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ORIGINAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LAURENS COUNTY
Court of General Sessions

Frank R. Addy, Circuit Court Judge

Case No. 2012-GS-30-1154
Appellate Case No. 2013-000579

RECEIVED

MAY 27 2014

SC Court of Appeals

State of South Carolina, ... Respondent,

v.

RICHARD EVANS

..... Appellant.

RECORD ON APPEAL

Thornwell F. Sowell
S.C. Bar No. 5197
J. Michael Montgomery
S.C. Bar No. 74930
SOWELL GRAY STEPP & LAFFITTE, LLC
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400

—and—

Robert M. Dudek (Second Counsel)
Chief Appellate Defender
South Carolina Commission on Indigent Defense
Appellate Division
1330 Lady Street, Suite 401
PO Box 11589
Columbia, SC 29201-1589
Attorneys for Appellant

Alan Wilson
Attorney General

David A. Spencer
Senior Assistant Attorney General

Jared Q. Libet
S.C. Bar No. 74975
Assistant Attorney General
Office of the Attorney General
P.O. Box 11549
Columbia, South Carolina 29211
(803) 734-3970

David M. Stumbo
Solicitor, Eighth Judicial Circuit
P.O. Box 516
Greenwood, South Carolina 29648
Attorneys for Respondent

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***** THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:**

STATE’S EXHIBITS #6, #7, #8, #9, #10 (COLOR PHOTOGRAPHS)

**(BLACK AND WHITE COPIES OF STATE’S EXHIBITS #6 - #10
ARE INCLUDED HEREIN FOR REFERENCE)**

The South Carolina Court of Appeals

The State, Respondent,

v.

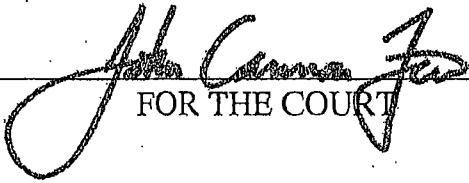
Richard Evans, Appellant.

Appellate Case No. 2013-000579

ORDER

The motion of the Division of Appellate Defense to appoint Thornwell F. Sowell, III as co-counsel for the purpose of preparing the briefs and record and arguing the case before this court in accordance with the conditions set forth in the motion and the terms of the 2013 Appellate Practice Project is granted.

The due date for Appellant's initial brief is December 2, 2013. That deadline will not be extended except under extraordinary circumstances.


FOR THE COURT

Columbia, South Carolina

cc:

Robert Michael Dudek

Salley W. Elliott

Alan McCrory Wilson

Thornwell F. Sowell, III

FILED

9/19/13 AT

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Laurens

VS.

Richard Sylvester Evans

AKA:

Race: AA Sex: M Age: 49

DOB: 01-31-1964 SS#: 251-43-0743

Address: 111 Downs Street

City, State, Zip: Laurens, SC 29360

DL#: 0008198682 SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☒ § 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: D.M. Skiles 72105

Mowry, Warren

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of life in prison per § 17-25-45 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION; ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

Clerk of Court/ Deputy Clerk:

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 12GS30-1154

A/W#: M885477

Date of Offense: 5/3/2012

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

10 - 30 yrs.

☒ CONVICTED OF or ☐ PLEADS☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☒ § 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code:

Sentence Date:

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

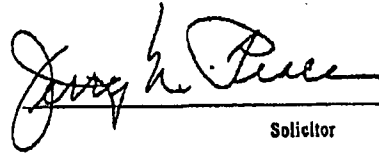
INDICTMENT FOR

**ARMED ROBBERY
16-11-0330**

At a Court of General Sessions, convened on the 6th day of July, 2012 the Grand Jurors of Laurens County present upon their oath:

That Richard Sylvester Evans, did in Laurens County, state aforesaid, on or about the 3rd day of May, 2012 willfully and unlawfully while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon, or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, feloniously take from the person or presence of Dometry Williams by means of force or intimidation, goods or monies described as follows: United States currency, and cigarettes with intent to deprive the owner permanently of such property, Lil Cricket #251 in violation of Section 16-11-330 of the South Carolina Code of Laws, 1976, as amended.

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


Solicitor

WITNESSES

Leann Riggott
Laurens Police Department

WARRANT NUMBER

M885477

True Bill

[Signature]

Foreman of the Grand Jury

Date: 7-6-12

VERDICT

Guilty

Michael A. Malone

Foreman

3/6/13

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

July Term, 2012

Indictment # 12GS30- 1154

THE STATE

I

vs.

Richard Sylvester Evans

INDICTMENT FOR

ARMED ROBBERY

16-11-0330

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Laurens

VS.

Richard Sylvester Evans

AKA:

Race: AA Sex: M Age: 49

DOB: 01-31-1964 SS#: 251-43-0743

Address: 111 Downs Street

City, State, Zip: Laurens, SC 29360

DL#: 0008198682 SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder / Attempted Murder

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 12GS30-1158

A/W#: M885481

Date of Offense: 5/3/2012

S.C. Code §: 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

Up to 30 yrs.

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☒ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Moway, Warren

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of life in prison, per §17-25-45 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$	100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$	
§ 56-5-2995 (DUI Assessment)	\$12	\$	
§ 56-1-286 (DUI Breath Test)	\$25	\$	
Proviso 47.9 (Public Def/Prob)	\$500	\$	
§ 14-1-212 (Law Enforce. Funding)	\$25	\$	20.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$	
§ 50-21-114(BUI Breath Test Fee)	\$50	\$	
§ 56-5-2942(I) (Vehicle Assessment)	\$40/ea	\$	
Proviso 90.5 (SCCA Surcharge)	\$5	\$	5.00
3% to County (if paid in installments)		\$	8.90
TOTAL		\$	128.90

Clerk of Court/ Deputy Clerk:

Court Reporter:

SCCA/217 (03/2011)

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code: 2159

Sentence Date: March 6, 2013

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

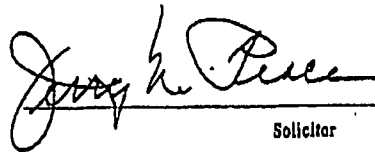
INDICTMENT FOR

ATTEMPTED MURDER
16-03-0029

At a Court of General Sessions, convened on the 6th day of July, 2012 the Grand Jurors of Laurens County present upon their oath:

That Richard Sylvester Evans, did in Laurens County, state aforesaid, on or about the 3rd day of May, 2012 willfully and unlawfully, with the intent to kill and with malice aforethought, attempted to kill Dometry Williams, in violation of Section 16-3-29 of the South Carolina Code of Laws, 1976, as amended.

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


Solicitor

WITNESSES

Leann Riggott
Laurens Police Department

WARRANT NUMBER

M885481

True Bill
[Signature]
Foreman of the Grand Jury

Date: *7-6-12*

VERDICT

Guilty
aided a felon
Foreman *3/6/13*

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

July Term, 2012

Indictment # 12CS30- 1158

THE STATE

vs.

Richard Sylvester Evans

INDICTMENT FOR
ATTEMPTED MURDER
16-03-0029

STATE OF SOUTH CAROLINA

COUNTY OF Laurens
 STATE VS.
Richard Sylvester Evans

AKA:

Race: AA Sex: M Age: 49DOB: 01-31-1964 SS#: 251-43-0743Address: 111 Downs StreetCity, State, Zip: Laurens, SC 29360DL#: 0008198682 SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Larceny / Grand Larceny, \$10,000 or more (\$2,000 - \$10,000)in violation of § 16-13-030(B)(2)(i) of the S.C. Code of Laws, bearing CDR Code # 3421-3420

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: As Indicted Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Mowry, Warren

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☒ County Detention Center,for a determinate term of 6 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. Credit 6 months - jail.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)	\$	\$ <u>3.90</u>
TOTAL	\$	\$ <u>103.90</u>

Clerk of Court/ Deputy Clerk: Ryan W. LancasterCourt Reporter: Viran Cross

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 12OS30-1157A/W#: M885480Date of Offense: 5/3/2012S.C. Code § : 16-13-0030(B)(2)CDR Code #: 3421

SENTENCE SHEET

Up to 5 yrs.

☒ CONVICTED OF or ☐ PLEADS

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
 47.12 requires \$500 be paid to Clerk
 during probation.

Presiding Judge: F. H. [Signature]Judge Code: 2159Sentence Date: March 6, 2012

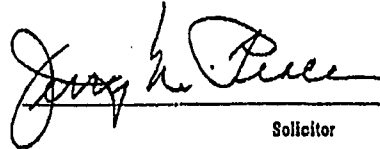
THE STATE OF SOUTH CAROLINA
COUNTY OF LAURENS

INDICTMENT FOR
GRAND LARCENY
16-13-0030

At a Court of General Sessions, convened on the 6th day of July, 2012 the Grand Jurors of Laurens County present upon their oath:

That Richard Sylvester Evans, did in Laurens County, state aforesaid, on or about the 3rd day of May, 2012 feloniously take and carry away the personal goods of Dometry Williams of the value of more than ten thousand and NO/100 (\$10,000.00) dollars described as follows: a 2001 Lincoln Navigator with intent to deprive the owner permanently of such goods, in violation of Section 16-13-30 of the South Carolina Code of Laws, 1976, as amended.

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


Solicitor

WITNESSES

Leann Riggott
Laurens Police Department

WARRANT NUMBER

M885480

True Bill

[Signature]

Foreman of the Grand Jury

Date: *7-6-12*

VERDICT

Guilty

mailed a motion

Foreman

3/6/13

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

July Term, 2012

Indictment # 12GS30- *1157*

THE STATE

vs.

Richard Sylvester Evans

INDICTMENT FOR

GRAND LARCENY
16-13-0030

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Laurens

VS.

Richard Sylvester Evans

AKA:

Race: AA Sex: M Age: 49

DOB: 01-31-1964 SS#: 251-43-0743

Address: 111 Downs Street

City, State, Zip: Laurens, SC 29360

DL#: 0008198682 SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Kidnapping / Kidnapping

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 12GS30-1156

A/W#: M885479

Date of Offense: 5/3/2012

S.C. Code §: 16-03-0910

CDR Code #: 0095

SENTENCE SHEET

Up to 30 yrs.

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☒ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: John M. Slater 7/10/15

Mewry, Warren

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of life in prison, per 17-25-45 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$300	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(I) (Vehicle Assessment)	\$40/cu	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 0.00
3% to County (If paid in installments)	\$	\$ 0.40
TOTAL		\$ 135.40

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
47.12 requires \$500 be paid to Clerk
during probation.Clerk of Court/ Deputy Clerk: Lynne W. LancasterCourt Reporter: Vivian Cross

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2157Sentence Date: March 6, 2013

THE STATE OF SOUTH CAROLINA

INDICTMENT FOR

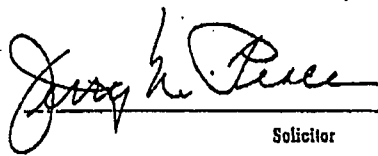
COUNTY OF LAURENS

KIDNAPPING
16-03-0910

At a Court of General Sessions, convened on the 6th day of July, 2012 the Grand Jurors of Laurens County present upon their oath:

That Richard Sylvester Evans, did in Laurens County, state aforesaid, on or about the 3rd day of May, 2012 willfully and unlawfully with criminal intent, seize, confine, inveigle, decoy, kidnap, abduct or carry away Dometry Williams without authority of law, in violation of Section 16-3-910 of the South Carolina Code of Laws, 1976, as amended.

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


Solicitor

WITNESSES

Leann Riggott
Laurens Police Department

WARRANT NUMBER

M885479

True Bill
[Signature]
Foreman of the Grand Jury

Date: *7-6-12*

VERDICT

Guilty

missed a parole
Foreman *3/6/13*

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

July Term, 2012

Indictment # 12GS30- *1156*

THE STATE

vs.
Richard Sylvester Evans

INDICTMENT FOR

KIDNAPPING
16-03-0910

STATE OF SOUTH CAROLINA

COUNTY OF Laurens
STATE VS.
Richard Sylvester Evans

AKA:

Race: AA Sex: M Age: 49DOB: 01-31-1964 SS#: 251-43-0743Address: 111 Downs StreetCity, State, Zip: Laurens, SC 29360DL#: 0008198682 SID#: _____*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life witho

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 12GS30-1155A/W#: M885478Date of Offense: 5/3/2012S.C. Code § : 16-23-0490CDR Code #: 0549

SENTENCE SHEET

5 yrs.
(consecutive)In violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☒ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTES:

D.M. Sikes72105Mouney, Warren

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of Not sentenced, per 16-23-0490(A) b/c of sentences on 12-GS-30-1154, 1156, 1158
days/months/years of ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>20.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.3 (SCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (If paid in installments)	\$	\$ <u>3.90</u>
TOTAL	\$	\$ <u>133.90</u>

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

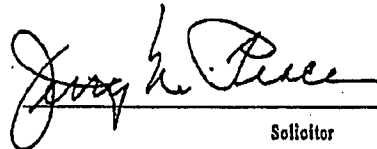
INDICTMENT FOR

**POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME
16-23-0490**

At a Court of General Sessions, convened on the 6th day of July, 2012 the Grand Jurors of Laurens County present upon their oath:

That Richard Sylvester Evans, did in Laurens County, state aforesaid, on or about the 3rd day of May, 2012 possess a firearm or visibly displayed what appeared to be a firearm, or visibly displayed a knife during the commission of a violent offense, to wit: Armed Robbery, or any lesser included violent offense, in violation of Section 16-23-490 of the South Carolina Code of Laws, 1976, as amended.

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


Solicitor

WITNESSES

Leann Riggott
Laurens Police Department

WARRANT NUMBER

M885478

Truce Bill

7/6/12

Foreman of the Grand Jury

Date: 7-6-12

VERDICT

Guilty

Michael A. Malone

Foreman

3/6/13

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

July Term, 2012

Indictment # 12GS30- 1155

THE STATE

vs.

Richard Sylvester Evans

INDICTMENT FOR

**POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME**

16-23-0490

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF LAURENS	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 12-GS-30-1154
	)	
Richard Sylvester Evans,	)	
	)	
Defendant.	)	

TRANSCRIPT OF JURY TRIAL

The within Jury Trial was held March 4-6, 2013, before The Honorable Frank R. Addy, in the Court of General Sessions for Laurens County, State of South Carolina; attended, as follows:

APPEARANCES:

David Stumbo, Solicitor
 Warren Mowry, Assistant Solicitor
 8TH CIRCUIT SOLICITOR'S OFFICE
 P O Box 516
 Greenwood, SC 29360
 Appearing for State of South Carolina

Claude H. Howe, III, Esq.
 Katherine Kendell, Esq.
 P O Box 921
 Clinton, SC 29325
 Appearing for Defendant

TRANSCRIBED FOR VIVIAN CROSS, COURT REPORTER

Deborah Garrison
 Circuit Court Reporter - 9th Judicial Circuit
 Post Office Box 901
 Johns Island, South Carolina 29457
dGarrison@sccourts.org

State of South Carolina v Richard Sylvester Evans
Case No. 12-GS-30-1154 et al
Jury Trial of March 4-6, 2013
Before The Honorable Frank R. Addy

8

1 MARCH 4, 2013 9:30 A.M..

2

3 (IN CHAMBERS CONFERENCE)

4 (DEFENDANT PRESENT)

5 (JURY PANEL IN @ 10:31 A.M.)

6 THE COURT: All right, Solicitor. If
7 you will call your next case, sir.

8 SOLICITOR STUMBO: That you,
9 Your Honor. If it please the Court, the State
10 calls Indictment Number 2012-GS-30-1154. It's
11 an indictment, State v Richard Sylvester
12 Evans. It's an indictment for armed robbery.

13 The second indictment, Your Honor,
14 is Indictment Number 1155, State versus
15 Richard Sylvester Evans. It is an indictment
16 for possession of a weapon during the
17 commission of a violent crime.

18 The third indictment, Your Honor, is
19 Indictment Number 1156, State versus Richard
20 Sylvester Evans. It is an indictment for
21 kidnaping.

22 The fourth indictment, Your Honor,
23 is the State versus Richard Sylvester Evans,
24 Indictment Number 1157, indictment for grand
25 larceny.

1 The final indictment, Your Honor, is
2 the State versus Richard Sylvester Evans, an
3 indictment for attempted murder. That's
4 Indictment 1158.

5 Your Honor, this five indictments
6 have been returned and true billed by the
7 grand jury and the State is ready for trial.

8 THE COURT: Thank you. Mr. Howe,
9 is the defense ready to proceed, sir?

10 MR. HOWE: We are, Your Honor.

11 THE COURT: Very good.

12 THE COURT: Ladies and Gentlemen of
13 the jury, we are about to begin the case of
14 the State of South Carolina versus Richard
15 Sylvester Evans. Mr. Evans is charged with
16 five offenses; namely: armed robbery,
17 possession of a weapon during the commission
18 of a violent crime, kidnaping, grand larceny
19 attempted murder. The defendant in this case,
20 Ladies and Gentlemen, has pled not-guilty to
21 these charges.

22 That pled puts the burden of proof
23 on the State of South Carolina to prove his
24 guilt beyond a reasonable doubt. Now, in a
25 moment I've got certain questions that I need

1 disagree with, just let us know and we will
2 let those come in without objection.

3 We will be at-ease for a few
4 minutes.

5 (BRIEF RECESS)

6 (DEFENDANT PRESENT)

7 THE COURT: Let's have the jury
8 out. Bring the jury out. You've got your
9 first witness in the courtroom?

10 SOLICITOR STUMBO: Yes, sir.
11 She's right here.

12 (JURY IN @ 3:30 P.M.)

13 THE COURT: Let the record reflect
14 that the foreperson, Ladies and Gentlemen of
15 the jury are back. At this point, Mr. Mowry,
16 call your first witness, Your Honor.

17 SOLICITOR MOWRY: Thank you, Your
18 Honor. We call Dometry Williams.

19 (WITNESS TAKES STAND)

20 DOMETRY WILLIAMS, being duly sworn
21 to tell the truth, the whole truth and nothing
22 but the truth, testified, as follows:

23 DIRECT EXAMINATION

24 BY SOLICITOR MOWRY:

25 Q. Dometry, do you live in Laurens County?

- 1 A. Not now.
- 2 Q. Not now?
- 3 A. (No verbal response).
- 4 Q. Did you back in May of last year?
- 5 A. Yes, sir.
- 6 Q. Where were you working -- and you need to
- 7 be specific about it -- on May 2nd and May 3rd
- 8 of last year?
- 9 A. Lil Cricket.
- 10 Q. Li'l Cricket?
- 11 A. (No verbal response).
- 12 Q. What did you do there?
- 13 A. I was a sales associate.
- 14 Q. How long had you been working for the
- 15 Li'l Cricket?
- 16 A. Six months.
- 17 Q. There are a couple of different stores in
- 18 the city of Laurens. Which one were you
- 19 working at?
- 20 A. The one on Church Street.
- 21 Q. Okay. Let me show you what has been
- 22 marked as State's Exhibit 30, I believe for
- 23 identification at this point. And ask you if
- 24 you can identify that?
- 25 A. (Upon review), that's the Li'l Cricket

1 right here.

2 Q. What is this right here?

3 A. That's Church Street, Highway 14.

4 Q. And this is Church Street over there?

5 Excuse me. This is the street that goes down
6 to the ---

7 A. To the Y.

8 Q. --- Y?

9 A. Yes.

10 SOLICITOR MOWRY: Your Honor, I
11 would offer this as a State's Exhibit at this
12 time.

13 THE COURT: Any objection?

14 MR. HOWE: No objection, Your
15 Honor.

16 THE COURT: Without objection,
17 State's Exhibit -- what?

18 SOLICITOR MOWRY: This is, I guess,
19 Number 30.

20 THE COURT: Without objection,
21 State's Exhibit 30 is in evidence.

22 (SO ENTERED AS STATE'S EXHIBIT 30)

23 DIRECT EXAMINATION CONTINUED

24 BY SOLICITOR MOWRY:

25 Q. And that is within the City limits of

- 1 Laurens? Is that right?
- 2 A. Yes, sir.
- 3 Q. And that's within Laurens County?
- 4 A. Yes, sir.
- 5 Q. Now, which shift were you working?
- 6 A. Third.
- 7 Q. Third shift. What hours did that run
- 8 between?
- 9 A. Eleven to seven.
- 10 Q. Eleven in the evening until seven in the
- 11 morning?
- 12 A. (Affirmative nod)
- 13 Q. So you started at 11:00 p.m. on May 2nd of
- 14 2012; is that right?
- 15 A. Yes, sir.
- 16 Q. And your shift was supposed to run until
- 17 7:00 in the morning on the 3rd; is that right?
- 18 A. Yes, sir.
- 19 Q. Were you alone in the store?
- 20 A. Yes.
- 21 Q. Do you still work alone?
- 22 A. No.
- 23 Q. Do you still work at night?
- 24 A. No.
- 25 MR. HOWE: Objection, Your Honor.

1 Relevance.

2 THE COURT: Overruled.

3 SOLICITOR MOWRY: Thank you, Your
4 Honor.

5 DIRECT EXAMINATION CONTINUED

6 BY SOLICITOR MOWRY:

7 Q. A little after midnight on May 3rd of last
8 year, what were you doing?

9 A. I was stocking the cooler.

10 Q. Stocking the cooler?

11 A. (Affirmative nod).

12 Q. Let me show you what has been marked for
13 identification as State's Exhibit 31. Do you
14 recognize that?

15 A. Yes.

16 Q. What does that appear to be to you?

17 A. A diagram of the store.

18 Q. A diagram of the store ---

19 A. Yeah.

20 Q. --- on Church Street?

21 A. Yes.

22 Q. That is not to scale, is that right?

23 A. That's right.

24 Q. Okay.

25 MR. HOWE: I have not seen that

1 before.

2 SOLICITOR MOWRY: (Tenders)

3 MR. HOWE: (Upon review), no
4 objection.

5 THE COURT: No objection. In
6 evidence as State's Exhibit 31.

7 (SO ENTERED AS STATE'S EXHIBIT 31)

8 DIRECT EXAMINATION CONTINUED

9 BY SOLICITOR MOWRY:

10 Q. Let me show you what has now in evidence
11 as State's Exhibit 31. You said that this is
12 a diagram of the Li'l Cricket?

13 A. Yes.

14 Q. I believe that this is the front door
15 here, down at the bottom; is that right?

16 A. Yes.

17 Q. Where is the checkout counter?

18 A. Right here.

19 Q. So immediately inside the front door, off
20 to the right; is that right?

21 A. Yes, sir.

22 Q. Is that correct?

23 A. Yes, sir.

24 Q. And where were you stocking drinks?

25 A. (Indicating).

1 Q. Back here?

2 A. Back here where the sales racks in.

3 Q. Okay. Back over on the far left-hand
4 side of this chart; is that right?

5 A. That's right.

6 Q. Okay. A little after 12:00, 12:15 or
7 thereabouts, was there anybody else in the
8 store?

9 A. No.

10 Q. So you were in there all by yourself?
11 Is that right?

12 A. That's right.

13 Q. Now, what kind of store is the Li'l
14 Cricket?

15 A. Convenience store.

16 Q. Convenience store?

17 A. (Affirmative nod).

18 Q. Y'all sell groceries, gasoline and just
19 about anything. Is that right?

20 A. Yes, sir.

21 Q. Sometime around 12:15 or thereabouts, did
22 somebody come into the store?

23 A. Yes.

24 Q. Who came in?

25 A. Richard Evans.

1 Q. Did you know him as Richard Evans?

2 A. No.

3 Q. What did you know him as?

4 A. Chilly Pop.

5 Q. Chilly Pop? That was his nickname?

6 A. Yes, sir.

7 Q. But you knew him?

8 A. Yes, sir.

9 Q. Do you see him in the courtroom today?

10 A. Yes, sir.

11 Q. Where is he, please, ma'am?

12 A. Sitting right there (indicating defense
13 table).

14 Q. Would you describe him please? Just for
15 the record, if you could tell me what he is
16 wearing.

17 A. He's wearing a white shirt, uh, big man.

18 Q. Who is he sitting next to?

19 A. Kate Kendall.

20 SOLICITOR MOWRY: Your Honor, just
21 for the record, she has pointed out the
22 defendant in this case.

23 THE COURT: The record shall
24 indicate that the defendant has identified the
25 defendant.

1 DIRECT EXAMINATION CONTINUED

2 BY SOLICITOR MOWRY:

3 Q. But you said that you did not know him at
4 the time as Richard Evans. That you knew him
5 as Chilly Pop?

6 A. That's right.

7 Q. Were you in the cooler itself? You said
8 that you were stocking drinks.

9 A. If -- the cooler is like, you just open
10 the door and -- it wasn't like you walked in
11 that cooler to have to stock it at the time.

12 Q. All right. So you had opened one of the
13 -- you had the front doors open and were
14 putting drinks in that way?

15 A. Yeah.

16 Q. Where did the defendant go when he came
17 into the store? I'm going to again refer you
18 to State's Exhibit 31.

19 A. It was one of these coolers, I believe.
20 Well, this one right here.

21 Q. And you were at which one?

22 A. I was right here.

23 Q. Okay. So he came back there next to you.
24 Is that right?

25 MR. HOWE: Your Honor, if I could

1 get over here to where I could see.

2 THE COURT: That's fine. Just move
3 around as you need to.

4 MR. HOWE: Judge, if I could have
5 a minute so that I can figure out where to
6 stand so that I am not in the jury's way, so
7 that none of them will be able to see.

8 THE COURT: All right.

9 MR. HOWE: May I stand here,
10 Judge?

11 THE COURT: That's fine.

12 MR. HOWE: Thank you.

13 MR. HOWE: That's perfectly fine.

14 MR. HOWE: Thank you.

15 DIRECT EXAMINATION CONTINUED

16 BY SOLICITOR MOWRY:

17 Q. So you were standing where?

18 A. Right here, (indicating):

19 Q. And Richard Evans came where?

20 A. He was at that cooler, (indicating).

21 Q. Okay. What did he do when he came to
22 that cooler?

23 A. When he went to that cooler, he got a
24 beer out of the cooler.

25 Q. Okay. What did you do when he did that?

1 A. Well, I was heading back to the counter.

2 Q. Okay. And the counter, you said, was
3 over here? Is this right -- is that right?

4 A. That's right.

5 Q. So your back was to him at that point?

6 A. That's right.

7 Q. All right. Did you know him very well?

8 A. Not all that well.

9 Q. Okay. Did you know generally where he
10 lived at that time?

11 A. Not really.

12 Q. Did you talk to him at all as you were
13 walking back towards the counter?

14 A. I spoke to him. I did ask him what he
15 was doing over that way. I had never seen him
16 over that way like that. And after that, I
17 went to the counter. I turned around and
18 that's when he came at me.

19 Q. Okay. When you asked him what he was
20 doing on that side of town, basically, as I
21 understood you to say, did he answer you?

22 A. No.

23 Q. All right. And your back was still to
24 him?

25 A. My back was still to him.

1 Q. When you got around the counter, did you
2 then turn around?

3 A. Yes.

4 Q. Where was Richard Evans when you turned
5 around?

6 A. He was closer to the door, the store
7 door, at that time.

8 Q. This door that I pointed to right here,
9 right next to the counter?

10 A. The front, (affirmative nod).

11 Q. Did you see anything in his hands at that
12 time?

13 A. No.

14 Q. What happened next?

15 A. He come up behind me. He come up behind
16 me, wrapped his hand around my neck. At that
17 time I still didn't know that he was behind me
18 until he touched my neck. And he told me that
19 he was going to rob me and, uh, to give him
20 the money. I was like, 'Okay.' He said,
21 'Just cooperate.' I said I'd cooperate, 'why
22 don't you just go?' And I opened the
23 register, give him the money. He asked about
24 the second register and I told him that we
25 didn't have another register. He was asking

1 about the other money and I told him that was
2 the only way that I could get into the
3 register, 'cause I don't have a key to the
4 register.

5 Then he asked me for my keys to my cars.
6 I said, 'You want the keys to my car?' And he
7 said yes. He said, 'I'm on camera, I want to
8 get out of here.' So I got the keys to the
9 car. He asked me where was the car sitting.
10 I told him where the car was.

11 And he took me back there. Once he took
12 me back there, and as soon as I stepped
13 through the door he went for my head --
14 (emotional/crying) and I told them that he
15 ain't got to do this, I had five kids at home.
16 He told me -- (crying) -- that he didn't care.
17 (Emotional).

18 So once we got over here in the little
19 cooler area that we have back there, ---

20 Q. Let me point out on the chart once again,
21 Dometry, -- you said that you had been back
22 here behind the counter, is that right?

23 A. Yes, sir.

24 Q. He had come back here. The cash register
25 is along in here?

- 1 A. Yes.
- 2 Q. Okay. And, uh, did you open the cash
- 3 register for him?
- 4 A. Yes.
- 5 Q. Did he take money?
- 6 A. Yes.
- 7 Q. How much money did you -- did you ever do
- 8 an accounting? Can you figure out exactly how
- 9 much it was?
- 10 A. About fifty dollars.
- 11 Q. It was about fifty dollars?
- 12 A. (Affirmative nod).
- 13 Q. You said that he took your keys.
- 14 A. (Affirmative nod)
- 15 Q. Where was -- where were you keys?
- 16 A. We have a desk right here (indicating).
- 17 Q. Right along in here?
- 18 A. Uh-huh.
- 19 Q. Okay.
- 20 A. And that's where the keys was sitting at,
- 21 sitting on the desk.
- 22 Q. Were they all by themselves or were they
- 23 in a purse or where were they?
- 24 A. They were with my purse and my phone.
- 25 Q. And did you give him your keys or did he

1 take them?

2 A. I picked them up and give them to him.

3 Q. Okay. Then where did Richard Sylvester
4 Evans take you?

5 A. He took me from here to this back room.

6 Q. To the back room?

7 A. (Affirmative nod), going through here.

8 Q. There's a door?

9 A. It's not a door. It's just like an
10 opening. But then when he get here there is
11 a doorway.

12 Q. And what is back in here?

13 A. A door.

14 Q. Did you get all that far back into here?

15 A. No, I just about that far right here.

16 Q. Okay. We've got it labeled up here at
17 the top 'hallway to store room', is that what
18 that is?

19 A. Yes.

20 Q. How big is that?

21 A. I am not sure.

22 Q. Would it be about this wide?

23 A. (No verbal response).

24 Q. Would it be narrower than that? I am
25 standing probably eight feet away from --

1 A. It's probably about like that.

2 Q. What happened when you got back in that
3 hallway?

4 A. We -- when he got me back there, I put my
5 hands up to try to keep him from coming at me.
6 He was coming -- just coming at me. He struck
7 me twice ---

8 Q. He struck you ---

9 A. He struck me in my stomach four times, he
10 stabbed me right here and he stabbed me right
11 here.

12 Q. Describe the knife that he had?

13 A. It's like a kitchen knife maybe, like a
14 hunting knife. It was about eight inches or
15 maybe longer.

16 Q. Anything about the tip of it?

17 A. It was round.

18 Q. Rounded?

19 A. (Affirmative nod).

20 MR. HOWE: Your Honor, we have a
21 matter.

22 THE COURT: Ladies and Gentlemen of
23 the jury, I need to take up a brief issue of
24 law. I will ask that you adjourn for just
25 about five minutes. I'll have you back here

1 as soon as possible. Don't talk about the
2 case. Thanks.

3 (JURY OUT @ 3:55 P.M.)

4 THE COURT: All right. The jury is
5 out. Mr. Howe?

6 MR. HOWE: Your Honor, I believe
7 that the solicitor was going to attempt to
8 have her identify a piece of evidence that is
9 still contained in some kind of container that
10 apparently came from SLED or the LPD.
11 Obviously it's not in evidence now. We've got
12 chain issues, etc. I am going to object to
13 her being able to identify it in the form it's
14 in.

15 THE COURT: May I see the item? Is
16 it marked? Which exhibit is it?

17 SOLICITOR MOWRY: It is marked as
18 State's Exhibit 26 for ID. I didn't want
19 anybody to get hurt. It's got blood on it,
20 Your Honor. So we wanted to keep it --
21 (pause) -- from anybody else getting hurt with
22 it.

23 THE COURT: (Upon review), all
24 right. Well, Mr. Howe, exactly what is the
25 objection? I hear perhaps two objections.

1 One, that you're objecting to it being
2 introduced in the form that it is currently in
3 and, also, to the chain. Help me understand
4 how that would necessarily at this juncture
5 prohibit the witness from at least identifying
6 it. I don't know if they intend to move
7 State's Exhibit 26 in at this point in time.

8 SOLICITOR MOWRY: I will tell you,
9 Your Honor, that we do not. There are a
10 couple of other witnesses that we would need
11 to have on the stand before we were able to do
12 that.

13 MR. HOWE: It's just unusual to
14 see it in that form, in that container. It's
15 going to obviously show -- you know, if it is
16 passed around to the jury for them to view,
17 it's going to have SLED written all over it.

18 THE COURT: Well, I understand. I
19 do note that apparently this is the -- that
20 the container is plastic, maybe about a foot
21 long or so and -- if for no other reason than
22 the fact that it's been represented that there
23 is blood on this knife, I feel like perhaps
24 the safest way for all to handle this item
25 would be to allow it to remain encased in the

1 plastic. They are not seeking introduction at
2 this point in time. Part of the prerequisite
3 to introduction would be the witness
4 identifying this potentially as the knife that
5 was used in the assault. I will let the State
6 proceed at this point.

7 SOLICITOR MOWRY: Thank you, Your
8 Honor.

9 THE COURT: All right. Let's have
10 the jury back, please.

11 (JURY IN @ 3:59 P.M.)

12 THE COURT: Let the record reflect
13 that all jurors are back. Mr. Mowry, you may
14 continue, please, sir.

15 SOLICITOR MOWRY: Thank you, Your
16 Honor.

17 DIRECT EXAMINATION CONTINUED

18 BY SOLICITOR MOWRY:

19 Q. Dometry, let me review just a little bit.
20 You had described how you had been behind the
21 counter. Where was Richard Sylvester Evans
22 while you were behind the counter?

23 A. Behind me.

24 Q. Behind you?

25 A. (Affirmative nod).

1 Q. What did he have in his hand at that
2 point?

3 A. The knife.

4 Q. The knife?

5 A. Um-humm.

6 Q. While you were behind the counter --
7 well, let me ask you this. You had testified
8 that you were taken from behind the counter
9 into this hallway up at the top of the chart.

10 A. That's right.

11 Q. How did Richard Sylvester Evans take you
12 from behind the counter to that hallway?

13 A. With the knife at my neck, behind me,
14 taking me on to that.

15 Q. The whole way?

16 A. (Affirmative nod), the whole way.

17 Q. Now, I am going to hand you this plastic
18 cylinder that has been marked as State's
19 Exhibit 26. Do you -- can you identify what
20 is inside that cylinder?

21 A. The knife with blood on it.

22 MR. HOWE: Your Honor, objection.

23 THE COURT: Overruled.

24 MR. HOWE: Your Honor, we need to
25 have a matter.

1 THE COURT: Y'all meet with me over
2 here.

3 (OFF RECORD SIDEBAR)

4 THE COURT: Objection is sustained
5 as nonresponsive. Mr. Mowry, if you will ask
6 another question, please.

7 SOLICITOR MOWRY: Okay.

8 DIRECT EXAMINATION CONTINUED

9 BY SOLICITOR MOWRY:

10 Q. Dometry, I want you to take a look at the
11 item inside of this cylinder. Have you seen
12 that item before? Does that appear to be
13 something that you have seen before?

