

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Spartanburg County

Honorable R. Keith Kelly, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DONALD SCOTT ROBERTSON,

APPELLANT

APPELLATE CASE NO 2017-001656

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3 The State,) TRANSCRIPT OF RECORD
4) 2016-GS-42-05528 thru -05531,
5 -vs-) 2017-GS-42-03586
6 Donald Scott Robertson,)
7 Defendant.) July 24, 25 and 26, 2017
Spartanburg, South Carolina

8
9
10 B E F O R E:

11 HONORABLE R. KEITH KELLY, JUDGE; and a jury
12
13

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24 Circuit Court Reporter
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GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 A. Correct.

2 Q. --- to base a picture off of your recollection of what he
3 looked like?

4 A. Correct.

5 Q. Okay. Uh, you ended up completing the sketch with Deputy
6 Finley ---

7 A. Uh, ---

8 Q. --- or nearly completing?

9 A. --- nearly completed and then, uh, I can't remember who
10 it was but one the investigator or detectives came in, asked
11 Finley to close his book and showed me a lineup and I
12 immediately ---

13 Q. Okay, ---

14 A. --- pointed ---

15 Q. --- I'll ---

16 A. --- to the defendant.

17 Q. --- I'll show you, show you -- can you identify what this
18 (indicating) is?

19 (Whereupon, a discussion was held off the record.)

20 A. Yes, that's that's Finley's composite ---

21 Q. Rendition of what you ---

22 A. --- from what ---

23 Q. --- described?

24 A. Correct.

25 Q. And how do you -- how does a sketch artist work?

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 A. They start, they have a book, uh, and it has, they ask
2 you general questions and then they pull out section by
3 section like was his face round, square, you know, here's a
4 book, can you pick out the best fa -- or shape then it's
5 details like the nose, the eyes, the chin, the hairline, it's
6 very very detailed.

7 Q. Okay, so you go through all the different facial
8 features, you're lookin' at a book to see what looks as close
9 to the defendant as ---

10 A. Correct, ---

11 Q. --- as possible? Uh, ---

12 A. --- and then we tweaked.

13 Q. Okay.

14 (Whereupon, a discussion was held off the record.)

15 I'm gonna show you somethin' ask if you can identify what
16 that is.

17 A. Yes, that's apparently Mr. Finley's handwriting but it's
18 the choices that I made ---

19 Q. Cor -- and they correspond to a an image of a facial
20 feature?

21 A. Right, in in other words, say if you had the book, it,
22 you know, it would say A1 through or the page number I think
23 is what that is and then the, what you chose as the shape or
24 the ---

25 Q. Okay. Your Honor, can we -- like to admit, uh, these

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 A. Yes.

2 Q. Okay. Uh, at that point what did you do?

3 A. I briefly spoke with both the victims, um, spoke a little
4 bit more with Mr., um, Williams at first showing me the things
5 that had been touched in the house and things a that nature,
6 um, and then, uh, then I spoke with, uh, Ms. Smith.

7 Q Okay. Uh, what did Ms. Smith tell you?

8 A. She gave a description, went over her statement with her,
9 uh, and she gave a description of the gentleman she saw. She
10 said she saw him while they were driving to the bank in the
11 back seat a the car.

12 Q. Uh, did she tell you she'd be able to recognize him if
13 she saw him again ---

14 A. Yes, sir.

15 Q. --- and that she maybe could describe him?

16 A. I asked her if she, uh, felt like if we had a composite
17 sketch artist come out if she felt confident that she could
18 give an accurate depiction of him, description of him so that
19 the sketch artist could, um, and would draw a picture of him
20 or whoever.

21 Q. And you ended up callin' out Mark Finley to do this
22 composite sketch?

23 A. Yes, sir.

24 Q. Uh, were you present when he did the composite sketch?

25 A. No, sir.

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 Q. Where did you go?

2 A. I went back to the sheriff's office to start workin' on
3 the case.

4 Q. Alright. Um, when you went back to the sheriff's office,
5 what happened?

6 A. I spoke with other investigators in my unit, um, about
7 the inci -- the incident that had occurred, um, spoke with
8 other investigators outside of my unit about incidents, um,
9 and people from the area, um, at which time I was given
10 Mr. Robertson's name as a person fitting the description of
11 what I was describing.

