

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHESTERFIELD COUNTY

Paul M. Burch, Circuit Court Judge

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SC COURT OF APPEALS

THE STATE,

RESPONDENT,

V.

JAMES C. TYNER,

APPELLANT

APPELLATE CASE NO. 2012-212324

RECORD ON APPEAL

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LALOYCE CHAPMAN, Victim's Wife

RALPH CHAPMAN, JR., Victim's Son

WAYNE JORDAN, Chesterfield Cty. Sheriff's Office

BRANDON NOLAN,

BRANDON BOUEW,

ADAM QUICK,

DELTON POWERS, Esquire

BRUCE WALTERS,

HATTIE O. GORDON  
Circuit Court Reporter

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COLLOQUY

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VOIR DIRE OF THE JURY

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MR. COCKRELL: Your Honor, in the matter of the State v. James Tyner, I have not spoken with my client since -- in around two weeks. He was aware that he was likely going to be called at the next term of Court when -- the last time I spoke to him. However, I have not, and I move for a continuance and an opportunity to meet with him in order to fully prepare for the defense of this matter.

THE COURT: Based on the fact that it was continued the last time the Court, sort of for unusual reasons, you are going to have to be prepared to go before the Supreme Court on the selection situation. I am going to give you partial relief on it. I'll continue it until tomorrow to try to get him located, but that's about the best that I can do cause it's pretty obvious to the Court that he's playing games with you.

MR. COCKRELL: Thank you, Your Honor.

MR. JONES: Thank you, Your Honor.

(WHEREUPON, jury qualification was conducted on the record but not included in this transcript of the record.)

THE COURT: I find the panel so qualified. Now, ladies and gentlemen, the next thing that is going to happen, at least I think is going to happen, the

1 Solicitor, under our constitution at the time controls the  
2 call of the docket in our General Sessions Court. General  
3 Sessions is an Old English term which in effect means that  
4 we will be trying the criminal cases that are pending in  
5 Chesterfield County. If we were trying civil cases it  
6 would be what we call Common Pleas. In Common Pleas Court  
7 the Court, and through the Clerk's Office, we call the  
8 docket in effect setting the cases that will be called and  
9 work very closely with all the members of the bar that may  
10 be involved in these cases.

11 With General Sessions the Solicitor, which I feel  
12 sure all of you are aware that in South Carolina and  
13 Virginia I believe it is the prosecuting authority in a  
14 particular jurisdiction called the Solicitor. In other  
15 states it's called the State's Attorney or the District  
16 Attorney. Well, in South Carolina the Solicitor at this  
17 time will call the cases for trial, and I will defer to  
18 the Solicitor's Office at this time to call the cases that  
19 we may be seating a jury for in a few minutes.

20 That will mean I'm going to have to ask you another  
21 series of questions which will be more case specific.  
22 Solicitor.

23 MR. JONES: Thank you, Your Honor. State calls James  
24 Tyner. Indictment Number 2011-GS-13-0239, assault and  
25 battery of a high and aggravated nature. And

1 2011-GS-13-0240, strong armed robbery.

2 THE COURT: If I can have those, please. And for the  
3 record, Mr. Cockrell of the Chesterfield County Bar will  
4 be representing Mr. Tyner. We will not begin this case  
5 today, but while we've got a jury panel here and everybody  
6 was in agreement to save the County considerable expense  
7 and to go ahead and seat a jury today.

8 As you heard the State has called the cases of the  
9 Defendant, being James Curtis Tyner, indicted by the Grand  
10 Jury of Chesterfield County with the offenses of assault  
11 and battery of a high and aggravated nature and strong  
12 armed robbery. Also sometimes called common law robbery.  
13 the indictment alleges that these offenses occurred in  
14 Chesterfield County on or about December the 23rd 2010.  
15 The Defendant, James Curtis Tyner, at that time he was a  
16 resident of Ruby Road in Hartsville, South Carolina.

17 The question I have to pose to you; anybody on the  
18 panel related by blood or by marriage or have any  
19 business, social, religious or fraternal relationship  
20 where James Curtis Tyner, if so we need you to stand at  
21 this time.

22 PROSPECTIVE JUROR: Is this the same one I think  
23 where I work? He was a student where I work.

24 THE COURT: Let's see if I can help. Date of birth,  
25 1983.

1 PROSPECTIVE JUROR: I think it's the same one.

2 THE COURT: All right. Would the fact that you have  
3 that prior knowledge of him and knew him at that time  
4 would that affect your ability to be a fair and impartial  
5 juror?

6 PROSPECTIVE JUROR: No, sir.

7 THE COURT: Thank you. Anyone else? We need your  
8 juror number, please.

9 PROSPECTIVE JUROR: Twenty-one.

10 THE COURT: Going to be the same question, but we're  
11 going to have several other individual's names. Anyone  
12 related by blood or marriage or have any business, social,  
13 religious or fraternal relationship in any way with Ralph  
14 Chapman? And I'll turn it over first to the State to call  
15 any other potential witnesses.

16 MR. JONES: LaJoyce Chapman, Wayne Jordan, Bruce  
17 Wayne Walters, Adam Quick, Brandon Nolan, and Brandon  
18 Bouew.

19 PROSPECTIVE JUROR: I'm sorry. Their neighbors of  
20 mine and about 7-miles down the road from me. And I know  
21 Bruce. Same thing.

22 THE COURT: Okay. Number 65 again. Anyone else. If  
23 any one of those witnesses, potential witnesses, are here  
24 turn around and face the jury where they can get a look at  
25 you. Mr. Jordan is over here is with the Sheriff's

1 Department. All right. Juror Number 21 would you come up  
2 to the court reporter's box, please. Don't talk too loud  
3 but so that she can hear.

4 PROSPECTIVE JUROR: Okay.

5 THE COURT: You told us that you knew them. I'll  
6 just boil it down to the brass plate. If you were to be  
7 seated on this jury could you be both fair to the State  
8 and to the Defendant?

9 PROSPECTIVE JUROR: I could be.

10 THE COURT: In other words the fact that you've got  
11 some neighbors that may be witnesses would that affect  
12 your ability to be fair and impartial?

13 PROSPECTIVE JUROR: No, sir.

14 THE COURT: Any questions?

15 MR. COCKRELL: Are you familiar with the facts that  
16 surround this case?

17 PROSPECTIVE JUROR: Just hearsay.

18 MR. COCKRELL: Your Honor, I think she's kind of  
19 biased. The fact that she has some knowledge, hearsay or  
20 otherwise, it's a close proximity to the area. I ask for  
21 dismiss for cause.

22 PROSPECTIVE JUROR: General talk. I've got to be  
23 honest.

24 THE COURT: Okay. Let me think about it, okay. All  
25 right. Anyone else on that question?

1 PROSPECTIVE JUROR: I don't know if this is relevant,  
2 but my daughter worked with Wayne Jordan at the Sheriff's  
3 Department.

4 THE COURT: And your name.

5 PROSPECTIVE JUROR: Linda Mills, Number 26.

6 THE COURT: Would that affect your ability to be fair  
7 and impartial?

8 PROSPECTIVE JUROR: No, sir.

9 PROSPECTIVE JUROR: I've known Wayne Jordan since he  
10 was a little, tiny boy. We'd go to church together.

11 THE COURT: Is that good or bad? Would that affect  
12 your ability to be a fair and impartial juror?

13 PROSPECTIVE JUROR: No, sir.

14 THE COURT: Now, he's not related to you?

15 PROSPECTIVE JUROR: No. No.

16 THE COURT: You just know him?

17 PROSPECTIVE JUROR: Yes, sir.

18 THE COURT: Your juror number.

19 PROSPECTIVE JUROR: 124.

20 THE COURT: All right. Anyone else? Yes.

21 PROSPECTIVE JUROR: I taught Wayne. I believe it  
22 will not affect me. And I'm Number 78.

23 THE COURT: Number 78.

24 PROSPECTIVE JUROR: Does it count if I used to work  
25 with him?

1 THE COURT: Yes, sir.

2 PROSPECTIVE JUROR: It won't affect me.

3 THE COURT: And your number? Number Four.

4 PROSPECTIVE JUROR: Number 64.

5 THE COURT: Sixty-four, sorry. You used to work with  
6 him. Mr. Wallace.

7 PROSPECTIVE JUROR: I know Deputy Jordan from school.

8 THE COURT: All right. We have Nelda Richardson,  
9 Mr. Stewart Wallace, and?

10 PROSPECTIVE JUROR: Wanda Byrd.

11 THE COURT: All know him previously from school.

12 Would that affect y'all ability to be fair and impartial  
13 jurors if selected on this case?

14 PROSPECTIVE JUROR: No, sir.

15 PROSPECTIVE JUROR: No, sir.

16 PROSPECTIVE JUROR: No, sir.

17 THE COURT: All right. Thank you. Mr. Wallace, what  
18 is your juror number?

19 PROSPECTIVE JUROR: 141.

20 THE COURT: Ms. Richardson?

21 PROSPECTIVE JUROR: 118.

22 THE COURT: Ms. Byrd?

23 PROSPECTIVE JUROR: Twenty-four.

24 THE COURT: Is there anybody -- has anybody discussed  
25 this case with anyone or have any personal knowledge or

1 developed any opinions about any issues in this case?

2 Already got you. Juror 121. Anyone else?

3 Does anyone know of any bias, prejudice or any reason  
4 why you could not be both fair to the State and the  
5 Defense?

6 Anybody presently represented or represented in the  
7 past by the Solicitor's Office? Or by Mr. Cockrell? Or  
8 represented by any other attorney who may be seated at the  
9 table? Yes?

10 PROSPECTIVE JUROR: Mr. Cockrell did a land deed for  
11 me.

12 THE COURT: And your number?

13 PROSPECTIVE JUROR: Forty-eight.

14 THE COURT: Past representation? Not present?

15 PROSPECTIVE JUROR: Not present.

16 THE COURT: Yes, ma'am.

17 PROSPECTIVE JUROR: Mr. Turnblad is pending  
18 representation in a personal matter.

19 THE COURT: Your number?

20 PROSPECTIVE JUROR: Fifty-four.

21 THE COURT: Fifty-four?

22 PROSPECTIVE JUROR: Fifty-four.

23 THE COURT: Thank you. One last question from me.

24 Does anybody know of any reason whatsoever why you should  
25 not serve on this jury? Any further questions from either

1 side?

2 MR. JONES: No, Your Honor.

3 MR. COCKRELL: None from the Defense.

4 THE COURT: Okay, 54 and 21 are out. All right. The  
5 next thing that is going to happen is we're going to give  
6 Madam Clerk a few minutes to prepare us a list. Things  
7 have changed a lot in the last two to three years. Before  
8 that we had a bin that had capsules in it. Everybody's  
9 name had to go in this capsule and dropped in that bin.  
10 And it turns, something like you see on t.v, you know.  
11 And you draw the names out one at the time. And it took  
12 quite some time to do that especially in a case where you  
13 had multiple strikes.

14 Now a days, with the computers and all loaded in the  
15 computer and it does all the random sorting and  
16 everything. But we've got to give them a few minutes to  
17 do that, and once we come up with a random list we will be  
18 calling you forwards to come up and stand in front of the  
19 microphone here and face both tables and let them get a  
20 good look at you and decide whether they want you on this  
21 particular case or not. Okay.

22 If it was Common Pleas it would be a secret process.  
23 You wouldn't know if you were stricken or not, but here in  
24 criminal court, as I say, you have to come forward. And I  
25 know that's an awkward thing for me to have to ask you to

1 do but it's just the way it's done. And we apologize for  
2 any discomfort that this may cause, but any time you've  
3 anyone interested in the State's interest that are in the  
4 Court we want everybody to be aware of who the potential  
5 jurors are. And it's just more important that we get a  
6 good look at you and let them see you.

7 It's nothing wrong with knowing each other. So like  
8 I say if somebody speaks that doesn't mean anything to me  
9 except that you're being nice. So don't worry about that.  
10 You don't have to be absolutely clammy about it. Just  
11 like I said be careful what you say and who you say it to.

