

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY

Carmen T. Mullen, Circuit Court Judge

RECEIVED
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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

LISA COSACCHI,

APPELLANT

APPELLATE CASE NO. 2011-191569

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

COURT OF GENERAL SESSIONS
2020-GS-07-2255-2258

State of South Carolina,
Plaintiff
VS
Lisa Lynn Cossacchi,
Defendant

TRANSCRIPT OF RECORD

April 26, 2011
BEAUFORT COUNTY,
SOUTH CAROLINA

B E F O R E:

HONORABLE CARMEN T. MULLEN, Judge.

Deborah E. Everett
Court Reporter

 ORIGINAL

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

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Assistant Solicitor for State of South Carolina

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I N D E X

<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
Cpl Erin Morris	24			
BY: Carra Henderson				
BY: Matthew Walker		33		
Dalton A.				
BY: Carra Henderson	40			
BY: Matthew Walker		42		
Armando Montes (along with interpreter Rebecca McCann)				
BY: Carra Henderson	46		60	
BY: Matthew Walker		54		
Tod Kaminski				
BY: Carra Henderson	62			
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Roberto DiCarlo				
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1 (Whereupon Court began at 10:15 A.M.)

2 BAILIFF: All rise.

3 THE COURT: Good morning, everyone. Do
4 we have anything we need to put on the record
5 before we start?

6 MR. MATTHEW WALKER: Yes, Your Honor.
7 First thing would be just a motion to sequester
8 the State's witnesses.

9 THE COURT: Okay.

10 MS. CARRA HENDERSON: Your Honor, I don't
11 object to that, as long as my case officer can sit
12 here and my victim, who I believe has a right to
13 be in the courtroom. He's gonna sit in the back
14 where he can have a translator with him.

15 THE COURT: All right. Thank you,
16 gentlemen.

17 MR. WALKER: Things that we had agreed on
18 I just want to put on the record was that she had
19 no convictions they could use for impeachment
20 should she testify and that there be no mention of
21 any prior drug use or anything by Miss Cossachi by
22 any of the officers.

23 And then another matter I was just
24 discussing with Ms. Henderson, I don't necessarily
25 know if this is the appropriate time, technically

1 the appropriate time would be when the
2 witness is called but just so it doesn't interrupt
3 the flow --

4 THE COURT: I appreciate the heads up --

5 MR. WALKER: She is going to call -- she plans
6 on calling Officer DiCarlo --

7 MS. HENDERSON: Sargent --

8 MR. WALKER: Sargent DiCarlo, who's role in
9 this is either the next day go to a different
10 location to make the arrest, which I don't know is
11 relevant to any of the charges that happened the
12 day before which is she jumped into the car, the
13 car jacking --

14 THE COURT: So, we need to do a proffer on
15 him, is that what you want to do?

16 MS. HENDERSON: Your Honor, his testimony
17 is just basically would consist of he's the one
18 that located her and placed her under arrest and
19 served these warrants on her.

20 MR. WALKER: I just think, ya know, one more
21 Officer, it's not relative. It's kind of a
22 bolstering issue. I think it's just a relevance
23 thing.

24 THE COURT: Okay.

25 MS. HENDERSON: Your Honor, I do think it's

1 relevant. He's the officer that arrested her. I
2 mean, he is another officer that can I.D. her as
3 to who she is.

4 THE COURT: Let's just do -- we'll go ahead
5 and proffer him at the time. I don't know how he
6 located her. I have no idea if she was wearing
7 the same thing ---

8 MS. HENDERSON: She wasn't wearing anything.

9 THE COURT: All right. We are gonna do a
10 proffer then.

11 MR. WALKER: Those are all the things I had
12 for the record.

13 MS. HENDERSON: And I have instructed my
14 officer's not to mention that they knew her from
15 any prior drug deals. They know not to mention
16 that.

17 THE COURT: I appreciate that. Anything else
18 we need to put on the record?

19 MR. WALKER: No, Your Honor.

20 THE COURT: Okay. Let's bring in the jury.
21 (Whereupon the jury entered at 10:22 A.M.)

22 BAILIFF: The jurors are entering, Your Honor.
23 Your Honor, the jury is seated.

24 THE COURT: Thank you. Good morning, ladies
25 and gentlemen.

1 JURORS: Good morning.

2 THE COURT: At this time what we're going to
3 do is I'm gonna have Diane from the clerk's office
4 swear you in as the jury in this case. I'm just
5 gonna give you a few brief instructions and then
6 you're gonna hear the opening statements from the
7 attorneys and then they're gonna begin putting the
8 witnesses on. All right?

9 So would everyone please stand and raise your
10 right hand.

11 (Whereupon the jury was sworn)

12 CLERK: Please be seated.

13 THE COURT: Thank you, ladies and gentlemen.
14 What I'm now going to say to you is intended to
15 serve as an introduction to the trial in this
16 case. These remarks are not a charge on the law.
17 I'm going to instruct you on the law that's
18 applicable to this case at the end of the trial,
19 before you retire to deliberations. This is just
20 merely an explanation of the procedure we're going
21 to follow so that you can better understand what's
22 happening.

23 Ladies and gentlemen, the defendant in this
24 case is charged by indictments filed in this Court
25 with the offenses of Possession of a Weapon During

1 a Violent Crime, Car-jacking and two counts of
2 Kidnapping, the elements and which will be
3 explained to you later.

4 Ladies and gentlemen, these indictments are
5 simply the charge by which the case is brought
6 into the Court and it is not in any sense evidence
7 of any of the allegations it contains.

8 Ladies and gentlemen, the defendant in this
9 case, Ms. Cossachi, has pled not guilty to these
10 indictments. The State therefore has the burden
11 of proving each of the elements of each of the
12 indictments beyond a reasonable doubt. It is your
13 duty to decide whether this State has met that
14 burden.

15 Ladies and gentlemen, your purpose as a juror
16 is to find and determine the facts. You are the
17 sole judge of the facts. If at any time I make
18 any comment regarding the facts in this case, you
19 must disregard it.

20 Ladies and gentlemen, you are to only
21 determine the facts in this case with the
22 testimony you're going to hear right up here on
23 the witness stand as well as any other evidence
24 that's introduced into the courtroom or any other
25 stipulations the attorney has entered into.

1 Ladies and gentlemen, it is up to you to
2 determine the inferences that you feel are
3 properly drawn from the evidence. Please
4 understand that it is especially important that
5 you perform your duty of determining the facts
6 diligently and conscientiously because ordinarily
7 there is no way to correct an erroneous
8 determination of the facts by a jury.

9 On the other hand and of equal emphasis, the
10 same law that makes you the judge of the facts
11 makes me the judge of the law. The law that is
12 given by the Court is the only law that you may
13 consider. You must accept and follow it even
14 though you may disagree with it. I cannot tell
15 you what the facts are and you cannot disagree
16 with me about what the law is or should be. Your
17 job is to take the law as I give it to you and
18 apply it to the facts as you find it from the
19 testimony of the witnesses, and the other evidence
20 that's introduced.

21 After doing that, ladies and gentlemen, you
22 will render your verdict, a true and just verdict
23 under the oath you just took. Now, until I advise
24 you to begin your deliberations, you must not
25 discuss this case with anyone and that includes

1 your fellow jurors, friends, family members, or
2 any one that's involved with this case. And after
3 this case is submitted to you you may only discuss
4 it within the jury room with your fellow jurors.
5 Again, ladies and gentlemen, the attorneys and
6 parties have been advised that they're not to talk
7 to you. So again if you happen to pass them today
8 in the courthouse and they don't even say hello,
9 again, they are not being unfriendly. They're
10 just following my orders.

11 Additionally, ladies and gentlemen, I don't
12 know that there is anything in the paper, or the
13 news on this case, or the radio. But I'm
14 instructing you that you are not to read, listen
15 to, or watch any news report about this case.
16 Again, ladies and gentlemen, you must also not
17 consider anything you may have read or heard about
18 the case outside this courtroom whether with
19 before or during the trial.

20 Ladies and gentlemen, I also instruct you you
21 are not to read anything on the Internet in
22 regards to the case or the trial as jurors.
23 Ladies and gentlemen, it is important that you
24 keep an open mind and not decide any issue in this
25 case until all the evidence has been submitted,

1 the parties have made their closing arguments, and
2 I've instructed you on the law in this case.

3 It's your solemn responsibility to determine
4 the guilt or innocence of a defendant and your
5 verdict must be based on the evidence as presented
6 to you in this trial and on the law that I
7 instruct you during and during the close of trial.

8 Ladies and gentlemen, in just a moment the
9 solicitor is going to make what's called an
10 opening statement in which the solicitor is going
11 to explain to you the issues in the case and what
12 she believes the issues are in this case.

13 Ladies and gentlemen, the attorney for the
14 defendant may also make an opening statement
15 although he's not required to do so. What these
16 attorneys tell you in their opening statements is
17 not evidence in this case. Again, it's only their
18 opinion as to what the issues are. I remind you
19 that the evidence presented in this case will come
20 to you by way of sworn testimony again from the
21 witness stand and again any other stipulations
22 entered into the record.

23 Now, ladies and gentlemen, from time to time
24 during the trial you may hear the lawyers say
25 something like, Your Honor I believe there is a

1 question of law that we may need to take up or may
2 we approach the bench or sometimes I myself may
3 call them up to the bench. I may send you back to
4 your jury room to discuss something with the
5 attorneys. I want you to understand something.
6 We aren't hiding anything from you. Often times
7 when I have to rule as a matter of law, whether or
8 not something is admissible, I may make a comment
9 on the facts of the case. And again I wouldn't
10 want anything that I said to influence you in your
11 determination of the facts in this case 'cause out
12 of the abundance of caution we do that in private
13 so that can't happen.

14 Ladies and gentlemen, in determining what the
15 true facts are in this case you must decide
16 whether or not the testimony from witnesses are
17 believable. It's my responsibility to rule as a
18 matter of law whether or not certain testimony is
19 admitted. But once it is admitted, whether or not
20 you believe it, is solely for you to determine.
21 In deciding whether to believe a witness you have
22 a right to consider the interest of any witness,
23 the bias of any witness, the prejudice of any
24 witness, and you can look at the opportunity the
25 witness had to see, and the things of the matters

1 that the witnesses testify, and you can also watch
2 the way the witness acts on the witness stand.
3 You have the right to consider anything that's in
4 the record that will help you evaluate the
5 testimony of the witness. And that means, ladies
6 and gentlemen, it is your solemn duty to pay close
7 attention to the witnesses so at the end of this
8 case when you begin your deliberations you can
9 accurately reflect and remember the testimony
10 given.

11 Ladies and gentlemen, additionally, because
12 this is going to be a very short trial, I am not
13 going to permit you to take notes in this case. I
14 simply asked that you sit back and watch and
15 listen to the testimony.

16 Now, ladies and gentlemen, in order to
17 preserve everyone's rights after each time I speak
18 with you, I'll ask the attorneys if there's
19 anything additionally that they want me to talk to
20 you about or instruct you. If there isn't then
21 were going to go ahead and begin the trial of this
22 case.

23 Anything from the State?

24 MS. CARRA HENDERSON: Nothing from the State,
25 Your Honor.

1 THE COURT: From the Defense?

2 MR. MATTHEW WALKER: No, Your Honor.

3 THE COURT: All right, ladies and gentlemen,
4 were going to begin the trial.

5 Ms. Henderson.

6 MS. CARRA HENDERSON: If it please the Court,
7 Your Honor?

8 THE COURT: Yes you may.

9 MS. CARRA HENDERSON: Good morning.

10 JURORS: Good morning.

11 MS. CARRA HENDERSON: Ladies and gentlemen,
12 the defendant, Lisa Cossachi, is a selfish woman
13 and her behavior on October 23, 2010 will prove
14 that. On that night she was at the Circle K with
15 two friends and the police, for unrelated reasons,
16 began talking to those friends. She decides, for
17 whatever reason, that she needs to leave that
18 place and she needs to leave in a hurry. But
19 instead of just walking or even running off, she
20 forces herself into Armando Montes's car, produces
21 a weapon, tells him to drive until she says stop
22 which included making him cross all four lanes of
23 278. As she did this with his five-year-old
24 little girl, Minor buckled up in the backseat.
25 He was terrified and he did what he was told until

1 she jumps out of the car while it's moving and
2 runs on foot leaving her shoes in his car. He
3 didn't know what else to do. So he dropped
4 Minor off safely at home, turns around and goes
5 back to the Circle K to tell the officers what
6 happened and give them her shoes.

7 Meanwhile, Lisa Cossachi, is running barefoot
8 through Yacht Cove when she decides to run through
9 a garage full of people screaming, Hide me, hide
10 me. And because karma really does exist, that
11 garage belonged to an off-duty sheriff's deputy
12 who recognized her. And because of that they
13 were able to locate her and arrest her the next
14 day for Carjacking, two counts of Kidnapping, and
15 Possession of a Weapon.

16 Now the officers and Armando Montes are here
17 and they're going to testify to what I just told
18 you. And after you have heard all their testimony
19 you'll see that on the night of October 23, 2010,
20 Lisa Cossachi was more concerned for looking out
21 for number one than she was about the safety and
22 well-being of two innocent people and therefore
23 she is guilty of the crime she is charged with.
24 Thank you.

25 THE COURT: Thank you, Ms. Henderson.

1 Mr. Walker.

2 MR. MATTHEW WALKER: Thank you, Your Honor.
3 May I please the Court?

4 THE COURT: You may.

5 MR. MATTHEW WALKER: Lisa may be a selfish
6 woman but that's not a crime. I want to talk to
7 you a little bit about how structurally -- why
8 we're here today, some of the background that you
9 can apply to the evidence that you hear and then
10 comment on the facts, and what I believe the
11 evidence will show.

12 Now some of the stuff you probably heard or
13 may be familiar with either from being in the
14 courtroom before or even watching the plethora of
15 law related television shows but certainly you've
16 heard that a defendant is innocent until proven
17 guilty. And that's kind of important because as
18 the Judge has said, You are the judges of the
19 facts. You're the ones that decide from the
20 evidence you hear what to believe, what not to
21 believe, which facts are true, which facts are
22 not, which facts are sufficient, which facts are
23 insufficient to make a decision. And there's no
24 appeal for your decision.

25 If Judge Mullen makes a mistake in determining

1 something of the law, that can be appealed through
2 a higher court: But there's no higher court
3 of what the facts are that you apply. And we have
4 juries -- we didn't always have juries. We have
5 juries to be neutral or uninterested parties who
6 don't really have an interest in the outcome.

7 Once upon a time, several hundred years ago,
8 you could be charged with a crime, imprisoned,
9 told to confess but never told what you are
10 charged with, who was charging you, never had a
11 right to question the people who were charging
12 you, until overtime we have a system we have today
13 were jury of someone's peers could interpose
14 themselves between the power of the State or early
15 on, the King -- between the power of the State and
16 the person accused of a crime, and then the jury
17 can decide. We choose people that don't really
18 have a dog in the fight.

19 Now that's where innocent until proven guilty
20 comes in. Because the law gives you a dog in the
21 fight. The law gives you reason. The law puts
22 you in the jury box right now on her side so that
23 every piece of evidence you hear Lisa doesn't have
24 to prove anything. It's the State's job to prove
25 beyond a reasonable doubt that Lisa is guilty of

1 the crime that they have accused her of. Now I
2 submit to you they will not be able to do so.

3 Now, beyond a reasonable doubt, is another
4 phrase you may have heard in our culture. And if
5 you've ever been in a civil court you've probably
6 heard preponderance of the evidence. There's two
7 different standards for trying to decide guilt or
8 innocence or who wins or who loses at a trial.

9 In civil court, preponderance of the evidence,
10 is this thing and everybody pictures that was seen
11 on statues of Lady Justice. You've got the scales
12 of the preponderance of the evidence which is just
13 a little more evidence than the other side is
14 enough to win. But beyond a reasonable doubt
15 takes those scales, and it's got to be hitting the
16 floor of one side before you can find a verdict.

17 And the Judge will tell you a reasonable doubt
18 is a type of doubt that would cause a reasonable
19 person to hesitate to act when making an important
20 life decision. So it would be the kind of thing
21 if you are going to make in this trial should be
22 the type of decision of you know should I buy this
23 house and how should I invest for my retirement
24 you know who should I put in my will. These are
25 all important life decisions that we make. This

1 is an important life decision that you'll be
2 making for Lisa.

3 So like I said the law puts you in her corner
4 as we start. As she sits there, she is robed in
5 the cloak of righteousness. She's completely
6 innocent until enough evidence has been presented
7 to convince you to get past that presumption of
8 innocence.

9 Another reason we have that and the way that I
10 like to try and picture that, say you're going
11 down the road and you're walking along and you
12 come to a large wall. You can see over it and it
13 ascends either way as far as you can see. You want
14 to get over the wall. The Solicitor's office is
15 saying, Hey, go over the wall but you don't know
16 what's over the wall. The wall might be there for
17 very good reason. It might be a big pit of
18 crocodiles on the other side of the wall or a
19 cliff. You don't know. And before we leap into a
20 dangerous situation or before we leap into calling
21 someone a criminal who isn't, it's the State's job
22 to make certain it is beyond a reasonable doubt.

23 And they do that through the introduction.
24 Every piece of evidence should be like a round in
25 the ladder they get you up to where you can look

1 over the wall before you make the decision. If
2 then after the evidence is heard you can't -- you
3 decide you haven't been able to see over the wall
4 then you're owed on the duty the law impose upon
5 you requires a not guilty verdict.

6 And what I expect the evidence will show is
7 that Lisa Cossachi acted on that day in a manner
8 certainly out of the ordinary on the evening of
9 this event. You'll hear testimony from several
10 police officers who were at the gas station. They
11 encounter someone who was in that party of people
12 that Ms. Cossachi was with, that someone had
13 arrest warrants. They were arresting the person
14 and it was totally unrelated. You will hear that
15 they observed -- they didn't all observe -- she
16 was there one minute, she was gone the next; some
17 of them observed. One young man who was there was
18 an Explorer or doing a ride along, actually
19 observed her jump into Mr. Armando's car and drive
20 away. And these are important witnesses that
21 provide a narrative for you to let you know what
22 happen.

23 But I want you to focus your attention on the
24 charges of carjacking, kidnapping, possession of a
25 weapon to commit a violent crime. But first when

1 I say someone's been charged with those crimes,
2 picture those crimes in your mind as you hear the
3 evidence. Say someone said to me, I was
4 carjacked. What would you have pictured had
5 happened? First you should consider that in your
6 mind's eye? What do you think of when kidnapping
7 or carjacking happens? The actions and then you
8 can think of the type of person in your minds eye
9 who you think expected to do it.

10 Some of the evidence you here will say the
11 only person who was in the car other than Armando
12 Ms. Cossachi was in the car. All right. She
13 jumped in the car and then they went a couple of
14 blocks and she jumped out. There's no question
15 about it. The only person that could give you
16 testimony sufficient to support the state's case
17 for each element for each crime that she is
18 accused of, is Mr. Montes. He's the one -- He's
19 the one -- the real one to listen to is Mr.
20 Montes. That'll be hard. He either has no or
21 limited English. He's using a translator to speak
22 through. We will try to work through that.

23 But the evidence will show that he was in his
24 car at the gas station, come out, he had bought
25 some stuff, got in his car, he was backing out,

1 Ms. Cossachi jumped in and said, Drive, get me out
2 of here or something to that effect. I imagine
3 he'll say that they drove across the street, went
4 a couple of blocks and she jumped out the window
5 of the truck. Mr. Montes gave a statement write
6 when this happened in which he said she pulled out
7 something that looked like a knife. He was scared
8 and that Ms. Cossachi put herself out the window
9 and he said no and she went on out the window
10 anyway.

11 I imagine his testimony will conform to his
12 earlier statement. I don't know why it wouldn't.
13 And then you hear Ms. Cossachi was arrested
14 another time. And yeah she did. She did run out
15 the car and ran into this guy's garage. The guy
16 told her to get out of here and she ran off again.
17 Then she was arrested and we'll hear about that.

