

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Saluda County

Honorable Eugene C. Griffith, Circuit Court Judge

THE STATE,

v.

ABIN LEE LOWMAN,

RESPONDENT

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SC Court of Appeals

APPELLANT

APPELLATE CASE NO. 2018-001215

RECORD ON APPEAL

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1 it's being used against him in sentencing.

2 THE COURT: Okay. Y'all need any further time to
3 discuss these issues?

4 MR. WILLIAMS: No, Your Honor.

5 THE COURT: Very well. All right. We discussed
6 some of my instructions. Can we have a brief instruction
7 conference?

8 MR. HUBBARD: Yes, sir.

9 THE COURT: Tell the jury we're gonna be about ten
10 minutes. If they want to step outside, they may.
11 They'll have enough time to step outside.

12 (Short break.)

13 BAILIFF: Come to order.

14 THE COURT: Be seated.

15 THE COURT: Y'all ready?

16 MR. WILLIAMS: Yes, sir.

17 MR. HUBBARD: Yes, sir.

18 THE COURT: All right. Bring them in.

19 (Whereupon, the jury entered the courtroom at 12:30
20 p.m.)

21 THE COURT: All right. I'm doing something a little
22 different kind of out of my normal. I normally give my
23 instructions after the lawyers summarize their positions
24 but I have talked with the lawyers and suggested that I
25 give my instructions on the law first and then they give

1 their closing summaries. We can do it that way so we're
2 gonna try it that way. So I'm gonna instruct you on what
3 the law in this case is and then the lawyers are gonna
4 get their opportunity to come up and summarize what they
5 believe the evidence has shown or not shown and therefore
6 present the questions of fact to you.

7 First of all, you're Mr. Leyden?

8 MR. LEYDEN: Yes, sir.

9 THE COURT: Do you mind that I have appointed you
10 foreperson?

11 MR. LEYDEN: No, sir.

12 THE COURT: Okay. Anybody else mind that I have
13 made him the foreperson? You've been my good spokesman
14 but since you're an alternate, y'all won't be back there
15 once we get started.

16 All right. Mr. Leyden and the other members of the
17 jury, the State of South Carolina has charged Mr. Lowman
18 with several counts. These are allegations I have told
19 you. Y'all will have these. You don't need to write
20 down the charges. Y'all will have a verdict form. I'll
21 show it to you. Those are the charges listed so you can
22 see them. That's the verdict form. I'll get it back to
23 you in a second. The lawyers made it short so it's just
24 a list of the charges. These are allegations.

25 The State's presented evidence which it will argue

1 that its proven which the defense will argue that it's
2 not proven. The purpose of my instructions to you is to
3 tell you what they've got to do.

4 Now, the charges are one count of armed robbery, one
5 count of first degree burglary, two counts of kidnapping,
6 one count of criminal conspiracy. Bare in mind Mr.
7 Lowman has pled not guilty and by that plea he denies the
8 charges in the indictments. I told you early on and I'll
9 tell you again, Mr. Lowman comes into court clothed with
10 a presumption of innocence from our constitution. This
11 presumption of innocence continues throughout the case
12 and entitles him to a verdict of not guilty until that
13 presumption is dispelled by evidence presented to you
14 satisfying you beyond a reasonable doubt that he is
15 guilty of the offenses charged. I tell you each charge
16 contains a penalty, each charge has separate elements and
17 the State must prove those elements beyond a reasonable
18 doubt. All of them.

19 Now, the charges he's charged with, armed robbery,
20 burglary first, conspiracy, those sort of things, they
21 have separate elements that the State must prove the
22 elements. It's not all or nothing. Each charge, armed
23 robbery, guilty or not guilty. Conspiracy, guilty or not
24 guilty, they stand independently.

25 Now, the same constitution in law which makes you

1 the finders of fact makes me as the trial Judge the
2 instructor of the law. So I asked you early on when we
3 were qualifying that you had to accept the law as
4 instructed by the Court meaning the trial Judge so you
5 must understand if I make an error in instructing the
6 law, there's another time and another place where that
7 error can be considered and if necessary corrected. But
8 for our purposes today you must accept the law as I'm
9 instructing it. If you have a different understanding of
10 what the law is or have a belief the law should be some
11 other way, you must disregard that misunderstanding or
12 difference and accept it as I am instructing it to you.
13 That is part of the oath you took as jurors is to accept
14 the law as instructed by the Court.

15 Now, in criminal prosecution cases the State has the
16 burden of proving the charges they bring. A defendant
17 has no burden whatsoever as the defendant is presumed
18 innocent. The State must prove its case to a proof
19 called beyond a reasonable doubt which I will define for
20 you shortly. If the State fails to meet that burden,
21 then the defendant is entitled to a verdict of not
22 guilty.

23 Now, the same constitution I was telling you about
24 making me the instructor of the law makes you 12, 14
25 currently, the judges of the facts. You're the sole

1 judges of the facts in this case which means really y'all
2 are the judges of the credibility of the testimony and
3 the evidence which has been presented to you as a group
4 during this trial.

5 Now, in evaluating credibility you can use anything
6 in your common and collective knowledge and sense, you
7 12, as you use in your every day life in evaluating
8 whether someone is telling you the truth or not telling
9 you the truth. Several other things in passing upon a
10 person's credibility you can evaluate and utilize would
11 be what was the manner and appearance of a witness who
12 testified. Was the witness straightforward. Was the
13 witness hesitant. How did a witness come to know the
14 facts to which he or she testified. What was his or her
15 ability to recollect these facts during the testimony.
16 Is there some reason a witness would want to give
17 testimony which would help or hurt one side or the other.
18 Was a witness bias or prejudice toward one side or the
19 other. Was the testimony of a witness strengthened or
20 weakened by other testimony or other evidence.

21 Y'all as a group may believe as much of a witness'
22 testimony as you deem appropriate and you deem credible.
23 You can believe a little bit of a witness' testimony and
24 disregard the rest. You can believe one witness over
25 many, many over one. It's up to you to collectively and

1 unanimously find the facts which you believe to be true.

2 Now, the fact that testimony was not controverted
3 does not mean you must accept it as true and undisputed.
4 You still gauge the credibility of the witness who
5 provided that testimony.

6 Now, several witnesses testified who have had past
7 criminal records. A person who has a past criminal
8 record is competent and allowed to testify in court. The
9 past record of that person does not affect the ability of
10 that witness to testify and a past record may be only
11 considered by you in determining that witness'
12 believability. You are the sole judges of the facts and
13 the believability of any and all of the witnesses is
14 subject just to you and y'all's collective judgment.

15 Several other witnesses were qualified as expert
16 witnesses and as they were qualified I told you expert
17 witnesses are witnesses who are allowed to testify
18 because of their education and experience, have become
19 experts in some art or science or profession that they
20 may provide opinions in that art or science which may be
21 relevant and material to a matter which the Court was
22 presenting to the jury. You consider the expert's
23 opinion received as evidence just like any other
24 evidence. Give it the weight that you think it deserves.
25 If you decide that an opinion of an expert is not based

1 upon sufficient education and experience or if you
2 conclude the reasons the expert gave in support of his or
3 her opinion are not sound or if the opinion is outweighed
4 by other evidence, you may disregard the opinion evidence
5 in its entirety. An expert witness' testimony is to be
6 given no greater weight because they're an expert than
7 those witnesses who were not experts. You're to just
8 evaluate the credibility of all the witnesses in making
9 your determinations of fact.

10 As the sole fact finders I observed y'all listening
11 closely to the testimony and I tell you that weighing
12 evidence, I have been using that term, it's entirely a
13 mental process. It's not how big the person is or how
14 smart they appear to be. It's what you find believable.
15 You weigh the evidence using your good judgment and
16 common sense.

17 Now, there were two types of evidence presented.
18 Most times there are in trials. There's direct evidence
19 and there's circumstantial evidence and I'll tell you
20 what the difference is.

21 Direct evidence is testimony of a person who claims
22 to have actual knowledge of a fact such as an eyewitness.
23 I saw this. I watched that. I did this. Direct
24 testimony.

25 Circumstantial evidence is proof of a chain of facts

1 and circumstances indicating the existence of a fact.
2 Our law makes no distinction between the weight or value
3 to be given to direct or circumstantial evidence. There
4 is no greater degree or certainty required or proof of
5 circumstantial evidence and that of direct evidence. You
6 weigh all of the evidence, all of the testimony presented
7 whether it was direct testimony or circumstantial
8 evidence testimony. To the extent that the State relies
9 upon circumstantial evidence though all of the
10 circumstances must be consistent with one another and
11 when taken together point conclusively to the guilt of
12 the accused beyond a reasonable doubt. If the
13 circumstances are merely portrayed that his behavior as
14 suspicious, then the proof has failed.

15 Thus, after weighing all of the evidence whether it
16 be direct or circumstantial or some combination of the
17 two, if you are not convinced of the guilt of Mr. Lowman
18 beyond a reasonable doubt you must find him not guilty.

19 I keep using the term reasonable doubt so here it
20 is. What is a reasonable doubt? A reasonable doubt is
21 the kind of doubt which would cause a reasonable person
22 to hesitate to act. Reasonable doubt may arise from
23 evidence in the case or from a lack or absence of
24 evidence in the case. Proof beyond a reasonable doubt is
25 proof that leaves you firmly convinced of the defendant's

1 guilt, is a doubt to which you can assign a reason, that
2 assignment can be done reasonably, firmly and
3 convincingly. Reasonable doubt is a doubt which would
4 make a reasonable honest person hesitate to act in a
5 matter of their own affairs.

6 I charge you that Mr. Lowman is entitled to every
7 reasonable doubt which may arise in this case and what
8 that means is if you had a doubt about anything during
9 the trial, you are required to resolve that doubt in his
10 favor.

11 Now, y'all have a full and free discussion about
12 reasonable doubt, lack of reasonable doubt. The fact
13 that y'all have a full and free discussion does not
14 automatically create a reasonable doubt in this case.
15 Thus, you must make a determination whether or not a
16 reasonable doubt exists as to his guilt and if you find
17 the State has not met the burden of proof beyond a
18 reasonable doubt, you must as you were told that Mr.
19 Lowman is entitled to a verdict of not guilty.

