfred Bernard Bluford, who is indicted for  
4 assault and battery, first degree, and 7906 for armed  
5 robbery and a true verdict rendered according to the law and  
6 the evidence so help you God. I will?

7 THE JURY: I will.

8 MADAME CLERK: Thank you. Please be seated.

9 THE COURT: Thank you. Mr. Moyer, I'm sorry.

10 MR. MOYER: No problem. Thank you, Your Honor.

11 THE COURT: Thank you.

12 MR. MOYER: May it please the Court. Madame Forelady,  
13 ladies and gentlemen of the jury, once again, my name is  
14 Mark Moyer. I am an assistant solicitor. I work for  
15 Greenville County.

16 A solicitor is what just about every other State calls  
17 a D.A. or a district attorney. And my job is the same as a  
18 D.A. in another State, we just call them solicitors in South  
19 Carolina. It is my job to represent the State of South  
20 Carolina, the people in South Carolina in criminal  
21 prosecutions. That's what we're doing here today.

22 Now, you've heard the indictments, the charges that are  
23 before the -- before you all. The Defendant's charged with  
24 armed robbery and is charged of assault and battery, first  
25 degree. What this case is really about though is somebody

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1 who gets caught in the act and then is desperate and will do  
2 whatever it takes to get away. And because of that, what  
3 started out as a shoplifting turned into an armed robbery.

4 Now, you will hear, ladies and gentlemen, from two  
5 witnesses in this case who are going to tell you what they  
6 saw and what they know. You're going to hear from Mr.  
7 Steven Barr, who is an employee of Bi-Lo. And you're going  
8 to hear from Officer Hammett, who works for the Greenville  
9 Police Department. But most importantly, you're going to  
10 see what happened, ladies and gentlemen. This was caught on  
11 video. And so that's going to be the main evidence for you  
12 today.

13 Now, this case is going to be short, as you heard.  
14 Unless I am really misjudging this, I believe we will -- the  
15 State will put in all the evidence that we're going to  
16 present before lunch, probably break for lunch and come back  
17 and wrap it up right after lunch is what I anticipate.

18 Now, what you're going to see is a series of four  
19 videos that capture different angles of what happened. And  
20 you're going to hear, ladies and gentlemen, that it happened  
21 at the Bi-Lo on South Pleasantburg that is actually now  
22 closed, the intersection of South Pleasantburg and Faris  
23 right next to Greenville Tech. You're going to hear that  
24 the incident happened there. It was about 9:00 on July the  
25 29th of 2010.

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1           And you're going to hear that on that date this  
2 Defendant went into the store and he attempted to steal two  
3 cases of beer. What you're going to see is that he walks up  
4 with a shopping cart to the check-out lane closest to the  
5 exit. And when he gets there, instead of getting in line  
6 you're going to see that he takes out the two cases of beer  
7 and puts them on the ground.

8           He stands there for a moment and then he takes two more  
9 items out of the shopping cart and goes way down to another  
10 register. And you're going to see that he goes in, he pays  
11 for these two items and instead of continuing on he backs up  
12 back into the store and goes back over to the line where he  
13 set the beer.

14           You're going to see that somebody had actually put  
15 something on top of his beer by that point. He takes --  
16 picks that up and puts it on the ground, picks up the beer  
17 and goes to leave the store. Walks past the check-out  
18 lines, goes with the couple of items that he did buy, I  
19 believe some cereal and a small item of milk, picks up the  
20 beer and is leaving the store.

21           Well, you're going to hear that Mr. Barr was in the  
22 back room in the office, he was actually eating dinner. And  
23 he has the video screen displayed in front of him. He  
24 noticed what was happening. And he hurries out there and  
25 calls for the Defendant to stop.

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1           And you're going to hear the Defendant is just about --  
2           very close to the door and he does stop. He puts the beer  
3           down and Mr. Barr has a confrontation with him, a discussion  
4           about what happened. And it's Mr. Barr's intention to take  
5           him to the back office and hold him there until the police  
6           arrive to arrest him.

7           But you're going to hear that this Defendant did not  
8           want to be apprehended and that at that time he begins to  
9           try to evade Mr. Barr. He attempts to get around him. He  
10          makes -- for a period of time he tries to get around Mr.  
11          Barr to get out of the store. You're going to see, Mr. Barr  
12          keeps moving in front of him to hold him back.

13          You're going to see and hear that it escalated and that  
14          the Defendant, when he could see that he was not going to be  
15          able to get out of the store in this manner, reaches to his  
16          back pocket and he pulls out a knife. He pulls out a pocket  
17          knife.

18          Now, Mr. Barr is unsure what exactly is in his hand at  
19          this point, but he can sense and he can see that the  
20          situation is escalating and the Defendant is becoming more  
21          aggressive. So at that time he grabs him and attempts to  
22          take him back to the office. And there's a bit of a  
23          scuffle.

24          And, Mr. Barr, who, as you can see, is much bigger than  
25          the Defendant, is getting him back towards the office when

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1 the Defendant becomes even more aggressive and begins waving  
2 the knife around and slashing. You're going to hear that  
3 Mr. Barr actually gets nicked on the finger. He gets cut  
4 with the knife.

5 At that time he is sure of what the Defendant has in  
6 his hands, he backs away. Mr. Barr's a lot bigger than the  
7 Defendant, however, a knife is an equalizer. And he's not  
8 going to take that risk.

9 Well, at that time the Defendant leaves the store. Mr.  
10 Barr follows him a safe distance to see where he goes,  
11 follows him out of the store. And just at that time Officer  
12 Hammett is pulling up.

13 And that part is the only part that is not on video,  
14 but you're going to hear that Officer Hammett pulls up just  
15 as the Defendant is leaving the store. The Defendant is  
16 identified to him. And Officer Hammett arrests him, finds a  
17 pocket knife in his pocket.

18 Now, that is essentially an overview of the evidence  
19 that you're going to hear. I want to make -- finish my  
20 remarks by making just a couple of comments about the law.

21 There are two charges; assault and battery, first  
22 degree, and armed robbery. Assault and battery, first  
23 degree, is a statutory crime in South Carolina. And under  
24 the law in order to be guilty you have to injure somebody  
25 while in the commission of either a robbery, burglary,

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1 kidnapping or a theft, any kind of stealing.

2 So, obviously, the burglary and the kidnapping don't  
3 apply in this case. But if you injure somebody while trying  
4 to steal something or trying to rob somebody, then you're  
5 guilty of assault and battery, first degree. Or even if you  
6 try to injure or hurt somebody under that circumstance and  
7 don't actually hurt them.

8 The second crime is armed robbery. The definition of  
9 armed robbery is the taking of goods, or property or a theft  
10 from the person of another using force or intimidation and  
11 while armed with a deadly weapon. A deadly weapon is  
12 defined by statute, which you will hear at the end of the  
13 case, and it's fairly broad. The statute covers a pistol,  
14 it has a dirk, slingshot, brass knuckles or any other deadly  
15 weapon under the statute. So if you commit a robbery and  
16 you have -- and you're armed with an instrument of that  
17 kind, then you're guilty of armed robbery.

18 I want to finish up by making two remarks about armed  
19 robbery that are unique to this case. And one is called the  
20 continuing offense theory. You can put that aside. But  
21 essentially what it means is there's no requirement under  
22 the law that you have to take -- actually take the property  
23 using the weapon.

24 A classic example or a thought of an armed robbery is  
25 someone goes in a convenience store, points a gun at the

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1 clerk and says, give me your money. And so they actually  
2 get the money by use of the weapon. But under the law an  
3 armed -- a robbery covers the whole incident from the taking  
4 of the property until you escape.

5 So at any time during that period from when you take  
6 the property, while you're trying to leave or even if you  
7 abandon the property and try to escape, if at any time  
8 during that period you use a weapon against another person,  
9 force or intimidation, then that's enough to escalate that  
10 theft from what might be a shoplifting or larceny up to  
11 armed robbery. And you'll hear more about this at the end  
12 of the case.

13 A final remark I want to make is there's no requirement  
14 under the law how far you have to take that property. In  
15 other words, if you steal something, in order for it to be  
16 theft, you don't have to get it home. You don't have to get  
17 it out of the door. You don't have to get it to your car.  
18 The slightest removal of property, if I take this and see  
19 somebody coming, once that -- the slightest removal takes  
20 place, then that larceny has been committed.

21 That's all I'm going to say now about the law and about  
22 the facts. As I said, the case is going to be relatively  
23 quickly. All I ask of you at this time is just to listen  
24 closely, use your common sense and your good judgment to  
25 weigh the evidence. Then at the end of this case, just do

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1 justice. Thank you.

2 THE COURT: Thank you. Mr. Erwin.

3 MR. ERWIN: Thank you, Your Honor. I'm going to be  
4 very, very brief. I'm just going to give you a couple of  
5 things that I want you to keep in mind while you're  
6 listening to the evidence in this case.

7 The first thing is about burden of proof. Now, at the  
8 end of the day today we're going to go into detail about  
9 what burden of proof means and the presumption of innocence  
10 and, you know, beyond a reasonable doubt and all that stuff.

11 But what it means right now is that you're probably not  
12 going to hear very much from me today, at least not until  
13 the end. And the reason is that the Government, the State  
14 over here, it is on them to prove each and every element of  
15 the offenses that they're alleging. Each and every one they  
16 have to prove beyond a reasonable doubt. So please keep  
17 that in mind when you're listening.

18 Number two, Mr. Moyer's right, this is all about the  
19 video. It's all there. And I think you're going to see two  
20 things in the video. I think you're going to see that this  
21 is a shoplifting and that it is over at a certain point. It  
22 stops. This is not a robbery.

23 And I think you're also going to see that one person  
24 was assaulted in this. There was an assault. One person  
25 walks up. And that was Mr. Bluford. So y'all pay

**PATRICK STEVEN BARR - DIRECT EXAMINATION BY MR. MOYER**

1 attention, and I know you're going to do the right thing.

2 **THE COURT:** All right. Thank you, sir.

3 **MR. MOYER:** Thank you, Your Honor.

4 **THE COURT:** Mr. Moyer.

5 **MR. MOYER:** May it please the Court. The State would  
6 call Steven Barr to the stand.

7 **MADAME CLERK:** Sir, if you'll come forward. Please  
8 pause at the end of the bench, place your left hand on the  
9 Bible -- left hand on the Bible and raise your right hand.

10 **Patrick Steven Barr,**

11 being duly sworn testified as follows:

12 **MADAME CLERK:** Thank you. Please be seated.

13 **Direct Examination by Mr. Moyer:**

14 Q. All right, Mr. Barr. Would you, please, state your  
15 full name.

16 A. It's Patrick Steven Barr.

17 Q. You go by Steven?

18 A. I go by Steve.

19 Q. Okay, by Steve. And how old are you?

20 A. Forty-three.

21 Q. How far did you go in school?

22 A. Actually, just graduated with my master's degree.

23 Q. Okay. Where did you get your undergraduate degree?

24 A. My undergrad? USC.

25 Q. Okay. And when did you get -- when did you graduate?

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- 1 A. That was back in '91.
- 2 Q. Okay. And then you -- later in life you decided to  
3 move on to get a master's?
- 4 A. Yes, sir.
- 5 Q. And where did you get your master's degree, you said?
- 6 A. From Southern Wesleyan University.
- 7 Q. And what was that in?
- 8 A. It's an MBA, in business.
- 9 Q. And you just got that in May of this year, you said?
- 10 A. Yes, sir. May 5th.
- 11 Q. Now, you work for Bi-Lo, Corporation?
- 12 A. Yes, sir.
- 13 Q. And how long have you been working there?
- 14 A. A little over twenty-seven years now.
- 15 Q. How old were you when you started working at Bi-Lo?
- 16 A. I started when I was sixteen.
- 17 Q. So you were in high school?
- 18 A. Yes, sir.
- 19 Q. And you just continued on ---
- 20 A. On and off while I was in college and stuff, yeah.
- 21 Q. So you worked through college and high school and then  
22 continued on there after you graduated from college?
- 23 A. Yes, sir.
- 24 Q. Now, what is your position right now?
- 25 A. Right now I'm Store Director, which is basically a

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1 store manager.

2 Q. Does that -- what are your duties as Store Manager,  
3 Store Director?

4 A. Basically -- basically run the store overall with my  
5 employees, over all the departments, I guess they would say  
6 the top person in the store just in regards to making --  
7 attempts to meet budgets, sales, controlling the stock loss,  
8 which is protecting our assets, stuff like that.

9 Q. Okay. So as Store Director, does that mean you're the  
10 top person at that store?

11 A. Yes, sir.

12 Q. Now, is that what you were doing in July of 2010?

13 A. Yes, sir.

14 Q. And what store were you working at then?

15 A. That was actually store number -- we call them by  
16 numbers. And it was 272. It was on South Pleasantburg, 494  
17 South Pleasantburg right there at Greenville Tech.

18 Q. At the intersection of Faris?

19 A. Yes.

20 Q. Is that store still in operation?

21 A. No. It actually closed about eight or ten months ago.

22 Q. Okay. What store are you working in now?

23 A. I'm now at a store in Easley.

24 Q. How many different Bi-Lo stores have you worked in in  
25 the upstate over the years?

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- 1 A. Probably twenty-five.
- 2 Q. Okay.
- 3 A. Yes.
- 4 Q. Does that cover most of them?
- 5 A. Probably, yeah most of them. There's probably four or  
6 five in the upstate that I haven't worked in.
- 7 Q. Okay.
- 8 A. Some that's closed.
- 9 Q. Now, the location you mentioned where this happened, is  
10 that in Greenville County?
- 11 A. Yes.
- 12 Q. And that was the store on 494 South Pleasantburg?
- 13 A. Yes.
- 14 Q. Okay. All right. Now, the incident that we're here in  
15 court about today, do you recall the date that was?
- 16 A. I believe it was July the 29th of 2010.
- 17 Q. Okay. And just to be sure, you said I believe, would  
18 it refresh your memory if you had a chance to look at your  
19 statement?
- 20 A. Yes, sir.
- 21 Q. And you gave a statement the day that the incident took  
22 place?
- 23 A. Yes, sir.
- 24 Q. Do you recognize what I've just handed you?
- 25 A. That's my statement.

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1 Q. Okay. And by taking a look at that does that refresh  
2 your memory as to the date?

3 A. Yes, sir. I put on there July 29th.

4 Q. Okay. Of 2010?

5 A. Yes.

6 Q. About what time of day was it when this happened?

7 A. It was around 9:00 pm.

8 Q. So it was dark?

9 A. Yes, sir.

10 Q. Now, where were you when you noticed what was taking  
11 place and what were you doing?

12 A. I was actually sitting in my office trying to eat my  
13 supper because in the business you've got to take a break  
14 when you can. So I was eating my supper.

15 And I have video of the whole store. At that time we  
16 had about thirty-two cameras in that store. So I put the  
17 camera on the -- that would show the registers at the front  
18 end. And while I was sitting there I witnessed one of the  
19 customers coming up and then sat the beer down. So kind of  
20 threw a little thing in my head to keep an eye on it.

21 Q. Okay. Now, this person who put that beer down and who  
22 you later had the interaction with, do you recognize him?  
23 Is he in the courtroom today?

24 A. Yes, sir.

25 Q. And would you point him out for the jury?

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1 A. Mr. Bluford there.