18 But about -- a lot of dispute about what
19 happened. I mean, there are disputes about the
20 details but no one saying she didn't jump in the
21 car, no one saying that she wasn't acting out, no
22 one saying that Mr. Montes wasn't scared. But I
23 think that as you listen to the evidence, as you
24 consider what Lisa is accused of against the law
25 that the Judge will charge you, what it actually

1 means to kidnap someone, what it actually means to
2 carjack someone, 'cause you know it has to be in
3 Beaufort County. You have to prove that she did
4 it, the carjacking, that she took the vehicle from
5 the person. There's elements each crime has. The
6 judge will explain and the State has to prove each
7 of those beyond a reasonable doubt.

8 Once you weigh the testimony on the law that
9 the judge will give you, you'll find the State has
10 not met its burden. Thank you for your service.
11 Please give your attention to the State's
12 witnesses.

13 THE COURT: Will you call your first witness,
14 Ms. Henderson?

15 MS. CARRA HENDERSON: Thank you, Your Honor.
16 The State calls Corporal Erin Morris.

17 (Witness sworn)

18 DIRECT EXAMINATION

19 BY MS. HENDERSON:

20 Q Good morning.

21 A Good morning.

22 Q Will you please give us your full name again?

23 A Corporal Erin, E-r-i-n, Morris, M-o-r-r-i-s.

24 Q And obviously you're a sheriff's deputy but what's
25 your rank?

1 A Corporal for the Beaufort County Sheriff's office.

2 Q And what is a corporal, what are some of your
3 duties?

4 A Some of my duties, my day-to-day duties are I'm
5 the patrol officer for the Hilton Head - Bluffton
6 area, respondent to calls for service, extra
7 patrols, serving warrants, so on and so forth.

8 Q And can you tell the jury a little bit about your
9 training and experience?

10 A Yes, ma'am. I've been with the sheriff's office
11 for about seven and a half years, joined in
12 September of 2003. I initially was on the
13 enforcement division which is where I am now
14 servicing calls and things like that. In between
15 there, I spent a couple years on the traffic team
16 both on the Hilton Head and the county wide
17 traffic team. I have probably over 500 hours of
18 advanced training in various different areas.

19 Q Were you working October 23, 2010?

20 A Yes, ma'am, the night shift.

21 Q You were working the night shift?

22 A Yes, ma'am.

23 Q And what were some your duties that day or that
24 night, sorry?

25 A That night I was on patrol in the North in the

1 Hilton Head Island, which consisted of extra
2 patrolling, responding to calls for services,
3 conducting traffic stops, normal routine, day-to-
4 day stuff.

5 Q Okay. Did you have anyone in the car with you?

6 A I did. I had a young man, by the name of Dalton A.
7 who is an Explorer with the Beaufort
8 County Sheriff's office.

9 Q Okay. Can you explain to us what an Explorer is?

10 A An Explorer is a teenager or someone up to 20
11 years old who has an interest in law enforcement.
12 They want to know more about law enforcement.
13 What they are able to do is, along with getting
14 training through the Beaufort County Sheriff's
15 office, they're allowed to actually ride with
16 patrol officers so they can get a first-hand look
17 at what we do on our day-to-day basis.

18 Q Okay but they're not law enforcement and they --
19 But if you made a traffic stop, they are not
20 permitted to get out the car, approach the traffic
21 -- the other car with you?

22 A That's correct.

23 Q Okay.

24 A They actually wear a separate color shirt to make
25 them more readily identifiable.

1 Q So they're in the car with you but they just
2 observe and they remain in the car pretty much?

3 A Yes.

4 Q Okay. Did you go to the Circle K on Hilton Head
5 that night while you were on duty?

6 A I did.

7 Q And that is within Beaufort County, correct?

8 A Yes, ma'am.

9 Q Okay. And what were you doing at the Circle K?

10 A We got out at the Circle K, I went inside to
11 purchase a couple of items. I think Dalton A. wanted
12 to either use the restroom or purchase something.

13 Q Okay.

14 A He did -- They're allowed to get out on -- They
15 can get out, use the restroom, get something to
16 drink?

17 Q They're not allowed to get out when you're
18 responding --

19 A No, no, ---

20 Q -- to -- Yes. Okay. Can you tell the jury what
21 happened while you were at the Circle K?

22 A We walked into the Circle K, there was a line of
23 about five or six people standing at the register.
24 And immediately when I walked in I recognized an
25 individual standing in that line who I believe had

1 warrants on him. His name was Kenneth Allison.
2 He is easily recognizable. He's bigger than me,
3 very large man. I knew Mr. Allison had warrants.
4 I actually -- We discussed it at shift meeting
5 earlier that morning or that afternoon, and I had
6 actually gone into the office and actually had a
7 copy, photocopy, of one of his warrants.

8 Q So you attempted to serve those warrants on him?

9 A While I waited for him to get outside. I wanted
10 to make sure the people in the store were safe,
11 and I left Dalton A. in the store also at that point
12 because at that point we were just getting out and
13 stretching our legs and getting a drink to, Okay
14 now we have a criminal situation going on, so for
15 safety reasons.

16 Q Where did Kenneth Allison go --

17 MR. MATTHEW WALKER: Your Honor, were going to
18 object to this line. We're not here about Mr.
19 Allison or criminal safety regarding Mr. Allison
20 or any of that.

21 THE COURT: All right. I'm gonna let him just
22 do enough then we can start getting into what we
23 need to get to.

24 MS. CARRA HENDERSON: Thank you, Your Honor.
25 We're getting there now.

1 THE COURT: Thank you.

2 BY MS. HENDERSON: (RESUME)

3 Q Were was Mr. Allison once he left the store?

4 A As soon as he walked outside he got into the rear
5 passenger side of a small, I think it was green,
6 pickup truck that was sitting right outside, right
7 in front of the store and one of the front parking
8 spaces.

9 Q Was there anybody else in that truck?

10 A There were. There was a female, which is
11 Ms. Cossachi sitting at the defendant stand, and
12 another male driver. I think his name was
13 Mr. Merritt.

14 Q And what happened after that?

15 A I make contact with Mr. Allison, got him out of
16 the truck, put him in handcuffs. Immediately, I
17 put him under investigative detention. As I was
18 doing that he was talking to the female passenger,
19 Ms. Cossachi, as she was starting to get on the
20 phone to make phone calls. I told her to hang up
21 the phone until I got more backup units there and
22 I think I had to tell her that about two or three
23 times actually.

24 Q Okay. So you get -- In an effort to speed this up
25 a little bit, you got Kenneth Allison in -- cuff

1 him and you got him -- your backup arrived?

2 A Backup arrived.

3 Q You got him into a car?

4 A Deputy ** walk back to go put Mr. Allison in the
5 car. While doing that a female comes up to us and
6 says that she heard --

7 Q Okay.

8 MR. WALKER: Affect on the listener, Your
9 Honor.

10 THE COURT: Say what?

11 MR. WALKER: Affect on the listener.

12 THE COURT: Okay. Why don't you rephrase the
13 question? You can't say what someone said. You
14 can say what you understand them to have said.

15 THE WITNESS: Gotcha.

16 BY MS. HENDERSON: (RESUME)

17 Q All right.

18 A I'm sorry.

19 Q It's all right. So after Mr. Allison is placed in
20 the back seat you turn your attention towards
21 Ms. Cossachi?

22 A I turn my attention towards Ms. Cossachi back to
23 the truck at which time she's gone.

24 Q And did you have any idea where she had gone?

25 A At that point no. We started canvassing the area

1 and I went inside the store to see if maybe she
2 had gone inside the store.

3 Q But the woman that you saw in that truck, what was
4 she wearing?

5 A She was wearing a red shirt with -- red sweatshirt
6 style, long -- very long hair.

7 Q And she's in this courtroom?

8 A Yes, ma'am, sitting at the defendant's table
9 wearing a pin striped pant suit.

10 MS. CARRA HENDERSON: Let the record reflect
11 his ***

12 Q And so this one was no longer in sight?

13 A Correct.

14 Q Okay. Y'all looked around and you couldn't find
15 her anywhere?

16 A Right. Once I got in the store I learned through
17 investigation that she had jumped into a white
18 Ford Expedition which had fled the area.

19 Q Okay. And did that -- Did you ever see that
20 Expedition again?

21 A I did. Several minutes later the Expedition came
22 back up. Mr. Montes was driving at which time he
23 gave me a statement about what had happened,
24 provided me with the black and brown platform
25 shoes.

1 Q I'm handing you what's been previously marked for
2 purposes of identification. It's State's Exhibit
3 One. Can you identify that?

4 A Yes, ma'am. It's an evidence bag that I had
5 signed over on the following morning at six
6 o'clock in the morning. It says one pair of black
7 and brown female shoes with the seal on it where I
8 taped it shut and an issue of it, and another seal
9 which was taped shut on the 21st by evidence
10 custodian.

11 Q Okay. I'm gonna get you to go ahead and open that
12 bag. Do you recognize those shoes?

13 A Yes, ma'am. Those are the shoes that Mr. Montes
14 provided me saying that the defendant left in his
15 vehicle.

16 Q And after you got Mr. Montes's statement and got
17 the shoes what happened next?

18 A The next point after learning of another witness
19 involved in the case I was able to go back to the
20 Hilton Head office and pull up Ms. Cossachi's
21 latest booking photo which I believe is four days
22 prior --

23 Q So through investigation you were given a name?

24 A Correct. We were able to go back to the office
25 and confirm that was in fact Lisa Cossachi,

1 sitting at the defendant's table, who was in the
2 pickup truck that I was dealing with and who was
3 the person that jumped into Mr. Montes's vehicle
4 and left the shoes.

5 Q And what do you do once you confirm that that was
6 her?

7 A After learning of all the details involved in the
8 -- this incident, I went to -- went and met with
9 Judge Coffey and I woke her up that morning and
10 obtained two warrants for kidnapping, one warrant
11 for carjacking, and one warrant for possession of
12 a weapon during the commission of a violent crime.

13 Q Okay. Did you have any further involvement in
14 this case beyond that?

15 A No.

16 MS. CARRA HENDERSON: No further questions,
17 Your Honor.

18 CROSS EXAMINATION

19 BY MR. WALKER:

20 Q Good morning.

21 A Good morning, Mr. Walker.

22 Q Do you speak Spanish?

23 A Broken, a little bit.

24 Q 'Cause it would say peco?

25 A Poquito.

1 Q Poquito, all right. See I speak even less than
2 you. And the reason I asked you to say that, Mr.
3 Montes return to the scene in his car and he gave
4 you a statement. And the statement I have
5 appended to your report is written in Spanish so
6 I'm -- was he speaking in Spanish to you?

7 A He was speaking broken English.

8 Q Broken English. Yeah, okay.

9 A And I believe his sister might have shown up to
10 help with translation.

11 Q Did she show up with him or she show up
12 separately?

13 A After.

14 Q Okay.

15 A A matter of fact I think she came running **.

16 Q So you were -- His broken English and through his
17 sister was how you were able to communicate with
18 him?

19 A Correct.

20 Q Okay. Was any officer there speaking Spanish to
21 him?

22 A No.

23 Q Okay. Are you the person that gave him the
24 statement form to fill out?

25 A Yes.

1 Q Okay. And that's a statement?

2 A Yes, sir.

3 Q Now you had mentioned a minute ago that a lady
4 came up to you and we didn't want to get into what
5 she said but you didn't identify that lady?

6 A She left before I could get her name.

7 Q Okay. Did you see if anyone was with her?

8 A The witness?

9 Q The lady that approached you. Yeah.

10 A I did not see. Again we were dealing with Mr.
11 Allison at that point, trying to get him in the
12 car.

13 Q You said that when you first approached
14 Mr. Allison, got him out of car and Mr. Allison,
15 Ms. Cossachi, and Mr. Merritt, I think you said.
16 Mr. Allison spoke to Ms. Cossachi and she was
17 making a phone call. She had the phone already or
18 did Mr. Allison give her a phone or you don't
19 know?

20 A I think she already had the phone 'cause I had him
21 in handcuffs **.

22 Q So she had the phone in hand and was -- tried to
23 call, you didn't want her to call?

24 A Right.

25 Q Okay. Now when you saw Ms. Cossachi then in the

1 car and that's the only time you saw Ms. Cossachi
2 that night?

3 A Correct.

4 Q Was that interaction when you were really dealing
5 with Mr. Allison?

6 A I had Mr. Allison standing in what we call the
7 apex of the passenger door and the where the
8 passenger seat is. What that is is when you open
9 up the door, we were standing literally right in
10 side of -- If that door shut it would have
11 squished us.

12 Q Okay.

13 A So we were standing right in the corner where I
14 could see in the truck and deal with Mr. Allison
15 'cause I didn't have any backup at the time.

16 Q All right. And she was in the truck?

17 A Correct.

18 Q Okay and then you told her about -- quit making
19 phone calls or whatever?

20 A I just told her to stay off the phone until I had
21 backup.

22 Q Okay and we next attempted to have any interaction
23 with her she was gone?

24 A She was gone.

25 Q Okay. When you saw her there in the car did you

1 see a knife?

2 A No.

3 Q Okay. Did you have any reason to feel that she
4 was a threat?

5 A At that point yes.

6 Q Why?

7 A Based on the previous dealings that we had with
8 Mr. Allison.

9 Q Okay. Now referred to your report -- Have you had
10 a chance to review your report before testifying
11 today?

12 A Yes, sir.

13 Q Okay. You made mention of speaking to the
14 cashier, kind of at the end, I guess after Mr.
15 Montes had come back and you're conducting your
16 investigation, about obtaining a video from the
17 gas station video cameras and then I believe in
18 reading from your report you state you made
19 contact with the clerk and the clerk told you, the
20 manager is the only person that could make the
21 copy and the manager wouldn't be there until
22 Monday; --

23 A Correct.

24 Q Is that right? I don't see any supplement report
25 in here about I'm going back and talking to the

1 manager nor did I see a video in evidence. Was
2 there any other follow-up made as to that?

3 A No, there was no follow-up made. I know that
4 there's no cameras on outside of that store. The
5 only camera would have been on the inside of the
6 front door. And based on all the evidence that I
7 had at that point I didn't feel that I needed to
8 get the video.

9 Q Okay. You said previous calls, I guess you've
10 been to that gas station a bunch of times?

11 A Yes.

12 Q Okay.

13 A **.

14 Q So that's the previous calls you're talking about.
15 So you knew about the placement of the cameras
16 before this incident?

17 A Yes.

18 Q All right. But then you still, after this
19 happened, went and tried to get a copy?

20 A I went inside to see they could at least mark it
21 or flag it in case we needed it for later.

22 Q Okay.

23 A But the clerk told me that they didn't have any
24 access to the video so...

25 Q Okay. So and then you decided that because of

1 what you knew before this happened and everything
2 that you -- I guess you just didn't feel you
3 needed it?

4 A Correct.

5 Q All right. You said Dalton A. and I think you
6 covered this, that Mr. Dalton A. was in the car
7 with you, but when all this -- when you went to
8 speak with Mr. Allison and spoke with
9 Ms. Cossachi, he was inside the convenience store?

10 A Correct. We both went inside the convenience
11 store, got to give him a chance to get something
12 to drink and use the restroom, too. We both go
13 inside the convenience store but once all of this
14 started to transpire, I left Mr. Dalton A. told
15 him to stay inside of the store while I went
16 outside and dealt with **.

17 Q How far would you say from the doorway to the
18 store was the vehicle with Ms. Cossachi,
19 Mr. Merritt, and Mr. Allison?

20 A 10 to 15 feet, 10 to 15 feet unobstructed windows.

21 MR. MATTHEW WALKER: Court's indulgence?

22 Thank you, no further questions.

23 THE COURT: Thank you. Anything further?

24 MS. CARRA HENDERSON: Nothing further, Your
25 Honor.

1 THE COURT: You may step down. State will
2 call the next witness.

3 MS. CARRA HENDERSON: Thank you, Your Honor.
4 The State will call Dalton A.

5 (WITNESS SWORN)

6 THE COURT: Mr. Dalton A. please give us your
7 name for the record, sir?

8 THE WITNESS: Dalton A.

9 THE COURT: Thank you.

10 DIRECT EXAMINATION

11 BY MS. HENDERSON:

12 Q Mr. Dalton A. how old are you?

13 A Fourteen.

14 Q And how long have you been a Beaufort County
15 Sherrif's Office Explorer?

16 A One year.

17 Q Okay. Have you ever had to testify in a court
18 before?

19 A No, ma'am.

20 Q Okay. It won't take too long. Do you remember
21 the night of October 23, 2010?

22 A Yes, ma'am.

23 Q Were you riding along with Cpl. Morris that night?

24 A Yes, ma'am.

25 Q Okay. And it's our understanding from Cpl. Morris

1 y'all stopped at the Circle K that night?

2 A Yes, ma'am.

3 Q Okay. Could you please tell the Court -- I'm
4 sorry. Could you please tell the jury what
5 happened once Cpl. Morris left you in the Circle
6 K?

7 A I stood in the Circle K for a couple of minutes
8 and I happened to look out the door and saw a
9 white female wearing a red shirt run across the
10 parking lot into a Ford expedition.

11 Q Where was the Ford expedition parked?

12 A After I saw it, it was backed up in the parking
13 lot.

14 Q How -- Can you give us an estimate of how far it
15 was from where you were standing at the door?

16 A A parking space.

17 Q Okay. And this is a glass door that you can see
18 out of?

19 A Yes, ma'am.

20 Q Did you see her face?

21 A No, ma'am.

22 Q Okay. You just saw the red shirt and that she was
23 a white female?

24 A Yes, ma'am.

25 Q Okay. And did you relay this information to

1 Cpl. Morris?

2 A Yes, ma'am.

3 MS. CARRA HENDERSON: No further questions,
4 Your Honor.

5 THE COURT: Mr. Walker.

6 MR. MATTHEW WALKER: Thank you, Your Honor.

7 CROSS EXAMINATION

8 BY MR. WALKER:

9 Q Good morning.

10 A Good morning.

11 Q I'm Matthew Walker. Thank you for being here
12 today. I just want to narrow it down a little
13 bit, just kind of go through it slowly, you now,
14 where you were, what you saw. Obviously you're
15 inside the Circle K and Officer Morris told you to
16 stay in there while he went out and took care of
17 some business?

18 A Uh-huh.

19 Q Okay.

20 COURT REPORTER: Say yes or no.

21 A Yes.

22 Q And so inside the Circle K where were you
23 standing?

24 A I was about three people back in line.

25 Q Okay. So you're still in line while all of this

1 is going on?

2 A Yes.

3 Q Okay. Getting a drink?

4 A Yes.

5 Q Okay. Could you see out the doors though, pretty
6 clearly?

7 A Yes, sir.

8 Q Okay. And I heard you just tell the Solicitor
9 that the car was about a parking space from you.
10 So the line is right there by the door?

11 A Yes.

12 Q And then the white Explorer was kind of -- was it
13 like curbside right there by the doors when she
14 got in?

15 A It was parked in front of the door and when it
16 backed up it was diagonal.

17 Q So it kind of came out?

18 A Yes.

19 Q Okay, like at an angle?

20 A Yes.

21 Q I can verbally describe for the court well but --
22 and you saw it back up?

23 A Yes, sir.

24 Q And I guess you know like he's getting ready to
25 leave and then you saw Ms. Cossachi jump in the

1 passenger side, right?

2 A Yes, sir.

3 Q Okay. Do you remember -- So I guess it backed up
4 with the passenger side towards the door?

5 A Yes.

6 Q Okay and did you -- Obviously I guess you saw
7 Ms. Cossachi jump in. Did you see the driver at
8 that time?

9 A No.

10 Q Okay. Did you see any other occupants in the
11 vehicle?

12 A No, sir.

13 Q Do you remember if the windows were up or down?

14 A They were all up.

15 Q Okay. Do you speak Spanish?

16 A No, sir.

17 Q Okay. Did you ever talk to Mr. Montes?

18 A No.

19 Q Okay. Now did you see her get in the vehicle when
20 she got in it or she just -- she was kind of there
21 when you observed her?

22 A When I looked out the door I saw the white female
23 running across the parking lot, open the door and
24 hopped in.