12 Q. Okay Uh, did you pull up a picture of Mr. Robertson?

13 A. I did, sir.

14 Q. It matched the description ---

15 A. It did.

16 Q. --- that -- or was roughly matched the ---

17 A. It ---

18 Q. --- description that ---

19 A. --- yes.

20 Q. --- Ms. Smith had given you?

21 A. Yeah.

22 Q. Uh, did you make a photo array, um, with Mr. Robertson in
23 it?

24 A. Excuse me, yes, sir I did.

25 Q. How does -- how do you make a photo lineup? How do

MOTIONS AND MATTERS

1 uh, so please, please, please be prompt in your jury service.

2 Now Juror Number 210, uh, John Fowler, Mr. John B --
3 Fowler, you are hereby officially, uh, appointed the
4 foreperson of this jury, your duty will be to preside in the
5 jury room and be the spokesperson here in the courtroom for
6 the jury, it will also be your duty at the end of this trial,
7 uh, if the jury, when the jury reaches a verdict to write the
8 verdict, uh, on the, uh, uh, verdict form and I'll explain
9 that verdict form more fully at the close, uh, of this trial
10 before you retire, uh, to deliberate. Any matters from the
11 State?

12 MR. SMITH: No, Your Honor.

13 THE COURT: From the defense?

14 MR. SHEALY: None, Your Honor.

15 THE COURT: Okay, ladies and gentlemen, give your
16 attention to the lawyers. Yes, sir.

17 MR. SMITH: Thank Your Honor. Good afternoon, ladies and
18 gentlemen, seated between -- on the left here is Geri Smith
19 and in the red shirt is Albert Williams, they're the victims
20 in this case. This case happened on June 17th of 2016, was a
21 Friday, it was like a typical morning for them, they're both
22 retired, uh, they were going to drugstore and going to the
23 trash dump jump -- dump off trash and up until that point it
24 was a very typical morning until they got back to their home
25 on [REDACTED] Cannons Campground Road here in Spartanburg County.

MOTIONS AND MATTERS

1 Mr. Williams went in first and Ms. Smith went in after him and
2 they realized quickly that somebody had been inside their
3 house and was still there.. Donald Scott Robertson is the man
4 that was inside this house and that's what we're here to prove
5 today. He was wearing a mask, he was wearing gloves and he
6 had a gun. He ordered them to sit down on the sofa and began
7 making small talk with them. They look around the house,
8 they're able to realize that he'd been in here for quite
9 sometime, he's been through their belongings. He asks them
10 about bank accounts that they have, asks them for any cash
11 they have, Mr. Williams gives him cash, Ms. Ms. Smith gives
12 the cash that she has to him, Mr. Williams gives his credit
13 cards as well. Um, he ultimately gets interested about how
14 much money he has in a bank account and they actually transfer
15 from the house, they go out into Mr. Williams' green Explorer
16 and they go to SC Telco Bank over by Asheville Highway. Um,
17 the defendant has Mr. Williams write a check for \$4100 and
18 cashes that check and then Mr. Williams gives him the money in
19 the ATM line. They end up comin' back to their house,
20 Mr. Williams sees an opportunity when they go in,
21 Mr. Robertson said that he was going to, uh, tie them up and
22 leave them there, um, at that point Mr. Williams sees an
23 opportunity, he runs inside the house, grabs Ms. Smith, locks
24 the door, grabs a weapon and calls the police and defendant
25 runs off. He's apprehended later by the sheriff's office,

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 witness if we can't find her.

2 THE COURT: Okay, maybe he went to look for her.

3 (Whereupon, Mr. Shealy returned to the courtroom.)

4 THE COURT: Yeah, Solicitor.

5 MR. SMITH: Your Honor, the State calls Geri Smith.

6 THE COURT: Alright, Ms. Smith.

7 (Whereupon, the witness came forward.)

8 (Whereupon, a discussion was held off the record.)

9 THE CLERK: Place your left hand on the Bible, raise your
10 right, please.

11 GERI CHRYSTELLE SMITH, having been
12 first duly sworn, testified as follows:

13 THE CLERK: Okay, have a seat and make sure you speak
14 into the black microphone, please.

15 THE COURT: Ms. Smith, tell us your full name and spell
16 your full last name for my court reporter, please.

17 THE WITNESS: My first name is Geri, G-E-R-I, middle name
18 is Chrystelle, C-H-R-Y-S-T-E-L-L-E and the last name is the
19 tough one Smith, S-M-I-T-H.