20 Now, a necessary element to all the crimes which
21 I'll charge you momentarily is criminal intent. Criminal
22 intent is a necessary element which must be proven by the
23 State beyond a reasonable doubt. Criminal intent is
24 always a matter determined by the jury from the
25 circumstances surrounding the situation. There's no way

1 to prove intent to a mathematical certainty. There's no
2 way medical science can dissect a person's brain and
3 determine what he or she had in mind. The law states
4 criminal intent may be inferred from the circumstances
5 shown to have existed both before and after the fact.
6 That's how you the jury make a determination of whether
7 or not the element requiring intent was present.

8 Criminal intent is a state of mind that operates
9 jointly with an act or omission in the commission of a
10 crime. Criminal intent is a mental state of conscious
11 wrongdoing. It's up to you as the jury to determine what
12 the defendant intended to do based upon the circumstances
13 which were shown to have existed. The State must prove
14 criminal intent beyond a reasonable doubt just as they
15 must prove all of the other statutory elements.

16 Now, I tell you that a statement which was alleged
17 to have been made by the defendant has been admitted into
18 evidence. The Court determined the statement was
19 admissible because of the warnings given to him during
20 the interview. I instruct you that you must make the
21 ultimate decision whether or not the defendant made the
22 statement. If the defendant did make the statement, you
23 must determine whether the statement was made by him
24 voluntarily and of his own free will. This means that
25 the statement was not caused by pressure, force, fear,

1 threats, coercion, or intimidation, or by hope or a
2 promise of leniency or a reward of any kind. In
3 determining whether the statement was voluntary you
4 should consider the characteristics of the defendant and
5 the details of the questioning. Some of the factors you
6 may consider are the age of Mr. Lowman; his education or
7 lack of education; his mental ability or capacity; his
8 intelligence; his background and environment; the place
9 and length of the detention; the nature of the
10 questioning; the advice or lack of advice to him about
11 his constitutional rights to remain silent; that any
12 statement could be used against him in a court of law;
13 the right to have a lawyer present; that if he could not
14 afford a lawyer, a lawyer would be appointed to represent
15 him without any cost; that he could stop making a
16 statement at any time. You should carefully consider all
17 of the surrounding circumstances before you give any
18 weight to the alleged statement.

19 The State has the burden of proving beyond a
20 reasonable doubt that the statement was voluntary. If
21 you determine that it was, you may give the statement any
22 further consideration that you deem proper. You must
23 decide what weight, if any, should be given to the
24 alleged statement. If you find the statement was not
25 free and voluntary, a statement of the defendant, you

1 should not consider the statement at all.

2 Regarding specifics of the law of each of the
3 indictments. The charges involved an incident with
4 multiple indictments. Five different charges. These
5 indictments are separate and distinct. They stand on
6 their own. They are considered by you individually.
7 Your verdict on one doesn't control your verdict on the
8 others, okay?

9 Now, Mr. Lowman is charged with armed robbery, first
10 degree burglary, two counts of kidnapping, and conspiracy
11 independently. In order to sustain a conviction for
12 armed robbery the State must prove beyond a reasonable
13 doubt that Mr. Lowman took personal property from a
14 person in the presence of another person. Property --
15 I'm sorry. These elements are independent of each other.
16 Property is in the presence of another person if it's
17 within the reach, inspection, observation or control so
18 that a person could if not overcome with violence or
19 prevented by fear keep possession of that property.

20 Additionally, the State must also prove beyond a
21 reasonable doubt that the defendant carried the property
22 away and continued to permanently deprive the owner of
23 that property and to keep the property for his own use.
24 The slightest removal of property or with the complete
25 possession of the property even for an instant by the

1 defendant is sufficient to show a taking and carrying
2 away of the property.

3 The taking and carrying away of the property must
4 have been done with violence or by putting the owner of
5 the property in fear of violence.

6 And finally, the State must prove beyond a
7 reasonable doubt that the defendant was armed with a
8 deadly weapon during the robbery. A deadly weapon is any
9 article, instrument or substance likely to cause death or
10 great bodily harm and whether the instrument has been
11 used as a deadly weapon depends on the facts and
12 circumstances of each case.

13 An example of a deadly weapon are pistols, rifles,
14 shotguns, knives, those sorts of things. The State must
15 prove those elements all beyond a reasonable doubt.

16 The State also charged Mr. Lowman with first degree
17 burglary. In order to sustain a conviction for first
18 degree burglary the State must prove that Mr. Lowman
19 entered a dwelling without consent.

20 A dwelling is a building or any portion of a
21 building in which a person ordinarily sleeps.

22 In order to prove that the defendant entered the
23 dwelling, the State does not have to show the defendant's
24 entire body entered the dwelling. The smallest entry is
25 sufficient. It may be any part of the body, such as a

1 hand or foot. In addition, the State does not have to
2 prove that force was used to gain entry.

3 If a person enters a dwelling by using deception,
4 artifice, trick, or misrepresentation to get consent to
5 enter, this would be entry without consent.

6 Next, the State must prove beyond a reasonable doubt
7 that the defendant intended to commit a crime at the time
8 of the entry. The mere entry into a dwelling without
9 consent is not a burglary. If the intent to commit a
10 crime is formed after the entry, it is not a burglary.
11 On the other hand, if the defendant intended to commit a
12 crime at the time of entry, it is a burglary even if the
13 intent was abandoned after the entry. It does not matter
14 that the intended crime was not committed.

15 Intent may be shown by acts and conduct of the
16 defendant and other circumstances from which you may
17 naturally and reasonably infer intent.

18 Finally, the State must prove beyond a reasonable
19 doubt that one of the following occurred. First, when
20 entering the dwelling or when fleeing from the dwelling
21 the defendant or an accomplice was armed with a deadly
22 weapon; or when entering or while in the dwelling the
23 defendant or an accomplice caused physical injury to
24 anyone not participating in the crime; or when entering
25 or while in the dwelling or when fleeing the defendant

1 used or threatened to use a dangerous object or weapon;
2 or when entering or while in the dealing or when fleeing,
3 the defendant or accomplice displayed what appeared to be
4 a knife, pistol, rifle or shotgun or any other type of
5 firearm; or the burglary is committed by a person with a
6 prior record of two or more convictions for burglary or
7 house breaking or any combination of both. Evidence of
8 prior offenses committed by the defendant was not offered
9 to prove the defendant was of bad character or to prove
10 that he committed the burglary on this occasion. The
11 prior convictions may be considered by you only for
12 the purpose of determining whether or not it satisfies
13 that element of defense that makes it a first degree
14 burglary if you enter a dwelling without consent with the
15 intent to commit a crime and you have two prior
16 convictions for burglary or house breaking.

17 Now, before you can consider the evidence of the
18 prior burglaries or house breakings, you must first find
19 the State has proven beyond a reasonable doubt that the
20 burglary was committed by the defendant.

21 If you find beyond a reasonable doubt that the
22 burglary was committed, then you may consider the
23 evidence of the prior convictions as evidence of one of
24 the circumstances which would make the burglary a first
25 degree burglary. If you find beyond a reasonable doubt

1 that the defendant committed these alleged prior
2 offenses, then you cannot -- I'm sorry. If you do not
3 find beyond a reasonable doubt that the defendant
4 committed these alleged prior offenses, then you cannot
5 return a verdict of first degree burglary; or the
6 defendant entered -- Sorry. Or the defendant entered and
7 remained in the dwelling in the nighttime. Nighttime is
8 the period of time between sunset and sunrise during
9 which time there's not enough daylight to recognize a
10 person's face, except by artificial light or moonlight.

11 The defendant is also charged with the offense of
12 kidnapping. To prove kidnapping, the State must prove
13 beyond a reasonable doubt that the defendant knowingly
14 and unlawfully seized, confined, kidnapped, abducted,
15 carried away another person without authority of law.

16 To do a thing unlawfully is to do it willfully,
17 against the law.

18 Knowingly means with knowledge and consciously and
19 not accidentally.

20 Seize means to hold, take hold of suddenly or
21 forcibly.

22 Confine means to limit, restrict or enclose within
23 bounds, imprison, or shut or keep in.

24 Decoy means to lure by, or to entice a person into a
25 trap.

1 Kidnap is to remove a person against his will by
2 unlawful force or by fraud.

3 Abduct means to carry off secretly or by force for
4 an illegal purpose.

5 Carry away means to remove.

6 The State does not have to prove that the defendant
7 did all of these things. Instead, you must find beyond a
8 reasonable doubt that the defendant did any of these
9 things, you may find him guilty of kidnapping.

10 Something done without authority of the law is
11 something against the law and does not sanction, permit,
12 allow, condone or provide justification for.

13 The kidnapping does not have to be for any personal
14 or monetary gain for an illegal purpose. It may be for
15 any reason whatsoever.

16 Now, lastly the defendant is charged with
17 conspiracy.

18 I'll go back to kidnapping. There are two
19 indictments for kidnapping. One for Mrs. Tidwell, one
20 for Mr. Tidwell. You consider those independently. And
21 the State must prove those independently beyond a
22 reasonable doubt.

23 Lastly, Mr. Lowman is charged with the offense of
24 conspiracy. Mr. Lowman is charged with conspiracy and
25 the State must prove beyond a reasonable doubt that the

1 defendant combined with one or more people or persons for
2 the purpose of accomplishing an unlawful act or
3 committing a lawful act by unlawful means.

4 There must be a mutual understanding, agreement, or
5 common intention and plan. Mere passive knowledge of or
6 consent to the criminal conduct of another is not enough
7 to make a person a conspirator. There must be a guilty
8 knowledge and participation.

9 The mere fact that the defendant may have been
10 associated with another person or met with another person
11 and discussed common aims and interests does not
12 necessarily establish proof of the existence of a
13 conspiracy or that the defendant was involved in
14 conspiracy.

15 On the other hand, it is not necessary that the
16 agreement be a formal one, it is not necessary that it be
17 in writing, it is not necessary that a person is holding
18 meetings and expressly states the terms of the common
19 plan, or that the agreement be stated in words between
20 them. The agreement of a criminal conspiracy may come
21 into being through an implied, mutual understanding. The
22 willful, intentional, and knowing adoption by two or more
23 persons of a common plan is sufficient.

24 No overt acts need to be shown to establish
25 conspiracy. A conspiracy may be shown by circumstantial

1 evidence and by the conduct of the parties.

2 In order to convict Mr. Lowman of conspiracy, the
3 State must prove beyond a reasonable doubt not only that
4 the defendant knew of the unlawful conduct, but that Mr.
5 Lowman agreed to combine with the other persons for the
6 purpose of accomplishing the unlawful conduct.