14 A. Yes.

15 Q. What does that appear to be?

16 A. A knife.

17 Q. Where have you seen that knife before?

18 A. At the Li'l Cricket.

19 Q. How?

20 A. The knife he held on me.

21 Q. Up against your neck?

22 A. (Affirmative nod).

23 Q. All right. Now, you described being
24 taken at knife blade, I guess not knife point,
25 into the back hallway.

1 A. Yes.

2 Q. Describe what happened then. Take it
3 step by step. What happened when you got into
4 the back hallway?

5 A. When I got in the back hallway, he came
6 at me with the knife. I had my hands up,
7 trying to guard myself.

8 Q. Did you tell him anything at that time?

9 A. I was telling him that he don't have to
10 do -- I mean, telling him 'you ain't got to
11 do this', you know. And after that just
12 everything went blank.

13 Q. What was he doing as he was coming at
14 you?

15 A. I can't even remember at that point.

16 Q. What did you do?

17 A. I remember grabbing his wrist with the
18 knife, trying to defend myself.

19 Q. When you say that you grabbed the knife,
20 are you talking about grabbing the handle of
21 the knife?

22 A. No.

23 Q. What did you grab?

24 A. I grabbed the blade.

25 Q. You grabbed the blade of the knife?

1 A. (Affirmative nod).

2 Q. Why did you do that?

3 A. I don't know, just -- just grabbing,
4 trying to get it away from him.

5 Q. Okay. While you had had the knife to the
6 throat, did you receive any kind of injury
7 from that?

8 A. Yes, I did.

9 Q. What kind of injury did you get?

10 A. I got a laceration on my neck.

11 Q. When did that happen?

12 A. That happened before we got all the way
13 into the cooler area.

14 Q. Do you still have the scar?

15 A. Yes.

16 Q. All right. When you got back there, you
17 said that he came at you. Can you describe
18 exactly what you meant by that?

19 A. He was walking towards me.

20 Q. What was he doing while he was walking
21 towards you?

22 A. Nothing. He had the knife and was just
23 (indicating with raised hand) ---

24 Q. He had the knife raised? You were
25 indicating that he had the knife up over his

1 head, is that right?

2 A. Yes.

3 Q. All right. What happened then?

4 A. Then that's when he started at my
5 stomach, started stabbing me in my stomach.

6 Q. Okay. Describe the motion that he was
7 using when he was stabbing you?

8 A. He was just doing like that (indicating).

9 Q. Was he just poking at you with it or was
10 he stabbing hard?

11 A. He was stabbing hard.

12 Q. Did it break the skin?

13 A. No.

14 Q. All right. Were you fighting during this
15 time?

16 A. Yes.

17 Q. All right. Describe what you were doing.

18 A. Swinging any way that I could.

19 Q. Were you saying anything at this time?

20 A. No.

21 Q. Were you using your voice at all at this
22 time?

23 A. No.

24 Q. What happened then? You said that you
25 grabbed the knife blade. Do you recall how

1 that happened?

2 A. No. The only thing that I can remember
3 is that when I did find the knife that he
4 finally pushed me on the ground.

5 Q. So you ended up on the floor?

6 A. I ended up on the floor.

7 Q. All right. What happened then?

8 A. While I was on the floor, he was coming
9 at me again. But at that time is when I
10 started kicking and screaming.

11 Q. Okay. Kicking at him and screaming?

12 A. That's right. Then he just stopped and
13 he turned around, then told me not to get up
14 and I said 'okay, I am not gonna get up.'

15 Q. Did you in fact stay down on the floor
16 back there?

17 A. I stayed down on the floor for about two
18 or three minutes.

19 Q. Okay. If we could back up just a little
20 bit. This is the opposite problem that we
21 have with most witnesses, uh, -- you stayed
22 back there two or three minutes?

23 A. (Affirmative nod), on the floor.

24 Q. Was there any kind of surveillance in the
25 store?

1 A. No. Not in the back room.

2 Q. Right, but was there any kind of
3 surveillance in the store itself?

4 A. Uh, in the store. In the storeroom.

5 Q. Well, let me ask you this, was there any
6 kind of camera or surveillance device in the
7 store?

8 A. Are you talking about like a monitor or
9 something like that?

10 Q. No, I'm talking about a camera.

11 A. A camera, yeah, the one that is closest
12 to the register. There is one other there by
13 that hallway where the bathroom is but it's
14 not angling towards that room.

15 Q. While we are at that point, let me show
16 you this item -- this CD -- and ask you ---

17 SOLICITOR MOWRY: It is marked as
18 State's Exhibit 1, Your Honor.

19 DIRECT EXAMINATION CONTINUED

20 BY SOLICITOR MOWRY:

21 Q. Have you seen that, the contents of that
22 CD before?

23 A. Yes.

24 Q. When did you see those?

25 A. Today.

1 Q. And I believe that those are your
2 initials right there, is that right?

3 A. That's right.

4 SOLICITOR MOWRY: Your Honor, at
5 this time I would offer this as State's
6 Exhibit 1.

7 MR. HOWE: Object to foundation,
8 Judge.

9 THE COURT: All right. Why don't
10 you ask her, since she viewed it earlier
11 today, what it depicted.

12 SOLICITOR MOWRY: All right.

13 DIRECT EXAMINATION CONTINUED

14 BY SOLICITOR MOWRY:

15 Q. When you viewed that disc today, what did
16 that show?

17 A. It shows everything that happened where
18 the register is and where he was taking me to
19 the back room.

20 Q. Okay. And does that fairly and
21 accurately show what went on in the store at
22 the time that we are talking about, on May the
23 3rd?

24 A. Yes, robbery-wise.

25 SOLICITOR MOWRY: I would offer it

1 as a State's exhibit.

2 MR. HOWE: Same objection, Judge.

3 THE COURT: Overruled. It will be
4 in evidence as State's 1. Is that correct,
5 Mr. Mowry?

6 SOLICITOR MOWRY: Yes, sir.

7 (SO ENTERED AS STATE'S EXHIBIT 1)

8 DIRECT EXAMINATION CONTINUED

9 BY SOLICITOR MOWRY:

10 Q. Now, Dometry, before we go any further,
11 did you end up getting medical treatment for
12 any injuries that you received that night?

13 A. Yes.

14 Q. What got treated? How did that happen?

15 A. I went to Greenville Memorial and got
16 both of my hands treated.

17 Q. Okay. What injuries did you receive?

18 A. I had lacerations on one hand, just a
19 little laceration. This hand was completely
20 opened.

21 Q. How many stitches did you get in your
22 hands?

23 A. My left hand, I had twenty nine and my
24 right hand I got nineteen.

25 Q. Did you have any other kinds of cuts or

1 injuries?

2 A. I did.

3 Q. Where were they?

4 A. My neck, my chest here and right here.

5 SOLICITOR MOWRY: Your Honor, at
6 this time I would ask that the witness be
7 allowed to step down and show the jury her
8 scares from this event.

9 THE COURT: By all means, Mr. Howe,
10 if you need to stand up and move around,
11 please feel free to do so.

12 MR. HOWE: Thank you.

13 THE WITNESS: (Displaying to
14 jurors) -- just go all the way down?

15 SOLICITOR MOWRY: That would be
16 fine.

17 MR. HOWE: Objection, Judge, she
18 is talking.

19 THE COURT: Don't talk to the jury.
20 If you would, just show them where the
21 injuries are. Thank you so much.

22 SOLICITOR MOWRY: Show them the
23 wound or the scars, particularly on your left
24 hand.

25 THE WITNESS: (Displaying to

1 jurors, returns to witness stand).

2 DIRECT EXAMINATION CONTINUED

3 BY SOLICITOR MOWRY:

4 Q. Now, you talked about the cameras out in
5 the store. Is there any kind of monitoring
6 system in the back?

7 A. It's in the storeroom.

8 Q. In the storeroom?

9 A. (Affirmative nod).

10 Q. Were you able to look on the monitors
11 back there to see if anybody else was in the
12 store?

13 A. Yes.

14 Q. Did you in fact do that?

15 A. I did.

16 Q. When you looked at the monitor, what did
17 you see?

18 A. When I looked at the monitor, at first I
19 didn't see anybody in the store. I couldn't
20 tell if he was still in the store or not.

21 But I seen a car pull up and I also seen a
22 silhouette move closer to the door. So when
23 that car pulled up, I felt like it was safe
24 enough to come out of that room.

25 Q. Was it a male or a female silhouette that

1 you saw?

2 A. I really couldn't tell you.

3 Q. So when you came out of the room, what
4 did you find?

5 A. I didn't see nobody in the store. I ran
6 out the door. And whoever the person was that
7 pulled up out there at the store, I yelled for
8 them to help me.

9 Q. Did you know that person at the time?

10 A. No.

11 Q. Do you know who that person is now?

12 A. Yes.

13 Q. Do you know her name?

14 A. I just know Shane.

15 Q. But it is a female?

16 A. Female.

17 Q. Did she in fact call 911?

18 A. Yes, she did.

19 Q. What else did she do while she was in the
20 store?

21 A. She tried to help me out by covering up
22 my hand to stop the bleeding. She stayed
23 there for awhile, until the police got there.

24 Q. When the police got there, did any other
25 emergency responders arrive?

- 1 A. They did.
- 2 Q. Which ones?
- 3 A. EMS.
- 4 Q. EMS, okay. Did -- EMS was, in fact, the
- 5 agency that transported you to Greenville
- 6 Memorial: is that right?
- 7 A. Yes.
- 8 Q. Were you treated at Greenville Memorial?
- 9 A. Yes.
- 10 Q. Did they admit you?
- 11 A. No.
- 12 Q. So you were released?
- 13 A. Yes.
- 14 Q. What did you do when you got released
- 15 from Greenville Memorial?
- 16 A. When I left Greenville Memorial, I went
- 17 to talk to the detective.
- 18 Q. Okay. Do you recall which detective that
- 19 you spoke to?
- 20 A. Leann Riggott.
- 21 Q. Leann Riggott?
- 22 A. (Affirmative nod).
- 23 Q. Did she take photographs of you at that
- 24 time?
- 25 A. Yes.

1 Q. Let me ask you also, before you were
2 taken to Greenville Memorial were photographs
3 taken?

4 A. No.

5 Q. Do you recall? While you were in the
6 ambulance?

7 A. No. No, I don't think so.

8 Q. Okay. When you came back, were -- did
9 Leann Riggott take photographs?

10 A. Yes.

11 Q. What did she take photographs of?

12 A. She took photographs of my neck, my chest
13 and my hands.

14 SOLICITOR MOWRY: (Tenders
15 photographs to Mr. Howe).

16 MR. HOWE: Could I have a minute,
17 Judge? (Upon review), no objection to those
18 photographs.

19 THE COURT: Which exhibits are
20 they?

21 SOLICITOR MOWRY: These are State's
22 Exhibits 11, 12, 13, 14, 15, 16 and 17, Your
23 Honor.

24 THE COURT: And you are offering
25 those in evidence?

1 SOLICITOR MOWRY: Yes, sir.

2 THE COURT: Without objection,
3 State's Exhibits 11 through 17 shall be in
4 evidence.

5 (SO ENTERED AS STATE'S EXHIBITS 11 THRU 17)

6 DIRECT EXAMINATION CONTINUED

7 BY SOLICITOR MOWRY:

8 Q. Now, Dometry, I wanted to ask you -- you
9 talked about your car, and you said that the
10 defendant demanded your car keys. Is that
11 right?

12 A. Yes.

13 Q.. What kind of vehicle did you have?

14 A. A 2002 Lincoln Navigator.

15 Q. Okay. Let me hand you what has been
16 marked as State's Exhibits 18 and 19 and ask
17 you if you can identify those.

18 A. (Upon review), yes.

19 Q. What does that demonstrate or show?

20 A. My 2002 Lincoln Navigator.

21 SOLICITOR MOWRY: (Tenders photos to
22 Mr. Howe).

23 MR. HOWE: May I have one minute,
24 Judge?

25 THE COURT: That's fine.

1 MR. HOWE: (Upon review), no
2 objection for the purpose of her identifying
3 the vehicle, Judge.

4 THE COURT: All right. Proceed,
5 Mr. Mowry.

6 DIRECT EXAMINATION CONTINUED

7 BY SOLICITOR MOWRY:

8 Q. Now, Dometry, I see a little black sign
9 on the back here, on the window on the side,
10 that says "Do Not Touch." Did you drive
11 around with that on there?

12 A. No.

13 Q. You know how that got on there?

14 A. No.

15 Q. That's fine. That's all that I needed to
16 know. Now, when you talked to Detective
17 Riggott, was there something else that she got
18 from you for examination purposes?

19 A. DNA.

20 Q. DNA. What are we talking about there?
21 How did she go about collecting that?

22 A. Swab. I don't know the ---

23 Q. Don't worry about the name of it. How
24 did she go about collecting it?

25 A. She ---

1 MR. HOWE: Your Honor, I object.
2 I guess that she could testify to whatever the
3 officer did. She is saying that she is not
4 really sure how she went about it, so this --
5 this witness does not have personal knowledge.

6 THE COURT: If the sample was
7 collected from this person, I would assume if
8 she was conscious that the person would have
9 knowledge.

10 MR. HOWE: The question was how
11 did she go about doing it.

12 THE COURT: Okay. The witness can
13 explain the method or what she -- what the
14 officer did. So if she wants to put it in her
15 own words about what she remembers the officer
16 doing to collect the sample, she may do that.

17 THE WITNESS: A cotton swab.

18 DIRECT EXAMINATION CONTINUED

19 BY SOLICITOR MOWRY:

20 Q. And how did she go about taking it?
21 Where did she take it from?

22 A. Out of my mouth.

23 Q. So she swabbed the inside of your mouth?

24 A. (Affirmative nod).

25 Q. Okay. Again, that was Leann Riggott, is

1 that correct?

2 A. Yes.

3 Q. Now let me ask you just a few questions
4 about ---

5 THE COURT: Hold on just one second
6 -- (court reporter changing tapes).

7 DIRECT EXAMINATION CONTINUED

8 BY SOLICITOR MOWRY:

9 Q. Now, Dometry, let me refer back to
10 State's Exhibit 30, the aerial chart. Where
11 had your car been when you parked there that
12 evening? Where did you park?

13 A. It was parked right here.

14 Q. You're referring down towards the lower
15 part of the store, I guess, on the chart?

16 A. Yes.

17 Q. When you came out after Mr. Evans left,
18 was your car still there?

19 A. No.

20 Q. Did you give him, did you give Richard
21 Sylvester Evans your keys willingly?

22 A. No.

23 Q. Did he have your permission to take this
24 care, to take your car?

25 A. No.

1 Q. To take your car?

2 A. No.

3 Q. Did you go willingly into that back
4 hallway with Richard Sylvester Evans?

5 A. No.

6 Q. If you had not fought and resisted
7 Richard Sylvester Evans in that back hallway,
8 what did you think was going to happen to you?

9 A. He was going to kill me.

10 SOLICITOR MOWRY: Thank you, ma'am.
11 That's all that I have.

12 THE COURT: Mr. Howe?

13 CROSS EXAMINATION

14 BY MR. HOWE:

15 Q. Ms. Williams, you testified that you
16 didn't see this video until earlier today?

17 A. That's correct.

18 Q. So as far as who has handled it, who has
19 been responsible for it between now and then,
20 you don't know?

21 A. Repeat that.

22 Q. So as far as who has handled the video or
23 where it has been, you don't know, do you?

24 A. That's right.

25 Q. And you testified that whatever happened

1 in the storage room was outside the presence
2 of the video; is that right?

3 A. Yes.

4 Q. So whatever went on there as to how
5 exactly it happened, there is no pictures of
6 that?

7 A. No.

8 Q. Now, you testified that Leann Riggott is
9 the one that took the swabs?

10 A. That's right.

11 Q. And you're sure of that?

12 A. (Affirmative nod).

13 Q. Correct?

14 A. Last time I checked, yes.

15 Q. And you are as sure of that as anything
16 else that you've said here today, is that
17 right?

18 A. That's right.

19 Q. Now, when you ended up talking to the
20 police the -- after you got back from
21 Greenville Memorial -- excuse me. At
22 Greenville Memorial, who did you talk to
23 there?

24 A. I didn't talk to anyone there but the
25 lady that was working on me.

1 Q. So you didn't talk to anyone from the
2 Laurens Police Department at Greenville
3 Memorial?

4 A. (Negative gesture).

5 Q. That took place when you returned from
6 the hospital?

7 A. Exactly.

8 Q. Okay. And then you talked with Leann
9 Riggott?

10 A. Yes.

11 Q. Did she give you a copy of your
12 statement?

13 A. Yes.

14 Q. I'm looking at what has been provided to
15 us and -- where did that statement take place,
16 in Laurens?

17 A. At the police station.

18 Q. Okay. I am going to show you what has
19 been handed to us, that statement. Take a
20 minute and take a look and then tell me -- is
21 that your signature?

22 A. (Upon review), yes.

23 Q. Does that appear to be a copy of the
24 statement that you gave Leann Riggott?

25 A. Yes.

1 Q. What time does it show that that took
2 place?

3 A. It took place at 9:50 and it was
4 completed at 10:20.

5 Q. 10:20 a.m. on May the 3rd?

6 A. Yes.

7 Q. 2012?

8 A. That's right.

9 Q. You would agree with that?

10 A. Yes.

11 Q. Now, you testified that you said you
12 thought that approximately fifty dollars had
13 been taken?

14 A. Yes, sir.

15 Q. Did you participate in the store
16 inventory afterwards, to check and verify the
17 amount?

18 A. No.

19 Q. Okay. So someone provided you that
20 information then?

21 A. No.

22 Q. Do you know why on the form that we were
23 given that it shows that only one dollar was
24 taken?

25 A. I don't know why.

1 Q. You didn't tell anybody that?

2 A. No, I didn't.

3 Q. When you had this swab that you say was
4 taken by Officer Riggott, where did that take
5 place?

6 A. At the old jail.

7 Q. The old jail, the Laurens Police Depart-
8 ment?

9 A. (Affirmative nod).

10 Q. Not at Greenville Memorial?

11 A. That's right.

12 Q. Do you know about what time that you got
13 discharged from Greenville Memorial?

14 A. No, because it was -- it probably was
15 about 4:00, maybe about 5:00 o'clock.

16 Q. Did you go straight to the police
17 department then?

18 A. I didn't go straight to the police
19 department. I went home and took my clothes
20 off, changed clothes before I went.

21 Q. Were those clothes provided to the police
22 department?

23 A. No.

24 MR. HOWE: That's all the
25 questions that I have.

1 SOLICITOR MOWRY: Just a couple of
2 questions.

3 REDIRECT EXAMINATION

4 BY SOLICITOR MOWRY:

5 Q. Mr. Howe asked you about the report that
6 the police had written, and you said that you
7 didn't know why they had listed one dollar.
8 Let me ask you this and I should have asked
9 you this on direct, what was the valuation of
10 your car?

11 A. Ten.

12 Q. Ten what?

13 A. Ten thousand.

14 Q. Ten thousand?

15 MR. HOWE: Judge, I don't think
16 that's proper redirect.

17 THE COURT: I will allow a little
18 leeway. Go ahead.

19 REDIRECT EXAMINATION CONTINUED

20 BY SOLICITOR MOWRY:

21 Q. And he also talked to you about the disc.
22 I believe that you said that you looked at
23 this today. Is that right?

24 A. Yes.

25 Q. Is that a fair and accurate depiction of

1 what happened to you in that store and what
2 went on around you in that store that night?

3 A. Yes.

4 SOLICITOR MOWRY: Thank you, ma'am.
5 That's all that I have.

6 THE COURT: Thank you, ma'am. You
7 can step down.

8 (WITNESS STEPS DOWN)

9 THE COURT: Call your next witness,
10 Solicitor.

11 SOLICITOR STUMBO: Thank you,
12 Your Honor. The State calls Shasha Simpson
13 to the stand.

14 (WITNESS TAKES STAND)

15 SHASHA FIONA SIMPSON, being duly
16 sworn to tell the truth, the whole truth and
17 nothing but the truth, testified, as follows:

18 DIRECT EXAMINATION

19 BY SOLICITOR STUMBO:

20 Q. Good afternoon, Ms. Simpson. How are you
21 doing today?

22 A. Doing alright.

23 Q. Your first name is pronounced Shasha?

24 A. Shasha (sha-sa).

25 Q. Are you from Laurens County?

- 1 A. Yes, sir.
- 2 Q. Where did you grow up?
- 3 A. Around the (coughing in courtroom).
- 4 Q. Have you ever testified before?
- 5 A. No, sir.
- 6 Q. Little nervous about it?
- 7 A. Very, (affirmative nod).
- 8 Q. You are here under subpoena to be here
- 9 today?
- 10 A. Yes, sir.
- 11 Q. I am going to take you back to May 3rd,
- 12 2012 at 2100 hours. Did you have occasion to
- 13 go to the Li'l Cricket that night?
- 14 A. Yes, sir. I got gas that night so that I
- 15 wouldn't have to get it in the morning on the
- 16 way to work.
- 17 Q. About what time ---
- 18 A. It was real late. I don't recall exactly
- 19 what time it was.
- 20 Q. Close to midnight or after midnight?
- 21 A. Yeah, it was real late.
- 22 Q. I want you to describe for the jury
- 23 pulling into the station there, what the scene
- 24 was.
- 25 A. When I pulled into the Li'l Cricket,

1 because I was -- I made a right-hand turn into
2 the gas station and I just seen a dark-colored
3 SUV speeding off real fast and the store was
4 completely empty other than that.

5 Q. You say a dark-colored SUV?

6 A. Yes, sir.

7 Q. I am going to show you what's in evidence
8 as State's Exhibits 18 and 19.

9 SOLICITOR STUMBO: If I may
10 approach the witness, Your Honor.

11 THE COURT: Sure.

12 DIRECT EXAMINATION CONTINUED

13 BY SOLICITOR STUMBO:

14 Q. (Tenders photographs to witness).

15 A. The back end of the picture looks like
16 the SUV.

17 Q. That appears to be similar to what you
18 saw speeding off that night?

19 A. Yes, sir.

20 Q. What did you see after the car sped out
21 of the parking lot?

22 A. I just kinda glanced around. I was, you
23 know, just wondering why it was so dark, or
24 why it was so empty because it's usually not
25 that empty. I proceeded to park my vehicle at

1 the gas pump. I got out and proceeded towards
2 the store. And as I approached the door to
3 the store, I could see someone running from
4 the back hysterically. At first I didn't know
5 what she -- she was just running towards the
6 door as I was walking towards the door to go
7 into the store.

8 Q. Okay. The person that was running in the
9 store that night, do you see her in the
10 courtroom today?

11 A. Yes, sir.

12 Q. Where is she?

13 A. She is sitting right there on the first
14 bench.

15 Q. This lady on the first row, in the beige?

16 A. Yes, sir.

17 SOLICITOR STUMBO: Your Honor,
18 let the record reflect that Ms. Simpson has
19 pointed out Ms. Williams.

20 THE COURT: The record shall so
21 reflect.

22 DIRECT EXAMINATION CONTINUED

23 BY SOLICITOR STUMBO:

24 Q. Now, when you see Ms. Williams coming
25 towards you, did she say anything at that

1 point?

2 A. I could tell that her mouth was moving
3 but I wasn't able to hear her at first. As
4 she actually burst through the door, she was
5 yelling "Help me, help me, I've been robbed."

6 Q. So other than that she was frantic, was
7 there anything else unusual about Ms. Williams
8 at that point?

9 A. She was kinda slouched over like she was
10 holding one of her arms or holding something
11 like she was -- she was kinda slouched over as
12 she was running.

13 Q. Were you able to help her?

14 A. I tried to do what I could do. I looked
15 around to see if I could find any bandages
16 because she had a gash on her arm or hand,
17 somewhere in that area, so I tried to find any
18 bandages or things to wrap it up to keep it
19 from bleeding. There was a lot of blood on
20 her.

21 Q. So she was bleeding a lot?

22 A. Yeah. As I got closer to her, I seen --
23 it was all -- there was a whole bunch of blood
24 on her abdomen. Just from her being slouched
25 over, she was covered in blood.

1 Q. Did you ever find anything for her hands?

2 A. I wasn't able to find something but
3 eventually she was able to get ahold of a
4 towel or maybe a shirt or something that she
5 wrapped around it.

6 Q. Did she have anything else in her hands
7 at that point when she was coming towards you?

8 A. I think that she had a telephone. I
9 think that she was calling 911. At the same
10 time, I was calling 911.

11 Q. Did the police respond?

12 A. Yes, sir.

13 Q. How long did it take?

14 A. It wasn't that long.

15 Q. Just an estimate?

16 A. It was three to five minutes. It wasn't
17 very long at all. I was -- I think that I had
18 just hung up with the 911 Operator and I could
19 hear the sirens.

20 Q. Did you stay with Ms. Williams until the
21 police got there?

22 A. Yes, sir.

23 Q. When the police responded, were you able
24 to give them a statement of what you observed
25 that night?

1 A. Yes, sir.

2 Q. How long did you stay?

3 A. I stayed until she was gone in the EMS
4 and the detectives were coming on the scene.
5 I just stayed until the detective got all my
6 information and I made my statement. So I
7 stayed -- I want to say that it might have
8 been an hour that I stayed there.

9 Q. So it was pretty late that night?

10 A. Yes, sir. I didn't sleep good that
11 night.

12 SOLICITOR STUMBO: Please answer
13 any questions that Mr. Howe may have for you.

14 MR. HOWE: No questions.

15 THE COURT: Thank you, ma'am. You
16 may step down. No objection to releasing this
17 witness?

18 MR. HOWE: No, sir.

19 THE COURT: Ma'am, you are free to
20 go. Thank you very much for coming.

21 (WITNESS STEPS DOWN)

22 THE COURT: Call your next witness,
23 Solicitor?

24 SOLICITOR STUMBO: Thank you,
25 Your Honor. The state calls Lieutenant Jared

1 Hunnicutt to the stand.

2 (WITNESS TAKES STAND)

3 THOMAS JARED HUNNICUTT, being duly
4 sworn to tell the truth, the whole truth and
5 nothing but the truth, testified, as follows:

6 DIRECT EXAMINATION

7 BY SOLICITOR STUMBO:

8 Q. You work for the Laurens Police Depart-
9 ment?

10 A. Yes, that's correct.

11 Q. Your rank is now lieutenant?

12 A. Right.

13 Q. Back in the summer, Spring of 2012, was
14 that your rank at that time?

15 A. No, sir, I was a sergeant.

16 Q. So you got promoted?

17 A. Yes, sir.

18 Q. Did you have occasion to respond to the
19 Li'l Cricket back in May of 2012?

20 A. Yes, sir, I did.

21 Q. That was a case involving the defendant
22 that is here today, Richard Evans?

23 A. Yes, sir.

24 Q. All right. How did -- why did you
25 respond to the Li'l Cricket at that time?

1 A. We were dispatched in reference to a
2 robbery.

3 Q. Is that how it works? Dispatch calls --
4 911 calls are dispatched to you and then you
5 go out to the scene?

6 A. Yes, sir.

7 Q. When you pulled into the Li'l Cricket
8 that night, tell the jury what the first thing
9 that you observed was?

10 A. The first thing that I observed upon
11 entering the store was Ms. Williams. There
12 was some blood on her hands. She appeared to
13 have some type of blood on her neck. She was
14 crying, hysterical. Said that she had been
15 robbed by an individual named "Chilly Pop."

16 Q. And you said that Ms. Williams -- is she
17 in the courtroom today?

18 A. Yes, sir.

19 Q. Where is she sitting?

20 A. (Indicating).

21 Q. Wearing the beige sweater?

22 A. Yes, sir.

23 Q. You said that she was -- that she said
24 that she had been robbed?

25 A. Yes, sir.

1 Q. And you mentioned that she was bleeding.

2 Where was she bleeding from?

3 A. She had large lacerations on both hands.

4 I think the larger one was on her left hand.

5 It looked to be almost to the bone. Like I

6 say, she had what appeared to be a little

7 small cut here (indicating neck) and some

8 abrasions -- various abrasions on her face and

9 neck.

10 Q. And based on her physical condition and

11 the lacerations, were you able to call in an

12 ambulance at that time?

13 A. We did. As soon as I was able to, I

14 called an ambulance for her due to the blood

15 loss and the severe lacerations.

16 Q. Before EMS arrived, Officer Hunnicutt,

17 were you able to do anything to help stop the

18 bleeding?

19 A. She had already had, I believe, some

20 towels. I am not medically trained, so I

21 don't really deal with that. But she have

22 some towels and I think that she was trying to

23 stem the bleeding herself.

24 Q. How quickly did EMS respond?

25 A. I am not certain of the exact time but it

1 wasn't very long. It didn't take them long.

2 Q. Minutes? Hours?

3 A. Several minutes.

4 Q. Were you able to secure the scene,
5 Detective Hunnicutt?

6 A. Yes. We cordoned off the area, the
7 entire parking lot.

8 Q. When you say cordoned off, do you mean
9 crime scene ---

10 A. Crime scene tape. Yes, sir. We notified
11 the chief, Chief Norris at the time. He, in
12 turn, notified the detectives and they came
13 out.

14 Q. Chief Robert Norris who used to be with
15 the ---

16 A. Right, former Chief Norris.

17 Q. Were any of the investigators with the
18 police department, did they come on the scene
19 that night?

20 A. Yes, sir. Detective Bentley and I
21 believe Detective Riggott.

22 Q. Is that Detective Leann Riggott?

23 A. Yes, sir.

24 Q. And Detective Walter Bentley?

25 A. Yes, sir.

1 Q. Right here?

2 A. (Affirmative nod), sitting right there.

3 Yes, sir.

4 Q. At that time, you did say that an
5 ambulance arrives there pretty quickly at the
6 Li'l Cricket?

7 A. Yes, sir.

8 Q. How quickly were they able to get Ms.
9 Williams into the ambulance?

10 A. We took some photographs of her injuries.
11 They subsequently let her into the ambulance
12 and took her to the hospital for treatment.

13 SOLICITOR STUMBO: (Tenders
14 photographs to Mr. Howe).

15 MR. HOWE: I have an objection. I
16 would like to be heard on these.

17 THE COURT: Which photos are we
18 dealing with?

19 SOLICITOR STUMBO: Six through
20 ten, Your Honor.

21 THE COURT: You have an objection?

22 MR. HOWE: Yes.

23 THE COURT: Let me see the
24 photographs first.

25 SOLICITOR STUMBO: (Tenders).

1 THE COURT: (Upon review), all
2 right. Ladies and Gentlemen of the jury, if
3 you would adjourn for a few moments. Don't
4 talk about the case. Let me take up this
5 matter of law with the attorneys, and I'll
6 have you back here. Don't get too
7 comfortable. It's probably going to be about
8 five minutes or so.

9 (JURY OUT @ 4:42 P.M.)

10 THE COURT: The record should
11 reflect that the jury is out. Mr. Howe, from
12 looking at State's 6, which shows an injury to
13 purportedly the victim's left hand; 7, to her
14 right; 8, to her left; 9 shows her neck and
15 face; 10, her neck. The nature of your
16 objection is?

17 MR. HOWE: First of all, really
18 it's cumulative. She's testified to her
19 injuries. It's borderline -- and there was no
20 objection. But she has testified to the
21 extent of her injuries, she's shown the jury
22 her injuries and at this point in cumulative.
23 I'd also say that it is prejudicial. They are
24 fairly bloody photographs. It seems like it
25 would serve no purpose now to show those

1 photographs other than to, really, beat a dead
2 horse and, really, inflame the jury in this
3 case by showing those photographs.

4 In addition, Judge, I don't know
5 whether this particular officer took those
6 photographs or not. I guess that will have to
7 ---

8 THE COURT: I don't think that we
9 have gotten that far yet.

10 MR. HOWE: I don't think that
11 we've gotten that far either but I think we've
12 covered that, Judge, enough. I don't see what
13 it could do other than be prejudicial.

14 THE COURT: Solicitor?

15 SOLICITOR STUMBO: Your Honor, I
16 don't know how it could be more probative than
17 in an attempted murder case. We haven't seen
18 -- the jury has not been able to see the
19 extent of, particularly, this injury to her
20 -- hands. -- Also on the night of the injury, you --
21 know, she was put in the ambulance and that
22 was at the time that the knife was to her
23 throat. So, Your Honor, I think that it goes
24 directly to the attempted murder charge, as to
25 the extent of the assault and the malice

1 aforethought that we have to prove in this
2 case. So, Your Honor, that we need those
3 pictures to further demonstrate to this jury
4 how severe this assault was.

5 Now, I -- Your Honor, I'd be glad
6 to go ahead and proffer the question to
7 Lieutenant Hunnicutt before the jury comes
8 back out.

9 THE COURT: You need to -- you know
10 how to lay a foundation and I trust you to do
11 so, Solicitor. I understand -- as far as the
12 cumulative, objection, Mr. Howe, that's
13 overruled. Just because something is
14 cumulative, it doesn't necessarily mean that
15 it gets to come into evidence. You're correct
16 that she has testified to these wounds.
17 However, as they say, a picture is worth a
18 thousand words. These wounds perhaps depict
19 better the nature of her injuries that
20 evening. All evidence, in one form or another
21 is prejudicial. The question is whether its
22 prejudicial affect outweighs its probative
23 value. Again, a picture is worth a thousand
24 words. Assuming that the correct foundation
25 can be laid for State's Exhibits 6 through 10,

1 I would admit them subject to your objection.

2 (SO ENTERED AS STATE'S EXHIBIT 6 THRU 10)

3 SOLICITOR STUMBO: Would you
4 like for me to proffer the ---

5 THE COURT: Did you need to raise
6 another point, Mr. Howe?

7 MR. HOWE: No, sir.

8 THE COURT: I apologize for having
9 to do this again. I haven't been feeling
10 terribly well. Another five minutes and then
11 we will resume. Okay? Take five. Sir,
12 please don't talk about your testimony with
13 anybody. We will be right back. Short break.

14 (BRIEF RECESS)

15 (DEFENDANT PRESENT)

16 THE COURT: All right, we will go
17 back on the record. Defendant is present with
18 counsel. We are continuing with the
19 examination of Lieutenant Hunnicutt. At this
20 point let's have the jury back in, please.

21 MR. HOWE: Your Honor, are we not
22 going to have the issue of whether he actually
23 ---

24 SOLICITOR STUMBO: I'll lay a
25 foundation or I can proffer it, if you want to

1 come back and do it twice.

2 THE COURT: That'll be fine if you
3 want to address that way. I assumed that he
4 would do that in front of the jury, but -- go
5 ahead, Solicitor.

6 SOLICITOR STUMBO: If I may
7 approach the witness, Your Honor.

8 THE COURT: Please.

9 PROFFER EXAMINATION

10 BY SOLICITOR STUMBO:

11 Q. Lieutenant Hunnicutt, that's what has
12 been marked for ID Only at this point as
13 State's Exhibit 6, 7, 8, 9 and 10. Take
14 your time and review the contents of those
15 photographs.