12 Now, while we're getting the list ready sometimes I  
13 have questions, and I sort of like to just talk with the  
14 jurors about why things are the way they are. One  
15 question is, why do you separate the courts into criminal  
16 court and to civil court? Why don't you just get a jury  
17 down here and try whatever is available? Well, one  
18 obvious reason is what I just talked to you about; the way  
19 we're different in the way you seat a jury.

20 The other factor is just pure logistical; that it  
21 would be very difficult to do. And of course, the other  
22 factor that I already mentioned to you is the Solicitor's  
23 Office controls the case docket in criminal court and the  
24 Court, through the Clerk of Court's Office, controls the  
25 civil docket. So it would be very difficult to administer

1 them.

2 Another question that is asked is why do you have  
3 Court starting at 9:30 or ten o'clock when other  
4 businesses open at 8:00 or 830? Well, you've got to keep  
5 in mind that there are two important reasons for that.  
6 Compared to other states South Carolina has large  
7 counties. Those of you that are from Chesterfield County  
8 and have been here for quite some time know that it takes  
9 you an hour to drive from Wolf Pond to Society Hill. Many  
10 people have to drive over 40 minutes from the far reaches  
11 of the county to get to the courthouse.

12 Different from the State of Georgia where you have  
13 small compact counties. The other reason is that you've  
14 got attorneys, especially in the private bar, that are  
15 trying cases that not only represent that particular  
16 individual in the courtroom but they may have 200 other  
17 client's interest that they've got to look after on a day  
18 to day basis, and the only time they have to do it is in  
19 the morning. So we have to give the attorneys time to go  
20 back to their office and get everything else straight for  
21 the day and then come in and take care of Court  
22 appearances.

23 The same applies to most circuit judges. Now, if  
24 you're on the road and you're assigned to a far county  
25 somewhere you're not going to have too many administrative

1 duties to do. But if you're out locally, as we have been  
2 for the last several years, somebody has got to be the  
3 chief administrative judge and that means that the judge  
4 has got to go in and take care of matters in the morning  
5 or either go late in the afternoon.

6 So that's the reason we try now to follow banking  
7 hours. As Miss Faye will remember and Miss Lear will  
8 remember wasn't many years ago that we would operate  
9 sometimes until 8:00 or nine o'clock at night. And the  
10 Chief Justice got so many complaints about that, not only  
11 from jurors who needed to pick up their children after  
12 school or after work, and also Court staff that had  
13 obligations. The Chief Justice at that time finally  
14 decided that we're not going past five o'clock or 5:30  
15 until it's absolutely necessary. And so we're basically  
16 down to banker's hours for various reasons.

17 So that's a question that's asked sometimes. Another  
18 question that is asked sometimes, now, we're a little bit  
19 unusual here in that having a resident judge from your  
20 actual county. Some various times a person several years  
21 ago got a gavel and put it up here and had my name put on  
22 it. So, therefore, it has been here. But in most older  
23 court houses in South Carolina you won't find a gavel on  
24 the bench. People, that just doesn't make sense. All  
25 judges should have a gavel on the bench.

1 Well, I was told many years ago by a very wise Chief  
2 Justice that it was tradition in South Carolina that the  
3 judge didn't need a gavel; that the people of this State  
4 respected the law enough to where you didn't have to call  
5 to order or need a gavel to maintain order. So that  
6 speaks well for all of us. And very seldom do I use a  
7 gavel. About the only time I do is when we finish court,  
8 if I've got one available, my court reporter likes to hear  
9 we're adjourned for the week and I may hit the gavel just  
10 to make her smile. That's about the only time that you  
11 will see us use a gavel.

12 I'm informed that we're ready. So I'll end my  
13 history lessons to you this morning, and we'll get on with  
14 business.

15 SELECTION OF THE JURY

16 CLERK OF COURT: When I call your name come to the  
17 front and bring everything with you. Number 50 is Gail P.  
18 Funderburk. What says the State?

19 MR. JONES: One second, Your Honor. Please seat  
20 Miss Funderburk.

21 CLERK OF COURT: What says the Defense?

22 MR. COCKRELL: Please seat the juror.

23 THE COURT: Have a seat in the jury box, please.  
24 Number Four, Dana H. Alexander. What says the State?

25 MR. JONES: Please present Ms. Alexander.

1 CLERK OF COURT: Defense?

2 MR. COCKRELL: One moment, please. Please swear the  
3 juror.

4 CLERK OF COURT: Have a seat in the jury box, please.  
5 Number 98, James H. McBride the Third. What says the  
6 State?

7 MR. JONES: Please strike the juror.

8 CLERK OF COURT: You can have a seat back. Number  
9 130, Sonya Lee Smith. What says the State?

10 MR. JONES: One moment, Your Honor. Please present  
11 Miss Smith.

12 CLERK OF COURT: Defense?

13 MR. COCKRELL: Please swear the juror.

14 CLERK OF COURT: Have a seat in the jury box, please.  
15 Number 141, Stewart A. Wallace. What says the State?

16 MR. JONES: Please present Mr. Wallace.

17 CLERK OF COURT: Defense?

18 MR. COCKRELL: Please excuse the juror.

19 CLERK OF COURT: You may return to your seat. Number  
20 115, Charles T. Powell, Jr. What says the State?

21 MR. JONES: Please present the juror.

22 CLERK OF COURT: Defense?

23 MR. COCKRELL: Please excuse the juror.

24 CLERK OF COURT: You may return to your seat. Number  
25 54, Victoria B. Goodin. What says the State?

1 THE COURT: That will be Court excused.

2 CLERK OF COURT: Number 72, Shannon M. Jacobs. What  
3 says the State?

4 MR. JONES: Please present Ms. Jacobs.

5 CLERK OF COURT: Defense?

6 MR. COCKRELL: Please seat the juror.

7 CLERK OF COURT: Have a seat in the jury box, please.  
8 Number 56, Jessica L. Hammond. What says the State?

9 MR. JONES: One moment, Your Honor. Please present  
10 Ms. Hammond.

11 CLERK OF COURT: Defense?

12 MR. COCKRELL: Please seat the juror.

13 CLERK OF COURT: Have a seat in the jury box, please.  
14 Number 60, Annisia A. Campbell. What says the State?

15 MR. JONES: One moment, Your Honor. Please excuse  
16 the juror.

17 CLERK OF COURT: You may return to your seat. Number  
18 44, Robin L. Eubanks. What says the State?

19 MR. JONES: Beg the Court's indulgence. Please  
20 present Miss. Enbanks.

21 CLERK OF COURT: What says the Defense?

22 MR. COCKRELL: Please seat the juror.

23 CLERK OF COURT: Have a seat in the jury box, please.  
24 Number 39, Jowanda S. Drake. What says the State?

25 MR. JONES: One moment, Your Honor. Please excuse

1 the juror.

2 CLERK OF COURT: You may return to your seat. Number  
3 128, David W. Sides. What says the State?

4 MR. JONES: One second, Your Honor. Please present  
5 Mr. Sides.

6 CLERK OF COURT: Defense?

7 MR. COCKRELL: Please seat the juror.

8 CLERK OF COURT: Have a seat in the jury box, please.  
9 139, Susan M. Terry. What says the State?

10 MR. JONES: One second, Your Honor. Please present  
11 Ms. Terry.

12 CLERK OF COURT: Defense?

13 MR. COCKRELL: Please seat the juror.

14 CLERK OF COURT: Have a seat in the jury box. Number  
15 33, Kristin B. Cox. What says the State?

16 MR. JONES: One second, Your Honor. Please seat  
17 Ms. Cox.

18 CLERK OF COURT: Defense?

19 MR. COCKRELL: Please seat the juror.

20 CLERK OF COURT: Have a seat in the jury box, please.  
21 Number 16. No, Number Five. I'm sorry. Number Five,  
22 Charlotte T. Alford. What says the State?

23 MR. JONES: Beg the Court's indulgence. Please  
24 present Ms. Alford.

25 CLERK OF COURT: Defense?

1 MR. COCKRELL: Please seat the juror.

2 CLERK OF COURT: Have a seat in the jury box, please.

3 Number 101, Shakeela D. McNeely. What says the State?

4 MR. JONES: Beg the Court's indulgence. Please  
5 excuse the juror.

6 CLERK OF COURT: You may return to your seat, please.

7 Number 31, Timothy M. Cottingham. What says the State.

8 MR. JONES: Please present Mr. Cottingham.

9 CLERK OF COURT: Defense?

10 MR. COCKRELL: Please seat the juror.

11 CLERK OF COURT: Have a seat in the jury box, please.

12 Number 24, Wanda M. Byrd. What says the State?

13 MR. JONES: Please present Ms. Byrd.

14 CLERK OF COURT: Defense?

15 MR. COCKRELL: Please excuse the juror.

16 CLERK OF COURT: You may return to your seat. Number

17 117, Henry P. Rhoad the Third. What says the State?

18 MR. JONES: Please present Mr. Rhoad.

19 CLERK OF COURT: Defense?

20 MR. COCKRELL: Please seat the juror.

21 CLERK OF COURT: Have a seat in the jury box, please.

22 Alternates?

23 THE COURT: Let's seat two alternates.

24 CLERK OF COURT: Number 132, Raven H. Starling. What  
25 says the State?

1 MR. JONES: Beg the Court's indulgence. Please  
2 present Ms. Starling.

3 MR. COCKRELL: Please seat the juror.

4 CLERK OF COURT: Have a seat in the jury box. Number  
5 105, Vickie L. Bryant. What says the State?

6 MR. JONES: Please present Ms. Bryant.

7 CLERK OF COURT: Defense?

8 MR. COCKRELL: Please seat the juror.

9 CLERK OF COURT: Have a seat in the jury box, please.

10 THE COURT: Any matters concerning selection of the  
11 jury?

12 MR. JONES: None from the State, Your Honor.

13 MR. COCKRELL: I do have a motion to make outside of  
14 the jury.

15 THE COURT: Ladies and gentlemen of the jury, please  
16 do not discuss this case, but I need you to step back into  
17 the jury room. Just relax back there a few minutes. All  
18 the members that remain on the panel I need you to return  
19 to the assembly area for a few minutes.

20 (WHEREUPON, the jury panel and jury pool were excused  
21 from the courtroom at 11:29 a.m.)

22 COLLOQUY

23 THE COURT: All right, sir.

24 MR. COCKRELL: Your Honor, I make a motion under  
25 Batson v. Kentucky. The jurors struck by the State:

1 Number 98, young black male; Number 60, young black  
2 female; Number 39, young black female; Number 101, young  
3 black female. And state a racial reason that the State  
4 has struck these four jurors. The only jurors that they  
5 struck are in violation of the Batson matter.

6 THE COURT: Solicitor, and make sure I'm correct on  
7 mine. Each side had three strikes, correct?

8 MR. JONES: Your Honor, the State struck four.

9 THE COURT: Four. I'm missed something. Mark on  
10 someone, Number 17.

11 MR. COCKRELL: Number 98, for the State, Number 60,  
12 Number 39, and Number 101.

13 THE COURT: That's the one I missed. Left them on  
14 there. So four and three. All right, Solicitor, as you  
15 know you've got to give us a racially neutral reason for  
16 these strikes.

17 MR. JONES: Yes, Your Honor. As to Juror 98, that  
18 jury was unemployed, and per State v. Floyd that's a  
19 racially neutral reason.

20 Juror Number 60 that defendant had a prior assault  
21 conviction from 1990. Per State v. Martinez that's a  
22 racially neutral reason.

23 Number 39, I consulted with the victim on that as to  
24 with all the jury strikes, and she indicated that she had  
25 an attitude. She didn't think she would participate in

1 jury discussions. And per State v. Casey that is a race  
2 neutral reason.

3 And Juror Number 101 that juror had a lip ring. And  
4 I believe talked to the victim and co-counsel lives in the  
5 area where -- and don't think she would participate in a  
6 jury discussion. And we believe those are all a race  
7 neutral reasons.

8 THE COURT: Now.

9 MR. JONES: I would also like to point out that we  
10 presented -- I presented one black male, Juror Number 141  
11 and one black female, Juror Number 24, that the Defense  
12 struck.