7 Now, one issue which has been presented in this case
8 also is identification of the defendant as a person who
9 committed the crimes as charged. The State has the
10 burden of proving the identity of a person accused by
11 beyond a reasonable doubt. You must be satisfied beyond
12 a reasonable doubt of the accuracy of the identification
13 of the defendant before you may convict him.

14 Identification testimony is an expression of belief
15 or impression by a witness. You must determine the
16 accuracy of the identification of the defendant. You
17 must consider the believability of each identification
18 witness in the same way as with other witnesses. You may
19 consider whether witnesses had adequate opportunity to
20 observe the offender at the time of the offense. This
21 will be affected by things like how long or short of time
22 was available, how far or close the witness was, the
23 lighting conditions and whether the witness had a chance
24 to see or know the person in the past. And once again, I
25 instruct you the burden of proof on the State extends to

1 every element of the crimes charged, and specifically
2 includes the burden of proving beyond a reasonable doubt
3 the identity of the defendant as the person who committed
4 the crime. If, after evaluating and examining all of the
5 testimony, you have a reasonable doubt as to the accuracy
6 of the identification, you must find the defendant not
7 guilty.

8 Now, in a crime committed by two or more people who
9 are acting together in committing a crime, the act of one
10 is the act of all. A person who joins with another to
11 commit an unlawful act is criminally responsible for
12 everything done by the other person which happens as a
13 probable or natural consequence of the acts done in
14 carrying out the common plan and purpose. For example,
15 two people can be guilty of killing another person when
16 only one of the two had a gun, there was only one bullet,
17 and only one of the two fired the shot that caused the
18 death. If two or more people are together, acting
19 together, assisting each other in committing the offense,
20 the act of one is the act of all or, as it is sometimes
21 said, "the hand of one is the hand of all."

22 Prior knowledge that a crime is going to be
23 committed, without more, is not sufficient to make a
24 person guilty of that crime. Mere knowledge that another
25 person is going to commit a crime, even if the defendant

1 is present when the crime is committed, is not sufficient
2 to convict him as its principal. Guilt as a principal is
3 shown by actual or constructive presence at the scene as
4 a result of a prior arrangement. Therefore, a finding of
5 a prior arranged plan or common scheme is necessary for a
6 finding of guilt as a principal. The State must prove
7 beyond a reasonable doubt by competent evidence the
8 theory of the hand of one is the hand of all.

9 A principal in a crime is one who either actually
10 commits the crime or is present aiding, abetting, or
11 assisting in the commission of the crime. When a person
12 does act in the presence of and with assistance of
13 another, the act is done by both. Where two or more,
14 acting with a common plan or intent, are present at the
15 commission of a crime, it does not matter who actually
16 commits the crime. All are guilty. The hand of one is
17 the hand of all. Presence at the commission of a crime
18 means to be sufficiently near to aid and abet and assist
19 in the commission of the crime. However, I'll tell you
20 that the mere presence at the scene of the crime is not
21 sufficient to convict one as a principal on the theory of
22 aiding and abetting. Intent is always a necessary
23 element, for there must have been a common design or
24 intent to commit the crime and the crime must have been
25 committed pursuant thereto with the person aiding and

1 abetting by some overt act. Intent means intending the
2 result which actually occurs and not accidentally or
3 voluntarily. As I've told you, intent may be shown by
4 the acts and conduct of the defendant and any other
5 circumstances from which you may naturally and reasonably
6 infer intent. The state must prove those elements beyond
7 a reasonable doubt.

8 Lastly, I tell you that Mr. Lowman has chosen to
9 exercise his right to remain silent. It's his right
10 under our constitution as it is the right of anyone
11 accused of a crime by the State, the right to remain
12 silent. I tell you he's chosen to exercise that right.
13 That's his right to do so. The fact that he has chosen
14 to remain silent should not be a consideration by you as
15 to I wonder why he decided to do that or I wonder why he
16 didn't testify. It's really, and I instruct you, it's
17 not to be discussed. You must find whether the State has
18 proven its case on these five indictments based upon
19 evidence before you, not why something wasn't presented.

20 So I tell you that the fact that he exercised and
21 asserts his right must not be considered by you in any
22 deliberations. You're to draw no conclusions whatsoever
23 from the fact that he has chosen not to testify. The
24 burden of proof is on the State to prove its case beyond
25 a reasonable doubt and they must prove each of these

1 elements beyond a reasonable doubt.

2 Mr. Leyden and the other members of the jury, when
3 y'all retire to the jury room after the State's and
4 defendant's closing arguments, I remind you and as I
5 instructed through the selection process and as we took
6 breaks and as we went through the day to day routine, my
7 instructions were clear. Please remember you will get
8 what you need to decide this case here in the courtroom
9 as a group and I'm still telling you that. I want you to
10 confine your decision. It must be unanimous on each
11 based on what you have heard in the courtroom, the
12 evidence, the testimony, the instructions, and disregard
13 anything from outside the jury room that could influence
14 you in making a decision. It's my job to make certain
15 the trial was conducted fairly and orderly, rule on the
16 evidence, rule on the admission of testimony and I have
17 done that. It's your job likewise to make certain that
18 the verdict is fair and just and I'm comfortable that you
19 will do that.

20 Now, since this is a little bit out of order, I
21 normally say y'all step into the jury room and I'm gonna
22 ask the lawyers if my instructions were complete and
23 sufficient based upon our pretrial discussions. Should
24 we do that now and then let y'all summarize?

25 MR. WILLIAMS: That's a good idea.

1 THE COURT: I think that's what we're gonna do.
2 Okay. So y'all step in the jury room, all 14 of you and
3 I'm gonna talk to the lawyers about my instructions. I
4 think they were pretty close. If we need more
5 instructions, I'll finish those before we go forward with
6 the closings.

7 (Whereupon, the jury entered the jury room at 1:05
8 p.m.)

9 (Side bar off the record.)

10 (Short break.)

11 (Whereupon, the jury entered the courtroom at 1:10
12 p.m.)

13 THE COURT: All right. I spoke to the lawyers. The
14 instructions were sufficient. We discussed them
15 beforehand in our pre-instruction conference. And I
16 printed them out and let them read them over and they
17 said I did a pretty good job. I didn't read everything.
18 I spoke to y'all some but y'all will have a copy of these
19 in the jury room so you don't have to commit them to
20 memory. Jurors commonly tell me those instructions sure
21 were a lot like taking a drink of water from a fire hose.
22 So I understand that. This will be back in the jury room
23 with you so rest easy. Y'all will have these back there.
24 Solicitor Hubbard.

25 MR. HUBBARD: Thank you, Your Honor.

1 But for Abin Lee Lowman, none of us would be here.
2 But for him, Robert Goodwin, James Wilson, Joshua Darien
3 would be names you would never hear, they wouldn't have
4 charges, they would be back in Maryland. But for Abin
5 Lee Lowman, Danny and Lynda Tidwell would be living their
6 normal lives, that routine that you heard about, what
7 Danny jokingly said is a boring life but one they
8 cherish, one they live together, that life would not have
9 been brought into this world, into this courtroom, the
10 evil that they saw that night would not be revealed in
11 this courtroom, the evil they met that night in their
12 house would not have happened but for Abin Lee Lowman.

13 Folks, in trying to describe what kind of case you
14 have here probably more than most other cases that I have
15 seen this is a case where evil, true evil enters into the
16 lives of truly good people. It literally bursts into
17 their house, bursts into their lives and just put
18 everything askew. That man, ladies and gentlemen, that
19 man. It was his choices. He was driving the train. He
20 wasn't content to do what the rest of us have to do. We
21 have to go earn a living. He put all his effort, tons of
22 effort into taking from those who earn for themselves.
23 That's Abin Lee Lowman.

24 Folks, he chose his victims. And this is the most
25 revealing thing about this man. He chose Danny Tidwell.

1 He had met Mr. Tidwell when he was a kid. His dad was a
2 regular customer of that store. Someone Mr. Tidwell
3 thought highly of and I think most of the people in the
4 community probably did too. That man played on that. He
5 had a plan to rob those people, the Tidwells, their
6 store, their home, but he wasn't content with that. He
7 had to go to the store to see Mr. Tidwell eye to eye. To
8 look in his face. Pretend to be an old friend. All the
9 while he's talking nicely saying you remember me, he's
10 really saying I'm coming to your house. I'm coming into
11 your business. How are you doing? I'm going to be
12 seeing you again. I'm taking what's yours. I hope
13 you're doing well. You'll be hearing from me. That man.
14 Folks, how do you describe that? How is that not
15 evil? Mr. Williams has talked about the mind set of his
16 client. You know, is he that dumb to have done so many
17 things. Wear is name badge. Run around. Driving a car
18 that's broken down. Well, maybe we can agree, yeah.
19 Yeah. The facts show it was that idiotic. But, folks,
20 this is really about the heart. Who would do this? Who
21 would do this? Who would put these people on their own
22 floors, tie them up. That was his plan. To take from
23 them. Why them? Because they would never, ever suspect
24 it. They welcome everybody. That's who they are.
25 He chose his co-defendants. He chose the people

1 that would help him. He chose James Wilson who brought
2 along Joshua Darien. He chose his young uncle Robert
3 Goodwin. Gave them all a role. Look at that, folks. He
4 gave them a role that left him kind of out. But who was
5 in charge? Have you heard any facts that anyone else was
6 in charge in this case? It's just that man there. His
7 plan was to follow these good people home. To wait. To
8 get into his car with his crew and follow them. These
9 folks had no idea. He followed them. Followed them to
10 their house trying to find where they lived. The plan
11 was to hit the house, tie them up, get those keys and the
12 code. Really that's what he wanted, to get into their
13 store. That's where the real money was. That's why he
14 saved that part for himself. Do you really think he's
15 gonna share money with these guys? Do you really think
16 he's coming back? What are they gonna say? Who are they
17 gonna run to? The law? They're from out of state.

18 These guys were easy picks. He fed on their greed.
19 You heard James Wilson. It sounded stupid. Everything I
20 saw about it looked like it was stupid. I stayed in. It
21 was greed. Joshua pretty much the same thing and if
22 James is in, he's in. That's his crew. He provided the
23 transportation, that Mercury Grand Marquis you have heard
24 so much about. He provided a gun. Talking about working
25 hard to steal from others, he drove all the way to

1 Spartanburg to get a gun. He went to several Walmarts to
2 buy bullets. If he put half that effort into being
3 honest, folks, we wouldn't be here. He bought zip ties.
4 He paid three nights in the Knights Inn for his guys.
5 That shows you who is in charge. Who comes down from
6 Maryland and demands somebody to pay for their room
7 unless that guy is the one bringing them here. That
8 tells you everything.