16 A. I am familiar with them. Yes, sir.

17 Q. These pictures -- the contents of these
18 pictures, have you seen that before?

19 A. Yes, sir.

20 Q. Have you seen it in real life before?

21 A. Yes, sir.

22 Q. Is that a fair and accurate
23 representation?

24 A. Yes, sir, it is.

25 Q. It is a fair and accurate representation

1 of ---

2 A. --- her injuries, (affirmative nod).

3 Q. --- her injuries?

4 A. Yes, sir.

5 Q. All right. Where were those pictures
6 taken that night?

7 A. They were taken at the Li'l Cricket.

8 Q. Were they inside the ambulance, inside
9 the Li'l Cricket, do you remember where they
10 were taken in relation to ---

11 A. She was being put on the stretcher while
12 we were trying to take the pictures. We were
13 trying to do it as fast as we could so that
14 she could get a fair amount of treatment.

15 Q. This was after she had been put on the
16 stretcher?

17 A. (Affirmative nod), inside the Li'l
18 Cricket.

19 Q. And these are a fair and accurate
20 --representation of the victim, Ms. Dometry--
21 Williams, that night on the stretcher?

22 A. Yes, sir.

23 Q. You personally observed those injuries at
24 the time?

25 A. Yes. I was the one that directly ordered

1 that the pictures be taken.

2 Q. Okay.

3 SOLICITOR STUMBO: That's all
4 that we have, Your Honor.

5 THE COURT: Okay. Thank you.

6 THE WITNESS: By an officer that
7 is no longer with us. Would you like his
8 name?

9 PROFFER EXAMINATION

10 BY MR. HOWE:

11 Q. Yes.

12 A. His name was Jody Willis.

13 Q. So Jody Willis took the pictures, not
14 EMS?

15 A. That's correct.

16 Q. And who took possession of the pictures
17 after they were taken?

18 A. They were on a digital camera. No one
19 had possession of them. They were inside the

20 camera. They were then uploaded to a
21 computer.

22 Q. All right. Jody Willis took them. Not
23 you?

24 A. Jody Willis took those pictures, yes,
25 with the camera.

1 Q. All right.

2 MR. HOWE: I don't have any
3 further questions for this witness but I do
4 have -- I'd like to renew my objection.

5 THE COURT: On what ground?
6 Foundation? Can you point to a case that
7 would support your objection?

8 MR. HOWE: Can I point to a case
9 that would support my objection?

10 THE COURT: Right. What is the
11 nature of your problem with the foundation?
12 The witness has indicated that they are a fair
13 and accurate representation of what took
14 place, that he observed the photos being taken
15 apparently.

16 MR. HOWE: They attempted to get
17 those photographs in through Ms. Williams and
18 she testified that no photographs were taken
19 before she went to Greenville Memorial
20 Hospital.-- That's what she said. They had the
21 photographs ready to introduce then when she
22 said that and they didn't attempt to go
23 further with it.

24 THE COURT: Do you want to speak to
25 that, Solicitor?

1 SOLICITOR STUMBO: Your Honor,
2 I believe that her testimony was that no
3 pictures were taken at the hospital. That's
4 my recollection of it. I may not have perfect
5 recall but that's my recollection and the
6 reason why Assistant Solicitor Mowry didn't
7 put them in through here. But I don't think
8 that she said that no pictures were taken at
9 any time.

10 SOLICITOR MOWRY: She said that she
11 did not remember any, Your Honor.

12 MR. HOWE: She said no. On
13 further questioning, he asked 'You don't
14 remember?'

15 THE COURT: That's right. All
16 right. Your objection, Mr. Howe, is noted for
17 the record. The witness has identified
18 State's Exhibit 6 through 10 as being fair
19 representations of the injuries, that he saw
20 the photographs being taken, that he directed
21 that they be taken. So at this point in time,
22 I believe that the foundational requirements
23 have been met. So I will admit State's
24 Exhibits 6 through 10 in evidence, subject to
25 the Defendant's objection. It will not be

1 necessary for you to renew that objection once
2 the jury is back, Mr. Howe.

3 MR. HOWE: Thank you, Judge.

4 THE COURT: You are protected for
5 the record and you do not need to object
6 again.

7 SOLICITOR STUMBO: They are in,
8 Your Honor?

9 THE COURT: They will be in but
10 you'll need to move them in in the presence of
11 the jury probably -- I'm not trying to tell
12 you how to try your case, but you may want to
13 lay the same foundation.

14 SOLICITOR STUMBO: Yes, sir.

15 THE COURT: Let's have the jury
16 back out, please. Solicitor, I anticipate
17 that this will be our final witness for the
18 evening. I don't know how much more that you
19 have with him. Probably not too much more.

20 SOLICITOR STUMBO: I am almost
21 done, Your Honor.

22 THE COURT: Thank you. I just
23 wanted to let you know in case you have
24 anybody else back there that you need to
25 release for the night.

1 (JURY IN @ 5:04 P.M.)

2 THE COURT: Let the record reflect
3 that all jurors are present. Ladies and
4 Gentlemen, we are continuing with the direct
5 examination of Lieutenant Hunnicutt.
6 Solicitor, you may continue, sir.

7 SOLICITOR STUMBO: Thank you,
8 sir. If I may approach the witness?

9 THE COURT: Please.

10 DIRECT EXAMINATION CONTINUED

11 BY SOLICITOR STUMBO:

12 Q. Lieutenant Hunnicutt, I am going to hand
13 you what has been marked for ID purposes only
14 at this point State's Exhibits 6 through 10.
15 Would you review those photographs for me,
16 please, sir?

17 A. (Upon review), yes, sir.

18 Q. Lieutenant Hunnicutt, are you familiar
19 with State's Exhibits 6 through 10?

20 A. Yes, sir.

21 Q. And the contents of those pictures, were
22 you able to observe what's in those pictures
23 the night of the incident?

24 A. Yes, sir, I observed these injuries on
25 the victim.

1 Q. Okay. Are they a fair and accurate
2 representation of the victim's injuries before
3 she was taken off in the ambulance that night?

4 A. Yes, sir, it is.

5 Q. And did somebody with the department take
6 those pictures?

7 A. Yes, sir, one of my subordinates. Jody
8 Willis, Officer Jody Willis, who is no longer
9 employed with us at this moment.

10 Q. Did you ask Officer Willis to take those
11 pictures?

12 A. I did. He took them under my direct
13 supervision and in my presence.

14 Q. You were present to see him take the
15 photographs?

16 A. Yes, sir.

17 Q. Do the photographs fairly and accurately
18 represent Ms. Williams' injuries?

19 A. Yes, sir, that night. They do.

20 / SOLICITOR STUMBO: Your Honor,
21 at this time the State would move six through
22 ten in evidence.

23 THE COURT: My earlier ruling and
24 reservations, those are in evidence, State's
25 Exhibits 6 through 10.

1 SOLICITOR STUMBO: Thank you,
2 Your Honor.

3 DIRECT EXAMINATION CONTINUED

4 BY SOLICITOR STUMBO:

5 Q. Just briefly, Lieutenant Hunnicutt, I
6 want to show you what is in evidence as
7 State's Exhibit 30. This is an overhead
8 satellite picture of an area here. Are you
9 familiar with this area?

10 A. Yes.

11 Q. Where is this?

12 A. This is the Li'l Cricket, this is where
13 the incident happened. This is Anderson
14 Drive. That's Church Street.

15 Q. This is Church Street?

16 A. Yes, sir.

17 Q. And this is Anderson Drive?

18 A. Yes, sir.

19 Q. Anderson Drive is the road that the YMCA
20 is on?

21 A. Yes, sir, it is.

22 Q. And this is the incident location?

23 A. This is the Li'l Cricket. That's the gas
24 pumps.

25 Q. Gas pumps out front of the building?

1 A. Yes, sir.

2 Q. And this Li'l Cricket, is it in Laurens
3 County?

4 A. Yes, Laurens City, Laurens County.

5 Q. Okay.

6 SOLICITOR STUMBO: Your Honor,
7 permission to publish Exhibits 6 through 10 to
8 the jury.

9 THE COURT: Why don't we do that
10 tomorrow, Solicitor?

11 SOLICITOR STUMBO: Okay.

12 THE COURT: It might be a little
13 better if we publish tomorrow.

14 SOLICITOR STUMBO: That's fine,
15 Your Honor. I have no further questions of
16 this witness. Please answer any questions
17 that Mr. Howe may have for you.

18 THE COURT: Mr. Howe.

19 CROSS EXAMINATION

20 BY MR. HOWE:

21 Q. Officer Hunnicutt, I believe that you
22 completed an incident report concerning this
23 matter. Is that correct, sir?

24 A. Yes, sir.

25 Q. And you indicated that there was one

1 dollar taken from the store?

2 A. Yes, sir.

3 Q. And when you completed that incident
4 report, it was your goal to be as fair and
5 accurate as you could. Is that correct?

6 A. That's correct.

7 Q. That's the information that you placed on
8 it, one dollar?

9 A. Yes, it was. Would you like for me to
10 explain it?

11 Q. Explain -- one dollar, correct?

12 A. It's called a place holder when you don't
13 know the exact amount, which we didn't at the
14 time. We have to place at least a minimum of
15 one dollar as a place holder. At the time we
16 didn't know the exact amount, so we had to
17 place one dollar.

18 Q. Okay. Was that ever corrected by you?

19 A. No, sir, that would be corrected by the
20 investigative officer.

21 Q. Okay. Thank you.

22 THE COURT: Thank you, sir. You
23 can step down.

24 (WITNESS STEPS DOWN)

25 THE COURT: Do you have another

1 released her is because she is involved in a
2 case that is currently pending in this court
3 here in Laurens. I just wanted to make sure
4 of one thing, so I've got a question for all
5 twelve of you.' Has she discussed at any point
6 in time while we were on breaks -- did Ms.
7 Miller discuss the case that she has pending
8 here in Laurens County with any of you? If
9 she did, raise your hand. If she did, it's
10 okay. I just need to know if she did. Did
11 she discuss that case with you in any way,
12 shape or form? If so, just raise your hand
13 for me please. (No response). No hands are
14 up and I see some heads shaking that no, she
15 did not. So very good.

16 I hope that y'all had a pleasant
17 evening last night. I apologize for the
18 delay. We are still in the State's case in
19 chief of the State versus Richard Evans.

20 At this point, Solicitor, call your
21 next witness.

22 SOLICITOR STUMBO: Thank you,
23 Your Honor. If I may -- when we broke
24 yesterday it was my intention to publish
25 Exhibits 6 through 10 to the jury. If I may

1 do that at this time?

2 THE COURT: Yes, sir, you may.

3 SOLICITOR STUMBO: State's
4 Exhibit 6, (displaying to jurors).

5 State's Exhibit 7, (displaying to
6 jurors).

7 State's Exhibit 8, (displaying to
8 jurors).

9 State's Exhibit 9, (displaying to
10 jurors).

11 And State's Exhibit 10, (displaying
12 to jurors).

13 And at this time, Your Honor, we
14 would call Lieutenant Scott Satterfield to the
15 stand.

16 (WITNESS TAKES STAND)

17 SCOTT SATTERFIELD, being duly sworn.
18 to tell the truth, the whole truth and nothing
19 but the truth, testified, as follows:

20 DIRECT EXAMINATION

21 BY SOLICITOR STUMBO:

22 Q. Good morning, Lieutenant Satterfield.

23 A. Good morning.

24 Q. I take it by the badge that you've got on
25 your hip that you work in law enforcement?

1 A. I do.

2 Q. Where do you work?

3 A. I work for the City of Laurens.

4 Q. What is your role there at the City of
5 Laurens at this time?

6 A. I am a training lieutenant at this time.
7 At the time of the incident, I was a
8 lieutenant over the shift.

9 Q. And, uh, if you could, just tell the jury
10 a little bit about your law enforcement
11 background, training.

12 A. I started in law enforcement in 2004.
13 Working my way up through the ranks. Was
14 promoted to a shift lieutenant in 2011.

15 Q. Did you go through the law enforcement
16 academy?

17 A. Yes, sir, I did.

18 Q. So since 2004, you've been an officer for
19 approximately eight or nine years?

20 A. Nine years, (affirmative nod).

21 Q. Has the entirety of that been with the
22 City of Laurens?

23 A. It has.

24 Q. Were you working the night of May 2nd, the
25 early morning hours of May 3rd, of last year?

- 1 A. Yes, sir, I was.
- 2 Q. Did you have occasion to work on the case
- 3 involving the defendant, Richard Evans?
- 4 A. Yes, sir.
- 5 Q. What was your role that night with the
- 6 investigative team?
- 7 A. Like I said, I was the lieutenant on
- 8 shift. We were dispatched to that call, which
- 9 my guys secured the scene at the incident
- 10 location.
- 11 Q. So did you respond to the Li'l Cricket?
- 12 A. I did briefly respond there to make sure
- 13 that everything was being secured. At that
- 14 point, I left my shift sergeant in charge of
- 15 that scene until investigations could arrive.
- 16 I went to respond to the area -- to attempt to
- 17 locate the vehicle that we were looking for.
- 18 Q. All right. At the time, Sergeant
- 19 Hunnicutt, did he work on your shift?
- 20 A. He did.
- 21 Q. Was he up there at the scene?
- 22 A. Sir?
- 23 Q. He stayed there on the scene?
- 24 A. Yes, sir, he did.
- 25 Q. Okay. Where did you go from the Li'l

1 Cricket?

2 A. Just basically controlled the area. We
3 had the vehicle, you know, that we were
4 looking for, that had been taken from that
5 location that night.

6 Q. What kind of vehicle were you looking
7 for?

8 A. It was a Lincoln Navigator, 2001, black
9 in color.

10 Q. Did you find the 2001 black-in-color
11 Lincoln Navigator that night?

12 A. I did. Later on in the night, or early
13 morning hours.

14 Q. Where did you find that Lincoln
15 Navigator?

16 A. I found it at a local housing complex
17 located on Commission Drive.

18 Q. Commission Drive?

19 A. Yes, sir.

20 Q. I am going to hand you what I believe is
21 already in evidence as State's Exhibits 18 and
22 19. If you would, take a look at those.

23 A. (Review).

24 Q. Do you recognize those?

25 A. I do.

1 Q. Does that appear to be the Lincoln
2 Navigator that you found that night?

3 A. Yes, it was.

4 Q. Now, when you found the vehicle, this
5 vehicle, what did you do first?

6 A. The first thing that I did was run the
7 tag number through dispatch and confirm that
8 that was the vehicle that had been taken from
9 the Li'l Cricket. At that point in time, I
10 cleared the vehicle just from the outside --
11 just to make sure that there was nobody in the
12 vehicle, for my safety. Once I determined
13 that there was nobody in the vehicle, by
14 looking through the windows, I notified the
15 detectives.

16 Q. When you looked inside the vehicle, did
17 you see anything of any significance?

18 A. In plain view through the window I could
19 see the blade of a knife laying in the back
20 floorboard and also a pack of cigarettes on
21 the seat.

22 Q. I am going to hand you what has been
23 marked only for ID purposes at this point as
24 State's Exhibits 22 through 25. Take a look
25 at those for me.

1 A. (Review), okay.

2 Q. Are those a fair and accurate repre-
3 sentation of the interior of the car as you
4 remember it that night?

5 A. Yes, they are.

6 Q. And the contents therein, are they placed
7 in the same place that they were the night
8 when you checked the car?

9 A. Yes, sir.

10 SOLICITOR STUMBO: Your Honor,
11 at this time we would offer State's Exhibits
12 21 through 25 in evidence.

13 THE COURT: Twenty-one (21)? I
14 thought that you said twenty-two (22).

15 SOLICITOR STUMBO: Excuse me.
16 Yes, 22, 23, 24 and 25.

17 THE COURT: Any objection to
18 State's Exhibits 22 through 25?

19 MS. KENDALL: No, Your Honor.

20 THE COURT: Very good, they will be
21 in evidence.

22 (SO ENTERED AS STATE'S EXHIBIT 22)

23 (SO ENTERED AS STATE'S EXHIBIT 23)

24 (SO ENTERED AS STATE'S EXHIBIT 24)

25 (SO ENTERED AS STATE'S EXHIBIT 25)

1 DIRECT EXAMINATION CONTINUED

2 BY SOLICITOR STUMBO:

3 Q. Now, if you can turn to the screen, I
4 want to show you State's Exhibit 22. That is
5 a little hard to see, let me see if I can
6 brighten it up a little bit. What do you see
7 there in State's Exhibit 22?

8 A. I can't really tell. It's not that
9 clear.

10 Q. I will try to focus it real quick --
11 (adjusting image). Can you see that a little
12 bit better now?

13 A. A bit.

14 Q. If you need to step down and take a step
15 back, you can.

16 SOLICITOR STUMBO: Your Honor,
17 may the witness step down?

18 THE COURT: Yes.

19 DIRECT EXAMINATION CONTINUED

20 BY SOLICITOR STUMBO:

21 Q. Now, Lieutenant Satterfield, if you would
22 just keep your voice up so that the court
23 reporter can hear you.

24 A. Okay.

25 Q. I know that it is still not the best

1 focus in the world but, if you could, describe
2 what you see there in State's Exhibit 22.

3 A. Pretty much this is the passenger side of
4 that vehicle, looking from the outside of the
5 vehicle into it. Laying right by the seat is
6 a large knife with a wooden handle on it.

7 Q. State's Exhibit 23 is a closer view
8 there. If you would, describe that for the
9 jury.

10 A. It's pretty much the same angle that the
11 first picture was taken. It's just a closer
12 image of the knife found located in the
13 floorboard.

14 Q. State's Exhibit 24.

15 A. Once again this is the floorboard and
16 that is the knife.

17 Q. I am going to show you this while we are
18 standing here. Is there anything that looks
19 unusual about the blade of the knife?

20 A. The blade ---

21 MS. KENDALL: Objection.

22 THE COURT: Wait, a minute, sir.
23 What is your objection?

24 MS. KENDALL: May we approach,
25 Your Honor?

1 THE COURT: Sure.

2 (OFF RECORD BENCH CONFERENCE)

3 THE COURT: Ladies and Gentlemen,
4 we need to take a brief break while I take up
5 a matter of law. If you would, go back to the
6 back. Don't talk about the case. I will have
7 you out in just a second.

8 (JURY OUT @ 10:35 A.M.)

9 THE COURT: All right, we had a
10 sidebar a moment ago. The jury is out. We
11 had a sidebar a moment ago. Ms. Kendall
12 explained to me that she objected to the
13 witness testifying that the substance that he
14 noted on the blade was blood. Solicitor, why
15 don't we go ahead and proffer his testimony so
16 that we can figure out where we are going with
17 this.

18 SOLICITOR STUMBO: Okay, that's
19 fine, Your Honor.

20 PROFFER EXAMINATION

21 BY SOLICITOR STUMBO:

22 Q. Lieutenant Satterfield, we were looking
23 at State's Exhibit 24, which is in evidence
24 now.

25 A. Yes.

1 Q. Just describe the appearance of the blade
2 of the knife.

3 A. It appears to have a red substance on it
4 that I would say was blood.

5 Q. Consistent with blood?

6 A. (Affirmative nod).

7 Q. You are not a blood expert, are you?

8 A. I am not a blood expert but I have seen
9 it in my experience and I felt safe to say
10 that that is blood.

11 Q. There is some sort of red material on the
12 blade of the knife?

13 A. Correct, there is.

14 Q. You can say that?

15 A. I can say that.

16 Q. Okay.

17 SOLICITOR STUMBO: That's all
18 that we were attempting to proffer, Your
19 Honor. There is a red substance on the blade
20 of the knife.

21 THE COURT: Was that substance
22 collected by this witness and subsequently
23 sent to SLED for a comparison?

24 SOLICITOR STUMBO: He didn't
25 collect it, Your Honor. He observed it that

1 night in the state that it is in.

2 THE COURT: Okay.

3 SOLICITOR STUMBO: He escorted
4 the vehicle back to the impound at the
5 sheriff's department. From where he found it,
6 he followed the tow driver and stayed with the
7 vehicle the whole time. The processing of the
8 inside of the vehicle was actually done by
9 Sabrina Fellers of SLED, who is a crime scene
10 expert.

11 THE COURT: Okay.

12 SOLICITOR STUMBO: She is going
13 to testify. We intend to call her later this
14 afternoon.

15 THE COURT: So part of the reason
16 for seeking introduction of this testimony at
17 this point in time is to explain why Ms.
18 Fellers collected a sample of blood from the
19 blade of the knife?

20 SOLICITOR STUMBO: Well, ---

21 THE COURT: What are you doing with
22 this?

23 SOLICITOR STUMBO: Your Honor,
24 is it completely necessary? No. Because we
25 have another witness who will testify to that.

1 THE COURT: Okay.

2 SOLICITOR STUMBO: He was the
3 first one to see the knife with something red
4 on it, which appeared to be a weapon
5 consistent -- I think at that point that they
6 had talked to the victim, Ms. Williams, and
7 she had been attacked with a knife. So it was
8 significant just as to his observations. He
9 doesn't need to testify that it was blood, be
10 he didn't test it.

11 THE COURT: All right.

12 SOLICITOR STUMBO: He can
13 testify that it was a red substance on the
14 blade of the knife, though.

15 THE COURT: Ms. Kendall, your
16 objection was that this witness is not
17 qualified as an expert and capable of
18 examining and definitively stating that that
19 substance was in fact blood. Is that correct?

20 MS. KENDALL: That objection is
21 also any testimony -- the State keeps
22 mentioning that someone else will later
23 testify to it, but that hasn't happened it.
24 So the objection, that's an extension of it.
25 But as far as them saying that there is blood

1 on the knife linked to this crime, there's not
2 personal knowledge of it and he's not
3 qualified in that area of expertise.

4 THE COURT: Well, he is capable
5 based on his experience -- anybody who is a
6 parent, I guarantee you that they have seen
7 blood. So anybody who is a cop has probably
8 seen blood too. He can testify that it was a
9 substance that he believed was blood. You
10 will of course be entitled to cross examine
11 him on his qualifications, his background and
12 experience to make that statement, to make
13 that assertion. Obviously it is -- he's not
14 an expert in serology, so he can't testify to
15 any analyses that he personally conducted.
16 But he can certainly say that in his
17 experience that it looked like blood, that he
18 thought that it was blood. He's got the
19 experience for that. Your objection is noted.
20 Let's have the jury back, please.

21 (JURY IN @ 10:35 A.M.)

22 THE COURT: Solicitor, you may
23 continue, sir.

24 SOLICITOR STUMBO: Thank you,
25 Your Honor

1 DIRECT EXAMINATION CONTINUED

2 BY SOLICITOR STUMBO:

3 Q. Lieutenant Satterfield, you may step back
4 down, sir.

5 A. (Complies).

6 Q. I am going to show you State's Exhibit 24
7 here. If you could, describe what appears to
8 be the blade of a knife -- to be a knife in
9 this photograph. If you can, describe it.

10 A. This is the knife that I observed. There
11 appeared to be a red substance on the blade of
12 the knife.

13 MS. KENDALL: Subject to our
14 previous objection, Your Honor.

15 THE COURT: Overruled. You may
16 continue, sir.

17 THE WITNESS: The red substance
18 on the blade, which appeared to be blood. In
19 my professional opinion it was blood.

20 Defendant's Exhibit

21 BY SOLICITOR STUMBO:

22 Q. At that time -- just to clarify,
23 Detective Satterfield, you didn't collect this
24 item specifically at that time, did you?

25 A. No, I did not. My job was just to

1 specifically secure the vehicle.

2 Q. So your job was to secure the vehicle?

3 A. Yes.

4 Q. To make sure that it wasn't tampered with
5 in any way?

6 A. Correct.

7 Q. Did you do that?

8 A. I did.

9 Q. You did do that that night?

10 A. Yes.

11 Q. State's Exhibit 25. If you could
12 demonstrate that -- described to the jury what
13 is in State's Exhibit 25.

14 A. Basically this is the inside of the
15 vehicle. There's a pack of Newport cigarette
16 laying in there, which we had information that
17 that was the ---

18 MR. HOWE: Objection, hearsay.

19 SOLICITOR STUMBO: Your Honor,

20 I'll ask a followup question.

21 DIRECT EXAMINATION CONTINUED

22 BY SOLICITOR STUMBO:

23 Q. Is that the way that this cigarettes were
24 positioned on the seat when you found them,
25 Lieutenant Satterfield?

1 A. Yes, sir.

2 Q. And -- did you alter or manipulate it in
3 any way?

4 A. No, I did not.

5 Q. Did you secure this vehicle?

6 A. I did.

7 Q. And you observed this in plain sight that
8 night, is that correct?

9 A. Yes, I did.

10 Q. You may return to the stand.

11 A. (Resumes seat on witness stand).

12 Q. Now, when you say that you secured the
13 vehicle, what did you do? Can you describe
14 that for the jury?

15 A. When I located the vehicle, it was
16 completely shut, the windows were rolled up.
17 My main job was to secure it based on making
18 sure that any type of individual wasn't in
19 there, for my safety. I knew, from my
20 previous experience, that I was not to open
21 that vehicle for any reason whatsoever.

22 Q. And was it necessary to move this vehicle
23 that night?

24 A. Later on after my superiors arrived on
25 the scene, it was necessary to move it to

1 another secure location to be processed.

2 Q. Okay. Did you stay with this vehicle
3 that is in State's Exhibits 18 and 19? Were
4 you able to stay with it the entire time that
5 night?

6 A. Yes, the entire time once I located it.

7 Q. Where did you move the vehicle?

8 A. The vehicle was towed to the Laurens City
9 Police Department and locked inside an
10 enclosed bay inside our facility.

11 Q. Okay. Were you there the entire time
12 that the tow man loaded the vehicle up, loaded
13 it up and had taken it downtown?

14 A. Yes, I was.

15 Q. Did he in any way alter or manipulate any
16 of the ---

17 MS. KENDALL: Objection.

18 DIRECT EXAMINATION CONTINUED

19 BY MR. HOWE:

20 Q. --- objects inside the vehicle?

21 THE COURT: All right. To the
22 extent that that calls for speculation, the
23 objection is sustained. But you can ask him
24 if he saw or observed the officer manipulating
25 any of the items.

1 DIRECT EXAMINATION CONTINUED

2 BY SOLICITOR STUMBO:

3 Q. Were you with the tow man the entire
4 time?

5 A. (Affirmative nod), the entire time. Yes,
6 I was.

7 Q. Did he do anything on the inside of that
8 vehicle, to your observations?

9 A. As far as the evidence goes, no.

10 Q. Okay. Now, was he able to load the
11 vehicle up successfully?

12 A. He was.

13 Q. You said that he towed it to a bay.

14 A. (Affirmative nod).

15 Q. At the Police Department?

16 A. Yes, sir.

17 Q. Were you able to follow him the entire
18 time?

19 A. I did. I followed him in the rear and
20 made sure, you know, that that vehicle didn't
21 get out of my sight whatsoever.

22 Q. By your observations during the time that
23 it was towed from Point A to Point B, did
24 anybody get on the inside of that vehicle?

25 A. No.

1 Q. Now, State's Exhibits 18 and 19, once
2 it's inside the bay, where is it located in
3 State's Exhibit 18?

4 A. The vehicle is located inside the bay at
5 the Laurens City Police Department.

6 Q. State's Exhibit 19, is that the same
7 location?

8 A. Yes, sir, it is.

9 Q. Now, after it was put into the bay, was
10 it secured at that point?

11 A. It was.

12 Q. Who had access to that vehicle then?

13 A. At that point in time nobody did. It was
14 a locked facility and nobody would have access
15 to any of that, at that time.

16 Q. Did you lock it?

17 A. Yes.

18 Q. Just a couple more questions, Lieutenant
19 Satterfield. Lieutenant Satterfield, were you
20 able to observe, that night, the outside of
21 the car? The license tag?

22 A. I did.

23 Q. Okay, and did you report that information
24 back to your superior?

25 A. The license plate number?

1 Q. Yeah.

2 A. Yes, I did.

3 Q. You reported that back to the
4 investigators?

5 A. Yes.

6 Q. Did you ever have an occasion to go to
7 SLED for any of the evidence involved with
8 this case?

9 A. I did. I was actually at SLED turning in
10 some evidence on something totally unrelated
11 and during the trip to SLED I do have the
12 authority to access and to bring evidence back
13 to our agency that has already been processed.

14 Q. Okay. I am going to show was has been
15 marked for ID Only at this point as State's
16 Exhibits 28 and 29. If you could, just take a
17 look at those for me.

18 A. (Upon review), okay.

19 Q. You handled State's Exhibits 28 and 29
20 before?

21 A. Yes.

22 Q. You said that you went to take some other
23 evidence but that you picked up some other
24 stuff; is that correct?

25 A. Yes, sir.

1 Q. Now, State's Exhibit 28 and 29, were
2 those items that you picked up to bring back
3 to the sheriff's department, to the police
4 department?

5 A. Yes.

6 Q. I believe that those items were listed as
7 swabs that had been tested by SLED.

8 MS. KENDALL: Objection.

9 MR. HOWE: Hearsay.

10 THE COURT: All right. We need to
11 establish the chain on this gentlemen and
12 lady, so I am going to allow him to ask the
13 witness what he thought that the items were --
14 State's 28 and 29. Otherwise we are just
15 scratching our heads.

16 SOLICITOR STUMBO: This is just
17 part of laying the foundation.

18 THE COURT: Yes, sir.

19 SOLICITOR STUMBO: Nothing more,
20 nothing less.

21 DIRECT EXAMINATION CONTINUED

22 BY SOLICITOR STUMBO:

23 Q. Lieutenant Satterfield, did you pick
24 these items up at SLED?

25 A. I did pick those items up.

- 1 Q. Okay, they were listed as what items?
- 2 A. They are listed as DNA swabs.
- 3 Q. And you brought those back to the Laurens
- 4 Police Department?
- 5 A. Yes, I did.
- 6 Q. Did you secure those in evidence when you
- 7 brought them back?
- 8 A. Our policy is that those items go to our
- 9 evidence custodian, Captain John Stankus;
- 10 which they were returned to him.
- 11 Q. They were returned to Captain Stankus?
- 12 A. Yes, I did.
- 13 Q. He was the evidence custodian at the
- 14 Police Department?
- 15 A. Yes, sir.
- 16 Q. Now, the time that they were in your
- 17 custody from the time that you picked them up
- 18 at SLED until the time that you gave them to
- 19 Captain Stankus, did you open these packets?
- 20 A. No, I did not.
- 21 Q. Did you alter or manipulate them in any
- 22 way?
- 23 A. No, I did not.
- 24 Q. They remained sealed the entire time they
- 25 were in your custody?

1 A. Correct.

2 SOLICITOR STUMBO: Please answer
3 any questions that Ms. Kendall may have for
4 you.

5 THE COURT: Ms. Kendall?

6 CROSS EXAMINATION

7 BY MS. KENDALL:

8 Q. Good morning.

9 A. Good morning.

10 Q. Along with the items that you previously
11 testified that you picked up at SLED, you
12 picked up some other items as well. Correct?

13 A. (Reviewing) -- I am trying to ---

14 Q. Take your time.

15 A. Yes, from our printout it does appear
16 that I did pick some other items up..

17 Q. How many items did you pick up from SLED?

18 A. (Upon review), if I am reading this form
19 correctly it appears that I picked up eight
20 items.

21 Q. So your testimony is that you picked up
22 eight separate items from SLED, correct?

23 A. Separate item? What do you mean by
24 separate items?

25 Q. Eight different items.

1 A. I'm not familiar with how they were
2 packaged. I picked up the items that are
3 listed on this form. As far as going into how
4 they were individually packaged, I don't know.

5 Q. When you go to SLED to pick up the eight
6 items, did you scan any items out from SLED?

7 A. (No response).

8 Q. What was the procedure of you retrieving
9 them from SLED?

10 A. Pretty much you walk up to a window in
11 the evidence intake room and the evidence
12 custodial from SLED scans the items. I sign
13 for them when I pick them up.

14 Q. So you didn't scan any items yourself?

15 A. No, I did not.

16 Q. How long did you stay at the LPD carport
17 the morning after the alleged incident?

18 A. I stayed there until 7:00 a.m.

19 Q. Were you on scene with Sabrina Fellers
20 arrived?

21 A. I was not.

22 Q. Were you on scene when the car was
23 opened?

24 A. No, I was not.

25 Q. So your testimony earlier about what you

1 observed on the night is from what you saw at
2 night through a tinted window?
3 A. With a flashlight.
4 Q. With a flashlight?
5 A. In a well-lited (sic) area.
6 Q. How was it well lit?
7 A. By street lights of some sort.
8 Q. But you would agree with me that the
9 photos that you were shown were in full
10 daylight with lights, with a close-up camera;
11 correct?
12 A. Say that again.
13 Q. The photos that you were shown are shown
14 close up, correct?
15 A. As far as focus?
16 Q. Yes.
17 A. Yes.
18 Q. They were shown in daylight, correct?
19 The photos were taken in daylight?
20 A. Yes, I would assume that's when SLED
21 processed the vehicle.
22 Q. Do you need to see the photos again?
23 A. No, I'm familiar with them.
24 Q. And based on your familiarity with the
25 photos, you would agree with me that they were

1 taken in daylight and the carport was lit?

2 Correct.

3 A. Say that one more time?

4 Q. Looking at State's Exhibits 18 and 19,
5 you would agree with me that that's during
6 daylight and that there are lights in the
7 carport?

8 A. It is during daylight and there are
9 lights that are on in that bay, yes.

10 Q. Thank you. That's different from when
11 you observed it that night when you first saw
12 the car. Correct?

13 A. Yes.

14 Q. So you would agree with me that seeing it
15 -- so that there is not confusion, I'll show
16 you the photo. So you would agree with me
17 that you saw the items through a window.

18 Correct?

19 A. Yes.

20 Q. At night?

21 A. Yes.

22 Q. Through a tinted window?

23 A. Yes.

24 Q. You observed it with a flashlight?

25 A. Yes.

1 Q. So you were looking at a more obstructed
2 view, not from a camera angle, in the car;
3 correct?

4 A. Yes.

5 Q. So you would agree with me that what you
6 viewed was not a fair and accurate
7 representation as to what you're testifying to
8 in those photos?

9 A. No, it's the same.

10 Q. But your vantage point was different, the
11 light was different, you weren't able to view
12 it close up. Correct?

13 A. Correct.

14 Q. Do you agree with me that that's not the
15 same?

16 A. No, it's the same. I just don't have the
17 close up image as what the camera did.

18 MS. KENDALL: I have no further
19 questions.

20 REDIRECT EXAMINATION

21 BY SOLICITOR STUMBO:

22 Q. How is your eyesight, Lieutenant
23 Satterfield?

24 A. Perfect, 20/20.

25 SOLICITOR STUMBO: No further

1 questions, Your Honor.

2 THE COURT: Thank you. You may
3 step down.

4 (WITNESS STEPS DOWN)

5 THE COURT: Solicitor, please call
6 your next witness.

7 SOLICITOR MOWRY: We call Leann
8 Riggott.

9 (WITNESS TAKES STAND)

10 LEANN RIGGOTT, being duly sworn to
11 tell the truth, the whole truth and nothing
12 but the truth, testified, as follows:

13 DIRECT EXAMINATION

14 BY SOLICITOR MOWRY:

15 Q. Ms. Riggott, I see that you are wearing a
16 badge. Are you employed in law enforcement?

17 A. Yes, sir, I am.

18 Q. By whom?

19 A. Laurens City Police Department.

20 Q. What is your position with the Laurens
21 City Police Department?

22 A. Detective Sergeant.

23 Q. How long have you been employed in that
24 capacity?

25 A. Approximately a little over four years.

1 Q. What is your other experience in law
2 enforcement?

3 A. I have fourteen years with the Laurens
4 Police Department and I have approximately
5 four years with the Department of Corrections.