2 (Whereupon the witness pointed to the Defendant)

3 Q. Okay.

4 MR. MOYER: Just for the record, I'd ask the record to  
5 reflect that the witness did point out the Defendant.

6 THE COURT: It will so reflect.

7 Q. And so you saw him place the beer down and then you  
8 continued watching the monitor?

9 A. Yes. Actually, at that time my bookkeeper was at the  
10 service center, which was closest to the register. I called  
11 her on the phone and asked her to keep an eye on that beer  
12 because it kind of looked like something was going on. So  
13 she knew about it. And then, you know, as I was watching  
14 it, that's when I noticed him coming back over and grabbing  
15 the beer.

16 Q. Okay. So you saw him -- you saw him walk away from the  
17 beer then to another register?

18 A. Yeah, I -- yeah, I watched him walk away from it after  
19 he sat it down, then come back to it.

20 Q. Okay. Do you remember what kind of beer it was?

21 A. I believe it was Bud Light.

22 Q. Okay. And ---

23 A. Yeah, it was Bud Light.

24 Q. And were they a six pack or was it a larger ---

25 A. It was suitcases. The twenty-four packs.

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- 1 Q. Twenty-four pack. Do you remember how much that costs?
- 2 A. They were around, I think, about fifteen, sixteen
- 3 ninety-nine apiece.
- 4 Q. Okay. And there were two, you said?
- 5 A. Yes, two of them.
- 6 Q. Now, so what did you do when you saw the Defendant pick
- 7 up those cases of beer and start to leave the store?
- 8 A. I -- as soon as I saw him walking back towards the beer
- 9 and reached down to pick them up, that's when I come out of
- 10 the office and was going to approach him at the front -- by
- 11 the time he got to the front door.
- 12 Q. Okay. And did you confront him?
- 13 A. Yes, sir.
- 14 Q. And what did you say, if anything, to him?
- 15 A. I just -- actually, he was almost out the door and I
- 16 kind of hollered to him and said, sir, I need to speak to
- 17 you. And he stopped and actually come over to me.
- 18 Q. Okay. And what did he do when he came over to you?
- 19 A. He said, what's up? And I asked him, you know, I said,
- 20 sir, I need to talk to you about not paying for the beer
- 21 that you're attempting to leave the store with.
- 22 Q. Okay. Now, you said you were close to the door at that
- 23 time?
- 24 A. Yes, sir.
- 25 Q. And had he gone past any points of sale?

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1 A. Yes, sir, he'd gone by all points of sale. He was  
2 probably five feet from going out the door.

3 Q. Okay. So when you asked -- when you told him what you  
4 said you told him, what was his response?

5 A. He basically said that he thought it was paid for and  
6 said he thought his wife might have paid for it or  
7 something. And I told him that nobody paid for it and that  
8 he was attempting to leave the store without paying for it.  
9 And I asked him to step in my office so we could further  
10 discuss it.

11 Q. Okay. Now, you -- so you said something about how his  
12 wife had paid for it?

13 A. Yes, sir.

14 Q. Now, did you see any women with him?

15 A. No, sir. Nobody ---

16 Q. During ---

17 A. --- was with him.

18 Q. I'm sorry?

19 A. No one was with him.

20 Q. Okay. And from the moment this instant began until --  
21 until the end, until the police arrived and arrested him did  
22 any other person approach you and indicate that he or she  
23 was with the Defendant?

24 A. No, sir.

25 Q. No one, as far as you know or could observe, he was

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1 completely alone?

2 A. Yes. And he was completely alone.

3 Q. Okay. All right. Now, getting back to what you were  
4 talking about, you said you told him he needed to come back  
5 to your office. And what happened at that time?

6 A. He actually started to walk with me to the office. And  
7 then all of a sudden he just started basically going crazy,  
8 turning around saying he wasn't going anywhere. And I asked  
9 him to step in. I said we can do this calmly. And he just  
10 started getting irate and everything, then trying to walk  
11 back towards the door.

12 And I was just kind of dancing with him trying to block  
13 his way because we had already actually called the City  
14 Police. And I knew it wouldn't take them long to get there.

15 Q. Did you call the police?

16 A. My bookkeeper did.

17 Q. Okay. You had instructed her to do so?

18 A. Yes, sir, as I was coming out of the office.

19 Q. So you knew the police were on the way?

20 A. Right.

21 Q. Okay.

22 A. Yes.

23 Q. So where were -- we'll see in the video in a moment,  
24 but tell the jury where you were when you were having what  
25 you described as a little almost dance with him?

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1 A. Well, we were actually in two different areas. One --  
2 the first area was right near the door. And then the other  
3 was maybe between my service center and the register at a  
4 display there that we had there.

5 Q. Okay. And so he was attempting to get by you. And  
6 what did you do when he attempted to get by you?

7 A. I just basically danced with him a little bit if you  
8 want to bluntly -- just kind of dancing back and forth kind  
9 of block him from walking past me, I mean, because, I mean,  
10 let's face it, I'm a little bit bigger than he was at that  
11 time, you know. So I was just kind of blocking him.

12 And then as things kept going and kept -- him getting  
13 more irate, he did some kind of push on me or something like  
14 that. And then at that time I just basically defended  
15 myself and kind of got him in a full Nelson kind of thing  
16 from behind and was trying to carry him off the front end to  
17 get him -- get him out of the public eye.

18 Q. Okay. Now, did you notice anything in his hand?

19 A. When it all began I actually thought he -- his keys  
20 were in his hand. But as I was carrying him across over to  
21 the office I noticed that it was a knife sticking out of his  
22 hand. And that's basically when I dropped him to the floor.

23 Q. Okay. And then ---

24 A. And backed away.

25 Q. I'm sorry. I spoke over you. What did you say?

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1 A. I said when I dropped him on the floor I was trying to  
2 hold him down a little bit. He was -- he was swinging a  
3 knife. So I backed off and let him go.

4 Q. Okay. Now, you suffered an injury from this?

5 A. Yes.

6 Q. And what was that?

7 A. He had sliced the top of one of my fingers.

8 Q. Okay. And was it severe or ---

9 A. No. I didn't have to have any stitches, but if you  
10 look real fine you can still see a little bit of scar.

11 Q. Okay. Do you know at what point during this  
12 altercation, this incident, that that -- that you were  
13 actually cut with the knife?

14 A. No.

15 Q. Okay. So it could have been when you were at the door  
16 or it could have been when you'd gotten back over towards  
17 the office?

18 A. Yes, it could have been either one 'cause I didn't even  
19 know anything was going on. My bookkeeper just said that  
20 she saw blood on my shirt.

21 Q. Okay. And then you looked and found the source of the  
22 blood?

23 A. Yes.

24 Q. And just so the record's clear, which finger was it?

25 A. Honestly, I don't really remember. But I think it was

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1 this finger here, my left hand.

2 Q. Okay. Now, do you remember if photographs were taken  
3 of the cut?

4 A. Yes, it was.

5 (Whereupon State's exhibits 1 and 2 were marked for  
6 identification)

7 Q. I'm going to ask if you'd take a look at what has been  
8 marked as State's exhibits numbers 1 and 2. And can you  
9 just take a look at them and see if you recognize those  
10 photographs?

11 A. Yes.

12 Q. And when were those photographs taken?

13 A. The night of the incident. And it's dated 7/29/2010.

14 Q. And what is depicted in those two photographs?

15 A. Where I'd been sliced on the top of my ring finger.

16 Q. Top of your ring finger on which hand, left or right?

17 A. Left hand.

18 Q. Okay. And are they true and accurate representations  
19 of the way you looked and the way your hand looked on that  
20 day?

21 A. Yes.

22 MR. MOYER: Your Honor, at this time we'd move to have  
23 State's exhibits 1 and 2 entered into evidence.

24 THE COURT: Any objection?

25 MR. ERWIN: Without objection, Your Honor.

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1           **THE COURT:** All right. Then State's 1 and 2 are  
2 admitted.

3           (Whereupon State's exhibits 1 and 2 were admitted into  
4 evidence)

5 Q. Okay. So what happened after you noticed the -- after  
6 you noticed the knife and you backed away, what did the  
7 Defendant do at that time?

8 A. At that time, I mean, he was -- he was still irate and  
9 basically as he was walking towards the front of the store,  
10 I mean, back towards the exit door, I was kind of at a  
11 distance, maybe three to five feet from him. He was  
12 swinging his knife on and off trying to keep me away.

13           And basically what I was doing at that time, I was  
14 basically going to let him leave the store, but I knew the  
15 police would be there. I was just kind of slowing him down  
16 as much as I could until they got there.

17 Q. Okay. And then did you -- how far did you follow him?

18 A. Well, once we got right near the door I kind of backed  
19 away and he walked out the front door. And as he was  
20 stepping off the curb I stepped outside the door. And  
21 that's when the officer pulled up in front of the store.

22 Q. Okay. And did you -- what did you do when -- first  
23 off, let me back up. Do you see the officer who arrived?

24 A. Yes. He's right there.

25 Q. Is it Officer Hammett ---

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1 A. Yes, sir.

2 Q. --- seated back here? And what did you do when you saw  
3 Officer Hammett?

4 A. I just pointed at the suspect and said, that's him  
5 right there.

6 Q. Okay. And did you see Officer Hammett take him into  
7 custody?

8 A. Yes, I did.

9 Q. All right. Now, you're aware of the videos that were  
10 collected by law enforcement?

11 A. Yes, sir.

12 Q. And did you actually copy the videos?

13 A. Yes, sir. I burned them onto the CD for them that  
14 night.

15 Q. Okay. Did you actually watch them that night?

16 A. I didn't watch the video. I mean, I watched it as it  
17 was, you know, as I was finding the evidence on the -- on  
18 the video.

19 Q. Okay. And then you've gone back though and watched the  
20 videos that were given to the police?

21 A. Yes.

22 Q. And you watched all four of those videos plus the  
23 images of the -- the still images that were taken off?

24 A. Yes, sir.

25 Q. Are they all true and accurate representations of what

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1 happened that night?

2 A. Yes.

3 Q. Are there any deletions, additions, changes in any way  
4 made to those videos since you saw it?

5 A. No.

6 MR. MOYER: Your Honor, at this time -- well.

7 (Whereupon State's exhibits 3, 4 and 5 were marked for  
8 identification)

9 MR. MOYER: Your Honor, at this time I'd move to have  
10 State's exhibits numbers 3, 4 and 5 entered into evidence.

11 THE COURT: Any objection?

12 MR. ERWIN: Without objection.

13 THE COURT: All right, then. They are so admitted.

14 (Whereupon State's exhibits 3, 4 and 5 were admitted  
15 into evidence)

16 Q. Let me ask you, if you would, to step down here so you  
17 can see.

18 (Whereupon the witness left the witness stand)

19 Q. Okay. If you would, tell the jury which video we're  
20 looking at right now.

21 A. This is the video that basically shows the back side of  
22 our registers as customers are going up to the register.

23 And in just a moment you'll see Mr. Bluford coming off of  
24 one of the aisles up to the back side of this register here.

25 Q. Now, is this the video that you were -- the camera you

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1 were watching in your office while you were eating lunch?

2 A. Yes.

3 Q. Or dinner?

4 A. Yes.

5 Q. Now, do you see Mr. Bluford?

6 A. Yes. He's in that yellow, black and white striped  
7 shirt.

8 Q. Is this him right here with the white hat?

9 A. Yes.

10 Q. Okay. And what just happened there?

11 A. That's where he took the beer off the bottom of the  
12 buggy and sat it -- sat it at the register, behind the  
13 register.

14 Q. And what -- what is happening at this point?

15 A. One of my other cashiers called some people down to --  
16 so that she could check them out down there at another  
17 register.

18 Q. Okay. And that's when he walks away from the beer?

19 A. Yes.

20 Q. And he took a couple of -- do you know what the items  
21 are that he took down there and did pay for?

22 A. He actually did pay for -- I believe it was a half  
23 gallon of milk and a box of frosted flakes cereal.

24 Q. Now, this is where we see somebody put some -- some  
25 water on top of that beer. Is there any connection to that

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1 person or that water or anything to this case?

2 A. Not that I know of.

3 Q. Okay. You never spoke to that woman or she never spoke  
4 to you?

5 A. No, sir.

6 Q. You don't know who she is?

7 A. No, sir.

8 Q. Fast-forward it just a little bit. Okay. Now, who is  
9 -- what do we see happening right here?

10 A. That's where Mr. Bluford come out of the back side of  
11 the register after paying for something, heading back  
12 towards the beer.

13 Q. Okay. And you're watching this as it takes place?

14 A. Yes.

15 Q. Is this about when you come out of your office?

16 A. When I see him stop there, I believe that's when I  
17 started coming out of the office.

18 Q. Okay. And the two cases of beer is gone. And then  
19 that's when you come out of your office?

20 A. Yes, sir.

21 Q. Okay. One moment please as we move on to the next  
22 video. Okay. Now, this angle that we're looking at now,  
23 where -- where is that?

24 A. This is the camera that's above the exit door facing  
25 across the front of our registers after -- after the

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- 1 customer exits the register.
- 2 Q. Now, I'm going to use this arrow to point this out.
- 3 Can you see where I'm pointing the arrow?
- 4 A. Yes.
- 5 Q. Is that a register over here?
- 6 A. That's register number one, yes.
- 7 Q. Okay. And is that the -- is that the register which
- 8 the Defendant had placed the beer from which he comes
- 9 walking?
- 10 A. Yes, on the back side of it.
- 11 Q. Okay. Tell us when you see the Defendant again.
- 12 A. That's ---
- 13 Q. Were you ---
- 14 A. --- him.
- 15 Q. --- observing him?
- 16 A. Yes, that's him.
- 17 Q. Okay. And that picks up where the last camera took --
- 18 left off ---
- 19 A. Yes.
- 20 Q. --- with the Defendant walking out? Is that when you
- 21 had called him over?
- 22 A. Yes, sir.
- 23 Q. I'm going to fast-forward. And several minutes goes by
- 24 now until we see the Defendant get on this -- on this video.
- 25 What is taking place during that time you don't see the

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1 Defendant?

2 A. At that time I was trying to talk to him, trying to  
3 discuss with him what we, you know, what our options were  
4 and stuff like that, asking him to step back to my office so  
5 we could further discuss it. And then that's when he was --  
6 he was trying to attempt to leave the store again.

7 And, actually, he kind of tried to avoid me. If you  
8 see right there in the middle there's a display that was run  
9 down through there. And he attempted to go back around it  
10 up by the registers again to get out of the store.

11 Q. Is this the display you're talking about?

12 A. Yes.

13 Q. So he comes from up this way?

14 A. Yes, sir.

15 Q. And you walk down below? Is that correct?

16 A. Yes.

17 Q. Okay. Is that you ---

18 A. Yes.

19 Q. --- in the white shirt? And is this where -- what  
20 you've kind of described as a little bit of a dance? Is  
21 this kind of what that ---

22 A. Yes, sir.

23 Q. --- was taking place?

24 A. Yes, sir.

25 Q. Now, we noticed the -- did you -- looking at the videos

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1 when you had the law enforcement -- did you notice him  
2 reaching into his back pocket there in that last frame?

3 A. Yes, sir, I did.

4 Q. Okay. Now, do you see something in his hand right  
5 here?

6 A. Yes, sir.

7 Q. And did you notice that at the time?

8 A. I noticed it, but I actually thought it was his keys,  
9 but it ended up being -- being a knife.

10 Q. Okay. So at first -- you noticed something in his hand  
11 though?

12 A. Yes.

13 Q. And you weren't quite sure what it was?

14 A. Right. I mean, even -- even as you're watching the  
15 video, I mean, I turned my back to him, and if I'd -- if I'd  
16 known it was a knife, I'd never turned my back to him.