13 THE COURT: Back to Juror 39, let me make sure. I  
14 need a little further explanation get my mind clear on  
15 that. When you said the lady that's assisting you and the  
16 victim's families, does she know or does she have an  
17 opinion that the attitude or that she had an attitude from  
18 something she knows out of Court, or was what something  
19 that was developed in Court?

20 MR. JONES: No, Your Honor, something developed in  
21 Court. It was the overall demeanor. She appeared like  
22 she didn't want to be here which lead to -- it was the  
23 exact discussion in State v. Casey, I believe.

24 THE COURT: Okay. Thank you.

25 MR. COCKRELL: Your Honor, I don't know. To me I

1 think they're fishing for reasons to find compliance with  
2 the Batson v. Kentucky. Furthermore, jurors traditionally  
3 typically do not -- they've got other things, very  
4 important things to do. Work related or family related,  
5 and so just the general demeanor of a potential juror I  
6 don't think is a valid reason to strike a person.

7 And it specifically shows that the only persons that  
8 were struck here were young black males or females, and as  
9 such I think that that clearly shows that they are either  
10 striking in violation of Batson v. Kentucky Supreme Court  
11 opinion.

12 THE COURT: Well, unemployed, assault, appearance in  
13 Court, and a lip ring just not enough there for me to set  
14 this aside. So I'll have to deny that motion.

15 MR. JONES: Thank you, Your Honor.

16 MR. COCKRELL: Thank you, Your Honor.

17 THE COURT: All right. Fire up in the morning.

18 MR. JONES: Yes, Your Honor.

19 THE COURT: Any extensive pretrial motions, any at  
20 all?

21 MR. COCKRELL: Not at this time, Your Honor.

22 MR. JONES: No, Your Honor.

23 THE COURT: All right. Let me take a look at this.  
24 Some of them have to travel. Let's start at 10:00. That  
25 way we won't be rushing people down here in the morning.

1 BY MR. JONES:

2 Q. Can you hear me right here, Mr. Chapman?

3 A. I think so.

4 Q. All right. State your name for the record, please,  
5 sir?

6 A. Ralph W. Chapman.

7 Q. And where do you live?

8 A. Road, Patrick.

9 Q. Actually, I'm going to stand right here so everybody  
10 can see you, okay?

11 A. Okay.

12 Q. Now, where do you live again?

13 A. Road, Patrick.

14 Q. Okay. And do you work?

15 A. Not anymore.

16 Q. Where ---

17 A. I haven't worked since 2004.

18 Q. Where did you used to work?

19 A. Crown Cork and Seal was the last place I worked.

20 Q. Will you tell us about the events on December 31st  
21 2010?

22 A. Well, somewhere between 6:00 and 6:30 my wife heard  
23 somebody beating on our front door. I can't hear, but it  
24 happened I think two or three times. She got me up and I  
25 said, "Well, it's nobody that knows us. Nobody in the

1 neighborhood." They would come to the side door. What we  
2 call the back door.

3 MR. JONES: Yes, sir.

4 THE COURT: And she said, "Might be somebody broke  
5 down and need some help." And I said, "Well, that could  
6 be," and I said, "Soon as I get my clothes on and  
7 everything I'll see what I can do." So I went ahead and  
8 got dressed and everything and all, and somewhere around  
9 6:30 I went out the house. And I walked around to the  
10 front, checked. I couldn't find anybody, didn't hear  
11 anything or whatever.

12 Q. Did you see anything?

13 A. Not at that time. When I turned around and started  
14 back around down the road towards -- my sister lives maybe  
15 a hundred yards, and there was a car parked on the side of  
16 the road. I could just, you know, barely see it. And I  
17 said, "Well, you know, might be somebody did break down.  
18 I'll go get the truck and drive down there and see what's  
19 going on."

20 Q. Just a minute. Describe where you live. Are there  
21 any other houses that are close to you?

22 A. My sister, which is close to a quarter mile away, at  
23 least 300 yards -- 300, 400 yards.

24 Q. She's the closest to where you live?

25 A. Yes, sir.

1 Q. Go ahead.

2 A. Anyway, I walked back to my truck. I unlocked my  
3 truck, and when I did two guys grabbed me. And they  
4 slammed me into the truck and then they started beating on  
5 my head pretty good. And finally took me down. I guess I  
6 was in a more or less a fetal position, had my head down,  
7 and one of them was choking me. He had his hand over my  
8 mouth and nose where i couldn't breathe.

9 Q. Can you describe what they were wearing?

10 A. They had on parkers, I guess you call them. Maybe a  
11 pale green. I don't know, not an olive color but a pale  
12 green.

13 Q. A parker like a long coat?

14 A. Yes, three quarter length or whatever.

15 Q. Yes, sir.

16 A. With the hoodie.

17 Q. The hood was up?

18 A. Yes, sir.

19 Q. Okay.

20 A. When they first grabbed me I turned around I got one  
21 look right in Bruce -- Bruce Walters' face. But, anyway,  
22 they took me down and they whooped up on me pretty good.

23 Q. Okay. Let's go back for a second. Was there  
24 anything covering their heads?

25 A. No, their hoods were up.

1 Q. Did they have on masks?

2 A. No. No.

3 Q. Okay. What about gloves?

4 A. They had on gloves. They had their hand over my  
5 mouth. I kept trying to break one of their fingers  
6 because I couldn't breath.

7 Q. Do you think you could have broke one?

8 A. No, I don't think so. I could put enough pressure on  
9 it every once in a while so I can get a little air, and I  
10 begged them not to kill me. Just go ahead and take what I  
11 had and go.

12 Q. Did they ever say anything to you?

13 A. No, never opened their mouth and they left.

14 Q. You asked them not to kill you?

15 A. Yes.

16 Q. Then what happened?

17 A. Well, they, every time I get their hand off where I  
18 could breathe I got a little lick up side the head, but  
19 they were having trouble getting my billfold out of my  
20 pocket I guess because of the position I was in and I had  
21 on a pair of blue jeans. And it seems like they would  
22 never get it out. But they finally did get my billfolder  
23 out, and when they did they jumped up and ran off towards  
24 the highway.

25 Q. Okay. And how many of them ran off?

1 A. Two. Two.

2 Q. Okay.

3 A. One appeared to be a little taller than the other and  
4 a lot slimmer.

5 Q. Okay.

6 A. And the third person, whoever picked them up, and out  
7 at the highway in the automobile.

8 Q. Now, was that the same vehicle that you saw that was  
9 parked down the road?

10 A. Yes, sir.

11 Q. Okay. How are you sure of that?

12 A. No other vehicle came by, and it wasn't down there  
13 once they left.

14 Q. Right. Was the car in motion when it picked them up  
15 or still there?

16 A. It was in motion because when they got to it it  
17 stopped. They jumped in, went on down to the stop sign,  
18 which is 50, 60-yards and took a left towards Society  
19 Hill.

20 Q. Okay. Just to be clear how many men were in that  
21 vehicle when they drove off?

22 A. At least three.

23 Q. Okay.

24 A. And the driver and the two that left me.

25 Q. Okay. Now, you mentioned -- let's go back. After

1 they left tell us what you did?

2 A. I got up and went in the house, started in the house.  
3 I met my wife coming out of the house cause she could hear  
4 me. I tried to call her name a couple of times when they  
5 were beating on me, and I said two guys just beat the crap  
6 out of me and robbed me. And I went in the kitchen and  
7 sit at the kitchen table. After a minute or two I realize  
8 that I was bleeding all over everything, and I walked back  
9 outside and sit down on the back door steps. And I was  
10 still there when the deputies finally got there and the  
11 E.M.T. and whatever.

12 Q. Now, you mentioned a name of somebody who you thought  
13 was attacking you. Tell us what happened a few days prior  
14 that made you believe he was one of the men who attacked  
15 you?

16 A. This other guy, Bruce Wayne Walters, had trouble with  
17 him Wednesday morning at the truck stop. He came in the  
18 truck stop ---

19 Q. Now, Wednesday morning, what day were you attacked at  
20 your home?

21 A. The 31st on Friday morning.

22 Q. Friday. On Wednesday ---

23 A. Before that. Two days before.

24 Q. Okay.

25 A. He came in the truck stop and wanted me to take him

1 down to Galey and Lord which was a plant out of Society  
2 Hill ---

3 Q. Yes, sir.

4 A. --- for a job interview, and I thought that was  
5 pretty strange. But, anyway, I said I would.

6 Q. What time was that?

7 A. That was probably 8:30 in the morning, thereabouts.  
8 Some time like that.

9 Q. Okay.

10 A. And I said, "Okay, I can do that. I got a couple of  
11 minutes to go that way. He got in the truck. He started  
12 to asking me for money, and I tried to explain to him, I  
13 said, "Bruce, I don't work anymore. I don't have money to  
14 lend. You know, I have to live from month to month."

15 And then he wanted to start trying to sell me pills.  
16 Pills, some kind of pills. Zanex to be exact. I said,  
17 "Bruce, I don't do stuff like that." He said, "Well, I  
18 know there is plenty of them up your way you could  
19 probably sell them to." I said, "Yeah, I'm sure they  
20 could, but I just done do that."

21 So I proceeded on down the road with him. He jumped  
22 me again a time or two about trying to lend him money. I  
23 said, "Bruce, I just don't have it."

24 Q. Okay.

25 A. Well, before we got to Galey and Lord we turned down

1 a dirt road and turned back down another one and ended up  
2 in a little trailer.

3 Q. At his direction?

4 A. Yeah, in the wooded area. That didn't sound right  
5 either, but he said the guy was going to help him get a  
6 shutdown job.

7 Q. So you pulled up to a house or a trailer?

8 A. Pulled up to a trailer. He got out and he went and  
9 beat on the door. They finally let him in. Then he came  
10 back and wanted me to wait on him a little bit. So he  
11 talked to the guy a little more. I said, "Okay, I can  
12 wait a couple more minutes." He went back in and came  
13 back out and wanted to know if I would let him have \$2 to  
14 give the guy to buy gas with. I thought that was a little  
15 odd, too, but I said, okay and reached back and pulled my  
16 billfold out and gave him two more dollar bills and he  
17 goes back in the trailer.

18 Q. Now, when you pulled your billfold out describe for  
19 us what your billfold looks like?

20 A. Well, I have a lot of \$1 bills in it, and I had a  
21 \$100 bill, had six or 7 \$20s, a bunch of \$5 and a stack of  
22 \$1's. I'm bad about carrying a lot of \$1 bills especially  
23 at certain times of the month.

24 Q. Right.

25 A. And I guess he saw what I had. He must have thought

1 I had a lot of money ---

2 Q. Yes, sir.

3 A. --- in there. Well, I give him the \$2 and put my  
4 billfold back in my pocket. I knew then it was time for  
5 me to get out of here, but he -- so when he went back in  
6 the trailer at that time I backed around and I pulled off  
7 and drove down the road and left. He come running out  
8 through the woods and tried to flag me down, and I said,  
9 "I'm not stopping. I'm gone."

10 Q. Yes, sir.

11 A. And I guess I kind of made him angry, and that Friday  
12 morning he got even with me big time.

13 Q. Okay. Now, and finally after it happened who was  
14 the -- what name did you tell the police that was somebody  
15 you thought did it?

16 A. I told them that it was Bruce.

17 Q. Okay?

18 A. Was one of the ones.

19 Q. Bruce who?

20 A. Walters.

21 Q. Okay.

22 MR. JONES: Beg the Court's indulgence. No further  
23 questions, Your Honor.

24 THE COURT: Counsel.

25 MR. COCKRELL: Thank you, Your Honor.

CROSS-EXAMINATION

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BY MR. COCKRELL:

Q. Good afternoon, Mr. Chapman. Trey Cockrell here.

How are you? I heard your testimony. Isn't it true that earlier on when you were making a report to the investigator, I believe it was Officer Wayne Jordan, that you stated only one individual attacked you?