6 Q. Okay. So about eighteen years altogether
7 with law enforcement?

8 A. Yes, sir.

9 Q. But four years as an investigator, is
10 that right?

11 A. Yes, sir.

12 Q. What are your duties as an investigator
13 with the City of Laurens Police Department?

14 A. I investigate any and all crimes that are
15 reported by the public or that we see.

16 Q. Were you employed in that capacity back
17 on the early morning of May 3rd of last year?

18 A. Yes, sir, I was.

19 Q. Were you actually on duty at that time?

20 A. Yes, sir, I believe that I was on call
21 that night.

22 Q. On call?

23 A. Yes, sir.

24 Q. Sometime after midnight, did you receive
25 a call about an armed robbery at the Li'l

1 Cricket over on Church Street?

2 A. Yes, sir, I did.

3 Q. In response to that call, what did you
4 do?

5 A. Got up, got dressed, responded to the
6 Li'l Cricket.

7 Q. What did you see when you got there?

8 A. When I arrived on the scene, Chief Norris
9 was there. I spoke with him. Crime scene
10 tape was around the perimeter. He advised me
11 of the situation ---

12 MR. HOWE: Objection, hearsay.

13 THE COURT: Solicitor, -- this is
14 so that she can explain what she subsequently
15 does?

16 SOLICITOR MOWRY: Yes, sir, that's
17 purely it.

18 THE COURT: Okay. Very good.
19 Overruled. Continued.

20 Defendant's Exhibit

21 BY SOLICITOR MOWRY:

22 Q. Go ahead, ma'am.

23 A. I spoke with Chief Norris. He advised me
24 what took place. At that time I called
25 Detective Finley, spoke with him.

1 Q. That is this officer right here?

2 A. Yes, sir. He advised me that he had
3 spoke with the victim ---

4 MR. HOWE: Same objection, Judge.

5 THE WITNESS: I had a brief
6 conversation with ---

7 MR. HOWE: Same objection, Judge.

8 THE COURT: Overruled. Continue.

9 DIRECT EXAMINATION CONTINUED

10 BY SOLICITOR MOWRY:

11 Q. As a result of that conversation, was
12 there a nickname that you had heard?

13 A. Chilly Pop.

14 MR. HOWE: Hearsay, Judge.

15 THE COURT: Overruled. Continue.

16 DIRECT EXAMINATION CONTINUED

17 BY SOLICITOR MOWRY:

18 Q. Did you know anyone by that nickname?

19 A. Yes, sir, I did.

20 Q. Who did you know -- well, first of all,
21 let me ask you this. How did you know a
22 person by that nickname?

23 A. In the community ---

24 MR. HOWE: Your Honor, objection.

25 THE COURT: Very good. Ladies and

1 Gentlemen of the jury, we need to take a brief
2 break while I take up an issue of law. We
3 will adjourn for a moment. Don't discuss the
4 case. I will have you back in five minutes.

5 (JURY OUT @ 10:55 A.M.)

6 THE COURT: Where I was concerned
7 that we were perhaps getting on this ice
8 there, Solicitor, is perhaps the testimony. I
9 am sure that this is something that Mr. Howe
10 wants to -- one of the reasons that he
11 objecting. But what do you intend to elicit
12 as far as how she knows who Chilly Pop is.

13 SOLICITOR MOWRY: My question is how
14 did she know Chilly Pop. She is just simply
15 going to say in the community, is my
16 understanding, Your Honor. We are not going
17 to go into any investigations of crime or
18 anything like that. But she knew the
19 defendant's real name based on that nickname.

20 THE COURT: Mr. Howe, let me hear
21 from you on that.

22 MR. HOWE: Judge, this is a law
23 enforcement officer saying "in the community".
24 I mean, anybody with any common sense can read
25 between the lines and see where this is going.

1 If an officer says 'I know this individual by
2 his nickname', clearly the jury can read
3 between the lines. It is commenting
4 indirectly on the fact that she's had dealings
5 with him and actually goes into -- potentially
6 goes into his criminal history. That said,
7 Judge, I don't see any way that -- I object to
8 that. I think that it's already gone too far.

9 SOLICITOR MOWRY: Your Honor, ---

10 MR. HOWE: Your Honor, I am asking
11 the court to declare a mistrial right now
12 based on that. This was not necessary at all.

13 THE COURT: You will stipulate then
14 that your client's nickname is Chilly Pop?

15 MR. HOWE: Will I stipulate that
16 my client's nickname is Chilly Pop?

17 THE COURT: In the alternative,
18 what we have is a person who was allegedly
19 assaulted at the convenience store. She only
20 knew the individual by the name of Chilly Pop.
21 The State has a right in some way, shape or
22 form to link up the fact that the defendant on
23 trial goes by the nickname "Chilly Pop." If
24 the State is going to do that, they obviously
25 have to present evidence. Of course, how

1 someone is known by way of nickname that is
2 commonly introduced in cases of this nature,
3 and other types of cases. Absent a
4 stipulation that your client is Chilly Pop, I
5 don't know how the State could possibly seek
6 to introduce this evidence some other way.
7 What would you suggest, Mr. Howe?

8 MR. HOWE: I'm objecting to her
9 testifying that she has any prior knowledge of
10 him.

11 SOLICITOR MOWRY: Your Honor, she is
12 a police officer. She knows people in the
13 community. I have not made any mention of a
14 prior criminal record. Matter of fact ---

15 THE COURT: That is definitely
16 where I don't want you to go.

17 SOLICITOR MOWRY: I have no
18 intention whatsoever of doing that. Detective
19 Riggott have discussed that at some length.
20 We are not going to go there. But she, as
21 part of her investigation, she needs to link
22 up Chilly Pop to Richard Sylvester Evans. The
23 fact that she knew him by his real name and
24 his nickname, I think, is probative and not
25 prejudicial.

1 THE COURT: I would tend to agree.
2 Let's tread very very lightly, Solicitor. To
3 the extent, Mr. Howe, that you or Ms. Kendall
4 want to examine her on the extent of her
5 knowledge or how many other people out there
6 may be named Chilly Pop, I will of course give
7 you latitude along those lines. But clearly
8 the State in this case is entitled to link Mr.
9 Evans up with his street name. Let's have the
10 jury back, please.

11 (JURY IN @ 11:00 A.M.)

12 THE COURT: Thank you. Let the
13 record reflect that the jury is back and
14 seated. Solicitor, please continue.

15 DIRECT EXAMINATION CONTINUED

16 BY SOLICITOR MOWRY:

17 Q. Detective Riggott, you heard the nickname
18 "Chilly Pop", is that right?

19 A. Yes, sir.

20 Q. Did you know someone with that nickname?

21 A. Yes, sir, I did.

22 Q. Who did you know with that nickname?

23 A. Richard Sylvester Evans.

24 Q. Is that person in the courtroom today?

25 A. Yes, sir.

1 MS. KENDALL: Your Honor.

2 MR. HOWE: Hold on a minute.

3 THE COURT: We're missing one
4 (juror).

5 (JUROR ENTERS COURTROOM)

6 THE COURT: Solicitor, rewind.

7 SOLICITOR MOWRY: Yes, sir.

8 DIRECT EXAMINATION CONTINUED

9 BY SOLICITOR MOWRY:

10 Q. Detective, I'd asked you if you knew
11 somebody -- you'd heard the name "Chilly Pop",
12 is that right?

13 A. Yes, sir.

14 Q. With regard to this matter. Did you know
15 somebody with the name Chilly Pop?

16 A. Yes, sir, I did.

17 Q. Did you know that person's real name?

18 A. Yes, sir, I did.

19 Q. What is that real name?

20 A. Richard Sylvester Evans.

21 Q. Is that person seated or present in the
22 courtroom today?

23 A. Yes, sir, he is.

24 Q. Can you point him out, please, ma'am.

25 SOLICITOR MOWRY: Your Honor, for

1 the record she is pointing to ---

2 THE COURT: The record shall
3 reflect that the witness has identified the
4 defendant.

5 DIRECT EXAMINATION CONTINUED

6 BY SOLICITOR MOWRY:

7 Q. Did you also while you were present at
8 the scene take a look at the security video?

9 A. Yes, sir, I did.

10 Q. Did that confirm or negate your belief of
11 the identity of the person nicknamed Chilly
12 Pop?

13 A. It confirmed it.

14 Q. All right. On that basis, what did law
15 enforcement then begin to do?

16 A. Put out a BOLO for Mr. Evans.

17 Q. What is a BOLO?

18 A. Be on the lookout for.

19 Q. Is that a standard police practice?

20 A. Yes, sir, it is.

21 Q. All right. What else did you do while
22 you were at the scene?

23 A. I processed the scene with the -- took
24 samples of the red substance that was on the
25 floor, swabs of the counter and swabs of the

1 red substance on the sidewalk.

2 Q. What kind of training -- what was your
3 purpose in doing that? Let me ask you that.

4 A. To find out what the substance was and to
5 link it to who it belonged to.

6 Q. And was this part of a common crime scene
7 examination process?

8 A. Yes, sir, it is.

9 Q. What kind of training do you have in that
10 area?

11 A. Multiple training classes on evidence
12 collection.

13 Q. What specifically were you looking for
14 with this swabs that you have talked about?

15 A. Blood, DNA, saliva, sweat.

16 Q. Okay. Let me refer you then to State's
17 Exhibit 31, the interior ---

18 MR. HOWE: Judge, if I could have
19 a minute so I could get over there and see?

20 THE COURT: Certainly.

21 MR. HOWE: Thank you.

22 DIRECT EXAMINATION CONTINUED

23 BY SOLICITOR MOWRY:

24 Q. The interior chart of the store, can you
25 point out for the jury where you took swabs

1 from? Where you found what you suspected
2 might be blood and took swabs?

3 A. On the sidewalk, counter and also, I
4 believe, on the floor back here. There was
5 red substance in a trail. I took multiple
6 samples.

7 Q. Did you do anything with those items that
8 evening?

9 A. They were submitted to SLED.

10 Q. To your knowledge with regard to your
11 swabs, was there anything of evidentiary value
12 obtained?

13 A. No, sir.

14 Q. Now, as part of your investigation, did
15 you obtain any search warrants in this
16 particular matter?

17 A. Yes, sir, I did.

18 Q. Specifically what were you seeking with
19 regard to those search warrants?

20 A. One search warrant was for the vehicle,
21 the Lincoln Navigator. The second one was for
22 a buccal swab from Mr. Evans.

23 Q. Tell me what a buccal swab is.

24 A. It is a swab inside the mouth, to obtain
25 saliva so DNA can be identified with that.

1 Q. That would be submitted for further DNA
2 examination; is that right?

3 A. Yes, sir.

4 Q. Now, you talked about the vehicle. Let
5 me give you what has already been admitted as
6 State's Exhibits 18 and 19, and ask if you can
7 identify that?

8 A. Yes, sir.

9 Q. What do those photographs depict?

10 A. They depict the Lincoln Navigator.

11 Q. All right. Did you legally need a search
12 warrant to enter ---

13 MR. HOWE: Objection. Calls
14 for ---

15 THE COURT: Let me hear the question.

16 SOLICITOR MOWRY: I was just going
17 to ask if you legally needed a search warrant
18 to enter the victim's Lincoln Navigator.

19 MR. HOWE: Calls for a legal
20 conclusion from this witness.

21 THE COURT: She can say whether she
22 felt like she needed a search warrant to enter
23 the Navigator, because -- obviously she
24 procured one.

25 SOLICITOR MOWRY: Yes, sir.

1 THE COURT: If you want to ask it
2 that way, that's fine. If she felt like she
3 needed one.

4 DIRECT EXAMINATION CONTINUED

5 BY SOLICITOR MOWRY:

6 Q. Did you in fact feel like you needed a
7 search warrant to enter the victim's
8 Navigator?

9 A. I felt that it was best, yes.

10 Q. Were you present when the car in fact
11 depicted in State's Exhibits 18 and 19 were
12 searched?

13 A. Yes, sir.

14 Q. Or was searched?

15 A. You mean at the Police Department?

16 Q. Right.

17 A. Yes, sir, I was.

18 Q. Now, you were not present when it was
19 towed or anything like that.

20 A. No, sir.

21 Q. About what time was it in fact searched?

22 A. It was later in the morning. Say 7:00,
23 8:00, sometime around there.

24 Q. You are not ---

25 A. 9:00?

1 Q. --- exactly sure when ---

2 A. I had been up all night. I am not
3 exactly sure. It was sometime later, after
4 the sun came up.

5 Q. All right. And who did the search?

6 A. SLED did.

7 Q. SLED did the search?

8 A. Yes, sir.

9 Q. Detective Riggott, after -- oh, let me
10 ask you this. Did you see the defendant,
11 Richard Evans, that morning?

12 A. Yes, sir, I did.

13 Q. Where did you see him?

14 A. I saw him when he was apprehended on
15 Anderson Drive and again at the Police
16 Department.

17 Q. Did you -- let me hand you what has
18 already been marked as State's Exhibit 33 for
19 identification. Did you have anything to do
20 with that item?

21 A. Yes, sir.

22 Q. What is that, please, ma'am?

23 A. It is thirteen dollars in U.S. currency.

24 Q. All right. And where did you obtain
25 that?

1 A. From Mr. Evans.

2 MR. HOWE: We have two objections
3 concerning this.

4 THE COURT: . All right, let me hear
5 -- you have two objections?

6 MR. HOWE: Yes, sir. The first
7 has to do with lack of a proper foundation.

8 THE COURT: All right. You want to
9 lay a better foundation, Solicitor?

10 MR. HOWE: Relevance.

11 THE COURT: All right. Lay the
12 foundation.

13 DIRECT EXAMINATION CONTINUED

14 BY SOLICITOR MOWRY:

15 Q. Did you in fact take the money from the
16 defendant yourself?

17 A. Yes, sir.

18 Q. What did you do after you took it?

19 A. Put it in an evidence pack.

20 Q. And who did you turn it over to?

21 A. Captain Stankus.

22 Q. Is this -- all of the writing here on the
23 front of the bag, whose handwriting is that?

24 A. It's mine.

25 Q. All right. Are you confident that this

1 is the money that you took from the defendant
2 at the time of his arrest?

3 THE COURT: Are you seeking
4 introduction at this point in time?

5 SOLICITOR MOWRY: Yes, sir.

6 THE COURT: And the relevancy
7 objection is, I assume, that it is not at all
8 uncommon for people to walk around with
9 thirteen dollars on them?

10 MR. HOWE: There has been an
11 allegation of a different amount.

12 SOLICITOR MOWRY: There has also
13 been an allegation that cash money was taken,
14 Your Honor. The fact that he had some on
15 there goes towards proof of that particular
16 issue.

17 THE COURT: All right. I will
18 admit the thirteen dollars into evidence.

19 (SO ENTERED AS STATE'S EXHIBIT 33)

20 (NOTE: SEE RULING ON PAGE 271)

21 THE COURT: Of course, you will be
22 entitled to wide latitude on cross.

23 DIRECT EXAMINATION CONTINUED

24 BY SOLICITOR MOWRY:

25 Q. Detective Riggott, you talked about a

1 buccal swab from the defendant; is that right?

2 A. Yes, sir.

3 Q. Were you present when that was taken?

4 A. Yes, sir.

5 Q. Who took that?

6 A. SLED.

7 Q. All right. Was any similar item taken
8 from the victim in this case?

9 A. Yes, sir.

10 Q. Who took that?

11 A. SLED also.

12 Q. Were you present when that was taken?

13 A. Yes, I was.

14 Q. Describe the process that is done for
15 that. How was the conducted?

16 A. In a buccal swab kit you have two long
17 Q-tips. One is for the left side of the
18 cheek, one is for the right. You swab for
19 approximately ten seconds to make sure that
20 you collect enough cheek matter. At that
21 time, you set it to the side and let it air
22 dry because you don't want to put it in the
23 paper while it is wet. Let it dry for five or
24 ten minutes, then you place it in the
25 collection envelope that comes with it. You

1 label it, then you seal it with red seal tape.

2 Q. Did you observe the SLED agent conduct
3 that examination?

4 A. Yes, I did.

5 Q. Based on the information that you
6 gathered from your part of the investigation
7 from other officers, what did you do?

8 A. Can you ask that again?

9 Q. Let me ask you this, did you sign
10 warrants against this defendant?

11 A. Yes, sir, I did.

12 Q. What were the warrants for?

13 A. Armed robbery, attempted murder,
14 kidnaping and I believe the possession of a
15 weapon during a violent crime.

16 Q. Did you also sign a warrant for anything
17 involving the Lincoln Navigator?

18 A. Yes.

19 SOLICITOR MOWRY: Thank you, ma'am.
20 I believe that's all that I have, Your Honor.

21 THE COURT: Mr. Howe? Ms. Kendall?

22 MR. HOWE: Thank you.

23 CROSS EXAMINATION

24 BY MR. HOWE:

25 Q. Officer Riggott, so you -- you did not

1 take the -- do the DNA test on Ms. Williams,
2 correct?

3 A. No, sir, I did not.

4 Q. The money that you obtained from Mr.
5 Evans, that has now been admitted into
6 evidence, was thirteen dollars and a nickel or
7 something like that; is that correct?

8 A. Yes, sir.

9 Q. Okay. And, uh, as the Judge stated in
10 his ruling, it is not uncommon for people to
11 have money in their wallet, in their
12 possession; correct?

13 A. Correct.

14 Q. So the fact that Mr. Evans had money in
15 his possession does not mean that that was
16 money taken from a robbery; isn't that true?

17 A. Well, I'm kinda confused. Can you repeat
18 that question?

19 Q. All right. The fact that money was taken
20 from Mr. Evans at the time that he was
21 apprehended or taken into custody, whatever
22 happened, does not mean that that was the
23 money taken in this robbery, does it?

24 A. Correct. There's no way to tell if that
25 was actual money from the robbery.

1 Q. Okay. Now, you testified that you felt
2 it was necessary to obtain a search warrant to
3 search the car, to see what was in the car.

4 Correct?

5 A. Yes, sir.

6 Q. And you had already probably been made
7 aware of what was in the car, right?

8 A. Yes, sir.

9 Q. So you were aware that not only was there
10 the car of Ms. Williams but there was evidence
11 in the car that you had already contended
12 (sic) did not belong to Ms. Williams.

13 Correct?

14 A. Yes, sir.

15 Q. So the search warrant was obtained?

16 A. Yes, sir.

17 Q. And the search warrant -- there are
18 procedures you go through when you get a
19 search warrant?

20 A. Yes, sir.

21 Q. And one of those procedures is that you
22 apply for the search warrant with a
23 magistrate, correct?

24 A. Yes, sir.

25 Q. And a magistrate issues the search

1 warrant, correct?

2 A. Yes, sir.

3 Q. Okay. I've been provided, through this
4 process, information showing when that search
5 warrant was obtained and when it was carried
6 out. Correct?

7 A. Yes, sir.

8 Q. You would agree that there was a search
9 warrant?

10 A. Yes, sir.

11 Q. All right. And you would agree that you
12 were the one that actually applied for the
13 search warrant with Magistrate Lyles; correct?

14 A. Yes, sir.

15 Q. And you are familiar with the search
16 warrant? I can show it to you as we go
17 through this. You would agree that that was
18 at least a copy that was provided to us?

19 A. Yes, sir.

20 Q. All right. And that was done, I believe,
21 about 5:00 a.m.; right?

22 A. Yes, sir.

23 Q. All right. Now, you are familiar with
24 the process -- the processes that you go
25 through to get a search warrant; right?

1 A. Yes, sir, I am.

2 Q. All right. You do an inventory of what
3 you obtain, right?

4 A. Yes, sir.

5 Q. Then what happens after you do the
6 inventory and what do you do with the search
7 warrant for the magistrate to make sure that
8 everything was done proper and according to
9 the law?

10 A. You have to return it within ten days to
11 the magistrate.

12 Q. You have to make a return?

13 A. Yes, sir.

14 Q. And that's because the magistrate is
15 supposed to be neutral, not on your side, not
16 on the defense side. The magistrate is
17 supposed to do everything and say, 'okay,
18 before we search' -- for instance if it is the
19 home of a citizen or anything like that, that
20 it's got to be done properly?

21 A. Yes, sir.

22 Q. And you would agree that you didn't make
23 the return to the magistrate; correct?

24 A. May I see that?

25 Q. Please, (tendering).

1 A. (Upon review), could you ask your
2 question again?

3 Q. Sure. You would agree that you didn't
4 make the return to the magistrate; correct?

5 A. I'm trying to recall who actually -- I
6 believe that this officer served the warrant,
7 he signed the service of the warrant.

8 Q. Okay.

9 A. The warrant was then returned to the
10 judge.

11 Q. All right. And according to the search
12 warrant that I have given you, it was -- Tony
13 Leach signed where the officer signed saying
14 'I am returning this to the magistrate.'
15 Right?

16 A. Yes, sir.

17 Q. That is supposed to be presented to the
18 magistrate, sworn to before the magistrate,
19 that 'Judge, you authorized the Laurens Police
20 Department to get a search warrant.' Right?

21 A. Yes, sir.

22 Q. Then 'Judge, we have now carried out the
23 search warrant and we have returned to you and
24 we're giving you an oath that this is what was
25 found.' Right?

1 A. Correct.

2 Q. All right. And whose name is on there,
3 on the return?

4 A. Tony Lynch.

5 Q. And is it sworn to before the magistrate?

6 A. That's not the original copy.

7 Q. Okay. Well, that's the only one that I
8 have been given. Where would the original be?

9 A. The original would be with the
10 magistrate.

11 Q. Okay. Why would we be given a copy
12 without the magistrate's signature then?

13 A. That copy was probably made before the
14 magistrate got the return

15 Q. Okay. So there is a document then that
16 maybe we should have gotten a little bit
17 earlier?

18 A. I would say so. I don't have control
19 over who gets the documents.

20 Q. Well, who has control over that?

21 A. Our court officer and the solicitor's
22 office.

23 Q. But you would agree that right here on
24 the search warrant -- that if this is what we
25 have as the final return, it wasn't done

1 according to law, was it?

2 A. That's not the final return.

3 Q. But you would agree that if this was the
4 final return that it wasn't done according to
5 law, wouldn't you?

6 A. Like I said, that isn't the final return.

7 Q. Well, okay. You would agree that if this
8 is the final return -- I am going to ask you
9 one more time.

10 SOLICITOR MOWRY: Your Honor, she
11 has been asked that question twice and
12 answered it the same way. I don't anticipate
13 that a third time is going to make any
14 difference.

15 MR. HOWE: Your Honor, she can
16 answer the question yes or no and then she can
17 explain her answer.

18 THE COURT: I take her answer, Mr.
19 Howe, -- and correct me if I am wrong,
20 Officer. But I take her answer as being that
21 that's not the final return. But that if it
22 were the final return, that it wasn't done
23 correct. However, 'that's not the final
24 return.' Which is somewhat circular, but we
25 will leave it at that.

1 MR. HOWE: That was the answer
2 that I -- if we can stipulate that would be
3 her answer, if she doesn't want to answer it,
4 then I will go along with what you say, Judge.

5 THE COURT: Would that be correct,
6 ma'am?

7 THE WITNESS: Yes, sir. The
8 correctness of the return on a search warrant
9 is that it is signed by the judge.

10 CROSS EXAMINATION CONTINUED

11 BY MR. HOWE:

12 Q. And with regard to the swab from Mr.
13 Evans, you obtained that search warrant;
14 correct?

15 A. Yes, sir, I did.

16 Q. And you went before a different
17 magistrate/judge for that, correct?

18 A. Yes, sir.

19 MR. HOWE: If I could have just
20 one minute, Judge.

21 THE COURT: Yes, sir.

22 MR. HOWE: Thank you.

23 CROSS EXAMINATION CONTINUED

24 BY MR. HOWE:

25 Q. And this has to do with the swab taken

1 from Mr. Evans. We've covered already, you
2 know, the processes that you go through.
3 I am going to show you what has been provided
4 to us. The only thing that's been provided to
5 us through discovery -- and I ask you, whose
6 signature is that on the return?

7 A. I believe that -- I can't make it out but
8 I believe that it's Walter Bentley's.

9 Q. It is not legible?

10 A. It's not legible.

11 Q. It's not legible, is it?

12 A. (No verbal response).

13 Q. And I guess that you wouldn't recognize
14 Bentley's signature, or anybody's, if it is
15 not legible. That would be a fair statement?

16 A. Yes, sir.

17 Q. All right. Is there a judge's signature
18 on that?

19 A. No, sir, there is not.

20 Q. Okay.

21 A. That is not the original return either.

22 Q. So there's going to be an original return
23 on that. Again, the same thing?

24 A. For it to be done correctly, it needs to
25 be signed by a judge. The original return is

1 signed by the judge and placed in the search
2 warrant return folder.

3 Q. Okay.

4 A. We make copies of search warrants at the
5 time that they are executed. It'd not had
6 time to be signed by a judge at that time.

7 MR. HOWE: That's all the
8 questions that I have.

9 THE COURT: Redirect?

10 SOLICITOR MOWRY: Just a couple of
11 questions.

12 REDIRECT EXAMINATION

13 BY SOLICITOR MOWRY:

14 Q. Who is Tony Lynch?

15 A. He is an investigator with the police
16 department.

17 Q. The same kind of capacity that you have?

18 A. Yes, sir.

19 Q. The same kind of capacity that Detective
20 Bentley has?

21 A. Yes, sir.

22 Q. Is it common for one officer perhaps to
23 obtain a search warrant and for another one to
24 execute it and maybe even for a third one to
25 make the return of it?

1 A. Yes, sir. We do not always serve our own
2 search warrants.

3 Q. Okay. And let me ask you this also,
4 State's Exhibit 29 for identification
5 purposes, I believe, do you recognize that?

6 A. I believe that it is a SLED buccal swab.

7 Q. All right. And this is the buccal swab
8 envelope that you ---

9 MR. HOWE: Objection to leading
10 question, Judge.

11 THE COURT: Sustained. Rephrase.

12 SOLICITOR MOWRY: Okay.

13 REDIRECT EXAMINATION CONTINUED

14 BY SOLICITOR MOWRY:

15 Q. Can you tell whose buccal swab that is?

16 A. The victims, Dometry Williams'.

17 Q. Okay. And that is one that you observed,
18 is that correct?

19 A. Yes, sir.

20 SOLICITOR MOWRY: No further
21 questions, Judge.

22 MR. HOWE: No recross.

23 THE COURT: Thank you, ma'am. You
24 may step down.

25 (WITNESS STEPS DOWN)

1 each other.

2 Q. Based on -- do you recognize this, by any
3 chance?

4 A. Yes.

5 Q. What is this?

6 A. This is the report of results obtained
7 from the laboratory.

8 SOLICITOR MOWRY: Thank you, ma'am.

9 I believe that's all that I have.

10 MR. HOWE: I don't have any
11 questions.

12 THE COURT: Thank you, ma'am, you
13 may step down. Thank you very much for
14 coming.

15 (WITNESS STEPS DOWN)

16 THE COURT: Solicitor, call your
17 next witness.

18 SOLICITOR MOWRY: The State calls
19 Melissa Skipper Wallace.

20 (WITNESS TAKES STAND)

21 MELISSA WALLACE, being duly sworn to
22 tell the truth, the whole truth and nothing
23 but the truth, testified, as follows:

24 DIRECT EXAMINATION

25 BY SOLICITOR MOWRY:

1 Q. You are Melissa Skipper Wallace?

2 A. Yes.

3 Q. By whom are you employed, please, ma'am?

4 A. I am employed by State Law Enforcement
5 Division, commonly known as SLED.

6 Q. What is your position with SLED?

7 A. I am a special agent assigned to the
8 crime scene, latent print department within
9 the crime scene laboratory.

10 Q. Do you work with Sabrina Fellers in your
11 job?

12 A. I do.

13 Q. Do y'all have essentially the same job
14 description, for lack of a better term?

15 A. Somewhat. My duties are a little more
16 specialized than hers.

17 Q. Okay. What kind of training have you
18 received, education and training have you
19 received to do the work that you do.

20 A. I have a bachelor of science degree from
21 the University of South Carolina and have been
22 a certified police officer in South Carolina
23 for eleven and a half years. I have also
24 successfully completed courses in basic
25 fingerprint identification, ridgeology, palm

1 print comparison techniques and identification
2 of latent prints. I have also successfully
3 completed the SLED latent print crime scene
4 department two-year training course under
5 court-qualified senior examiners. I've also
6 successfully trained three other examiners in
7 the same program.

8 Q. So you have not only taken a lot of
9 courses but you have trained others in this
10 field? Is that right?

11 A. That's right.

12 Q. Have you testified in court regarding
13 fingerprint, latent fingerprint examination
14 and comparisons?

15 A. I have.

16 Q. How many times would you say that you
17 testified in court?

18 A. A dozen.

19 Q. Have you been declared an expert in those
20 -- in this field on each of those occasions?

21 A. Yes, I have.

22 SOLICITOR MOWRY: Your Honor, I
23 would offer her as an expert in latent print
24 identification and comparison.

25 MS. KENDALL: Without objection.

1 THE COURT: Again, Ladies and
2 Gentlemen, usually when somebody gives any
3 testimony they have to testify to something
4 that they observed with one of their senses.
5 An exception to this rule is someone who is
6 qualified in a particular area of expertise.
7 In this case the State has moved to admit
8 Ms. Wallace as an expert in fingerprint
9 identification. That means that she is
10 qualified to give an opinion in that
11 particular area. It does not mean that you do
12 not have to accept the testimony but may use
13 it as you deem it to be fit and proper.
14 You may proceed.

15 DIRECT EXAMINATION CONTINUED

16 BY SOLICITOR MOWRY:

17 Q. Ms. Wallace, in regard to this case as
18 well, did you do some items of -- did you
19 receive evidence from Sabrina Fellers?

20 A. I did.

21 Q. What date did you receive that, or what
22 time?

23 A. If I may refer to my notes?

24 Q. Yes.

25 A. (Upon review), I received evidence from

1 her on May 3, 2012.

2 Q. Do you have a time that you received it?

3 A. I do not.

4 Q. You said also that you were involved with
5 crime scene investigation, is that right?

6 A. I respond to all crimes scenes that
7 require investigation, from local, state and
8 federal agencies.

9 Q. What does that involve?

10 A. Responding to the actual scene,
11 processing prints, for example, on a car or
12 whatever that they need assistance with.

13 Q. Does that involve taking samples from the
14 various pieces of evidence and then submitting
15 them to others for examination?

16 A. It does.

17 Q. What kind of training have you had in
18 that area?

19 A. Again that was a portion of the in-house
20 two year training program. I also had some
21 small, one or two-day, training classes when I
22 was a police officer in Rock Hill.

23 Q. Have you ever testified in court on crime
24 scene investigation?

25 A. I have.

1 Q. And have you been declared an expert in
2 that field?

3 A. I have.

4 SOLICITOR MOWRY: Your Honor, I
5 would offer her as an expert in crime scene
6 investigation.

7 MS. KENDALL: No objection.

8 THE COURT: Ladies and Gentlemen,
9 the same thing goes as I said a moment ago.
10 You may use the testimony as you deem
11 appropriate.

12 SOLICITOR MOWRY: Thank you, Your
13 Honor.

14 DIRECT EXAMINATION CONTINUED

15 BY SOLICITOR MOWRY:

16 Q. Now let me hand you what is marked
17 currently as State's Exhibit 26 for
18 identification and ask you if you can identify
19 that.

20 A. I can. This is one of the items
21 collected by Agent Fellers back in May 3.

22 Q. May 3rd?

23 A. Yes.

24 Q. Describe that, please, ma'am.

25 A. This is a large knife with wooden handle.

1 Q. What was Agent Feller's request of you
2 with regard to this particular item?

3 A. The request was for DNA collection as
4 well as latent fingerprints.

5 Q. How do you go about doing those two
6 particular tasks?

7 A. They are done at the same time. The
8 first thing that I do would be a visual exam.
9 That's just looking at the items, seeing if
10 they are -- if there is anything, such as
11 fingerprints, that are visible. When DNA
12 collection is requested, we go about
13 collecting potential DNA evidence for
14 processing. After the DNA is collected, we go
15 about the normal processing of whatever item
16 that it is.

17 Q. Speaking specifically with regard to
18 latent examination, what did you do with
19 regard to the knife?

20 A. With this knife, there were actually
21 blood spots on the handle and the blade.
22 Samples were collected from both of those
23 areas. After that the knife was processed
24 with a chemical we call amino black, which is
25 a protein sensitive dye stain; which means

1 that it will stain any time of protein. There
2 is a rinse that we apply after that to prevent
3 it from darkening. We let it dry and then we
4 can examine it. In this case there were
5 stains on the blade and after it dried, I sent
6 it to our photograph department so that they
7 could photograph that.

8 Q. Let me hand you these four items and ask
9 you if you can identify those?

10 A. (Upon review), there are two photographs
11 of the ridge details observed on the blade of
12 the blade.

13 Q. Let me stop you right there.

14 SOLICITOR MOWRY: I would move for
15 identification of the exhibit, Your Honor, to
16 have these marked.

17 MR. HOWE: Have we seen this?

18 SOLICITOR MOWRY: Yes, sir.

19 COURT REPORTER: State's Exhibit 37
20 through 40 for identification.

21 MS. KENDALL: Your Honor, we
22 would object.

23 THE COURT: Basis of objection?

24 MS. KENDALL: I believe we have
25 not seen these previously.

1 THE COURT: Ladies and Gentlemen of
2 the jury, I will ask you to return to your
3 jury room for a few minutes. Do not discuss
4 the case. I will have you back here in few
5 minutes. Thank you so much.

6 (JURY OUT @ 12:41 P.M.)

7 THE COURT: Ms. Kendall?

8 MS. KENDALL: Thank you, Your
9 Honor. During the -- the solicitor has got
10 what has been marked for State's Exhibits or
11 for ID purposes 37, 38, 39 and 40. This is
12 the first time that I, Mr. Howe or our client
13 have seen those photographs.

14 SOLICITOR MOWRY: Your Honor, they
15 have known for months that fingerprint
16 evidence was going to be admitted. I've given
17 them the report, I've given them the witness'
18 CV. I haven't torn open envelopes to look at
19 them myself until the last day or so. If they
20 had wanted to see these previously, they could
21 have asked me and we would have made
22 arrangements one way or another. But, Your
23 Honor, we cannot be expected to read the
24 defense's mind. They knew that this evidence
25 was there. If they had requested it, we would

1 have made arrangements.

2 THE COURT: Now, are these the
3 items -- at the time, isn't it possible that
4 these are items that they didn't know existed.

5 SOLICITOR MOWRY: Your Honor, they
6 knew that fingerprint testimony was going to
7 be forthcoming. We gave them the internal
8 chain from SLED. They've had that for quite
9 some time, too. So they should have known
10 that this kind of evidence would be coming up.

11 THE COURT: What was provided to
12 them in terms of fingerprint evidence? Also
13 explain to me what State's Exhibit 37 purports
14 to reflect.

15 SOLICITOR MOWRY: Well, those are
16 going to depict, Your Honor, the latents that
17 the witness -- well, actually, Your Honor,
18 could I just ask her if she could explain
19 exactly what those are so that I don't
20 misstate it?

21 THE COURT: Go right ahead.

22 SOLICITOR MOWRY: Ms. Wallace, what
23 do those items that the Judge is handing you
24 right now, what do those depict?

25 MELISSA WALLACE: These are the

1 friction ridge details that were left on the
2 knife and latent impressions that were lifted
3 from the cigarette pack.