17 So ...

18 Q. You talking about right there?

19 A. Yes, sir.

20 Q. Okay. That's when you grabbed him?

21 A. Right there is where he -- he kind of pushed me or  
22 shoved me or something. And I decided to grab him.

23 Q. And that frame right there, is that the frame you're  
24 talking about where he kind of pushed you?

25 A. Yes. I mean, it looked like he was ready to hit me or

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1 something the way he was standing.

2 Q. All right. Okay. Now, what is -- what is being shown  
3 at this angle?

4 A. This is a video of the entrance and exit door that's  
5 kind of opposite of the other video that you saw earlier.  
6 This way is -- if we have suspects coming in the store and  
7 we ever need to identify them, we can see them on -- a  
8 picture of their face here.

9 Q. Okay. And so that's showing the exit to the store?

10 A. Yes. That's the exit door that he was attempting to go  
11 out.

12 Q. So the very last video that we saw, was that coming  
13 from the opposite direction, essentially on top of where  
14 this door is right here?

15 A. Yes.

16 Q. And so now we're kind of looking from the other  
17 direction?

18 A. Right.

19 Q. Now, that display that we pointed out in the last  
20 video, is that what this is over here?

21 A. Yes, sir.

22 Q. Okay. You're coming from -- is this where the office  
23 area is over here on the top right hand corner?

24 A. Yes, sir. That's actually our service center area.

25 And my office was behind that.

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1 Q. Is this the Defendant shown in the -- in the picture  
2 right now next to the door?

3 A. Yes, sir.

4 Q. These are the cases of beer?

5 A. Yes, sir.

6 Q. And had you called him -- had you called out to him at  
7 this point?

8 A. I think it was -- as I got to the corner of the service  
9 center, there is where I called out to him.

10 Q. Okay. And that's when he came over to you?

11 A. Yes.

12 Q. And what's taking place right there? It looks like you  
13 have your arm ---

14 A. I just pointed, you know, I was kind of pointing  
15 towards my office asking him to come to the office and, you  
16 know, as you do as you're following somebody, you just kind  
17 of guide them that way.

18 Q. Okay. And at first he's going with you, it appears?

19 A. Yes. And then he starts arguing.

20 Q. You can see a little bit of movement over here  
21 occasionally on this right hand side. Is that where you're  
22 behind the display case here?

23 A. Yes, sir.

24 Q. Is that where you were talking to him?

25 A. Yes, sir.

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1 Q. Okay. That's your arm right here ---

2 A. Yes.

3 Q. --- we just saw? All right. Now, we see you both  
4 again there?

5 A. Yes.

6 Q. He's trying to get by you?

7 A. Yes.

8 Q. Do you remember what y'all were talking about at this  
9 time?

10 A. I believe -- as usual, I mean, I usually tell the  
11 customers they don't need to be leaving. You know, the  
12 police has already been called. You need to stay here. We  
13 need to talk about what was going on.

14 Q. Okay. And that's -- that's when you were taking him  
15 back to your office?

16 A. Yes, sir.

17 Q. Okay. Let's stop it at this point because the final  
18 video shows what takes place back there, is that correct?

19 A. Yes.

20 Q. Okay. What is displayed in the picture that we're  
21 looking at now?

22 A. This is a camera for our service center. It covered  
23 that whole area. As you can see, there were -- a Western  
24 Union and registers were. And at the service center, then  
25 it shows across the front-end of the store there.

PATRICK STEVEN BARR - DIRECT EXAMINATION BY MR. MOYER

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1 Q. Okay. And do we see where -- the location where the  
2 beer was left?

3 A. It was -- as you can see where the buggy is sitting in  
4 the middle of the aisle there, ---

5 Q. Okay.

6 A. --- it was in front of there was where the beer was.

7 Q. Was it where I'm moving the arrow right around ---

8 A. Yes.

9 Q. --- right there? Okay. Do you see the Defendant at  
10 this point?

11 A. Yes. I see him coming back towards the beer.

12 Q. When he picks up the beer. And who is that -- is that  
13 you right there?

14 A. Yes, sir.

15 Q. Fast-forward now. Okay. Please tell us what we're  
16 observing right now.

17 A. That's where I was attempting to bring him back to the  
18 office after the little confrontation we had on the front-  
19 end. I was trying to bring him around the back side of the  
20 service center to my office there. And right about now is  
21 where I noticed that he actually had a knife in his hand.  
22 So I just dropped him in the floor.

23 Q. Okay. Those are his hands up in the air right here?

24 A. Yes.

25 Q. This is where you dropped him on the floor?

PATRICK STEVEN BARR - DIRECT EXAMINATION BY MR. MOYER

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1 A. Yes. I was telling him he needed to stay down at that  
2 time. And he was -- started swinging the knife. So I  
3 backed off.

4 Q. Okay. Now, he's off camera at this point. What was he  
5 doing?

6 A. Probably still being irate.

7 Q. Okay. Notice his hand is extended at this point. You  
8 mentioned about him moving the knife, is that ---

9 A. Yes, he did it numerous times. Right there was one of  
10 the times he did it.

11 Q. So then you walked -- that's when you walked back with  
12 him and followed him til he leaves the store?

13 A. Yes.

14 Q. All right. Thank you. You can take your seat again.

15 (Whereupon the witness returned to the witness stand)

16 **MR. MOYER:** One moment, please.

17 (Pause)

18 Q. Okay. Please answer any questions the Defense may  
19 have.

20 **THE COURT:** Let's -- I tell you what, let's -- we might  
21 be at a good point for a break. Let's take about a ten  
22 minute break, all right? Please don't discuss this case  
23 with anyone.

24 (Whereupon the jury exited the courtroom at 11:45 am)

25 **THE COURT:** All right. Let's be in recess for ten

**PATRICK STEVEN BARR - CROSS EXAMINATION BY MR. ERWIN**

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1 minutes. And, sir, you can't discuss your testimony with  
2 anyone while we're on break, but you're welcome to step down  
3 if you'd like to.

4 A. Okay.

5 (Whereupon court was in recess at 11:46 am)

6 (Whereupon court resumed at 12:01 pm)

7 MR. MOYER: We're ready, Your Honor.

8 THE COURT: All right. Okay. Go ahead.

9 (Whereupon the jury entered the courtroom at 12:03 pm)

10 THE COURT: And if y'all are like me, I like to always  
11 know when I'm going to get to go eat. And so we're going to  
12 work til about 1:00, okay? All right. Yes, sir.

13 MR. ERWIN: Thank you, Your Honor.

14 **Cross Examination by Mr. Erwin:**

15 Q. Now, Mr. Barr, when you came from behind where your  
16 office is, behind the service center, and approached Mr.  
17 Bluford, when you called out to him the first thing he did  
18 was come towards you, right?

19 A. Yes, sir.

20 Q. Okay. Then the next thing he did was set the beer  
21 down, right?

22 A. Yeah, I -- yeah, yeah.

23 Q. Okay. And that beer stayed right there, didn't it?

24 A. Yes.

25 Q. It never left the store?

PATRICK STEVEN BARR - CROSS EXAMINATION BY MR. ERWIN

1 A. No, but it did -- it passed the point of sale.

2 Q. Sure it did. But did he ever make a move to go back  
3 and get it?

4 A. I really can't say.

5 Q. Okay. As far as you know that beer remained in the  
6 store?

7 A. It did -- it did remain.

8 Q. Okay. Now, a few minutes ago the Solicitor showed you  
9 a copy of the statement that you made to police that night.  
10 Do you still have that up there with you?

11 A. No.

12 Q. Okay.

13 MR. ERWIN: Permission to approach, Your Honor?

14 THE COURT: Certainly.

15 Q. I've got a copy of it here for you. Take a look at  
16 that for a second. Now, other than the markings that I've  
17 made on it, is that your statement that you made to the  
18 police that night?

19 A. Yes.

20 Q. Okay. Do you remember writing that yourself?

21 A. Yes.

22 Q. And I'm going to read down here from at the bottom.

23 And you tell me if I'm reading this correctly, okay? It

24 says I have read or had read to me the above statement of

25 one pages and it is true and correct as best I can recall.

PATRICK STEVEN BARR - CROSS EXAMINATION BY MR. ERWIN

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1 Is that right?

2 A. Yes.

3 Q. Okay. So I'm going to go back through the part that  
4 you wrote and read you a couple of parts of it. And you  
5 follow along with me and tell me if -- tell me if I'm  
6 reading this correctly, okay?. Okay.

7 I asked him to step into my office so we could discuss,  
8 and he refused. He then attempted to leave again, and I  
9 stopped him. He then kind of pushed me, and I then grabbed  
10 him from behind. I then noticed that he had something in  
11 his hands, which I thought were keys. Is that right?

12 A. Yes.

13 Q. Okay. We'll go through one more part of this.

14 MR. MOYER: Your Honor, I have an objection to him  
15 reading from the statement without it being in evidence. I  
16 don't object to it coming into evidence if he so chooses to  
17 put it in there, but I'm not quite sure of the nature of the  
18 question.

19 THE COURT: Sir, are we -- are you going to ask a  
20 question from it or what's -- where you going with this?  
21 You want to introduce it?

22 MR. ERWIN: Your Honor, I'm not introducing it.

23 THE COURT: Okay.

24 MR. ERWIN: It's just a prior inconsistent statement.

25 I'm just ---

**PATRICK STEVEN BARR - CROSS EXAMINATION BY MR. ERWIN**

1           MR. MOYER: Again, I don't think he's laid the  
2 foundation for a prior inconsistent statement.

3           THE COURT: All right. You need to lock it in and  
4 advise him of when he made the statement and that kind of  
5 thing.

6           MR. ERWIN: I'll do it, Your Honor.

7           THE COURT: Okay.

8           MR. ERWIN: I apologize.

9           THE COURT: No, that's no problem.

10       Cross Examination by Mr. Erwin Continued:

11       Q. Okay. Mr. Barr, do you remember when you made this  
12 statement?

13       A. Yes, I do.

14       Q. Okay. Do you remember the date? Was it July 29th,  
15 2010?

16       A. Yes.

17       Q. This was shortly after this incident, correct?

18       A. Yes.

19       Q. And you wrote this for the police officers as they were  
20 investigating what had just happened, right?

21       A. Yes.

22       Q. And, you know, this is -- this is the statement you  
23 wrote and you signed it, right?

24       A. This is more or less a -- it ain't as detailed as you  
25 going to see it -- that you see on video, ---

PATRICK STEVEN BARR - CROSS EXAMINATION BY MR. ERWIN

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1 Q. Sure.

2 A. --- but it is a brief statement, yes.

3 Q. Okay.

4 MR. ERWIN: Now, Your Honor, I'd like to proceed -- I'm  
5 going to ask now ---

6 THE COURT: Have you locked him in to what you believe  
7 is inconsistent in his testimony? In other words, what  
8 you're driving at that is inconsistent in his statement.

9 MR. ERWIN: I have.

10 THE COURT: Okay.

11 MR. ERWIN: Or I will, Your Honor.

12 THE COURT: Okay.

13 MR. ERWIN: Okay.

14 Q. A minute ago you told the Solicitor that you noticed  
15 what was in his hand before you grabbed him. Not what it  
16 was, but that there was something in his hand.

17 A. I said I saw something in his hand.

18 Q. Okay. Now, this statement says you grabbed him and  
19 then you noticed something was in his hand, correct?

20 A. Like I said, it is a brief statement. When I grabbed  
21 him trying to carry him back to the office, that's when I  
22 noticed he had it in his hand -- had a knife in his hand.

23 Q. Okay.

24 MR. ERWIN: No further questions for Mr. Barr.

25 THE COURT: All right. Any redirect?

PATRICK STEVEN BARR - REDIRECT EXAMINATION BY MR. MOYER

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1 MR. MOYER: Just one brief matter.

2 Redirect Examination by Mr. Moyer:

3 Q. Now, you were asked about the Defendant putting down  
4 the beer. And he did sit the beer down, is that not true?

5 A. Yes.

6 Q. Did he ever -- did he put down the things that he had  
7 purchased when you approached him?

8 A. No.

9 Q. So the little bag that had the cereal and the milk, he  
10 kept that in his hand?

11 A. Yes.

12 Q. And he actually had bought that?

13 A. Yes.

14 MR. MOYER: Nothing further.

15 THE COURT: Anything else, Mr. Erwin?

16 MR. ERWIN: No, Your Honor.

17 THE COURT: All right, sir. You can step down.

18 A. Thank you.

19 MR. MOYER: The State would call Officer Hammett to the  
20 stand.

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

23 Michael Hammett, being  
24 duly sworn testified as follows:

25 MADAME CLERK: Thank you. Please be seated. Please

MICHAEL HAMMETT - DIRECT EXAMINATION BY MR. MOYER

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1 state your name for the record.

2 MR. HAMMETT: Michael Hammett.

3 Direct Examination by Mr. Moyer:

4 Q. Okay. Officer Hammett, where are you employed?

5 A. I'm employed with the Greenville City Police  
6 Department.

7 Q. How long have you -- how long have you been in law  
8 enforcement?

9 A. Almost thirteen years.

10 Q. And where -- where all have you worked?

11 A. I was an MP in the Marine Corps. I worked in North  
12 Carolina, near Wilmington, North Carolina for a little bit  
13 over a year and then with the City of Greenville.

14 Q. When did you start with the City of Greenville?

15 A. In 2002.

16 Q. Okay. What is your position with the City of  
17 Greenville Police Department?

18 A. I'm a K-9 handler.

19 Q. Okay. How long have you been a K-9 handler?

20 A. A little bit over two years.

21 Q. And were you in -- well, let me ask you, what was your  
22 position in July of 2010?

23 A. I was a K-9 handler.

24 Q. Does that involve -- do your duties involve more than  
25 just dealing with K-9s?

MICHAEL HAMMETT - DIRECT EXAMINATION BY MR. MOYER

- 1 A. We answer K-9 related calls. And if they give out a  
2 call for service, usually involving a dog or a high priority  
3 call, we'll go do that.
- 4 Q. Okay. Now, this case didn't involve a dog, did it?
- 5 A. No, sir, it didn't.
- 6 Q. Okay. How did you get involved in this case?
- 7 A. When they BOLO'd out that there was a disturbance at  
8 the Bi-Lo on 494 South Pleasantburg Drive, said it involved  
9 weapons, as soon as they gave the radio call out, I happened  
10 to be right in front of the driveway and turned in. And as  
11 soon as I pulled up to ---
- 12 Q. Okay. Well, we'll get to that in just a minute. So  
13 you were just closest to that location?
- 14 A. Yeah, I just happened to be right in front of it.
- 15 Q. And you said a BOLO. What does BOLO mean?
- 16 A. Be on the look-out.
- 17 Q. Be on the look-out, okay. And that came out of your  
18 radio?
- 19 A. Yes, sir.
- 20 Q. Okay. And what time did the -- did the BOLO go out and  
21 did you arrive?
- 22 A. The call came out at 9:10.
- 23 Q. 9:10. And how long did it take you to get there?
- 24 A. 9:10.
- 25 Q. Okay. So you were there pretty quickly then?