25 Q Okay. Was there -- It was a straight I'm in the

1 car grab or was there any kind of pause or --

2 A There was no pause. It was just straight in the
3 car.

4 Q Okay. Did you see a knife in her hand?

5 A No.

6 Q Okay. Were you able to, I know that you were
7 inside, but were you able to hear anything?

8 A No.

9 Q Okay. And then so you're at the pay line, you're
10 watching, backs up, passenger side, she runs and
11 hops in. Once she's in is there any kind of a
12 pause?

13 A I wasn't really sure. I wasn't thinking anything
14 of it at the time.

15 Q Okay. You didn't think anything of her jumping in
16 the car at the time?

17 A No.

18 Q Only later when you found that they were looking
19 for a white female wearing a red shirt and that's
20 when you said I just saw that?

21 A Yes.

22 Q Okay. So nothing appeared out of the ordinary to
23 you, just watching it?

24 A Yes.

25 Q Okay. All right. So -- and again, it just

1 appeared normal? Back up, woman kind of runs up
2 and gets in, normal speed, drives away?

3 A Yes.

4 Q It look to you basically pretty normal and did you
5 see the car once it kind of drove away? Did you
6 see kind of where it went?

7 A I saw the car start to drive away and then I
8 turned back around.

9 Q Watching the other stuff going on?

10 A Yes, sir.

11 Q Thank you.

12 MR. MATTHEW WALKER: No further questions.

13 MS. CARRA HENDERSON: Nothing further, Your
14 Honor.

15 THE COURT: All right. You may step down,
16 sir.

17 MS. CARRA HENDERSON: May he be excused, Your
18 Honor?

19 THE COURT: Any objection?

20 MR. MATTHEW WALKER: No objection, Your Honor.

21 THE COURT: Your excused, Mr. Dalton A. State
22 calls its next witness.

23 MS. CARRA HENDERSON: Thank you, Your Honor.
24 The State calls Armando Montes.

25 THE COURT: All right. Swear in Mr. Montes

1 and please swear in the court interpreter.

2 (COURT INTERPRETER SWORN)

3 THE COURT: Come forward, Mr. Montes.

4 (WITNESS SWORN)

5 THE COURT: Ladies and gentlemen, and
6 interpreter is sworn to give accurate and exact
7 testimony. Ms. McCann will be repeating
8 everything the Solicitor asks Mr. Montes and then
9 she will be giving, in English, testimony exactly
10 as Mr. Montes testifies.

11 MS. CARRA HENDERSON: Ms. McCann, please let
12 me know if I go too fast.

13 COURT INTERPRETER: Thank you.

14 DIRECT EXAMINATION

15 BY MS. HENDERSON

16 Q Good morning, Mr. Montes?

17 A Good morning.

18 Q What do you do for a living?

19 A (through interpreter) I am a cook, a chef.

20 Q Where do you work?

21 A (through interpreter) I work in Marley's.

22 Q Marley's Restaurant?

23 A (through interpreter) Yes.

24 Q How long have you lived on Hilton Head?

25 A (through interpreter) About 11 years.

1 Q I know you can understand a little bit of English
2 and speak a little bit of English so I know you're
3 trying to answer me in English and Spanish at the
4 same time but... So you -- I'm sorry, how long
5 have you lived here?

6 A (through interpreter) Eleven years.

7 Q And do you have any children?

8 A (through interpreter) A daughter.

9 Q And what's her name?

10 A (through interpreter) Minor

11 Q And how old is she?

12 A (through interpreter) Right now she's six years
13 and three months.

14 Q How old was she on October 23, 2010?

15 A (through interpreter) About 5 and a half.

16 Q Do you remember the night of October 23rd?

17 A (through interpreter) Yes.

18 Q Can you tell the jury a little bit about what
19 happened that night?

20 A (through interpreter) Yes.

21 Q When did you pick up Minor

22 A (through interpreter) That night, we're at my
23 mother's place.

24 Q And once you picked up Minor what did you do?

25 A (through interpreter) I went to the store that is

1 where everything that happened that night
2 occurred.

3 Q The Circle K?

4 A (through interpreter) Yes.

5 Q — Okay and what happened once you got to the Circle
6 K?

7 A (through interpreter) I went in to buy something
8 for my daughter and for me.

9 Q And once you bought those things you left the
10 store?

11 A (through interpreter) Yes.

12 Q And you got back in your car?

13 A (through interpreter) I put my child's seatbelt on
14 and then I got in the car.

15 Q Where was Minor sitting in the car?

16 A (through interpreter) In the back seat on my side
17 of the car.

18 Q What kind of car do you drive or were you driving
19 that night?

20 A (through interpreter) An Expedition.

21 Q And what color was it?

22 A (through interpreter) White.

23 Q And where were you parked in relation to where the
24 store was?

25 A (through interpreter) In front of the door, a

1 little bit to the side.

2 Q Okay. And after you buckled Minor up and you
3 got in the car, you went to leave?

4 A (through interpreter) Yes.

5 Q And what happened once you started to back out of
6 the parking spot?

7 A (through interpreter) I was leaving the parking
8 space -- I was going to leave when -- when a
9 person opened the door of my car and got in. She
10 said to me she was rather desperate. She told me
11 to drive and she told me to drive and that I
12 should stop where she would tell me stop. I -- So
13 I had to cross two lanes of traffic very quickly
14 then I realize that she had something in her hand.
15 I did not know exactly what it was and that I was
16 frightened and she asked if somebody was following
17 us.

18 Q Did you -- You said you saw something shiny in her
19 hand?

20 A (through interpreter) Yes.

21 Q Did you see that -- At what point did you see
22 that?

23 A (through interpreter) Not exactly when she got in
24 but when she told me to drive. When she --

25 MS. CARRA HENDERSON: Your Honor, may he stand

1 up to demonstrate?

2 A (through interpreter) -- It was something small.

3 THE COURT: Sure.

4 MS. CARRA HENDERSON: It just looked like he
5 was doing something with his hands. She was
6 trying to explain.

7 THE COURT: Okay. Ms. McCann, if he needs to
8 stand up to explain what he's doing. The jury can
9 see him clearly. He may stand up.

10 THE INTERPRETER: Yes, Your Honor.

11 A (through interpreter) Something about like this,
12 something small like this. I couldn't see it
13 well. I couldn't see very well but in that moment
14 I thought it could be a knife or something.

15 Q Mr. Montes, how were you feeling as this all was
16 happening?

17 A (through interpreter) Well, like a person who has
18 somebody in their car and could to take my child
19 or a person that would that would come into my car
20 and say drive.

21 Q Did you feel like you could just tell her to get
22 out?

23 MR. MATTHEW WALKER: Objection. Leading, Your
24 Honor.

25 THE COURT: The witness can answer the

1 question. It's allowed. Go ahead and repeat it,
2 Ms. Henderson.

3 MS. CARRA HENDERSON: Thank you, Your Honor.

4 Q Did you feel like you could make her get out?

5 A (through interpreter) No, because I couldn't see
6 exactly what she had in her hand.

7 Q What happened after you had then crossed 278?

8 A (through interpreter) She then demanded that I
9 stop -- that I stop in a dark area. Okay, then
10 when I stopped then she opened the door, then she
11 left running, and she forgot the shoes. I didn't
12 know anything more about her after that.

13 Q What did you do after she jumped out the car?

14 A (through interpreter) I went home to drop my
15 daughter off.

16 Q And then what did you do?

17 A (through interpreter) I went back to the Pantry
18 and I saw that the policeman was there. When I
19 got back to the pantry I explained to the
20 policeman everything, all that had happened, that
21 a woman had gotten in my car and that's when I
22 turned over to him the shoes.

23 Q Okay. I'm going to hand you what's previously
24 been marked as State's Exhibit One. Do you
25 recognize those?

1 A Yes.

2 Q And what are they?

3 A (through interpreter) I -- What do you mean what
4 are they?

5 Q Are you able to recognize them?

6 A (through interpreter) Because one was ripped or
7 torn.

8 Q Are those the shoes you gave to Cpl. Morris?

9 A (through interpreter) Yes.

10 Q Okay. Those are the shoes that she left in your
11 car?

12 A (through interpreter) Yes.

13 MS. CARRA HENDERSON: Your Honor, moved to
14 have State's Exhibit One into evidence?

15 THE COURT: Any objection?

16 MR. MATTHEW WALKER: No objection.

17 THE COURT: Move it into evidence.

18 MS. CARRA HENDERSON: Thank you, Your Honor.

19 Q Mr. Montes, did you invite Ms. Cossachi into your
20 car?

21 A (through interpreter) No.

22 Q Did you want her in your car?

23 A (through interpreter) No.

24 MS. CARRA HENDERSON: Beg the Court's
25 indulgence for just one second? I have no further

1 questions. Please answer any questions Mr. Walker
2 has.

3 MR. MATTHEW WALKER: Court's indulgence.

4 CROSS EXAMINATION

5 BY MR. WALKER:

6 Q Good morning, Mr. Montes.

7 A (through interpreter) Good morning.

8 Q My name is Matthew Walker. I represent
9 Ms. Cossachi. I just have a couple of quick
10 follow-up questions for you. At the time this
11 happened you gave a statement to the police that
12 night, correct?

13 A (through interpreter) Yes.

14 Q I'm going to hand this to you and ask if you
15 recognize it? Is that the statement you gave to
16 the police the night this happened?

17 A (through interpreter) Yes.

18 Q This was about 10:30 at night, right?

19 A (through interpreter) 10:15, 10:30.

20 Q And the gas station was well lit, correct?

21 A (through interpreter) Yes.

22 Q All right. I think you just testified that --
23 that the place where she wanted to get out was
24 dark?

25 A (through interpreter) Well yes, quite dark,

1 exactly.

2 Q Okay. What I want to do since your statement is
3 in Spanish is ask you to read it one sentence at a
4 time so that she can translate as you go?

5 A (through interpreter) I went to the pantry. I --

6 MS. CARRA HENDERSON: Objection, Your Honor.
7 This translation should've been done by Mr. Walker
8 before now.

9 THE COURT: Overruled. He can do it. Go
10 ahead.

11 A (through interpreter) -- went to buy three beers
12 and chocolate for my daughter, and I left the
13 store, and I put the car in reverse and then the
14 door to my car was opened, and the person took out
15 something like a switch blade and something in the
16 hand and told me --

17 Q Let me stop you there just on a translation issue.
18 She translated that a switch blade, do you mean
19 something that looked like a knife and a generic
20 sense or did -- are you specifically say, I
21 thought it was a switch blade?

22 A (through interpreter) I don't know exactly what it
23 was.

24 Q So just like a knife generically?

25 A (through interpreter) About the size is --

1 Q I'm just going to the translation that you said
2 something that look like, and you used the term
3 switchblade. Should it be something that looks
4 like a knife?

5 A (through interpreter) Something that look like a
6 knife.

7 Q And -- okay. Please continue reading. I'm sorry.

8 A (through interpreter) And she told me to go
9 forward and she flew through the window of the car
10 and I said no. And then that's all charges
11 against the woman.

12 Q Okay. Let me -- that's fine. Let me stop to what
13 you're saying about flew through the window of the
14 car.

15 A (through interpreter) I was nervous and I had
16 difficulty writing this and I don't know English -
17 -

18 Q I understand you're nervous and there's nothing
19 wrong with it.

20 A (through interpreter) That night. I'm talking
21 about that night.

22 Q Right. I just wanted to know what you meant by
23 it. What does it mean, Flew through the window?

24 A (through interpreter) I couldn't explain to the
25 policeman how she got out the car.

1 Q So she went out the window?

2 A (through interpreter) No, no, no not through the
3 window.

4 Q Or just she flew through the window, and I'm going
5 on your statement, and you can kind of follow with
6 me.

7 A (through interpreter) It's when she told me to
8 stop the car and then she opened the door.

9 Q Okay. So again your statement is -- I don't have
10 much Spanish but I think the line here that we're
11 looking at is "sentil por la ventana del..." It's
12 that she threw herself by the window and the next
13 line it says you told her no, and then you say
14 that she threw herself by the window again?

15 A (through interpreter) When I told her that, she
16 was over by the window where she was seated. She
17 was asking me as somebody was following us. I
18 thought that -- I thought something like that.

19 Q So does threw her by the window mean she was slid
20 up against the window like leaning against the
21 door?

22 A (through interpreter) In the seat?

23 Q Right.

24 A (through interpreter) On the front seat.

25 Q Is that what you meant by, Through the window?

1 A (through interpreter) Yes.

2 Q So she was up against the door, up against the
3 window and that's what you meant in your
4 statement?

5 A (through interpreter) No. I don't understand your
6 question.

7 Q When you wrote down --

8 MR. MATTHEW WALKER: (to intrpreter) And if you
9 can point out the line we've been telling him
10 about to him?

11 -- What does it mean she threw herself by the
12 window?

13 A (through interpreter) That's when -- and that's
14 when she opened the door of my car.

15 Q And that line that says, She threw herself by the
16 window then he says he told her no; is that
17 correct?

18 A (through interpreter) Yes.

19 Q And then he says, She threw herself by the window
20 again.

21 A (through interpreter) That's when she told me to
22 stop in the dark area and she opened the door and
23 she began to run.

24 MR. MATTHEW WALKER: Does he have another way
25 to say threw against the window?

1 MS. CARRA HENDERSON: Judge, asked and
2 answered. We've been through this. He's answered
3 as best he can.

4 THE COURT: I'm gonna let him try.

5 A (through interpreter) She opened the window. Oh
6 and she was looking to see -- She opened the
7 window to see if somebody was following and I told
8 her no.

9 Q That makes more sense. Thank you. Just a minute.
10 ago I was asking about the part of your statement
11 that said she had something that looked like a
12 knife and you made a motion with your hand. You
13 said she had something small. You just hold your
14 hand up again about what size you think it was?

15 A (through interpreter) That size.

16 Q Okay, is this about right?

17 A (through interpreter) Yes.

18 Q And it was shiny?

19 A (through interpreter) How do I say --

20 Q Let me back -- It had a metallic look?

21 A (through interpreter) No -- Yes, something perhaps
22 silver.

23 Q And nothing like this has happened to you before?

24 A (through interpreter) No.

25 Q And you just said that you were real nervous

1 writing the statement?

2 A (through interpreter) Yes. When I was speaking
3 with the official. Yes.

4 MR. MATTHEW WALKER: Court's indulgence?

5 THE COURT: Is there anything further,
6 Mr. Walker?

7 MR. MATTHEW WALKER: Nothing further. Thank
8 you, Your Honor.

9 THE COURT: Anything further from the State,
10 Ms. Henderson?

11 MS. CARRA HENDERSON: Very briefly,
12 Your Honor.

13 REDIRECT EXAMINATION

14 BY MS. HENDERSON:

15 Q Mr. Montes, have you ever seen this woman before
16 that night?

17 A (through interpreter) That night was the first
18 time.

19 Q And did you feel threatened when she was in the
20 car with you?

21 A (through interpreter) Yes, a bit because I had my
22 daughter with me.

23 Q And could you read the last line of your
24 statement?

25 A (through interpreter) Which line?

1 Q The last line about the woman.

2 A (through interpreter) I'm not sure which line it
3 is.

4 Q It's the one after the window.

5 A (through interpreter) Charges against the woman --
6 is simply the way that she entered my car and how
7 she yelled at me to drive and all that.

8 MS. CARRA HENDERSON: No further questions,
9 Your Honor.

10 THE COURT: Anything further, Mr. Walker?

11 MR. MATTHEW WALKER: No, Your Honor.

12 THE COURT: You may step down, Mr. Montes.

13 MS. CARRA HENDERSON: May he be excused,
14 Your Honor?

15 MR. MATTHEW WALKER: No objection.

16 THE COURT: You are excused, Mr. Montes.

17 Ladies and gentlemen of the jury, now is a very
18 good time for a break. I'm going to send you back
19 into your jury room. Again do not begin
20 discussing this case. It would not be appropriate
21 to do so. Get a cup of coffee, okay. Feel free
22 to bring it back in with you if you'd like, and
23 we'll be back with you shortly.

24 (Jury Exits)

25 BAILIFF: The jury is cleared, Your Honor.

1 THE COURT: All right. Ms. Henderson, how
2 many more witnesses do you have?

3 MS. CARRA HENDERSON: Three -- two more, Your
4 Honor.

5 THE COURT: Okay. Can we finish them by
6 lunch?

7 MS. CARRA HENDERSON: I would certainly think
8 so.

9 THE COURT: All right. Now let's just take a
10 quick ten minute break and then we'll go ahead and
11 get back and finish your witnesses.

12 (Resume after the break)

13 THE COURT: All right. Is the State ready?

14 MS. CARRA HENDERSON: Yes, Your Honor.

15 THE COURT: Is the defense ready?

16 MR. MATTHEW WALKER: Yes, Your Honor

17 THE COURT: Thank you. Bring the jury in
18 please.

19 (Jury Enters)

20 BAILIFF: The jury is seated, Your Honor.

21 THE COURT: Thank you. Welcome back, ladies
22 and gentlemen of the jury. The State will call
23 the next witness.

24 MS. CARRA HENDERSON: Thank you, Your Honor.

25 The State calls Corporal Todd Kaminski.

1 (WITNESS SWORN)

2 DIRECT EXAMINATION

3 BY MS. HENDERSON:

4 Q Will you please spell your last name, please?

5 A Spell my last name? K-a-m-i-n-s-k-i.

6 Q And obviously you are a sheriff's deputy. What is
7 your rank?

8 A I am a corporal.

9 Q And what are some of your duties?

10 A I'm in our southern ** division.

11 Q And were you working on October 23, 2010?

12 A No I was not.

13 Q How did you become involved in this case if you
14 weren't working?

15 A I had a cookout at my residence which is Shelter
16 Cove as you know. We were out in the garage on
17 the patio area. We were -- Excuse me. I was
18 sitting and all of a sudden a woman came running
19 into my garage yelling, Hide me. And I didn't
20 know who it was. I looked at the individual and
21 recognized her from a BOLO, be on the lookout,
22 that we have for a missing person, as Lisa
23 Cossachi.

24 Q What was she wearing?

25 A A red sweater, no shoes.

1 Q She didn't have any shoes on. What did you tell
2 her?

3 A I told her to get out of my house. She proceeded
4 to run up the steps of my garage trying to get
5 into the living room area. She was stopped
6 because someone was at the steps. Then she ran
7 out of the house. I immediately called the on-
8 duty supervisor. I asked if they were looking for
9 Ms. Cossachi. She said they had been, were
10 looking for her.

11 Q And is the woman who ran into your garage in this
12 courtroom?

13 A Yes, ma'am.

14 Q Can you please point her out?

15 A **.

16 Q Can you describe what she's wearing?

17 A She's wearing lavender -- grey coat with a
18 lavender undershirt.

19 MS. CARRA HENDERSON: Please let the record
20 reflect he's identified the defendant.

21 THE COURT: Let the record reflect.

22 MS. CARRA HENDERSON: Thank you, Your Honor.
23 No further questions.

24 THE COURT: Mr. Walker.

25 CROSS EXAMINATION

1 BY MR. WALKER:

2 Q Good morning.

3 A Good morning.

4 Q Thanks for being here. I just have a couple of
5 quick questions. You had a -- You said you had a
6 cookout. So there are number of people at your
7 residence, correct?

8 A Yes, sir.

9 Q Okay. And about how many?

10 A About ten at that point.

11 Q Okay. A mixed group?

12 A A mixed group.

13 Q Okay. All she said to you is, Hide me?

14 A She didn't say it directly to me, she just ran in
15 yelling, Hide me, hide me, hide me.

16 Q Okay. To like the group?

17 A She was running behind a couch.

18 Q I understand she was -- You said she didn't say it
19 to you. So there was a group of people there that
20 she was --

21 A Yes.

22 Q And did you see a knife or anything in her hand?

23 A No.

24 Q Okay. You see a knife at all?

25 A No.

1 Q You didn't see a knife. And you say she was going
2 up the stairs, there was somebody on the stairs
3 she couldn't get by so she turned around and left?