20 THE COURT: Alright, Ms. Smith, give your attention to
21 the solicitor.

22 DIRECT EXAMINATION BY MR. SMITH:

23 Q. Good afternoon, Ms. Smith, uh, where do you live?

24 A. I reside at [REDACTED] Cannons Campground Road in Spartanburg.

25 Q. Spartanburg County?

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 A. Yes, sir.

2 Q. Uh, did you live there back on June 17th of 2016?

3 A. Yes.

4 Q. Who else lives at that residence?

5 A. Albert Williams.

6 Q. Um, tell me what happened on June 17th 2016 now.

7 A. Mr. Williams and I went to Cowpens to the dump, then we
8 went to Walgreens and when we returned Mr. Williams ---

9 Q. What time of day was it?

10 A. Around 10:30 a.m. and Mr. Williams entered the residence,
11 I was going up the steps behind him and when I reached the
12 door it was kind of hard get, it it was open but it was hard
13 to open and my cat sometimes will bunch up the entry rugs so
14 that's what my assumption was and then as it pushed open the
15 defendant grabbed me and slung me to the ground, at that point
16 he s -- he asked Mr. Williams and myself to get on the sofa,
17 sit on the sofa. He had a weapon, he had a gun and he tried
18 to be calm and chitchat and asked for our money, asked for our
19 phones, asked for credit cards, then he -- we realize that the
20 window at the back door had been broken into. The defendant
21 asked Mr. Williams to tape over the window, he then asked
22 Mr. Williams about or it could been the window first or the
23 asking for his pin numbers for his cards, then that turned
24 into asking him how much money he had in the bank, how much
25 money he could get out without having to go into the bank,

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 Mr. Williams said, I don't know, put the phone on speaker and
2 called the bank to find out how much he could take out without
3 having to go inside. They told him whatever amount, you know,
4 that he wanted to at which point Mr. Williams asked the
5 defendant, How much do you want me to take out or write a
6 check for, he said, Forty-one hundred dollars, at that point
7 Mr. Williams wrote a check for forty-one hundred dollars and
8 then the defendant asked us to go to the credit union to
9 retrieve the money.

10 Q. Okay, let me stop, that's okay but let me stop you, um,
11 for a second. What did, what did you see? What did he look
12 like when you first saw him?

13 A. He had on a ski mask, it was blue with red on the at eyes
14 and the mouth, he had gloves on, he was wearing a neon green
15 short-sleeve t-shirt, washed-out jeans and brown shoes or
16 boots they didn't lace.

17 Q. Were you able to, I know he had a mask on at that point
18 but were you able to pick out any features of him through the
19 mask?

20 A. Had very clear, crystal clear blue eyes.

21 Q. What about, um, I know you described his clothing but any
22 marks or skin, anything ---

23 A. Nothing ---

24 Q. --- to note?

25 A. --- that I noticed, I was more focused on trying to get a

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 general description and looking at the gun that he was
2 holding.

3 Q. Okay. Uh, what did the gun look like?

4 A. It was silver revolver with a white, with white grip.

5 Q. Do you have experience with firearms ---

6 A. Not ---

7 Q. --- or ---

8 A. --- a lot but I know a revolver from a semi-automatic or
9 whatever, you know, you can see the barrel.

10 Q. Okay. Um, did he take anything from you while you were
11 inside of the trailer?

12 A. He took my fifteen dollars that I had, he took money from
13 Mr. Williams, he took the cell phone, um, ---

14 Q. Alright, ---

15 A. --- I ---

16 Q. --- so so he had told you that he wanted to go by the
17 bank and you were about to say, continue on out.

18 A. Okay. He wanted -- he had Mr. Williams go down the
19 stairs first and he asked me to go down and Mr. Williams
20 commenting to him that she's going to be slow because I had a
21 broken ankle, so then we all got into the vehicle,
22 Mr. Williams was driving, I was in the passenger seat in the
23 front and the defendant was behind Mr. Williams.

24 Q. Whose vehicle is this?

25 A. Mr. Williams'.

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 Q. What type of car is it?

2 A. It's a '94 or '95 Ford Explorer ---

3 Q. Alright.

4 A. --- oh, I, or 2004, but I can't remember.

5 Q. Okay, so all three a you get in, ---

6 A. Yes.

7 Q. --- head to the bank?

8 A. And Mr. Williams, you know, he, the defendant was like, I
9 don't want you, you know, look at me, whatever, so

10 Mr. Williams moved the rearview mirror and then he said, No,
11 put it back down, so it wouldn't look as suspicious and they
12 put it ---

13 Q. Was it ---

14 A. ---- back in ---

15 (Indiscernible cross-talk.)