MICHAEL HAMMETT - DIRECT EXAMINATION BY MR. MOYER

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- 1 A. Yes, sir.
- 2 Q. Okay. Now, what was the nature of the call when it  
3 went out on the radio?
- 4 A. They said it was a disturbance involving weapons.
- 5 Q. So that was all the information you had at that point?
- 6 A. Yes, sir.
- 7 Q. Okay. Now, tell us what happened when you turned into  
8 the parking lot of the Bi-Lo.
- 9 A. I pulled in and stopped right in front of the store.  
10 Mr. Bluford was actually exiting, walking in front of my  
11 patrol car. And ---
- 12 Q. Well, where? Where in the parking lot?
- 13 A. Right ---
- 14 Q. How close to the front door, I guess, of the Bi-Lo?
- 15 A. He walked out the front door off the cement going into  
16 the parking lot.
- 17 Q. Okay. So you saw him walking out of the Bi-Lo?
- 18 A. Yes, sir, I did.
- 19 Q. And then did you see anybody else walking out of the  
20 Bi-Lo?
- 21 A. Yes, sir, I did.
- 22 Q. Who did you see walking out of the Bi-Lo?
- 23 A. I saw the Store Manager, Mr. Barr.
- 24 Q. Mr. Barr who just testified?
- 25 A. Yes, sir.

MICHAEL HAMMETT - DIRECT EXAMINATION BY MR. MOYER

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1 Q. Okay. And so what did you do when you saw this taking  
2 place?

3 A. I got out of my patrol car and Mr. Barr started  
4 pointing at the Defendant, Mr. Bluford. And he was like, he  
5 tried to steal, he tried to steal, when I grabbed -- or --  
6 when I grabbed him, he pulled a knife on me.

7 Q. Okay.

8 A. So I ---

9 Q. How was Mr. Barr acting?

10 A. Out of breath. You know, he was, you know, he was  
11 like, there he is, you know.

12 Q. Kind of breathing hard?

13 A. Yes, sir.

14 Q. Okay. And so what did you do? When Mr. Barr pointed  
15 him out to you, what did you do?

16 A. I went over to Mr. Bluford, and he was backing away  
17 from me. And I grabbed his arm real quick and put his arm  
18 behind his back and took out my handcuffs and started  
19 putting my handcuffs on him. He was like, what are you  
20 arresting me for? What are you arresting me for? I said,  
21 sir, you ain't under arrest right now. I said, I'm just  
22 detaining you until I can figure out what's going on.

23 Q. And so you took him into custody at that time?

24 A. Yes, sir, I did.

25 Q. How -- what was Mr. Bluford's physical manifestation,

MICHAEL HAMMETT - DIRECT EXAMINATION BY MR. MOYER

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1 for lack of a better word, or how was he acting?

2 A. He was real amped up. He was sweating profusely. I  
3 just remember sweat dripping all down his head, you know,  
4 just real high strung.

5 Q. And this was -- what was the date?

6 A. This was July 29th of 2010.

7 Q. So almost two years ago?

8 A. Yes, sir.

9 Q. It was -- was it dark out?

10 A. Yes, sir, it was.

11 Q. Okay. Are there lights in that parking lot?

12 A. Yes, sir, there is.

13 Q. And you didn't have any trouble seeing anything that  
14 was taking place?

15 A. No, sir, I did not.

16 Q. Okay. And so now when you -- when you took the  
17 Defendant into custody, did you do a pat-down?

18 A. Yes, sir, I did.

19 Q. And what is -- is that a normal procedure for officers  
20 when you take someone into custody?

21 A. It is. And I definitely wanted to do it with him  
22 because I already knew that there was a weapon involved and  
23 the fact that Mr. Barr was saying about him pulling a knife.

24 Q. Okay.

25 A. Just for my safety, I just wanted to pat him down to

MICHAEL HAMMETT - DIRECT EXAMINATION BY MR. MOYER

1 make sure.

2 Q. Okay. And did you find anything?

3 A. I did.

4 Q. Okay. And did you take it into custody?

5 A. Yes, sir.

6 (Whereupon State's exhibit 6 was marked for  
7 identification)

8 Q. Do you remember where you found this item that you took  
9 into your possession?

10 A. It was in his pocket.

11 Q. In one of his pockets?

12 A. Yes, sir.

13 Q. All right. Let me ask you, if you would, take a look  
14 at what's been marked as State's exhibit number 6, which is  
15 a small envelope with -- I'd ask you to look at the  
16 contents. It's not in evidence yet, so, if you would, look  
17 -- don't show it to the jury at this point. Do you  
18 recognize what's in that envelope?

19 A. I do.

20 Q. And what is that?

21 A. It's a pocket knife.

22 Q. Okay. And you say a pocket knife. Can you be more  
23 specific?

24 A. It's a pocket knife I retrieved from the Defendant the  
25 night of the incident.

MICHAEL HAMMETT - DIRECT EXAMINATION BY MR. MOYER

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1 Q. Okay. In essentially the same condition now as it was  
2 when you took it into your possession back ---

3 A. Yes, sir.

4 Q. --- on July 29th, 2010?

5 A. Yes.

6 MR. MOYER: At this time we'd move to have State's  
7 exhibit number 6 entered into evidence.

8 THE COURT: Any ---

9 MR. ERWIN: Without objection.

10 THE COURT: --- objection? All right, then. And it is  
11 to be so admitted.

12 (Whereupon State's exhibit 6 was admitted into  
13 evidence)

14 Q. Let me ask you now to take -- take that -- the contents  
15 of that envelope out and show it to the jury. Okay. And  
16 what is that?

17 A. It's a Klein's tool pocket knife.

18 Q. Okay. And does it -- so it's a folding kind of knife?

19 A. Yes, sir.

20 Q. Can you open the blade?

21 (Whereupon the witness opened the knife)

22 Q. Okay. All right. Let me ask you if you'd close it and  
23 put it back into the envelope.

24 (Whereupon the witness closed the knife and put it back  
25 into the envelope)

MICHAEL HAMMETT - DIRECT EXAMINATION BY MR. MOYER

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1 Q. Thank you.

2 MR. MOYER: One moment, please.

3 (Pause)

4 Q. Okay. Please answer any questions the Defense may  
5 have.

6 A. Yes, sir.

7 THE COURT: All right. Mr. Erwin.

8 MR. ERWIN: No questions from me, Your Honor.

9 THE COURT: All right. Sir, you can step down.

10 A. Thank you, Your Honor.

11 MR. MOYER: Your Honor, at this time the State rests.

12 THE COURT: All right. Ladies and gentlemen, if you  
13 will step to your jury room for just a moment, we have a  
14 matter of law we need to take up.

15 (Whereupon the jury exited the courtroom at 12:17 pm)

16 THE COURT: All right. Mr. Erwin.

17 MR. ERWIN: Yes, Your Honor. I've got a motion for  
18 directed verdict on -- you want to address the armed robbery  
19 first?

20 THE COURT: Yes, sir.

21 MR. ERWIN: Mr. Moyer in his opening talked about the  
22 theory of continuing -- the continuing event. And, you  
23 know, Your Honor, it's our contention that this is a  
24 shoplifting that is over.

25 And I've read the case law on this continuing event.

1 And I'm sure you're familiar with it. I've actually got  
2 this State v. Moore. If you'd like a copy of it, I've got  
3 one.

4 THE COURT: All right.

5 MR. ERWIN: I think there's a distinction here. And  
6 it's a pretty important distinction in that the merchandise  
7 does not go with Mr. Bluford. The merchandise is left.  
8 It's abandoned. It's over.

9 You know, the asportation, which is an essential  
10 element of the armed robbery, ends. And I understand that's  
11 exactly what the theory of continuation, you know, what that  
12 addresses. But in every single one of these cases on that  
13 theory, the merchandise goes with the defendant.

14 You know, it's, you know, in Moore we've got someone  
15 takes merchandise from a Wal-Mart, is approached in the  
16 parking lot, pulls a gun, heads off with the merchandise  
17 with them. In every single one of these cases, that's what  
18 happens.

19 And this is essentially different because there's no  
20 more attempted asportation. The asportation is not  
21 continuing, it's over. And so, Your Honor, I move to have  
22 the armed robbery dismissed or at least reduced to, you  
23 know, shoplifting or larceny.

24 THE COURT: Okay.

25 MR. ERWIN: It's a completely, you know, it's a

1 completely different situation here.

2 THE COURT: All right. Mr. Moyer.

3 MR. MOYER: Thank you, Your Honor. May it please the  
4 Court.

5 THE COURT: Yes, sir.

6 MR. MOYER: And I agree with Mr. Erwin, State v. Moore  
7 is the case, I think, is essential to this particular case.  
8 I do have some jury instructions that I will pass to Your  
9 Honor to instruct when we get to that stage. But I think,  
10 in fact, I'm convinced that State v. Moore covers the  
11 situation that is before the Court.

12 Just to quote a few lines from State v. Moore; the  
13 Court of Appeals held that a robbery has occurred not only  
14 if the perpetrator uses force or intimidation to take  
15 possession of the property, but also if force or  
16 intimidation is used to retain possession immediately after  
17 the taking, or to carry away the property or to facilitate  
18 escape.

19 Another quote from the case is the robber need not be  
20 armed at all times during the robbery in order to be guilty  
21 of the armed robbery. He is guilty if he arms himself or  
22 becomes armed with a deadly weapon at any time during the  
23 progress of the taking or while the robbery is being  
24 perpetrated. The crime of robbery is not completed the  
25 moment the stolen property is in the possession of the

1 robber, but may be deemed to continue during their attempt  
2 to escape.

3 And the final point I will make is the Court of Appeals  
4 uses as its rationale for its holding a law from 67 Am. Jur.  
5 2d, Robbery, section 27. And the Court quotes that section.  
6 And the section says this; the use of force or intimidation  
7 in retaining the property generally, or in effecting the  
8 retention of the property in an escape attempt, and this is  
9 key, or even merely as a means of escaping after the  
10 property has been abandoned supply the elements of force or  
11 intimidation necessary to make the offense a robbery.

12 So essentially what the Court is saying is that the  
13 robbery begins when the person takes -- or the incident  
14 begins when the person takes the property until the person  
15 has completed the escape. And so whether he's attempting to  
16 escape with or without the property, that incident is still  
17 ongoing.

18 And so any attempt -- if you use force or intimidation  
19 or any use of a weapon during that entire incident would  
20 elevate the charge from a shoplifting, a larceny or whatever  
21 to armed robbery. And so for those reasons, Your Honor,  
22 we'd argue that the armed robbery should go before the jury.

23 **THE COURT:** All right. Anything in response?

24 **MR. ERWIN:** Your Honor, I'd just say, you know, I agree  
25 with Mr. Moyer about, you know, the quote from the -- well,

1 both the quotes that he brought up, but most importantly I  
2 think the one from the Court of Appeals about, you know,  
3 effecting escape or ---

4 **THE COURT:** Um-hum (affirmative).

5 **MR. ERWIN:** --- something like that. And, you know, I  
6 agree that they said that.

7 I think what's unsaid is with the merchandise. And the  
8 reason I think that is because every single case on point,  
9 that's what happened. And, you know, that's what we've got  
10 to rely on.

11 **THE COURT:** All right. Well, I think in the light most  
12 favorable to the State, I think the State has produced some  
13 evidence that the jury could reasonably infer that this  
14 escape was -- that the armed robbery and the pulling the  
15 knife was to effectuate the escape.

16 I think the Court of Appeals might not have said with  
17 the merchandise. And the fact that they didn't say with the  
18 merchandise, I can infer that that's what they meant. But I  
19 appreciate your argument. And that's an interesting  
20 argument on that. I did not -- I did not see that argument  
21 coming. So that's a good argument. I'm going to deny your  
22 motion on those grounds.

23 Now, on the assault and battery.

24 **MR. ERWIN:** As to the assault and battery, Your Honor,  
25 first of all there's been no specific evidence about the

1 nature of this weapon as a deadly weapon. That's asking the  
2 jury to speculate on that fact. And that's exactly what  
3 this kind of motion is supposed to avoid.

4 Secondly, Your Honor, again, the idea that this assault  
5 occurred in the course of a robbery, I obviously disagree  
6 with. And that's on my argument that I just made a minute  
7 ago. I understand you're going to rule similarly, but for  
8 the record I'd like to, you know, renew my objection to that  
9 and say that it applies to the assault as well.

10 **THE COURT:** All right. And your objection to that is  
11 so noted. And for the reasons I've previously stated, I'm  
12 going to deny your motion as to assault and battery also.  
13 All right.

14 Are there any offenses that you intend to use against  
15 the Defendant for impeachment if he were to testify?

16 **MR. MOYER:** There are, Your Honor. And I'm just going  
17 back ten years. 2002, he has convictions in South Carolina  
18 for two counts of fraud check. 2004, -- and that was in  
19 2002. 2004 for fraud check. 2005 for fraud check. 2009  
20 for habitual traffic offender.

21 He also has convictions from North Carolina in 2005 for  
22 two counts of larceny, possession of stolen goods, obtaining  
23 goods by false pretenses. And then -- and those would be  
24 the offenses within the past ten years, Your Honor.

25 **THE COURT:** All right.

1           MR. MOYER: That the State would intend to ...

2           THE COURT: All right. Mr. Erwin, have you discussed  
3 with your client whether or not he intends to testify?

4           MR. ERWIN: We have talked about it, Your Honor.

5           THE COURT: Do you feel like you need any more time to  
6 discuss it with him?

7           MR. ERWIN: I don't. I will leave it to Mr. Bluford,  
8 if he wants to talk about it some more, but I think all our  
9 conversations up til now have been pretty solid on what the  
10 plan is, ---

11          THE COURT: Okay.

12          MR. ERWIN: --- what his plan is.

13          THE COURT: Mr. Bluford, will you stand and raise your  
14 right hand for me, please. Will you stand up for me?

15          MR. BLUFORD: Yes, ma'am.

16          THE COURT: I just want the court reporter to be able  
17 to see you. Do you swear to tell the truth, the whole truth  
18 and nothing but the truth under penalty of perjury?

19          MR. BLUFORD: I do.

20          THE COURT: Okay. You can put your hand down. Sir,  
21 have you had an opportunity to discuss with your attorney  
22 whether or not you want to testify in the trial of this  
23 case?

24          MR. BLUFORD: I have.

25          THE COURT: Have you had enough time to discuss that

1 with him?

2 MR. BLUFORD: Yes.

3 THE COURT: Do you feel like you've understood his  
4 conversations with you?

5 MR. BLUFORD: I do.

6 THE COURT: Has anybody forced you to make this  
7 decision here today? I mean, forced you to decide today  
8 about whether or not you'll testify?

9 MR. BLUFORD: No.

10 THE COURT: Has anybody promised you anything to get  
11 you to testify or not testify?

12 MR. BLUFORD: No, ma'am.

13 THE COURT: Are you under the influence of drugs or  
14 alcohol here today?

15 MR. BLUFORD: No, ma'am.

16 THE COURT: You understand that you have an absolute  
17 right to remain silent in this trial, at any trial? In  
18 fact, I will tell the jury that they are not to infer  
19 anything by the fact that you did not testify, and, in fact,  
20 that they cannot even discuss it, bring it up whatsoever in  
21 the jury room. Do you understand that?

22 MR. BLUFORD: Yes, ma'am.

23 THE COURT: By the same token this is your one chance  
24 to tell your story. And you have a right to testify and  
25 tell your story. You understand that your one opportunity

1 is today? You understand that?