A. No, I never did that.

Q. You never did that?

A. No. No.

Q. So this police report would be incorrect if it stated that?

A. If it stated that I only said one, yeah.

Q. Okay.

A. Now, I probably was mixed up with the names cause I was confused and there was another Wayne person involved that I knew of and everything, but the reason I got and finally got it straighten out in my head was this Bruce guy, he was wearing the same pants he had on on Wednesday morning. The reason I know that was he had a torn place on one leg and what appeared to be a yellow paint stain on the other one. And I had seen that 15, 20 times I guess that Wednesday morning.

That led me to place him and to be sure that I was right. I got two of my friends to take me to his daddy's

1 house on Saturday, and one of them went in and brought  
2 Bruce out to get it straight in my mind. And my friend  
3 said, "I want you to see what those boys did to him." And  
4 they looked at me and say, 'yeah'. He said, "I understand  
5 you accuse me of it, Mr. Chapman." I said, "Well, you and  
6 some more people and everything," and he said, "Well, now,  
7 you know, I wouldn't do that to you. The last time I saw  
8 you was Wednesday morning in Society Hill." Well, that  
9 sealed the deal right there. Everything, you know, came  
10 into place.

11 Q. And this was Bruce Walters?

12 A. Bruce Walters, yes.

13 Q. Okay. Okay. Not James Tyner?

14 A. I can't physically put him at that scene. Only thing  
15 I can say is the person that ran off with Bruce was a  
16 slightly taller and slimmer, but I can't visually put him  
17 at that scene.

18 Q. What about the vehicle that was at -- you said there  
19 was a vehicle somewhere near the scene?

20 A. Yes, sir.

21 Q. Near your house?

22 A. Yes, sir.

23 Q. Kind of vehicle was that?

24 A. It appeared to be some kind of Pontiac. I can't say  
25 for sure. That's what it appeared to me.

1 Q. What color was it?

2 A. It was a reddish burgundy. Some type of color like  
3 that. I'm not really sure.

4 Q. Some dark color?

5 A. Yes, sir.

6 Q. Okay. This was 6:30 in the morning?

7 A. Yes, sir.

8 Q. In the wintertime?

9 A. Yes, sir.

10 Q. When it's really dark?

11 A. Well, it was between dark and light, you know. The  
12 period between dawn, I guess you would say. When you  
13 drive by it wasn't really dark.

14 Q. And how far away was the car?

15 A. The first time I saw it like maybe a hundred yards.  
16 When they picked up -- whoever was driving picked these  
17 two guys up. It was maybe 45, 50-yards from the end of  
18 the driveway.

19 Q. Okay. But it was your -- it's your understanding  
20 that Bruce Walters was after that big wad of cash that you  
21 had?

22 A. Oh, yes. No doubt in my mind about that.

23 Q. Okay.

24 A. Or what he thought was a big wad of cash.

25 Q. Um hum. Did they have masks on, those individuals?

1 A. No, they did have the hood up, but I can see straight  
2 in their faces. In Bruce's face anyway.

3 Q. So you can be clear about the guy.

4 A. Yes.

5 Q. Mr. Bruce Walters?

6 A. Yes, sir.

7 Q. Okay, did you happen to observe Mr. Tyner?

8 A. Not that I can tell who it was. Only that it was  
9 another person there. And when they ran off it appeared  
10 to be a slightly taller and slimmer cause Bruce is short  
11 and big around.

12 Q. Okay, did you go to -- I know you sustained some hits  
13 to the face and to the head?

14 A. Yeah.

15 Q. Did you go to the hospital?

16 A. No. No. My sister sit there on the steps with me  
17 and cleaned me up while I was talking to the detectives  
18 and everything when they finally got there. The E.M.T.  
19 boys got there and they stood over there and watched for a  
20 little while. And finally one of them told me,  
21 "Mr. Chapman, unless you want us to take you to the  
22 emergency room there is really nothing we can do for you."  
23 I said, "No, I don't see any need of that. I mean I'm  
24 just beat up. I mean, you know.

25 Q. Some bruises?

1 A. I was bleeding, you know, cutting.

2 Q. Yes, sir. But you didn't break any bones?

3 A. Not that I know of. No.

4 Q. Yes, sir. Okay, you didn't go -- you haven't since  
5 that time gone to see a doctor about this situation?

6 A. No. No.

7 Q. Thank you.

8 MR. COCKRELL: Nothing further, Your Honor.

9 THE COURT: Solicitor?

10 MR. JONES: Briefly, Your Honor.

11 REDIRECT EXAMINATION

12 BY MR. JONES:

13 Q. Mr. Chapman, how many people attacked you that day?

14 A. Two.

15 Q. Two people. Have you ever met James Tyner before?

16 A. Oh, yeah.

17 Q. You have?

18 A. Yes, sir.

19 Q. You met Bruce Wayne Walters?

20 A. Yes.

21 Q. How many of them did you get a good look at their  
22 face? Did you get a good look at their faces?

23 A. No. Just Bruce to be for sure.

24 Q. Why couldn't you get a look at the others?

25 A. I just never did. Like I said he ---

1 Q. Because you were being attacked?

2 A. Yes.

3 Q. Now, can you tell us a little bit about your health  
4 condition?

5 A. Just about gone. I have a severe heart condition,  
6 emphysema. I wear an I.C.D.

7 Q. What is that?

8 A. It's supposedly does the same thing as a pacemaker  
9 and the defibrillator. I've got one of each, but this is  
10 supposed to do it all the. Whether it does or not I don't  
11 know yet, but it's supposed to.

12 Q. Okay.

13 A. And I just feel really fortunate that I didn't get a  
14 lick on it or I didn't get a lick right in my chest. All  
15 the licks were on my head. They were bad, but I mean, you  
16 know.

17 Q. When were you diagnosed with emphysema?

18 A. Over seven years ago.

19 Q. Was it prior to this incident?

20 A. Oh, yeah. Yes, sir.

21 Q. What about your I.C.D. When did you have surgery for  
22 that?

23 A. I think the spring was four years ago.

24 Q. Okay.

25 A. I had the I.C.D. put in. I mean I've had open heart

1 surgery before and stints put in.

2 Q. Tell us about the open heart surgery. Tell us about  
3 that? When did you have that?

4 A. In 1999.

5 Q. All right.

6 A. And I felt real good for about four, five years.  
7 Went back to work. Felt better than I felt in a long time  
8 and it went bad again.

9 Q. How many stints have you had put in?

10 A. Four.

11 Q. When those two men were attacking you did you think  
12 you were going to die?

13 A. Yeah, I really did. I couldn't breathe. The only  
14 time, like I said -- I mean I was trying to break his  
15 fingers. I never could, but I could put enough pressure  
16 on it to get it off enough for me to get some air and  
17 holler for my wife. And I'd tell them, you know, don't  
18 kill me. Just take what I got and go. I did that two or  
19 three times I know.

20 Q. And when you begged them to stop did they stop?

21 A. When they got my billfold.

22 MR. JONES: No further questions, Your Honor.

23 MR. COCKRELL: No recross.

24 THE COURT: You may step down. Watch your step.

25 MR. JONES: State calls LaJoyce Chapman.

1 LAJOYCE CHAPMAN, after being duly sworn,  
2 testified as follows:

3 CLERK OF COURT: Okay. Come around and be seated.

4 DIRECT EXAMINATION

5 BY MR. JONES:

6 Q. Hey, Ms. Chapman. How are you doing?

7 A. I'm very nervous. How are you doing?

8 Q. It's already. Could you state your full name for the  
9 record, please, ma'am.

10 A. LaJoyce Chapman.

11 Q. Okay. And tell us where do you live, please?

12 A. Road, Patrick.

13 Q. Is that in Chesterfield County?

14 A. It is.

15 Q. And where do you work?

16 A. I work with the South Carolina Department of Social  
17 Services in Hartsville.

18 Q. How long have you worked there?

19 A. Since 1988.

20 Q. All right. How long have you lived at Road?

21 A. The summer of 1966, I think.

22 Q. Well, can you tell us a little bit about what  
23 occurred on December 31st 2010?

24 A. Yes, sir. I typically get up about five o'clock in  
25 the morning, but this day I had taken the day of annual

1 leave from work. So I had decided I was going to sleep in  
2 until about -- and for me sleeping in is like quarter to  
3 7:00 or 7:00 because I have to take care of my mom and  
4 dad. My dad is legally blind, and mom has advanced  
5 Alzheimer's. And this was a morning that I -- Friday  
6 morning is one of my mornings so I was going to sleep in  
7 until like 7:00.

8 And about -- it was three minutes after 6:00 because  
9 I looked on my cell phone that was on the night table.  
10 There was a pounding. It wasn't a knocking. It was more  
11 of a pound, pound, pound, and then it was like that three  
12 more times in that one incident. And I said, "Okay.  
13 Somebody is at the door. It's the front door. Somebody  
14 must -- because anybody that knows us comes to our back  
15 door, side door, because we live at a stop sign.

16 A lot of people coming up on the stop sign don't know  
17 it's there, and end up in the woods or something, you  
18 know, going too fast. And, anyway, I thought it was  
19 somebody having car problems, their hurt or whatever. But  
20 they never said anything which I thought was odd and  
21 thought ---

22 Q. Did you ever ask who is it or anything like that?

23 A. No, I did not because at -- the front part of our  
24 house was closed off even though I had the Christmas tree  
25 lights on. The front part of the house is closed off.

1 The doors coming from my den to our living room was closed  
2 and the door from my kitchen to my dining room was closed.  
3 And that would have been my two ways to get up there, but  
4 I never asked who it was. And I didn't go check because  
5 my living room door is half glass, and I knew that they  
6 would be able to see me looking to see who it was with the  
7 light from the Christmas tree. So I did not go up into  
8 that part of the house.

9 But, anyway, I'm thinking, okay, somebody is hurt.  
10 But they're not saying anything. Other cars, even though  
11 it's the holidays, somebody would be surely coming by.  
12 And I said, "Okay, maybe they're," you know, everybody's  
13 got a cell phone. They could call for help if they needed  
14 help. But I also know that cell phone service out there  
15 is sketchy. So all this and other things are going  
16 through my mind, and so by the time I settled back down to  
17 try to scamper -- try to catchy another nap so to speak,  
18 it's the same pounding again. It's just like pound,  
19 pound, pound. Pound, pound, pound on my door.

20 So I goes and I said I'm going to tell Ralph. I  
21 said, "Ralph, somebody is out there beating on the door,"  
22 and I said, "You know, they must have had car problems or  
23 something." And his -- he says, "Well, lay back down.  
24 Maybe they will go away," is what he said to me. And,  
25 anyway, they actually did it three times, and so I tried

1 to decide am I going to see who it is, am I not going to  
2 see who it is, whatever, and I decided not to. So I lay  
3 back down, and it starts again, and so I told Ralph,  
4 "Somebody is out there. Somebody is just pounding away on  
5 the door."

6 Q. How long did the knocks take?

7 A. I'd say, you know, the first one -- between the first  
8 and the second one I'd say two to three minutes. And then  
9 the next one the same thing. So by the time Ralph got up  
10 it was probably, oh, maybe 15 after 6:00 or something  
11 along there. But, anyway, he said, "Okay, well, I'll get  
12 on up." So he gets up and he has to get himself dressed,  
13 go to the bathroom, and he also has certain medicines that  
14 he takes in the morning and he did all that.

15 And I laid back down. He came back in the bedroom  
16 and he said, "Are you coming on down there," and which  
17 means was I going on down to the truck stop in Society  
18 Hill. I said, "Yeah." He said, "Have you got to take  
19 care of your momma and daddy this morning?" And I said,  
20 "Yeah, I'm about to do that." I said, "Well, I'm about to  
21 do that in a few minutes." He said, "Well, I'm going to  
22 go around to the front of the house and see if anybody is  
23 there and -- or if I see anything by the road."