4 A Yes.

5 Q Okay. And that's all I have. Thank you.

6 THE COURT: Anything further, Ms. Henderson?

7 MS. CARRA HENDERSON: Nothing further, Your
8 Honor.

9 THE COURT: You may step down, sir.

10 MS. CARRA HENDERSON: May he be excused, Your
11 Honor?

12 MR. MATTHEW WALKER: No objection.

13 THE COURT: You're excused. You may call your
14 next witness, Ms. Henderson.

15 MS. CARRA HENDERSON: The State calls
16 Sgt. Robert DiCarlo.

17 MR. MATTHEW WALKER: Objection, Your Honor.

18 THE COURT: I'm gonna go ahead and send you
19 back to the jury room briefly. Again do not
20 discuss this case. It would be inappropriate to
21 do so at this time. We'll be back with you
22 shortly.

23 (Jury exits)

24 BAILIFF: The jury is clear.

25 THE COURT: We're gonna bring DiCarlo in and

1 get a proffer. Come on in Seargeant. I'll ask
2 you to swear him in. What we do is a proffer
3 outside of the jury's presence to see whether or
4 not **. ** Thank you, sir.

5 (WITNESS SWORN)

6 THE COURT: Just give us your name for the
7 record and my court reporter.

8 THE WITNESS: Seargent Robert DiCarlo.

9 THE COURT: Thank you, sir.

10 DIRECT EXAMINATION

11 BY MS. HENDERSON:

12 Q Sgt. DiCarlo, how did you become involved in this
13 case?

14 A I was the on-coming shift of the morning of the
15 24th. It was brought to our attention there were
16 active arrest warrants for Lisa Cossachi due to an
17 incident that happened during the previous shift.
18 Based on some information that we received of her
19 possibly being at the Metropolitan Hotel, I then
20 took a picture of Ms. Cossachi to the hotel. I
21 met with the hotel manager and he confirmed that
22 he believed she was staying at a room in there. I
23 called up for some additional officers. We did
24 make contact with Ms. Cossachi in room 5412 at
25 which point I placed her under arrest.

1 Q When you got to the hotel room did you knock on
2 the door? How did you gain access into the hotel
3 room?

4 A The general manager of the hotel room actually
5 knocked on the door and asked the occupants -- he
6 identified himself and asked the occupants to open
7 up the door. A black male opened up the door.
8 And upon opening we did visibly see Ms. Cossachi
9 inside the room.

10 Q And you just went in and placed her under arrest
11 without any incident?

12 A Correct.

13 Q And the information that she was at the
14 Metropolitan Hotel, was that something that you
15 knew from your prior dealings with her or was that
16 information that was provided to you by an outside
17 source?

18 A By on-coming law enforcement officers and knowing
19 some prior incidents in the past.

20 Q One second.

21 MS. CARRA HENDERSON: Nothing further, Your
22 Honor.

23 THE COURT: Okay. Mr. Walker.

24 CROSS EXAMINATION

25 BY MR. WALKER:

1 Q When you arrested Ms. Cossachi did she make any
2 statements regarding this case?

3 A Not to my knowledge.

4 Q Did you find a knife in her possession?

5 A No we did not.

6 MR. MATTHEW WALKER: No further questions.

7 THE COURT: All right.

8 MR. MATTHEW WALKER: ** that it's not relevant
9 to the facts the jury consider that should she
10 testify she's in a motel room with a black male,
11 not her husband and ** --

12 THE COURT: Well that is irrelevant. **

13 MR. MATTHEW WALKER: It is irrelevant that --
14 Obviously it could be --

15 THE COURT: It's irrelevant. I don't think it
16 needs to be said. I just think he went, he
17 apprehended her, he got her the next day out of
18 the hotel. It's that simple.

19 MS. CARRA HENDERSON: Yes, Your Honor. And he
20 didn't mention that she was unclothed. I don't
21 think he has the --

22 THE COURT: There doesn't need to be any
23 conversation about that she was.

24 MR. MATTHEW WALKER: His testimony is he went
25 to a hotel, the hotel room door was opened by a

1 black male, and he saw her in there.

2 THE COURT: That does not matter. So the
3 point is we aren't going to testify to that. He
4 just can say she was there with another person,
5 that person opened the door. He went in without
6 incident and placed her under arrest. It's that
7 simple.

8 MS. CARRA HENDERSON: Yes, Your Honor.

9 THE COURT: Okay..

10 MR. MATTHEW WALKER: Thank you, Your Honor.

11 THE COURT: So there doesn't need to be any
12 male or ** --

13 MR. MATTHEW WALKER: Just someone --

14 THE COURT: It can be another person --

15 MR. MATTHEW WALKER: -- ** --

16 THE COURT: Another person **. Okay. Let's
17 bring the jury out.

18 (Jury enters)

19 BAILIFF: The jury is seated, Your Honor.

20 THE COURT: Thank you. Welcome back, ladies
21 and gentlemen. The State will call the next
22 witness.

23 MS. CARRA HENDERSON: Thank you, Your Honor.

24 The State calls Sgt. Robert DiCarlo.

25 (WITNESS SWORN)

1 THE COURT: Sgt. DiCarlo, give us your name
2 for the record, sir.

3 THE WITNESS: Sgt. Robert DiCarlo.

4 THE COURT: Thank you.

5 DIRECT EXAMINATION

6 BY MS. HENDERSON:

7 Q Sgt. DiCarlo, what are some of your duties with
8 Beaufort County Sherrif's Offic?

9 A My primary duty is to ensure that the individuals
10 that work under my team, I monitor their daily
11 duties. I'm an assistant supervisor to the
12 Sheriff.

13 Q And what type of shift do you work? Is it a road
14 shift or a investigator shift?

15 A Road patrol, southern road patrol.

16 Q And how did you become involved in this case?

17 A We were the oncoming shift the morning of the
18 24th, and we hold a regular shift briefing. During
19 the shift three things were advised that an
20 incident had taken place during the night shift
21 involving the kidnapping, carjacking incident and
22 that arrest warrants were secured for an
23 individual, an individual identified as Lisa
24 Cossachi. During the shift briefing we were also
25 told there's a possibility of her being located at

1 the Metropolitan Hotel. Based on having active
2 warrants and possibly the location, I had printed
3 a picture of her and proceeded to the Metropolitan
4 Hotel where I met the general manager. I showed
5 him the picture of the defendant and he advises
6 she there was a good possibility that she was in
7 room 5412 of the hotel.

8 Q Did you go to the hotel room?

9 A I did.

10 Q And did you make contact with her inside the hotel
11 room?

12 A We did, yes.

13 Q Okay and did you serve the arrest warrants on her?

14 A I did.

15 Q Without incident?

16 A Without incident.

17 Q Okay and is a person that you found in the hotel
18 room and placed under arrest in this courtroom?

19 A Yes, ma'am.

20 Q Can you point her out and describe what she's
21 wearing?

22 A Sitting right here in the purple with the purple
23 shirt and gray jacket and the long hair.

24 MS. CARRA HENDERSON: Let the record reflect
25 he's identified the defendant.

1 Q And did she make any statements?

2 A No.

3 MS. CARRA HENDERSON: No further questions,
4 Your Honor.

5 THE COURT: Mr. Walker.

6 CROSS EXAMINATION

7 BY MR. WALKER:

8 Q Officer DiCarlo, did you find any weapons when you
9 arrested her?

10 A No, sir.

11 Q Thank you.

12 MR. MATTHEW WALKER: No further questions.

13 THE COURT: Anything further, Mr. Henderson?

14 MS. CARRA HENDERSON: Your Honor, no nothing
15 further from this witness.

16 THE COURT: All right. Sir, you may step
17 down. Any objection are Mr. DiCarlo being
18 excused?

19 MR. MATTHEW WALKER: No, Your Honor.

20 THE COURT: All right. Ms. Henderson, you can
21 go ahead and excuse him. Your excused, sir.

22 Thank you. All right. Ms. Henderson.

23 MS. CARRA HENDERSON: Thank you, Your Honor.

24 At this point the State rests.

25 THE COURT: All right. Ladies and gentlemen

1 the jury, the State has rested their case at
2 this time. I'm gonna send you back briefly to
3 your jury room to discuss how we're going to
4 finish this case. I'll bring you back shortly.

5 Again ladies and gentlemen, do not begin
6 discussing this case. It wouldn't be appropriate
7 to do so at this time. And we'll be right back
8 with you. Thank you.

9 (Jury exits)

10 BAILIFF: The jury is clear.

11 THE COURT: Thank you. Any motions?

12 MR. MATTHEW WALKER: Yes, Your Honor. I'll
13 begin with a motion for directed verdict for
14 possession of a weapon during a violent crime.
15 There's been no evidence from the State to support
16 a conviction. I would offer and support State
17 versus -- Williams versus South Carolina, 410SC
18 2nd 563. It's in the bandage outline but I have a
19 copy if you'd like to see it. The mere
20 appearance, what must be proven is the actual --
21 actually was a knife that was used. It didn't
22 appear to be a knife, it was a knife. That's the
23 last paragraph.

24 THE COURT: I like the firearm portion of the
25 statute.

1 MR. MATTHEW WALKER: Based on the testimony I
2 don't see that they could support.

3 THE COURT: Ms. Henderson.

4 MS. CARRA HENDERSON: The victim testified
5 that he thought it was a knife and that he never
6 said that he could say for sure that it wasn't a
7 knife or that -- or that he could say for sure
8 that it was a knife. He thought it was a knife at
9 the time. We don't have testimony that it wasn't.

10 MR. MATTHEW WALKER: And you'd have the burden
11 shifting from me, I can prove that it wasn't.
12 It's their job to prove.

13 MS. CARRA HENDERSON: Your Honor, I just think
14 it's -- ** most favorable to the State is the jury
15 question to determine if they believe it's a knife
16 or not.

17 THE COURT: He has to, according to the
18 statute, -- or she has to -- visibly display a
19 knife. That is what the statute requires. Under
20 the firearm portion, it can be a firearm or what
21 appears to be a firearm. That's the difference.
22 Let me go ahead and see your bench book portion of
23 it.

24 MR. MATTHEW WALKER: I didn't -- Your Honor, I
25 thought you might have it on the computer. It's

1 the very last paragraph of the opinion.

2 THE COURT: All right. Anything further for
3 me all?

4 MS. CARRA HENDERSON: Nothing further from the
5 State, Your Honor.

6 MR. MATTHEW WALKER: No, Your Honor. I have
7 other motions that are not on this issue.

8 THE COURT: Pardon?

9 MR. MATTHEW WALKER: I have other motions but
10 on this issue, no.

11 THE COURT: All right. I can tell you that
12 you actually did in fact help with the testimony
13 because as of what Ms. Henderson just put up at
14 the time, she just put up her victim. He hadn't
15 said it was a knife in anyway. You kind of put
16 words in his mouth when you say shiny. And that
17 was something that had jumped in there --

18 MS. CARRA HENDERSON: I honestly thought
19 that's what I heard, Your Honor. I'm sorry, that
20 was not intentional.

21 THE COURT: No it's okay. He had asked me to
22 instruct that that was a mis-characterization of
23 the evidence so the testimony I will have to say
24 that mis-characterization for your edification.
25 All right. Respectfully, I am going to direct a

1 verdict as to the possession of a knife during a
2 violent crime. I'm going to tell you this, I
3 thought Mr. Montes's testimony was very truthful
4 and very credible. He was being straightforward
5 and absolutely honest though he can't get there, I
6 can't get there so... Anyway, all right. Your
7 next motion.

8 MR. MATTHEW WALKER: Our next motion is
9 directed verdict of car-jacking. The statute
10 requires that the defendant take or attempt to
11 take the vehicle from the victim. It's a crime of
12 possession.

13 THE COURT: Do you have any case law on that?

14 MR. MATTHEW WALKER: I've read every case of
15 car-jacking in this state. Every case that's
16 reported, except the most recent, deals with the
17 fact that the person ended up with possession of
18 the car. The victim no longer have possession of
19 the car. Most recent case on it, the person had
20 entered a plea to car-jacking in the factor kind
21 of vague. And the footnote to, I think it was
22 Edwards or something like that or Elders, the
23 footnote to the person **. He's not appealing his
24 plea of car-jacking and ** charges.

25 THE COURT: All right.

1 MR. MATTHEW WALKER: He was appealing all the
2 other convictions I really didn't get to the
3 appropriateness of car-jacking. In every case
4 where there's been a trial of car-jacking the
5 person took the car from somebody.

6 THE COURT: I couldn't find anything in here
7 **.

8 MR. MATTHEW WALKER: And the testimony was she
9 told him to stop. She got out and ran. She had
10 no -- She never told him to get out of the car.
11 All she wanted was a ride. So I don't believe the
12 statute ** we've got the carjacking.

13 MS. CARRA HENDERSON: Judge, well back up a
14 second. In the case I tried, I can't remember the
15 defendant's name, but it was the case where the
16 husband and wife were abducted from behind ** and
17 was charged with kidnapping, car-jacking. And the
18 facts of that case were never that they took over
19 control of the car. It was that he held a gun to
20 the driver's -- victim's head and told him to
21 drive.

22 MR. MATTHEW WALKER: Yes, Your Honor. And I
23 believe, I'm not a hundred percent familiar, but I
24 think the statute says, Attempts to take by force
25 and that -- and what you have different here, you

1 have the complete -- 'cause he haven't stopped in
2 the middle of the ** pointing to head and drive,
3 and then they're pulled over with everybody still
4 in the car that would be an attempted car-jacking
5 because you can reasonably infer they were trying
6 to dispossess but you have the full story. She
7 got in the car, she got out, and there's never any
8 testimony that she attempted to take or dispossess
9 Mr. Montes of his vehicle. So I think that's what
10 separates this case from **.

11 THE COURT: I need the statute. Can I have
12 the car-jacking statute?

13 MR. MATTHEW WALKER: And they didn't take the
14 victims out of the car in the case, Your Honor.

15 MS. CARRA HENDERSON: They eventually did.

16 THE COURT: Thank you. Now that I **. They
17 did eventually, after they took her out to the
18 school, they turned around and did leave in the
19 car. He went running to the house. **!

20 MR. MATTHEW WALKER: I have a copy here if
21 you'd like, Your Honor.

22 THE COURT: Where the statute reads, A person
23 is guilty of a felony of car-jacking when he takes
24 or tends to take a motor vehicle from another
25 person by force and violence or by intimidation,

1 and we're gonna just say it's by intimidation in
2 this case, while the person is operating the
3 vehicle or while the person is in the vehicle.

4 MR. MATTHEW WALKER: It's -- And, Your Honor,
5 I think that --

6 THE COURT: What it doesn't say is attempts to
7 take control and that's the one thing the statute
8 doesn't require. It doesn't --

9 MR. MATTHEW WALKER: It's, To take from, which
10 would to me indicates that it has to be --

11 THE COURT: It doesn't say to take from. It
12 says a motor vehicle from another person. I'll
13 have to think about that one. I can tell you
14 still have a hard time taking that this doesn't
15 fit.

16 MS. CARRA HENDERSON: I haven't had a chance
17 to respond yet but, I mean, in the case that
18 you're talking about I think behind **, if I
19 remember correctly, or if Ms. ** refresh my
20 memory, didn't take the vehicle. The victims were
21 in the vehicle and at the end without the victims
22 and it which would've been ** of **the carjacking
23 came from putting the gun to their head and
24 demanding. 'Cause if they had just left them
25 there and taken it it would've been theft of an

1 auto, not carjacking.

2 MR. MATTHEW WALKER: Your Honor, that's not
3 what the statute says. It's -- You know I wonder
4 maybe use Williams versus South Carolina, and it
5 is used mostly cited for this proposition. The
6 paragraph above, the previous one we had cited,
7 intentional legislator can be collected from the
8 words of the employer. And it goes aside the rule
9 in all the cases that cite this that strictly
10 construed in favor of the defendant. And the
11 plain meaning of to take from, you know, has to be
12 surrender of possession.

13 MS. CARRA HENDERSON: Your Honor, Mr. Walker
14 is adding an element as -- The statute does not
15 require -- It does not use the word possession, it
16 does not require that the defendant take
17 possession of the vehicle. She did have control -

18 -
19 THE COURT: It says take or attempts to take,
20 and it says a motor vehicle. What he is focusing
21 on is the word from another person.

22 MS. HENDERSON: She had control of that
23 vehicle with the driver under her demands.

24 MR. MATTHEW WALKER: And I think she's still
25 talking about the other case and, Your Honor, the

1 car-jacking was not complete until the victims
2 were left and the car was taken away or at least
3 until they were put in the trunk maybe.

4 THE COURT: ** in the -- No they were left of
5 the ball field **. ** Let me think about that.
6 Are you going to put anything up?

7 MR. MATTHEW WALKER: We're still deciding
8 and --

9 THE COURT: Okay.. Well then I need to go
10 through your client's rights and I intend on
11 doing.. If you're still deciding, we will do it
12 before lunch time. So I need to go through your
13 client's rights. Let's go ahead --

14 MR. MATTHEW WALKER: Can I just for the
15 record. I made motions for directed verdict for
16 both kidnapping charges.

17 THE COURT: Okay.

18 MR. MATTHEW WALKER: The only testimony has
19 been, This woman got into my car and I felt
20 threatened. But there was no testimony that she
21 threatened him or come find him or intimidated him
22 or do anything the statute requires. It's really
23 -- The crust of the State's case is his perception
24 of what happened versus her intent and her
25 actions. We argue there's nothing in any of the

1 testimony that she did anything affirmatively to
2 threaten him or brandish anything, put anyone in
3 danger if he didn't give her a ride. He could
4 have, when she jumped in the car, said, Get out.
5 And you know the thing is there is no testimony at
6 all other than his subjective feelings when this
7 random person jumped in his car, which anyone
8 would feel, I just think we shifted the burden
9 from you know what her intent was to what his
10 perception was and there's no testimony that she
11 did anything overt to make him comply with a
12 request.

13 THE COURT: I respectfully disagree with you.
14 I think it definitely ** under the kidnapping
15 statute includes kidnap, abduct, or carry away.
16 She directed him to drive away. He certainly
17 wasn't under his own control. So I'm gonna deny
18 your motion. I think there's plenty of evidence,
19 this jury can determine that these two people were
20 in fact kidnapped. Anything else as far as your
21 motions?

22 MR. MATTHEW WALKER: No, Your Honor.

23 THE COURT: All right. Let's go ahead and go
24 through your client's rights that way we'll take a
25 break and then you can ask Ms. Cossachi she's

1 deciding whether or not she wishes to testify.

2 All right.

3 MR. MATTHEW WALKER: Thank you.

4 THE COURT: Ms. Cossachi, I'm wanna go ahead
5 and put you under oath so if you just raise your
6 right hand. She can stay right there, don't worry
7 about it. She's all right. Just speak up if you
8 don't mind.

9 (WITNESS SWORN)

10 THE COURT: Ms. Cossachi, at this time I'm
11 going to explain to you your rights in regards to
12 testifying. If there's anything you don't
13 understand, speak into the mic for me, I'll repeat
14 it, rephrase that, whatever I need to do. We've
15 reached that stage in this trial where you can
16 decide whether or not you wish to testify. I need
17 you to understand that you have a right to testify
18 but what I want you to understand is that also you
19 have the right not to testify under the Fifth
20 Amendment. And the Fifth Amendment just simply
21 says that no person can be compelled to be a
22 witness in a criminal case against themselves.
23 Again this means you can't be required to testify,
24 no one can force you to testify. But again as I
25 also said you have the right to testify. But what

1 you need to understand is if you do testify in
2 this case that you're going to be subject to the
3 same rules we've given all the other witnesses in
4 this case. What that means is you can be examined
5 and cross-examined on any relevant issue in this
6 case. Additionally, it is my understanding that
7 she does not have convictions for any prior things
8 that will be able to come in; is that correct?

9 MR. MATTHEW WALKER: That's the agreement we
10 reached with the Solicitor's office.

11 THE COURT: I just want to make sure that you
12 understand that they have the ability to cross-
13 examine you and ask you anything that would be
14 relevant to this case. Do you understand that,
15 ma'am?

16 THE WITNESS: Yes I do.

17 THE COURT: Again I want you to understand
18 that while I absolutely expect you to discuss with
19 your attorney whether or not you should testify.
20 you need to know that this is an independent
21 decision that you and only you can make because
22 this is a personal right. Again I want to make
23 sure that you freely and voluntarily understand
24 whether or not to testify or not to testify. If
25 you don't want to testify, and my jury charge

1 under this case I'm gonna instruct this jury that
2 the fact that you didn't testify they cannot even
3 discuss it in the jury room. And the reason why
4 is because you have no burden of proof whatsoever.
5 The burden of proof is always on the State to
6 prove your guilt. You don't need to prove your
7 innocence. Do you understand that?