2 MR. BLUFORD: Yes, ma'am.

3 THE COURT: And what is your decision? Will you  
4 testify or not?

5 (Whereupon Mr. Bluford was consulting with his  
6 attorney)

7 MR. BLUFORD: We've decided to not testify.

8 THE COURT: Okay. All right. Anything else you want  
9 me to question him about, Mr. Erwin?

10 MR. ERWIN: No, Your Honor. I believe that does it.

11 THE COURT: All right. Anything else from the State?

12 MR. MOYER: No, Your Honor.

13 THE COURT: All right, then. Very well. Mr. Erwin,  
14 you want me to bring back in the jury and you rest in front  
15 of the jury?

16 MR. ERWIN: Sure.

17 THE COURT: Okay. We'll do that. And then we'll break  
18 for lunch, come back let's say -- y'all's closing arguments  
19 aren't going to be real long, are they? Either side?

20 MR. MOYER: No.

21 MR. ERWIN: (Negative nod).

22 THE COURT: Y'all want to come back at two from lunch  
23 and we'll do closings and my charge, just the standard  
24 charge?

25 MR. MOYER: (Affirmative nod).

1 MR. ERWIN: (Affirmative nod).

2 THE COURT: Now, we'll bring them back, let them go to  
3 lunch and then we'll talk about charges ---

4 MR. MOYER: Okay.

5 THE COURT: --- in just a few minutes. Okay. As y'all  
6 might have noticed, I'm without my law clerk today. So if  
7 y'all have any case cites or anything that -- any of these  
8 cases that you might want a charge from, I'd love a cite so  
9 I can look them up.

10 (Whereupon the jury entered the courtroom at 12:29 pm)

11 THE COURT: All right. Mr. Erwin.

12 MR. ERWIN: Your Honor, the Defense also rests.

13 THE COURT: All right, then. Very well. Ladies and  
14 gentlemen, I -- we've come to the time for lunch for you all  
15 a little earlier than I had anticipated. What I'm going to  
16 ask you to do is be back in your jury room about -- maybe  
17 about five until two. At that time we will hear closing  
18 arguments from the attorneys in this case. And then I will  
19 charge you on the law. And then the case will be in your  
20 hands to decide from that point.

21 I will ask you once again, I know I sound like a broken  
22 record, but I will ask you not to discuss this case or do  
23 any independent research over the lunch hour. But I do hope  
24 you have a very good lunch. Thank you.

25 (Whereupon the jury exited the courtroom at 12:30 pm)

1           **THE COURT:** All right. So far as the charge in this  
2 case, does the State have any proposed jury charges?

3           **MR. MOYER:** I do, Your Honor. I've handed up three  
4 different set -- different documents.

5           I'll start with the one that has four different  
6 enumerations on it. That one just has language basically  
7 from State v. Moore about the continuing offense theory of  
8 armed robbery, particularly number four that talks about  
9 escape even after the property has been abandoned. I would  
10 ask that Your Honor instruct the jury on that.

11          **THE COURT:** All right. Mr. Erwin, have you had an  
12 opportunity to look at these?

13          **MR. ERWIN:** I have just now, Your Honor.

14          **THE COURT:** Okay.

15          **MR. ERWIN:** Give me just a few more seconds. I'm going  
16 to read over it ---

17          **THE COURT:** Okay.

18          **MR. ERWIN:** --- one more time.

19          **THE COURT:** And I'll tell you this, if you need some  
20 additional time to look at it, then we could maybe plan to  
21 be back maybe a quarter til two, something like that.

22          **MR. ERWIN:** I would prefer that, Your Honor.

23          **THE COURT:** Okay.

24          **MR. ERWIN:** And if you're okay with that, and the  
25 State's okay with that, that's what I'd like to do.

1 THE COURT: All right. Then we'll be back -- plan to  
2 be back at a quarter til two just to firm these things up.

3 Mr. Moyer, I hate to ask you this, but if you have  
4 these charges in electronic form, do you mind e-mailing them  
5 to me?

6 MR. MOYER: Sure. I'd be happy to.

7 THE COURT: I appreciate it. That would be really  
8 helpful to me. And please don't e-mail them to my law clerk  
9 as you know -- I guess you know he's not here.

10 MR. MOYER: Okay. Can I make sure I have ---

11 THE COURT: Sure.

12 MR. MOYER: I'm not quite sure of the distinction  
13 between your address and ---

14 THE COURT: It's lverdinj@sccourts.org.

15 MR. MOYER: I'm so sorry.

16 THE COURT: That's fine, lverdinj@sccourts.org. And,  
17 Mr. Erwin, if there's anything you want to e-mail to me over  
18 the lunch hour too while I'm working on these charges, I'd  
19 be certainly welcome to see that.

20 MR. ERWIN: Sure.

21 THE COURT: All right. All right, then. Well, we'll  
22 be back here at a quarter til -- a quarter until two, if I  
23 can say it. Thank you.

24 MR. ERWIN: Thank you, Your Honor.

25 (Whereupon court was in recess at 12:33 pm)

1 (Whereupon court resumed at 1:53 pm)

2 THE COURT: Thank y'all. Y'all be seated. All right.  
3 Mr. Erwin, when we broke I asked you if you had any  
4 objections to the State's proposed charges.

5 MR. ERWIN: And I do, Your Honor.

6 THE COURT: Okay.

7 MR. ERWIN: Starting with this first page with the four  
8 quotes from case law.

9 THE COURT: Sure.

10 MR. ERWIN: My objection is, first, in a very general  
11 sense, this much, you know, this deep and this much case law  
12 going to the jury to me feels very much like we're asking  
13 them to -- to be professionals, we're asking them to be  
14 lawyers. And that's beyond what the jury is supposed to do.

15 You know, it's just -- it's just too -- it's too much  
16 legalese, Your Honor. And I think it complicates things.  
17 And I think the jury, you know, I think the charge for armed  
18 robbery is written to be simple and understood by a jury.  
19 And I think that that can stand on its own.

20 And in the alternative, Your Honor, ---

21 THE COURT: Um-hum (affirmative).

22 MR. ERWIN: --- you know, I also think that these four  
23 things are very duplicitous. It's very much the same thing  
24 over and over. I'd ask if you're not going to throw, you  
25 know, if you -- if he thinks it's appropriate to send this

1 to the jury, I'd ask for just maybe one of these to go as  
2 opposed to four.

3 **THE COURT:** My thought was number four to go to the  
4 jury when I was looking at it. And I think -- I think it  
5 can -- I think it can stand alone and it seems to encompass  
6 what you're getting at.

7 **MR. MOYER:** (Affirmative nod).

8 **THE COURT:** All right. Now, what about the one that  
9 starts with the elements of robbery and armed robbery  
10 including asportation of the property?

11 **MR. ERWIN:** Other than sort of the same objection I had  
12 at first, I really don't have anything new on that one.

13 **THE COURT:** Okay.

14 **MR. MOYER:** And, Judge, that's not really related to  
15 this language per say, but just -- and it may very well be  
16 part of the standard, but just as long as -- I would ask  
17 that it would be some charge to the jury about what  
18 asportation means. That just ---

19 **THE COURT:** Okay.

20 **MR. MOYER:** --- the, you know, the mere taking of the  
21 property is enough to meet that element of the crime.

22 **THE COURT:** All right. And then about this citizen's  
23 arrest.

24 **MR. ERWIN:** It appears to be straight from the statute  
25 to me, Your Honor.

1 THE COURT: Okay.

2 MR. ERWIN: I don't really have any objection.

3 THE COURT: Okay. All right. On the first one with  
4 the four sections, I'll charge four, number four. On one  
5 and two, the one with one and two about asportation, I'll  
6 charge one and two. And on the citizen's arrest, I'll  
7 charge that in total. All right. Give me one minute to  
8 send this to my law clerk, who is now back.

9 MR. ERWIN: And, Your Honor, ---

10 THE COURT: Yes, sir.

11 MR. ERWIN: --- I would propose that the lesser  
12 included offense of strong arm robbery be charged to the  
13 jury as well. Just -- and just the standard charge on that  
14 one is fine with me.

15 THE COURT: Any objection?

16 MR. MOYER: I don't object to strong arm robbery being  
17 charged. I would ask that during the charge that that be --  
18 just a mention that the principal -- I just hope it's clear  
19 for the jury that the same principal would apply to common  
20 law robbery as it would apply to armed robbery as far as the  
21 continuing offense theory of the -- of the ---

22 THE COURT: Okay.

23 MR. MOYER: The only difference really would be whether  
24 or not they consider the knife a deadly weapon or not. I  
25 think that's really what it would come down to. But I think

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1 everything else would be the same.

2 THE COURT: All right. Anything else we need to take  
3 up before we bring the jury back in?

4 MR. MOYER: I don't believe so from the State, Your  
5 Honor.

6 MR. ERWIN: No, Your Honor.

7 THE COURT: All right, then. All right. Let's go  
8 ahead and bring the jury back in. I have been sending my  
9 jury charge back to the jury, but I certainly would hear  
10 from either of you with any objection to that. Anything  
11 from the State?

12 MR. MOYER: No objection.

13 THE COURT: Any objection from the Defense?

14 MR. ERWIN: None from here, Your Honor.

15 THE COURT: All right. I give an instruction on how to  
16 deal with a written charge in the jury room.

17 (Whereupon the jury entered the courtroom at 2:01 pm)

18 THE COURT: All right, ladies and gentlemen, we're now  
19 ready to hear closing arguments from the attorneys. Mr.  
20 Moyer.

21 MR. MOYER: Thank you, Your Honor. May it please the  
22 Court.

23 THE COURT: Yes.

24 MR. MOYER: Good afternoon, Madame Forelady, ladies and  
25 gentlemen of the jury. My closing remarks are going to be

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1 very short. As we've all noticed now, the trial was very  
2 short. So it's not like I have much to remind you of  
3 because you just got done listening to the two witnesses who  
4 testified and saw the video. But I want to make a few  
5 points about the law and about the evidence that you heard  
6 in this case.

7 The way I'm going to do this is I'm going to ask you to  
8 analyze this case and your decision based on the law, what  
9 we call elements of these laws. Elements are sort of like  
10 stepping stones. Every crime is comprised of elements, a  
11 number of elements or parts of the charge that makes -- that  
12 lead up to making the decision that this crime has been  
13 committed.

14 So let's start off with the assault and battery charge,  
15 which I think that this will be the charge that you will be  
16 able to most quickly set aside and decide on. Essentially  
17 the elements of assault and battery, first degree, are, one,  
18 that you injure another person, and, two, that this injury  
19 occurs during the commission of a robbery, burglary,  
20 kidnapping or theft. That's one part of assault and  
21 battery, first degree.

22 Assault and battery, first degree, also covers attempts  
23 to injure. So if you attempt to injure somebody and it  
24 occurs during the commission of a burglary, kidnapping,  
25 robbery, or theft, then that makes up the elements of this

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1 charge. And you would be guilty of assault and battery,  
2 first degree.

3 Now, I want to make just a couple of points about this  
4 law. And first off is that the law does not require a  
5 deadly weapon. Assault and battery, first degree, does not  
6 require any weapon at all. And armed robbery, as we'll get  
7 to in a moment, does. But this assault and battery charge  
8 does not. It requires injury or attempt to injure while  
9 committing one of these crimes. So any injury whatsoever or  
10 any attempt to injure is enough.

11 So let's talk about this crime. Did this happen?  
12 Well, I don't think there's any question that Mr. Barr was  
13 injured. There are photographs documenting the cut that  
14 happened to his finger.

15 And I don't think there's any question that this  
16 happened during one of the crimes that are enumerated in  
17 this statute. Obviously, burglary and kidnapping don't  
18 apply, but either one of the other two do, a robbery or a  
19 theft.

20 So even if this had not escalated to what it did, which  
21 is an armed robbery, even if you try to punch somebody  
22 during the commission of any kind of theft, it would be  
23 assault and battery, first degree. So like I said, I think  
24 that is the charge that you will be able to decide on and  
25 move on the most quickly.

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1           And then you will move on to the armed robbery charge.  
2           And the elements of armed robbery are the taking of property  
3           of another with force or intimidation while armed with a  
4           deadly weapon. And, in fact, you can even have a  
5           representation of a deadly weapon in order to be guilty of  
6           armed robbery. For example, somebody could go into a  
7           convenience store with a fake gun. That would be enough to  
8           trigger the element of a deadly weapon.

9           So let's talk about just a couple of points about armed  
10          robbery. First thing, as I mentioned in my opening  
11          statement to you all, there's no set distance that the  
12          property has to be taken in order to meet the element of  
13          taking the property of another. If you just attempt, if you  
14          just -- under the law, the slightest removal of the property  
15          at all is enough to meet that standard.

16          You don't have to get the property all the way home.  
17          You don't have to get it out to the parking lot into your  
18          car. You don't even have to get out the door. If you  
19          remove the property with the intent to steal it, you pick it  
20          up, and then for whatever reason you drop it or you see the  
21          police coming and you throw it, you committed that offense.  
22          So the slightest removal is enough.

23          Another point about armed robbery that I would bring up  
24          with you all at this point is that it doesn't matter that  
25          the property, in this case the beer, was left in the store.

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1 As you've heard and as you have seen, when Mr. Barr called  
2 the Defendant over to him, the Defendant took a few steps  
3 and set the beer down. Never attempted to get that beer  
4 back. And I would argue to you because he didn't have the  
5 chance to because the only thing on his mind was getting out  
6 of the store.

7 But the fact that it was left there does not change the  
8 analysis of this case at all. You can't undo what you have  
9 done. It would be like someone trying to commit a burglary,  
10 thinking nobody was home, in the middle of the day, say,  
11 breaks into the door and all of a sudden there's somebody in  
12 the house. You back away and leave. You can't undo what  
13 has been done.

14 When the Defendant picked up the beer and stepped past  
15 the last point of sale and started to go out that store,  
16 that element of taking the property can be checked off the  
17 list. It's done.

18 And I will point out to you at this point that I think  
19 actually it's significant that the Defendant did put that  
20 down. Because think about it, why did he put that beer  
21 down? Because he knew it was stolen. It was guilty  
22 knowledge.

23 Think about what he did not put down; the few items  
24 that he had just bought. You can see in the video how he  
25 kept that little bag that had the cereal and the half -- or

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1 the little container of milk. He kept that in his hand.

2 Why did he keep that in his hand? Because he knew that  
3 what he was doing was wrong. He was stealing the beer. And  
4 so when Mr. Barr called him, he put the beer down. He's  
5 committed that. He's violated the law. He's -- that  
6 fulfills the element of the taking of the property. You  
7 don't get a do-over.

8 Another point I would mention to you about armed  
9 robbery is that it does not matter that the Defendant did  
10 not use the knife to actually take the property. And I've  
11 talked about this in my opening a little bit, but let me go  
12 over it again with you just briefly now.

13 It's something that we call a continuing offense  
14 theory. Her Honor is going to instruct you on this aspect  
15 of the law. But if you use a weapon at any time during the  
16 course of a theft, then that meets the element of having a  
17 weapon during -- during a theft, which would make it an  
18 armed robbery.

19 In other words, if -- the classic example like I used  
20 in my opening, a guy walks into the convenience store with a  
21 gun and says, give me money out of the cash register. And  
22 the clerk gives him the money based on the gun. That, of  
23 course, would be armed robbery.

24 However, it is also armed robbery if you take property  
25 and then, say, somebody's trying to take that property away

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1 from you and you use a weapon to keep that person from  
2 taking that property away from you. It's still armed  
3 robbery even though you didn't use the weapon to take the  
4 property.