4 SOLICITOR MOWRY: Your Honor, let me
5 hand you this report. This is the report that
6 I provided to the defense quite some time ago.
7 That specifically lists latents that were
8 lifted.

9 THE COURT: All right. Of those
10 exhibits, 37 through 40, which ones is in the
11 report as eighteen? Whose prints does that
12 report reference?

13 SOLICITOR MOWRY: Can you explain
14 that, please, Ms. Wallace?

15 MELISSA WALLACE: State's Exhibits
16 37 and 38 are photographs of what is on my
17 report as Item 1.3. The black and white
18 photograph, not the color photograph, of the
19 same impressions.

20 State's Exhibits 39 and 40 are
21 duplicate lists, which on my record is listed
22 as Item 2.2.

23 THE COURT: Item 2.1 identifies
24 items 16 -- so 1.3 has those items and 1.2
25 (sic) has those items?

1 SOLICITOR MOWRY: Yes, sir.

2 THE COURT: So all these are what
3 was as value that was listed for cigarettes?

4 SOLICITOR MOWRY: Yes, sir.

5 THE COURT: The other item, the
6 knife blade, was of no value?

7 SOLICITOR MOWRY: Yes, sir.

8 THE COURT: Did y'all receive this
9 SLED report on the fingerprints.

10 MS. KENDALL: I believe that we
11 did receive a SLED report that there was a
12 match to -- we have received this report.

13 THE COURT: Okay.

14 MS. KENDALL: If I may ask the
15 witness, when did you get the photographs from
16 the solicitor's office -- return the report?

17 MELISSA WALLACE: They were returned
18 with the other evidence. I don't know when
19 they received it. There should be a date on
20 the evidence of the date when it was returned
21 tot he agency.

22 MS. KENDALL: Your Honor, we
23 would believe that at some point we would have
24 an issue with this testimony after the chain.
25 I believe that we are getting to that point.

1 THE COURT: I understand. Under
2 Rule 5, the Brady issue, obviously the purpose
3 of Rule 5 is to prevent any unfair surprise.
4 It is clear that there were duplicate latent
5 lists on Item 2.2, and therefore it was not
6 unexpected. It is not unexpected that those
7 two latent lists would be used in evidence.
8 Clearly the defendant was given notice of
9 those particular items. In fact, they are
10 visible on the photographs themselves to the
11 naked or untrained eye. It's clearly
12 something that an expert in this case is
13 qualified to speak to. So as far as -- I
14 assume that you will be seeking admission of
15 this testimony about items 39 and 40.

16 SOLICITOR MOWRY: Well, we are
17 actually seeking admission, Your Honor,
18 because she has the comparison between the
19 known print and the latent/unknown print, as
20 well, that she is going to use for
21 demonstrative purposes.

22 THE COURT: Your objection is
23 noted, and I would overrule it based on the
24 reasoning that I have stated on the record
25 here. They were in the report.

1 Let's address the chain. Are you
2 objecting to the chain of the latents at this
3 point?

4 MS. KENDALL: And the cigarette
5 pack.

6 THE COURT: The cigarette pack,
7 where are we on that, Solicitor?

8 MS. KENDALL: Your Honor, at
9 this point it's been testified that the -- may
10 I look at the photographs.

11 SOLICITOR MOWRY: Sure, (tenders).

12 MS. KENDALL: In looking at the
13 cigarettes, you're dealing with what is non
14 culpable evidence. As far as the
15 fingerprints are concerned, the previous
16 witness testified that you would have to do
17 specialized testing. That link is just not
18 there.

19 THE COURT: I didn't hear you on
20 that last part.

21 MS. KENDALL: The chain starts
22 when the car was moved from where the car was
23 located to where the secure parking area was.
24 The testimony is that he -- we don't have any
25 evidence that he was in the car.

1 SOLICITOR MOWRY: Your Honor, there
2 was testimony by the victim that he took her
3 car. And there was testimony from Lieutenant
4 Satterfield that from the time he took custody
5 of the vehicle until the time it was
6 impounded, that he never left the vehicle. He
7 was there when the tow man loaded it up. He
8 testified very strongly that nothing inside
9 the car was ever -- so I think that the
10 foundation of the chain is very clear on that.

11 THE COURT: All right. Well, the
12 test is the reasonable assurance that the item
13 was maintained from discovery through
14 examination. It's not that every possibility
15 was exhausted, reasonable assurance that it
16 was in custody from the time the item was
17 received until it was put in submission. In
18 this case there has been showing that the
19 chain was broken. Apparently all protocol was
20 followed and I will allow the admission. I
21 find the admission to be appropriate at this
22 time.

23 MS. KENDALL: Your Honor, I am
24 not arguing with your ruling but just to make
25 sure that our position is preserved, I would

1 point Your Honor to two cases, State v.
2 Proctor and 361 SE 476 and 328 SE 300. Those
3 deal with evidence where fingerprints were
4 taken off the report -- as I read the cases,
5 I believe that the defense counsel -- excuse
6 me, both cases go through the chain.

7 THE COURT: Of course you can
8 cross-examine Ms. Wallace if you need to do
9 so. So 35 and 27, being the cigarettes, and
10 26 being the knife, are admitted. On the
11 additional items, 37 through 40, the defense
12 had notice of those and there is no unfair
13 surprise. There is no violation of Brady.
14 The search warrants were executed properly.
15 I will allow the admission of those items.

16 (OFF RECORD BENCH CONFERENCE)

17 THE COURT: Bring the jury back in.
18 I am going to excuse the jury for lunch. If
19 the jurors blood sugar drops like mine does,
20 we need to break for lunch.

21 (JURY IN @ 1:07 P.M.)

22 THE COURT: Ladies and Gentlemen of
23 the jury, you are free to go ahead and take a
24 lunch break. I apologize for keeping you back
25 there. I was hopeful that we could finish up

1 the last witness' testimony, but what we are
2 going to do is go ahead and break for lunch.
3 Be back in your jury room at 2:30. That
4 should give you enough time to eat lunch and
5 get back here. Try to be back in the jury
6 room right around 2:30 and we will proceed
7 with the trial at that time. If you go to
8 lunch with one of your fellow jurors or family
9 member whatever, don't talk about the case.
10 Be back at 2:30.

11 (JURY OUT @ 1:09 P.M.)

12 THE COURT: We are at-ease until
13 2:30.

14 (OFF RECORD DISCUSSION RE SCHEDULE)

15 (LUNCH RECESS)

16 (DEFENDANT PRESENT)

17 THE COURT: Bring in the jury.

18 (JURY IN @ 2:35 P.M.)

19 THE COURT: Thank you, Ladies and
20 Gentlemen. The record should reflect that all
21 jurors are present. We are continuing with
22 the direct testimony of Ms. Wallace at this
23 point. Mr. Mowry, you may proceed.

24 SOLICITOR MOWRY: Thank you, Your
25 Honor.

1 MELISSA WALLACE, having been
2 previously sworn, continued to testify as
3 follows:

4 DIRECT EXAMINATION CONTINUED

5 BY SOLICITOR MOWRY:

6 Q. Agent Wallace, if we could back up just a
7 little bit and refer once again to State's
8 Exhibit 26, the knife. Are you -- when I
9 asked you what date that you had received
10 that, what did you respond?

11 A. May 3rd, 2012.

12 Q. 2012. And who did you receive it from?

13 A. Directly from Agent Fellers.

14 Q. Do you know what time you received it?

15 A. I do not.

16 Q. May I hand you this document and ask you
17 if you recognize that?

18 A. (Upon review), I do.

19 Q. What is that?

20 A. This is the electronic chain of custody
21 for this case.

22 Q. What does that mean?

23 A. Basically we track all the evidence that
24 comes into or goes out of the laboratory.

25 This is basically the record of where it goes

1 and who takes custody of it.

2 Q. What is noted up at the top of that?

3 That list. What is the first name?

4 A. The first name is Agent Fellers.

5 Q. And what does it indicate that she did
6 with that item?

7 A. She submitted it to the laboratory on May
8 3rd, 2012.

9 Q. Does it indicate a time?

10 A. It does.

11 Q. What time does it say?

12 A. It says 1442 hours, which is 2:42 p.m.

13 Q. Let's just say that she left here at
14 12:30, would that be about right, arriving
15 back at SLED two hours later, travel time?

16 A. If she stopped along the way, which is
17 not unreasonable.

18 Q. And what does it indicate that she did
19 after that?

20 A. She submitted it to the laboratory, to
21 one of the evidence technicians downstairs in
22 our log-in department. Then immediately took
23 it back.

24 Q. In fact, how much time elapsed from
25 submitting it to receiving it back?

1 A. One minute.

2 Q. One minute?

3 A. Yes.

4 Q. What does the evidence technician do?

5 A. It depends. Sometimes in our department
6 they help us log our case in or we log our own
7 case in. Or people who don't work in our
8 department, they take in all the evidence that
9 is submitted to the lab. In our department,
10 for our department certain personnel go
11 downstairs and the technicians assist them in
12 logging in the cases. They have to take
13 custody of the evidence so that they can log
14 it in at that time, but evidence doesn't leave
15 the examiner's possession, so to speak.

16 Q. And the evidence technicians, do they
17 open packages or handle the actual piece of
18 evidence?

19 A. No, they don't.

20 Q. And what time does it indicate that you
21 received that?

22 A. I received it the same day at 1502 hours,
23 which is 3:02 p.m.

24 Q. Which would have been about twenty
25 minutes after Sabrina Fellers logged it in

1 in the first place; is that right?

2 A. That's correct.

3 Q. Now, once you received the ---

4 SOLICITOR MOWRY: Excuse me just one
5 moment, Your Honor.

6 THE COURT: Yes, sir.

7 SOLICITOR MOWRY: Your Honor, at
8 this time I would move the knife, State's
9 Exhibit 26, into evidence.

10 THE COURT: Subject to your prior
11 reservation, Mr. Howe?

12 MR. HOWE: Yes, sir.

13 THE COURT: Very good. Subject to
14 the earlier objection, State's -- which one is
15 that?

16 SOLICITOR MOWRY: This is 26, Your
17 Honor.

18 THE COURT: State's Exhibit 26 will
19 be in evidence.

20 SOLICITOR MOWRY: Thank you, Your
21 Honor.

22 (SO ENTERED AS STATE'S EXHIBIT 26)

23 DIRECT EXAMINATION CONTINUED

24 BY SOLICITOR MOWRY:

25 Q. Now, the item, the knife, State's Exhibit

1 26, what did you do with it after you received
2 it?

3 A. I just took it into my possession on May
4 3rd. I didn't process it until the following
5 day.

6 Q. Okay.

7 A. Once I began my processing, I did a
8 visual exam of the knife. That's just looking
9 at the knife, using oblique light -- which is
10 casting light at an angle against the object.
11 Looking for any blood or any latent
12 fingerprints. Some ridge detail was observed
13 in blood. I swabbed two areas -- one from the
14 handle and one from the blade -- and processed
15 it with amino black, which is a protein
16 sensitive dye. It stains it a dark blue or
17 violent. Then I rinsed it and did another
18 visual exam of it. The ridge detail that was
19 observed on the blade of the knife was then
20 analyzed by our serology department.

21 Q. Okay. Let me refer you then to State's
22 Exhibit 27 for identification and ask if you
23 can identify that.

24 A. Yes.

25 Q. What is that?

1 A. State's Exhibit 27 is a unopened package
2 of Newport cigarettes.

3 Q. I am going to refer you back to Item 2 in
4 the SLED internal chain of custody and ask if
5 you would take a look at that. What is the
6 first name that is listed on there?

7 A. Agent Fellers.

8 Q. And what does it indicate that she did?

9 A. That she submitted it on May 3, 2012 at
10 the same time.

11 Q. 2:42?

12 A. Yes, sir.

13 Q. Who did she submit it to?

14 A. To the technician.

15 Q. What happened after that?

16 A. She took custody of it a minute later.

17 Q. A minute later? Just like with the
18 knife?

19 A. That's correct.

20 Q. What happened after that?

21 A. She transferred it to my custody at 1500
22 hours.

23 Q. Same day, twenty minutes later?

24 A. That's correct.

25 SOLICITOR MOWRY: Your Honor, at

1 this time I would move the cigarette package,
2 State's Exhibit 27, into evidence.

3 THE COURT: Subject to the earlier
4 objection, State's Exhibit 27 is admitted.

5 (SO ENTERED AS STATE'S EXHIBIT 27)

6 DIRECT EXAMINATION CONTINUED

7 BY SOLICITOR MOWRY:

8 Q. Now, with regard to the knife, you said
9 that you had gotten swabs from it; is that
10 right?

11 A. That's correct.

12 Q. Let me hand you what has been marked as a
13 group as State's Exhibit 28, and ask you if
14 you can identify that.

15 A. Yes.

16 Q. What are those items?

17 A. These are swabs that I collected from the
18 knife as well as swabs that I collected from
19 the cigarette package.

20 Q. These are -- the locations are marked a
21 different way, is that right? The locations
22 from which you obtained these swabs?

23 A. One of them is slightly different than
24 the ones from my other report.

25 Q. Okay. Can you explain what the

1 difference is?

2 A. One of them is labeled on the packaging
3 as two swabs from the handle and on the other
4 report it is two swabs from "rough portion of
5 handle".

6 Q. But they are essentially the same, is
7 that what you are telling me?

8 A. Yes.

9 Q. They are what they are purported to be?

10 A. That's correct.

11 Q. Where are the other ones obtained from?

12 A. Two swabs are from the blade of the knife
13 which is State's Exhibit 26.

14 Q. Okay.

15 A. The other is two swabs from the top and
16 bottom edges of Item 2, State's Exhibit 27,
17 the cigarette pack.

18 Q. All right. What did you do with all of
19 these items?

20 A. They were allowed to air dry and then
21 they were packaged and sent to our DNA
22 department.

23 Q. Okay. Now, did you do anything else with
24 the cigarette package?

25 A. I did.

1 Q. What did you do?

2 A. The cigarette pack had both a touch DNA
3 and I believe a fingerprint request on it. I
4 did a visual on the cigarette pack with an
5 oblique light, which is light at an angle. I
6 observed some ridge detail on the front and
7 back of the package. So I swabbed the top and
8 the bottom, which is where the creases of the
9 cellophane are rough texture, for touch DNA.
10 Proceeded to process the cigarette pack with
11 Cyanoacrylate, which is like you see on TV,
12 SuperGlue. Then I used both a white powder
13 and a magnetic powder to process the package.

14 Q. What is the purpose of doing all of that.
15 What are you trying to achieve?

16 A. The purpose of the SuperGlue is harden or
17 make the latent fingerprints more prominent.
18 Latent fingerprints are made up of mostly
19 moisture, which makes them susceptible to
20 damage. So we first try to preserve that one
21 way or the other. It also makes it possible
22 for us to lift the latent print several times,
23 which is what I did in this case. After I
24 processed it with the powders, which makes it
25 more visible to the naked eye, I lifted it

1 twice and put it on a backer.

2 Q. And why did you lift it twice?

3 A. Sometimes the black powder makes the
4 print kinda fuzzy, makes it hard to see the
5 ridges. So if you followup a second time
6 sometimes the print is a little clearer.

7 Q. Let me just hand you State's Exhibits 37,
8 38, 39 and 40. Which are the ones that you
9 obtained from the cigarette package?

10 A. The ones from the cigarette package are
11 marked State's Exhibits 39 and 40.

12 Q. Did you examine the other two?

13 A. I did.

14 Q. Did anything of any evidentiary value
15 emerge from that examination?

16 A. There was insufficient ridge detail.

17 Q. Meaning what?

18 A. Meaning that it is not a good enough
19 print, that there is not enough detail there
20 to make an identification.

21 Q. But the two that you did say were --
22 which numbers?

23 A. Exhibits 39 and 40.

24 MS. KENDALL: Your Honor,
25 subject to our earlier objection.

1 THE COURT: Yes, ma'am. That is
2 already noted when you move it in.

3 SOLICITOR MOWRY: Your Honor, I
4 would move these into evidence at this time.

5 THE COURT: That's 37 through 40.

6 SOLICITOR MOWRY: Actually just 39
7 and 40, Your Honor. We will hold off on the
8 other two.

9 THE COURT: All right. State's
10 Exhibits 39 and 40 will be evidence, subject
11 to the defense objection of earlier.

12 (SO ENTERED AS STATE'S EXHIBIT 39)

13 (SO ENTERED AS STATE'S EXHIBIT 40)

14 DIRECT EXAMINATION CONTINUED

15 BY SOLICITOR MOWRY:

16 Q. Did you do any further examination using
17 either State's Exhibit 39 or Exhibit 40?

18 A. I did.

19 Q. What did you do?

20 A. I compared the latent fingerprint to a
21 set of case prints, which I also received from
22 Agent Fellers, belonging to Richard Sylvester
23 Evans.

24 Q. Let me hand you what has been marked as
25 State's Exhibit 35 for identification. Can

1 you identify that?

2 A. Yes.

3 Q. What is that?

4 A. This is the container which contains the
5 major case prints belonging to Richard
6 Sylvester Evans.

7 Q. And how did those come into your -- or
8 did those come into your possession?

9 A. Yes, they did.

10 Q. How did they come into your possession?

11 A. I also received these from Agent Fellers
12 on May 3, 2012.

13 Q. In the same process that we have already
14 discussed on the other items; is that right?

15 A. That's correct.

16 SOLICITOR MOWRY: Your Honor, at
17 this time I would move these into evidence, as
18 well.

19 MS. KENDALL: Same objection as
20 the others.

21 THE COURT: Okay.

22 (OFF RECORD BENCH CONFERENCE)

23 THE COURT: Ladies and Gentlemen,
24 take a break. Don't talk about the case. See
25 you in a few minutes.

1 (JURY OUT @ 2:55 P.M.)

2 THE COURT: We're on State's
3 Exhibit 35 at this point. Ms. Kendall
4 approached and explained to me that there is a
5 different tech involved or a different tack.
6 Meaning reason or a different person.

7 MS. KENDALL: Similar objection
8 as to before as to chain of custody issues but
9 there is also a different technician that
10 handled this evidence before the report. It's
11 a different chain.

12 THE COURT: Speak up just a little
13 bit and repeat what you just said.

14 MS. KENDALL: Renewing the
15 previous objection to this piece of evidence.
16 Also a different technician at SLED handled
17 this piece of evidence prior to Ms. Wallace
18 rendering her report. That person has not
19 been mentioned, thus there is a missing link
20 in the chain of custody. We object on that
21 basis.

22 THE COURT: What do you have,
23 Solicitor?

24 SOLICITOR MOWRY: I have that it
25 goes from Sabrina Fellers to Doris Yarborough

1 to Sabrina Fellers to Melissa Skipper Wallace.
2 Just the same pattern at almost exactly the
3 same time.

4 MS. KENDALL: Your Honor, if I
5 may, I am referring to what is Court's Exhibit
6 3, Pages 22 and 23, Item 16. On 5/3, the
7 testimony is that she received it from
8 Fellers. On 6/18, it's received by Thomas
9 Darnell, a forensic scientist, and then later
10 received by her on that same date -- 6/18.
11 Her report was rendered on 6/18/12, so someone
12 has handled it inbetween her testimony
13 currently and her report.

14 THE COURT: Are we on the same
15 sheet of music, Solicitor? Because you're
16 indicating that it was from Fellers to
17 Wallace. She is saying that there was a
18 Darnell involved in the middle of State's
19 Exhibit 35.

20 SOLICITOR MOWRY: Well, if you like,
21 I'll go ahead and proffer some questions to
22 her and see if we can clear that up.

23 THE COURT: Let's go ahead and do
24 that before we move for admission.

25 SOLICITOR MOWRY: Let me hand you

1 what has been -- as part of Court's Exhibit 3,
2 it is Item 16. What is Item 16?

3 MELISSA WALLACE: Item 16 is one
4 sealed envelope containing a known
5 fingerprints from Richard Sylvester Evans, a
6 black male, date of birth 1/31/64, Social
7 Security Number 251-43-0743.

8 SOLICITOR MOWRY: Okay. How did
9 those come to SLED?

10 MELISSA WALLACE: Agent
11 Fellers.

12 SOLICITOR MOWRY: What time did she
13 check those in?

14 MELISSA WALLACE: 1442 hours on
15 May 3rd.

16 SOLICITOR MOWRY: What was done with
17 them after that?

18 MELISSA WALLACE: She followed the
19 same log-in procedures with Doris Yarborough,
20 and then she received them immediately back
21 the next minute.

22 SOLICITOR MOWRY: When did you
23 receive them?

24 MELISSA WALLACE: 1502 on the
25 same day.

1 SOLICITOR MOWRY: What did you do
2 with the major case prints when received them?

3 MELISSA WALLACE: Any time that
4 we receive evidence, we will inventory the
5 packaging, make sure that in fact the items
6 are correct. Then we go ahead and do our
7 examinations. In this case the major case
8 prints were used to compare the latent prints
9 in this case. Once my report is complete and
10 my examination is complete, we submit that for
11 a tech review process, at which point that was
12 taken into Thomas Darnell's custody on 6/18 at
13 10:41 a.m. for the purpose of case review.

14 SOLICITOR MOWRY: So it was peer
15 review?

16 MELISSA WALLACE: That's correct.

17 SOLICITOR MOWRY: But your work had
18 already been completed by then?

19 MELISSA WALLACE: That's correct.

20 THE COURT: Before he got ahold of
21 it?

22 MELISSA WALLACE: That's right.

23 THE COURT: May I see State's
24 Exhibit 35?

25 SOLICITOR MOWRY: Yes, sir,

1 (tendering).

2 THE COURT: State's Exhibit 35 that
3 is being presented to me is a sealed manila
4 envelope, sealed with SLED tape, dated 5/31/12
5 in places and 1/9/13 in other places. I
6 presume that this are simply fingerprint
7 cards, the same kind that we had to do when we
8 took the Bar, I guess.

9 SOLICITOR MOWRY: Yes, sir. The
10 ones that Ms. Fellers testified that she had
11 rolled from the defendant.

12 THE COURT: All right. I am not
13 even sure -- Ms. Kendall, I am happy for you
14 to help explain. I mean, they are nonfungible
15 items. Fingerprints cards are not easily --
16 if they bear his name, his identifying
17 information, how would this necessarily be the
18 type of fungible type that we are talking
19 about? By its very nature it would be almost
20 self-authenticating and unique. There has
21 been testimony already that an individual took
22 his prints. Presumably what's contained in
23 State's Exhibit 35 would be his prints -- his
24 print cards, rather, as opposed to lifted
25 fingerprints. What is the defense's position

1 on that?

2 MS. KENDALL: Your Honor, if --
3 I guess the analogy that you used, -- well, it
4 at first glance it is not readily viable. This
5 is like a blood spatter that we're talking
6 about, Your Honor. Not to argue with the
7 court but this is like any DNA related to the
8 chain and we move that it should be excluded
9 based on that.

10 THE COURT: To the extent that it
11 could be considered -- and I don't necessarily
12 agree with you but what I am being told is
13 that SX35 contains the latent prints for the
14 defendant. Which one would think -- or at
15 least there has been testimony that those are
16 the prints, specific to him. I am not talking
17 about the actual prints that were lifted,
18 those are in as exhibits. But as far as the
19 card is concerned, I am not even sure that is
20 the kind of nonfungible evidence that we are
21 talking about or requires that a chain be
22 established. To the extent that a chain does
23 need to be established or to the extent that
24 the State has an obligation to establish a
25 chain for State's Exhibit 35. In the

1 alternative, I conclude that they have done
2 so. It is clear that the chain has been
3 established to certainly this point that this
4 witness made the comparison of State's Exhibit
5 35 and the items depicted in 39 and 40. So
6 you may continue subject to the objection.
7 I will have the jury back in.

8 MS. KENDALL: Just for the
9 record, we would disagree. We understand the
10 ruling.

11 THE COURT: It is set of latent
12 case prints. That's definitely different from
13 blood. That is definitely different from
14 other types of evidence where you would need
15 to establish the chain. The idea of
16 fungibility is that one item can be
17 substituted easily for another. For example,
18 two packs of Newport cigarettes look exactly
19 the same. Blood, to the untrained eye looks
20 exactly the same. This is different. A
21 fingerprint card is, by definition, unique.
22 It would be unique to the defendant, so -- I
23 understand your position and note your
24 objection. Let's have the jury back in.

25 (JURY IN @ 3:05 P.M.)

1 THE COURT: Solicitor, you may
2 continue.

3 SOLICITOR MOWRY: Thank you, Your
4 Honor.

5 DIRECT EXAMINATION CONTINUED

6 BY SOLICITOR MOWRY:

7 Q. Referring back again to State's Exhibit
8 35, once again what is that?

9 A. State's Exhibit 35 is set of know
10 fingerprints.

11 Q. Who created those prints? Who rolled
12 them?

13 A. Agent Fellers.

14 Q. Whose were they of?

15 A. Richard Sylvester Evans.

16 Q. Okay. I asked you if -- well, let's go
17 back and let me just refer you to Item 16 on
18 this internal chain. What time did Agent
19 Fellers check those in?

20 A. 2442 hours.

21 Q. The same time as she had done the other
22 items that we have talked about?

23 A. That's correct.

24 Q. What was the next step?

25 A. They were placed in evidence, then

1 transferred back to Agent Fellers.

2 Q. A minute later. Then when did she bring
3 them to you?

4 A. I received them at 1502.

5 Q. What did you do with those major case
6 prints?

7 A. They were put in custody and I began my
8 examination of them on May 4th.

9 Q. Describe how you conducted your
10 examination.

11 A. An examination for fingerprint comparison
12 is conducted by a method called ACC. That
13 stands for analysis and compare and certify.
14 You compare the latent impression as to
15 whether there is sufficient ridge detail to
16 make an identification.

17 Once we have completed out analyses, if
18 we determine that there is insufficient ridge
19 detail, it becomes a no value for identifi-
20 cation.

21 If the latent fingerprint is determined
22 to be sufficient for identification, then we
23 move into the comparison mode.

24 Once in the comparison phase, we look at
25 the basis outline of the latent fingerprints.

1 They are identified by loops and whorls.
2 Loops are patterns that tend to flow in on one
3 side of the finger, loop around and then come
4 back out on the same side. Arches are
5 patterns where ridges flow in on one side of
6 the finger, go up slightly and then come out
7 the other side. A whorl pattern is a circular
8 pattern. That is the first level.

9 Q. Whorl is w-h-o-r-l, is that correct?

10 A. That's right. The second level that we
11 go to are bifurcations, ending ridges and
12 dots. Bifurcations are ridges that flow along
13 and fork into two separate distinct ridges.
14 An ending ridge is just what it sounds like, a
15 ridge that flows and then stops. A dot is
16 just what it sounds like, it's just a small
17 dot.

18 The third level of detail we are not
19 , always able to use, but that's the pore and
20 structures along the ridges and edges of the
21 structure of the ridges.

22 Once we move to the comparison phase, we
23 are comparing bifurcations, ridges, dots and
24 the relationship of the unknown to the same
25 features of the known fingerprint card or

1 standard.

2 Once we have completed our comparison, we
3 move to the evaluation phase. During that
4 phase we determine whether we are comfortable
5 enough to make an identification, determine
6 that it is a nonidentification or if there is
7 some defect with the card -- maybe part of the
8 standard is not represented. Some times we
9 will report a no conclusion standard.

10 Once we have completed our evaluation we
11 then begin the verification phase. The
12 verification phase is done by another
13 independent examiner who does the verification
14 again. They follow the A part of the ACC.

15 Q. Why is fingerprints evaluation and
16 fingerprint comparison important to law
17 enforcement?

18 A. It is often used as a unique means of
19 identification, either through a suspect or in
20 eliminating family members, for instance, that
21 may live inside a residence. Fingerprints are
22 permanent. They are formed during the third
23 trimester of birth and continue even after
24 decomposition after death, barring some
25 measure of injury to your fingertips.

1 Q. So what you are telling me is that
2 fingerprints are formed in the womb and they
3 don't change for individuals until after a
4 person dies.

5 A. That's correct.

6 Q. You said that they were unique. What
7 does that mean?

8 A. That means that no two individual have
9 the same fingerprints. Whereas identical
10 twins may have DNA they don't have the same
11 fingerprints.

12 Q. So identical twins would not have the
13 same?

14 A. That's correct.

15 Q. Where did you go with your identification
16 in this particular case. What was your next
17 step?

18 A. Pardon?

19 Q. How did you go about making the
20 identification between the latent prints,
21 39 and 40, and the known case prints, 35.

22 A. I followed the ACC method, comparing the
23 unknown latent print to the known.

24 Q. All right. Do you have an exemplar that
25 you might use to illustrate to the jury?

1 A. I have an enlargement of the
2 identification that I made of State's Exhibit
3 39 and 40 with 35.

4 Q. I believe that you have it right here, is
5 that correct?

6 A. That's correct.

7 SOLICITOR MOWRY: Your Honor, I
8 would like to have this marked at this time
9 for identification.

10 MS. KENDALL: Your Honor, we
11 object to -- under Brady.

12 THE COURT: Subject to the earlier
13 objection, that will be State's Exhibit 41 for
14 ID. You are simply seeking to have it marked
15 for ID at this point?

16 SOLICITOR MOWRY: Yes, sir.

17 THE COURT: You have not moved
18 State's Exhibit 35 into evidence, have you?

19 SOLICITOR MOWRY: Perhaps I have
20 not, Your Honor. Let me also offer that,
21 then, at this time.

22 THE COURT: Subject to the prior
23 objection, State's Exhibit 35 will be admitted
24 into evidence.

25 (SO ENTERED AS STATE'S EXHIBIT 35)

1 DIRECT EXAMINATION CONTINUED

2 BY SOLICITOR MOWRY:

3 Q. Ms. Wallace, if you will step down and
4 show the jury, using State's Exhibit 41 for
5 identification, how you went about your
6 comparison.

7 A. As I stated, I used the ACC method. On
8 your left-hand side, this is an enlargement
9 of the latent fingerprints that I collected.
10 On the right-hand side is an enlargement of
11 Mr. Evans' right little finger.

12 For example, if I were to describe your
13 second level of detail, which is your ridge
14 endings and bifurcations and your dots, what I
15 have marked here is an example of an ending
16 ridge. It corresponds to letter D on the --
17 uh, E corresponds to a bifurcation, which is
18 the ridge that forks. It also corresponds to
19 the same bifurcation. This is nine points
20 that I plotted to help you see what I see.

21 There are some things that I do not want.
22 For instance, I was talking about the third
23 level of detail. You have your pores, your
24 pore structure and sometimes your edges. What
25 has been marked as G on both sides is a short

1 ridge. It actually has a break in the middle
2 of it. You can see the same break on the
3 known standard as well.

4 Q. Thank you, ma'am. After examining the
5 known fingerprint, the major case prints,
6 State's Exhibit 35, and the unknown print,
7 were you able to render a conclusion about the
8 origin of the unknown print?

9 A. Yes.

10 Q. What was that conclusion?

11 A. It was made by Mr. Evans' right little
12 finger.

13 Q. Thank you, ma'am.

14 SOLICITOR MOWRY: Beg the court's
15 indulgence for just one moment.

16 THE COURT: Yes, sir.

17 SOLICITOR MOWRY: Your Honor, at
18 this time I would like to offer as a state's
19 exhibit what has previously been marked as
20 State's Exhibit 41 for identification.

21 THE COURT: Subject to the same
22 objection under Rule 5?

23 MS. KENDALL: Yes, Your Honor.

24 THE COURT: In evidence.

25 SOLICITOR MOWRY: Thank you, Your

1 Honor.

2 (SO ENTERED AS STATE'S EXHIBIT 41)

3 DIRECT EXAMINATION CONTINUED

4 BY SOLICITOR MOWRY:

5 Q. The last item, let me just talk about
6 State's Exhibit 28, the three swabs that you
7 lifted. One came from -- let's see. The 2.1
8 that is listed on there came from where?

9 A. 2.1 came from the top and bottom edge of
10 the cigarette pack, Exhibit 27.

11 Q. And the fingerprint that you just
12 testified to came from where?

13 A. The front of that pack of cigarettes.

14 Q. And the -- if I could borrow State's
15 Exhibit 28 once more, Item 1.2, the swab came
16 from where?

17 A. Item 1.2 from State's Exhibit 28 came
18 from the blade of the knife, which is State's
19 Exhibit 26.

20 Q. Thank you, ma'am.

21 SOLICITOR MOWRY: That's all that I
22 have. If you would, answer any questions that
23 the defense might have.

24 THE COURT: Ms. Kendall.

25 CROSS EXAMINATION

1 BY MS. KENDALL:

2 Q. Ms. Wallace, do you have a copy of your
3 report?

4 A. I do.

5 Q. Let's make sure. Will you reflect for
6 the record what exhibit number -- just to make
7 sure that we are looking at the same document.

8 A. Okay.

9 Q. You would agree with me, based on your
10 previous testimony and under the report that
11 you rendered in this case, you did not find
12 Mr. Evans' prints on Item 16. Correct?

13 Or -- excuse me, 17.

14 A. I did not perform those. It was
15 determined to be insufficient for
16 identification.

17 Q. The answer (sic) was, did you find my
18 client's prints on that item? The answer is
19 what?

20 A. It was not compared, so we were unable to
21 do so.

22 Q. So the answer would be no, that you did
23 not find any of his prints on that item?

24 A. We didn't compare them.

25 Q. Same question regarding Item 18.

1 A. Yes.

2 Q. You did not find his print on that item,
3 correct?

4 A. Yes.

5 Q. Same question for Item 19. You did not
6 find his print on that item. Correct?

7 A. Yes.

8 Q. Item 20?

9 A. Correct.

10 Q. Item 21?

11 A. Items 21 through 24. Yes.

12 Q. So in your report, from items listed from
13 the car -- exterior front drive door, exterior
14 front driver door, exterior front driver door,
15 exterior window frame, exterior front driver
16 door, exterior handle, exterior front driver
17 door. You found none of my clients prints.
18 Correct?

19 A. Again, there was no value for identifi-
20 cation. They were not identified to your
21 client.

22 Q. So the answer is no?

23 A. They weren't compared, so we didn't ---

24 Q. You didn't find his prints. You answered
25 my question.

- 1 A. They were insufficient.
- 2 Q. Do you have a copy of Court's Exhibit 3
- 3 in front of you, SLED's internal chain?
- 4 A. Yes, I do.
- 5 Q. Will you please turn to page eight of
- 6 Court's Exhibit 3?
- 7 A. Okay.
- 8 Q. Referring to the bottom portion of the
- 9 page, you would agree with that there is a
- 10 note that Scanner A and B were mislabeled.
- 11 Did you make that mislabeling?
- 12 A. No.
- 13 Q. Who made that?
- 14 A. I do not know.
- 15 Q. But you agree that evidence was
- 16 mislabeled, correct?
- 17 A. Yes.
- 18 Q. Please turn to page ten. At the top of
- 19 that page, again there is a note that A and B
- 20 were mislabeled. Did you make that statement?
- 21 A. No, I did not.
- 22 Q. Who made that statement?
- 23 A. I don't know.
- 24 Q. Turn to page eleven.
- 25 A. Okay.

1 Q. Again about the middle top portion of the
2 page a note that "Container A and B were
3 mislabeled." Did you make that statement?