16 Q. --- your belief that he had taken off his mask or
17 or ---

18 A. I did not at that point, I mean, you know, I mean, uh,
19 when he said, I don't want you to look at me, that indicated
20 but I did not have any, you know, point of reference at that
21 time.

22 Q. 'cause you'd be been talking with him inside looking at
23 his face but he had a mask on?

24 A. Correct.

25 Q. How long do you think you were inside of the Cannons

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 Campground house before ya'll went on to the bank?

2 A. I would estimate thirty minutes, ---

3 Q. Okay.

4 A. --- time is, you know, a little different when you're
5 stressed but that's what it seemed like was thirty minutes.

6 Q. Okay, so what bank did ya'll end up going to?

7 A. SC Telco at Herring Circle.

8 Q. Alright, is that your bank or Mr. Williams' ---

9 A. Mr. Williams' bank.

10 Q. Alright. What did ya'll do at the bank?

11 A. We pulled up to the drive-thru, Mr. Williams put the the
12 check in the tube and then he realized he hadn't put his ID so
13 they had to ha -- they had to send it back down so he could
14 put his ID in there ---

15 Q. Okay.

16 A. --- then the money came in its little envelope and I
17 don't know, I just know Mr. Will, oh, sorry, Mr. Williams went
18 like this (demonstrating) to hand him the money but but on the
19 way to the bank is when I saw his face.

20 Q. Okay, and describe how that happened.

21 A. He asked me to turn around and look at a scar on his left
22 arm that he said it happened in a police shootout and I I
23 turned to look at him, I saw saw his face, he did not have the
24 mask on at that point.

25 Q. What did you see?

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 A. I saw his, I saw his face, I saw that he had salt and
2 pepper hair, that he was, you know, like people who work in
3 the sun or whatever, a lotta wrinkles and just those clear
4 blue eyes.

5 Q. Um, anything, you remember anything about facial hair or
6 the color of his skin or anything like that?

7 A. He was very tan, very tan.

8 Q. Like you believed he worked outside?

9 A. That's, that was the assumption I made just because he
10 was so tan.

11 Q. Okay. How quick -- how long do you think this look that
12 you got at him was?

13 A. Probly three or four seconds.

14 Q. Okay, and it was you in the passenger seat looking at him
15 seated behind Mr. Williams ---

16 A. Correct.

17 Q. --- in the the rear passenger driver side?

18 A. Correct, like like this (demonstrating).

19 Q. Okay. Um, after you leave the bank what happens?

20 A. Mr. Williams asked him, Where would you like to be
21 dropped off, at which point the defendant said, We're we're
22 going back to your house.

23 Q. Okay. How far away is the bank from your, ya'lls
24 house?

25 A. I would guess 8 miles maybe, I I'm not really good at

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 distance that way.

2 Q. Um, did he say anything else to you while you were on on
3 the way or back at the apartment anything ---

4 A. He was ---

5 Q. --- or trailer?

6 A. --- jabberin' about somethin' to, I don't -- he was
7 talkin' about Florida, I don't know he's, if he said he's from
8 Florida, if he was goin' to Florida, if -- I, you know, and I
9 just know he was sayin' somethin' about Florida, that was on
10 the way to the bank.

11 Q. Okay. Um, you leave the bank now end up back at Cannons
12 Campground?

13 A. Yes.

14 Q. What happened then? ,

15 A. Mr. Williams got outta the vehicle and went up to the
16 door, I got out, he inadvertently had all the doors locked so
17 I'm like, Hello, hello, unlock the door, so he unlocks the
18 door, I go behind him, Mr. Williams, and he pulls me and, you
19 know, kinda slings me in the house and shuts the door so that
20 he can call 911, we don't know what happened to the defendant,
21 at that point we weren't concerned with where he was goin', we
22 just wanted to be inside the house safe where we could call
23 911.

24 Q. So was Mr. Williams and then you're followin' in after
25 him ---

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 A. Yes.

2 Q. --- and the defendant is somewhere behind you?

3 A. Yeah, I don't, I don't know where he was, all, you know,
4 I I was concerned with getting in the house when Mr. Williams
5 pulled me in, shut the door.