5 Going on farther, it continues to be an armed robbery  
6 until the person has completely escaped, is completely gone.  
7 So if it's used during the commission of the escape, during  
8 the attempt to escape, while the person is trying to flee,  
9 even if they've left the property, it is still armed  
10 robbery.

11 That offense, I picture it as just one long continuous  
12 offense from the moment the property is taken until the  
13 moment the person is either out of there or arrested by the  
14 police. It's one arch. And if that weapon comes out and it  
15 is used in a violent way at any time during the crime, it  
16 makes it armed robbery.

17 And the final point I will make to you is that -- is  
18 regarding the actual weapon itself that is used. In order  
19 to be an armed robbery he has to take the property, use  
20 force or intimidation and you have to have a deadly weapon.  
21 And so you're going to have to make the decision, ladies and  
22 gentlemen, about whether this knife is a deadly weapon.  
23 It's locked up in this container right now, but you can see  
24 it very clearly. That's a decision you're going to have to  
25 make.

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1           And what I would point out to you at this time is it is  
2 not -- the issue isn't was that weapon used as a deadly  
3 weapon? Did the person try to kill Mr. Barr? Did he  
4 attempt to do serious bodily harm? That's not the issue.  
5 The issue is could it have been used to do so? Is it  
6 something that could be used?

7           Now, as I mentioned also in my opening, the statute is  
8 very broad. And the statute actually says it is -- the  
9 statute of armed robbery talks about being armed with a  
10 pistol, a dirk, which is like a large knife, slingshot,  
11 brass knuckles.

12           So, ladies and gentlemen, I would argue to you that if  
13 a slingshot or brass knuckles is enough to elevate a robbery  
14 to armed robbery, then a knife certainly is too. It could  
15 have been used. Imagine the damage that could be done with  
16 a knife of that -- of that kind. Could it be used that way?

17           But it's your decision. And if you look at that knife  
18 and you decide, well, no, you -- we don't believe that is a  
19 deadly weapon, you will also have the option of finding the  
20 Defendant guilty of the lesser included offense. And that's  
21 called common law robbery.

22           So if you look at that knife and decide that it could  
23 have been used as -- to inflict serious bodily injury, then  
24 you should find him guilty of armed robbery. If you look at  
25 that knife and say, well, I'm not convinced it could have

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1 been, then you could find the Defendant guilty of robbery,  
2 common law robbery instead of armed robbery.

3 I want to take just a moment -- I'm not going to show  
4 the videos to you again, but there were some stills, some  
5 still photographs that were taken off that video that show  
6 the Defendant actually using that knife. And I want to just  
7 take a moment at this time to show that to you.

8 That is, as you recall, is where the Defendant had  
9 taken -- picked up the beer and was trying to walk out of  
10 the store right before Mr. Barr called him over there. That  
11 is after Mr. Barr had actually confronted the Defendant.  
12 And this is not now in order.

13 Let me start with this. This is right before Mr. Barr  
14 called the Defendant over to him. When he saw -- when Mr.  
15 Barr saw the Defendant leaving the grocery store, he told  
16 him to stop.

17 Remember the Defendant walked over. There was a short  
18 -- there was a short altercation where Mr. Barr was  
19 attempting to take the Defendant back to the office. The  
20 Defendant evaded him and he ended up back at the front. And  
21 that's where Mr. Barr is standing in front of the Defendant  
22 keeping him from leaving the store.

23 And, ladies and gentlemen, I would argue to you that if  
24 you look at this point you can see the Defendant reaching  
25 back towards his back pocket. And if you look at the next

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1 frame you can see his arm really reaching for that back  
2 pocket.

3 And I would contend to you that this is when he pulled  
4 out the knife because up until this point you could not see  
5 it in his hand, but now you can. And you can clearly see  
6 here in his right hand this implement. You can again see it  
7 in his right hand as he's holding it away.

8 Once again, if you look down here at his right hand you  
9 can see the knife in his hand. And that's when Mr. Barr  
10 takes him and attempts to take him to the back office. So  
11 he clearly was armed while he was trying to escape.

12 Now, ladies and gentlemen, in closing let me just  
13 remark -- make these final remarks. At the beginning -- at  
14 the outset in my opening I told you that at the end of this  
15 case I would be asking you to do justice. And, ladies and  
16 gentlemen, doing justice in a case like this is to hold the  
17 person responsible who committed this crime, to hold -- as a  
18 society we need to hold people responsible who commit acts  
19 like this.

20 This Defendant not only was stealing property, but he  
21 assaulted somebody. He simply was not going to get away.  
22 He simply decided that he was not going to be put away, he  
23 was not going to be apprehended.

24 He knew the police were on the way. He knew the reason  
25 that he was being taken to that back office was so that the

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1 police were going to arrive and he could be turned over to  
2 the police. And in his mind he decided he was not going to  
3 -- that was not going to happen to him. And he decided he  
4 was going to do whatever it took.

5 And he started off by just trying to get by Mr. Barr,  
6 just trying to get around him. He actually started off  
7 before that by making up a story about he thought his wife  
8 had paid for the beer, which is obviously crazy when you  
9 know -- when you notice that there was nobody even around in  
10 where he had left the beer.

11 When that didn't work he thought, well, he was going to  
12 try to get around him, he was going to try to just run by  
13 him. When that didn't work he decided he was going to pull  
14 a knife. He was going to do whatever it took.

15 And if the police officer hadn't arrived when he did,  
16 he would have gotten away. He would have gotten out. And  
17 he would have gotten in his vehicle if he had drove or run  
18 away or whatever his decision was going to be.

19 Mr. Barr did nothing wrong. Mr. Barr was acting  
20 completely within his rights by trying to apprehend the  
21 Defendant. Under the law, a citizen, any person, if you see  
22 either a felony or a theft taking place, you have every  
23 right to arrest that person. It's called citizen's arrest.  
24 And if it's at night, as you will hear Her Honor instruct  
25 you, you can even hold that person under terms of violence.

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1           Mr. Barr had every right to do what he did. He was  
2 attempting to keep this Defendant from leaving. He was  
3 attempting -- he was attempting to hold this man responsible  
4 for what he did on July the 29th of 2010. And, ladies and  
5 gentlemen, I ask you to do the same and to hold this Defense  
6 -- this Defendant responsible for the crime that he  
7 committed and find him guilty of armed robbery and assault  
8 and battery, first degree. Thank you.

9           **THE COURT:** Thank you, Mr. Moyer. Mr. Erwin.

10           **MR. ERWIN:** Thank you, Your Honor. If you would, Your  
11 Honor, give me a second to get set up ---

12           **THE COURT:** Certainly.

13           (Pause)

14           **MR. ERWIN:** Okay. Ladies and gentlemen, I apologize  
15 for the wait there. What I have right here is the  
16 indictment. This was read to you by the Judge at the  
17 beginning of this. And this isn't evidence. I have to be  
18 clear about that.

19           But what it does is document -- it does tell us what  
20 Mr. Bluford was charged with and why he was charged with  
21 that crime. And Mr. Moyer talks about elements of crimes  
22 and, you know, breaking it down into blocks. So I'm going  
23 to do a little bit of that too. And I'm actually going to  
24 start with the armed robbery. I think it's important that  
25 we go through it.

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1           So, first, this is a little legal mumbo jumbo, but I am  
2 going to read what the indictment says to you, okay? It  
3 says that Alfred Bernard Bluford did in Greenville County on  
4 or about the 29th day of July, 2010 while armed with a  
5 deadly weapon or while alleging either by action or words he  
6 was armed while using a representation of a deadly weapon or  
7 any object which a person present during the commission of  
8 the robbery would reasonably believe to be a deadly weapon,  
9 take by means of force or intimidation goods or monies  
10 described as beer belonging to Bi-Lo from the presence --  
11 person or presence of Steve Barr.

12           Now, that's a mouthful. But if we take it piece by  
13 piece, it makes sense. Let's start with the easy one,  
14 deadly weapon. Ladies and gentlemen, this is our deadly  
15 weapon here. One second.

16           This is going to go back into the jury room with you.  
17 And, guys, I invite you to take a look at this very closely.  
18 The tip is broken off. You've got big chunks taken out of  
19 it here. There's no edge whatsoever on this thing.

20           This is what the State, this is what the Government is  
21 telling you is a deadly weapon. Please take a look at this  
22 back in the jury room. Please use your common sense and  
23 decide whether this is a deadly weapon.

24           Now, the next thing we have, take, take, take. This  
25 beer, this beer was taken. It was taken, right? Well, it

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1 really wasn't. It stayed in the store. Mr. Bluford never  
2 -- never got away with this beer. It's, you know, what did  
3 he say, it's thirty-five dollars worth of beer? Two cases  
4 left right there.

5 Now, maybe this was a shoplifting. Maybe there was a  
6 theft going on, you know. I think having seen the video it  
7 would be ridiculous for me to stand up here and tell you  
8 that that's not what was happening. But that stopped. That  
9 stopped when Mr. Barr came out from the back and told Mr.  
10 Bluford to stop. And you know what he did? He stopped, put  
11 the beer down, never touched it again. The theft is over at  
12 that point. It's done.

13 Now, take by means of force or intimidation. Force or  
14 intimidation comes later. And I argue that there's --  
15 there's intimidation coming on -- going on here. There's  
16 intimidation coming from Mr. Barr.

17 Now, he comes out from the back, you saw. What's the  
18 first thing he does? He gets this close, he's pointing his  
19 finger, his face is red. And you see how big of a guy he  
20 is. Mr. Bluford over here is not a big guy. He's  
21 terrified. And he does not resort to our deadly weapon here  
22 til after Mr. Barr grabs him.

23 Now, Mr. Moyer showed you pictures of Alfred reaching  
24 into his back pocket and coming out to here with something  
25 in his hands. Now, this video, you know, as far as video

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1 technology has come, it's still not as good as the human  
2 eye. Now, y'all look at those pictures, and if you can tell  
3 me beyond a reasonable doubt that's a knife, well, better  
4 eyesight than I have.

5 You know, Mr. Barr, who was there, who was standing  
6 three feet from him, first of all, told you that he didn't  
7 even notice there was something in Alfred's hand until after  
8 he grabbed him. And he didn't say -- he couldn't tell what  
9 it was. He said multiple times today that he thought there  
10 were keys in his hands.

11 Now, we talked about the burden of proof a little bit  
12 at the beginning of this. And I'm going to get back to that  
13 in a minute. But keep in mind that the State has to prove  
14 each element of this.

15 Now, the next thing we're going to talk about, the  
16 assault and battery. And like I said at the beginning, it's  
17 all on the video. It's all on the video. So let's take a  
18 moment, let's watch one of these videos again, okay? Can  
19 y'all see okay on this side?

20 **THE JURY:** (Affirmative nods).

21 **MR. ERWIN:** How about I come over here? Okay. Here  
22 comes Mr. Bluford and here comes Mr. Barr. And there goes  
23 the beer. And there it stays.

24 Now, immediately Mr. Barr has his hand on his back,  
25 around his waist, pulling him back to the office. Also

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1 notice for a second that Mr. Barr does not have a manager  
2 tag on his shirt. He doesn't have -- he's just got a white  
3 button down shirt like mine. No tie. Nothing to identify  
4 that he's the manager of this store.

5 As far as Mr. Bluford knows, this is just a really big  
6 guy getting in his face. And he reacts like anybody would  
7 and tries to get away. Tries to peacefully get away. He  
8 tries to walk.

9 Now, let's watch for a second what's about to happen.  
10 He's trying to walk away. He's trying to get out of there.  
11 Mr. Barr is not letting him. There he goes again. Here's  
12 the finger in his face. The finger in his face, two inches  
13 from his eyes.

14 Now, this is about where the Government lawyer wants  
15 you to believe that there is a knife that has been pulled.  
16 I have yet to see one where, you know, from this angle you  
17 should be able to see that if that's what's happening.

18 Now, look at this. Mr. Bluford is naked in the store.  
19 Everything's showing. I would argue, ladies and gentlemen,  
20 that goes well above and beyond a citizen's arrest. I mean,  
21 he's just mauling this guy.

22 And at a certain point he snaps. And there's, you  
23 know, there's no denying that our deadly weapon here gets  
24 pulled at some point. And, ladies and gentlemen, I would  
25 argue that it gets pulled for one purpose and one purpose

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1 only, and that is to get Mr. Barr away from him to allow him  
2 to leave.

3 He's not trying to hurt anybody. He's not trying to  
4 assault anybody. He's not trying to cut, stab or kill  
5 anybody. He was trying to get Mr. Barr off of him. And he  
6 does. And as soon as he's able to, he calmly leaves the  
7 store.

8 Now, the second thing I wanted you to keep in mind when  
9 I talked to you at the beginning today -- well, the first  
10 was, it's all in the video. The second was burden of proof.

11 Now, each and every element of these crimes has to be  
12 proven beyond a reasonable doubt by the State. Now, you've  
13 probably heard that phrase reasonable doubt. You've  
14 probably heard it before on Law and Order, CSI or something  
15 like that. But let's talk about what that really means,  
16 okay?

17 Imagine, if you will, a football field. Now, in this  
18 situation the State has the ball. And they've got to prove  
19 on each and every element that they're right. They've got  
20 to score a touchdown. Now, in football if they get to mid-  
21 field, fifty percent convinced, you don't get any points for  
22 that. That's what we call clear and convincing evidence.

23 In other courts, sometimes civil trials and things like  
24 that, that's the standard of proof, you'll get points at  
25 mid-field. Well, here in criminal law you do not get points

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1 at mid-field.

2 Now, let's say you get past there and we're in the red  
3 zone. We're down past fifty percent, somewhere on this side  
4 of the field. In football, just like here today, you do not  
5 get points for that.

6 Now, there's other courts, family court where, for  
7 example, if they were going to take your kids from you, say  
8 that you're not suitable to be a parent, take your kids from  
9 you, the burden of proof they would have to get is  
10 preponderance of the evidence. Excuse me, no. That one is  
11 called clear and convincing.

12 And that's what they have to do to take your kids away  
13 from you. It's a pretty high standard. They have to go in  
14 this court, in criminal court, right here, they have to go  
15 all the way down the field, all the way down here into the  
16 end zone to get any points here. And if they haven't gotten  
17 there on any of these, you have to find him not guilty.

18 Now, there's several elements they have to meet for  
19 each one of these crimes. You know, we've talked about  
20 this, the deadly weapon, the taking, the use of force to  
21 take. If they fail on one of those, you have to find him  
22 not guilty on assault and battery. If they don't score a  
23 touchdown on one of those, you have to find him not guilty  
24 of assault and battery.

25 Now, likewise, for the other charge, the armed robbery,

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1 the deadly weapon, the use of force, the taking, if they're  
2 not -- if they haven't scored on all three of those, you  
3 have to find him guilty of armed -- you have to find him not  
4 guilty of armed robbery. Ladies and gentlemen, it's your  
5 duty to do so.

6 And I know that having seen the video and having heard  
7 the testimony today you're going to be able to find that Mr.  
8 Bluford may be guilty of something, but he's not guilty of  
9 what they've charged him with. So I'm going to ask you to  
10 find him not guilty of these. Good luck.

11 **THE COURT:** All right, ladies and gentlemen, we're  
12 going to take a brief break. And I'll call you back in to  
13 charge you on the law. Please don't discuss the case with  
14 anyone. We're not to deliberations quite yet.

15 (Whereupon the jury exited the courtroom at 2:33 pm)

16 **THE COURT:** All right. Let's break for just one  
17 second. My clerk is bringing me a final version of the  
18 charge.