24 Q. Let's slow down for the court reporter. She has to  
25 take down everything you're saying.

1 A. Oh, I'm sorry.

2 Q. That's fine. You're doing good.

3 A. Okay. So he said, "I'll see if anything is out  
4 there." So he -- I hear him go out the door, and I don't  
5 know what came over me but just something says, this is  
6 not right. This just does not feel right. So I get up  
7 ---

8 Q. Now, were you laying in bed?

9 A. I was lying in bed, and I -- and he goes out the  
10 door, and I'm just thinking to myself, this does not feel  
11 right. And just something about this just is not right.  
12 So I go to the kitchen and to -- just to see if I can hear  
13 anything or see anything, and when I got to the kitchen I  
14 hear something. It's sort of like voices, but not, and I  
15 hear something. It's like when you're trying to shut a  
16 car door, truck door or something and it's not quite  
17 closed and you want to slam it or whatever.

18 It was that sound. Just a loud thud, and didn't hear  
19 any voices. And I didn't hear Ralph's truck start. So  
20 that gave any cause for concern. So I go to the bedroom,  
21 and I keep my gun right up under my bed. Well, it wasn't  
22 right up under my bed and I thought, what have I done with  
23 it. What have I done with it. So I rummaged through my  
24 cedar chest at the bottom of the bed. It's not in there.  
25 I know this gun is under my bed. I bent down on my knees

1 and looked under the bed. There is it back up under the  
2 bed.

3 I said, "Get the broom to get the gun out" and by the  
4 time I get the gun out and I get to the back porch Ralph  
5 is climbing up the steps. He's actually on his hands and  
6 knees climbing up the steps a bloody mess. And he said  
7 ---

8 Q. Can you describe a little bit of what he looked like?

9 A. He was bloody. I mean his whole face. His nose,  
10 his -- you know, just blood coming from everywhere and  
11 crawling which that bothered me; the fact that he was  
12 having to crawl up the back doorstep. And he just had  
13 blood coming from everywhere. And I said -- in time I  
14 stepped -- in time I stepped out onto the porch and opened  
15 the screen door he said, "Two guys just beat the hell out  
16 of me and stole my billfold," is what he said.

17 Q. Okay.

18 A. I asked him -- and I said, "Do you know who it was?"  
19 And he said, "I know who one of them was" and he pointed  
20 towards Society Hill meaning the boy that lived down that  
21 way. But he came in the house and sat down at the table,  
22 and he bleeds a lot anyway because of all the medicine  
23 that he takes. And so he was just bleeding so bad that he  
24 went back outside to sit on the steps. Well, I called 911  
25 and I actually hung up on 911 cause they didn't pick up on

1 the first part of the first ring, you know.

2 As you can tell I'm highly excitable sometimes. And  
3 so they called me back and I told them where to come. And  
4 then I called his sister and she came on out there to help  
5 me with him. So I was just afraid he was going to have  
6 another heart attack.

7 Q. And tell us about that a little bit. Mr. Chapman  
8 talked about his pacemaker and his heart attack and his  
9 heart surgery. Can you give us a little better indication  
10 of his health?

11 A. Back in 2004 when he had the four stints put in  
12 this -- four of the five bypasses that he had done, his  
13 heart doctor took him out of work. And he told us that he  
14 needed to go ahead and apply for disability, Social  
15 Security Disability. And we thought it was going to be  
16 years before we ever got anything.

17 But, anyway, she wrote us -- one of the things that  
18 she wrote was that he is very high risk of sudden cardiac  
19 death because he is asymptomatic. When he's having a  
20 heart attack he doesn't present any of the usual symptoms.  
21 He doesn't have the tingling in the arms, or pressure on  
22 his chest.

23 Q. Yes, ma'am.

24 A. Or anything of that nature when he's having it it's  
25 just on him.

1 Q. All right. Now, let's go back to that particular  
2 day. Now, you called his sister. When did you call 911  
3 and actually talk to them?

4 A. I called them first. When he was sitting at the  
5 table and he walked on outside I called them, hung up, was  
6 going to him and they called me back. And I told them  
7 what had happened.

8 Q. Okay.

9 MR. JONES: Beg the Court's indulgence. Permission  
10 to approach the witness, Your Honor?

11 BY MR. JONES:

12 Q. Handing you State's Exhibits Four and Five. Take a  
13 look at that for me please, ma'am?

14 A. Yes, sir.

15 Q. Do you recognize those photographs?

16 A. Yes, sir, I do.

17 Q. What do they depict?

18 A. My husband after he was cleaned up on that morning.

19 Q. And who cleaned him up?

20 A. His sister and I think my sister was there as well.  
21 They cleaned him up. Cleaned him up so -- he just had  
22 blood everywhere.

23 Q. Yes, ma'am. Is that a fair and accurate  
24 representation of your husband the day of the incident  
25 after he was cleaned up?

1 A. Yes, sir.

2 MR. JONES: Your Honor, at this time I'd like to  
3 enter this into evidence, please, sir?

4 THE COURT: Subject to prior objection.

5 MR. COCKRELL: We -- you heard them. Thank you.

6 MR. JONES: I'd like to publish these to the jury at  
7 this time. Beg the Court's indulgence.

8 BY MR. JONES:

9 Q. Mrs. Chapman, can you describe for us the nature of  
10 his injuries on that day? Any lasting problems he's  
11 having from it?

12 A. I don't know of any physical problems that he's  
13 having. I know that eye, we were really concerned that he  
14 would -- he was having some trouble with the vision in  
15 that one eye that -- but we had a PA look at it and  
16 determine that his eye was okay. But what has more than  
17 the physical injury have been the emotional and mental  
18 injuries to him. He just -- I mean he never wants to  
19 leave the house. I mean he -- between staying there all  
20 the time. He still goes nowhere inside or outside the  
21 house without his gun. He doesn't -- I mean he doesn't  
22 take a shower unless someone is in the house. He goes to  
23 the bathroom he takes his gun with him.

24 Q. I understand. Now, lets talk a bit more about the  
25 injuries that happened that day. Tell us about -- can you

1 describe in more detail way looked crawling up the steps?

2 A. He just had blood everywhere.

3 Q. Compared to that picture that we just showed the  
4 jury.

5 A. Yeah, he had blood everywhere. It was all around the  
6 place. It was all around his neck, and his nose was just  
7 a bloody mess. He was bleeding over on -- like on one of  
8 his ears and the back of his head.

9 Q. Is there any bruising that they can't see in that  
10 photograph?

11 A. There is. The bruising, yes, around his neck, there  
12 was -- which probably showed up about that Sunday or  
13 Monday. There was a good bit of bruising around his neck.

14 MR. JONES: Beg the Court's indulgence. No further  
15 questions, Your Honor.

16 MR. COCKRELL: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. COCKRELL:

19 Q. Mrs. Chapman, good afternoon. Trey Cockrell.

20 A. Yes, sir.

21 Q. Definitely hate to hear about those unfortunate  
22 events. Did you happen to see the individual that  
23 attacked your husband?

24 A. No, sir, I did not.

25 Q. Did you happen to see the vehicle that they drove?

1 Q. Okay.

2 MR. COCKRELL: Nothing further, Your Honor.

3 MR. JONES: Nothing from the State, Your Honor.

4 THE COURT: You may step down.

5 MR. JONES: And, Your Honor, we ask that Mr. Bouew be  
6 released from his subpoena?

7 MR. COCKRELL: No objection, Your Honor.

8 THE COURT: Witness is excused.

9 MR. JONES: State calls Adam Quick.

10 ADAM QUICK, after being duly sworn, testified as  
11 follows:

12 DIRECT EXAMINATION

13 BY MR. JONES:

14 Q. State your name again for the record, please, sir?

15 A. Adam Raymond Quick.

16 Q. How are you doing, Mr. Quick?

17 A. Fine.

18 Q. Can you tell us where you live, sir?

19 A. Road, Society Hill in Society Hill.

20 Q. Can you tell us your involvement in the events that  
21 occurred December 31st 2010 involving Mr. Ralph Chapman.

22 A. I was driving by at the time that they were ---

23 Q. Hold on. Let's start over. Tell us what happened  
24 early that morning and start from there?

25 A. Okay. Me and James Tyner, we work together.

1 Q. Say they again, please, sir?

2 A. Me and James Tyner work together at the time, and we  
3 drunk that afternoon we got home. We drink together.  
4 Then on we met Bruce later on that night at the store.

5 Q. Okay?

6 A. And he said he wanted to go borrow some money.

7 Q. Slow down. I know you might be a little nervous, but  
8 show down, speak slowly and clearly. So you and James  
9 Tyner worked together?

10 A. We did at the time, yes, sir.

11 Q. And tell us what you did when you got off work?

12 A. Got off work. Went by to my cousin's house, Leon  
13 O'Neal.

14 Q. Okay.

15 A. Okay. We were drinking. I don't know what time it  
16 was. We left. We went to the store. It was late, real  
17 late. We went to the store and got up with Bruce and  
18 Walters, and he said he needed a ride somewhere to borrow  
19 some money.

20 Q. So you were drinking real late. Can you tell us  
21 about what time was it? Can you tell us if it was after  
22 midnight?

23 A. It was after midnight.

24 Q. Would it be closer to midnight or closer to the  
25 morning hours?

- 1 A. Probably about 2:00.
- 2 Q. All right. Around 2:00 you met up with Mr. Walters?
- 3 A. Yes, sir.
- 4 Q. All right.
- 5 A. Went from there. I took him to one place, first of  
6 all, in Patrick/Society Hill Road, but they weren't home.  
7 Went somewhere. Said he, "I want to go to my uncle's  
8 house."
- 9 Q. He said -- say that again?
- 10 A. Go in my uncle's house.
- 11 Q. Okay. Did you know who he was talking about?
- 12 A. No, sir.
- 13 Q. All right, sir?
- 14 A. Wasn't there.
- 15 Q. Now, when you say that he wanted to get some money  
16 did he tell you why he wanted to get money? Did he just  
17 want to go and take a loan out?
- 18 A. To put some gas in my car, buy some more beer, and  
19 stuff. Yes, sir.
- 20 Q. All right.
- 21 A. And when he went there he told me to park on the side  
22 of the road. Do not pull up because the dog might start  
23 barking.
- 24 Q. And, again, when he said, "Don't pull up in there,"  
25 did you see the house that he was talking about?

1 A. Yes, sir.

2 Q. Okay. Tell us about how far away from the house you  
3 parked?

4 A. I was on the opposite side of the road. Maybe twice  
5 the distance from here to that brick wall.

6 Q. Okay?

7 A. All right. And I -- so he said -- he said, "James,  
8 will you come with me."

9 Q. Now, did you think that was kind of strange? He told  
10 you he was going to his uncle's house, and yet he wants  
11 you to park maybe a hundred yards away or so?

12 A. I didn't care. I wasn't drunk, but I was drinking.  
13 and when they went and came back maybe 15 minutes they  
14 wasn't breathing heavy or they wasn't sweating or nothing,  
15 so I didn't think nothing about it. The next time, that  
16 was about two or three weeks later, somebody told me my  
17 name was in the paper.

18 Q. Okay. Now, did they have wallet or anything with  
19 them?

20 A. No, sir.

21 Q. He just said, "My uncle gave me some money?"

22 A. Yes, sir.

23 Q. They didn't talk about anything else?

24 A. No, sir.

25 Q. Now, tell us again whose car you were driving?

- 1 A. My cousin.
- 2 Q. Okay, and how did your cousin's vehicle -- why were  
3 you driving her car?
- 4 A. Cause I was at their house at the time when I got off  
5 work.
- 6 Q. Who is their house?
- 7 A. Lynn and James.
- 8 Q. You're telling me that James and Lynn O'Neal were in  
9 a relationship?
- 10 A. Yes, sir.
- 11 Q. And they were living in the same home?
- 12 A. Yes, sir.
- 13 Q. Can you tell us one more time what kind of car you  
14 were in?
- 15 A. A burgundy Pontiac Grand Am or Grand Prix. About a  
16 '96 or '97 model.
- 17 MR. JONES: Beg the Court's indulgence.
- 18 BY MR. JONES:
- 19 Q. Now, I think you mentioned earlier, but when you  
20 pulled up tell me again who got out of the car?
- 21 A. Bruce Walters and James Tyner.
- 22 Q. Can you tell me what they were wearing? Do you  
23 remember? I know it was a long time ago?
- 24 A. Couldn't tell you. I don't know.
- 25 Q. But they weren't wearing a mask or anything to cover

1 their faces?