9 And he convinced these guys because you can see
10 these guys. James Wilson may not be dumb but he's
11 gullible because he's greedy. Joshua is just young.
12 Goodwin, from what we hear, he's family. But he
13 convinced them to do his dirty work. Y'all go into the
14 house. Y'all put these people on the floor. Y'all tie
15 them up. I'll stay outside. Just hand me the keys.
16 Who's in charge when all of this is going on? When
17 they're being followed. When they're being watched.
18 This couple who have done nothing wrong are going about
19 their normal lives. Just working hard. You heard how
20 long they work every day. Not an enemy in the world.
21 They've done nothing, nothing to deserve this. They've
22 done nothing to have what they have taken away taken
23 away.

24 It's not the cash. It's not the money. Who cares.
25 What they lost was that sense of peace and security.

1 Everyone deserves that. It doesn't matter where you
2 live. Doesn't matter if you're a man, woman, black,
3 white. It doesn't matter. Doesn't matter. They took
4 something that no one should ever take and that's your
5 sense of peace. And they broke them apart. They tried
6 to. They tried. Those early morning hours of March the
7 8th. Literally it wasn't a window breaking. It was evil
8 crashing into a good house. A house of peace. It really
9 was.

10 All four of these fellows had a role. You heard
11 that. Wilson and Goodwin. They were the gunmen.
12 They're the bigger guys, and put that man and that lady
13 on their floor, on their own floors. Joshua, he's a kid.
14 They had him scurrying about the house looking for the
15 drugs that weren't there.

16 Folks, this is horrific. They took this gun and you
17 heard him, this gun that they went all the way to
18 Spartanburg to get, this pistol, this cheap pistol and
19 they shoved into Danny Tidwell's face as he's on the
20 floor in his own house, his own house and they threaten
21 to kill him. Give us your valuables. Put him down like
22 he was a dog in his own house knowing his wife is right
23 behind him. What man can go through that? He's got a
24 gun to his head and his wife is right behind him. He's
25 helpless.

1 And they separate them. They separate them. That's
2 probably the absolutely worst thing that happened, they
3 separated these people who are inseparable. They
4 separated them. And probably the single worst thing is
5 not just the gun to Danny's face but when one of them
6 walks in with his wife's driver's license and says I see
7 she's an organ donor. You don't want her donating any
8 organs, do you? In his own house. His own house with
9 his wife.

10 Folks, his own house. He's powerless. A woman he
11 loves. He's loved her since he was 17. Before 17. They
12 got married at 17. How does that happen? Why them?
13 Because their that good. They will never suspect.

14 Now, I want to tell you, it's just absolutely mind
15 boggling. While all of this is going on, when they're
16 separated, they're completely apart, they do something.
17 They pray. These are people of faith and they continue
18 to ask for one another. How is my wife doing? Is she
19 okay? How is my husband? Is he all right? Their
20 behavior is incredible. Their love is genuine.

21 These two fellows right here, they had a profound
22 impact on them. James Wilson who went from putting a gun
23 in Danny's face was now looking at Mrs. Tidwell, look at
24 me in the eyes. You will be okay. We will not hurt you.
25 In that short amount of time that was the effect they had

1 on them. Joshua Darien, just a kid, realized I've been
2 lied to. Lowman has lied. There's no drugs in here.
3 These are good people. James Wilson, it's all a lie.
4 It's all a lie. He walks out on the back porch. It's
5 all a lie.

6 And what happens? It doesn't just affect them.
7 Everything starts unraveling. This profound couple
8 crushes evil. The minute, the second these keys are
9 placed in Lowman's hands, a repo man was right back
10 behind him trying to get his car. What if this happened
11 the day before? Two days before? There would have been
12 no repo man. None. You wouldn't have heard from Hook
13 and Book because Hook and Book wouldn't have been there.
14 There wouldn't have been a stop in Johnston, part of the
15 rest of the unraveling, because it would have happened
16 before, the day before.

17 Everything unravels. Everywhere they go it starts
18 to fall apart. He just so happens to get stopped. He's
19 given these keys and he throws them out the window.
20 Y'all know that he did. Our officer notices the
21 passenger window is open. Y'all heard Steve Brown. The
22 man did not want to be here. But think about this. This
23 man, he writhed on the stand. He didn't want to answer
24 my questions or Mr. Williams. You know what? I get it.
25 That's fine. But at that time, at that moment he did

1 something really good. He was a good samaritan. God
2 bless him for that. If nothing else, he did right right
3 then.

4 Knowing the repo man is behind him, where does Mr.
5 Lowman go? He still goes to Johnston. He's still
6 sticking to the plan. Greed. Greed overcomes any sense
7 of what do I need to do to protect myself. Greed. He
8 wants what they have. He's in. Everything, everything
9 false apart. All of it. All of these guys end up
10 getting arrested. Abin Lee Lowman that night. Just a
11 few days later it's James Wilson. Joshua Darien is right
12 behind him and he had a rough go as y'all saw in Maryland
13 before South Carolina ever got him. Robert Goodwin, they
14 eventually got him too. All of them.

15 And through all of this Danny and Lynda survived.
16 James Wilson and Joshua Darien, they could not kill this
17 couple. You heard Joshua. He was giving them pillows.
18 He's broken into their house, he's there to take what
19 they own, he's giving them pillows. He gives Ms. Lynda a
20 blanket. Wilson who goes from being such a brute makes
21 sure her nightgown isn't run up and pulls it down. What
22 an impact.

23 You heard CSI Sprouse from SLED. He says usually
24 when I show up on a case where somebody has broken into
25 someone else's home and the survivor - there are people

1 in that house, there's usually no survivors. Usually
2 when I go there I expect to see two dead bodies. I
3 expect to see blood. I expect to have DNA from the
4 victims. That is the usual. This was a unique case.
5 They survived. But they didn't survive because that man
6 wanted them to. You heard. He told James Wilson if
7 anything goes wrong, anything, dispose of them. Get rid
8 of them. They couldn't. They could see who these people
9 were. They couldn't do it.

10 When faced, when he's finally confronted and faced
11 with that, all right, what's your story? And I'm sure
12 the whole time we're doing this they're asking does he
13 have a story. Law enforcement sits down with him. He
14 agrees to sit down with them and talk. What is your
15 explanation for this? Why were you out there? We know.
16 We've got you out there on GPS tracker. Why were you
17 there? I was fishing. I was fishing. I just happened
18 to be fishing in a pond, there's thousands of ponds but I
19 chose a pond at the golf course that I have never been
20 to. I chose to go fishing on a night when my buddies
21 just happened to be breaking into a house on the other
22 side of the pond. I chose to fish that night and I chose
23 to do it without any fishing equipment whatsoever. Where
24 is your fishing equipment? We would like to verify what
25 you're saying. I could have put it somewhere. Really?

1 That's it? I'm fishing. I went fishing. I could have
2 put it somewhere?

3 Folks, there's a mountain of evidence here. That's
4 his story? I was fishing? And when they talk to him
5 more about GPS, that that tracker was on his car, he goes
6 I know how this looks. I'm gonna get a thousand years.

7 Folks, I'm gonna tell you something. Your role in
8 our system is not to punish. You don't give anybody a
9 thousand years. You don't punish and you don't have
10 mercy. There's only one Judge in this courtroom who has
11 that authority and he's sitting right here. Y'all are
12 judges of the facts. Because even as this Judge just
13 said, he doesn't have authority to make decisions on what
14 happened. You do. You don't punish. You don't have
15 mercy. You don't ask, well, what does this carry? Or
16 what happens if we do this? No. That burden is on this
17 man here.

18 Your burden is to determine did we prove our case.
19 Are you firmly convinced? That's what proving a case
20 beyond reasonable doubt means. That we have left you
21 firmly convinced that this man committed these crimes.
22 Those crimes are burg first. Burglary first. Going into
23 somebody's home without their permission. I'd say that
24 happened here. But to make it first degree any number of
25 things can be present to make it a first. Was it at

1 night? It was at night. Were weapons involved?
2 Absolutely. Y'all have heard about two of them. One
3 pressed against that man's face and one by a man
4 convicted of two or more burglaries. Two convictions out
5 of Edgefield County in '97 and 2000.

6 Armed robbery. Using a weapon to take what's not
7 yours from another person. Did that happen here?
8 Obviously.

9 Kidnapping. Many of us think kidnapping you've got
10 to pick somebody up and carry them away. Throw them in
11 the trunk of a car and drive off. No. It is are you
12 constrained? Are you held against your will? Even in
13 your own house. Absolutely. Tied up on the floor,
14 nightgown and underwear, folks. They're that violated.
15 Tied up on their own floor and separated. Yes. That's
16 kidnapping in South Carolina without a doubt.

17 Criminal conspiracy. Was there a plan where several
18 people joined in? Folks, all you've heard about is a
19 plan. A plan from this man. From that man who goes all
20 the way to Maryland to share it. All the way to
21 Maryland. Not recruiting locals. Because the plan, he
22 needed people to go away and people if he ended up
23 turning on, they're not locals. He's not going to meet
24 them in the store some day.

25 And then that law called hand of one hand of all.

1 One person in this group has a gun, commits armed
2 robbery, they're all in. Our law says it's like fingers
3 on a hand. They're all one hand. So the plan that Abin
4 Lee Lowman came up with, guess what, all of these guys
5 are in now and they can't say they didn't know. Even
6 Joshua Darien who didn't seem to know as much of the plan
7 as the others, doesn't matter, Joshua. You're as guilty
8 as they are. If one of them doesn't have a gun, Joshua
9 Darien, doesn't matter, sir. Armed robbery. And Abin
10 Lee Lowman, armed robbery.

11 Mr. Lowman, you didn't go in the house. Doesn't
12 matter. These other guys did. You're right there as
13 part of your plan. You don't get to say, ha, the law
14 can't get me now. No, sir. You've got to be held
15 accountable. That's the law. We don't get to debate
16 that. That's the law. It makes sense. It makes sense.
17 You've been taught that since you were a kid. When
18 you're running with a bad crowd, you can't complain that
19 you got in trouble with the bad crowd. You've heard
20 that.