19 (Whereupon court was in recess at 2:34 pm)

20 (Whereupon court resumed at 2:36 pm)

21 **THE COURT:** All right. We can bring the jury back in.

22 (Whereupon the jury entered the courtroom at 2:39 pm)

23 **THE COURT:** Ladies and gentlemen, I'll just tell you,  
24 I've got my charge on the law to give to you. And I read it  
25 from my written charge for two reasons. And, first of all,

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1 that's because I want to get it right and make sure I don't  
2 forget anything. But, secondly, because I'm going to give  
3 you -- I want to do it verbatim because I'm going to give  
4 you a written copy of this charge in your jury deliberation  
5 room to help you and aid you in your deliberations. I'll  
6 give you a charge towards the end on how you should use this  
7 written charge in your jury deliberation room.

8 Madame Foreperson, ladies and gentlemen of the jury,  
9 you have seen and heard the evidence presented as well as  
10 the arguments of counsel. It now, therefore, becomes my  
11 duty and obligation to instruct you on the law that is  
12 applicable in this case. It will then be your duty and  
13 obligation to begin your deliberations through which process  
14 you will decide the facts, apply the law as instructed by me  
15 and render fair and impartial decisions.

16 It is your exclusive duty to determine what the facts  
17 are. You do that based upon your own common sense,  
18 examination and evaluation of the testimony and other  
19 evidence received during the trial of this case. You twelve  
20 jurors alone will decide what weight, value and effect that  
21 is to be given to any particular testimony or other evidence  
22 received.

23 Your ultimate goal is to simply reach the truth in this  
24 matter. And by doing so you will have fulfilled your  
25 obligation as jurors to give both the State and the

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1 Defendant a fair and impartial trial based upon the evidence  
2 presented and the law applicable to this case.

3 In this case the State of South Carolina through the  
4 Circuit Solicitor has charged the Defendant with the  
5 criminal offenses known as armed robbery and assault and  
6 battery in the first degree. The allegations charging the  
7 Defendant with these crimes are set forth in the indictments  
8 that have been previously explained to you.

9 The indictments are not evidence in this case and may  
10 not be considered by you as evidence against the Defendant.  
11 Each indictment charges a separate and distinct offense.  
12 You must decide each indictment separately on the evidence  
13 and the law applicable to it uninfluenced by your decision  
14 as to any other indictment. The Defendant may be convicted  
15 or acquitted on any or all of these offenses charged.  
16 You'll be asked to write a separate verdict of guilty or not  
17 guilty on the verdict form.

18 As to the charges set forth in the indictments the  
19 Defendant has entered a plea of not guilty. That plea of  
20 not guilty has therefore placed upon the State the burden of  
21 proving the allegations that are set forth in the  
22 indictments. The burden of proving each of the essential  
23 elements of the crimes charged and therefore the burden of  
24 proving the guilt of the Defendant to the satisfaction of  
25 you twelve jurors beyond a reasonable doubt before a verdict

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1 of guilty could be returned as to the indictments.

2 The burden is never upon a defendant to prove that he  
3 is not guilty or to prove that he is innocent because in  
4 some cases that may not be possible. The burden is always  
5 upon the State because they have made the allegations to  
6 prove the Defendant guilty beyond a reasonable doubt.

7 You are further instructed that it is a vital,  
8 important and cardinal rule of law that every defendant in a  
9 criminal trial, no matter how serious the offense might be  
10 for which he stands charged, shall always be presumed  
11 innocent of that charge. And that presumption of innocence  
12 shall be with the Defendant from the moment of his arrest  
13 and even throughout the course of the actual trial.

14 The presumption of innocence shall be with the  
15 Defendant even as you go into the jury room to begin your  
16 deliberations. And that presumption of innocence shall be  
17 with him there and be with him forever unless you twelve  
18 jurors determine that he is no longer entitled to that  
19 presumption of innocence. It is only if, unless and until  
20 you are satisfied of the Defendant's guilt beyond a  
21 reasonable doubt that he would no longer be entitled to the  
22 presumption of innocence.

23 I remind you that during this trial you and I have  
24 certain duties to perform. As the trial Judge it has been  
25 my responsibility to preside over the trial of this case.

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1 And I also have the duty to rule on the admissibility of the  
2 evidence offered during this trial.

3 You are to consider only the competent evidence before  
4 you. If there was any testimony ordered stricken from the  
5 record in this case during this trial, you must disregard  
6 that testimony. You are to consider only the testimony  
7 which has been presented from this witness stand and any  
8 exhibits which have been made a part of the record in the  
9 case along with any stipulations that may have been made.

10 I have the additional duty to charge you on the law  
11 applicable to this case. As the presiding Judge I am the  
12 sole judge of the law in this case. And it is your duty as  
13 jurors to accept and apply the law as I now state it to you.  
14 If you already have any idea as to what the law is or what  
15 the law ought to be, and it does not agree with what I tell  
16 you now the law is, you must abandon this idea because you  
17 were sworn to accept the law and apply the law exactly as I  
18 state it to you.

19 In every case tried in this court before a jury the  
20 jury becomes the sole and exclusive judge of the facts in a  
21 case. A trial judge cannot comment in any way about the  
22 facts of the case.

23 Since you, the jury, are the sole judge of the facts in  
24 this case you are not to infer from what I might have said  
25 during the progress of this trial in ruling upon the

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1 admissibility of evidence or otherwise or anything that I  
2 say now during the course of this instruction to you that I  
3 have any opinion about the facts in this case. I do not.

4 The law does not allow me to have an opinion about the  
5 facts in this case. This is a matter solely for you, the  
6 jury, to determine. As jurors it is your duty to determine  
7 the effect, value, weight and truth of the evidence  
8 presented during this trial.

9 The State has the burden of proving the Defendant  
10 guilty beyond a reasonable doubt. Some of you may have  
11 served as jurors in civil cases where you were told that it  
12 is only necessary to prove that a fact is more likely true  
13 than not true such as by the greater weight or preponderance  
14 of the evidence.

15 In criminal cases the State's proof must be more  
16 powerful than that. It must be beyond a reasonable doubt.  
17 Proof beyond a reasonable doubt is proof that leaves you  
18 firmly convinced of the Defendant's guilt. There are very  
19 few things in this world that we know with absolute  
20 certainty. And in criminal cases the law does not require  
21 proof that overcomes every possible doubt.

22 If, based on your consideration of the evidence, you  
23 are firmly convinced the Defendant is guilty of the crimes  
24 charged, you must find the Defendant guilty. If, on the  
25 other hand, you think there is a real possibility that the

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1 Defendant is not guilty, you must give the Defendant the  
2 benefit of the doubt and find him not guilty.

3 There are two types of evidence which are generally  
4 presented during a trial, direct evidence and circumstantial  
5 evidence. Direct evidence is the testimony of a person who  
6 claims to have actual knowledge of a fact such as an  
7 eyewitness. It is evidence which immediately establishes  
8 the main fact to be proved.

9 Circumstantial evidence is proof of a chain of facts  
10 and circumstances indicating the existence of a fact. It is  
11 evidence which immediately establishes collateral facts from  
12 which the main fact may be inferred. Circumstantial  
13 evidence is based on inference and not on personal knowledge  
14 or observation.

15 The law makes absolutely no distinction between the  
16 weight or value to be given to either direct or  
17 circumstantial evidence. Nor is a greater degree of  
18 certainty required of circumstantial evidence than of direct  
19 evidence.

20 You should weigh all of the evidence in this case.  
21 After weighing all of the evidence if you are not convinced  
22 of the guilt of the Defendant beyond a reasonable doubt, you  
23 must find the Defendant not guilty.

24 Necessarily, you must determine the credibility of  
25 witnesses who have testified in this case. Credibility

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1 simply means believability. It becomes your duty as jurors  
2 to analyze and to evaluate the evidence and determine which  
3 evidence convinces you of its truth.

4 In determining the believability of the witnesses who  
5 have testified in this case you may believe one witness over  
6 several witnesses or several witnesses over one witness.  
7 You may believe a part of the testimony of a witness and  
8 reject the remaining part of the testimony of that same  
9 witness.

10 You may believe the testimony of a witness in its  
11 entirety or reject the testimony of a witness in its  
12 entirety. You may consider whether any witness has  
13 exhibited to you any interest, bias, prejudice or other  
14 motive in this case.

15 You may also consider the appearance and manner of a  
16 witness while on the witness stand. In other words, you are  
17 to judge a witness' credibility in the same way you would  
18 judge a person's credibility in your daily life.

19 I instruct you and emphasize that the fact the  
20 Defendant did not testify is not a factor to be considered  
21 by you in any way in your deliberation and in your  
22 consideration on the question of the guilt or innocence of  
23 the Defendant. It must not be considered by you in any  
24 manner whatsoever.

25 A defendant has the Constitutional right to remain

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1 silent. And the assertion of this right must not be  
2 considered by you in your deliberations. Under your oath  
3 you are to draw absolutely no conclusion whatsoever from the  
4 fact that the Defendant did not testify in this case.

5 The fact that the Defendant did not testify should not  
6 even be discussed in the jury room. The burden of proof, as  
7 I have stated to you, is on the State. The Defendant is not  
8 required to prove his innocence. The burden of proof  
9 remains on the State to prove guilt beyond a reasonable  
10 doubt.

11 In order to establish criminal liability, criminal  
12 intent is required. For example, the mental state required  
13 to be proven by the State for a particular crime might be  
14 purpose, intent, knowledge, recklessness or criminal  
15 negligence.

16 Criminal intent must be proven by the State beyond a  
17 reasonable doubt. Criminal intent is always a matter that  
18 must be determined by the jury from the circumstances  
19 surrounding the situation.

20 There is no way to prove criminal intent to a  
21 mathematical certainty. So the law says that criminal  
22 intent may be inferred from the circumstances shown to have  
23 existed. This is how you make a determination of whether or  
24 not the element requiring intent was present. It is not  
25 necessary to establish intent by direct evidence, but intent

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1 may be established by inference in the same way as any other  
2 fact, by taking into consideration the acts of the parties  
3 and all the facts and circumstances of the case.

4 Criminal intent is a mental state of conscious wrong-  
5 doing. It is up to you to determine what the Defendant  
6 intended to do based on the circumstances shown to have  
7 existed. Criminal intent can arise from action or failure  
8 to act. It may arise from negligence, recklessness or an  
9 indifference to duty or the consequences that is considered  
10 by law to be the equivalent of criminal intent.

11 Upon view of a felony committed, certain information  
12 that a felony has been committed or a view of a larceny  
13 committed any person may arrest the felon or thief and take  
14 him to a judge or magistrate to be dealt with according to  
15 the law. A citizen may arrest a person in the nighttime by  
16 efficient means as the darkness and the probability of  
17 escape render necessary even if the life of the person  
18 should be taken when the person has (a) committed a felony,  
19 (b) has entered a dwelling, house without express or implied  
20 permission, (c) has broken or is breaking into an outhouse  
21 with view to plunder, (d) has in his possession stolen  
22 property or (b), excuse me, or (e) being under circumstances  
23 which raise just suspicion of his design to steal or commit  
24 some felony, flees when he is held.

25 The Defendant is charged with armed robbery. In order

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1 to prove this offense the State must first prove beyond a  
2 reasonable doubt that the Defendant took personal property  
3 from the person or presence of another person. Property is  
4 in the presence of a person if it is within the person's  
5 reach, inspection, observation or control so that the person  
6 could, if not overcome with violence or prevented by fear,  
7 keep possession of the property.

8 The State must also prove beyond a reasonable doubt  
9 that the Defendant carried the property away intending to  
10 permanently deprive the owner of the property and to keep  
11 the property for the Defendant's own use. The elements of  
12 robbery and armed robbery include asportation of the  
13 property. The slightest removal of the property or the  
14 complete possession of the property, even for an instant, by  
15 the Defendant is sufficient to show a taking and carrying  
16 away of the property. A person is guilty of armed robbery  
17 and not merely of an attempt if he moves the stolen goods a  
18 short distance and the crime is ongoing until the thief has  
19 reached a place of temporary safety.

20 The taking and carrying away of the property must have  
21 been done with violence or by putting the owner of the  
22 property in fear of violence. The use of force or  
23 intimidation in retaining the property generally or  
24 infecting retention of the property in an escape attempt or  
25 even merely as a means of escaping after the property has

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1    been abandoned supply the element of force or intimidation  
2    necessary to make the offense of robbery.

3           Finally, the State must prove beyond a reasonable doubt  
4    the Defendant was armed with a deadly weapon during the  
5    robbery. A deadly weapon is any article, instrument or  
6    substance which is likely to cause death or great bodily  
7    harm. Whether an instrument has been used as a deadly  
8    weapon depends on the facts and circumstances of each case.  
9    The following are examples of instruments which may be  
10   deadly weapons; a pistol, a shotgun, a rifle, a dirk, a  
11   dagger, a knife, a slingshot, metal knuckles, a razor,  
12   gasoline, a fire bomb or Molotov cocktail and lighter fluid.

13           If you find that the State has not proven armed robbery  
14   beyond a reasonable doubt you must then consider whether the  
15   State has proven beyond a reasonable doubt that the  
16   Defendant is guilty of strong arm robbery. Strong arm  
17   robbery contains all of the elements of armed robbery except  
18   for the use of a deadly weapon.

19           Robbery is defined as the unlawful taking of money,  
20   goods or other personal property of any value from the  
21   person of another or in his presence by violence or by  
22   putting such person in fear. Robbery is larceny from the  
23   person or immediate presence of another by violence,  
24   intimidation or by putting such person in fear.

25           A thing is in the presence of a person in respect to a

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1 robbery which is so within his reach, inspection,  
2 observation or control that he could, if not overcome by  
3 violence or prevented by fear, retain his possession of it.  
4 Robbery is basically larceny compounded or aggravated by  
5 intimidation or force used in the taking of property from  
6 the person or in the presence of another.

7 Larceny is the felonious taking and carrying away of  
8 the goods of another against the owner's will or without his  
9 consent with the intent to appropriate them to one's own use  
10 and to permanently deprive the owner of possession of his  
11 property. There are five elements the State must establish  
12 beyond a reasonable doubt to prove larceny. Each of these  
13 elements must be present to make out the crime of strong arm  
14 robbery.

15 The elements of larceny are a taking, the act of  
16 carrying the property away. This is called asportation in  
17 the law. Asportation is the act of carrying away of the  
18 personal property of another without the consent or against  
19 the will of the owner and with the intent to steal.

20 The asportation of stolen property is an indispensable  
21 element of larceny and can be established by the slightest  
22 removal of the property with felonious intent. The  
23 Defendant must intend to permanently deprive the owner of  
24 possession by converting the property to his own use.

25 In addition to the elements of larceny the crime of

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1 robbery requires two additional elements; one, the property  
2 must be taken from the person or immediate presence of  
3 another or -- and, two, the taking must be accomplished by  
4 violence, intimidation or putting the person in fear. This  
5 violence must be actual personal violence or the threat of  
6 it, the use of force or intimidation in retaining the  
7 property generally or infecting retention of the property in  
8 an escape attempt or even merely as a means of escaping  
9 after the property has been abandoned supply the element of  
10 force or intimidation necessary to make the offense of  
11 robbery.

12 Generally, the element of force in the offense of  
13 robbery may be actual or constructive. Actual force implies  
14 physical violence. Constructive force includes all  
15 demonstrations of force, menaces and other means by which  
16 the person robbed is put in fear sufficient to overcome the  
17 free exercise of a person's will or prevent resistance to  
18 the taking.