2 A. No, sir. No, sir.

3 Q. No?

4 A. No, sir.

5 Q. Can you point out James Tyner in the courtroom for us  
6 today?

7 MR. JONES: Let the record reflect that he pointed  
8 out the defendant. One second, Your Honor.

9 BY MR. JONES:

10 Q. Sorry. One more time. You said you don't remember  
11 what they were wearing? You don't remember if they were  
12 wearing coats? Shirts? Anything like that?

13 A. No, I couldn't remember. It was cool at that time.  
14 Most likely James probably had on some work pants or  
15 something like that.

16 Q. Right.

17 MR. JONES: No further questions, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. COCKRELL:

20 Q. Now, Mr. Quick, you indicated that you were the  
21 driver of the vehicle?

22 A. Yes, sir.

23 Q. Did you have any idea where you were going?

24 A. No, sir.

25 Q. Had you ever been to the Chapman's house?

1 A. Yes, sir.

2 Q. Okay. Sounded pretty clear to me that you in  
3 exchange for your testimony were offered no jail time?

4 A. No, sir.

5 Q. That isn't what your attorney made clear?

6 A. I never made an agreement with him about getting any  
7 kind of -- I'm a man. I stand by my place. I was in the  
8 wrong. Yes, sir, I was. But I had not idea that they  
9 were going to do what they were doing.

10 Q. Okay. So I must be confused what I heard.

11 MR. COCKRELL: Thank you, Your Honor. No further  
12 questions.

13 MR. JONES: Briefly, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. JONES:

16 Q. Mr. Quick, did anybody from the Solicitor's Office  
17 ever tell you, "If you testify you will not go to jail?"

18 A. No, sir.

19 MR. JONES: No further questions, Your Honor.

20 MR. COCKRELL: No recross, Your Honor.

21 THE COURT: You may step down. Thank you, sir.

22 MR. JONES: State calls Delton Powers.

23 THE COURT: Come up and be sworn, please.

24 DELTON POWERS, after being duly sworn, testified  
25 as follows:

DIRECT EXAMINATION

1  
2 BY MR. JONES:

3 Q. How are you doing Mr. Powers?

4 A. Good. Hope you are.

5 Q. Yes, sir. Can you tell us what you do? What is your  
6 occupation?

7 A. I'm an attorney. I've been an attorney for 35 years.

8 Q. Okay. And do you represent Mr. Adam Quick in this  
9 matter?

10 A. I do.

11 Q. Okay. And were you ever told by a member of the  
12 Solicitor's Office or law enforcement that if Mr. Quick  
13 testifies that he will not get any jail time or the  
14 charges would be dismissed?

15 A. I discussed with law enforcement that based upon his  
16 lack of culpability in this case that he would be willing  
17 to cooperate, and I felt the case was worth probation at  
18 best. And I also discussed with -- I want to say it was  
19 with Kernard Redmond who works with your office about it.  
20 I didn't know it was your case at the time until we went  
21 for the statement. And at that time it was my  
22 understanding that you were coming over to where we were  
23 going to take the statement and would be present for that.

24 Normally, we wanted something in writing about that,  
25 but that was just as far as my case had nothing to do with

1 his truth or credibility.

2 Q. Right. So was there an agreement between you and Mr.  
3 Kernard Redmond, the Deputy Solicitor, that if he  
4 testifies or if he gives -- and some evidence that he  
5 would get a certain sentence?

6 A. It was pretty much my understanding and putting him  
7 forth that he would certainly get probation and then it  
8 was worth -- I felt like he was more of a witness than a  
9 defendant was any whole position.

10 Q. Yes, sir. Thank you.

11 MR. JONES: Your Honor, no further questions.

12 MR. COCKRELL: No questions, Your Honor.

13 THE COURT: Thank you, sir.

14 MR. JONES: State calls Bruce Wayne Walters.

15 THE WITNESS: Your Honor, I didn't know I would be  
16 testifying. May I be excused? I have to go to Columbia  
17 and my client will be back on Thursday.

18 MR. JONES: No objection.

19 MR. COCKRELL: No objection.

20 THE COURT: Witness is excused.

21 BRUCE WAYNE WALTERS, after being duly sworn,  
22 testified as follows:

23 DIRECT EXAMINATION

24 BY MR. JONES:

25 Q. Mr. Walters, will you say your name again for the

1 record, please, sir?

2 A. Bruce Walters.

3 Q. Can you please tell the jury the incidents of  
4 December 31st 2010?

5 A. Yes, sir, I can. That night I started -- I was up at  
6 the store which is the Markette in Society Hill. James  
7 Tyner and Adam, they drove up and I was needing a ride.  
8 And they -- I asked them to give me a ride to a certain  
9 place to purchase some drugs. And they said they would  
10 only if I give them some, and I said, "That's fine." And  
11 we went there to score some drugs. And it was -- we were  
12 in a truck to start with, and they said -- and I said --  
13 excuse me. We were in a truck, and went and scored the  
14 drugs.

15 And we pulled to the back road and we are smoking and  
16 snorting it. And Tyner had made the request, he was like,  
17 "Man, I need to make some money." I was like, "I ain't  
18 got none," but I said, "The other day Mr. Chapman -- I  
19 said a man had gave me a ride, and he had a pocket full of  
20 money," and it was like -- he was like, "And where does he  
21 stay at?" And I said, "He stays over there in  
22 Chesterfield County." He was like, "Well, let's go get my  
23 car," and he said, "And we'll go over there." And I was  
24 like, I said, "I ain't." I said, "I don't know about  
25 that," but, anyhow, I told him about that and we went on

1 and we went picked up the car. And I was coming back, I  
2 was like, "Y'all sure you want to do this."

3 Q. Can you tell us what kind of car it was? Do you  
4 remember?

5 A. It was a burgundy Grand Am.

6 Q. Okay.

7 A. And we went back by the store. We stopped at the  
8 store. We got a little bit of gas in the car, and before  
9 we went to Ralph's I told him, I said, "Man, drove me past  
10 my house," and we went by my father's house and I sit in  
11 there for a few minutes. And they were sitting outside.  
12 So I put the rest of my drugs up and come -- got back in  
13 the car, and I was like, "Where do we go to?" And I was  
14 like, you had to go right down here to the -- down this  
15 road, take a right, and he's down there on the left and  
16 Adam was driving.

17 And we were backing out, and he was like, "Man, you  
18 got any more drugs?" I was like, "Yeah, I got a little  
19 bit." He was like, "Do you mind giving me some?" And I  
20 was like, "Hold on. Let me run back in the house." So I  
21 went back in the house to got him some. And he was like,  
22 "I got to fix it." I don't know if y'all are familiar  
23 with drugs or not. That's just stain. You put crack  
24 on -- it's called a stem.

25 And he said, "Will you drive while I fix this stem."

1 Plus he said you know where to go. So I said, 'okay'. So  
2 I got in the driver's seat and I drove them and went to  
3 Ralph's and then pulled up there. I said, "There he  
4 stayed right there. He lives right there." I said,  
5 "Y'all can do what you want to. I'm going back to the  
6 house." And he was like, "Hold on a minute," and I  
7 stopped right there. And James and Adam, they jumped out  
8 and they walked around the house. I thought they were  
9 just staking out for later to come back.

10 And they stayed up there probably about -- I don't  
11 know. A good few minutes, and they come back to the car  
12 and I said, "Man, what y'all doing?" I said, "Won't  
13 y'all -- you got the truck. Why don't you just go rake  
14 some pine straw or something." And they were like, no,  
15 James, I've got a lot of bills I have to pay. I got to  
16 have this money." I was like, I said, "It's simple, man.  
17 Just go rake you some pine straw," and he wouldn't.

18 And so they got back out and by that time I was  
19 sitting there in the car, and it was like a car come up,  
20 and I panicked. The car went around and I cranked up the  
21 car and went down and turned around and come back. And by  
22 the time I come back I pulled on the side of the road  
23 again, and they come back to the car talking about, "Go,  
24 go, go. I got wallet."

25 Tyner was the first one got in the car and Adam got

1 in second. And then I said, "Well, man, I'm going to the  
2 house." I said, "Man, I was panicking." H was like, "No,  
3 get away. Go to my house and get the truck." So I went  
4 there to his house and got the truck. He went in there  
5 and give his old lady some money. Him and Adam come back.  
6 We got in the truck and went down to the bottom of the  
7 hill and Tyner disposed of the wallet with all of his I.D.  
8 and everything in there.

9 And then he went around the corner and he threwed the  
10 wallet in the woods, and then they went -- I said, "Y'all  
11 take me to my daddy's house." And he said, "No, man, I'm  
12 not going back across the Chesterfield County line." They  
13 dropped me off at my cousin's house and I got my cousin to  
14 take me to my house. That was the whole thing.

15 Q. Okay, now. Let me ask a few more questions about it.  
16 When you went back to get Tyner's car you say you went to  
17 his house?

18 A. Went to Tyner's house?

19 Q. Yes, James Tyner's house?

20 A. Yes, sir.

21 Q. Do you know who he was living with at the time?

22 A. He said it was his girlfriend's. I don't know who it  
23 was. I don't know who it was. All I seen was her arm.

24 Q. So you never met her before?

25 A. I never met her before. He just went in and got the

1 keys for the car and he come right back out.

2 Q. Okay. You know if the car was her's or was it his or  
3 do you know?

4 A. I think it was her's I mean cause like I said I ain't  
5 know James to have a car or nothing like that.

6 Q. And when you initially pulled up to Mr. Chapman's  
7 house do you remember where you parked?

8 A. Yes, sir.

9 Q. Can you tell us?

10 A. Parked on the right side of the road.

11 Q. And about how far from Mr. Chapman's house was it?

12 A. I'd say probably -- I don't know. Fifty, 60 feet. I  
13 was on the right. When I come off of Patrick Highway and  
14 turned on Camp Coker Road I pulled on the right side. So  
15 you've got the pavement. Probably about 50 feet.  
16 Probably about the length of here to the wall, to the back  
17 wall back there.

18 Q. Um hum. But you say you cut the car on and drove  
19 away and turned around?

20 A. Yeah, I cut off the car and I was sitting there. And  
21 it was like this vehicle come up, and I panicked. And  
22 when the vehicle went by I cut the lights on, went down  
23 the road, turned around and come back.

24 Q. Why did you go down the road turn around and come  
25 back?

1 A. I didn't know who it was. I panicked, man.

2 Q. And then after you went down the road, turned back  
3 around and came back that's when they were running from  
4 the house?

5 A. Yes, sir. It wasn't -- I probably parked -- it  
6 wasn't right time I pulled up. It was a few minutes.

7 Q. When did Tyner tell you when he got in the car?

8 A. He said, "Go. Go. I got the wallet. Go. Go. Go,"  
9 and Adam jumped in the back. I was like, "I know y'all  
10 didn't ---"

11 Q. Did he tell you the details of what happened?

12 A. No; that they were just -- it was like they didn't  
13 give me no details, but they were mumbling. And I was  
14 just in a state and I panicked. And, Adam, he made the  
15 request -- he was like, "Yeah, I seen you grab him. Then  
16 you was rolling with him," and then he was like, I grabbed  
17 him and jumped on top of him." You know, that's as far --  
18 I didn't get to see nothing.

19 MR. JONES: Beg the Court's indulgence. No further  
20 questions, Your Honor.

21 THE COURT: Mr. Cockrell.

22 MR. COCKRELL: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. COCKRELL:

25 Q. Mr. Walters?

1 A. Yes, sir.

2 Q. Were you charged in this matter?

3 A. Yes, sir.

4 Q. What were you charged with?

5 A. With armed robbery.

6 Q. That the only charge you were facing?

7 A. And A.B.H.A.N, assault and battery of a high and  
8 aggravated nature.

9 Q. Okay. And were you found guilty on both of those  
10 charges?

11 A. No, I pled guilty to -- cause my lawyer consulted  
12 with me and said the hand of one is the hand of all. So I  
13 pled guilty.