8 THE WITNESS: Yes ma'am.

9 THE COURT: I just want to make sure that you
10 understand your rights. What I'm gonna do is take
11 about a 10 minute break or so. Were gonna come
12 back. I want you to be able to discuss with your
13 attorney whether or not you should testify. And
14 when we come back I'm gonna ask you whether or not
15 you want to testify. And then I'm going to ask
16 you whether or not that is your own individual
17 decision, okay? And then is it made freely and
18 voluntarily, okay? All right. We'll be back with
19 you shortly. Y'all, this should take about 10
20 minutes, okay. Thank you.

21 (Break)

22 THE COURT: Did y'all come up with anything
23 yet?

24 MS. CARRA HENDERSON: Your Honor, about the
25 car-jacking I just repeat my same argument that

1 the statute does not make or use the word
2 possession. I understand Mr. Walker is focusing
3 on the word take from. I -- I mean I don't
4 believe from equals possession but I think the
5 fact that she -- he felt that she cannot -- he
6 cannot have control of that vehicle, he felt he
7 cannot get her to get out of his vehicle, that he
8 had to do what she told him to do, intent can be
9 inferred from her actions. I do think we meet the
10 elements of the statute.

11 THE COURT: I can tell you I **him back and
12 reread this thing so many times and it says he
13 takes -- he who takes or tends to take a motor
14 vehicle from another person, and the front is what
15 I'm focusing on, I don't think in this case the
16 intent was car-jacking. I think the intent was to
17 get across the street and in doing so she
18 kidnapped two people. That's what I think
19 happened. I don't think that was the intent so I
20 can tell you I think just to make everything very
21 clean for appellate purposes I'm gonna go ahead
22 and direct a verdict to the car-jacking.

23 MS. CARRA HENDERSON: Yes, Your Honor.

24 THE COURT: All right. Mr. Walker, will you
25 have your client stand up.

1 MR. MATTHEW WALKER: Ms. Cossachi informed me
2 she does not wish to testify.

3 THE COURT: All right. Ms. Cossachi, please
4 stand, and I advise you again you are under oath.
5 It is my understanding from your attorney, I just
6 need to have you put it on the record, that you do
7 not want to testify; is that correct?

8 THE WITNESS: That's correct.

9 THE COURT: And ma'am, I apologize. I'm going
10 to ask you just to say it a little bit louder
11 because my court reporter --

12 THE WITNESS: That's correct.

13 THE COURT: You do not want to testify?

14 THE WITNESS: Yes.

15 THE COURT: All right and that's your personal
16 decision; is that correct?

17 THE WITNESS: Yes.

18 THE COURT: And you have discussed that
19 decision with your attorney; is that correct?

20 THE WITNESS: Yes.

21 THE COURT: All right, thank you. You may be
22 seated, Ms. Cossachi. I'm sorry.

23 THE WITNESS: That's okay.

24 THE COURT: All right. Do you have any
25 witnesses to put up?

1 MR. MATTHEW WALKER: No, Your Honor. We would
2 rest. I was just gonna ask you about scheduling.

3 THE COURT: What I'm gonna do is I'm gonna
4 bring the jury back out. I'm gonna have you rest
5 for the record in front of them and I'm gonna send
6 them to lunch. And I'm gonna bring them back here
7 at 2:15. We need to very briefly talk about the
8 charge. I don't know if you **to talk about the
9 charge but we'll talk about that, maybe 45 minutes
10 or so, maybe a little bit longer, okay. Let's
11 bring the jury back in.

12 (Jury enters).

13 BAILIFF: The jury is reentering, Your Honor.

14 THE COURT: Thank you.

15 BAILIFF: The jury is seated, Your Honor.

16 THE COURT: Thank you. Welcome back, ladies
17 and gentlemen of the jury. Mr. Walker.

18 MR. MATTHEW WALKER: Thank you, Your Honor.
19 The defense rests.

20 THE COURT: Ladies and gentlemen, at this time
21 the defense also rest their case. Based on the
22 hour and because there are some other matters I
23 need to take up with the attorneys I'm gonna send
24 you out to lunch. I'm gonna ask you to be back in
25 the jury room by 2:15 when we're gonna go ahead

1 and hear the closing argument from the attorneys
2 as well as my charge on the law and we're gonna
3 send the case to you. All right.

4 Ladies and gentlemen, even though you have
5 heard all of the evidence in this case, it would
6 not be appropriate for you to discuss it, not only
7 with each other or with anyone else.
8 Additionally, it would not be appropriate for you
9 to do any of your own independent research. Y'all
10 go out and have a nice lunch. We'll see you back
11 in the jury room at 2:15 where we're gonna go
12 ahead and conclude the case. Thank you.

13 MR. MATTHEW WALKER: Thank you, Your Honor.

14 (Jury exits)

15 BAILIFF: The jury is clear.

16 THE COURT: Any motions?

17 MR. MATTHEW WALKER: **.

18 THE COURT: You just need to renew your motion
19 for directed verdict as to the kidnapping.

20 MR. MATTHEW WALKER: I would renew my other
21 motions on the kidnapping.

22 THE COURT: Absolutely and respectfully I'm
23 gonna deny it based on the same ground as before.
24 I think there's evidence from which this jury
25 could determine that Mr. Montes and his child were

1 kidnapped. I respectfully deny that.

2 Let's talk about the jury charge very quickly.
3 Obviously I'm charging kidnapping. Any other
4 specific charges?

5 MR. MATTHEW WALKER: The only thing outside
6 the general charges that I would request would be
7 the intent charge.

8 THE COURT: Okay.

9 MR. MATTHEW WALKER: Out of the bench book is
10 fine.

11 THE COURT: Anything else.

12 MR. MATTHEW WALKER: Nothing from the defense,
13 Your Honor.

14 THE COURT: I considered an identity charge
15 but I just don't think it's ** --

16 MR. MATTHEW WALKER: We can see it was her.
17 She was in -- everything pretty much happened the
18 way that he said.

19 THE COURT: Okay. Anything else from the
20 State?

21 MS. CARRA HENDERSON: Nothing from the State,
22 Your Honor.

23 THE COURT: And you didn't question the age of
24 the child that was up here. He was 14 years old.
25 I think it was fine.

1 MR. MATTHEW WALKER: I had no problems with
2 that.

3 THE COURT: I don't think there are any issues
4 with that. All right. Now we'll go ahead and
5 bring the intent charge in and y'all have a nice
6 lunch.

7 MR. MATTHEW WALKER: Thank you, Your Honor.

8 THE COURT: All right.

9 (Whereupon Court was adjourned for Lunch)

10 THE COURT: The State ready?

11 MS. CARRA HENDERSON: Yes, Your Honor.

12 THE COURT: The defense?

13 MR. MATTHEW WALKER: Can we just have one
14 minute, briefly, Your Honor?

15 THE COURT: Sure.

16 MR. MATTHEW WALKER: The kidnapping charge.

17 THE COURT: Yes, sir.

18 MR. MATTHEW WALKER: I wanted to just avoid
19 confusion because of the statute. Of course it
20 says unlawfully seized, confined if they were
21 kidnapped or abducted or carried away. I **
22 looked up **. I was -- Since there's no
23 testimony, those would be ** elements, just read
24 it as unlawfully seized, confined, kidnapped,
25 abducted, or carried away. That would be **the

1 testimony, Your Honor. And avoid any potential
2 misunderstanding by a jury who likely didn't have
3 a ready definition for **.

4 THE COURT: Well I defined **. It's a word
5 that means **.

6 MS. CARRA HENDERSON: Your Honor, the State
7 request the statute be read in its entirety.

8 MR. MATTHEW WALKER: You don't see..

9 THE COURT: What was the other portion that
10 you didn't want, Mr. Walker?

11 MR. MATTHEW WALKER: **or decoy. I mean I
12 don't think there's any testimony there was any
13 part of this or to a degree on Ms. Cossachi's
14 actions as testified to were very blatant and
15 open.

16 THE COURT: I'm just gonna go ahead and charge
17 the statute.

18 MR. MATTHEW WALKER: Thank you, Your Honor.

19 THE COURT: Okay, anything else?

20 MS. CARRA HENDERSON: Nothing from the State,
21 Your Honor.

22 MR. MATTHEW WALKER: I was assuming you're
23 going to advise the jury of the change in the
24 posture before we began, Your Honor?

25 THE COURT: Actually it's within my charge.

1 I'll tell them that the only thing they're going
2 to consider is the charge of kidnapping, that I've
3 directed a verdict as to the other charge and it's
4 not for them to consider.

5 MR. MATTHEW WALKER: I will be bringing it up
6 in my closing so I was wondering if you could tell
7 them ahead of time, if they could hear from you
8 first?

9 THE COURT: Sure. It's actually probably a
10 good idea. Okay.

11 MR. MATTHEW WALKER: Thank you.

12 THE COURT: Let's go ahead and bring the jury
13 in. Y'all take a look very quickly at the verdict
14 form.

15 MR. MATTHEW WALKER: No objection, Your Honor.

16 MS. CARRA HENDERSON: No objection, Your
17 Honor.

18 (Jury enters)

19 BAILIFF: Jurors are entering, Your Honor.

20 THE COURT: Thank you.

21 BAILIFF: The jurors are seated, Your Honor.

22 THE COURT: Thank you. Welcome back, ladies
23 and gentlemen. I hope y'all had a nice lunch.
24 Ladies and gentlemen, before you hear the closing
25 statements from the attorneys I just want to

1 instruct you that at the beginning of this case,
2 Ms. Cossachi was charged with two counts of
3 Kidnapping, Possession of a Weapon during the
4 Commission of a Violent Crime, and Car-jacking.
5 As to the charges of Possession of a Weapon during
6 a Violent Crime and Car-jacking, I have directed a
7 verdict. So the only thing for you to consider in
8 your deliberations after you hear the closing will
9 be the two charges of kidnapping. All right.
10 Ms. Henderson, whenever you're ready.

11 MS. CARRA HENDERSON: May it please the Court,
12 Your Honor?

13 THE COURT: Yes, ma'am.

14 MS. CARRA HENDERSON: Let's go back through
15 what we know for sure. What we know for certain
16 is that Lisa Cossachi was at the Circle K that
17 night. What we know for certain is that Lisa
18 Cossachi got in the car with Mr. Montes that
19 night. Mr. Walker even said in his opening, they
20 aren't disputing that. So let's focus on what
21 Armando said. Let's discuss each prong of that
22 ladder that Mr. Walker linked up against that wall
23 of proof.

24 Armando testified that he left the store,
25 buckled his little girl in the car, and then got

1 in the driver's seat, and began to back out of his
2 parking spot.

3 He testified as he was backing out, Lisa
4 Cossachi got in the car with him, uninvited and
5 unwelcomed, and told him to drive until she said
6 stop.

7 He also testified that he thought she had
8 a knife and he was scared for his and his
9 daughter's safety. He told you that he did not
10 feel like he could tell her to get out of the car
11 and that he had to do what she said.

12 He also told you that he had never met or seen
13 this woman before that night.

14 Lisa Cossachi was going to do whatever
15 she had to do to get away from the Circle K in a
16 hurry that night. And what she did was force her
17 way to Mr. Montes's car and force him to do what
18 she wanted him to do. If it weren't for her doing
19 that, he would not have sped across 278 and gone
20 to a dark area with his five year little girl,
21 Minor in the back seat.

22 Now the Defense may want you to think
23 that he was just giving her a ride. She just
24 needed a ride across the street, she meant no
25 harm. She just wanted to get in that car and get

1 a ride across the street.

2 But, ladies and gentlemen, I ask you to
3 think back on what you heard from the witnesses.
4 That is not what happened. If all she did was
5 just get a ride, why did Mr. Montes turn around
6 after he got her out of the car -- after she got
7 out of the car, go back to the Circle K, tell the
8 police what happened, and give them the evidence?
9 Why?

10 Because what she did was wrong. What she
11 did was a crime. What she did was kidnapped two
12 innocent people and she deserves to be convicted
13 for her actions.

14 Now like I said, if you think back on
15 what you've heard today, I feel confident that
16 you'll find that you have been provided with
17 enough prongs on that ladder to enable you to
18 climb to the top, see over that wall Mr. Walker
19 told you about, and find Lisa Cossachi guilty of
20 kidnapping Armando Montes and his five-year-old
21 little girl, Minor Thank you.

22 THE COURT: Thank you, Ms. Henderson.
23 Mr. Walker.

24 MR. MATTHEW WALKER: Thank you, Your Honor.
25 May I please the Court?

1 THE COURT: Yes, sir.

2 MR. MATTHEW WALKER: We started today with
3 four charges. Now we are just down to kidnapping.
4 I'm not sure if anybody ever told you what that
5 is, but under the law, the Judge of course will
6 instruct you as to the elements of kidnapping and
7 I will address it in some ways as well, in a
8 moment. As I said at the beginning, you heard
9 from the police officers that were there. They
10 were perhaps **of the situation. They allowed to
11 fill in gaps to what was going on but the only
12 person who could testify, who was present, they
13 alleged were kidnapped is the Montes. Only he
14 could tell you anything that will support the
15 charges. Now you didn't hear from Lisa today.
16 The Judge will tell you that, of course, it is her
17 right not to testify. You should not consider the
18 fact that she did not testify in any way against
19 her but of course some things are little
20 procedural that a lot of people don't know. That
21 if Ms. Cossachi testifies or we're entering
22 evidence then I don't get to talk to you about
23 then that's one of the benefits of us resting
24 without presenting evidence is that I'm able to
25 respond to the Solicitor and have the opportunity

1 to speak to you last before the Judge does. And
2 really if she testified she would tell you that
3 she's not guilty, that's what she's telling you by
4 having a trial. She'd tell you she didn't mean to
5 scare anybody that's why we're here. And this is
6 kind of an unusual case, it is for me. And I
7 think it's kind of interesting -- kind of an
8 interesting philosophical because usually I have a
9 trial and there's not any question that a crime
10 has been committed. Everyone agrees that a crime
11 happened and generally we're talking about was
12 this a person that committed a crime or was a
13 crime committed. Actually the crime charged,
14 because on TV someone was charged with murder but
15 there is a lesser charge of involuntary
16 manslaughter, there's different degrees. And we
17 are you best not be appropriate to you argue about
18 those. So in this case is about whether there was
19 any crime at all. And I'll submit to you there
20 was not. We know from the testimony and from the
21 directed verdict that there was no car-jacking,
22 there is no weapon. The Judge directed a verdict
23 not guilty on that. The judge directed a verdict
24 not guilty of possession of a weapon during the
25 commission of a violent crime. You could tell

1 from the testimony as a matter of law that these
2 crimes did not happen. But this is why we need
3 jurors for things we can't tell by this that we
4 have to decide what Lisa Cossachi's intent was on
5 the night this happened. And I think you heard a
6 lot of testimony about Mr. Montes. You heard Mr.
7 Montes testimony, of course and I should say
8 actually in the Solicitor's closing arguments **,
9 you heard a lot of reference of Mr. Montes. Mr.
10 Montes was afraid and Mr. Montes testified I was
11 afraid. But you know Mr. Montes didn't welcome
12 her in the car and didn't want her there. Mr.
13 Montes himself said I was frightened when she
14 jumped in the car. So he didn't want her there.
15 And any normal person wouldn't Mr. Montes is not
16 reacting in a way that's unreasonable or abnormal.
17 I think any of us would pull out of the gas
18 station and someone jumps in our car will be a
19 little freaked out about it. And that's a natural
20 reaction. But again here's the issue, is that the
21 Solicitor's office said that Mr. Montes was
22 scared, a crime occurred. We don't look at what
23 Mr. Montes felt or thought. What matters for
24 guilt is the intent of Ms. Cossachi. If Ms.
25 Cossachi intended to scare him or kidnap him.

1 Even if he hadn't been scared, if she jumped in
2 and said drive away or I'll burn your house down
3 and he just **. He wouldn't have been frightened
4 but her intent would have been to kidnap him. So
5 we are not dependent on what Mr. Montes feels. We
6 are looking for evidence that will give us some
7 idea of what Lisa's intent was at the time. And
8 to say because he was scared because he didn't
9 want her there because he felt constrained in some
10 ways, that is enough to rise to the burden of
11 proof of kidnapping. I believe the burden
12 shifted. Trying to say we well we don't have to
13 prove what the defendant's state of mind was, we
14 can just say what the reaction of other people;
15 that's enough. We keep talking about kidnapping.
16 That's what we're here to discuss. At this point
17 the other charges are dealt with. But the statute
18 says that one who unlawfully seizes, confines, **
19 to ** or flattery here, to entice my words, decoy,
20 or use some sort of artifice to kidnap or abduct
21 or carry away any other person by any means
22 whatsoever without authority or law. So
23 unlawfully seize, confined, **, abduct, or carry
24 away. Well certainly I think the testimony would
25 be enough. If you thought the testimony showed

1 that she intended to prevent or threatened to keep
2 Mr. Montes from doing what he wanted to do that
3 would be a seizure. But you haven't heard any
4 testimony, you heard a lot of supposition about,
5 again, what Mr. Montes felt but you never heard
6 Ms. Cossachi made any threats. I think intent is
7 the key issue here because you saw even Mr. Montes
8 his testimony has a statement that managing the
9 cultural bearers there, someone speaks very little
10 English, someone that as Mr. Montes himself
11 described her as desperate and acting in
12 certainly, a wild and crazy manner. Jumping in
13 the car, you have a crash of cultures, you have a
14 crash of language. You certainly have even in a
15 calm courtroom setting, a difficulty discerning
16 the intent of communicating back and forth.
17 Imagine late at night and a completely random
18 situation how perceptions and intentions can be
19 confused. Because any person in order to be found
20 guilty of a crime must intend to commit that
21 crime. And the Judge will give you a number of
22 charges that pertain to reasonable doubt, all the
23 things we talked about. She'll go on to explain
24 fully, carefully and a great language all the
25 legal, full explanation of these things. And you

1 should of course, if I've said anything in a
2 conflict, she is reading directly from the law,
3 listen to her because she would direct you as to
4 that in a summarizing. Anyone must the intent
5 through their action to be found guilty of a
6 crime. So the State will have to prove beyond a
7 reasonable doubt that Ms. Cossachi intended to
8 kidnap Mr. Montes. But what can we ascertain
9 about her intent from the testimony heard? I
10 think one of the things -- really the only thing
11 you can ascertain about her intent is that it was
12 to get away from the Circle K. You heard Officer
13 Kaminski testify that he knew who she was because
14 there was a message from a missing person's report
15 out for her. People were looking for her and she
16 wanted to stay missing. She sees the police and
17 the police arrive, putting the person she's with
18 in custody, she does not want any further contact.
19 She wants to get away. Officer Morris, I didn't
20 see any weapon. I saw her with a cell phone.
21 Maybe she has the same telephone in her hand when
22 she gets in the car with Mr. Montes, a small
23 metallic looking object. Let's try to discern
24 intent from the things that she did say. You
25 expect someone who is committing a kidnapping to

1 say just do this or I will take some bad action
2 against you. Under force of threat to seize,
3 confine because if I don't have some threat or
4 force I'm just making a request. If you're
5 walking down the street lay in the evening in the
6 dark alley and see a large man ** clothes **,
7 you're alone, maybe a bulge is in his pocket. He
8 walks up to you and say can I have five dollars,
9 well I'm gonna give them five dollars and be on my
10 way. Maybe he's hungry, maybe he wants a meal or
11 maybe he's a bad guy and was going to threaten you
12 but he never made it through. He shows you a
13 weapon or pulls a gun out, he's committed a crime.
14 But all he's done when he asked for the five
15 dollars is make a request in your perception is
16 cost benefits of the encounter, and give this dude
17 five dollars. Mr. Montes procession of the
18 encounter was I'm just gonna drive away. And
19 really if he was worried about being kidnapped
20 what better place to be kidnapped or at least the
21 victim of a kidnapping than in a parking lot full
22 of police officers. All he has to do is say, Hey,
23 over here guys. Get out of the car. But he never
24 does that. He just says I'm gonna drive away and
25 she says -- I think I want to address one thing

1 the solicitor said in her closing. She was
2 summarizing **, you know. I think she had
3 mischaracterized some of the testimony. She said
4 that if Ms. Cossachi told Mr. Montes drive and so
5 she said stop. I believe his testimony was that
6 she told him to drive until she would tell him
7 when to stop. It's a minor difference but I think
8 it is enough of a difference there to take issue
9 with it. And then again she said that Mr. Montes
10 thought that she had a knife and he testified that
11 she had a small shiny object in her hand. I
12 didn't know what it was. It could've been a
13 knife, I didn't know. Or were looking at what she
14 said. She got in the car thinking that to
15 ascertain her intent, drive me away. Her intent
16 was to getaway. That's what Mr. Montes that she
17 said drive across the street. She's frantic,
18 she's desperate and Mr. Montes's words. She's got
19 the window down, she's looking behind, are they
20 following us? No, hey, keep your eye on me or hey
21 you wanted, you're in trouble? Then she jumps out
22 of the car. Stop let me out, is that something
23 you expect the kidnapper. Imagine in your head a
24 kidnapper. Is this the type of scenario that you
25 envision in your head when I ask you is imagine

1 the kidnapper? She jumps out of the car and says
2 to Officer Kaminski and multiple people in the
3 garage, Hide me, hide me. There's no threat to
4 anyone in that garage. No one in that garage sees
5 a weapon. She goes on the steps, she turns around
6 and runs. And if you look at what she did again,
7 the number one thing, the thing that characterizes
8 everything she did she wants to get away. She ran
9 to the car and jumped in. Cadet Dalton A. said she
10 jumped in the car, pulled away smooth, I didn't
11 think anything of it until later. I didn't see
12 anything abnormal. She ran to the car to getaway.
13 Then she gets across the street, let me out stop,
14 jumps out of the car, runs away from the car. She
15 ran into the garage seeking a place to hide where
16 she wouldn't be found. Please get out of my
17 garage, she runs away again. There's certainly no
18 intent anywhere to seize anyone, to conform to
19 kidnapping or abduct anyone, carrying any person
20 away, confine anyone, any of those things. We can
21 look at what she didn't do. She never threatened
22 anyone. She jumped in the car, drive me across
23 the street, drive away I'll tell you where the
24 stop. Not, or else. Like I said, she had
25 something in her hand. Didn't know what it was.