6 Q. Okay, and then what happened then?

7 A. Uh, that's when we called 911 or he called 911, we both
8 spoke with them.

9 Q. Okay, uh, did officers end up comin' out to your house?

10 A. Yes.

11 Q. Do you remember how quickly they got there?

12 A. It was relatively quickly ---

13 Q. Okay.

14 A. --- and they separated us so that each gave a separate
15 statement and in -- investigators, detectives, whatever, all,
16 you know, were comin' and goin', um, and then they were aware
17 that I had seen this, the defendant's face and asked me if I
18 thought I, you know, did I see him well enough to do a
19 composite sketch at which point I said yes.

20 Q. Okay, did a sketch artist end up comin' out to the
21 Cannons Campground location?

22 A. Yes, sir.

23 Q. Okay. What happened with that?

24 A. Uh, I -- we did a composite. They have a book, it's like
25 general face shapes and you pick and then it gets more and

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 more detailed: nose, shape a the nose, shape a the eyes, the,
2 you know, forehead, wrinkles, chin, ears, and so I was workin'
3 with the sketch artist, we were almost through and the
4 detective came in with a lineup, ---

5 Q. Okay.

6 A. --- photo lineup ---

7 Q. Ho -- oh, about the sketch, so you're, you go through a
8 bunch a different noses, bunch a different eyebrows and you
9 just pick out the one you think closelys [sic] represent --
10 resembles the ---

11 A. Correct.

12 Q. --- defendant? Um, how long do you think that process
13 took between ---

14 A. It ---

15 Q. --- you ---

16 A. --- was a, ---

17 Q. --- and the Deputy ---

18 A. --- it was about an hour.

19 Q. Okay, um, and did -- how how does it begin, do you just
20 start lookin' at the book or do -- does he ask you anything?

21 A. He he asked me questions so that he can get a general
22 basis like was he old, young, you know, thin, fat face type
23 thing then it, then it's the book.

24 Q. Well how would you have described his build?

25 A. He was slender but very muscular.

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 Q. Okay, like a lean muscular?

2 A. He was lean and had like big arms.

3 Q. Okay. Um, um, did -- when you got back to the house,
4 did you realize that more things were out of place than had
5 been ---

6 A. Yes.

7 Q. --- when you got, ---

8 A. Yes, ---

9 Q. --- ran into ---

10 A. --- because ---

11 Q. --- him?

12 A. --- well when I got, initially when we got to the house,
13 ya know, he's callin' the cops or talkin' to 911 and I'm in a
14 panic because I have a cat and all I want to do is know where
15 my cat is 'cause she's an indoor cat and I didn't want her
16 outside and I noticed that the safe which was in my room had
17 been tampered with to say the least, tryin' to break into it,
18 and I know I had a watch that had been sitting on my chest of
19 drawers that was gone ---

20 Q. Um-hum.

21 A. --- and outside of that as far, you know, I don't know
22 'cause I don't, usually go into the other end a the house,
23 just my side.

24 Q. Alright, one second.

25 (Pause.)

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 A. And there were tools and thing ly -- lying on my bed
2 where he had been using those to try to break into the safe.

3 Q. I'll show you series of pictures, ask if you can -- don't
4 tell me specifically what they are but are those pictures of
5 the house at Cannons Campground Road when you found it, I
6 guess part of it when you first got there and then after you
7 got back from the bank?

8 A. And that one I just, that's the back a the hou -- or the
9 other part a the house where I don't go, the one, this one
10 particular one.

11 Q. You didn't see that?

12 A. No.

13 Q. Alright. Alright, but the rest that's how the house
14 looked ---

15 A. Yes, sir.

16 Q. --- on June the 17th?

17 A. Yes, sir.

18 MR. SMITH: Your Honor, we would move those into
19 evidence, we ---

20 MR. SHEALY: Um, they're not presently marked.

21 MR. SMITH: They're not.

22 MR. SHEALY: I don't necessarily have a an objection but
23 they do need to be marked first.

24 MR. SMITH: Yeah.

25 THE COURT: Okay.

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 (Photographs marked State's Exhibit Nos. 8, 9, 10, 11 and
2 12 for identification.)

3 MR. SMITH: Your Honor, at this time we'd like to move
4 State's 8 through 12 into evidence.

5 MR. SHEALY: If I may just look at the numbers.

6 MR. SMITH: I took the guns out.

7 (Whereupon, a discussion was held off the record.)

8 MR. SHEALY: I have no objection, Your Honor.

9 THE COURT: State's 8 through 12 are, uh, admitted
10 without objection.

11 (State's Exhibit Nos. 8, 9, 10, 11 and 12, photographs,
12 admitted into evidence.)