21 Mr. Williams I'm sure in doing his job is going to
22 say everything that we didn't do right, particularly law
23 enforcement, and they say we didn't get fingerprints off
24 things found in the pond. I don't know if you can but
25 he's going to say they didn't check. Didn't get DNA

1 where Joshua Darien is going around and spraying
2 everything with Clorox to make sure they couldn't get
3 DNA, but they didn't get DNA. But do you know what they
4 did? They got all four of these guys. They got the
5 story. They confirmed what these guys did. They're not
6 just relying on James Wilson and Joshua Darien. We're
7 not saying they're saints. They're charged too. They
8 need to be held accountable.

9 And we didn't just present them with no evidence.
10 Everything about this case confirms what they said.
11 Going to Walmart. Who bought what. Y'all now know
12 without a doubt, not even reasonable doubt, without any
13 doubt who bought the bullets. Walmart man goes this box
14 of bullets paid for by receipt. That man's ID was used.
15 You got him on camera. It's him buying these bullets
16 that were used in the gun that was held to this man's
17 head. So while those bullets are in Mr. Lowman's car,
18 the rest of the bullets are in the gun being used at the
19 Tidwell house. And y'all now know that gun, that gun,
20 that casing that was found in the gun that was found in
21 the car that Lowman was driving, that gun fired it. You
22 now know that. He's linked. He has their ID's. He
23 can't get away.

24 Ladies and gentlemen, we have established our case.
25 We've met our burden. We've carried our load. We

1 believe we have established every single element of every
2 charge and we're asking for guilty verdicts on every
3 single one of them. As representing the State and the
4 Tidwells I know, we know your verdict, your verdict will
5 speak volumes to them and will bring a fitting end to the
6 nightmare that they have been living since last March and
7 your verdict will be fitting for a man who chose to be so
8 evil. Thank you.

9 THE COURT: Mr. Williams.

10 MR. WILLIAMS: May it please the Court.

11 THE COURT: Yes, sir.

12 MR. WILLIAMS: Let's get'em. I want you to take a
13 deep breath. I want you to take a big breath. You know,
14 the only thing that separates the jury system from a mob
15 is the ability to focus and to listen to the evidence and
16 to determine whether or not the person who is charged has
17 committed a crime. Nobody wants to talk about how bad
18 this was. It's bad. Do we need to talk about how bad it
19 was? Everybody can be sympathetic for Mr. and Mrs.
20 Tidwell. I mean, we can, but are we supposed to react on
21 that emotional level? Because you know what happens when
22 you react on that emotional level. Everybody charges off
23 with some theory of what happened based on what happened
24 to the victims. We're not saying that somebody shouldn't
25 be convicted. We're not saying that somebody shouldn't

1 be punished.

2 It's my client who's on trial. Right over here.
3 Lee Lowman. He's a regular guy. Lee Lowman. Evil.
4 That's what I heard. Evil versus good. Well, it
5 probably is evil versus good in this world. But you
6 don't make decisions thinking that evil is floating
7 throughout this place. You know, people have evil
8 thoughts. You know, you can't be prosecuted for evil
9 thoughts. People have good thoughts who certainly aren't
10 rewarded for most of those evil or for those good
11 thoughts. You're not rewarded for those good thoughts.

12 What happens is you have to look at people's
13 actions. And as jurors you're impartial. You make
14 decisions based on the evidence that is produced to you
15 or the lack thereof. Ain't no question that we've
16 already seen two guys come up here and testify all day
17 long that they're guilty. We've seen that. That's not
18 him.

19 You know, I was watching, I hate to admit it, don't
20 watch it unless you don't want to. I'll tell you this:
21 I was watching a movie. My wife and my daughter, I love
22 my daughter and my wife. God, they pick some bad movies.
23 And it's got all kinds of awards. It's on TV now. You
24 can watch it later on, I guess, when this is over. It's
25 called "Their Finest." It's a deal about some ladies

1 during World War II and they're writing movies, you know,
2 to cheer on the military. And this lady, she's, it's
3 kind of -- I'm not going to tell you how it ends. But
4 she writes scripts for movies and I was watching that
5 they were designing how they were going to do the movie.
6 Well, they have an opening, they have an ending and then
7 they have something that occurs in the middle of the
8 movie and you see all these guys go through this movie
9 who design whatever they're gonna put in the movie. What
10 facts are they gonna put in the movie. They're gonna
11 have somebody do this. They're gonna have the ship sink.
12 Something's gonna be wrapped around the propeller. It's
13 gonna build the drama. I thought to myself, you know, I
14 never knew a movie was made that way. I thought you
15 started at the beginning and, you know, you just went on
16 until you had an end. I didn't think you had a beginning
17 and the end and then all you do is fill in the middle.

18 We may be subject to that in this case because I
19 kept noticing that what would happen in this case is we
20 would have some event. We would have to tie that event
21 up with something else and then we would have to move
22 over here and we would have to tie that up with something
23 else. This is gonna be real boring and I apologize. But
24 when we were going through the testimony of the people
25 about what they saw, what they didn't see, I kept

1 thinking on best evidence and the reason I thought about
2 it, I'm sure you noticed it, periodically when things
3 would be introduced into evidence, you know, somebody
4 would object, the Judge would make a ruling whether it
5 comes in, doesn't come out, that's a process.

6 The Judge is the judge of the law. He is the person
7 who determines what evidence can come in or not come in.
8 There's a reason why you do that and that's because when
9 you make decisions, you want decisions based on something
10 that's verifiable or something that's reliable or
11 something that's not second hand hearsay. You want
12 something based on direct because all we've got to do is
13 I can start with the first juror and go to the last one
14 and that story might be different by the time it gets to
15 the last one. So what you're looking at is you're
16 looking for verifiable evidence and we heard, we heard at
17 least two co-defendants say things. Obviously it was
18 inconsistent on certain things. You had one co-defendant
19 who was up on the stand and he was just, I don't think
20 you could practice that well. And he just went through
21 this and this and this and that. Anybody promise you
22 anything? How many times did you talk? Only twice. Da,
23 da, da, da, da, da, da. Gets to the end. He goes off
24 the stand. Oh, God. Put him back on the stand and he
25 says, well, yeah. I guess I did get a reduction in the

1 time or a reduction in what I was facing on Federal
2 charges.

3 I don't think jurors are stupid. Why do you think
4 people get up on the stand and say things like that if
5 they're charged with a crime? Why do you think they said
6 it? Do you think they're being redeemed here? Do you
7 think, do you really think that Mr. Wilson who almost
8 broke down and cried on the stand, I mean, he choked up
9 and everything, he's the same man who stuck a gun into
10 Mr. Tidwell's cheek. What is that? What is that? He
11 sits up there and he takes a picture of the Bible and the
12 gun together. And who does that? Maybe the Solicitor is
13 right about evil on that issue. Who does that?

14 And then Mr. Tidwell is over there upset, praying.
15 God, you know, everybody kind of prays if they're under
16 the gun. I know I do. I bet everybody does and there
17 ain't nothing wrong with that. But why do you ask the
18 man are you a Jew? No. I'm a Christian. Well, you can
19 pray then., You almost want to know what is the
20 underlying thought behind that. There's a lot of
21 underlying things in this case.

22 See, we've got to first decide who is the master
23 mind here. Now, Mr. Lowman over there, he's the master
24 mind. He is so clever. He goes out there and he gets a
25 car that everybody knows you can follow it anywhere

1 you want to follow it and he drives, he chooses this car
2 to do all of this driving around and dropping people off
3 and stuff like that. But he's the master mind.

4 See, I like to focus on stuff a lot but I'm not
5 gonna talk about silly DNA. Let the Solicitor talk about
6 it. I'm not gonna talk about the footprints that nobody
7 got. I mean, it is what it is. I mean, you didn't get
8 any DNA. You didn't get any fingerprints. That's
9 nothing that points to my client. That's true. But I
10 like to talk about the stuff that you did have and that
11 they didn't produce, that you didn't put into evidence.

12 You know, with people you can ask them questions and
13 they can give you straight answers or sideways answers or
14 what have you. But if you have information that's
15 pre-printed, that you can't change, that's pretty
16 verifiable, isn't it? I want to know where that printout
17 of the GPS is. You just heard it. Police officers
18 admitted that they looked at it. Everybody talked about
19 it. Everybody talked about it. What would it show? Got
20 a printout. Well, we can just look at the printout and
21 we can see where he went. He went this way, he went that
22 way, he went this way, he went that way. Where is it?

23 You know, cell phones, we want to talk about them.
24 Well, there was a phone call made. There was a text that
25 came back after he was stopped and all this other. He

1 called and let us know and there was all this calling.
2 Do you remember all the discussion that I had with Mr.
3 Wilson about going online, finding out about Mr. and Mrs.
4 Tidwell, about Tidwell's Jewelers several times. Well,
5 if you have this information that shows that my client is
6 texting him, my client is calling him, my client is
7 having some sort of relationship with him, why don't you
8 introduce it? Then you don't have to rely on those two
9 guys.

10 But my guy is so smart. My guy is so smart he gets
11 an ID on Jerry Kirk and either he or somebody else plants
12 it down there because he's gonna throw off the Saluda law
13 enforcement. That's what he's gonna do. He's gonna
14 throw them off. Boy, he's so smart. He should be a
15 lawyer, shouldn't he? But that's what he does. He puts
16 it down there on the carport for everybody to see, not
17 that I'm smart, and you've got to see this. I mean, this
18 is just one of those things you've just got to see in
19 real life. I'll show it to you. This is Abin Lowman.
20 That was the picture that was on the front seat. Got the
21 long dreads. Stylish. Long dreads.

22 You've got a picture of James Wilson. Short hair.
23 You can look at it. He's got short hair. You've got the
24 picture of Robert Goodwin that was supposed to be found
25 in the car. Believe it or not in evidence you have the

1 identification card of Mr. Kirk. Seems like it's been
2 moved around a little bit. It's here. I don't know what
3 happened to it.

4 Part of your task, part of your task when you go
5 back to your jury room is you will have all of the
6 evidence with you. You do. You have all of the evidence
7 with you and you can look at all of the evidence that you
8 have with you. In this stack of stuff there's an
9 identification card of Mr. Kirk. I want you to look at
10 that identification card because he looks just like Mr.
11 Lowman. Got the dreads. Black guy from South Carolina.
12 So why would you pick somebody's card that looks like you
13 and put it down on the carport? I mean, who does that?
14 I don't know. Why wouldn't you pick a card of a woman or
15 an Indian or whatever and I don't mean not nationality
16 that way. If that's what you're trying to do, why would
17 you pick a card that looks like you? Why would you hold
18 onto the card for three years?