1 There's never been any testimony, verbally or
2 physically threatened, or to make anyone feel
3 threatened such that she could have a seizure, a
4 confinement, or abduction. It's what the statute
5 requires. Ms. Cossachi made a selfish -- She may
6 be selfish, she may be a little nuts, she may be
7 as normal as you and me, she may be something but
8 the evidence you're presented does not allow you
9 to make a decision as to which it is. The State
10 has to prove that she unlawfully seized, confined,
11 **, decoyed, kidnapped; that's what we're looking
12 for. We're not here to decide what type of person
13 she was. She's the type of person that's here
14 entrusting her faith to a jury of her peers who
15 have given an oath to actually consider the
16 evidence and come with a verdict. The law puts **
17 on her side, the State does its job. Reasonable
18 doubt is the kind of doubt that would cause a
19 reasonable person to hesitate to act. If you have
20 a firm certain grasp of what happened that night
21 or you are firmly convinced and certain that Lisa
22 Cossachi intended to kidnap Mr. Montes and his
23 daughter. If you're not, I submit to you that
24 while the State is trying to use the ladder
25 against the wall, it's a little bit short.

1 Submit the evidence you've heard that you can't
2 see over the wall and that your oath compels a not
3 guilty verdict. Thank you.

4 THE COURT: Mr. Foreperson and members of the
5 jury, you've all, very patiently, sat and listened
6 very attentively to the presentation of the
7 evidence in this case and I want to thank you for
8 that and also the able arguments made by the
9 Solicitor, Carra Henderson, made by the State and
10 Mr. Walker, on behalf of the defense.

11 It now becomes the duty of the trial Judge and
12 through the Constitution of the State to charge
13 and instruct you on the law that is applicable in
14 this case. It's your duty, as you are jurors, to
15 accept and apply the law as the court will now
16 stat it to you.

17 As jurors, it is your exclusive duty to
18 decide all issues of fact in this case. You must
19 determine the effect, the value, the weight, and
20 the truth of the evidence. Both the State of
21 South Carolina and Defendant in this case have the
22 right to expect that you will carefully consider
23 and evaluate the evidence and apply the law of the
24 case to that evidence. And by doing so again the
25 State of South Carolina and the Defendant will

1 receive a fair and impartial trial.

2 Now, ladies and gentlemen, the State of
3 South Carolina, by the bills of indictment in
4 this case, charge the defendant, Lisa Cossachi
5 with two counts of kidnapping, possession of a
6 weapon during the commission of a violent crime,
7 and car-jacking.

8 As to the charges of possession of a
9 weapon during the commission of a violent crime
10 and car-jacking, I have directed a verdict. Left
11 for you, the jury, to only consider are two
12 charges of kidnapping.

13 Ladies and gentlemen, the indictments
14 read identically. They are in Beaufort County,
15 South Carolina on or about October 23, 2010, the
16 defendant, Lisa Lynn Cossachi unlawfully did
17 seize, confined, **, decoyed, kidnapped, abducted,
18 or carried away the victim, Armando Montes, on one
19 indictment and the other, Minor without
20 authority of law.

21 Ladies and gentlemen, I remind you the
22 fact that the defendant was arrested, charged, and
23 indicted in this case is not evidence in this case
24 and cannot be considered by you as evidence nor
25 does it create any presumption of guilt. These

1 documents are simply the formal, written
2 instructions or instruments which contains the
3 charges that are made against the defendant. They
4 are formal documents by which the case was brought
5 into this courtroom.

6 Ladies and gentlemen, the defendant has pled
7 not guilty to the indictment and that plea puts
8 the burden on the State to prove the defendant
9 guilty beyond a reasonable doubt. A person who
10 is charged with a criminal offense in South
11 Carolina is never required to prove themselves
12 innocent. I charge you this important point of
13 law that the defendant in a criminal trial, no
14 matter what the seriousness of the charge may be,
15 will always be presumed innocent of the charge for
16 which they were indicted unless guilt has been
17 proven by evidence satisfying you, the jury, of
18 that guilt beyond a reasonable doubt.

19 Now this presumption of innocence does not end
20 when you begin your deliberations but it
21 accompanies the defendant throughout the trial
22 until you reach your verdict of guilt based on
23 evidence, again satisfying you have that guilt
24 beyond a reasonable doubt. The presumption of
25 innocence is like a cloak of righteousness. It

1 is placed about the shoulders of the defendant and
2 it remains that way until it has been stripped
3 from her by evidence satisfying you of the
4 defendant's guilt beyond a reasonable doubt.

5 Ladies and gentlemen, the presumption of
6 innocence is not a mere legal theory. It is not
7 just a legal phrase we use. It is a substantial
8 right in which every defendant is entitled. Again
9 unless, you the jury, are satisfied from the
10 evidence of the defendant's guilt beyond a
11 reasonable doubt..

12 Now again as I stated, the State has the
13 burden of proving the defendant's guilt beyond a
14 reasonable doubt. The term reasonable doubt must
15 be given its plain and ordinary meaning over to
16 the extent I may define it for you. A reasonable
17 doubt is the kind of doubt that would cause a
18 reasonable person to hesitate to act in the most
19 important other personal decisions. The
20 defendant, ladies and gentlemen, is entitled to
21 every reasonable doubt arising in the case if upon
22 any issue of fact essential to conviction you have
23 a reasonable doubt as to how that issue should be
24 resolved, you must resolve that issue in favor of
25 the defendant.

1 Now, ladies and gentlemen, some of you may
2 have served as jurors on civil cases where it is
3 only necessary to prove that a fact is more likely
4 true than not true, such as what we call by the
5 greater weight or a preponderance of evidence in
6 criminal cases. . . The States proof must be more
7 powerful than that. It must be beyond a
8 reasonable doubt. Proof beyond a reasonable doubt
9 leaves you firmly convinced of the defendant's
10 guilt. Now, ladies and gentlemen, there are
11 very few things in this world that we know with
12 absolute certainty. And in criminal cases the
13 law does not require proof that overcomes every
14 possible doubt. If based on your consideration
15 of the evidence, you are firmly convinced that
16 the defendant is guilty of the crime charged you
17 must find the defendant guilty. If on the other
18 hand you think there is a real possibility the
19 defendant is not guilty you must give the
20 defendant the benefit of the doubt and find her
21 not guilty.

22 Now I remind you that during this trial
23 you and I had certain duties to perform. As a
24 trial judge it is my responsibility to preside
25 over the trial in the case and I also have the

1 ability to rule on the admissibility of evidence
2 that's offered during the trial. You are to
3 consider only the competent evidence before you.
4 You are to consider only the testimony which has
5 been presented from the witness stand and any
6 other evidence that's been entered into the case.

7 I have the additional duty to charge you
8 on the law thus applicable to this case. As the
9 presiding judge I am the sole judge of the law.
10 And it's your duty as jurors to accept and apply
11 the law as I will now state it to you. If you
12 have any ideas of what the law is or what the law
13 ought to be and it does not agree with what I now
14 tell you the law is, you must abandon this idea
15 because you are sworn to accept and apply the law
16 exactly as I state it to you. In every case tried
17 in this court before a jury, the jury becomes the
18 sole and exclusive judge of the facts. The trial
19 judge can't state, intimate, comment on, or make
20 any statement to the trial jury about the facts in
21 the case. It's you, the jury, who are the sole
22 judge of the facts in this case. You are not to
23 infer from anything that I said during the
24 progress of this trial and ruin upon them the
25 stability of evidence or otherwise or anything I

1 say now to you during the course of this
2 instruction to you that I have an opinion about
3 the facts in this case. The law does not allow
4 me to have an opinion about the facts of this
5 case. This is a matter solely for you, the jury,
6 to determine.

7 Now, ladies and gentlemen, there are two
8 types of evidence which are generally presented to
9 you, a jury, during a trial. These are direct
10 evidence and circumstantial evidence.

11 Direct evidence is the testimony of a
12 person who claims to have knowledge of a fact,
13 such as an eyewitness. It's evidence which
14 immediately establishes the main fact to be
15 proved.

16 Circumstantial evidence is proof of a
17 chain a facts in circumstances ** existence of
18 a fact. It is evidence which immediately
19 establishes collateral of facts from which the
20 main fact may be inferred. Circumstantial
21 evidence is based on inference and not on personal
22 knowledge or observation. The law makes
23 absolutely no distinction between the weight or
24 value to be given to either direct or
25 circumstantial evidence nor is a greater degree of

1 certainty required in circumstantial evidence and
2 that of direct evidence.

3 Ladies and gentlemen, you should weigh
4 all the evidence. And after weighing all the
5 evidence, if you're not convinced of the guilt of
6 the defendant, beyond a reasonable doubt, you must
7 find the defendant not guilty.

8 Now, ladies and gentlemen, it's your duty to
9 determine the credibility of the witnesses who
10 have testified in this case. Credibility simply
11 means believability. It becomes your duty as
12 jurors to analyze and evaluate the evidence and
13 determine which evidence convinces you of this
14 truth. In determining the believability of
15 witnesses who have testified in this case you may
16 believe one witness over several witnesses or
17 several witnesses over one. You may believe a
18 part of the testimony of a witness and reject the
19 remaining part of the testimony of that same
20 witness. You may believe the testimony of a
21 witness and its entirety or reject the testimony
22 of a witness in its entirety. You may consider
23 whether any witness that has exhibited to you any
24 interest, any bias, any prejudice, or any motive
25 in the case. You may also consider the appearance

1 and manner of the witness while on the witness
2 stand.

3 Now, ladies and gentlemen, I instruct you
4 and emphasize on the fact that the defendant did
5 not testify is not a factor to be considered by
6 you in any way in your deliberations and your
7 consideration on the question of guilt or
8 innocence of the defendant. It must not be
9 considered in any manner whatsoever. A defendant
10 has a constitutional right to remain silent and
11 the assertion of this right must not be considered
12 by you in your deliberations. I repeat, you are
13 to draw no conclusion whatsoever from the fact the
14 defendant did not testify. The fact that this
15 defendant did not testify should not even be
16 discussed in the jury room. The burden of proof
17 has been stated to you is on the State. The
18 defendant is not required to prove her innocence.
19 And again the burden of proof remains on the State
20 to prove guilt beyond a reasonable doubt.

21 Now, ladies and gentlemen, the defendant is
22 charged in this case with two counts of
23 kidnapping. To prove kidnapping the State must
24 prove beyond a reasonable doubt that the defendant
25 knowingly and wrongfully seized, confined, **,

1 decoyed, kidnaped, abducted, or carried away
2 another person without authority of law.

3 Ladies and gentlemen, to do a thing
4 unlawfully is to do it willfully against the
5 law. Knowingly means with knowledge, consciously,
6 not accidentally.

7 Seize means to take hold of suddenly or
8 forcibly. Confined means to limit, restrict,
9 or enclose within bounds, imprison or shut, or
10 keep in. ** means to more, entice, or lead
11 astray by false representations, promises, or
12 other ** means. Decoy means to lure by or if by
13 decoy. A decoy is something to entice a person
14 into a trap.

15 Ladies and gentlemen, kidnapping is to
16 remove a person against their will by unlawful
17 force or by fraud. And abduct is to carry off
18 secretly or by force or an illegal purpose.
19 Carry away again means to remove.

20 The State does not have to prove that the
21 defendant did all of these things. Instead if
22 you find beyond a reasonable doubt the
23 defendant did any of these things, you may find
24 the defendant guilty of kidnapping.

25 Ladies and gentlemen, something done

1 without authority of law is something which the
2 law does not sanction, permit, allow, condone, or
3 provide justification for. And the kidnapping
4 doesn't have to be for any personal or monetary
5 gain or for any illegal purpose that may be reason
6 whatsoever.

7 Now ladies and gentlemen, in order to
8 establish criminal liability, criminal intent
9 is required. For example the mental state
10 required to be proven by the State for a
11 particular crime might be purpose, intent,
12 knowledge, recklessness, or criminal negligence.
13 Criminal intent must be proven by the State beyond
14 a reasonable doubt. Criminal intent is a matter
15 that must always be determined by the jury from
16 the circumstances surrounding the situation.
17 There is no way to prove intent to a mathematical
18 certainty and there's no way that medical science
19 can dissect the person's brain and determine what
20 a person had in mind. So the law says that
21 criminal intent may be inferred from the
22 circumstances that are shown to have existed.
23 This is how you make a determination as to whether
24 or not the element required intent was present.
25 It is not necessary to establish intent by direct

1 and positive evidence. The intent may be
2 established by inference in the same way as any
3 other fact by taking into consideration the acts
4 of the parties and on the facts and circumstances
5 of the case.

6 Ladies and gentlemen, criminal intent is a
7 mental state, a conscious wrongdoing. It is up to
8 you to determine whether the defendant intended to
9 do based on circumstances shown to have existed.

10 Ladies and gentlemen, criminal intent can
11 arise from action or a failure to act. It may
12 arise from negligence, recklessness, or any
13 indifference to do **, or to consequences that are
14 considered by the law to be equivalent of criminal
15 intent.

16 Mr. Foreperson and members of the jury, as you
17 retire to begin your deliberations in this case, I
18 wish to express the hope that each of you would be
19 mindful of the importance of your duty here today.
20 You're not called upon very often to serve as
21 jurors. Proper performance of your duties require
22 that each of you reach the height of freeing your
23 mind of all improper influences. You and I are
24 acting for the community and that's why we must
25 see to it that this trial was fair and the verdict

1 is just. You've observed that the presiding
2 officer of this Court is always addressed as Your
3 Honor. The reason is the Court is entrusted with
4 the honor of this community, the honor of the
5 State, and the honor of this country in seeking
6 that every case tried here receives fair and
7 impartial justice.

8 Now you the jury, take into your care and keep
9 in the preservation of the honor of this
10 community, the honor of the State, and honor this
11 country.

12 Now please don't get the idea that I'm
13 trying to intimidate to you how I think you should
14 decide this case because I've already told you and
15 the laws of the state of South Carolina and you
16 are the sole judge of all questions of facts, and
17 it would be highly improper of me to influence you
18 in your decisions. But, ladies and gentlemen, as
19 the presiding officer of this Court, I am vitally
20 concerned that whatever verdict you reach will be
21 the result of you going back into your jury room
22 and confining your considerations of the evidence
23 and the law that you've heard in this courtroom
24 when it fairly and impartially because I have
25 every confidence you will.

1 Ladies and gentlemen, every person is entitled
2 to justice in this case, both the State and the
3 defendant. You owe no support or sympathy to
4 anyone. The Court is of the confirmed opinion
5 that whatever verdict you reach will represent
6 truth and justice for all the parties concerned.

7 Mr. Foreperson, I remind you that your verdict
8 must be unanimous, it must be the verdict of all
9 twelve jurors. And to that end my law clerk has
10 prepared a verdict form. It simply has the case
11 caption, the indictment numbers, the State of
12 South Carolina versus Lisa Cossachi, count one as
13 to indictment number 2010-G07-2256, the charge of
14 kidnapping of Amando Montes, we the jury
15 unanimously find the defendant Lisa Cossachi
16 either guilty or not guilty. Question number two
17 as to indictment 2010-G07-2257, the charge of
18 kidnapping of Minor we the jury
19 unanimously find the defendant Lisa Cossachi,
20 again, either guilty or not guilty. Please don't
21 infer by the order of the guilt or not guilty as
22 any significance. In every trial we just reverse
23 them. Then Mr. Foreperson there is a line for
24 you to sign, this is the unanimous decision of the
25 jury. Date it, and when you have reached a

1 verdict, Mr. Foreperson, if you will just knock on
2 the jury room door, I'll accept you back into the
3 courtroom to take your verdict.

4 For the last time I'm gonna send you back to
5 your jury room and I'm gonna tell you not to begin
6 discussing this case. If there is something
7 further the lawyers want me to instruct you on,
8 I'm gonna bring you back out and I'm gonna direct
9 you further on the law. If not, Mr. Foreperson,
10 I'm gonna send this form and the other evidence
11 that was introduced in this case and that will be
12 your signal to begin your deliberations.

13 All right, I appreciate your attention. You
14 are excused back to your jury room.

15 (Jury exits)

16 BAILIFF: The jury is clear.

17 THE COURT: Thank you. Any exceptions or
18 additions from the State?

19 MS. CARRA HENDERSON: Nothing from the State.

20 THE COURT: From the defense?

21 MR. MATTHEW WALKER: No, Your Honor.

22 THE COURT: All right.

23 (Whereupon Court was recessed waiting for verdict)

24 (Whereupon Court back in session)

25 THE COURT: The jury has a note. They are

1 asking to be recharged. The jury would like
2 another reading of the kidnapping charges.
3 Definition of intent seems to be our issue. So
4 I'm gonna reread the kidnapping also the intent
5 portion as well. So bring them on in.

6 (Jury enters)

7 BAILIFF: The jurors are entering, Your Honor.

8 THE COURT: Thank you.

9 BAILIFF: The jury is seated, Your Honor.

10 THE COURT: Thank you. Welcome back, ladies
11 and gentlemen. It is my understanding you have
12 sent me a note. It says, Jury would like another
13 reading of the kidnapping charges. Definition of
14 intent seems to be our main issue. So I'm gonna
15 go ahead and charge you further on kidnapping and
16 intent, all right?