4 A. No.

5 Q. Do you know who made that statement?

6 A. No.

7 Q. Page twelve, again the same note,
8 "Container A and B were mislabeled." Did you
9 make that statement?

10 A. No.

11 Q. Do you know who made that statement?

12 A. No.

13 Q. Page thirteen, same question? Did you
14 make that note of mislabeling on that item?

15 A. No.

16 Q. Page fourteen, a separate item, did you
17 make that mislabeling?

18 A. No.

19 Q. Page sixteen, did you make that
20 mislabeling?

21 A. No.

22 Q. Do you know who made that mislabeling?

23 A. No.

24 Q. Same question for page seventeen,
25 "Packaging for Containers A and B were

1 mislabeled." Did you make that mislabeling?
2 A. No.
3 Q. Do you know who made that mislabeling?
4 A. No.
5 Q. Same question for page eighteen,
6 "Packaging for Containers A and B were
7 mislabeled." Did you make that mislabeling?
8 A. No.
9 Q. Do you know who made that mislabeling?
10 A. No.
11 Q. Same question for page nineteen,
12 "Packaging for Containers A and B were
13 mislabeled." Did you make that mislabeling?
14 A. No.
15 Q. Do you know who made that mislabeling?
16 A. No.
17 Q. Page twenty-four, "Packaging for
18 Containers A and B were mislabeled." Did you
19 make that mislabeling?
20 A. No.
21 Q. Do you know who made that mislabeling?
22 A. No.
23 Q. You would agree that your initials are
24 below "'Packaging for Containers A and B were
25 mislabeled." Correct?

1 A. That's right.

2 Q. So whoever handled that prior to you
3 mislabeled it, right?

4 A. Correct.

5 Q. Someone who handled it prior to that
6 instance?

7 A. That's right.

8 Q. And that instance, on pages twenty-three
9 through twenty-four, the people who could have
10 mislabeled that would be Doris Yarborough,
11 right?

12 A. Doris Yarborough or Sabrina Fellers.

13 Q. So two people could have mislabeled that,
14 correct?

15 A. Yes.

16 Q. Page twenty-five, same notation,
17 "Packaging for Containers A and B were
18 mislabeled." Did you make that mislabeling?

19 A. No.

20 Q. But you would agree with me that those
21 are your initials below that. Correct?

22 A. That's correct. Our inventory, after we
23 receive it we're supposed to document any
24 problems, changes, anything like that that
25 needs to be made. That's why my initials are

1 notating that.

2 Q. Trying to speed things along, not to beat
3 a dead horse, but your notation that the
4 packaging was mislabeled is contained on page
5 twenty-six, page twenty-seven, page twenty-
6 eight, page twenty-nine, page thirty, page
7 thirty-one. Correct?

8 A. It would be anything that goes with
9 Container B. You said through thirty-one?

10 Q. Yes.

11 A. Okay.

12 Q. So you would agree with me that a number
13 of different items were mislabeled in this
14 case. Right?

15 A. The way that we package evidence is --
16 this is two containers. We package things
17 inside containers.

18 Q. But these are different pieces of
19 evidence that y'all are marking at seventeen,
20 sixteen, fifteen, so on and so forth?

21 A. The way that our system is, it tracks
22 container. So any time that there is a
23 problem -- like in this case we are talking
24 about Container B -- it is going to notate
25 those all the way across anything associated

1 with Container B at that point.

2 Which is the same thing that it looks
3 like Ms. Yarborough notated with Container A.
4 It is going to note everything at that point
5 in Container A as opposed to individual items.

6 They are all package in a container. For
7 instance, there's an envelope laying there and
8 I assume that is Container B. So everything
9 is packaged inside that. Everything that goes
10 with that, it goes with that letter as opposed
11 to the item number.

12 Whereas State's Exhibit 35 was packaged
13 individually, it follows the number. Do you
14 understand what I am saying?

15 Q. So based on what you said it was
16 mislabeled from the beginning of the process?

17 A. That's correct.

18 Q. So from your information, that would be
19 Ms. Fellers or Ms. Yarborough or you, correct?

20 A. It wasn't me, so either of the other two.

21 Q. But we don't know who made the
22 mislabeling?

23 A. That's correct.

24 Q. And that affects a number of the items in
25 this case, correct?

1 A. Yes.

2 Q. Just briefly, when the Solicitor asked
3 you earlier what different people did prior to
4 you receiving the evidence, you gave him very
5 direct answers, right?

6 A. As he put things in front of me, I
7 answered.

8 COURT REPORTER: Sorry, Judge, I
9 didn't understand here.

10 THE COURT: If you could -- she
11 (court reporter) is having trouble taking it
12 down. So if you could be -- to the extent
13 that you can, direct your voice this way
14 please.

15 MS. KENDALL: I have no further
16 questions.

17 THE COURT: Redirect?

18 SOLICITOR MOWRY: Your Honor,
19 pursuant to Rule 106, I would move this entire
20 internal chain into evidence as a state's
21 exhibit.

22 THE COURT: Any objection?

23 MS. KENDALL: One moment,
24 please. Judge, it's without objection.

25 THE COURT: Without objection.

1 Very good. That will be State's Exhibit 42 in
2 evidence without objection.

3 SOLICITOR MOWRY: Yes, sir.

4 (SO ENTERED AS STATE'S EXHIBIT 42)

5 REDIRECT EXAMINATION

6 BY SOLICITOR MOWRY:

7 Q. Ms. Wallace, let me just ask you -- let
8 me refer to, for example, page nine of this
9 thirty-five page document, item five. I am
10 pulling that at random. What time was this
11 item brought in by Ms. Fellers?

12 A. It was submitted on May 3rd, 2012 at 1442.

13 Q. 2:42, is that correct?

14 A. That's right.

15 Q. What time was that packaging notation
16 made?

17 A. The packaging notation for that item is
18 made at 1546, so 3:46 p.m.

19 Q. So a little over an hour later. Is that
20 right?

21 A. Yes, sir.

22 Q. Does that 'Oops, we discovered the
23 problem. We fixed it.'

24 A. That's correct.

25 Q. If they had seen, 'Oh, my goodness, I made

1 a mistake', would they still have to make that
2 notation?

3 A. Yes.

4 SOLICITOR MOWRY: Thank you, ma'am.

5 MS. KENDALL: I have nothing on
6 cross.

7 THE COURT: Thank you very much,
8 ma'am. You may step down.

9 (WITNESS STEPS DOWN)

10 THE COURT: Do you have your next
11 witness available?

12 SOLICITOR MOWRY: Yes, sir.

13 THE COURT: About how many more do
14 you anticipate for the day, Solicitor?

15 SOLICITOR MOWRY: I think we have
16 three more witnesses, one of them is very
17 short.

18 THE COURT: We are going to take a
19 brief break, a brief five or ten-minute break.
20 Don't talk about the case. See you back in a
21 minute.

22 (JURY OUT @ 3:31 P.M.)

23 COURT REPORTER: I'm confused on
24 Exhibit 42, are we going to ---

25 THE COURT: Yeah, I'll clean it up

1 A. We're handling -- we deal with sealed
2 containers. We don't open the evidence at
3 all, ever.

4 Q. So you would be dealing with something
5 like a sealed envelope, like State's Exhibit
6 34 for identification.

7 A. Correct.

8 SOLICITOR MOWRY: Thank you, ma'am.
9 I believe that's all that I have. Thank you
10 for your testimony.

11 THE COURT: Mr. Howe? Ms. Kendall?

12 MS. KENDALL: I don't have any
13 questions of this witness.

14 THE COURT: Ma'am, thank you very
15 much for coming. You are free to go.

16 (WITNESS STEPS DOWN)

17 THE COURT: Solicitor, call your
18 next witness, please.

19 SOLICITOR STUMBO: Thank you,
20 Judge. The State calls Paul Meeh.

21 (WITNESS TAKES STAND)

22 PAUL MEEH, being duly sworn to tell
23 the truth, the whole truth and nothing but the
24 truth, testified, as follows:

25 DIRECT EXAMINATION

1 BY SOLICITOR STUMBO:

2 Q. You work with SLED?

3 A. That's correct.

4 Q. What do you do with SLED?

5 A. I am a forensic scientist in the DNA
6 department.

7 Q. How long have you been a forensic
8 scientist with SLED?

9 A. I've been there about five a half years.
10 I've been a forensic scientist for three and a
11 half of those.

12 Q. Could you give the jury just a brief
13 overview of your educational experience?

14 A. Sure. I got my bachelor's from the
15 University of South Carolina in 2001, in
16 Biology. Then I got my master's from the
17 medical school. That's actually graduate
18 school, in 2003, in medical science. Then I
19 did three years of PhD work, which I never
20 completed because I was hired away by SLED
21 from that program.

22 Q. Did you go to SLED to be trained as a
23 forensic scientist?

24 A. I did. I had a year and a half of
25 training there, at SLED, under another

1 scientist.

2 Q. What kind of specialized training have
3 you had in the field of forensic science while
4 with SLED?

5 A. That was in serology and DNA, so that
6 would be the identification of body fluids and
7 then to identify the people that those body
8 fluids come from. That is the training that
9 we receive.

10 Q. Have you ever been qualified as an expert
11 in courts in this state?

12 A. Yes.

13 Q. How many times?

14 A. Approximately twenty times, maybe twenty-
15 five.

16 SOLICITOR STUMBO: Your Honor,
17 at this time the State would offer Mr. Paul
18 Meeh as an expert in the field of DNA
19 analysis.

20 MR. HOWE: No objection, Judge.

21 THE COURT: All right. Again,
22 Ladies and Gentlemen, normally when a witness
23 testifies, they can't give opinion testimony.
24 They have to testify about something that they
25 personally observed. In this case the State

1 and the defense agree that Mr. Meeh possesses
2 the sufficient training for him to be an
3 expert in the field of DNA analysis. He can
4 give his opinion in that area. Of course, you
5 do not have to accept his opinion but it is
6 evidence for you to use as you see fit. Go
7 ahead.

8 SOLICITOR STUMBO: Thank you,
9 Your Honor.

10 DIRECT EXAMINATION CONTINUED

11 BY SOLICITOR STUMBO:

12 Q. Mr. Meeh, did you have occasion to
13 analyze some evidence submitted to SLED
14 involving the suspect here, Richard Sylvester
15 Evans?

16 A. I did, yes.

17 Q. What date did you conduct your analysis?

18 A. Initially -- I'm not sure when I took
19 possession of the evidence but my DNA
20 worksheet was on November 8th, 2012. That's
21 when I did the actual work or the work began.

22 Q. December 8th?

23 A. November 8th.

24 Q. 2012?

25 A. Correct.

1 Q. Do you have a copy of your report?

2 A. Yes, I do. There were actual two reports
3 generated in this case, primary and
4 supplemental.

5 Q. Okay. What date was your primary report
6 submitted?

7 A. That would be on December 21st, 2012.

8 Q. I am going to hand you what has been
9 marked for ID purposes only at this point as
10 State's Exhibit 28. If you could, take a look
11 at that for me, Mr. Meeh, Agent Meeh.

12 A. Yes, you can see my initials here on the
13 pouch. These are the pouches used to control
14 custody and control contamination. My
15 initials are right there. It matches the
16 other, November 8th, 2012. So that's good.

17 Q. Okay. So did you reseal the package on
18 November 8th, 2012?

19 A. Yes, I made that cut, used the evidence
20 inside, you know, then resealed.

21 Q. When you got this package and made this
22 cut, had it been tampered with in any way?

23 A. No. I wouldn't have proceeded if it had
24 been tampered with.

25 Q. If it had been tampered with, what would

1 you have done?

2 A. I would have brought it to the attention
3 of my supervisor.

4 Q. So when you got it, it had not been cut
5 open at all?

6 A. Correct.

7 Q. You analyzed the contents within this
8 package? You've been able to look at those
9 numbers on there?

10 A. Yes, sir. These have descriptions on
11 them that match up with some of the
12 descriptions in here of two swabs from the top
13 and bottom of Item 2. So, yes, these things
14 match up.

15 Q. The three packets in there, what are they
16 identified as? State's Exhibit 28.

17 A. The first says two swabs from top and
18 bottom of edges of Item 2. Item 2.1, so that
19 would be Item 2.1.

20 Another says two swabs from blade of Item
21 1. So that would be Item 1.2.

22 Another swabs says swab from handle of
23 Item 1, so that would be 1.1.

24 That would be those three items.

25 Q. Were you able to analyze all three of

1 these items, the three packs in State's
2 Exhibit 28?

3 A. I was, yes.

4 SOLICITOR STUMBO: Your Honor,
5 the State would offer State's Exhibit 28 into
6 evidence, a sufficient foundation of the chain
7 having been laid.

8 THE COURT: Subject to the earlier
9 arguments?

10 MR. HOWE: Yes, sir.

11 THE COURT: In evidence, State's
12 Exhibit 28 is in evidence subject to the
13 defense's comments earlier.

14 (SO ENTERED AS STATE'S EXHIBIT 28)

15 DIRECT EXAMINATION CONTINUED

16 BY SOLICITOR STUMBO:

17 Q. Agent Meeh, I hand you what has been
18 marked for identification only at this point
19 as State's Exhibit 29. Would you take a look
20 at that?

21 A. (Review)

22 Q. Did you analyze that package?

23 A. Yes. The package if fine. Again, it
24 reflects the same date and my initials. Let's
25 see what items are here -- I guess this is the

1 buccal swab from Dometry Williams.

2 Q. So it is a buccal swab from Dometry
3 Williams?

4 A. Correct.

5 Q. Did you analyze the contents of the
6 buccal swab in State's Exhibit 29 for your
7 report?

8 A. Yes, I did.

9 Q. Was this package cut open or tampered
10 with in any way when you got it?

11 A. No, I wouldn't have proceeded with it if
12 it were.

13 Q. Is this cut a cut that you made?

14 A. In all probability, the cut that I made
15 is actually inside of that. See the reseal
16 right there. Yeah, actually I made this cut
17 and resealed it here. Yeah.

18 Q. And you resealed this with your initials
19 on November 8th, 2012?

20 A. Yes, sir.

21 Q. And does it appear that that seal has
22 been tampered with since that time?

23 A. No, sir.

24 SOLICITOR STUMBO: Your Honor,
25 the State would offer State's Exhibit 29 into

1 evidence at this time.

2 THE COURT: Subject to the earlier
3 objection, State's Exhibit 29 is admitted.

4 (SO ENTERED AS STATE'S EXHIBIT 29)

5 DIRECT EXAMINATION CONTINUED

6 BY SOLICITOR STUMBO:

7 Q. Now, Agent Meeh, were these the only
8 items that you analyzed or were there other
9 things that you analyzed?

10 A. There were a few other items. There were
11 four DNA evidentiary items that were analyzed,
12 and also another standard. I did analyze
13 those, yes.

14 Q. Did you develop any DNA profiles off the
15 contents of State's Exhibit 28 and Exhibit 29?

16 A. Yes, I was. Referring to those items
17 alone, Item 1.2, which was in that package
18 there, the evidentiary item which was the swab
19 from the blade of Item 1, that matched the DNA
20 profile of Dometry Williams. I was also able
21 to make a statement regarding the statistical
22 significance of that. That was that the
23 probability of selecting a randomly unrelated
24 individual having a DNA profile matching that
25 item was approximately one in twelve

1 quadrillion; which means that we can very
2 strongly say that that item matched her.

3 Q. So the item that you were just
4 referencing is Item -- your Item 1.2 here in
5 this package?

6 A. Correct.

7 Q. And it matched the DNA profile that you
8 pulled off of the buccal swab of the victim?

9 A. Yes, sir. Then referring to Item 2.1,
10 which is also in that packet, it also matched
11 the DNA profile of Dometry Williams. I was
12 able to -- later on I was asked to make a
13 statistical comparison of that and ---

14 Q. Is that is what's in your supplemental
15 report?

16 A. Yes, sir. So the initial report -- the
17 initial report -- when it is a perfect match,
18 we go ahead and compute the statistics. Then
19 any following ones -- if it is not a perfect
20 match, we just say "also matches." Which
21 means that we don't want to generate a
22 statistic for each and every sample because
23 sometimes we get a lot of samples. But in
24 this case I was asked to go back and compute
25 the stats for the also matches. It was a very

1 strong stat. For Item 2.1, which is the top
2 and bottom of Item 2, the probability of
3 randomly selecting an unrelated individual
4 having a DNA profile matching this item is
5 approximately one in seven point eight
6 million. So, again, that is a strong match
7 for Item 2.1.

8 Q. Okay, that is Item 2. Now I am going to
9 show you State's Exhibit 27, which you just
10 referred to as Item 2. Is there any SLED
11 identifier for State's Exhibit 27?

12 A. Yeah, there is some tape and things -- I
13 actually would have never gotten this. In all
14 probability, I would have just gotten swabs
15 from it. The evidence processing portion of
16 our lab would have done that.

17 Q. But this is identified as SLED Item 2?

18 A. As far as I know, yes. That's what the
19 tape says.

20 Q. So the top and bottom of what's contained
21 in this package?

22 A. Yes, sir.

23 SOLICITOR STUMBO: Your Honor,
24 -- I can do this real quick. What has been
25 marked for ID right now is State's Exhibit 32.

1 If I may just show this to the witness for ID
2 purposes only at this point.

3 THE COURT: Certainly. Go ahead.

4 DIRECT EXAMINATION CONTINUED

5 BY SOLICITOR STUMBO:

6 Q. Agent Meeh, I am going to ask you to look
7 at what's been marked for ID as State's
8 Exhibit 32. What is this?

9 A. That's a DNA chart. What it is a chart
10 of is -- the data that we generate looks like
11 that. It's just a series of numbers. Imagine
12 a locker code. You know, each person has
13 their own locker code. Well, the victim's
14 standard in this case, Dometry Williams', is
15 on top of that chart. It shows her locker
16 code. That was generated from a known sample
17 from her cheek swab.

18 Any evidentiary items are listed after
19 that. We have what could be developed from
20 there. As I said, things aren't perfect.

21 Q. Well, Agent Meeh, and we've talked about
22 the -- but is this, what's in State's Exhibit
23 32, is that part of your report?

24 A. Yes, sir.

25 Q. And you generated this summary here, this

1 summary chart?

2 A. Yes, sir.

3 Q. It's just been enlarged from your copy?

4 A. Yes, sir.

5 SOLICITOR STUMBO: Your Honor,
6 at this time the State would offer State's 32
7 into evidence.

8 THE COURT: Any objection?

9 MR. HOWE: No. We just saw it
10 earlier but that's fine, we have no objection.

11 THE COURT: Without objection,
12 State's Exhibit 32 is in evidence.

13 (SO ENTERED AS STATE'S EXHIBIT 32)

14 SOLICITOR STUMBO: Thank you,
15 Your Honor.

16 DIRECT EXAMINATION CONTINUED

17 BY SOLICITOR STUMBO:

18 Q. Agent Meeh, if you will just step down
19 just briefly.

20 A. (Complies).

21 Q. Agent Meeh, referring you to the first
22 line of the chart, and you mentioned this
23 earlier, Item 14 which is in evidence as
24 State's Exhibit 27. What was that again?

25 A. That's the buccal swab. The top line

1 here, that is the known standard. All that
2 means is that we need to know that it came
3 from a certain person so that we can try to
4 match it up with something else. They go in,
5 they get the buccal from the -- it's not
6 saliva, that's a common misconception. It is
7 the skin cells off the inside of your mouth.
8 They come off fairly easily. So they take
9 just a regular sterile swab, from Eckerds or
10 anywhere, and wipe it on the inside of your
11 mouth. Then we take that through the DNA
12 process and create this to compare to these
13 items. They are done independently, of
14 course, because you don't want contamination
15 from cross reference on any of these.

16 Q. These little sectors here, this little
17 boxes that run across this way, what do these
18 sectors signify?

19 A. So in each of these cells, your DNA -- it
20 is inside the very center of your cell, and
21 you can imagine a circle. That holds your DNA
22 and that's call the nucleus. They are held in
23 chromosomes, separate pieces of long stretches
24 of DNA that are -- you know, you can imagine
25 the letter X and it looks sort of similar to

1 that. They are numbered. So what these mean
2 is -- they are addresses, literally addresses.
3 Whenever it is sequenced, these repeat were
4 found. Repeats, that the technology that we
5 use. But this is an address, a physical
6 address on Chromosome H. For example, it says
7 E8-S1179. That is a physical address on
8 Chromosome H, repeated 1179. That's all that
9 it is. All we are comparing here is the sizes
10 of those repeats, how big it is. It is
11 literally like train tracks. If you counted a
12 number of railroad ties in the ground, each
13 person would have a different size of those
14 railroad ties. So this person, Dometry, has
15 at this location one thirteen and one
16 fourteen, because she got half of her DNA from
17 her dad and half of her DNA from her mom. One
18 of them donated a thirteen in that location
19 and one donated a fourteen. It goes on. We
20 test each location. They're all independent
21 tests. So each person can be identified with
22 high probability or high statistical
23 reliability because each one of these is
24 tested.

25 Q. Okay. How many places on the DNA screen

1 do you compare? How many do we have here?

2 A. Total?

3 Q. Yes, sir.

4 A. Sixteen places.

5 Q. Okay. And this last column has either an
6 X or an XY. What does that mean?

7 A. That's the sex chromosomes. The Y is
8 the male, comes from your father. A father,
9 a grandfather and a son would all have the Y
10 chromosome. The X chromosomes, you dad
11 donates one and your mother donates one.

12 So this X is for Ms. Williams and this XY is
13 because it's a male, being Richard Evans.

14 Q. Now, is this the chart that you use to
15 judge the probability that the match would not
16 be that particular person?

17 A. Yes. This chart in conjunction with the
18 actual matches. That's why I was talking
19 about the also matches, because some of these
20 location -- see how this has the little
21 delineating things around it? That means that
22 there wasn't a whole lot of DNA to amplify
23 there. So we have to be, you know, we -- we
24 either have to toss it out or be careful of
25 using it. So that's where the also match

1 comes in. If I am not exactly sure about
2 location, I may or may not be able to use that
3 based on some other issues.

4 I can tell you which ones that I did use,
5 I did bring the calculation paperwork on those
6 things. What it allows us to do -- for
7 example, Item 1.2, that looks very strong all
8 the way across as a match. It doesn't have
9 any of these little demarcations, so I can in
10 all probability that 1.2 on my report was
11 going to be one of the ones that matches the
12 profile.

13 Then perhaps this one is also one that I
14 called initially a "also matches" because it's
15 got some of these little broken spots and
16 things like that. You see one is actually
17 missing, so there is no DNA right there. That
18 would be an also match.

19 Q. So 1.2, which is identified as the blade,
20 is across the top -- it is a perfect match for
21 Dometry Williams?

22 A. Right. You can look at this position and
23 tell that this is -- that's all the comparison
24 that we did, just the numbers, just the --
25 does the locker combination match up with the

1 evidence found.

2 Q. And the swab from 2.1, which is the top
3 and bottom of Item 2, that's what you'd say is
4 an also match? It's not perfect but you can
5 still make a statistical comparison?

6 A. Yes, we can. So we have to -- what we do
7 is just analyze it. You can see that it does
8 match number one, so we use that as our
9 statistic. Number two, I'd have to check
10 this. The data itself, I need to look at it
11 to make sure that it is even, to make sure
12 that nobody else contributed there, make sure
13 that everything is sound with it. If it is, I
14 will use that one also. This one, I will use
15 it, so on and so forth down the line. We have
16 look at it loci by loci in that situation.

17 Q. So the swabs from the items that we have
18 already identified, 1.2 and 2.1 here in
19 State's Exhibit 28 matched Item 14, which is
20 State's 29.

21 A. Correct. 1.2 -- 2.1 is an also match and
22 we talked about that.

23 Q. Then there were other matches made but
24 not for the purposes here today?

25 A. That's correct, not that you have made

1 reference to.

2 Q. You mentioned the statistical comparison
3 that you published in your report. Can you
4 tell the jury what the probabilities are.

5 A. Yeah. For Item 1.2, which was from the
6 blade of Item 1, the probability of randomly
7 selecting an individual having a DNA profile
8 matching that item was approximately one in
9 twelve quadrillion.

10 Q. One is twelve quadrillion. How many
11 zeros is that after twelve?

12 A. Fifteen.

13 Q. Do you know what the population of the
14 earth is?

15 A. It's in the billions, so that would be --
16 you now, the population of the earth is
17 probably six or seven billion right now, so
18 that would be many, many times that. It would
19 orders of magnitude larger than that.

20 Q. Did you make any other statistical
21 analyses?

22 A. I did. For Item 2.1, which was two swabs
23 from the top and bottom of Item 2, the
24 probability of randomly selecting an unrelated
25 DNA profile matching that item is

1 approximately one in seven-point-eight
2 billion. So that's a lot closer to the
3 population of the earth. If you were randomly
4 select people, you would have to have that
5 population to select one.

6 Q. That was Item 2.1, which is from the top
7 and bottom of Item 2. Correct?

8 A. Yes.

9 Q. You completed your analysis and put your
10 initials and the date?

11 A. Correct.

12 Q. And those were returned to where?

13 A. I return them, usually, to a bin called
14 DNA Return. A technologist handles it. It
15 could be that I took them downstairs and
16 returned it, in this example but I probably
17 put it in that DNA Return bin.

18 Q. Do y'all have folks there at DNA, the
19 SLED lab, that carry packages from one place
20 to another?

21 A. Yes, sir.

22 Q. Do they ever cut into this packets or
23 analyze them?

24 A. No, they shouldn't. Never do, that I
25 have seen.

1 Q. So when you got done, you sealed it up,
2 put your initials on it and then it was
3 returned to the agency ---

4 A. Correct.

5 SOLICITOR STUMBO: Please answer
6 any questions that the defense may have.

7 MS. KENDALL: Thank you, Judge.

8 CROSS EXAMINATION

9 BY MR. HOWE:

10 Q. Sir, when you performed these analyses
11 that we're talking about, you were unable to
12 say when any of the DNA of Ms. Williams -- and
13 it was Ms. Williams only that you found DNA,
14 many times; correct?

15 A. Correct.

16 MR. HOWE: That's all that I have.

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

19 (WITNESS STEPS DOWN)

20 THE COURT: Call your next witness,
21 Solicitor.

22 SOLICITOR MOWRY: The State calls
23 Walter Bentley.

24 (WITNESS TAKES STAND)

25 WALTER BENTLEY, being duly sworn to

1 tell the truth, the whole truth and nothing
2 but the truth, testified, as follows:

3 DIRECT EXAMINATION

4 BY SOLICITOR MOWRY:

5 Q. Mr. Bentley, are you a law enforcement
6 officer?

7 A. Yes, sir.

8 Q. By whom are you employed, sir?

9 A. I am employed by the City of Laurens
10 Police Department.

11 Q. What is your position with the City of
12 Laurens?

13 A. I am a detective with the police
14 department.

15 Q. So you and Detective Riggott work
16 together; is that right?

17 A. Yes, sir.

18 Q. Were you on duty on May 3rd of last year,
19 in the early morning hours?

20 A. I was called in to work.

21 Q. Is that a fairly standard practice?

22 A. Yes, sir.

23 Q. Do y'all have any night detectives?

24 A. No, we have an on call detective. In
25 most instances the on call detective notifies

1 the other detectives when ---

2 Q. So it doesn't matter if you are on call,
3 sometimes you are going to get called in?

4 A. That's right.

5 Q. Did that in fact happen to you?

6 A. Yes, it did.

7 Q. About what time did you get a call?

8 A. It was around midnight, 12:30'ish.

9 Q. What was the gist of the call? What did
10 you do in response to it?

11 A. I got up, got ready and proceeded to
12 respond to the Li'l Cricket on Church Street
13 in the City of Laurens.

14 Q. Okay. Let me refer you to State's
15 Exhibit 30. This aerial map, is that the Li'l
16 Cricket right there?

17 A. Yes, sir. That's the Li'l Cricket.

18 Q. What did you find when you arrived there?

19 A. When I arrived there, I saw several law
20 enforcement there. Chief Norris, who was
21 chief at the time, had just pulled up. I also
22 saw EMS. EMS was actively taking Ms. Williams
23 and placing her into the ambulance.

24 Q. What did you do when you saw that?

25 A. Asked the EMS personnel if she was okay,

1 if I might speak to her for a second to ask
2 what happened. They said that she could talk
3 to me. I talked to her briefly and she told
4 me what had happened.

5 Q. What was her state of mind at the time?

6 A. She seemed kind of anxious, upset, seemed
7 to be in some type of pretty good pain.

8 Q. Did you see some reason why she might be
9 in pain?

10 A. I saw some pretty severe lacerations on
11 her hands and a lot of blood.

12 Q. Did you see any other wounds anywhere
13 else?

14 A. I could see some places on her neck but I
15 didn't examine them closely because they were
16 trying to get her to the hospital.

17 Q. Did you take much time with her at that
18 point?

19 A. No, I just briefly asked her what
20 happened.

21 Q. What was her response?

22 A. She told me that she was in the store,
23 that she had been robbed, that the guy who
24 robbed, that she knew him by the name of
25 Chilly Pop.

1 Q. What did you do after you got that
2 information from Ms. Williams?

3 A. Let Detective Riggott know, she was on
4 the way to the scene. Also, I knew Chilly Pop
5 by the name of Richard Evans already.

6 Q. Okay. What did you do then?

7 A. I spoke to Chief Norris and we decided
8 that the best course of action for Ms. Riggott
9 to process the crime scene, and I was going to
10 coordinate with Lieutenant Satterfield and
11 some other officers to attempt to locate Ms.
12 Williams' vehicle.

13 Q. Okay. Before you went out, did you look
14 at any surveillance video that might have been
15 available?

16 A. Yes. I had an opportunity to view the in
17 store surveillance there at the Li'l Cricket
18 store.

19 Q. Let me hand you State's Exhibit 1. What
20 is that, sir?

21 A. It is a CDR of the incident at the Li'l
22 Cricket.

23 Q. Have you viewed that CDR yourself?

24 A. Yes, I have.

25 Q. Does it fairly and accurately duplicate

1 what you saw that evening on the monitor?

2 A. Yes, it does.

3 Q. Did you recognize anybody in the vehicle?

4 A. I recognized Ms. Williams, obviously, and
5 I also recognized the guy who robbed her as
6 being Richard Sylvester Evans.

7 Q. After observing the video, what did you
8 do after that?

9 A. After observing the video, I asked the
10 Li'l Cricket -- obviously we wanted to have a
11 copy. We were able to get a copy on a thumb
12 drive, which I took possession of. Later on I
13 put it on my computer, which is a password
14 protected computer that only I have access to.

15 Q. Okay. What next?

16 A. Next we began an active search for Mr.
17 Evans. After Lieutenant Satterfield located
18 the vehicle on Commission Drive we had the
19 SLED bloodhound team respond and also the SLED
20 fugitive team. I began to work with them in
21 an effort to -- and after we ran the
22 bloodhound trail, we went to the residences
23 that we knew that Mr. Evans frequented or had
24 family and/or friends. In the search, we
25 weren't able to turn up anything at first but

1 then ---

2 Q. Let me ask you this, what time of the
3 early morning are we talking about here?

4 A. This was around the 4:00, 5:00, 6:00 a.m.
5 timeframe.

6 Q. So you'd been working about six hours on
7 this case at that point?

8 A. Yes, sir.

9 Q. What happened next?

10 A. We continued to actively search for Mr.
11 Evans. Around 11:00 o'clock that day, we
12 received information that he was possibly in a
13 wooded area in the Sunset Park down the
14 street, where his family is.

15 Q. What did you do with that information?

16 A. Myself and officers of the fugitive
17 response team responded to that location,
18 actually went into the woods looking for Mr.
19 Evans.

20 Q. What happened then?

21 A. He was placed in handcuffs, he was
22 searched, he was taken to the Laurens City
23 Police Department.

24 Q. What was your responsibility after that
25 point?

1 A. After that point I was assisting
2 Detective Riggott with some of the paperwork
3 and getting some things done that needed to be
4 done to get him processed, get him booked and
5 get the paperwork ready for court.

6 Q. Let me hand you State's Exhibit 20, this
7 photograph, and ask you if you can identify
8 that.

9 A. Yes, sir.

10 Q. What is that, sir?

11 A. That is a picture of Mr. Evans shortly
12 after being arrested. This is a booking photo
13 that was taken.

14 Q. Are those the same clothes that he was
15 wearing when he was arrested?

16 A. Yes, sir.

17 Q. And you were present when he was
18 arrested; is that right?

19 A. Yes, sir.

20 Q. At my request, did you go through the
21 video to try to pull still pictures from it?

22 A. Yes, sir.

23 Q. Let me hand you what has been marked as
24 State's Exhibit 2, 3, 4 and 5 for
25 identification. Do you recognize those?

1 A. Yes, sir.

2 Q. What are those, please, sir?

3 A. These are stills that I printed from --
4 paused the video to print the stills on the
5 computer.

6 Q. And these pictures came from the video
7 that is contained in State's Exhibit 1; is
8 that right?

9 A. That's correct.

10 SOLICITOR MOWRY: Your Honor, at
11 this time I would offer these as State's
12 Exhibit 1.

13 THE COURT: Without objection,
14 State's Exhibit 1 and State's Exhibits 2
15 through 5 will be in evidence.

16 (SO ENTERED AS STATE'S EXHIBIT 1)

17 (SO ENTERED AS STATE'S EXHIBIT 2)

18 (SO ENTERED AS STATE'S EXHIBIT 3)

19 (SO ENTERED AS STATE'S EXHIBIT 4)

20 (SO ENTERED AS STATE'S EXHIBIT 5)

21 DIRECT EXAMINATION CONTINUED

22 BY SOLICITOR MOWRY:

23 Q. Let me put these up here. What does that
24 illustrate?

25 A. That is behind the counter at the Li'l

1 Cricket store on Church Street, Laurens.

2 That is Ms. Williams and that is Mr. Evans
3 behind her, holding a knife to her throat
4 area.

5 Q. Okay. Showing you Exhibit 4, what does
6 that illustrate?

7 A. That is also the same Li'l Cricket.
8 You'll notice that she has the cash register
9 open there and that there is nothing in the
10 cash register at this time. Ms. Williams is
11 there and Mr. Evans is behind Ms. Williams,
12 holding with a knife in his hand.

13 Q. What is that over to the right-hand side?

14 A. Racks of cigarettes.

15 Q. Yes, sir. Were you able to determine
16 whether or not Newport cigarettes were sold at
17 the store?

18 A. Yes, I was.

19 Q. Were they in fact sold there?

20 A. Yes, sir.

21 Q. All right. Let me show you State's
22 Exhibit 3, this photograph and ask what that
23 depicts?

24 A. That is another picture of behind the
25 counter. We note that the register is still

1 open, that there is nothing -- no currency in
2 it. You see Mr. Evans with the knife around
3 Ms. Williams' neck area.

4 Q. And finally State's Exhibit 2, what does
5 that illustrate?

6 A. That is a picture of Mr. Evans looking at
7 the cigarette rack in the store.

8 Q. All right.

9 SOLICITOR MOWRY: Beg the court's
10 indulgence just one moment.

11 THE COURT: Yes, sir.

12 SOLICITOR MOWRY: Thank you, sir. I
13 believe that is all that I have.

14 THE COURT: Mr. Howe?

15 MR. HOWE: Briefly.

16 CROSS EXAMINATION

17 BY MR. HOWE:

18 Q. Did you make any effort to look at the
19 monitor that you heard Ms. Williams refer to,
20 to see what may or may not have occurred back
21 in the storeroom area?