14 Q. What do you mean, 'the hand of one is the hand of  
15 all'?

16 A. Cause they said ---

17 MR. JONES: Objection, Your Honor. I don't believe  
18 that's appropriate testimony.

19 THE COURT: I'm going to overrule it. Answer it if  
20 you can.

21 THE WITNESS: Well, being that I was in the car, you  
22 know, that's why I'm guilty. And plus I'm guilty of -- I  
23 told them that Ralph had the money. I mean and if I  
24 wouldn't have said nothing Mr. Chapman would have never  
25 got hurt.

1 Q. Okay. So you were charged with strong armed robbery;  
2 is that -- and assault and battery of a high and  
3 aggravated nature?

4 A. Yes, sir.

5 Q. And what penalties were you facing?

6 A. They gave me -- I just pled and do a ten year  
7 sentence. Ten years apiece.

8 Q. You were sentenced to ten years?

9 A. Ten years for strong armed robbery and ten years  
10 for -- ten years for strong armed robbery and ten run  
11 concurrent. That's what they charged me with.

12 Q. Okay. How well do you know Mr. James Tyner?

13 A. I went to school with him. He's a couple of years  
14 younger than me and mostly I know him through his father.  
15 His father used to rake pine straw and bring it to my  
16 grandfather, and my grandfather would buy it.

17 Q. Okay. In the evening we're talking about is December  
18 the 31st. I guess the morning of December 31st. Were you  
19 under the influence of drugs or alcohol or both?

20 A. Yes, sir.

21 Q. Both or ---

22 A. Both. I don't drink too much alcohol. I've got  
23 like -- it was one little fifth of what they call Mad Dog  
24 20/20, and that was it.

25 Q. A fifth?

1 Q. Right. And he got his cousin's vehicle?

2 A. I reckon that was his cousin's.

3 Q. Okay. Have you told Officer Jordan or anybody else  
4 investigating this matter about Lynn O'Neal?

5 A. No, sir. I didn't know that's who it was. I don't  
6 know.

7 Q. Or about this vehicle, this Grand Am we're talking  
8 about?

9 A. No. I mean I just -- I told him what had happened  
10 and he just asked me a little format and I told him  
11 basically what happened.

12 Q. Okay?

13 MR. COCKRELL: Court's indulgence for one minute,  
14 Your Honor. Nothing further, Your Honor.

15 MR. JONES: No further questions, Your Honor.

16 THE COURT: Thank you, sir. You may step down.

17 MR. JONES: Your Honor, may we approach.

18 (WHEREUPON, a bench conference was held off the  
19 record in the presence of the jury, but out of the  
20 hearing of the jury.)

21 COLLOQUY

22 MR. JONES: Your Honor, at this time the State rests.

23 MR. COCKRELL: Your Honor, Defense moves for a  
24 directed verdict. Feels the State has carried their  
25 burden beyond a reasonable doubt at this time and ask for

1 a directed verdict of not guilty on behalf of all charges  
2 of Mr. James Tyner.

3 THE COURT: All right. Okay, and ladies and  
4 gentlemen of the jury, if y'all will step back. Let's me  
5 take up some matters at this time and hopefully be back a  
6 little quicker than we've been operating this morning.

7 (WHEREUPON, the jury panel was excused from the  
8 courtroom at 3:35 p.m.)

9 THE COURT: All right. I'll have to deny the motion.  
10 Need a little time to talk to your client about his Fifth  
11 Amendment rights?

12 MR. COCKRELL: Yes, sir, Your Honor. If I can have  
13 just a few minutes to speak with him.

14 THE COURT: I'll give y'all a few minutes to do some  
15 soul searching.

16 MR. COCKRELL: Thank you, Your Honor.

17 THE COURT: Court stands at ease for a few minutes.

18 (WHEREUPON, Court was in recess at 3:36 p.m. and  
19 reconvened at 3:47 p.m.)

20 MR. COCKRELL: Your Honor Trey Cockrell representing  
21 James Tyner. We're going to exercise our right to not  
22 take the stand in this matter and not to call any  
23 witnesses.

24 THE COURT: All right, Mr. Tyner.

25 MR. TYNER: Yes, sir.

COLLOQUY

1

2

THE COURT: Good morning.

3

MR. COCKRELL: Good morning, Judge.

4

THE COURT: We got everybody?

5

6

7

8

MR. COCKRELL: Yes, Your Honor. Your Honor, I've got some requests to charge that I've ear marked if that's okay I'll just hand down the book. He's looked over these.

9

THE COURT: All right.

10

11

12

13

14

MR. COCKRELL: Additional housekeeping on the part of the video exhibit or testimony statement of Adam Quick. I would ask that be admitted as an exhibit for the jury to consider if they want to if they wish to review it while their deliberating.

15

THE COURT: Any problem?

16

MR. JONES: No objection to that.

17

18

(WHEREUPON, Defendant's Exhibit No. 3 was admitted into evidence.)

19

20

21

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25

MR. COCKRELL: One more housekeeping note, Your Honor. In the interest of -- I was under the impression that we were going to try to charge the jury yesterday and I was trying to speed things up. I'd like to renew my motion for directed verdict specifically on the grounds of the assault and battery of a high and aggravated nature.

The definition of assault and battery of a high and

1 aggravated nature says great bodily injury means -- I'm  
2 reading from 16-3-600(a)1, great bodily injury which  
3 causes a substantial risk of death or which causes a  
4 serious permanent disfigurement or from practice last loss  
5 of body member or organ. Then the statute goes on to say  
6 that a person committed of the offense of assault and  
7 battery of a high and aggravated if the person lawfully  
8 injures another and great bodily injury to another results  
9 or the act is accomplished by means likely to produce  
10 death or great bodily injury. I don't think we have that.  
11 I think we have some bruising. The situations is  
12 definitely unfortunate, but I don't think it rises to the  
13 level of great bodily injury.

14 THE COURT: Anything for the record?

15 MR. JONES: Your Honor, I would say that part of the  
16 statute, 'the act accomplished likely to produce death or  
17 great bodily injury due to the victim's condition' the  
18 fact that he was choked and that he testified to the jury  
19 that he thought he was going to die. I think that's more  
20 than enough to survive directed verdict.

21 THE COURT: I agree. Technically, in my opinion he  
22 could have been charged with assault and battery with  
23 intent to kill with that testimony about him almost  
24 choking him to death, couldn't breathe. I deny your  
25 motion.

1           The property must be taken from the person or  
2 immediate presence of another, and:

3           Two, the taking must be accomplished by violence,  
4 intimidation or by putting the person in fear. This  
5 violence must be actual, personal violence or the threat  
6 of it. Further, the violence or intimidation must either  
7 proceed or be contemporaneously with the taking.

8           Generally, the element of force in the offense of  
9 robbery may be actual or constructive. Actual force  
10 implies physical violence. Constructive force includes  
11 all demonstration of the force, nemesis and other means by  
12 which the person robbed is put in fear sufficient to  
13 overcome the free exercise of the person's will or prevent  
14 resistance to the taking no matter how slight the cause  
15 created the fear is or by what other circumstances the  
16 taking is accomplished.

17           If the transaction is accompanied by circumstances of  
18 terror such as threatening by word or gesture as in the  
19 common experience or likely to create an apprehension of  
20 fear and reduce a person to give up the property the  
21 victim is placed in fear.

22           The degree of force used is immaterial so long as  
23 such force or threat, of course, is actually sufficient to  
24 overcome the victim's resistance.

25           Second indictment, assault and battery of a high and

1 aggravated nature. A person is guilty of the offense of  
2 assault and battery of a high and aggravated nature if he  
3 injures another person and great bodily injury to another  
4 person results or the act is established by means likely  
5 to produce death or great bodily injury. Assault and  
6 battery of a high a aggravated nature is a lesser included  
7 offense of attempted murder. They are a lesser included  
8 offenses of assault and battery of a high a aggravated  
9 nature. Now, we're not concerned with attempted murder  
10 here, but I'm just giving you an explanation of how this  
11 lesser included offenses work.

12 To prove assault and battery of a high and aggravated  
13 nature the State must first prove beyond a reasonable  
14 doubt that the defendant unlawfully injured another  
15 person. Next, the State must prove beyond a reasonable  
16 doubt that either great bodily injury resulted or that the  
17 act was accomplished by means likely to produce death or  
18 great bodily injury.

19 Great bodily injury is defined as bodily injury which  
20 causes a substantial risk of death or which causes serious  
21 permanent disfigurement or protractive loss or impairment  
22 of the functions of a bodily member or organ.

23 Now, going down to lesser included offenses. Assault  
24 and battery in the first degree. A person commits the  
25 offense of assault and battery in the first degree if the

1 person unlawfully injures another person and the act  
2 involves non-consensual touching of the private parts of  
3 an adult either under or above clothing with lewd and  
4 lascivious intent or occur during the commission of a  
5 robbery, burglary, kidnapping or theft or offers intent to  
6 injure another person with the present ability to do so  
7 and the act is accomplished by means likely to produce  
8 death or great bodily injury or occurred during the  
9 commission of a robbery, burglary, kidnapping or theft.

10       Assault and battery in the first degree is a lessor  
11 included offense of assault and battery of high nature.  
12 To prove assault and battery in the first degree the State  
13 must prove beyond a reasonable doubt that the defendant  
14 either unlawfully injured another person and the act  
15 occurred during the commission of a robbery, burglary,  
16 kidnapping or theft. Or that the defendant offered or  
17 attempted to injure another person with the present  
18 ability to do so and the act was accomplished by means  
19 likely to produce death or great bodily injury or that the  
20 act occurred during the commission of a robbery, burglary,  
21 kidnapping or theft.

22       Great bodily injury is defined as a bodily injury  
23 which causes a substantial risk of death or which causes  
24 serious permanent disfigurement or protractive lost or  
25 impairment of the function of a bodily member or organ.

1           Assault and battery in the second-degree. A person  
2           commits the offense of assault and battery in the second  
3           degree if the person unlawfully injures another person or  
4           offers or attempts to injure another person with the  
5           present ability to do so, and moderate bodily injury to  
6           another person results or moderate bodily injury to  
7           another person could have resulted. Or the act involved  
8           the non-consensual touching of the private parts of an  
9           adult either under or above clothing.

10           Assault and battery in the second degree is a lesser  
11           included offense of assault and battery in the first  
12           degree and as of assault and battery of a high and  
13           aggravated nature. To prove assault and battery in the  
14           second degree the State must first prove beyond a  
15           reasonable doubt that the defendant unlawfully injured  
16           another person or offered or attempted to injure another  
17           person with the present ability to do so.

18           Next, the State must prove beyond a reasonable doubt  
19           that moderate bodily injury to another person resulted or  
20           moderate bodily injury to another person could have  
21           resulted. Moderate bodily injury is defined as physical  
22           injury requiring treatment or an organ system of the body  
23           other than the skin, muscles or connective tissue of the  
24           body except when there is penetration of the skin, muscles  
25           or connective tissues that require surgical repair of a

1 complex nature or the nature of the injury requires the  
2 use of regional or general anesthesia.

3 Assault and battery in the third degree. A person  
4 commits the assault -- correction. A person commits the  
5 offense of assault and battery in the third degree if the  
6 person unlawfully injures another person or offers or  
7 attempts to injure another person with the present ability  
8 to do so. Assault and battery in the first degree is a  
9 lesser include offense of assault and battery in the  
10 second-degree, assault and batteries in the first degree,  
11 and assault and battery of a high and aggravated nature.

12 To prove assault and battery in the third degree the  
13 State must prove beyond a reasonable doubt that the  
14 defendant unlawfully injured another person or offered or  
15 attempted to injure another person with the present  
16 ability to do so.

17 Now, ladies and gentlemen of the jury, I further  
18 charge you that the law is that if a crime is committed by  
19 two or more persons who are acting together in the  
20 commission of the crime the act of one is the act of all:  
21 This is true if there are two or more people or more than  
22 two people involved in the act. Two people or more than  
23 two people can be guilty of, example, killing another.  
24 This is guilty of murder when only one of the people fire  
25 the shot or committed the act that caused the death.