17 Ladies and gentlemen, the defendant is charged
18 with two counts of kidnapping. To prove
19 kidnapping the State must prove beyond a
20 reasonable doubt that the defendant knowingly and
21 unlawfully seized, confined, **, decoyed,
22 kidnaped, abducted, or carried away another person
23 without authority of law. To do a thing
24 unlawfully is to do it willfully against the law.
25 Knowingly means with knowledge, consciously, not

1 accidentally. Seized means to take hold of
2 suddenly or forcibly. Confined means to limit,
3 restrict, or enclose within bounds, imprison, or
4 shut or keep in. ** means to lure, entice, or
5 lead astray by false representation, promises, or
6 other deceitful means. Decoy or a decoy means to
7 lure by or as if by decoy. And decoy is something
8 to entice a person into a trap. Kidnapping is to
9 remove a person against his will by unlawful force
10 or by fraud. Abduct means to carry off secretly
11 or by force for an illegal purpose. Carry away
12 means to remove. The State does not have to prove
13 that the defendant did all of these things.
14 Instead, if you find, beyond a reasonable doubt,
15 that the defendant did any of these things you may
16 find the defendant guilty of kidnapping.
17 Something done without authority of law is
18 something which the law does not sanction, permit,
19 allow, condone, or provide justification for. And
20 the kidnapping doesn't have to be for any personal
21 or monetary gain or for any illegal purpose but it
22 may be for any reason whatsoever. In order to
23 establish criminal liability, criminal intent is
24 required. For example, the mental state required
25 to be proven by the State for a particular crime

1 might be purpose, intent, knowledge, recklessness,
2 or criminal negligence. Criminal intent must be
3 proven by the State beyond a reasonable doubt.

4 Criminal intent is always a matter that must be
5 determined by the jury from the circumstances
6 surrounding the situation. And there's no way to
7 prove intent to a mathematical certainty. There's
8 no way medical science can dissect a person's
9 brain and determine what the person had in mind.
10 So the law says criminal intent may be inferred
11 from the circumstances shown to have existed.

12 This is how you make a determination of whether or
13 not the element required intent was present. It
14 is not necessary to establish intent by direct and
15 positive evidence. But intent may be established
16 by inference in the same way as any other fact by
17 taking into consideration the acts of the parties
18 and all the facts and circumstances of the case.

19 Criminal intent is a mental state, a conscious
20 wrongdoing. It is up to you to determine what the
21 defendant intends to do based on the circumstances
22 shown to have existed. Criminal intent can arise
23 from action or a failure to act. It may arise
24 from negligence, recklessness, or a indifference
25 to duty, or through consequences that is

1 considered by the law to be equivalent of criminal
2 intent.

3 Mr. Foreperson, is that what you all wanted to
4 hear?

5 MR. FOREPERSON: Yes, Your Honor.

6 THE COURT: All right, I thank you. Ladies
7 and gentlemen, I'm gonna send you back to your
8 jury room to continue deliberations. Thank you.

9 (Jury exits)

10 BAILIFF: The jury is clear of the courtroom,
11 Your Honor.

12 (Whereupon Jury exits to continue deliberation)

13 (Whereupon Jury returns with a verdict)

14 THE COURT: Is the State ready?

15 MS. CARRA HENDERSON: The State's ready to
16 proceed, Your Honor.

17 THE COURT: Ready, Mr. Walker?

18 MR. MATTHEW WALKER: Yes, Your Honor.

19 THE COURT: Let's bring them in.

20 (Jury enters)

21 BAILIFF: The jury is entering, Your Honor.

22 THE COURT: Thank you.

23 BAILIFF: The jury is seated, Your Honor.

24 THE COURT: Thank you.

25 Mr. Foreperson, I understand you've reached a

1 verdict?

2 MR. FOREPERSON: We have, Your Honor.

3 THE COURT: Could you please hand it to the
4 Bailiff? In the state of South Carolina versus
5 Lisa Cossachi as to indictment number 2010-G07-
6 2256, the charge of kidnapping of Armando Montes,
7 we the jury unanimously find the defendant Lisa
8 Cossachi guilty.

9 As to indictment number 2010-G07-2257,
10 charge of kidnapping of Minor we
11 the jury unanimously find the defendant Lisa
12 Cossachi guilty. It's signed by our foreperson.

13 Ladies and gentlemen of the jury, if this is
14 your verdict would you please indicate by raising
15 your right hand?

16 JURORS: (Demonstrating)

17 THE COURT: Thank you, ladies and gentlemen.
18 Is there anything further required from this jury
19 from the State?

20 MS. CARRA HENDERSON: Nothing from the State,
21 Your Honor.

22 THE COURT: From the defense?

23 MR. MATTHEW WALKER: Can we poll the jury?

24 THE COURT: All right. Ladies and gentlemen,
25 I'm gonna individually poll you. When I call your

1 name if you would just communicate by raising or
2 actually communicate if you don't mind by
3 standing. I'm gonna ask you if this is your
4 verdict, yes or no, and is this still your
5 verdict, yes or no. All right?

6 Debra Martin, is this your verdict?

7 JURORS: Yes.

8 THE COURT: Is this still your verdict?

9 JUROR: Yes.

10 THE COURT: You may be seated. Thank you.

11 Jim Jackson, is this your verdict?

12 JUROR: Yes.

13 THE COURT: Is it still your verdict?

14 JUROR: Yes

15 THE COURT: Deidra **, is this your verdict?

16 JUROR: Yes.

17 THE COURT: Is it still your verdict?

18 JUROR: Yes.

19 THE COURT: Evelyn **, is this your verdict?

20 JUROR: Yes.

21 THE COURT: Is this still your verdict?

22 JUROR: Yes.

23 THE COURT: Archie ** Wiseman, is this your
24 verdict?

25 JUROR: Yes.

1 THE COURT: Is this still your verdict?

2 JUROR: Yes.

3 THE COURT: Rachel Seagal, is this your
4 verdict?

5 JUROR: Yes.

6 THE COURT: Is this still your verdict?

7 JUROR: Yes.

8 THE COURT: Rosaline Dixon, is this your
9 verdict?

10 JUROR: Yes.

11 THE COURT: Is this still your verdict?

12 JUROR: Yes.

13 THE COURT: Cynthia **, is this your verdict?

14 JUROR: Yes.

15 THE COURT: Is this still your verdict?

16 JUROR: Yes.

17 THE COURT: Thank you.

18 JUROR: You're welcome.

19 THE COURT: Ryan Shipman, is this your
20 verdict?

21 JUROR: Yes, Your Honor.

22 THE COURT: Is this still your verdict?

23 JUROR: Yes, Your Honor.

24 THE COURT: Thank you, sir.

25 Tawanda Chisolm, is this your verdict?

1 JUROR: Yes.

2 THE COURT: Is this still your verdict?

3 JUROR: Yes

4 THE COURT: Craig Danielson, is this your
5 verdict?

6 JUROR: Yes, Your Honor.

7 THE COURT: Is this still your verdict, sir?

8 JUROR: Yes, Your Honor.

9 THE COURT: Elizabeth Dukes, is this your
10 verdict?

11 JUROR: Yes.

12 THE COURT: Is this still your verdict?

13 JUROR: Yes. Thank you, ma'am. All
14 right. Anything further required from this jury?

15 MR. MATTHEW WALKER: No, Your Honor.

16 THE COURT: Ladies and gentlemen, I want to
17 send you away with my thanks. I know it's not
18 easy to sit in judgment. These are not easy cases
19 but we are grateful that you are here, that you
20 help us resolve them. What I want you to know is
21 that you are going to be excused for the remainder
22 of the week. Judge Maddox is going to began his
23 trial of the second case tomorrow. I can tell you
24 have I a number of matters to take up here between
25 now and the end of the week. I will take a number

1 of guilty pleas as well and Judge Maddox will
2 also. We have probation violation matters. So
3 we will do the Court's business. There's no way
4 we could possibly try every case. We simply can't
5 afford to. And the simple fact that you all being
6 here and willing to serve allows us to resolve a
7 lot of the cases and other manners. This one, of
8 course, had to go to trial. We do want to tell
9 you how much we appreciate it.

10 I can also tell you now that you are
11 permitted to discuss this case if you wish to.
12 And sometimes the attorneys or witness may want to
13 speak to you about the performance, what you
14 thought. That is permissible if you want to. If
15 someone persists and you have no interest, please
16 tell them no thank you, and you please call the
17 clerk's office and tell me who it is and I'll take
18 care of it. All right. At this time it is
19 permissible for you to go home and tell your
20 spouse what went on here. All right. Again I
21 want to tell you how much we appreciate it. If
22 anyone needs a work excuse we will have them.
23 Y'all have been wonderful. Again, thank you. We
24 appreciate it. You've earned your exemption for
25 the next three years. I hope I see you before

1 that because it's just an exemption after one
2 year, you are permitted to come back and serve if
3 you're chosen. Thank you. Good night, y'all.

4 BAILIFF: The jury is clear and the door is
5 closed, Your Honor.

6 THE COURT: Thank you.

7 All right, y'all. We're gonna go ahead and
8 handle Ms. Cossachi's sentencing in the morning.
9 What I'm gonna ask you to do, Mr. Walker, I know
10 you've intimated that she does have possibly some
11 mental health issues and I'm not charging you to
12 go do anything specifically. Anything you do
13 have or can put together would be helpful. All
14 right. We will be at ease until tomorrow morning.

15 What are we doing in this courtroom; do you know,
16 Ms. Henderson?

17 MS. CARRA HENDERSON: Your Honor, I believe we
18 are doing plea's. The only thing is I have a
19 funeral in Richland at eleven tomorrow.

20 THE COURT: Okay.

21 MS. CARRA HENDERSON: I will be here first
22 thing in the morning and then I'll be coming back
23 after that. I could obviously --

24 THE COURT: We can do it first thing in the
25 morning or we can do it in afternoon.

1 MS. CARRA HENDERSON: I'll need to leave here
2 by ten. It's my understanding with -- I thought
3 he had an obligation.

4 THE COURT: It's all right. I don't want you
5 to have to come back if you didn't intend, **.
6 We can do it Thursday morning as well. You tell
7 me. Did you want to come back or...

8 MS. CARRA HENDERSON: Yes, ma'am. I'm
9 definitely coming back after the funeral. I will
10 probably be back around one o'clock.

11 THE COURT: Okay. Mr. Walker?

12 MR. MATTHEW WALKER: Yeah I'll be here.

13 THE COURT: Okay. Let's go ahead and we'll
14 do it all in the afternoon. Is that fine with
15 you?

16 MS. CARRA HENDERSON: Yes, sure because I can
17 miss --

18 THE COURT: No, no, no. Absolutely not. So
19 let's just -- We'll meet back here at around three
20 o'clock tomorrow. You want to do that everyone?
21 Okay.

22 MR. MATTHEW WALKER: Yes.

23 THE COURT: We'll just plan on doing it around
24 2:30. So we'll just be back at three o'clock and
25 we'll go ahead and continue, okay?

1 MR. MATTHEW WALKER: Yes, Your Honor. Thank
2 you.

3 THE COURT: Thank you all.

4 (Whereupon Court was recessed)

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1 (Sentencing of Lisa Cossachi August 27, 2011)

2 THE COURT: Solicitor, I think the only thing
3 I need from you is, just for the record,
4 Ms. Cossachi's prior record.

5 MS. CARRA HENDERSON: Yes, Your Honor. It is
6 -- I'm gonna pull it up just to make sure but I'm
7 pretty sure it's in 1995 shoplifting and in 1998
8 PWID marijuana.

9 THE COURT: All right, and obviously I tried
10 this case. Mr. Walker, explain to me, just so
11 I'm clear, because I wasn't clear from the
12 testimony, the police were obviously trying to
13 serve some arrest warrants on Mr. Allison, Ms.
14 Coss
15 achi
16 was
17 in
18 the
19 car?

20 MR. MATTHEW WALKER: Yes, Your Honor.

21 THE COURT: What was her reasoning for
22 jumping into Mr. Montes's car?

23 MR. MATTHEW WALKER: I absolutely was gonna
24 get there.

25 THE COURT: Let's get there now.

1 MR. MATTHEW WALKER: That was part of what I
2 intended to present here at this sentencing was we
3 actually had, you know, we're leaning towards
4 having her testify to present two facts.
5 Basically one was she was --she had a Family Court
6 bench warrant for back child support and did not
7 want to be arrested. Of course, the other that
8 we would have listed was what was in her hands. I
9 mentioned to you and the Solicitor yesterday, she
10 had a --

11 MS. COSSACHI: I was using drugs.

12 THE COURT: I'm gonna let you speak. Okay.
13 Go ahead. She was using drugs, did she actually
14 have drugs on her as well?

15 MR. MATTHEW WALKER: No, Your Honor.

16 MS. CARRA HENDERSON: She did not.

17 MR. MATTHEW WALKER: She had been using drugs
18 earlier that day.

19 THE COURT: Okay.

20 MR. MATTHEW WALKER: And as I said, she had
21 in her hand a metallic, silver cell phone, and
22 that's what was in her hand. She never e had a
23 weapon. She never threatened Mr. Montes.

24 THE COURT: Miss Cossachi?

25 MS. COSSACHI: Okay. I asked him for a ride.

1 He was looking at me like he welcomed me and I --
2 I -- that's the only reason why I approached his
3 car to ask him for a ride. I told him that my
4 friend was in the process of getting arrested and
5 I had a bench warrant out for my arrest. And I
6 said, Can I please have a ride? There was a woman
7 that overheard that but they never got her
8 testimony. I then -- He said yes. He said yes.
9 I don't know if it was a communication bearer. If
10 I was -- I didn't -- I misinterpreted it but I got
11 into the car. I'm sorry.

12 THE COURT: That's okay. That's okay. Don't
13 worry about it. It's fine. Okay. All right.
14 Mr. Walker, let's talk about how we kind of got
15 here.

16 She's 40 years old. She only has two charges,
17 one from '95 and one from '98, which is a long
18 time ago. It doesn't help that she was with Mr.
19 Allison when all of this occurred.

20 MR. MATTHEW WALKER: No it does not, Your
21 Honor. And that is exactly right. She stated
22 that she's got a drug problem that brings her into
23 contact with Mr. Allison, which further inhibits
24 her already poor impulse control.

25 THE COURT: Okay. And does she actually

1 suffer -- Do you have any kind of diagnosis?

2 MR. MATTHEW WALKER: I have records here.

3 MS. COSSACHI: I wasn't on any of my medicine.

4 MR. MATTHEW WALKER: I have these records,
5 they're from kind of two time periods. Sorry,
6 I'll separate them out for you. She's been clean
7 for a couple years beforehand. And I have -- Her
8 husband is here and wants to make a statement.
9 She's been doing well but then they had some
10 marital problems and are currently separated or
11 were separated when this happened. And had some
12 marital problems, she fell off the wagon and was
13 kind of in the midst of a prolonged bender when
14 this kind of began.

15 I'm gonna hand out the first set which is from
16 kind of when she was -- was clean and was doing
17 well and was undergoing continual ** her anxiety
18 and depression. She told me she's -- This is from
19 ** other physicians who's records I don't have.
20 Also, diagnosis is bipolar and perhaps even having
21 borderline personality disorder. Then of course
22 I'm not a psychiatrist but I can speak to my
23 impression as I've dealt with her.

24 I also, when you're done with that, from the
25 same treatment from when she was first arrested,

1 was some of the medication and how they were
2 treating that when she was first arrested and in
3 jail.

4 But I have no -- Let me back up a little bit
5 and tell you about Ms. Cossachi's more than just
6 her drug problems, mental health problems. She's
7 40 years of age. She's a university graduate,
8 has a business degree from the University of
9 Mexico. Plus, she was married to --

10 THE COURT: What type of degree from the
11 University of Mexico.

12 MR. MATTHEW WALKER: Business degree.

13 THE COURT: So she's got a four-year degree?

14 MR. MATTHEW WALKER: Yes, Your Honor.

15 THE COURT: Go ahead.

16 MR. MATTHEW WALKER: Her husband is here in
17 the second row, Mr. Chris Cossachi. He said
18 would like to speak in a moment. She has two
19 children aged -- seven-year-old daughter, ten-
20 year-old son. The drug problems -- I've talked to
21 her family -- it has been an on and off again
22 issue for a -- had mental health problems for a
23 long time. Something her husband has also
24 struggled with. Her in-laws actually have custody
25 of the children, Mr. Cossachi's parents. We had

1 a good conversation this morning and he's claimed
2 he's involved in their lives regularly. And I
3 think it's the families' wish that she receive
4 regular treatment, to clean up and remain involved
5 in their lives as well.

6 Before this incident, she was actually
7 working two jobs. She was working at Fresh Market
8 as well as doing some food and beverage work. You
9 know, again she's not having any problems and is
10 medicated and is keeping things under control.
11 She's able to maintain and is very productive.

12 But that brings us again back to not only the
13 -- obviously, anytime you have alcohol and drug
14 problem issues, as you know you've seen them kind
15 of hand and hand with mental issues and they
16 probably both feed off of each other to make the
17 product more than the sum of its parts. But
18 certainly as to the anxiety and depression
19 diagnosis you're seeing, I will relate to the
20 court from my conversations and meetings with Lisa
21 that I think it's certainly a case of the manic
22 type of the very sudden mood swings very up-and-
23 down. It's very difficult for her to sometimes
24 control even though she knows what she's supposed
25 to be doing, you know, how she reacts to things.

1 And again I think all these are things you can
2 see with the testimony was that she acted on this
3 night that brings us here.

4 MS. COSSACHI: When I'm medicated properly
5 it's a totally different story.

6 MR. MATTHEW WALKER: As far as -- I can
7 certainly see a bipolar diagnosis. Again, I'm not
8 a psychiatrist but as far as borderline
9 personalities, some schizo behavior, I've seen a
10 lot of paranoid behaviors and tendencies. So,
11 you know, these are all things that just -- I
12 think they are what brought us here because I
13 don't think -- And again, you heard my closing
14 arguments. I stand behind that. I don't think
15 her intent was to kidnap this man but the jury's
16 verdict is spoken. I think she is driven by the
17 person she is and that's what led us to that
18 action. She has a very supportive family. Her
19 parents live in Nevada. Her brother just had a
20 very serious surgery last week. I'd missed
21 several -- I called them and they had missed my
22 phone call because they were in the hospital with
23 the brother and they are really dealing with that.
24 It's a very serious surgery. I even was just able
25 to speak to her father over the lunch break and of

1 course they're very concerned, talking about
2 potential sentences and Lisa's mental state and
3 what, you know, even, you know, a relatively short
4 prison sentence. Her father said he didn't know
5 what that would do to her. But with the brother
6 being -- having such medical issues they could not
7 come out here for the trial. But they certainly
8 have been very in touch with me, emailing me,
9 calling me, and are certainly very concerned about
10 Lisa.

11 And this brings us around what we ask for in
12 the sentencing option. Obviously, kidnapping is a
13 violent crime. Lisa is not a violent person, not
14 a danger to society. And the way our present
15 system is set up is not the best place for someone
16 with mental needs. What we would ask for would be
17 -- And I should also say before I get there is
18 that the marijuana conviction was the longest.
19 She ever spent in jail which was five days. And
20 from that conviction she received the eighteen
21 month probationary sentence which she successfully
22 completed. So this six months that she's been in
23 jail on these charges is the longest she's ever
24 been in jail. And of course when I give you my
25 impressions of dealing with her and her mental

1 state have been as she's in jail completely sober
2 and clean, and that's an unadulterated of how she
3 is about any extra kind of illicit substances in
4 her system.

5 What we would ask for is that the Court
6 consider a probationary sentence with some sort of
7 mandatory completion of both mental health and
8 alcohol and drug treatment. Your Honor, I think
9 that's really the best for societal interest and
10 Lisa's interest. And if you would hear from the
11 husband who is --

12 Go ahead, Mr. Cossachi.

13 THE COURT: Yes, sir.

14 MR. COSSACHI: Thank you for listening to me.
15 I hesitate whether to come up here today. I never
16 thought when I met Lisa in 1994 I'd be up here
17 speaking on her behalf on some serious charges.
18 Her attorney said a lot of things correctly about
19 what led to this day. And for drug addicts and
20 alcoholics, the sentence usually is jail or
21 institutions and death. You never know where it's
22 gonna come from. We, her family and myself, are
23 happy to know she was put behind bars 'cause we
24 fear for her life. Other victims in this case are
25 our two kids. And my daughter asked the other day

1 -- She's really worried about her mom being cold
2 in jail. I had to reassure her that she's safe
3 there. And I don't think Lisa is a violent person
4 at all, I don't. I think this is the end result
5 of a lot of crack cocaine. This is the end result
6 of an untreated mental illness. Lisa, prior to
7 being arrested, had been committed three times and
8 was in Charleston Behavioral Health. They let
9 her out after one week, they should've never done
10 that. She went to Morris Village for two weeks.
11 They should never -- She should've never been
12 released from Morris Village. Lisa, when on
13 medication and clean and sober, is definitely a
14 productive member of society. She's not a danger
15 to society and all. I think that strict probation
16 would be much more beneficial to her and allow her
17 the opportunity to be a responsible mom, support
18 her kids in some way. She's a hard worker and
19 that's all I can really say. Thanks for
20 listening.