22 A. You're speaking of the monitor in the
23 back of the storeroom?

24 Q. Yes.

25 A. That is where I got the video from.

1 Q. Did you see anything that had taken place
2 back in the storeroom area?

3 A. There's not a camera in the storeroom
4 area. The camera is in the actual store part
5 of the business.

6 Q. And when Mr. Evans, my client, was taken
7 into custody, I believe that he was actually
8 in a vehicle with a family member; is that
9 correct?

10 A. I can't recall who the family member was
11 but that's my understanding, yes.

12 Q. I believe that was on Anderson Drive?

13 A. Anderson Drive.

14 Q. Right near the Li'l Cricket?

15 A. (No verbal response).

16 Q. Right there, he was with family?

17 A. That's right. Yes, sir.

18 MR. HOWE: That's all the
19 questions that I have.

20 SOLICITOR MOWRY: Nothing on
21 redirect, Your Honor.

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

24 (WITNESS STEPS DOWN)

25 SOLICITOR MOWRY: Your Honor,

1 permission of the court to publish the
2 surveillance video, State's Exhibit 1.

3 THE COURT: All right. How long is
4 the video, that portion that you want to
5 publish? Is it fairly short?

6 SOLICITOR MOWRY: It is fairly
7 short.

8 SOLICITOR STUMBO: About twelve
9 minutes.

10 THE COURT: Go ahead and proceed
11 then.

12 (STATE'S EXHIBIT 1 - VIDEO PLAYED)

13 SOLICITOR STUMBO: Your Honor,
14 the State rests.

15 THE COURT: Let me see counsel over
16 here, if I could for just a moment, on a
17 scheduling question.

18 (OFF RECORD SIDEBAR)

19 THE COURT: Ladies and Gentlemen of
20 the jury, there are some matters that I need
21 to take up with the attorneys at this point in
22 time. So I am going to go ahead and release
23 you for the evening. What I am going to do is
24 ask that you be back in the jury room tomorrow
25 morning at -- be back in the jury room at

1 their belief will be what has been proven or
2 not proven in this particular case. So
3 certainly pay attention to their arguments.

4 If at any time, however, if the
5 attorneys say something regarding the facts of
6 this case and it differs from what you recall
7 the facts being, you should go with what your
8 recollection of the facts as opposed to what
9 they say the facts are. Okay? For example,
10 if one of the lawyers were to say that on
11 Monday that it was sunny and quite warm and
12 your recollection was that on Monday it was
13 cold and rainy. You should go with your
14 recollection of it being cold and rainy on
15 Monday as opposed to them telling you that it
16 was sunny and warm. Okay? That's a simple
17 example. So, again, if they say anything
18 about the facts and it differs from what you
19 recall the facts being, go with your
20 recollection because you are the judges of the
21 facts in this case.

22 With that, Solicitor, you are
23 invited to give your closing argument.

24 SOLICITOR STUMBO: Thank you,
25 Your Honor. If it may please the Court, ---

1 THE COURT: Yes, sir.

2 SOLICITOR STUMBO: Dometry

3 Williams didn't deserve this. She went to
4 work that night, May 2nd into May 3rd, at the
5 Li'l Cricket, doing what she normally does,
6 stocking the cooler, working her job, trying
7 to support her five children. A regular
8 member of this community here in Laurens
9 County. She didn't deserve what happened to
10 her that night.

11 She didn't deserve to that that guy
12 there (indicating Defendant), Richard
13 Sylvester Evans, come in that store, put a
14 knife to her throat. She didn't deserve to
15 have her life flash before her eyes that
16 night, not knowing if she would ever see those
17 five children again. She didn't deserve that.
18 She was working her job that night, just like
19 you do every day, going to work to support
20 your family and trying to be a productive
21 member of this community.

22 Working to earn wages. That's not
23 what Richard Evans did. He came in there with
24 a knife to take, not only to take stuff but to
25 take any form of safety that Dometry Williams

1 might have. Do you think that she will ever
2 be able to go to her job again and feel safe?

3 Ladies and Gentlemen, it's been my
4 pleasure and Mr. Mowry's pleasure in this case
5 to represent Dometry Williams, not only as the
6 victim in this case but to represent the State
7 of South Carolina and the people of Laurens
8 County. It has been our pleasure to present
9 this case to you this week. I want to thank
10 you for your attention. Y'all have done your
11 job. You sat here, listened attentively. We
12 kept you here a lot longer than maybe we
13 should have but I think without what you do,
14 your part of the process this week, that we
15 couldn't do our job.

16 Now, what is our job? Mr. Mowry
17 told you a little bit about this in opening
18 statement. The State's job is always to prove
19 the case, has the burden of proof in its
20 entirety. There is no burden of proof on the
21 defense. It is our burden to prove, by
22 witness testimony and by evidence that you've
23 see come before you, that the Defendant is
24 guilty of what we say that he is.

25 Now, you are going to hear the term

1 -- the Judge is going to charge you in a few
2 minutes. If I say anything different on the
3 law than what the judge says, if there is any
4 discrepancy, listen to the judge: He is the
5 judge of the law in this case. We will talk a
6 little bit about what the law is, what the law
7 requires, Mr. Mowry and I do when we bring a
8 criminal charge here in Laurens County.

9 Beyond a reasonable doubt is proof
10 that leaves you convinced beyond a reasonable
11 doubt. That is the standard that we have to
12 get to under the law. Now, what does that
13 mean? That is probably not a term that you
14 hear. Beyond a reasonable doubt, what is
15 that? Quite simply, Ladies and Gentlemen, it
16 is this: it is our burden to leave you firmly
17 convinced of the defendant's guilt. That's
18 it. It's not some magical formula, it is not
19 a scientific equation that gets you beyond a
20 reasonable doubt. It is are you firmly
21 convinced that Richard Evans did what we said
22 that he did.

23 Now, Ms. Kendall is a fine lawyer
24 and I am sure that she is going to get up here
25 in a few minutes and present a fine argument

1 to you, to give you all the reasons why you
2 shouldn't be firmly convinced that her client
3 is guilty. If she does her job well, I am
4 sure that what she will do is muddy the waters
5 or get you distracted on something else.
6 Okay? If she can get you to look at something
7 that the police did or didn't do, if she can
8 get you to feel some reason why you should
9 come back with some of the lesser offenses,
10 lesser charge offenses in this case, lower
11 level offenses, if she can get you to look at
12 other places, she might convince you to come
13 back with one of those lesser charges or come
14 back with a not guilty verdict in this case.
15 If she scares you enough or confuses you
16 enough, you could do that.

17 What I am going to ask you to do,
18 Ladies and Gentlemen, is to keep your eye on
19 the ball. We've heard that term a lot, it's
20 been around awhile. If you've been around any
21 ball fields in your life you've heard that
22 term, "Keep your eye on the ball." If I've
23 heard it once in my life, I've heard it a
24 thousand times.

25 That is what I am going to ask you

1 to do here, is to keep our eyes on the
2 evidence that has been presented, from the
3 witnesses that you have heard from this
4 witness stand. If you keep your eye on that,
5 there is no other verdict in this case but
6 guilty.

7 Let's un muddy the water here. Let's
8 talk about specific charges and the elements
9 that you are going to have to find here in
10 this case.

11 Armed robbery. Under South Carolina
12 law, what is armed robbery? The judge will
13 instruct you that robbery is a larceny or a
14 theft. Larceny is just a fancy legal word for
15 stealing something. And you have to use
16 force, or threat of force, to accomplish the
17 theft. So it's an offense against the person
18 who has the goods to be taken.

19 The second most important element of
20 armed robbery is, was the perpetrator armed
21 with a deadly weapon? A deadly weapon can be
22 a firearm, a knife, -- the Judge will give you
23 a whole laundry list of different things that
24 can be considered deadly weapons under our
25 law. But there is no question that you will

1 hear from the Judge's mouth that a knife,
2 under South Carolina law, is a deadly weapon.
3 No question. You will hear the Judge tell you
4 about that here in a few minutes.

5 Now, he will also be charged with
6 common law or strong arm robbery. Basically,
7 Ladies and Gentlemen, all a common law robbery
8 is number one without number two. Without
9 being armed with a deadly weapon -- and this
10 can be as simply, Ladies and Gentlemen, as the
11 bully at school tackling the smaller kid, a
12 weaker kid, and taking his lunch money. That
13 would be a common law robbery under the law.
14 It is taking something by force or threat of
15 force without any kind of deadly weapon
16 involved.

17 But when there is a deadly weapon
18 involved, Ladies and Gentlemen, like there is
19 no question that we have in this case, the
20 same weapon that did this to Dometry's hand,
21 cut it all the way to the bone, that's a
22 deadly weapon under South Carolina law, Ladies
23 and Gentlemen. So if you find that that man
24 walked into the store with this weapon -- and
25 you saw on the surveillance tape that he held

1 it to Dometry Willams' throat -- and took
2 stuff. You saw the empty cash register, you
3 saw the stuff in his pocket, the pack of
4 cigarettes, her keys so that he could get in
5 her car and drive off with that. If you find
6 that he was armed with this (displaying knife)
7 while he did it, then it is not beyond a
8 reasonable doubt, Ladies and Gentlemen. It's
9 beyond all doubt. That is how strong this
10 case is.

11 The elements of armed robbery,
12 Ladies and Gentlemen, we've passed the test.

13 Now, possession of a weapon during
14 the commission of a violent crime. All this
15 is, Ladies and Gentlemen, is possession of a
16 weapon -- whether it be a knife or a pistol.
17 It has to be possessed in order to carry out
18 the commission of a violent crime. Now, this
19 is important. This might be something that
20 you could easily overlook but armed robbery,
21 attempted murder, kidnaping, any one of the
22 three of those, -- and this is why the armed
23 robbery element here is that much more
24 important, Ladies and Gentlemen. If you find
25 that this is not an armed robbery, that this

1 is not a deadly weapon, then you don't even
2 get to consider this charge.

3 Ladies and Gentlemen, I think that
4 you can take your common sense back in the
5 jury room and know that this (knife) is a
6 deadly weapon and that it applies to this
7 crime as well.

8 So if you find that Richard
9 Sylvester Evans is guilty of armed robbery
10 and you find that he had this knife in his
11 possession -- you saw the surveillance tape --
12 while he was doing it, then he is guilty of
13 possession of a deadly weapon during the
14 commission of a violent crime. It's a
15 separate and distinct offense under South
16 Carolina law.

17 Grand larceny. There, again,
18 larceny is a fancy legal word for stealing.
19 The taking and carrying away -- and the Judge
20 will tell you what that means -- the property
21 of another.

22 Now, he got the car. What was found
23 in that car? The knife and cigarettes, the
24 same thing that you all saw in the
25 surveillance tape.

1 The Judge will talk to you about
2 direct evidence and circumstantial evidence.
3 Direct evidence would have been if Detective
4 Bentley or one of the Laurens police officers
5 had actually come up on the car while Richard
6 Sylvester Evans was still in it. That would
7 be direct evidence that he actually stole the
8 car, because he was in it. Now, by the time
9 we get the car, he's not there. Okay? What
10 circumstantial evidence is, and the Judge will
11 talk to you about that, is evidence that leads
12 you to another conclusion. Okay?

13 So if there is a reasonable belief
14 that the knife and the cigarettes, which had
15 his fingerprints and Dometry's blood on it,
16 were found in the vehicle, what does that tell
17 you? There is circumstantial evidence that he
18 is the one that took the car.

19 You also heard from Ms. Simpson.
20 What did she say? She pulls up right after
21 incident happened and see the car reeling out
22 of the parking lot. There is nobody else that
23 could have taken it.

24 You can take what you are armed
25 with, which is your common sense, back to that

1 jury room to know that this element has been
2 met.

3 Now, the value of the vehicle, the
4 Judge is going to talk to you about that. If
5 the value of the vehicle is more than two
6 thousand dollars, and this is a fact issue for
7 you to determine. Ms. Williams talked to you
8 about the fact that her estimate of what her
9 vehicle was worth was about ten thousand. If
10 it is more than two thousand, under our State
11 law that is a form of larceny. Now, there are
12 a couple of different categories: two to ten
13 thousand and over ten thousand. The judge
14 will talk to you a little bit more about that.
15 You will have an option on your verdict form
16 of what y'all feel the value of the vehicle
17 was. So y'all use your good common sense of
18 the evidence that you have heard from the
19 State in this case. You will have a picture
20 of this 2001 Lincoln Navigator. It's a pretty
21 clean looking car. Looks like it is in good
22 shape, to me. The value is in your hands and
23 you make that decision based on your good
24 common sense and judgment that you use every
25 day.

1 We would submit, Ladies and
2 Gentlemen, that this vehicle here, on the
3 streets is worth much more than two thousand
4 dollars, if you sell that vehicle. You can
5 make the decision on the value.

6 So grand larceny, are the elements
7 met? Absolutely.

8 Now, kidnaping. That is a little
9 tricker, and the Judge will instruct you on
10 these very words. Mr. Mowry, I think, in
11 opening talked about seizing and confining.
12 That's why I emphasize those word here, put
13 them in italics. You will hear from the Judge
14 that if any one of these terms applies in this
15 case -- not just abduct, not just to carry
16 away, not just kidnap, but to seize and
17 confine. In the traditional sense of what we
18 think of when we think of kidnaping, we think
19 of a child that has been taken away and
20 carried off. Right? That is a kidnaping too,
21 but the definition under our State law is much
22 more broad.

23 I would submit to you that this --
24 you've got the video, too, if you want to look
25 at it. When he takes her at knife point

1 while he is committing the robbery, taking
2 cash out of the drawer, and carries her all
3 the way to the back of the store, that entire
4 time he is holding her in confinement with
5 this knife. That is a kidnaping, Ladies and
6 Gentlemen. So I'll submit to you that under
7 our State law here that what Mr. Evans did
8 that was to kidnap Dometry Williams. Not for
9 a long period of time, but for the period of
10 time that he had the knife to her throat and
11 carried her to the back of the store,
12 assaulting her with that knife, that's a
13 kidnaping.

14 Now, this is one that we are going
15 to spend a little bit more time with:
16 attempted murder. Now, it may be tempting in
17 this case to explore the idea of 'well, could
18 he have killed her.' Could Richard Evans have
19 killed Ms. Williams. The question is what we
20 have in the back, which we don't have on the
21 surveillance video. We heard the testimony
22 from Detective Finley that there was not a
23 camera in the back of the store. So what we
24 have to go with here is not only the evidence
25 of the injuries to Ms. Williams, a cut on her

1 hand all the way to the bone, but we also have
2 her testimony.

3 Now, the Judge is going to tell you
4 that you can observe the demeanor of
5 witnesses, to examine whether they have any
6 motive to lie or to make anything up. I would
7 submit to you, Ladies and Gentlemen, that
8 Dometry Williams has no motive to get up on
9 this witness stand and embellish this story.
10 You saw her on this witness stand. She told
11 you what happened. Do you think that she
12 wanted to be here this week? Again, she
13 didn't deserve this.

14 She got on this witness stand and
15 told you of the terror and the fear for her
16 life that she had when she in that back room
17 when Richard Evans, taking this knife, caused
18 lacerations on her chest, cutting her hand
19 open to the point where if she didn't receive
20 medical treatment fairly quickly in this case
21 -- God knows where we'd be. Fortunately she
22 is here this week, she's here. She is able to
23 get up on the stand and tell us what happened
24 in the back.

25 Malice aforethought, what is malice?

1 This is really the key element of attempted
2 murder. The Judge is not only going to
3 instruct you on what is attempted murder and
4 what are some lesser offenses of that: assault
5 and battery of a high and aggravated nature
6 and assault and battery in the first degree,
7 but what Richard Evans is charged with is
8 attempted murder.

9 What is malice? Let's talk a little
10 bit about malice. Malice, under the law, can
11 be either express malice or inferred malice.
12 Express malice is pretty clear. What would
13 that be? That's pretty clear. If Richard
14 Evans had come in this store and told Ms.
15 Williams, 'I am going to kill you', 'I intend
16 to kill you', said those words, that is
17 express malice.

18 . But more commonly under the law the
19 word "malice" is inferred by the actions of
20 the defendant. Okay? The Judge is going to
21 tell you a little bit more about how we get to
22 infer malice. I want you to listen real
23 closely to what he has to tell you. Because
24 he's going to tell you that inferred malice
25 can mean that there is a total disregard for

1 human life. That's one of the ways that you
2 can infer malice. If you find that Richard
3 Evans, when he was carrying Ms. Williams to
4 the back of that store, assaulting her with a
5 knife, had a total disregard for her life,
6 then you can infer malice, Ladies and
7 Gentlemen. That is what is required for
8 attempted murder.

9 Mr. Mowry and I would submit to you
10 that there is plenty of malice here. Remember
11 what he said? I want you to think back to the
12 testimony. Ms. Williams said that she was
13 telling him the whole time, 'You don't have to
14 do this. I have five kids at home. Please
15 don't do this.' She was begging him to spare
16 her life. What were the words that he uttered
17 back to Ms. Williams? "I don't care." 'I
18 don't care if you have five kids at home, I
19 don't care that you're here working to support
20 your family, I don't care.' Could there be
21 anything more malicious, more mean-spirited
22 than that?

23 Mr. Mowry told you at the beginning
24 that that is really what malice is, a mean-
25 ness. It's hatred in your heart. Ladies and

1 Gentlemen, I would submit to you that that is
2 exactly what Richard Sylvester Evans had in
3 his heart, armed with a knife. A total
4 disregard for the life of Dometry Williams.
5 He didn't care.

6 Now, he fled the store, fortunately,
7 and he didn't go back and finish the job.

8 Your job, Ladies and Gentlemen, is
9 think about what was in his heart and his mind
10 at the time he was committing the crime. We
11 would submit to you that that is malice and
12 that this is an attempted murder case.

13 The Judge is also going to instruct
14 you on assault and battery of a high and
15 aggravated nature and assault and battery in
16 the first degree, what the elements of those
17 are. You will have that to consider back in
18 the jury room. But it is the State's
19 position, Ladies and Gentlemen, that he could
20 not have been more malicious that night --
21 other than going back in that area, after he
22 grabbed a pack of cigarettes, and finished the
23 job. He left before he did that.

24 Aforethought, this is a word that
25 you don't hear every day. Ladies and

1 Gentlemen, this is similar to the concept of
2 premeditation. But here the malice does not
3 have to be formed some weeks ahead or any
4 length of time. The law says that that state
5 of mind, that malice, must only exist just
6 before and at the time of the commission of
7 the crime. So this does not require a lot
8 period of premeditation.

9 Malice and aforethought are terms
10 that go together. The Judge will instruct you
11 about that.

12 Ladies and Gentlemen, when it comes
13 down to the -- I want you to think about what
14 Dometry Williams told you. When she was
15 laying on the floor, her hand bleeding out,
16 that man -- with his knife in his hands --
17 what she thought was going to happen to her.
18 Remember what she said? "I thought he was
19 going to kill me." That really is where we
20 get down to with this attempted murder charge.
21 She thought that he was going to kill her that
22 night. Thank God he didn't. Thank God that
23 she is sitting in this courtroom this week,
24 able to testify. But that does not mitigate
25 what he did. We would ask you to come back

1 with a guilty verdict on that attempted murder
2 charge, Ladies and Gentlemen.

3 Now, I could stand up here for
4 another twenty minutes and run my mouth, but I
5 am not going to do that. I don't think that
6 it is necessary. We've taken up enough of
7 your time this week. Ladies and Gentlemen,
8 this case is clear. You've seen the
9 surveillance tape, you've seen the stills from
10 that. You know who this guy is, Richard
11 Evans, Chilly Pop. It's no question, it is
12 beyond all doubt who committed this crime.
13 It's him. It's on video. That's about as
14 good as it gets in a criminal case. Caught on
15 tape.

16 I would ask you to go back in that
17 jury room, to use your common sense and to
18 come back Guilty on all five of these
19 indictments as charged. We have met our
20 burden here, every element has been proven to
21 your satisfaction beyond a reasonable doubt.
22 I am confident of that.

1 I think a key piece of evidence here
2 in this case that draws it all together,
3 Ladies and Gentlemen, is right here. What is
4 on this pack of cigarettes? You heard the
5 SLED testimony yesterday. I know, a lot of
6 that went over my head too when they were
7 talking about DNA. It's not the easiest thing
8 to understand. But I can tell you this,
9 twelve quadrillions to one that the blood on
10 this pack of cigarettes was Ms. Williams
11 blood, twelve quadrillion to one on the knife.
12 It was her blood, you know that. But what
13 else was on the pack of cigarettes? We've got
14 a pack of cigarettes here -- and you all saw
15 the surveillance tape, when he picked them
16 out. After he cuts somebody up, he picks out
17 his pack of smokes. What else is on this pack
18 of Newports? Not just Ms. Williams' blood but
19 his fingerprint.

20 Many times when I get up in front of
21 a jury, I have to say, 'This is not like TV,
22 Ladies and Gentlemen. This is not like
23 C.S.I., we don't have all the DNA.' It's not
24 like on TV where the whole case is wrapped up
25 in an hour -- investigation, go to court,

1 everybody is good. It doesn't happen like
2 that.

3 Ladies and Gentlemen, DNA and his
4 fingerprint. All I am saying is, is there any
5 doubt that Richard Evans is guilty here?
6 There is none, Ladies and Gentlemen.

7 Detective Bentley did his job in
8 this case. The Laurens Police Department,
9 they went out they investigated this crime.
10 They caught this dangerous man the next day
11 and arrested him. Mr. Mowry and I, I believe,
12 have done our job here in this courtroom this
13 week in presenting this case to you. The
14 Judge is about -- has done his job, is about
15 to instruct you on the law. Now it's time for
16 you to do your job. It's time, after the
17 defense gets their chance to argue, the judge
18 instructs you on the law, you're going to get
19 to go back to that jury room, along with your
20 common sense and good judgment, and as twelve
21 minds come out with five verdicts. Guilty on
22 all, as charged.

23 Thank you for your attention to this
24 case. Thank you for your service this week.

25 THE COURT: Thank you, Solicitor.

1 Ms. Kendall, you are invited for your closing
2 now.

3 MS. KENDALL: Thank you, Your
4 Honor. Muddy the water and scare y'all.
5 Ladies and Gentlemen, that is insulting. It's
6 insulting to me. I am a big girl, I've been
7 doing this for a while. But you, fair minded
8 jurors, selected in this case, I understand
9 that there are other things that you would
10 like to be doing today but you are charged as
11 the fact finders of this case. It is not
12 enough simply for the State to stand up and
13 say that they think they did their job. It's,
14 whether y'all do your job.

15 Doing their job in this case is to
16 prove each and every charge beyond a
17 reasonable doubt. The Judge will instruct
18 you what that is, but simply put a reasonable
19 doubt is a doubt that would one hesitate to
20 act. As the Judge instructs you on that, I
21 want you to think about what would cause you
22 to hesitate to act with every charge in this
23 case, because that is your job. That's why
24 you all selected as a jury. If anyone is
25 charged with a criminal offense, they are

1 entitled to a jury of their peers and full
2 deliberation of the facts of the case as
3 presented. Then you all decide, not the
4 State. Whether they have proved their case
5 beyond a reasonable doubt.

6 I'd like to go through all the
7 things that would cause you as fair minded
8 jurors to find reasonable doubt in this case.
9 Not to muddy the waters but to ensure that the
10 State did their job.

11 Starting with law enforcement in
12 this case, there were a number of witnesses
13 from the Laurens Police Department who
14 originally arrived on the scene and did follow
15 up investigation.

16 The detectives in this case
17 testified that they watched this car being
18 towed, like a hawk. But they couldn't testify
19 very clearly how many items that they picked
20 up from SLED, when they had an inventory in
21 front of them. That should cause you to
22 hesitate to act in this case.

23 Detective Riggott during her
24 testimony agreed that their office did not
25 provide our office with a completed search

1 warrant form. That should cause you to
2 hesitate to act.

3 Captain Stankas, who is the chief
4 custodian of the evidence for Laurens Police
5 Department, testified that the knife in this
6 case, that law enforcement seized, was in the
7 Laurens Police Department in Laurens County on
8 5/4. Then SLED provided that it was in their
9 possession the day prior. That should cause
10 you to hesitate to act. Law enforcement
11 should know where every piece of evidence is
12 all the time.

13 Moving to some of the law
14 enforcement witnesses that testified from
15 SLED. Sabrina Fellers went to the scene. She
16 testified that she collected evidence, took it
17 down to Columbia. But the next law
18 enforcement agent from SLED testified, Ms.
19 Wallace, that she received everything sealed
20 neatly, that no one had tampered with it. But
21 when asked if she mislabeled something, 'I
22 don't remember that.' But she also said that
23 Ms. Fellers was the only person who had the
24 form. If they can't decide who mislabeled,
25 who mishandled evidence in this case, that

1 should cause you to hesitate to act.

2 Further, Ms. Wallace testified that
3 she found fingerprint evidence in this case on
4 one item. Y'all have in evidence, and you can
5 go through everything that has been admitted,
6 only on one piece of evidence were law
7 enforcement's initials. They admitted that
8 one piece of evidence was in Columbia when
9 actually another agency said that it was in
10 Laurens. That's something that I want you to
11 consider during deliberation.

12 And, finally, going to the last
13 witness from the State Law Enforcement
14 Division, Mr. Meeh, who testified about the
15 DNA evidence, he didn't find our client's DNA
16 anywhere -- not in the store, not anywhere.
17 That should cause you to hesitate to act.

18 I keep going back to hesitate to act
19 because it is the State's burden, as they have
20 admitted and as the Judge will instruct you,
21 to prove every charge in this case beyond a
22 reasonable doubt.

23 The Solicitor -- the argument that
24 she didn't deserve this, we don't argue with
25 that. But the issues in this case that you

1 all are here to decide beyond a reasonable
2 doubt is not whether she deserved any of this,
3 it's whether the State has met their burden
4 beyond a reasonable doubt. So I would that
5 not cloud or muddy the waters.

6 If as fair-minded jurors in your
7 deliberations you determine that Mr. Evans was
8 in that store, the Judge is going to instruct
9 you on a number of lesser-included charges.
10 One of them being common law robbery. If
11 through your deliberations, if through going
12 through the evidence in this case you decide
13 that there's reason to hesitate to act, that
14 there was not a weapon involved, you're
15 entitled to find that the defendant is guilty
16 of the lesser-included charge. That is not
17 the State's decision, it's yours. Don't let
18 anyone take that away from you.

19 Additionally, there is going to be a
20 charge of the lesser-included offense of
21 assault and battery first and assault and
22 battery of a high and aggravated nature. I am
23 not going to take up any more of your time in
24 going through each definition. I say this --
25 again, during deliberations, use your common

1 sense. If you think that it was our client in
2 that store, if you think that he had a knife,
3 don't you think that there would be more cuts
4 than these? I understand the allegations but
5 the lesser-included offense of assault and
6 battery of a high and aggravated nature and
7 assault and battery in the first degree, I
8 would argue, are more appropriate in this case
9 than attempted murder. I would argue that as
10 twelve fair minded jurors that is what you
11 ought to find in this case.

12 Again, thank you for your time.
13 Don't let anyone say that I am scaring you
14 or that I've muddied the waters. It is the
15 State's job in this case to prove, beyond a
16 reasonable doubt every charge. They have not
17 done that in this case. Thank you.

18 THE COURT: Thank you, Ms. Kendall.
19 Ladies and Gentlemen, before I instruct you on
20 the law that applies in this case, I need to
21 take up one quick matter with the attorneys
22 that I forgot to bring up a few moments ago.
23 So, if you would, adjourn to the jury room.
24 Don't discuss the case yet. I will have you
25 back out here in about ten minutes. But I

1 need to address this with them before we
2 proceed any further. Don't talk about the
3 case. You will have it soon. Thank you.

4 (JURY OUT @ 11:15 A.M.)

5 THE COURT: All right. The record
6 should reflect that the jury is out. This is
7 quite fortuitous because a member of the court
8 staff needs a brief break but more importantly
9 after the solicitor started speaking, and I am
10 going to let y'all think about this and I'm
11 going to take a bathroom break. But on the
12 possession of a weapon charge, and I noticed
13 this when the case began because I read the
14 indictments at that point but I forgot to
15 bring it up with you. On the possession of a
16 weapon during the commission of a violent
17 crime indictment, the State alleged that Mr.
18 Evans did, etc., etc., "...visibly display a
19 firearm during the commission of a violent
20 crime; to-wit, armed robbery, or any lesser
21 included violent offense in violation of 16-
22 23-490 of the South Carolina Code of Laws."

23 As the verdict form is currently
24 written out and as my charge to the jury is
25 currently written, I would be charging them on

1 that. It had been my intention to address
2 this with you prior to charging the jury.
3 I will be sending back the verdict form that
4 only reflects that they can find him guilty of
5 the Indictment 1155 if they also find him
6 guilty of armed robbery. Print this, Josh.

7 While my clerk is going to get the
8 new verdict form, let me let you all look at
9 the verdict form. The only difference will be
10 on the second page, subsection E, where I will
11 be charging, like I just said I would. If
12 y'all want to take a quick gander at that,
13 make sure that it is all right, because I will
14 be explaining that to the jury during my
15 remarks.

16 (COUNSEL REVIEW OF VERDICT FORM)

17 MS. KENDALL: That is the only
18 change?

19 THE COURT: Yes, ma'am.

20 MS. KENDALL: Thank you.

21 THE COURT: Very good, let's have
22 the jury back out, please.

23 (JURY IN @ 11:30 A.M.)

24 THE COURT: Ladies and Gentlemen
25 of the jury, thank you for your continued

1 patience. It now becomes my responsibility
2 to charge you on the law that applies in this
3 particular case. I am not going to pretend
4 that what I am going to read to you is
5 fascinating or terribly interesting stuff.

6 In all candor, the twenty-five pages
7 that I have to read to you at this point in
8 time is the law. At the same time, at points
9 it is not very interesting and could somewhat
10 redundant. I have always found it a little
11 bit strange -- along those lines, I've always
12 found it a little bit strange that lawyers are
13 required to go to law school for three years
14 and then practice for a number of years. I've
15 been doing this for about twenty years now.
16 I've found it unreasonable to simply sit up
17 here and do the jury instruction the
18 traditional way that it has been done, which
19 is to simply read this to the jury. Then you
20 guys, like a bunch of sponges, are supposed to
21 absorb everything that I say, take it back
22 there to the back and apply it to the facts.

23 So what I do is I will give you a
24 copy of these instructions in written form
25 that you can refer to during your

1 deliberations. Please, of course, follow the
2 instructions as a whole. Don't pay attention
3 to one part and ignore another part.

4 If there is any question that you
5 have regarding these instructions, Mr.
6 Foreman, send me a note and I will try and
7 answer that question for you.

8 At this stage of the trial it is not
9 possible to introduce additional evidence or
10 answer any other factual questions that you
11 may have. All of the evidence has been
12 presented at this point in time. But if there
13 is any question that you have concerning the
14 law that applies, certainly I can instruct you
15 or try to help you in that regard.

16 Now, Ladies and Gentlemen, the
17 indictments in this case charge Mr. Evans with
18 the offenses of armed robbery, grand larceny,
19 attempted murder, kidnaping and the possession
20 of a weapon during the commission of a violent
21 crime.

22 I remind you that the fact that Mr.
23 Evans was arrested and charged and indicted in
24 these cases is not evidence and cannot be
25 considered by you as evidence of guilt in this

1 case. Nor does it create any presumption or
2 inference of guilt. These documents are
3 simply the formal written instruments which
4 contain the charges made against the
5 defendant. They are the formal documents by
6 which these cases are brought in court.

7 The indictments in this case allege
8 several different offenses against the
9 defendant. Again, the charges against the
10 defendant are armed robbery, grand larceny,
11 kidnaping, attempted murder and possession of
12 a weapon during the commission of a violent
13 crime.

14 Each indictment charges a separate
15 and distinct offense. You must decide each
16 indictment separately on the evidence and the
17 law applicable to him, uninfluenced by your
18 decision as to any other indictment.

19 The defendant may be convicted or
20 acquitted on all -- on any or all of the
21 charges. You will be asked to write a
22 separate verdict of guilt or not guilty for
23 each indictment.

24 Ladies and Gentlemen, Mr. Evans has
25 pled not guilty to these indictments. That

1 plea puts the burden of proof on the State to
2 prove him guilty.

3 A person charged with committing a
4 criminal offense in South Carolina is never
5 required to prove himself innocent.

6 I charge you that it is an important
7 rule of the law that the defendant in a
8 criminal trial, no matter what the seriousness
9 of the charge may be, will always be presumed
10 to be innocent of the charge in the
11 indictments which were issued unless guilt has
12 been proven by evidence satisfying you of that
13 guilt beyond a reasonable doubt.

14 This presumption of innocence does
15 not end when you begin your deliberations but
16 accompanies the defendant throughout the trial
17 until you reach a verdict of guilt based on
18 evidence satisfying you of that guilt beyond a
19 reasonable doubt.

20 The presumption of innocence is like
21 a robe of righteousness placed about the
22 shoulder of the defendant, which remains with
23 him until it has been stripped from him by
24 evidence satisfying you of his guilt beyond a
25 reasonable doubt.

1 Ladies and Gentlemen, the
2 presumption of innocence is not merely a legal
3 phrase. It is a substantial right which every
4 citizen is entitled unless you, the jury, are
5 satisfied of evidence of his guilt beyond a
6 reasonable doubt.

7 What is a reasonable doubt in the
8 law. A reasonable doubt is the kind of doubt
9 that would make a conscientious person
10 hesitate to act.

11 The State has the burden of proving
12 the defendant guilty beyond a reasonable
13 doubt. Some of you may have served as jurors
14 in civil cases where you were told that it was
15 only necessary to prove that a fact is more
16 likely true than not true, which is by the
17 greater weight or the preponderance of the
18 evidence. In criminal cases the State's proof
19 must be more powerful than that. It must be
20 beyond a reasonable doubt.

21 Proof beyond a reasonable doubt is
22 proof that leaves you firmly convinced of the
23 defendant's guilt. Now, there are very few
24 things that we know in this world with
25 absolute certainty. In criminal cases the law

1 does not require proof that overcomes every
2 possible doubt.

3 If based on your consideration of
4 the evidence you are firmly convinced that the
5 defendant is guilty of the crime charged, you
6 should find the defendant guilty.

7 If, on the other hand, you find that
8 the defendant is not guilty, you must give the
9 defendant the benefit of the doubt and find
10 him not guilty.

11 Now, I remind you that during this
12 trial you and I have certain duties to
13 perform. As the trial judge, it is my
14 responsibility to preside over the trial of
15 this case. I also have the duty to rule on
16 the admissibility of evidence offered during
17 this trial.

18 You are consider only the competent
19 evidence before you. If there was any
20 testimony ordered stricken from the record,
21 you must disregard that testimony. You are to
22 consider only the testimony which has been
23 presented from the witness stand and any
24 exhibits which have been made a part of this
25 case. Under the law, questions of counsel are

1 not evidence. Similarly, statements made by
2 this court or the attorneys in ruling on or
3 arguing any evidentiary matter do not
4 constitute evidence in this case and should
5 not be considered by you in your
6 deliberations.

7 I have the additional duty to charge
8 you the law applicable to this case. As the
9 presiding judge, I am the sole judge of the
10 law of this case. It is your duty as jurors
11 to accept and apply the law as I now state it
12 to you. If you already have any ideas as to
13 what the law is or what the law should be and
14 it does not agree with what I tell you now the
15 law is, you must abandon this idea because
16 you're sworn to accept the law and apply it
17 exactly as I state it to you now.