19 No matter how slight the cause creating the fear is or  
20 by what other circumstances the taking is accomplished, if  
21 the transaction is accompanied by circumstances of terror  
22 such as threatening by word or gesture as in common  
23 experience or likely to create an apprehension of fear and  
24 induce a person to give up the property, the victim is  
25 placed in fear. The degree of force used is immaterial so

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1 long as such force or threat of force is actually sufficient  
2 to overcome the victim's resistance.

3 A person is guilty of the crime of strong arm robbery  
4 and not merely of an attempt if he moves the stolen goods a  
5 short distance and the crime is ongoing until the thief has  
6 reached a place of temporary safety.

7 The Defendant is also charged with assault and battery  
8 in the first degree. A person commits the offense of  
9 assault and battery in the first degree if the person  
10 unlawfully (a) injures another person and the act occurred  
11 during the commission of a robbery, burglary, kidnapping or  
12 theft or (b) offers or attempts to injure another person  
13 with the present ability to do so and the act is, one,  
14 accomplished by means likely to produce death or great  
15 bodily injury or, two, occurred during the commission of a  
16 robbery, burglary, kidnapping or theft.

17 Great bodily injury means bodily injury which causes a  
18 substantial risk of death or which causes serious permanent  
19 disfigurement or protracted loss or impairment of function  
20 of a bodily member or organ.

21 I will give you a copy of these instructions in written  
22 form. During your deliberations you may refer to the  
23 instructions to guide your decision-making. You must not  
24 consider the instructions as a whole and not follow some and  
25 ignore others. Please return the instructions to the court

CHARGE OF THE COURT

1 at the time your verdict is rendered.

2 Ladies and gentlemen, your verdict must be a unanimous  
3 one. Madame Foreperson, when the jury agrees on a verdict  
4 you will write the verdict on the verdict form and sign and  
5 date it. Then knock on the jury room door and inform the  
6 bailiff that you've reached a verdict. At that time we'll  
7 receive you back into the courtroom.

8 You will see that the verdict form is set up so you  
9 will consider the offense of armed robbery. Only answer  
10 question (b) if you find the Defendant not guilty of armed  
11 robbery. You will go on to consider the lesser included  
12 offense of strong arm robbery.

13 And then finally, irrespective of your verdict on armed  
14 robbery and strong arm robbery you will consider his guilt  
15 or innocence on assault and battery in the first degree.  
16 All right. And then you will sign and date the jury verdict  
17 form. All right.

18 Now, if you will go to your jury deliberation room, but  
19 do not begin deliberating until we have sent back all the  
20 exhibits to you. I have a matter of law I need to take up  
21 with the attorneys. And we will be with you very shortly.  
22 Thank you so much for your service.

23 (Whereupon the jury exited the courtroom at 3:00 pm)

24 **THE COURT:** Any objection on the charge on the law from  
25 the State?

1 MR. MOYER: No, Your Honor.

2 THE COURT: Any from the Defense?

3 MR. ERWIN: Just renewing my original objection.

4 THE COURT: All right. And they are so noted. All  
5 right.

6 I'm going to initial each page of this charge. And  
7 then I staple them together. I make it a Court's exhibit  
8 after deliberations are over. And we've taken out all of  
9 the cites to the law in this. So it's a -- it's a clean  
10 copy.

11 Will you all just make sure we've got all the exhibits  
12 together.

13 (Pause)

14 THE COURT: Y'all want to take a look at the verdict  
15 form before it goes back? That's the one thing y'all  
16 haven't seen.

17 (Pause)

18 THE COURT: Yes, sir.

19 MR. ERWIN: Your Honor, I just want to renew my  
20 directed verdict motion and all of the motions, all other  
21 objections that have been made throughout the course.

22 THE COURT: All right. And they are so noted for the  
23 record. And your motion's denied.

24 MR. ERWIN: Thank you, Your Honor.

25 THE COURT: All right. You can give that to him. All

VERDICT OF THE JURY

1 right. Go ahead and let them start deliberating. Y'all  
2 both did a great job. I know it's a short trial, but you  
3 did a great job. All right.

4 MR. MOYER: Alternate.

5 THE COURT: Oh, yeah. I forget about the alternate.

6 I'll go let her go. We'll be in recess pending a verdict.

7 (Whereupon the jury began deliberations at 3:03 pm)

8 (Whereupon court was in recess at 3:03 pm)

9 (Whereupon court resumed at 3:55 pm)

10 THE COURT: All right. Are we ready to bring the jury  
11 back in? Anything from the State before we bring them back  
12 in? Anything from the State before we bring them back in?

13 MR. MOYER: Oh, I'm so sorry ---

14 THE COURT: That's okay.

15 MR. MOYER: Yes, I'm ready, Your Honor.

16 THE COURT: Anything from the Defense?

17 MR. ERWIN: No, Your Honor.

18 THE COURT: Okay. And we'll mark the jury charge as  
19 Court's exhibit number 1.

20 (Whereupon Court's exhibit 1 was marked)

21 (Whereupon the jury entered the courtroom at 3:57 pm)

22 THE COURT: Madame Foreperson, it's my understanding  
23 that the jury's reached a verdict. Is that correct?

24 MADAME FORELADY: That's correct.

25 THE COURT: All right. I'll ask you to hand the

**VERDICT OF THE JURY**

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1 bailiff the verdict form, please. All right. The verdict  
2 form appears to be in order.

3 **MADAME CLERK:** Your Honor, in the case of 2010-GS-23-  
4 7905 and 7906, the State of South Carolina versus Alfred  
5 Bernard Bluford, as to the charge of armed robbery, we, the  
6 jury, unanimously find the Defendant guilty of armed  
7 robbery.

8 As to the charge of assault and battery in the first  
9 degree, we, the jury, unanimously find the Defendant guilty  
10 of assault and battery in the first degree.

11 This is signed by Ms. Robinson, our Forelady. Ladies  
12 and gentlemen, of the jury, if you agree this is your  
13 verdicts will you, please, raise your right hand.

14 (Whereupon all jurors raised their right hand)

15 **MADAME CLERK:** Thank you.

16 **THE COURT:** All right. Anything from the State before  
17 the jury panel's released?

18 **MR. MOYER:** No, Your Honor.

19 **THE COURT:** Anything from the Defense?

20 **MR. ERWIN:** No, Your Honor.

21 **THE COURT:** All right. All right. Ladies and  
22 gentlemen, we thank you so much for your service. If you'll  
23 step to your jury deliberation room, I'm going to go over  
24 there and speak with you briefly.

25 (Whereupon the jury exited the courtroom at 3:58 pm)

SENTENCE OF THE COURT

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1           **THE COURT:** All right. I'll be right back. I'm just  
2 going to let them go.

3           (Whereupon court was in recess at 3:59 pm)

4           (Whereupon court resumed at 4:00 pm)

5           **THE COURT:** All right. Are we ready to move to  
6 sentencing?

7           **MR. MOYER:** We're ready.

8           **THE COURT:** All right, then.

9           **MR. ERWIN:** Your Honor, briefly before we move ---

10          **THE COURT:** Oh, yes, sir.

11          **MR. ERWIN:** Just to clean up the record a little bit,  
12 Your Honor, I'd move for a judgment notwithstanding the  
13 verdict based on, you know, the same grounds of my directed  
14 verdict motion, renewed directed verdict motion just -- and  
15 also want to renew all motions, all objections that have  
16 been made up to this point.

17          **THE COURT:** All right. And your motions are  
18 respectfully denied, but noted for the record. All right.  
19 Mr. Moyer.

20          **MR. MOYER:** Thank you, Your Honor.

21          **THE COURT:** I probably don't need to hear anymore about  
22 the facts ---

23          **MR. MOYER:** Right.

24          **THE COURT:** --- unless it's something new.

25          **MR. MOYER:** Nothing else about the facts. His criminal

SENTENCE OF THE COURT

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1 record?

2 THE COURT: Yes, sir.

3 MR. MOYER: In South Carolina in 1965, assault and  
4 battery, 1986, obtaining money under false pretenses, eleven  
5 counts, 1990, twenty-nine counts of swindling, 1993, breach  
6 of trust, two counts of that, 1995, swindling, 2002, two  
7 counts of fraud check, 2004, fraud check, 2005, fraud check,  
8 2009, habitual traffic offender.

9 In Ohio he was convicted of six counts of passing bad  
10 checks in 1975. In Florida in 1982 he was convicted of  
11 postal fraud. In Georgia in 2001 he was convicted of DUS,  
12 possession of controlled substance and theft by taking. In  
13 North Carolina he was convicted in 1995 of six counts of  
14 obtaining property falsely, 2004, obtaining property falsely  
15 times eight, 2005, larceny times two, possession of stolen  
16 goods and obtaining goods by false pretenses.

17 And he also has a -- the only other thing I wanted to  
18 add to the facts that was obviously kept out, and I think  
19 Your Honor did hear, he had a crack pipe in his pocket when  
20 he was arrested.

21 THE COURT: All right.

22 MR. MOYER: And I don't believe Mr. Barr wishes to  
23 address the Court.

24 THE COURT: All right. Yes, sir.

25 MR. ERWIN: Thank you, Your Honor. A few things to

SENTENCE OF THE COURT

1 offer. First of all, Mr. Bluford is sixty-six years old.  
2 He's been incarcerated continuously since this -- this  
3 arrest violated his probation. He did go down the road, but  
4 he has been incarcerated, you know, since the day of this in  
5 -- July 29th, 2010. I ask that, you know, that time -- he  
6 be given credit for that time.

7 Understanding that the minimum amount on armed robbery  
8 is what it is, a sixty-six year old man, that's a --  
9 essentially a life sentence for him. He's, you know, I  
10 would like to offer in mitigation not in any sort of, you  
11 know, avoiding responsibility for this, but in mitigation  
12 that, you know, the amount of property attempted to be taken  
13 was not much.

14 The amount of actual harm -- obviously there's  
15 psychological and all that stuff, but the amount of actual  
16 harm to the victim was not that much, you know, a small cut  
17 on his hand. I understand there is larger purposes to these  
18 punishments, but I just want to make sure you keep that in  
19 mind for mitigation.

20 Your Honor, I'd ask you to consider the minimum  
21 sentence because it is just a lot of time for a man of his  
22 age.

23 **THE COURT:** All right. Mr. Bluford, anything you'd  
24 like to say?

25 **MR. BLUFORD:** I'm sorry for the -- the way things have

SENTENCE OF THE COURT

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1 come out here today. I didn't purposely do any harm to Mr.  
2 Barr or anybody. It was a misunderstanding.

3 I was over in that shopping center to get Chinese food.  
4 I live quite a ways from there. And I had come all the way  
5 over there just to get Chinese food at a quarter of nine.  
6 And I was rushed.

7 And so things started precipitating and things just  
8 really got kind of out of hand there, but I didn't go over  
9 there with any malice to commit a crime. I left my lights  
10 on, my TV on and my door open. And I haven't gotten back in  
11 two years.

12 So I didn't go to do any wrong. It's just a -- this  
13 was actually a -- just a mistake ---

14 **THE COURT:** All right.

15 **MR. BLUFORD:** --- that happened in the way it came out,  
16 but I didn't go to rob nobody.

17 **THE COURT:** I see. Well, I do have to take into  
18 consideration your age. And I am going to take that into  
19 consideration.

20 I sentence you to twelve years, give you credit for  
21 seven hundred and eleven days time served. And on the  
22 assault and battery, concurrent, ten years with seven  
23 hundred and eleven days credit for time served. Best of  
24 luck to you.

25 **MR. ERWIN:** Thank you, Your Honor.



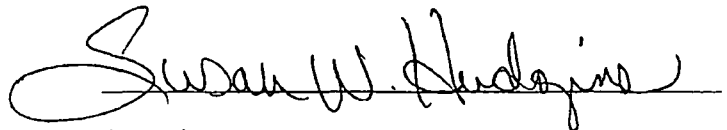
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Certificate of Reporter

I, the undersigned, Susan W. Hudgins, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Greenville County, South Carolina, on the 10th day of July 2012.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

October 27, 2012



Circuit Court Reporter

WITNESSES

Timothy Wade Calhoun

Greenville Police Department

7/29/2010

*C. A. Blush*

ARREST WARRANT NUMBER

M383675

ACTION OF GRAND JURY

TRUE BILL

*Bobby L. Jackson*

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010-GS-23-007905

LMM

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

March TERM 2011

7-10-12

THE STATE

vs.

ALFRED BERNARD BLUFORD

Indictment for

3412

ASSAULT AND BATTERY FIRST DEGREE

VIOLATION § 16-03-0600(C)

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
ASSAULT AND BATTERY FIRST DEGREE

MAR 15 2011

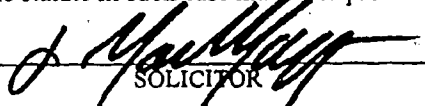
At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

That ALFRED BERNARD BLUFORD did in Greenville County, on or about the 29th day of July, 2010, offer or attempt to injure STEVE BARR with the present ability to do so and the act was accomplished by means likely to produce death or great bodily injury and/or the act occurred during the commission of a robbery, burglary, kidnapping and/or theft This is in violation of § 16-03-0600(C) of the Common Law of the State of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
SOLICITOR

WITNESSES

Timothy Wade Calhoun

Greenville Police Department

7/29/2010

*C. L. Booth*

ARREST WARRANT NUMBER

M383674 and M383676

ACTION OF GRAND JURY

TRUE BILL

*Booth Daum*

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010-GS-23-007906

LMM

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

March

TERM 2011

THE STATE

vs.

ALFRED BERNARD BLUFORD

Indictment for

0139 and 0549

ARMED ROBBERY and POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

VIOLATION § 16-11-0330 and § 16-23-0490

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
ARMED ROBBERY and POSSESSION OF A WEAPON DURING  
THE COMMISSION OF A VIOLENT CRIME

MAR 15 2011

At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

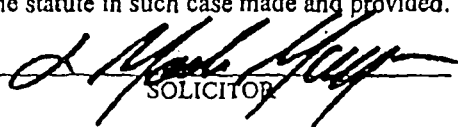
**COUNT I - ARMED ROBBERY**

That ALFRED BERNARD BLUFORD did in Greenville County, on or about the 29th day of July, 2010, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies described as: beer, belonging to Bi-Lo, from the person or presence of STEVE BARR. This is in violation of §16-11-0330 of the South Carolina Code of Laws (1976) as amended.

**COUNT II - POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME**

That ALFRED BERNARD BLUFORD did in Greenville County, on or about the 29th day of July, 2010, possess or visibly display a knife during the commission or attempted commission of a violent crime, to wit: kidnapping. This is in violation of §16-23-0490 of the South Carolina Code of Laws (1976) as amended.

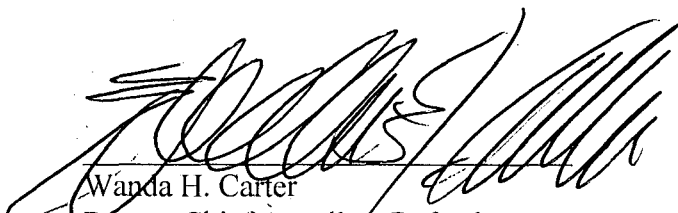
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
SOLICITOR

## 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."

February 26th, 2013



Wanda H. Carter  
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
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(803) 734-1330

ATTORNEY FOR APPELLANT