1 weight as to how I quote them to you.

2 The verdict that you render in the case must be the  
3 verdict of each and every juror. It must be your  
4 unanimous verdict. All 12 jurors must agree on the  
5 verdict which you authorize the foreman to write for the  
6 jury.

7 Now, concerning the assault and battery of a high and  
8 aggravated nature, I already instructed you on the lessor  
9 included offenses, and I will go back over that. If you  
10 find the defendant guilty but you have a reasonable doubt  
11 as to whether the defendant be guilty of the greater crime  
12 charged or the lessor crime charged you must resolve that  
13 reasonable doubt in favor of the defendant and write a  
14 verdict of guilty only as to the lessor charge. But, of  
15 course, you could not write a verdict of guilty to any  
16 charge unless to that charge you find all the elements of  
17 the charge have been proven by the State beyond a  
18 reasonable doubt.

19 So you have several options as you find to do so on  
20 the assault charges. In other words, don't give any  
21 weight to the order that I go to them. I'll just go down  
22 the series of them. That's going to be the best way to  
23 keep it in my mind. You can find the defendant guilty of  
24 assault and battery of a high and aggravated nature,  
25 assault and battery first degree or assault and battery in

1 the second degree or assault and battery in the third  
2 degree or you can find not guilty. Now, obviously, that  
3 implies that you couldn't find him guilty of two or more  
4 of those. So that's basically how that works on the  
5 lesser included offense.

6 Now, the best way to help you, Mr. Foreman, on this  
7 I'm going to ask my law clerk to help me. We will send  
8 the strong armed robbery indictment back to you, and there  
9 will be a verdict section on the lower part of the back  
10 side of form. It will be your duty to write in the  
11 appropriate verdict, sign your name, and date it.

12 Now, on the assault and battery of a high and  
13 aggravated nature, we will attach an attachment sheet that  
14 will give you the options that I've gone over. Simplify  
15 it for you. Once again, whatever your verdicts are they  
16 must be your unanimous verdict. All 12 deliberating  
17 jurors must be in agreement. When I send the verdict and  
18 the exhibits back to you along with the verdict forms  
19 and/or the indictments, it will once again be your duty to  
20 fill out the necessary forms, sign them and date them.

21 Should anyone refuse to take part in the  
22 deliberations it will be your duty to immediately notify  
23 me of that cause that's why I have some alternates. It  
24 normal does not happen but it has happened in the past so  
25 I need to talk to you about that. Do not deliberate this

1 MR. JONES: None from the State.

2 MR. COCKRELL: None from the Defense.

3 THE COURT: Okay.

4 (WHEREUPON, Court is in recess at 11:45 a.m. and  
5 reconvened at 12:05 p.m.)

6 (WHEREUPON, the jury panel enters the courtroom at  
7 12:05 p.m.)

8 VERDICT OF THE JURY

9 THE COURT: Madam Clerk.

10 CLERK OF COURT: Mr. Foreman, have you reached a  
11 verdict?

12 JURY FOREPERSON: Yes, sir, we have.

13 CLERK OF COURT: If you will please hand it to the  
14 bailiff.

15 THE COURT: Signed and dated. You may publish the  
16 verdict.

17 CLERK OF COURT: State of South Carolina v. James  
18 Tyner. We the jury find the Defendant, James Tyner,  
19 guilty of assault and battery of a high and aggravated  
20 nature. David W. Sides, the Jury Foreman. June the 20th  
21 2012.

22 State v. James Tyner, strong armed robbery. With the  
23 jury find the defendant guilty. David W. Sides, Jury  
24 Foreman. Dated June the 20th 2012. The Honorable Paul  
25 Burch, presiding judge.

1 burglary second non-violent. Two counts of grand larceny  
2 and criminal conspiracy and failure to stop for a blue  
3 light. He got a total of nine years for that.

4 In 2007 he was out on parole and received a parole  
5 revocation.

6 In 2009 he was convicted of public disorderly  
7 conduct.

8 And he has a pending charge in 2011 which occurred  
9 after this event; that it was not a conviction but it is a  
10 pending receiving stolen goods.

11 I will say just for the history with our office with  
12 this defendant he initially hired an attorney, a member of  
13 the private bar, and then subsequently fired him. Took a  
14 few months with no counsel. It was very difficult to get  
15 in touch with him the entire time of this process. He  
16 eventually signed up with the Public Defender's Office and  
17 they conflicted him to Mr. Cockrell. And it's just been,  
18 in general, difficult dealing with this defendant. And at  
19 the appropriate time I believe the victim would like to  
20 speak.

21 THE COURT: Sure.

22 MRS. CHAPMAN: I'm LaJoyce Chapman. I am the  
23 victim's spouse. First, thank you, Your Honor, for -- and  
24 to Mr. Jones and to Mr. Cockrell for taking in  
25 consideration my husband's hearing impairment with this.

1 The robbery and assault on my husband, Ralph W. Chapman,  
2 on the morning of December 31st 2010 has completely  
3 consumed his life and has forever adversely affected him  
4 psychologically, and to a certain extent the rest of our  
5 family as well.

6 The mere fact that he survived being beaten by two  
7 younger men, men at least 30 years younger than he, and  
8 certainly much more powerful men, was a small miracle  
9 considering that he was at very high risk for sudden  
10 cardiac death. These are his doctors words not mine. My  
11 husband told our son that two or three times during this  
12 attack he thought he was going to die.

13 Since the assault he goes nowhere inside of our home  
14 or outside in our yard without his gun. Most of the time  
15 the gun the drawn. Not to the bathroom, not to watch  
16 television, not to sleep or nap without his loaded gun.  
17 He eats with the gun on the table by his plate. He  
18 doesn't take a shower until someone else is in the house  
19 with him.

20 For some time after this robbery and assault I too  
21 carried my gun both inside and outside of the house. We  
22 still jump at every sound. Vehicles that stop on t he  
23 road near our house for whatever reason are viewed with  
24 suspicion. If a car stays idling for too long at the  
25 nearby stop sign the people are considered potential

1     assailants. A family friend came to the house one morning  
2     about five o'clock. Our oldest son, my husband, and I met  
3     him at the back door with guns drawn.

4             This is no way to live in constant fear for your life  
5     and some type of retaliation. Our son who is with us here  
6     today took a demotion and reduced salary with his company,  
7     uprooted his family and moved back here from Tallahassee,  
8     Florida because of his daddy's mental state. Our 21 year  
9     old grandson has moved in with us just so that we can feel  
10    more secure.

11            This wasn't just some old guy that drove an old beat  
12    up truck that was chosen to be robbed and assaulted. This  
13    is Ralph Chapman. A man who has never bothered anyone.  
14    He doesn't meddle in other people's business. He doesn't  
15    drink. He doesn't do drug, and he doesn't go out  
16    carousing. Other than being proud of our son's  
17    accomplishments he doesn't brag about what he has and he  
18    doesn't have.

19            Until he became disabled in 2004 he has worked since  
20    he was a senior in high school at public jobs and for  
21    about ten years. During this time he also farmed. Also a  
22    law abiding, tax paying, responsible citizen trying to  
23    provide for his family. Over the years Ralph has been and  
24    is still a positive father figure to several young men in  
25    the community. A lot of folks say that some folks cannot

1           His prior attitude toward the Court system sort of  
2 backs the notion up, and maybe he does hold some contempt  
3 for the Court: I'm not going to get into that because  
4 whatever issues are there will be consumed in the sentence  
5 I pass here. I can't afford to just pat him on the back  
6 and let him be out any time soon because this thing could  
7 have really been a lot worse than what it was, not that it  
8 wasn't bad enough.

9           MR. TYNER: I'm terribly sorry for what I did.

10          THE COURT: On the common law robbery, sentence of  
11 the Court is that James Curtis Tyner be confined to the  
12 State Department of Corrections for a period of 15 years.

13          And on the assault and battery of a high and  
14 aggravated nature, the sentence is three years  
15 consecutive.

16          Good luck to you, Mr. Tyner. You have ten days to  
17 get a notice of appeal filed should you desire to do so.  
18 If you wait past the ten days it will be too late. So  
19 keep that in mind. Your attorney will talk to you about  
20 that.

21          Jail time credit, you have to help me with that. How  
22 long was he in jail?

23          MR. JONES: Your Honor, I'm not all together sure for  
24 these particular charges. I believe he got out on a P.R.  
25 bond; is that correct, Mr. Jordan?

WITNESSES

Wayne Jordan

Chesterfield County Sheriff

Law Enforcement Case #: 10-4837

583

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER  
K274837

ARRESTED ON: 2011-01-25

ACTION OF GRAND JURY

TRUE BILLED

MAR 22 2011

Grand Jury Foreperson

Date

VERDICT

COPY

Petit Jury Foreperson

Date

DOCKET NUMBER:  
2011-GS-13-0239

The State of South Carolina

County of Chesterfield

COURT OF GENERAL SESSIONS

Term:  
March 2011

THE STATE

vs.

James Tyner

INDICTMENT FOR

Assault/Assault & Battery of a high and aggravated nature

§16-03-0600(B)(1)

CDR Code: 3411

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	
COUNTY OF CHESTERFIELD	)	Assault/Assault & Battery of a high and aggravated nature

§16-03-0600(B)(1)

At a Court of General Sessions, convened on March 22, 2011, the Grand Jurors of Chesterfield County present upon their oath:

ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE

CDR: 3411, 16-3-600(B)

That James Tyner did in Chesterfield, on or about 13700, unlawfully injure Ralph Chapman and great bodily injury occurred, in violation of Section 16-3-600(B) of S.C. 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.

  
 WILLIAM B. ROGERS, JR.  
 SOLICITOR

**WITNESSES**

Wayne Jordan

Chesterfield County Sheriff

Law Enforcement Case #: 10-4837

583

**WAIVER OF PRESENTMENT**

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to:

Defendant

**ARREST WARRANT NUMBER  
K274838**

ARRESTED ON: 2011-01-24

**ACTION OF GRAND JURY**

**TRUE BILLED**

**MAR 22 2011**

Grand Jury Foreperson

Date

**VERDICT**

**COPY**

Petit Jury Foreperson

Date

**DOCKET NUMBER:  
2011-GS-13-0240**

**The State of South Carolina**

**County of Chesterfield**

**COURT OF GENERAL SESSIONS**

**Term:  
March 2011**

**THE STATE**

vs.

**James Tyner**

**INDICTMENT FOR**

**Robbery / Strong Arm Robbery**

§16-11-0325

**CDR Code: 0137**

**William B. Rogers, Jr., Solicitor**

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHESTERFIELD )

INDICTMENT FOR  
Robbery / Strong Arm Robbery

§16-11-0325

At a Court of General Sessions, convened on March 22, 2011, the Grand Jurors of Chesterfield County present upon their oath:

ROBBERY/STRONG ARM ROBBERY

CDR: 0137 C/L, 16-11-0325

That James Tyner did in Chesterfield County on or about December 23, 2010, take personal property from or in the immediate presence of Ralph Chapman with the intent to deprive him/her of possession through the use of force, threats of force, or intimidation, and did carry away the property taken, in violation of the Common Law crime of Strong Arm Robbery.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
WILLIAM B. ROGERS, JR.  
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."

November 14th, 2013



Carmen V. Ganjehsani  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
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Columbia, S. C. 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Chesterfield County  
Paul M. Burch, Circuit Court Judge

RECEIVED

NOV 14 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

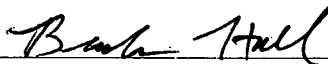
JAMES C. TYNER,

APPELLANT


APPELLATE CASE NO. 2012-212324

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon William M. Blich, Jr., Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 14th day of November, 2013.

  
\_\_\_\_\_  
Brandon Hall  
Administrative Specialist

SUBSCRIBED AND SWORN TO before me  
this 14th day of November, 2013.

  
\_\_\_\_\_  
(L.S.)  
Notary Public for South Carolina  
My Commission Expires: July 3, 2023.