13 BY MR. SMITH:

14 Q. What is that (indicating) a picture of?

15 A. That's where the defendant had asked Mr. Williams to
16 cover up the door, the the window.

17 Q. Is that -- what door of the house is that?

18 A. The back door.

19 Q. Is that how he got into the house you believe?

20 A. That's what we believe, yes. The window was broken,
21 he ent ---

22 Q. So there there's a window before the ---

23 A. Correct.

24 Q. --- duct tape and ---

25 A. Correct.

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 Q. --- was it aluminum foil?

2 A. It was a ca -- it was a glass window and the glass was in
3 the house.

4 Q. Okay, um, that was State's Exhibit 8, this (indicating)
5 is State's Exhibit 9, can you identify what that is.

6 A. That's the safe that was in my room and you can see just
7 in that shot just the corner of some of the tools that he had.

8 Q. Okay. Um, did the safe, the safe look like that prior
9 to ---

10 A. No, ---

11 Q. --- June 17th?

12 A. --- and it was sitting on, if you can see that blue
13 crate, that's where it had been sitting.

14 Q. Um, any of your belongings inside a the safe?

15 A. No.

16 Q. Did did he actually get inside the safe?

17 A. No.

18 Q. Um, State's Exhibit 10 is the, is that just another
19 picture of the safe?

20 A. Yes.

21 Q. Alright. This (indicating) is State's Exhibit 11.

22 A. That's my bed, can see the s -- the corner of the safe
23 and the blue crate and none a those tools were on my bed so
24 those had been placed there after we had left the residence.

25 Q. Okay, this (indicating) one as well? What ---

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 A. Yes.

2 Q. --- about this this (indicating) stuff on the floor, is
3 that yours, the powder or whatever it looks like, is that you
4 or ---

5 A. That's from his trying to open the safe.

6 Q. Okay. What was -- what were you feeling during all this
7 this encounter with him with the gun?

8 A. Huh, huh, a little shaky, a little frightened and the
9 fact that he had stated, you know, As long as you do what I
10 say, you're going to be fine, and then when we were in the
11 vehicle he's like, Don't do anything funny, I have nothing to
12 lose.

13 Q. So you believed that if he didn't do -- if you didn't do
14 what he said that harm could come to you or ---

15 A. Yes, most definitely.

16 Q. Alright. Um, um, you said that a watch was taken from
17 the house, ---

18 A. Yes.

19 Q. --- you describe what that watch looks like.

20 A. It was gold with a white face, a little diamond chip at
21 the top a the face and a rosette on each side.

22 MR. SMITH: Your Honor, I'd like to mark this for ID
23 purposes.

24 MR. SHEALY: Judge, I don't have a problem with him
25 marking to -- this (indicating) for ID purposes but I don't

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 want it, I don't want the envelope ---

2 MR. SMITH: Yeah, it ---

3 MR. SHEALY: --- marked, that makes sense.

4 (Watch marked State's Exhibit No. 13 for identification.)

5 BY MR. SMITH:

6 Q. Hand you what's been marked as State's Exhibit 13 for ID
7 purposes, ask is that the watch that ---

8 A. Yes, ---

9 Q. --- was taken ---

10 A. --- it is.

11 Q. --- from you?

12 A. Yes, it is.

13 Q. Okay. So you talked about filling out the sketch with
14 the deputy, the sketch artist, uh, did you believe that the
15 final product was as accurate of a depiction as you could
16 recall?

17 A. We were almost, well I'd say we were 99.9 percent
18 complete, we were just gonna do a couple a tweaks maybe to the
19 hair and that's when the lineup was shown to me. He said,
20 Close the book, don't do anything more. I was advised not,
21 you know, not to make judgment, it could or could not be the
22 person in the lineup, et cetera and one, I guess it was number
23 1 and then I said, Eh, and then I looked at number 5 and I
24 said, That's it right there, hundred percent.

25 Q. Do you remember what it was about number 1 that made

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 you ---

2 A. It was just the hair but his, I knew the face wasn't, you
3 know, I knew the face wasn't the same.

4 Q. Okay. Uh, -- okay, who -- h-- do you know how long after
5 ya'll had escaped that the sketch artist got there and you
6 began fillin' fillin' out the sketch?