21 THE COURT: Thank you, sir. Can you repeat
22 your name for the record?

23 MR. COSSACHI: Chris.

24 THE COURT: Cossachi?

25 MR. COSSACHI: Cossachi, yes.

1 THE COURT: Cossachi. All right, sir. Thank
2 you.

3 MR. MATTHEW WALKER: That will be all I have,
4 Your Honor.

5 THE COURT: Ms. Cossachi.

6 MS. COSSACHI: Yes, Your Honor.

7 THE COURT: Where do you live?

8 MS. COSSACHI: I was currently living on
9 Hilton Head Island with a friend of mine from
10 church -- that I met in church. It's Bluffton --
11 God, I don't remember the name.

12 THE COURT: Where's it located?

13 MS. COSSACHI: It's off of Birchard Trail.

14 THE COURT: Who's your friend.

15 MS. COSSACHI: His name is Eric Bandwiggin.
16 He was here yesterday.

17 THE COURT: **

18 MS. COSSACHI: Yes. He was.

19 THE COURT: Who's the pastor of this church?

20 MS. COSSACHI: I'm not sure of his name.

21 THE COURT: So prior to all this were you
22 exercising visitation with your children?

23 MS. COSSACHI: On a regular basis.

24 THE COURT: Where were you doing that?

25 MS. COSSACHI: I was -- Before I relapsed on

1 drugs , I was living at the Reserve, Indigo Run.
2 And I lived there and I was renting -- renting a
3 room from -- from a gentleman and I was living
4 there for a year. And so we would have overnights
5 every other weekends. My husband and I were
6 separated so he could have the kids on the off
7 weekends that I didn't have them. I was also
8 attending their school functions, going to my
9 son's swim practices, and visiting my daughter and
10 son at lunch on their lunch breaks, just really
11 active with my children's lives. And while I was
12 doing that I was also working 16 hours a day, two
13 jobs. I was coming up on promotion at the Fresh
14 Market and at the restaurant where I waited tables
15 as well.

16 THE COURT: Where did you work?

17 MS. COSSACHI: I was working at Pizza Hut.

18 THE COURT: So you were having the children
19 come to the apartment and they were staying with
20 you two nights a week there?

21 MS. COSSACHI: Every other week and
22 overnights.

23 THE COURT: Okay.

24 MS. COSSACHI: One day a week, really just
25 like every Wednesday I'd pick them up from school

1 and bring them back to the house or the condo,
2 then we cooked dinner, do homework, have our
3 visitation there for a few hours.

4 THE COURT: What is the most drug treatment
5 you ever had? I heard your husband say you went
6 to Morris Village, Charleston Behavioral, which I
7 don't think exist anymore. It might, I don't
8 know.

9 MR. MATTHEW WALKER: Palmetto Behavior, Your
10 Honor.

11 THE COURT: Palmetto Behavior. Okay. What
12 kind of drug treatment have you gotten?

13 MS. COSSACHI: I've been -- I went to --
14 Recovery Community last year at this time for
15 three months and eight days.

16 THE COURT: Where is that?

17 MS. COSSACHI: It's in Sumpter.

18 THE COURT: Okay.

19 MS. COSSACHI: And it's a six month to a year
20 program.

21 THE COURT: Why did you leave?

22 MS. COSSACHI: I wasn't ready. I just -- I
23 have a lot of resentment and I was concerned about
24 my children being in the care of my in-laws even
25 though they are wonderful people. My kids are in

1 a great place, I couldn't ask for anything more.
2 I still -- I felt so helpless like I didn't have
3 any -- I didn't have any say in what my kids were
4 doing. I was very worried. I just held on to a
5 lot of stuff. My husband and I were relapsed on
6 drugs. We were going our separate ways and it
7 hurt -- it hurt really bad. I think it affected -
8 - I wasn't ready. I just wasn't letting go of
9 everything.

10 MR. MATTHEW WALKER: And of course, Your
11 Honor, there's never been a serious consequence to
12 not completing which the Court will provide if you
13 consider a probationary sentence.

14 THE COURT: Where do your children go to
15 school?

16 MS. COSSACHI: Baccalaureate, both of them.
17 My daughter's in first grade and my son's in fifth
18 grade.

19 THE COURT: You say Baccalaureate, where?

20 MS. COSSACHI: On Hilton Head Island,
21 International Baccalaureate.

22 THE COURT: Okay. Do your in-laws live on the
23 island as well?

24 MS. COSSACHI: Yes, Hilton Head Plantation.

25 THE COURT: Hopefully not at

1 Road. And how long has she been in jail?

2 MR. MATTHEW WALKER: For six months I believe.
3 I don't -- I didn't

4 MS. COSSACHI: A hundred and eighty-six days,
5 I think it was. Ms. Green, is that right?

6 MS. GREEN: A hundred and ninety-six.

7 MS. COSSACHI: A hundred and ninety-six days.

8 MR. MATTHEW WALKER: October 24th.

9 MS. GREEN: A hundred and eighty-six.

10 THE COURT: Ms. Cossachi, the hard part I'm
11 having with this is that you obviously are real
12 educated. Obviously, when you're not using drugs
13 and you're taking your medication, you are a
14 productive citizen. But you were charged and
15 convicted of kidnapping which you know is a very,
16 very serious charge. It carries up to 30 years in
17 prison and that's the sentencing guidelines I am
18 looking for, between 0 and 30.

19 I am gonna do absolutely the best I can for
20 you but part of what my concern is, and
21 unfortunately, nowadays there is so little we can
22 do as far as drug rehab is concerned and not much
23 is done for people. It's unfortunate the money
24 just isn't there. I'm gonna guess right now
25 you're probably doing better because you've been

1 incarcerated and haven't been using; is that a
2 fair statement?

3 MS. COSSACHI: Actually I'm not medicated
4 properly. So I couldn't even -- I couldn't even -
5 - It was very difficult to contain myself
6 yesterday during the trial.

7 MR. MATTHEW WALKER: And if I may speak to
8 that, Your Honor? Well I have no -- And you know
9 we can talk about that right now. I should put on
10 the record that I -- I have no doubt that she's
11 understood my conversations with her. She is
12 confident to help me with her defense. For legal
13 purposes competent at the time the offense
14 occurred. I certainly have notice that, and
15 there's certainly symptoms of mental problems
16 while being incarcerated that I will classify as
17 severe. You know there's certainly impulse
18 control, very suddenly and drastic mood changes,
19 paranoia which I detail. An incarcerated
20 environment is not going to treat those issues.

21 THE COURT: What all are you getting in jail
22 for medication?

23 MS. COSSACHI: Selexa. I begged her for
24 something more.

25 THE COURT: Is that daily?

1 MS. COSSACHI: Yes.

2 THE COURT: And how much do you take of that?

3 MS. COSSACHI: I don't know. It's an
4 antidepressant, bipolar diagnosis. They say that
5 taking antidepressant actually can catapult you
6 into a bipolar phase.

7 THE COURT: Isn't that for bipolar aspect?

8 MS. COSSACHI: It helps with sleep and stuff.

9 MR. MATTHEW WALKER: As I was sitting
10 here trying to think of, you know, how best to
11 approach sentencing and of course what's best for
12 my client but also trying to think like a judge
13 when making this presentation. And she even asked
14 me if there was some facility that she could be
15 sentenced to that will treat these issues. And I
16 had that discussion and unfortunately in South
17 Carolina it's just that it's either lock them up
18 or let them out. There's nothing -- And I
19 explained to her if someone needs mental health
20 treatment, since the State doesn't provide it, the
21 only way to ensure someone gets it is to make it a
22 condition of probation instead of -- And that
23 really it seems to me the only judge has to do it.
24 In fact, you know, ** some of the other things
25 this week and kind of demand ** -- I'm sure pretty

1 much violent crimes don't get but drug rehab would
2 have been perfect for Ms. Cossachi. I confirmed
3 with ** this morning that, you know, I guess as I
4 thought ** she would be eligible. Which would
5 have been perfect for her. And again thinking
6 like a judge, they're very serious crimes. And I
7 think what -- And if you want to take that into
8 consideration. And I think what separates it now
9 is first of all the testimony that you heard and
10 the facts of the case itself and what everybody
11 thinks of as kidnapping, and how this is not
12 really in the mold that anyone would contemplate
13 clearly. And secondly, the idea that what seems
14 to be the underlying issues and what we seem to do
15 with punishment. Again, she's been in jail longer
16 than she's ever been. In order to treat the
17 underlying issues, more jail in my opinion would
18 exacerbate the problems as opposed to trying to
19 negate them or minimize them. And this Court
20 could hang a giant sentence over her head and
21 mandate as a condition of her probation attendance
22 at some inpatient facility. I know they have
23 them, you know, six -- a year long -- six months,
24 a year long, and successful completion, all kinds
25 of conditions the Court could impose on a

1 probationary sentence. That would really be out
2 of this Court's hands on just some kind of acted
3 sentence. And that, I propose a probationary
4 sentence but not as a light sentence but as a
5 sentence that allows this Court the most control
6 over how best to see that we're not here anymore.

7 THE COURT: Except that I can hang a bunch of
8 time over her head and have her do some jail time
9 and give her probation. I can give her a split
10 sentence. It is my concern, Ms. Cossachi, it
11 looks like from what you've given me, she had a
12 period where she was sober for a long time. And
13 we all know that's the best thing for her and her
14 children. I want to make sure that what we're
15 doing is giving you an incentive. We keep talking
16 this week we heard so many different people who
17 have had problems with alcohol and drug abuse and
18 the question just becomes when you hit rock bottom
19 -- what's your rock bottom. And --

20 MS. COSSACHI: I have many trap doors.

21 THE COURT: It's just knowing how to put you
22 there. I was thinking the same thing you were,
23 Mr. Walker. It does ** -- I was thinking the
24 exact same thing that it ** because she is someone
25 who needs **. And start from the beginning. And

1 she seems like the kind of person that would
2 probably **. You can just tell based on her work
3 ethic. But I also think, Ms. Cossachi, part of
4 the problem I have is it's a kidnapping charge,
5 you jumped in the car, and it was -- unfortunately
6 it happened to be a man that had a five year old
7 child in the back seat..

8 MS. COSSACHI: I never saw her.

9 THE COURT: But still the problem is I'm not
10 saying --

11 MS. COSSACHI: As I was driving down the road
12 he locked me in. I did jump out the window and I
13 had three girls translate his statement back at
14 the facility. And they said -- they translated it
15 to say that he just sped the **. He was kind of
16 fumbling yesterday. I actually had to jump out
17 the window. And I think -- I don't think ** say
18 what ** Mr. Walker --

19 THE COURT: It's okay.

20 MR. MATTHEW WALKER: I understand, Your Honor.
21 There's gonna be an appeal and this is all on the
22 record, and she needs to stop ---

23 MS. COSSACHI: What in two years? And how
24 long --

25 MR. MATTHEW WALKER: You're not helping **?

/155

1 MS. COSSACHI: Mr. Walker, this is my life. I
2 listened to you yesterday and I regret it.

3 THE COURT: Stop. Just stop this, okay. All
4 right. Ms. Cossachi, is there anything else you
5 need to tell me?

6 MS. COSSACHI: That I begged them for
7 something more than Selexa. And I -- They put me
8 on -- They come through environmental health which
9 I've been off and on since 1990. I've had the
10 same counselor, Omega ** **. I haven't had any
11 luck with that and I'm afraid to go to prison.
12 I'm afraid I'm not gonna get the proper
13 medication. I'm a good person. I just don't -- I
14 don't feel like that's beneficial to me in there.
15 I know it's kidnapping, even a deputy sheriff
16 yesterday told Matthew that he wouldn't have
17 convicted me. The girls back at my place were
18 crying for me. They were saying I cannot believe
19 you were convicted.

20 THE COURT: Ms. Cossachi, I can tell you that
21 based on the elements you did meet them all
22 because if you hadn't I would have directed a
23 verdict. You met all the elements for kidnapping
24 even though we didn't bring in the drug factor and
25 the mental health issue because the attempt was

1 totally private. The unlawful -- The knowingly
2 and unlawfully, the voluntary intoxication is not
3 **. Once crack gets into your system you're gone.
4 Then it's voluntary.

5 MS. COSSACHI: I just beg you.

6 THE COURT: I'm gonna tell you I will do my
7 very, very best for you. I do think you need some
8 type of -- This is it. You've already done just
9 about six months already. I don't need to hear
10 from the victim ** do you think?

11 MS. COSSACHI: No, Your Honor.

12 THE COURT: On indictment number 2010--2256 is
13 for kidnapping, the sentence of this Court is for
14 you to be committed to the Department of
15 Corrections for a period of five years; that's
16 suspended upon service of one year and five years
17 probation following. Which means you're gonna go
18 do about another -- about 85 percent of one year,
19 you're gonna do a little more time in SCDC.
20 You're gonna come out and you're gonna be on
21 probation for five years. During that probation
22 you're gonna be required to attend -- and to begin
23 with you're gonna go to some inpatient treatment
24 to actually get some counseling. On top of that
25 when you come out you are to be fully compliant

1 with the Department of Mental Health and taking
2 your medication. If you are not at any point,
3 you're going to be in violation and you're coming
4 in front of me, and I'm sending you back to
5 prison. And I'm gonna send you for the five years
6 I'm hanging over your head, okay. I want you --
7 Also I'm gonna make a finding on the record that
8 there was no sexual component to this kidnapping
9 in any way, shape, or form. I do not think it's
10 appropriate that there's any type of sexual
11 registry. That's not what this is about in
12 anyway. I will iterate again. Under the strict
13 statute the Solicitor was absolutely right, you
14 met all the elements. You absolutely did. I
15 directed a verdict as to the car-jacking. I
16 directed a verdict as to possession of a weapon
17 during a violent crime. I don't think it was
18 proved that you actually had a knife in anyway
19 that was visibly displayed, I should say. But
20 again you technically did meet the elements of the
21 kidnapping statute from what occurred. So again,
22 I have done my very best for you. I will also
23 tell you I hope you take this as your wake up
24 call. You've got this seven year old and a ten
25 year old you're gonna get in a few months, and

1 you're gonna be able to spend time with them and
2 be with them. You need to make a choice, and I
3 don't know any other way to say it other than to
4 tell you. Being a mother -- I understand
5 addiction is a terrible thing and that's what I'm
6 hearing. I'm hearing how awful it is but I think
7 you need to decide between your children and the
8 drugs. I hope that by even just being in jail for
9 nine or ten months, you'll have enough sobriety
10 behind you that at least for sobriety that you've
11 got to start, and maybe with counseling and
12 compliance with the Department of Mental Health,
13 maybe you can go ahead, start a new life, and
14 maybe have your kids back. But again, Ms.
15 Cossachi, if for some reason you don't and you're
16 here on a probation violation, you're going away;
17 do you understand that? Good luck to you.

18 MS. COSSACHI: Thank you.

19 MR. MATTHEW WALKER: And, Your Honor, just one
20 more matter for the record. And for your comments
21 I can imagine you're gonna to make sure I've done
22 a -- I want to make -- once more renew my motions
23 for directed verdict on the kidnapping charges on
24 the basis from the testimony there was no
25 testimony that Ms. Cossachi did any verbally or

1 threatened or make him feel that he ** anyway that
2 he wanted to. And that would be my motion.

3 THE COURT: Respectfully, I disagree with you
4 as do 12 people sitting on the jury.

5 MR. MATTHEW WALKER: Thank you, Your Honor.

6 THE COURT: Thank you.

7 (Whereupon Court concluded)

8
9 ----- END OF TRANSCRIPT OF TESTIMONY -----
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CERTIFICATE OF REPORTER

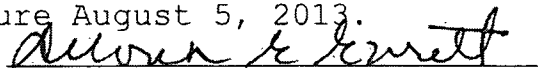
I, Deborah E. Everett, Court Reporter and Notary Public for the State of South Carolina at large, do hereby certify:

That the foregoing testimony/dialogue was taken before me and that the foregoing transcript of that testimony/dialogue is a true, accurate, and complete record to the best of my ability.

I further certify that I am neither related to nor counsel for, nor employed by any party to the investigation, nor am I financially interested in the investigation.

The original of this transcript and any copy of same is not certified, nor authorized for use by me, to be true, accurate, and complete without my original signature and stamp affixed hereto.

Witness my signature August 5, 2013.



Deborah E. Everett
Court Reporter and Notary Public
State of South Carolina at Large
My Commission Expires:
August 9, 2022

DEBORAH E. EVERETT
Notary Public, State of South Carolina
My Commission Expires 8/9/2022

 ORIGINAL

WITNESSES

E. Morris (BCSO)

ARREST WARRANT NUMBER

1029185

ACTION OF GRAND JURY

True Bill

B. M. Muthig
Foreperson of Grand Jury
Date: 11/18/10

VERDICT

Foreperson of Petit Jury
Date:

INDICT

DOCKET NO. 2010GS0702256

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

November Term 2010

THE STATE

vs.

Lisa Lynn Cosacchi

Indictment for

Kidnapping / Kidnapping

SC Code: 16-03-0910
CDR Code:0095

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

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

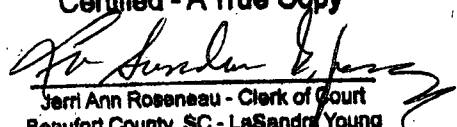
INDICTMENT
2010GS0702256

At a Court of General Sessions, convened on November 18, 2010, the Grand Jurors of Beaufort County present upon their oath:

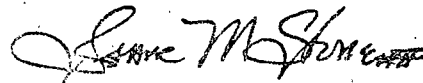
Kidnapping / Kidnapping

That in Beaufort County, South Carolina, on or about October 23, 2010, the Defendant, Lisa Lynn Cosacchi, unlawfully did seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Armando Montes, without authority of law; all in violation of Section 16-3-910 of the Code of Laws of South Carolina, (1976, as amended).

Certified - A True Copy


Jerri Ann Roseneau - Clerk of Court
Beaufort County, SC - LaSandra Young

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



Solicitor

WITNESSES

E. Morris (BCSO)

ARREST WARRANT NUMBER

1029186

ACTION OF GRAND JURY

True Bill

B. Smith
Foreperson of Grand Jury
Date: 11/18/10

VERDICT

Foreperson of Petit Jury
Date:

INDICT

DOCKET NO. 2010GS0702257

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

November Term 2010

THE STATE

vs.

Lisa Lynn Cosacchi

Indictment for

Kidnapping / Kidnapping

SC Code: 16-03-0910
CDR Code:0095

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

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

INDICTMENT
2010GS0702257

At a Court of General Sessions, convened on November 18, 2010, the Grand Jurors of Beaufort County present upon their oath:

Kidnapping / Kidnapping

That in Beaufort County, South Carolina, on or about October 23, 2010, the Defendant, Lisa Lynn Cosacchi, unlawfully did seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Minor , without authority of law; all in violation of Section 16-3-910 of the Code of Laws of South Carolina, (1976, as amended).

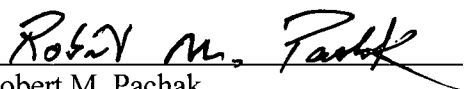
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


Solicitor

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

October 15, 2013


Robert M. Pachak
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

RECEIVED
OCT 15 2013
SC Court of Appeals

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Beaufort County

Carmen T. Mullen, Circuit Court Judge

RECEIVED

OCT 15 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

LISA COSACCHI,

APPELLANT

APPELLATE CASE NO. 2011-191569

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 15th day of October, 2013.

Brandon Hall

Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 16th day of October, 2013

Palalim Kay (L.S.)

Notary Public for South Carolina

My Commission Expires: July 24, 2022.