18 In every case tried in this court
19 before a jury, the jury becomes the sole and
20 exclusive judge of the facts in a case. A
21 trial judge cannot intimate, comment on or
22 make any statement to a trial jury about the
23 facts in a case. Since you, the jury, are the
24 sole judge of the facts in this case, you are
25 not to infer from what I've said during the

1 progress of this trial, in ruling upon the
2 admissibility of evidence or otherwise, or
3 anything that I say now during the course of
4 these instructions to you, that I have any
5 opinion about the facts in this case. Ladies
6 and Gentlemen, the law does not allow me to
7 have an opinion about the facts in this case.
8 This is a matter solely for you, the jury, to
9 determine.

10 As jurors, it is your duty to
11 determine the effect, value, weight and truth
12 of the evidence presented during this trial.

13 Now there are two types of evidence
14 typically presented during a criminal trial,
15 direct evidence and circumstantial evidence.

16 Direct evidence is the testimony of
17 a person who claims to have actual knowledge
18 of a fact, such as an eyewitness. It is
19 evidence which immediately establishes the
20 main fact to be proved.

21 Circumstantial evidence is proof of
22 a chain of facts and circumstances indicating
23 the existence of a fact. It is evidence which
24 immediately establishes collateral facts from
25 which the main fact may be inferred.

1 Circumstantial evidence is based on inference
2 and not on personal knowledge or observation.

3 Now, the law makes absolutely no
4 distinction between the weight or value to be
5 given to either direct or circumstantial
6 evidence. Nor is a greater degree of
7 certainty required of circumstantial evidence
8 than of direct evidence. You should weigh all
9 the evidence in this case.

10 After weighing all the evidence, if
11 you're not convinced of the defendant's guilt
12 beyond a reasonable doubt, you must find him
13 not guilty.

14 Necessarily you must determine the
15 credibility of witnesses who have testified in
16 this case. Credibility simply means
17 believability. It becomes your duty as jurors
18 to analyze and to evaluate the evidence and to
19 determine which evidence convinces you of its
20 truth.

21 In determining the believability of
22 witnesses who have testified, you can believe
23 one witness over several witnesses, or several
24 witnesses over one witness. You may believe
25 part of a witness and reject the remaining

1 part of the testimony of that same witness.

2 You may believe the testimony of a witness in
3 its entirety or reject the testimony of a
4 witness in its entirety.

5 You may consider whether any witness
6 has exhibited to you any interest, bias,
7 prejudice or other motivation in this case.
8 You may also consider the appearance and
9 manner of a witness while on the witness
10 stand.

11 Now, Ladies and Gentlemen, in this
12 case we had several individuals qualified as
13 expert witnesses. I instructed you that the
14 rules of evidence ordinarily do not permit
15 witnesses to testify to opinions or
16 conclusions. An exception to this rule exists
17 for witnesses known as expert witness. An
18 expert witness is a witness who by education
19 or experience has become an expert in some
20 art, science, profession or calling may state
21 an opinion as to relevant and material matter
22 in which the witness claims to be an expert,
23 and may also state the reasons for that
24 opinion.

25 You should consider any expert

1 opinion received in this case and, like any
2 other evidence, give it the weight that you
3 think that it deserves. If you decide that
4 the opinion of an expert is not based on
5 sufficient education or experience or if you
6 should conclude that the reasons given in
7 support of the opinion is not sound, or that
8 the opinion is outweighed by other evidence,
9 you may disregard the opinion entirely.

10 An expert witness' testimony is to
11 be given no greater weight than that of any
12 other witness simply because the witness is an
13 expert.

14 Further, you are not required to
15 accept an expert's opinion even though it is
16 uncontradicted.

17 Ladies and Gentlemen, I instruct you
18 and emphasize the fact that the defendant did
19 not testify is not to be considered by you in
20 any way in your deliberation, in your
21 consideration of the question of the guilt or
22 innocence of the defendant. It must not be
23 considered by you in any manner whatsoever.
24 A defendant has the Constitutional right to
25 remain silent and the assertion of this right

1 must not be considered by you in your
2 deliberations.

3 I repeat, under your oath you are to
4 draw no conclusion whatsoever from the fact
5 that the defendant in this case did not
6 testify. The fact that Mr. Evans did not
7 testify should not even be considered in the
8 jury room. The burden of proof, as I have
9 stated to you, is on the State. The defendant
10 is not required to prove his innocence. The
11 burden of proof remains on the State to prove
12 guilt beyond a reasonable doubt.

13 Now, Ladies and Gentlemen, in this
14 case the defendant is charged with armed
15 robbery. In order to prove this offense, the
16 State must first prove beyond a reasonable
17 doubt that the defendant took personal
18 property from the person or presence of
19 another person. Property is in the presence
20 of a person if it is within a person's reach,
21 inspection, observation or control so that the
22 person could, if not overcome with violence or
23 prevented by fear, keep possession of the
24 property.

25 The State must also prove beyond a

1 reasonable doubt that the defendant carried
2 the property away, intending to permanently
3 deprive the owner of the property and to keep
4 the property for the defendant's own use.
5 The slightest removal of the property or the
6 complete possession of the property even for
7 an instant by the defendant is sufficient to
8 show a taking and carrying away of the
9 property. The taking and carrying away of the
10 property must have been done by violence or
11 putting the owner of the property in fear of
12 violence.

13 Finally, the State must prove beyond
14 a reasonable doubt that the defendant was
15 armed with a deadly weapon during the robbery.
16 A deadly weapon is any article, instrument or
17 substance which is likely to cause death or
18 great bodily harm. Whether an instrument has
19 been used as a deadly weapon depends on the
20 facts and circumstances of each case.

21 The following are examples of
22 instrument which may be deadly weapons: a
23 pistol, shotgun, rifle, a dirk, a dagger, a
24 knife, a slingshot, metal knuckles, a razor,
25 gasoline, a fire bomb or Molotov cocktail or

1 lighter fluid.

2 Ladies and Gentlemen, also include
3 within the offense of armed robbery is the
4 lesser-included offense of robbery. If you
5 find that the State has failed to prove that
6 the defendant was armed with a deadly weapon,
7 you may then consider whether the State has
8 proven beyond a reasonable doubt whether the
9 defendant committed robbery.

10 In order to prove robbery, the State
11 must prove beyond a reasonable doubt all the
12 elements that I have just explained except
13 that the defendant was armed with a deadly
14 weapon.

15 Ladies and Gentlemen, the defendant
16 is also charged with grand larceny. The State
17 must prove beyond a reasonable doubt that the
18 defendant took and carried away the property
19 of another against the will or without the
20 consent of the other person. Again, the
21 slightest removal of the property or the
22 complete possession of the property even for
23 an instant by the defendant is enough to show
24 taking and carrying away of the property.

25 The State must also prove beyond a

1 reasonable doubt that the defendant intended
2 to permanently deprive the owner of the
3 property.

4 Finally, the State must prove that
5 the value of the thing taken was two thousand
6 dollars or more. The verdict form which I
7 have prepared for you, to help guide your
8 deliberations, asks a specifically question.
9 That question asks you to determine the value
10 of the automobile which the defendant
11 allegedly stole. I will need you to write
12 that in the verdict form, and I'll explain
13 that to you in just a moment.

14 In this case, Ladies and
15 Gentlemen, the defendant is also charged with
16 kidnaping. The State must prove beyond a
17 reasonable doubt that the defendant knowingly
18 and unlawfully seized, confined, inveigled,
19 decoyed, kidnaped, abducted or carried away
20 another person without the authority of law.

21 To do a thing unlawfully is to do is
22 willfully under the law.

23 "Knowingly means" with knowledge,
24 consciously, not accidentally.

25 "To seize" means to take hold of

1 suddenly or forcibly.

2 "Confine" means to limit, restrict
3 or enclose with bounds, imprison, shut or keep
4 in.

5 "Inveigle" means to lure, entice or
6 lead astray by false representations, promises
7 or other deceitful means.

8 "Decoy" means to lead by decoy. A
9 decoy is something to entice a person into a
10 trap.

11 "To kidnap" is to remove a person
12 against his will by unlawful force or by
13 fraud.

14 "Abduct" means to carry out secretly
15 by force for an illegal purpose.

16 "To carry away" means to remove.

17 Now, the State does not have to
18 prove that the defendant did all of these
19 things. Instead, if you find beyond a
20 reasonable doubt that the defendant did any of
21 these things, you may find the defendant
22 guilty of kidnaping.

23 Some done without authority of law
24 is something which the law does not sanction,
25 permit, allow, condone or provide

1 justification for.

2 I instruct you that the kidnaping
3 does not have to be for personal or monetary
4 gain or for any illegal purpose, but may be
5 for any purpose whatsoever.

6 Now, the defendant is also charged
7 with attempted murder. In order to prove this
8 crime, the State must prove that the defendant
9 attempted to kill another person with malice
10 aforethought, either express or implied.

11 "Malice" is hatred, ill will or
12 hostility towards another person. The
13 intentional doing of a wrongful act without
14 just cause or excuse and with an intent to
15 inflict any injury or under circumstances that
16 the law will infer an evil intent.

17 Malice aforethought does not require
18 that malice exist for any particular time
19 before the act is committed. Malice exists in
20 the mind -- malice must exist in the mind of
21 the defendant just before and at the time of
22 the act, at the time that the act is
23 committed. Therefore there must be a
24 combination of the previous evil intent and
25 the act.

1 Malice aforethought may be express
2 or inferred. This terms, express or inferred,
3 do not mean different kinds of malice but
4 merely the manner in which malice may be shown
5 to exist. That is either by direct evidence
6 or from the facts and circumstances which are
7 proved.

8 Express malice is shown when a
9 person speaks words which express hatred or
10 ill will for another or when the person
11 prepared beforehand to do the act which was
12 later accomplished. For example, laying in
13 wait for a person or any other acts of
14 preparation going to show that the deed was in
15 the defendant's mind would be express malice.

16 Malice may be inferred from conduct
17 showing a total disregard for human life. If
18 facts are proven beyond a reasonable doubt
19 sufficient to raise an inference of malice to
20 your satisfaction, this inference would simply
21 be an evidentiary fact to be considered by
22 you, the jury, along with other evidence in
23 this case. You may give it the weight that
24 you decide it should receive.

25 A specific intent to kill is not an

1 element of attempted murder, but there must be
2 a general intent to commit serious bodily
3 injury. Intent means intending the result
4 which actually occurs, not accidentally or
5 involuntarily. Intent may be shown by acts
6 and conduct of the defendant and other
7 circumstance from which you may naturally and
8 reasonable infer intent: evidence of the
9 character of the action, the character of the
10 instrument used, the manner in which it was
11 used, the purpose to be accomplished and the
12 resulting wounds of injuries may be considered
13 in determining the intent with which the act
14 was committed. Intent may also be inferred
15 when it is demonstrated that the defendant
16 voluntarily and willfully commits an act, the
17 natural tendency of which is to destroy
18 another's life.

19 Now, Ladies and Gentlemen, if you
20 find that the State has failed to prove that
21 the defendant is guilty of attempted murder,
22 you should then decide whether the State has
23 proven that the defendant is guilty of assault
24 and battery of a high and aggravated nature.

25 A person commits the offense of

1 assault and battery of a high and aggravated
2 nature if the person unlawfully injures
3 another person and great bodily injury to
4 another person results or the act is
5 accomplished by means likely to produce death
6 or great bodily injury.

7 I instruct you that great bodily
8 injury means bodily injury which causes a
9 substantial risk of death or which causes
10 serious permanent disfigurement or protracted
11 loss or impairment of the function of a bodily
12 member or organ.

13 If you find that the defendant (sic)
14 has failed to prove that the defendant is
15 guilty of assault and battery of a high and
16 aggravated nature, you must then decide
17 whether the State has proven that the
18 defendant is guilty of assault and battery
19 first degree.

20 A person commits the offense of
21 assault and battery first degree if the person
22 unlawfully injures another person and the act
23 occurred during the commission of a robbery;
24 burglary, kidnaping or theft; or offers or
25 attempts to injure another person, with the

1 present ability to do so and the act is
2 accomplished by means likely to produce death
3 or great bodily injury or occurred during the
4 commission of a robbery, burglary, kidnaping
5 or theft.

6 Great bodily injury, again, means
7 bodily injury which causes a substantial risk
8 of death or which causes serious permanent
9 disfigurement or protracted loss or impairment
10 of the function of a bodily member or organ.

11 Finally, Ladies and Gentlemen, the
12 defendant is charged with the possession of a
13 weapon during the commission of or in
14 attempting to commit a violent crime. The
15 State must prove beyond a reasonable doubt
16 that the defendant visibly displayed a knife
17 during the commission of a violent crime.

18 A knife means an instrument or tool
19 with a sharp cutting blade, whether or not
20 fastened to a handle, which can be used to
21 inflict a cut, slash or wound. In order to
22 find the defendant guilty of the possession of
23 a weapon during the commission of a violent
24 crime, you must find the defendant guilty of
25 either committing a violent crime or

1 attempting to commit a violent crime. I
2 instruct you that armed robbery under the law
3 of South Carolina is classified as a violent
4 crime. The State must prove beyond a
5 reasonable doubt that the weapon further
6 advanced or helped in the commission of a
7 crime.

8 Now, Ladies and Gentlemen, there are
9 several possible verdicts which you may in
10 this particular case, guilty or not guilty of
11 armed robbery, robbery, grand larceny,
12 kidnaping, attempted murder, assault and
13 battery of a high and aggravated nature,
14 assault and battery first degree, and the
15 possession of a weapon during the commission
16 of a violent crime.

17 Now, there is no significance
18 whatsoever in the order in which I state these
19 possible verdicts. Simply one must be stated
20 first.

21 Mr. Foreman, I prepared this verdict
22 form to guide your deliberations. It is
23 pretty self-explanatory but I'm going to go
24 through it with you anyway. If you have any
25 questions about it, simply follow the same

1 procedure. Send a note letting me know what
2 part of the form you are having trouble
3 understanding and I'll try to explain it to
4 you.

5 Basically the verdict has the
6 caption of the case, the State of South
7 Carolina versus Richard Sylvester Evans.
8 There are the indictment numbers up here at
9 the top.

10 The first question that it asks you,
11 the first statement that the jury is asked to
12 decide is:

13 A) We, the jury in the above
14 captioned case on the charge of armed robbery
15 unanimously find Mr. Evans ...

16 Then it gives you two blanks to
17 initial, not guilty or guilty. Okay?

18 If based on the consideration of the
19 evidence as a whole you find that the State
20 has failed to meet its burden of proving the
21 defendant guilty of this charge, you would
22 sign "Not Guilty" and go on to the next
23 question.

24 If, on the other hand, you find that
25 the State has met its burden of proving the

1 defendant's guilt beyond a reasonable doubt,
2 you would initial "Guilty" and then proceed to
3 B. Okay?

4 So in the first question, if you
5 were to find him not guilty of armed robbery,
6 only then would you go to the second question
7 under subsection A. Okay?

8 That asks the same question of the
9 lesser-included offense of common law robbery.
10 It gives you the exact same options. Okay?

11 If you find him Not Guilty, you
12 would then proceed to B. If you find him
13 Guilty of that offense, then you would proceed
14 to B.

15 These instructions are all written
16 out for you here, in brackets just underneath
17 each question.

18 Section B asks the exact same
19 question on the charge of larceny. If you
20 find as a jury that the -- if you unanimously
21 find that the State has proven Mr. Evans
22 guilty of this charge, you would initial here.
23 If you find him unanimously not guilty, you
24 would initial here.

25 If you find him guilty of this

1 charge, I have a blank here that says, "We
2 unanimously find that the value of the
3 automobile was \$_____." You would need
4 to establish a value of the car that was
5 allegedly taken from the alleged victim in
6 this case.

7 Subsection C, it asks you the same
8 question on the charge of kidnaping. It says
9 "We, the jury in the above captioned case, on
10 the charge of kidnaping unanimously find Mr.
11 Evans..." -- and you are given two options:
12 Not Guilty or Guilty.

13 Based on your review of the
14 evidence, if you find that the State has met
15 its burden of proof beyond a reasonable doubt,
16 you would initial "Guilty." Conversely, if
17 the State has failed to meet its burden of
18 proof, you would initial "Not Guilty." Okay?

19 You go down to question D. It asks
20 the same question on the charge of attempted
21 murder. Again, if the State has met its
22 burden of proving the defendant guilty beyond
23 a reasonable doubt and all twelve jurors agree
24 that Mr. Evans is guilty of murder (sic), then
25 you would initial "Guilty" and proceed to

1 question E.

2 If, on the other hand, you find that
3 the State has failed to meet its burden of
4 proof in proving him guilty beyond a
5 reasonable doubt of attempted murder, you
6 would then -- you would then consider whether
7 the State has met its burden of proving him
8 guilty of assault and battery of a high and
9 aggravated nature.

10 If y'all find that the State has
11 failed to meet its burden of proving him
12 guilty of assault and battery of a high and
13 aggravated nature, you would move to the next
14 question and consider assault and battery in
15 the first degree. Okay?

16 If you were to find him guilty of
17 ABHAN, you would then proceed to question E.
18 All right?

19 So this is pretty self-explanatory.

20 Again, it asks the same question of
21 you for assault and battery first degree, if
22 you get to that point.

23 Finally, question E basically
24 states, "We, the jury in the above captioned
25 case, find on the charge of possession of a

1 weapon during the commission of a violent
2 crime unanimously find Mr. Evans -- it gives
3 you two options: Guilty or Not Guilty.

4 Please note that you can only
5 consider question E if you have already found
6 Mr. Evans guilty of the offense of armed
7 robbery. Okay? So only address question E if
8 you have already found him guilty of the
9 charge of armed robbery.

10 Then on page three of the verdict
11 form is a place for you to sign, Mr. Foreman.
12 Once you have reached a verdict, simply let
13 the bailiff know and we will bring you back
14 into the courtroom.

15 Now, Ladies and Gentlemen, as I
16 explained, your verdict has to be an unanimous
17 one. We do not have majority verdicts in this
18 state. I believe that we never should have
19 majority verdicts in this state. What
20 "unanimous" of course means is that all twelve
21 of you must agree on the verdict for each
22 charge.

23 Again, when you have decided on the
24 verdict, Mr. Foreman; knock on the jury room
25 door, let the bailiff know that you have

1 reached your verdict. We will assemble here
2 and receive you back into the courtroom.

3 Ladies and Gentlemen, I remind you
4 that you have no friends to reward, you have
5 no enemies to punish. Your verdict must be
6 based upon the evidence presented and the laws
7 that I have instructed you. Your verdict
8 cannot be the result of passion, caprice,
9 prejudice or based upon any consideration
10 which is not in the record of this case.

11 In a moment, I will ask that you
12 return to your jury room. When you go back,
13 don't start talking about this case yet. Your
14 cue to begin your deliberations will be
15 receipt of the verdict form, the evidence and
16 these instructions. The bailiff will let you
17 know to start deliberating. Okay? That will
18 be your cue.

19 I will tell you that there is a DVD
20 which has been introduced into evidence in
21 this case. The DVD, I don't think that there
22 is a DVD player in the jury room. Mr. Bolt
23 has indicated that there is not. So if you
24 need to see that video again, for whatever
25 reason, send us a note and we will come back

1 out here. We will bring you back out here and
2 play it on the screen for you since that is
3 the only way we will have to show it to you.

4 One of the exhibits is a knife.
5 Please don't remove that knife from the
6 container. That is just for your personal
7 safety. Okay? So just leave that item in
8 there.

9 We are bumping up against lunchtime,
10 Ladies and Gentlemen. I will tell you that
11 however long you take to deliberate this case
12 is perfectly fine. There is no time limit,
13 there is no timetable that the court has.
14 You can take as much or as little time as you
15 want.

16 The reason that I mention that to
17 you is because usually it takes about forty-
18 five minutes to get lunch here. So if you
19 want us to order lunch for you, that's
20 perfectly fine. We can do that. Normally we
21 order pizza for the jury. It would take
22 probably about forty-five minutes to an hour
23 to get it here. So if you decide that that is
24 something that you're interested in, just let
25 the bailiff know and I will send the clerk

1 back there to place an order for some pizza.
2 If any of you have any special dietary
3 restrictions, let us know and we will do
4 everything that we can to accommodate that.
5 Okay?

6 Again, please adjourn to the jury
7 room one last time. There are a few matters
8 that I need to take up with the lawyers to
9 make sure that I've instructed you on
10 everything that I should. Again, your cue to
11 begin your deliberations will be receipt of
12 the verdict form and the evidence, and the
13 bailiff will tell you when to start. Okay?

14 With that, I hope to have this case
15 to you in just a few moments.

16 (JURY OUT @ 12:05 P.M.)

17 THE COURT: The jury is out except
18 for the -- I note that all previous exceptions
19 to the charges that I have given, both from
20 the State and the defense. Those are
21 protected for the record. Any additions that
22 I need to address from the State?

23 SOLICITOR MOWRY: None from the
24 State.

25 THE COURT: From the defense?

1 courtroom. Okay? So, again, if you have any
2 problems once the verdict is announced, if you
3 have any problems keeping your composure, just
4 absent yourself from the courtroom as quietly
5 and as quickly as you can.

6 With that, we will go ahead and
7 receive the jury back in, please.

8 (JURY IN @ 1:28 P.M.)

9 THE COURT: Let the record reflect
10 that the jury is back and seated. Mr.
11 Foreman, I am told that the jury has reached a
12 verdict. Is that correct?

13 FOREMAN: Yes, we have..

14 THE COURT: All twelve jurors
15 agreed on all verdicts?

16 FOREMAN: Yes, sir..

17 THE COURT: If you would, go ahead
18 and hand the verdict form to the bailiff.

19 FOREMAN: (Tenders to bailiff).

20 BAILIFF: (Tenders to Judge).

21 THE COURT: Madame Clerk, if you
22 will please publish.

23 CLERK: Your Honor, in the case of
24 the State of South Carolina versus Richard
25 Sylvester Evans, Case Number 12-GS-30-1154 to

1 1158, (reading):

2 "We, the jury in the above captioned
3 case, on the charge of armed robbery
4 unanimously find Richard Sylvester Evans
5 Guilty."

6 "We, the jury in the above captioned
7 case, on the charge of larceny unanimously
8 find Richard Sylvester Evans Guilty. We
9 unanimously find that the value of the
10 automobile was eight thousand dollars
11 (\$8,000)."

12 "We, the jury in the above captioned
13 case, on the charge of kidnaping unanimously
14 find Richard Sylvester Evans Guilty."

15 "We, the jury in the above captioned
16 case, on the charge of attempted murder
17 unanimously find Richard Sylvester Evans
18 Guilty."

19 "We, the jury in the above captioned
20 case, on the charge of possession of a weapon
21 during the commission of a violent crime
22 unanimously find Richard Sylvester Evans
23 Guilty."

24 Signed by the Foreman, Michael A.
25 Malone. Dated March 6, 2013. Laurens, South

1 Carolina.

2 Ladies and Gentlemen, if that be
3 your verdicts, please indicate by raising your
4 right hand --(unanimous affirmative response
5 by jurors).

6 THE COURT: Let the record reflect
7 that all twelve jurors did in fact raise their
8 right hands. Anything further from the jury
9 before they are discharged? From the State?

10 SOLICITOR MOWRY: None from the
11 State, Your Honor.

12 THE COURT: From the defense?

13 MR. HOWE: No, sir.

14 THE COURT: Does your client need a
15 moment?

16 MR. HOWE: You want him to just
17 stay right here, Judge?

18 THE COURT: That's fine.

19 MR. HOWE: Thank you.

20 THE COURT: Ladies and Gentlemen of
21 the jury, I want to thank you for your service
22 this week. I will tell you that this case
23 concludes your service. I will be in a
24 position to release you in a few moments.

25 The clerk of court already has your

1 position.

2 So, you know, even though one may
3 think now that the jury's time was utilized
4 improperly, it still was necessary, I think,
5 for the system to work when faced when this
6 situation.

7 He's glad, for all concerned, that
8 this young lady is doing fine. We all are.

9 Mr. Evans knows what he is up
10 against. It is a shame. An Army veteran who
11 came out of the Army, suffered an addiction
12 to drugs that has put him in this position.
13 He understands that. He's indicated that he
14 will take these proceedings like -- like he
15 should.

16 We appreciate the Judge's considera-
17 tion in presiding over this case. Thank you.

18 THE COURT: Thank you very much,
19 Mr. Howe. Mr. Evans, you don't want to say
20 anything, sir?

21 DEFENDANT: No. I can't.

22 THE COURT: All right. Ms.
23 Williams, I am terribly sorry that this
24 horrible string of events had to happen to
25 you, ma'am. I sincerely hopeful that at some

1 point in time you can put this behind you and
2 not continue to suffer from the things that
3 you've told me that you're still suffering
4 from. I know that this was a traumatic and an
5 extremely scary, horrible thing that happened
6 to you. If there was any way to take it away,
7 I'm sure that the court would try to give you
8 some relief. I hope that you take some solace
9 in the fact that court has absolutely no
10 discretion and that the sentence that I have
11 to impose is the one required under our system
12 of law. Insofar as what you have requested,
13 it is what the law will see done.

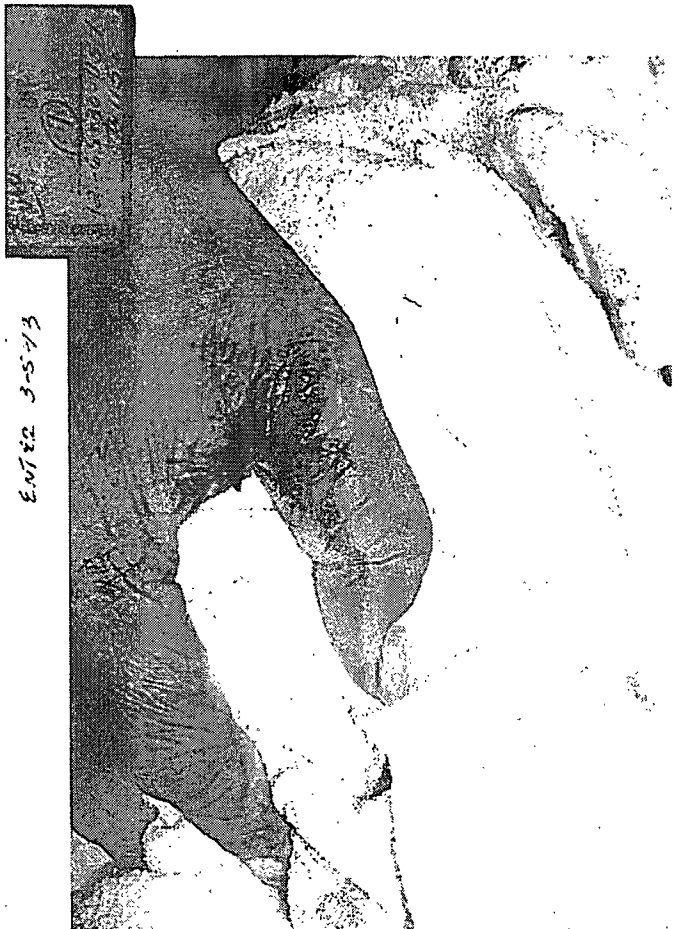
14 . On the issue, Mr. Evans, of your
15 conduct, sir, I appreciate your -- the fact
16 that you have remained calm this week, that
17 you are willing to take this, as your lawyer
18 said, like a man. I have never been one to
19 believe that a person should be judged by the
20 worse thing that they have done in their
21 lives. If that's the case, we all are in
22 trouble. Okay? When it comes right down to
23 it. If we were to be judged by the worse
24 thing that we have done, none of us would be
25 capable of redemption.

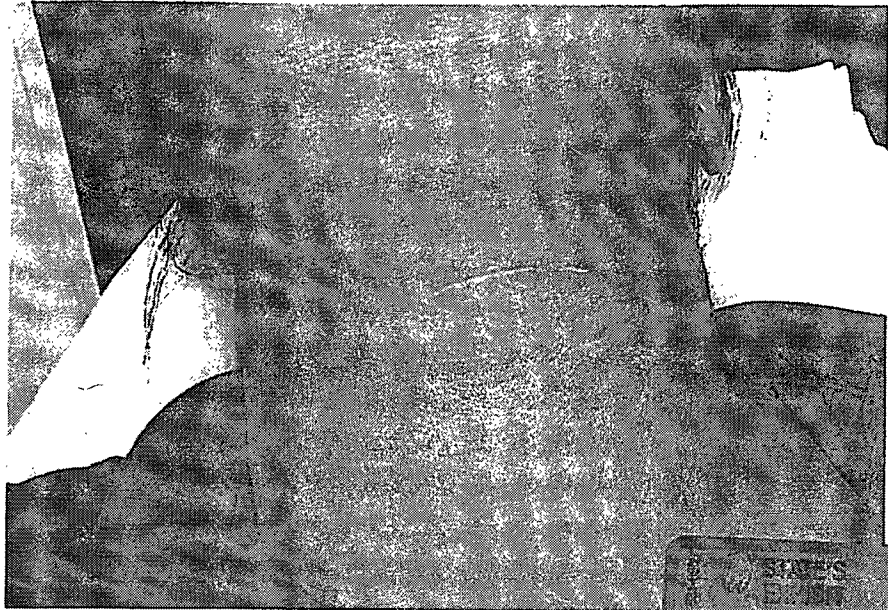
1 At the same time, Mr. Evans, what
2 happened to this lady, what happened to the
3 victim did not have to happen. I wish that
4 you had gotten control of whatever demons seem
5 to have controlled you on this night. I hate
6 that I have to impose this sentence but, at
7 the same time, based on your record and what I
8 saw happen on that video, I think that this
9 sentence is fair, just and certainly
10 reasonable.

11 The sentence on 1156, 1154 and 1158,
12 those are the kidnaping, armed robbery and
13 attempted murder charges, is that you are
14 committed to the Department of Corrections for
15 the balance of your natural life per Section
16 17-25-0045.

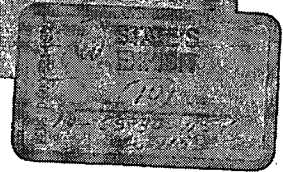
17 On Indictment 1157, that's the grand
18 larceny, the sentence is six months with
19 credit for six months served.

20 Pursuant to Section 16-23-490(a), on
21 the weapons charge, because you are receiving
22 life sentences, there is no reason for that
23 Code section -- there is no reason to sentence
24 you on that charge. Mr. Evans, good luck to
25 you.





ID 3-4-13
ENTER 3-4-13



FORM 4
NOTICE OF APPEAL FROM A SENTENCE IMPOSED BY THE COURT
OF GENERAL SESSIONS

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LAURENS COUNTY
Court of General Sessions

Frank R. Addy, Circuit Court Judge

Case No. 2012-GS-30-1154-1158

LYNN W. LANCASTER

2013 MAR - 8 P 3:43

LAURENS COUNTY
CLERK OF COURT

The State,

Respondent,

v.

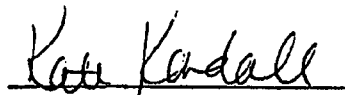
Richard Evans,

Appellant.

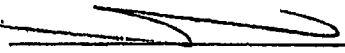
NOTICE OF APPEAL

Richard Evans appeals his conviction and sentence in this case. The sentence was imposed by the Honorable Frank R. Addy on March 6, 2013.

March 6, 2013



D. Kate Kendall
Assistant Public Defender, Laurens County



Claude H. Howe, III
Chief Public Defender, Laurens County
P.O. Box 174
Laurens, South Carolina 29630

RECEIVED

MAR 12 2013

EG Court of Appeals

FORM 7
PROOF OF SERVICE OF A NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LAURENS COUNTY
Court of General Sessions

Frank R. Addy, Circuit Court Judge

Case No. 2012-GS-30-1154-1158

State,

Respondent,

v.

Richard Evans,

Appellant.

LYNN W. LANCASTER

2013 MAR - 8 P 3:43

LAURENS COUNTY
CLERK OF COURT

RECEIVED

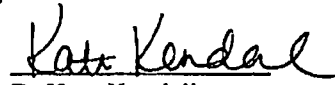
MAR 12 2013

SC COURT OF APPEALS

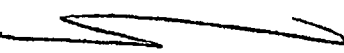
PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Eighth Circuit Solicitor's Office by personally delivering a copy of it to the Eighth Circuit Solicitor's Office attorneys of record, David Stumbo and Warren Mowry, at Mr. Mowry's office at the Laurens County Courthouse, Laurens, South Carolina 2013, on March 7th, 2013.

March 7th, 2013



D. Kate Kendall
Assistant Public Defender, Laurens County



Claude H. Howe, III
Chief Public Defender, Laurens County
P.O. Box 174
Laurens, South Carolina 29630

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LAURENS COUNTY
Court of General Sessions

Frank R. Addy, Circuit Court Judge

Case No. 2012-GS-30-1154
Appellate Case No. 2013-000579

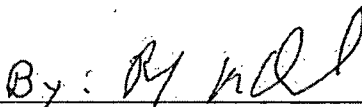
State of South Carolina, ...Respondent,

v.

Richard Sylvester Evans, ...Appellant.

CERTIFICATE OF COUNSEL

The undersigned certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

By: 
Thornwell F. Sowell
S.C. Bar No. 5197
J. Michael Montgomery
S.C. Bar No. 74930
SOWELL GRAY STEPP & LAFFITTE, LLC
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400

Attorneys for Appellant

May 27, 2014

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LAURENS COUNTY
Court of General Sessions

Frank R. Addy, Circuit Court Judge

Case No. 2012-GS-30-1154
Appellate Case No. 2013-000579

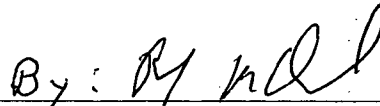
State of South Carolina, ...Respondent,

v.

Richard Sylvester Evans, ...Appellant.

CERTIFICATE OF COUNSEL

The undersigned certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

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Thornwell F. Sowell

S.C. Bar No. 5197

J. Michael Montgomery

S.C. Bar No. 74930

SOWELL GRAY STEPP & LAFFITTE, LLC

Post Office Box 11449

Columbia, South Carolina 29211

(803) 929-1400

Attorneys for Appellant

May 27, 2014

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

 ORIGINAL

APPEAL FROM LAURENS COUNTY
Court of General Sessions

RECEIVED

Frank R. Addy, Circuit Court Judge

MAY 27 2014

SC Court of Appeals

Case No. 2012-GS-30-1154
Appellate Case No. 2013-000579

State of South Carolina, ...Respondent

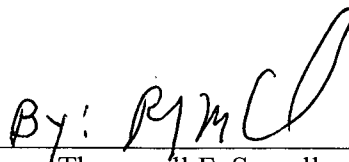
v.

Richard Sylvester Evans, ...Appellant,

PROOF OF SERVICE

I certify that I have served the Record on Appeal on Respondent State of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, on May 27, 2014, addressed to its attorney of record, Jared Q. Libet, Assistant Attorney General, Office of the Attorney General, P.O. Box 11549, Columbia, SC 29211.

May 27, 2014

By: 

Thornwell F. Sowell
S.C. Bar No. 5197
J. Michael Montgomery
S.C. Bar No. 74930
SOWELL GRAY STEPP & LAFFITTE, LLC
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400

-and-

Robert M. Dudek (Second Counsel)
Chief Appellate Defender
South Carolina Commission on Indigent Defense
Appellate Division
1330 Lady Street, Suite 401
P.O. Box 11589
Columbia, South Carolina 29201-1589