7 A. I know it took a little while for him to get there, I,
8 um, maybe from -- are you talkin' about from the time that we
9 were at ---

10 Q. When you called ---

11 A. --- the ---

12 Q. --- 911.

13 A. Oh, the time we called 911, maybe an hour and a half, I
14 honestly don't know, ---

15 Q. Okay.

16 A. --- I I honestly don't know.

17 Q. That day ---

18 A. Oh, yes, ---

19 Q. --- while ---

20 A. --- that ---

21 Q. --- it was still ---

22 A. --- day.

23 Q. --- light out ---

24 A. Yes.

25 Q. --- side?

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 A. Yes, I mean, it couldn't a been more than couple hours.

2 Q. Okay. Um, I'm gonna hand up what's previously been
3 marked as State's Exhibit 2, ask if you can identify what that
4 is.

5 A. That is the composite sketch that Mr. Finley made via my
6 verbiage.

7 Q. Okay. You didn't draw it but you describe ---

8 A. Yeah. No, I did not draw that, I wish I could draw that
9 well but ---

10 Q. But that's ---

11 A. That was ---

12 Q. --- how you described the defendant looking and you were
13 in agreement I guess that that was a accurate ---

14 A. Yes.

15 Q. --- depiction of what he looked like?

16 A. Yes.

17 MR. SMITH: Um, um, Your Honor, this point we'd like to
18 move State's Exhibit 2 into evidence, uh, with permission to
19 publish it to the jury.

20 MR. SHEALY: Judge, I'm gonna object at this point, I
21 think there's insufficient foundation laid and I I'd go
22 into ---

23 THE COURT: What is ---

24 MR. SHEALY: --- that ---

25 THE COURT: --- State's 2?

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 MR. SHEALY: --- just a minute.

2 MR. SMITH: It's a sketch, Your Honor.

3 THE COURT: Oh.

4 MR. SHEALY: If I may may approach.

5 THE COURT: Yes, sir, c'mon up.

6 (Whereupon, a bench conference was held off the record.)

7 BY MR. SMITH:

8 Q. Alright, after you and Deputy Finley were done with the
9 sketch, did somebody come with a photo array?

10 A. Yes.

11 Q. Okay. Was that Detective Clark?

12 A. Yes.

13 Q. Um, did he tell you who to pick out of the photo
14 lineup?

15 A. No.

16 Q. Did he tell you that the person who committed the crime
17 was in the photo lineup?

18 A. No.

19 Q. Um, did he tell you, threaten you or coerce you in any
20 way that you needed to pick out somebody or pick out pecific
21 [sic] person?

22 A. No.

23 Q. Did he do anything to suggest to you who you needed to
24 pick out or ---

25 A. No.

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 Q. --- anything like that?

2 A. No.

3 Q. Okay. Um, uh, gonna hand you State's Exhibit 4, ask if
4 you can identify what this (indicating) is.

5 A. This is the lineup that I was shown ---

6 Q. Okay.

7 A. --- and this (indicating) is whom I picked, the
8 defendant.

9 Q. And is your signature on that page?

10 A. Yes, sir, ---

11 MR. SHEALY: Judge, ---

12 A. --- it is.

13 MR. SHEALY: --- I'm gonna object to this point subject
14 to my prior objection.

15 THE COURT: Okay, it's overruled, go ahead..

16 MR. SMITH: Your Honor, this point we9 move State's
17 Exhibit 4.

18 THE COURT: It's over objection, it's admitted.

19 MR. SMITH: Thank you, Your Honor.

20 (State's Exhibit No. 4, lineup, admitted into evidence.)

21 BY MR. SMITH:

22 Q. Uh, did you sign the page?

23 A. Yes, I did.

24 Q. Did you circle the defendant that -- or the person that
25 you identified out of the lineup?

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 A. Yes, I did.

2 MR. SMITH: Your Honor, we ask permission to publish this
3 to the jury.

4 THE COURT: Yes, ma'am -- yes, yes, sir, I'm sorry.

5 Q. Um, you were talking about the process of going through
6 it, that does he tell you to look at each one and then ---

7 MR. SHEALY: Objection as to what he told her, that's
8 hearsay.

9 THE COURT: Okay, rephrase.

10 Q. How did you go through the six pictures and ---

11 A. I was handed the photo lineup, I was asked to look at
12 each one and if I, you know, if I thought I saw the defendant
13 or whom I, you know, felt had taken us and I looked at number
14 just for split second as far as any kind of just because his
15 hair was up but immediately when I saw number 5 I said, That's
16 him right there one hundred percent.