19 You know, I've got this card here and when I break
20 into this house, I'm gonna use this and I'm gonna put it
21 down there. Who holds onto something for three years? I
22 can't find my socks from two days ago. And he puts it
23 down there. Well, that's just unbelievable. Yeah. You
24 know, everyone on here could write a story, could write a
25 book about what transpired in this trial because it just

1 so happens that when my client gets pulled over, the
2 window is down. It's like, got to make it match. Got to
3 make it match. We've got to show something. We've got
4 to show something that Mr. Lowman somehow was there and
5 that Mr. Lowman got something from the house because that
6 way we can prove he was there and that way we can prove
7 that he got it and that it's part of the deal.

8 See, that's the connection here. That's what. So,
9 so not only do you find the keys at some location which
10 is reportedly in close proximity to where my client was
11 driving, but now his window is down. You noticed some of
12 the questions I asked about the guy who was driving, the
13 police officer who was driving the vehicle. I said did
14 you see anything abrupt? Did he try to run away from
15 you? Part of that was to show that obviously he wasn't
16 afraid of you. That he wasn't trying to hide from you.
17 Did you see anything coming out from his car? No. I
18 didn't see anything coming out from his car. Did he
19 throw anything out the window? No. I didn't see him
20 throw anything out the window. But then, oh, his window
21 was down.

22 That's what I'm talking about jumping to
23 conclusions. This entire case we are jumping to
24 conclusions. So what I asked about, see, nobody wanted
25 to talk about the three cars that were there. I said,

1 well, let's talk about the video camera. Because
2 remember the officer stops him. I don't have a video
3 camera. I don't know if the other guy has got a video
4 camera. We get the guy from Simpsonville down here who
5 says, yeah. I've got a video camera. I record stuff.
6 The little light is on. You turn it on. It runs when
7 you don't want to turn it on. You know what that camera
8 tape would show? Well, it might show if you're throwing
9 something out the window or not. But we would rather you
10 just kind of guess that because the keys were found, I
11 don't know, close proximity and because the window is
12 down then you can dot all of these things and connect
13 them together and come to a conclusion that, oh, that was
14 him. Oh, yeah. He had it. Mm-hmm. And he threw it
15 out. Somehow nobody else saw it.

16 And we got this guy that finds it. And he comes up
17 here and he testifies. Steven Brown. And he says, turns
18 out, turns out that Steven Brown would never say that he
19 found it on the ground. No poetry intended. He says,
20 well, my cousin found it. She's 32 years of age. She
21 finds it. But you didn't see it down there, did you?
22 No. I didn't see it down there. I don't know. Why
23 wouldn't you put -- Why are we always dealing with
24 secondhand stuff? It's like we can't go, we can't go to
25 the person. Why doesn't the cousin come up and testify,

1 yeah, I found it. It was sitting on the ground right
2 over here. We put Steven Brown up there. Did you see
3 him squirm? And you think, boy, he seems really nervous.
4 What's he worried about? Well, guess what? Guess who
5 he's kin to? Mr. Kirk. What are the odds? Do you
6 remember him saying he was kin to Mr. Kirk? What are the
7 odds?

8 Who is setting up whom? Is Lee setting up somebody
9 else or is somebody else setting up Lee? Mr. Wilson, he
10 gets his cell phone, takes a picture of my client, puts
11 it in his cell phone records. Well, who does that? Why
12 would you do that? I don't know.

13 So one thing I hoped that we would have with the
14 camera would be the appearance of Mr. Lowman. You know,
15 we kept talking about his clothes because you see all of
16 these guys were, on the movie set they're all dressed in
17 black. They have black, you know, and they're super
18 secret. And, of course, they're going to be dressed in
19 black to effect a burglary if he was gonna do something
20 bad. I kept asking him about his clothes. Well,
21 nobody's got his clothes. He goes to Edgefield. His
22 clothes, I don't know. I don't know where they are. The
23 camera might at least show what he had on. I kept asking
24 the police officer. Everybody dances around what he had
25 on. Did he look like he had done something?

1 See, I'm looking for stuff that you can actually
2 look at. You don't have to -- You don't know me. You
3 really don't. Well, you just don't. You haven't lived
4 in my house for 67 years. But you can look at me and see
5 I have gray hair. I think that's the point. If you can
6 see it, then there's more reliability over what you can
7 say.

8 Now, I want to take you briefly through all the
9 junk, stuff. Do you remember Mr. Tidwell went through
10 about, it's not an issue, about whether or not he waited
11 around on the Mexican food or not. That's not really an
12 issue. So some things, some things that are -- I'm not
13 all about gotcha. I mean, I forget stuff. I do. It's
14 not all about gotcha. It's just a discrepancy. What you
15 need to do is focus on the big stuff that you don't have
16 that you can rely on. He says, remember that there were
17 three lights. And, of course, you could say -- And, see,
18 what happens is you start judging credibility and
19 believability. I know, you know, you got one guy over
20 here, you got one guy over here and you determine how
21 they match up. Wilson said there was two lights so
22 that's a discrepancy, isn't it? But then obviously we
23 bring Darien in. He's got his pen light. That makes
24 three because we have to dot that "i". We can't leave
25 that question out there.

1 Who cares if there were two lights or three lights?
2 Who really cares? The one thing, the one thing that
3 Mr. Tidwell knew about was that there were only three
4 people involved. Not four. Nobody has said four. These
5 two honest people who were there have never said it was
6 more than three people. They're the victims. They're
7 the same people that we wanted to talk about evil and
8 good, who suffered, had their boring lives, got through
9 it. That is commendable. But you don't make decisions
10 based on emotion. They've never seen, they've never seen
11 more than three people. They have never said there was
12 more than three people. You know what? Maybe there was
13 only three people.

14 And you go through a lot of information about who
15 does what. See, I told you I was gonna be brief. Never
16 saw who took which items. All of this stuff I have got
17 written in red I'm just ignoring because it's not
18 important. It's not important. You can remember. Some
19 of you guys have probably filled up about two or three
20 pads of stuff.

21 And you see, most of the reason why it's not
22 important is because whether you go through there's a
23 discrepancy here or a discrepancy there, it clearly shows
24 they were clearly robbed. It clearly shows that those
25 individuals who testified on this stand were the ones

1 that robbed them. So whether or not -- Because we know
2 that.

3 Here's what I wondered. Do you remember the
4 videotape that was taken by the son-in-law and it shows
5 the car? It shows the car that looks like Abin Lowman's
6 car. Goes down there and comes back. It's done at, I
7 don't know, 4:58 depending on whether it's standard time
8 or whatever kind of time it is, and it's a motion camera.
9 And I asked the question, well, do you have a tape of
10 everything that happened that day? Well, yeah. I told
11 the police about it. I don't know why that we're too
12 stupid that we can't look at a film to show all this
13 happening. If you've got a camera that shows, got
14 someone in motion, you would see the tow truck guy come
15 back there. You would see Abin Lowman's car come back
16 there. You could see what time it happened. Because it
17 would cut on when it happened because clearly it happens
18 at 4:50, whatever time it is. Why can't we look at the
19 video? He told the police about it. I don't even know
20 if anybody looked at it.

21 I hope I'm not making anyone feel uneasy. But why,
22 why can't we look at the best evidence of what happened
23 in today's society? We've got a bunch of stuff to talk
24 about. Footprints. Fingerprints. We've got the Waffle
25 House people. Ain't no question about those three people

1 being in the Waffle House. I did kind of wonder about
2 the silver clip a little bit because I'm thinking, well,
3 particularly after the guy said it was cutting a hole in
4 his pants pocket. I wish he had given it to me. I have
5 wanted a clip like that for a real long time. It's a
6 nice looking clip. Silver clip. He's held onto that
7 thing for like forever. But it was inconvenient for him.
8 That's not why he got rid of it. Do you believe that's
9 why he got rid of it because it was messing up his pants?
10 No. Why not just tell us the truth. You're gonna get up
11 here and you're gonna point the finger. You're gonna
12 point the finger at Lee. You're gonna say Lee did this,
13 Lee did that, I did this, I did that. Why do you have to
14 dance around that thing? You admitted you had the clip.
15 Why don't you just tell the truth? He got rid of it
16 because he didn't want it found on him.

17 Why can't we just tell the truth? Didn't want the
18 Waffle House video in, too, which they said we don't need
19 to watch the video. We've got the pictures of it and we
20 know that they were there. I did want to know about
21 whether or not a second guy went in there and dropped the
22 white glove. Of course, I was kind of thinking how do
23 you have like just one glove? It's not like it's Michael
24 Jackson or something, you know? How do you have the one
25 glove and drop that in there? Why do you hold onto one

1 glove? Where is the other glove? Who dropped it in
2 there? They've got the video. Let's look at it. Let's
3 figure out who it is. We like to dot our i's and cross
4 out t's. Let's do that, too.

5 We have the Waffle House manager who basically comes
6 in and verifies that information. And I'm skipping over
7 a lot of it. You've got Mr. Rutland and his wife. And
8 again, clearly, clearly -- See, Mr. Rutland, if you
9 believe what he said, he said he couldn't see the
10 vehicle. That's what he said. He couldn't see the
11 vehicle. He had his little machine and he was watching
12 where the vehicle was. Of course, obviously he tells the
13 police to stop it and that's how this all gets involved
14 about whether or not, how he got stopped, what was found
15 in the trunk, what wasn't found in the trunk, where it
16 was found. The only reason why that's something that
17 just sticks in your craw is because we're doing this dot
18 crossing and you get a search. You find something. It
19 turns out that the person who did the chain of custody
20 was not the one who actually found it. We could have
21 seen that if we had the video.

22 When you go out there with a search warrant, you
23 find these things in there, they take a picture. You
24 know, that's the first thing you do. You take a picture
25 of all the stuff in the vehicle so that you can see. You

1 can see where it is. You can see what it is. Why
2 wouldn't you introduce that into evidence so people can
3 see how it looked? Is it something stuck under
4 something? Is it something on top of something? Is it
5 on the front seat? Is it on the back seat? Is it stuck
6 in some sort of luggage compartment? They take pictures
7 both times. They come out the second time and they do
8 another search. How come you don't see it on the first
9 search? I just don't know why people don't use cameras
10 much. Obviously we know how to use the camera.

11 And we want to talk about the fact that Mr. Lowman's
12 ID was in the car. Well, of course it was in the car
13 because once he had been stopped the police officer took
14 it, put it back on the front seat. He didn't have two
15 ID's. You can prove he didn't have two ID's because if
16 he had gotten another ID, the highway department could
17 say that you've gotten another ID because they keep
18 records like that. It gets old, doesn't it?

19 So after the Rutlands, I would like to see that
20 pick up order though. I'll skip on ahead. We already
21 talked about Mosley talked about -- Well, then we get to
22 -- Well, that's kind of, that's basically it really what
23 you've got.

24 You know, when I sit down, my client is gonna say
25 why didn't you say so and so? Why didn't you say so and

1 so? My answer to my client is the jury is not stupid.
2 They heard all of this for five days. Five days. And
3 you know what's important? All you have to do is explain
4 to me how Jerry Kirk's ID could be on the carport, how
5 the keys that were found could be found by the cousin of
6 Steven Brown who happened to be related Jerry Kirk. If
7 y'all can explain that, I'm half the way home. If y'all
8 can explain to me why we don't introduce the GPS to show
9 how and where the person drove -- I'm getting a little
10 close -- I don't know how you explain that stuff.

11 I want to thank you for putting up with me. I'm 67.
12 I enjoy practicing law. I enjoy jurors because I think
13 this jury system that we have, it is so good. I mean, it
14 really is. And I hope you don't make decisions based on
15 the fact that other people have done terrible things
16 because, I mean, it is bad. I mean, it is bad. But you
17 don't want to rush out and do something to somebody just
18 because somebody else did something bad. You don't make
19 decisions based on that. I hope not. If you would give
20 Mr. Lowman what he is entitled to and that is a fair
21 trial making them prove, making them, the State prove him
22 guilty beyond a reasonable doubt, that's all anybody can
23 ever expect. That's all we're ever offered and
24 guaranteed. We're guaranteed that. You know, you can
25 take away a lot of stuff in this country. We're

1 guaranteed that. We will never lose that. Thank you.

2 THE COURT: Mr. Hubbard.

3 MR. HUBBARD: No, sir.

4 THE COURT: Nothing?

5 MR. HUBBARD: No, sir.

6 THE COURT: All right. Folks, those are the closing
7 summaries. I'm going to inventory the evidence and get
8 it organized for you, send the verdict form back there.
9 As soon as you get it, start deliberations. Unless y'all
10 want to take a break. You've been in here a while. But
11 there's a bunch of stuff in there. We'll make certain of
12 what's here and what's there is the same thing, okay? So
13 step into the jury room. I want all of you in there
14 until I get the verdict form in there. Once you get the
15 verdict form, I'll pull the two alternates out, okay? So
16 step into the jury room.

17 (Whereupon, the jury entered the jury room to begin
18 deliberations at 2:26 p.m.)

19 THE COURT: All right. We have a verdict. We're
20 about to bring the jury in. We have a lot of people in
21 the courtroom. This jury has listened very intently for
22 four days, they've worked hard, and I do not want them
23 disrespected by any show of emotion good or bad, positive
24 or negative. They have made a decision, 12 people
25 unanimously made a decision and I don't want any

1 celebration or any show of emotion. If you can't do
2 that, leave now. All right. Bring them in.

3 (Whereupon, the jury entered the courtroom at 3:15
4 p.m.)

5 THE COURT: Mr. Leyden, have y'all reached a
6 verdict?

7 MR. LEYDEN: Yes, sir, Your Honor.

8 THE COURT: Was it unanimous?

9 MR. LEYDEN: Yes, sir.

10 THE COURT: Okay. Good. Can I have the verdict
11 form? All right. Madam Clerk, the verdict appears to be
12 filled out in its correct form. You may publish it.

13 THE CLERK: The State of South Carolina, County of
14 Saluda. The State, plaintiff, versus Abin Lee Lowman,
15 defendant. Verdict form 2018-GS-41-116, 120, 121, 122
16 and 123. We the jury find as follows: Armed robbery,
17 guilty. First degree burglary, guilty. Kidnapping,
18 guilty. Kidnapping, guilty. Criminal conspiracy,
19 guilty. Signed by the foreperson Daniel Leyden dated
20 June 22nd, 2018 for Saluda, South Carolina.

21 THE COURT: Mr. Williams, would you like the jury
22 polled?

23 MR. WILLIAMS: I would, Your Honor.

24 THE COURT: All right. We'll do it by jury number,
25 Madam Clerk.

1 THE CLERK: Teddy Miller --

2 THE COURT: No. We're gonna do it by jury number.

3 THE CLERK: I'm sorry. All right. Allison Price.

4 THE COURT: By their number.

5 THE CLERK: Jury number. Okay.

6 THE COURT: That way it's not on the record. So is

7 this your verdict? Is it still your verdict?

8 THE CLERK: Okay. Thank you. Juror number 3.

9 THE COURT: Raise your hand when she calls your

10 number, if you remember it.

11 THE CLERK: Juror number 3, is this your verdict and

12 is it still your verdict?

13 JUROR #3: Yes.

14 THE CLERK: Juror number 4 -- Juror number 22. Is

15 this your verdict and is it still your verdict?

16 JUROR #4: Yes.

17 THE CLERK: Juror number 152, is this your verdict

18 and is it still your verdict?

19 JUROR #152: (Nodding head.)

20 THE CLERK: Juror number 55, is this your verdict

21 and is it still your verdict?

22 JUROR #55: (Nodding head.)

23 THE CLERK: Juror number 140 -- I'm sorry. Juror

24 number 39, is this your verdict and is it still your

25 verdict?

1 JUROR #39: (Nodding head.)
2 THE CLERK: Juror number 19, is this your verdict
3 and is it still your verdict?
4 JUROR #19: Yes.
5 THE CLERK: Juror number 204, is this your verdict
6 and is it still your verdict?
7 JUROR #204: (Nodding head.)
8 THE CLERK: Juror number 27, is this your verdict
9 and is it still your verdict?
10 JUROR #27: Yes.
11 THE CLERK: Juror number 105, is this your verdict
12 and is it still your verdict?
13 JUROR #105: (Nodding head.)
14 THE CLERK: Juror number 149, is this your verdict
15 and is it still your verdict?
16 JUROR #149: (Nodding head.)
17 THE CLERK: Juror number 111, is this your verdict
18 and is it still your verdict?
19 JUROR #111: Yes. It is.
20 THE CLERK: Juror number 8, is this your verdict and
21 is it still your verdict?
22 JUROR #8: Yes. It is.
23 THE CLERK: And juror number 116, is this your
24 verdict and is it still your verdict?
25 JUROR #116: Yes, ma'am.

1 THE COURT: All right. The jury has been polled and
2 all affirmatively responded as to their verdict.
3 Anything else from the jury, Mr. Williams?

4 MR. WILLIAMS: May the Solicitor and I approach?

5 THE COURT: Yes.

6 (Side bar off the record.)

7 MR. WILLIAMS: Nothing further for the jury.

8 THE COURT: Okay. All right. We'll stand at ease.
9 I want to speak to the jury in the jury room and thank
10 them for their service and they'll be on their way. Step
11 into the jury room and I'll come and talk to you. Bring
12 the indictments in. There's one I'm missing because it
13 was the one that was redacted from the --

14 (Whereupon, the jury was released from further
15 service at 3:35 p.m.)

16 THE COURT: Mr. Williams, you ready?

17 MR. WILLIAMS: Yes, sir.

18 THE COURT: Mr. Solicitor Hubbard, are you ready?

19 MR. HUBBARD: Yes, sir, Your Honor.

20 MR. WILLIAMS: We would like post trial motions for
21 the record.

22 THE COURT: Absolutely. Let's do that right now.

23 MR. WILLIAMS: Your Honor, I move to set aside the
24 jury's verdict. I know it's been a long five days but it
25 would appear that the jury's verdict was incorrect based

1 on all of the discrepancies that were in this particular
2 case. The jury should not have found that the defendant
3 was guilty of all of these offenses.

4 THE COURT: Well, I'm very, very remiss that -- The
5 jury's verdict was unanimous and there was ample facts or
6 questions of fact to be discussed on all five charges so
7 consistent with a directed verdict motion the jury
8 weighed the evidence, found facts unanimously and I will
9 not disturb their verdict so I'm gonna deny your request
10 for a new trial.

11 MR. WILLIAMS: Thank you, Your Honor.

12 THE COURT: All right. Now, I was notified that
13 there was a notice that was prepared before the trial --

14 MR. HUBBARD: Yes, sir.

15 THE COURT: -- as to the sentence should a
16 conviction be imposed.

17 MR. HUBBARD: Yes, sir.

18 THE COURT: That being the case, there's not much
19 mitigation to be stated. Am I incorrect in saying that
20 other than criminal conspiracy the sentence is the same,
21 it's life on all four because they're most serious. It's
22 not because of the sentencing range.

23 MR. WILLIAMS: That is correct, Your Honor.

24 MR. HUBBARD: Yes, sir.

25 THE COURT: So my sentence, and I haven't written it

1 out yet, is consistent with the notice provided by the
2 State to Mr. Lowman, the jury's verdict of guilt on four
3 of the most serious crimes meaning burglary first, armed
4 robbery, two counts of kidnapping, the sentence on those
5 four will be just life. On the criminal conspiracy it
6 will be five years and concurrent. I don't know how that
7 can be consecutive. So life on four, five years on the
8 criminal conspiracy. Am I incorrect in that sentence?

9 MR. HUBBARD: I believe that's correct, Your Honor.

10 THE COURT: Okay. So that being the case, I don't
11 think I need to hear mitigation or hear from the victims
12 because that's what the law requires.

13 MR. HUBBARD: Yes, sir.

14 THE COURT: All right. Bear with me. All right.
15 On indictments 116, 121, 122, 123 the sentence is life
16 concurrent. Gets days since 3/8 of '17, and a concurrent
17 five years on indictment 120 and he gets days credit for
18 time served since 3/8/17. That's all concurrent. Is
19 that correct?

20 MR. HUBBARD: Yes, Judge. And I do have one thing.
21 Although it's in the notice, I just wanted to put it on
22 the record that we had three prior convictions that were
23 serious or most serious. We had a 2009 distribution of
24 crack cocaine within proximity of a school; 2004
25 distribution of marijuana within proximity of a school.

1 That would have been sufficient. We have a 1998 burglary
2 second degree violent. I know Mr. Williams questioned
3 that to some extent, but we already had two and so I just
4 wanted that on the record. Thank you.

5 THE COURT: All right. I hope that brings closure
6 for everyone. Good luck.

7 MR. WILLIAMS: Thank you, Your Honor.

8 MR. HUBBARD: Thank you Your Honor.

9 WHEREUPON, THE TRIAL WAS CONCLUDED.

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1 CERTIFICATE OF REPORTER

2 (STATE OF SOUTH CAROLINA)

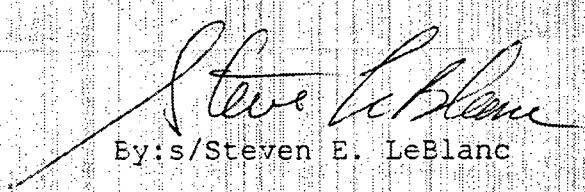
3 (COUNTY OF LEXINGTON)

4
5 I, THE UNDERSIGNED, Steven E. LeBlanc, Sr., R.P.R.,
6 and Official Circuit Court Reporter for the Eleventh Judicial
7 Circuit in and for the State of South Carolina, do hereby
8 certify that I reported the proceedings in the before
9 captioned case in the Court of General Sessions in and for the
10 State of South Carolina on the 18th day of June through the
11 22nd day of June, 2018.

12 I FURTHER CERTIFY that the forgoing 1063 pages
13 constitute a true and accurate record of said proceedings.

14 I FURTHER CERTIFY that I am neither related, counsel
15 to, nor of interest to any party hereto.

16 IN WITNESS WHEREOF, I have hereunto set my hand at
17 Lexington County, this 14th day of November, 2018.

18
19 
20 By: s/Steven E. LeBlanc

21 Steven E. LeBlanc, Sr., R.P.R.
22 Eleventh Circuit Court Reporter
23 State of South Carolina.
24
25

WITNESSES

Saluda County Sheriff's Department

Charles Padget

Law Enforcement Case #: 201703-531

SRH

ARREST WARRANT NUMBER

18-STR-0024 (referencing warrant #:
2017A4110100125)

ACTION OF GRAND JURY

TRUE BILL

Meredith Miller Ryland
Foreperson of Grand Jury
Date: JUN - 5 2018

VERDICT

GUILTY

D A Ray
Foreperson of Petit Jury
Date: 6/22/18

DOCKET NO. 2018GS4100116

The State of South Carolina

County of Saluda

COURT OF GENERAL SESSIONS

JUNE TERM 2018

THE STATE

vs.

Abin Lee Lowman

CDR #: 0079

Indictment for

Burglary First Degree

§ 16-11-0311

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF SALUDA)
)

INDICTMENT FOR
Burglary First Degree
§ 16-11-0311

At a Court of General Sessions, convened on June 2018, the Grand Jurors of Saluda County present upon their oath:

That **Abin Lee Lowman**, together with others, did, in Saluda County, South Carolina, on or about March 8, 2017, knowingly and willfully enter a dwelling, to wit: [REDACTED] [REDACTED] being the dwelling of Lynda and Danny Tidwell, without consent and with the intent to commit a crime therein and when, in effecting entry or while in the dwelling or in immediate flight, he or another participant in the crime, was armed with a deadly weapon or explosive, caused physical injury to a person who is not a participant in the crime, used or threatened the use of a dangerous instrument, or displayed what was or appeared to be a pistol, revolver, or other firearm; and/or the defendant has a prior record of two or more convictions for burglary or housebreaking or a combination of both; and/or the entering or remaining occurred in the nighttime, in violation of § 16-11-311 of the Code of Laws of South Carolina (1976, as amended).

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



SOLICITOR

WITNESSES

Saluda County Sheriff's Department

W R Padgett

Law Enforcement Case #: 201703-531

SRH

ARREST WARRANT NUMBER

18-STR-0028 (referencing warrant #: 2017A4110200063)

ACTION OF GRAND JURY

TRUE BILL

Meredith Miller Richard
Foreperson of Grand Jury
Date: JUN - 5 2018

VERDICT

GUILTY

Dr. A. Ayud
Foreperson of Petit Jury
Date: 6/22/14

DOCKET NO. 2018GS4100120

The State of South Carolina

County of Saluda

COURT OF GENERAL SESSIONS

JUNE TERM 2018

**THE STATE
vs.**

Abin Lee Lowman

CDR #: 0049

Indictment for

Criminal Conspiracy

§ 16-17-0410

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SALUDA)
)

INDICTMENT FOR
 Criminal Conspiracy

§ 16-17-0410

At a Court of General Sessions, convened on June 2018, the Grand Jurors of Saluda County present upon their oath:

That **Abin Lee Lowman** did, in Saluda County, South Carolina, on or about March 8, 2017, knowingly and willfully unite, combine, conspire, confederate, agree and have tacit understanding with James Christopher Wilson and/or Joshua Lee Darien, and/or Robert Goodwin, Jr., and/or other unknown persons, for the purpose of accomplishing a criminal or unlawful object and/or an object neither criminal nor unlawful but by criminal or unlawful means, to wit: Burglary First Degree, Armed Robbery, Kidnapping, Grand Larceny, Possession of a Weapon during the Commission of a Violent Crime, and/or Impersonating Law Enforcement Officer at the residence of Lynda and Danny Tidwell located at [REDACTED] in violation of the common law and punishable under § 16 -17- 410 of the Code of Laws of South Carolina (1976, as amended).

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



 SOLICITOR

WITNESSES

Saluda County Sheriff's Department

W R Padgett

Law Enforcement Case #: 201703-531

SRH

ARREST WARRANT NUMBER

18-STR-0029 (referencing warrant #: 2017A4110200064)

ACTION OF GRAND JURY

TRUE BILL

Meredith Miller Ryland
Foreperson of Grand Jury
Date: JUN - 5 2018

VERDICT

GUILTY

D. A. Boyd
Foreperson of Petit Jury
Date: 6/22/18

DOCKET NO. 2018GS4100121

The State of South Carolina

County of Saluda

COURT OF GENERAL SESSIONS

JUNE TERM 2018

THE STATE

vs.

Abin Lee Lowman

CDR #: 0095

Indictment for

Kidnapping

§ 16-03-0910

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF SALUDA)

INDICTMENT FOR
Kidnapping
§ 16-03-0910

At a Court of General Sessions, convened on June 2018, the Grand Jurors of Saluda County present upon their oath:

That **Abin Lee Lowman**, together with others, did, in Saluda County, South Carolina, on or about March 8, 2017, knowingly, willfully, and unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one Danny Tidwell by any means whatsoever without authority of law, and without his consent, to wit: during the commission of a burglary and/or armed robbery, the Defendant, together with others, did bound the victim with plastic zip ties and/or did confine him against his will inside his home located at [REDACTED] in violation of § 16-3-910 of the Code of Laws of South Carolina (1976, as amended).

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



SOLICITOR

WITNESSES

Saluda County Sheriff's Department

W R Padgett

Law Enforcement Case #: 201703-531

SRH

ARREST WARRANT NUMBER

18-STR-0030 (referencing warrant #: 2017A4110200065)

ACTION OF GRAND JURY

TRUE BILL

Mendel Miller Byland
Foreperson of Grand Jury
Date: JUN - 5 2018

CDR #: 0095

VERDICT

GUILTY

D. A. Ayud
Foreperson of Petit Jury
Date: 6/22/18

DOCKET NO. 2018GS4100122

The State of South Carolina

County of Saluda

COURT OF GENERAL SESSIONS

JUNE TERM 2018

THE STATE

vs.

Abin Lee Lowman

Indictment for

Kidnapping

§ 16-03-0910

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SALUDA)
)

INDICTMENT FOR
 Kidnapping

§ 16-03-0910

At a Court of General Sessions, convened on June 2018, the Grand Jurors of Saluda County present upon their oath:

That **Abin Lee Lowman**, together with others, did, in Saluda County, South Carolina, on or about March 8, 2017, knowingly, willfully, and unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one Lynda Tidwell by any means whatsoever without authority of law, and without her consent, to wit: during the commission of a burglary and/or armed robbery, the Defendant, together with others, did bound the victim with plastic zip ties and/or did confine her against her will inside her home located at [REDACTED], in violation of § 16-3-910 of the Code of Laws of South Carolina (1976, as amended).

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



 SOLICITOR

WITNESSES

Saluda County Sheriff's Department

W R Padgett

Law Enforcement Case #: 201703-531

SRH

ARREST WARRANT NUMBER

8-STR-0031 (referencing warrant #: 2017A4110200066)

ACTION OF GRAND JURY

TRUE BILL

Meredith Miller Hubbard
Foreperson of Grand Jury
Date: JUN - 5 2018

RDICT

GUILTY

D. A. Padgett
Foreperson of Petit Jury
Date: 6/22/17

DOCKET NO. 2018GS4100123

The State of South Carolina

County of Saluda

COURT OF GENERAL SESSIONS

JUNE TERM 2018.

THE STATE

vs.

Abin Lee Lowman

CDR #: 0139

Indictment for

Armed Robbery

§ 16-11-0330(A)

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SALUDA)
)

INDICTMENT FOR
 Armed Robbery

§ 16-11-0330(A)

At a Court of General Sessions, convened on June 2018, the Grand Jurors of Saluda County present upon their oath:

That **Abin Lee Lowman**, together with others, did, in Saluda County, South Carolina, on or about March 8, 2017, knowingly and willfully while armed with a deadly weapon and/or having possession of an object which the victim reasonably believed to be a deadly weapon and alleging by actions or words that he was armed, to wit: did feloniously take from the person or presence of Lynda and Danny Tidwell, by means of force, threats, or intimidation, goods or monies being described as follows: jewelry, cash, cell phones, business and vehicle keys, vehicle, firearms, and/or other household items from the residence of Lynda and Danny Tidwell located at [REDACTED] with intent to deprive the owner of the use of such property, in violation of § 16-11-330 (A) of the Code of Laws of South Carolina (1976, as amended).

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

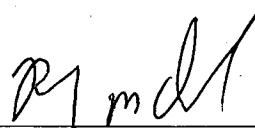


 SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 24th day of July, 2019.

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SC Court of Appeals