17 Q. Okay. Um, did did you make any comments that it -- does
18 this picture look any different than what he looked like that
19 day or is that ---

20 A. Um, I I don't think I did.

21 Q. Okay. Did did he explain to you that it's possible that
22 people's hairstyle ---

23 MR. SHEALY: Objection, Your Honor, it's he's askin' for
24 hearsay again.

25 THE COURT: Well he's not asking for what he said, he

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 he's askin' ---

2 MR. SHEALY: That ---

3 THE COURT: --- what if anything explained.

4 MR. SHEALY: Oh, my understanding was that he was asking
5 what did Detective Clark tell her, ---

6 THE COURT: Okay.

7 MR. SHEALY: --- that was my understanding the question.

8 THE COURT: He's gonna testify to that I'm assumin'.

9 BY MR. SMITH:

10 Q. You picked out number 5?

11 A. Yes.

12 Q. Do you have any doubt that was ---

13 A. No.

14 Q. --- him?

15 A. No.

16 Q. Had you ever met any of the people in that photo lineup
17 prior to being shown the array?

18 A. No.

19 Q. So number 5 to you was just a stranger ---

20 A. Yes, ---

21 Q. --- except ---

22 A. --- except for the incident, yes.

23 Q. Okay. Is the number 5 in the courtroom here today?

24 A. Yes, he is.

25 Q. You point to him.

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 A. Defendant (indicating).

2 Q. And ---

3 MR. SHEALY: Judge, again, I'm renewin' my objection that
4 we made earlier.

5 THE COURT: Yes, sir, over objection, yes, you ---

6 Q. That's the man you saw in the back seat of the car when
7 he asked you to turn around, look at his scar?

8 A. Yes, it is.

9 Q. You have any doubt?

10 A. No.

11 Q. Um, the drawing of the sketch or the describing how the
12 sketch should be drawn in the lineup, where were those done?
13 Where where were you when you did the sketch?

14 A. At my residence.

15 Q. And the lineup?

16 A. At my residence.

17 Q. And both of those things occurred on June 17th of 2016?

18 A. Correct.

19 Q. Um, how does this incident affected you?

20 MR. SHEALY: Objection, Your Honor, relevance.

21 THE COURT: Solicitor.

22 MR. SMITH: We'll move move on, Your Honor. I don't have
23 any further questions for Ms. Smith.

24 THE COURT: Alright.

25 MR. SHEALY: Yeah.

GERI CHRYSTELLE SMITH - CROSS-EXAMINATION BY MR. SHEALY

1 THE COURT: Mr. Shealy.

2 MR. SHEALY: Thank you, Judge, may it please the Court.

3 CROSS-EXAMINATION BY MR. SHEALY:

4 Q. Alright, Ms. Smith, you've testified that you had a
5 broken ankle at the time this happened?

6 A. It was mending but yes, it had been broken, yes.

7 Q. Okay, so would -- were ya in a cast, ---

8 A. No, ---

9 Q. --- did ya have ---

10 A. --- not ---

11 Q. --- surgery ---

12 A. --- at that time, I was already out of a cast.

13 Q. Oh.

14 A. Well I wore, I had what they call an "air cast" and I was
15 outta that.

16 Q. Okay, so you you weren't required to wear the air cast,
17 is that my understanding?

18 A. I had gone past that point.

19 Q. Past that point.

20 A. Yes.

21 Q. Okay. Uh, now you've testified that when you were -- so
22 you came into the house the second whenever you got there, is
23 that correct?

24 A. Correct.

25 Q. Alright, and you were pushed to the ground at that point

1 or ---

2 A. After I got inside the door he pulled me to the ground.

3 Q. You were pulled to the ground.

4 A. Correct.

5 Q. Okay. Had Mr. Williams been pushed to the ground or
6 pulled to the ground?

7 A. I don't know, he wasn't lying on the ground when I, when
8 I entered.

9 Q. Alright. Now you testified about your, (cough
10 interruption) of the house and could ya give us kind of a
11 layout a the house.

12 A. Certainly. As you, when you enter the house, um, to the
13 left-hand side against the wall towards the street is the sofa
14 then there was a revolving reclining rocker in which the
15 defendant sat. I was on this (indicating) end a the sofa,
16 Mr. Williams was on this (indicating) end a the sofa and he
17 (indicating) was in the recliner.

18 Q. Okay, that's when you come in the front door.

19 A. Correct.

20 Q. Alright. I'm gonna show ya State's Exhibit No. 8, what
21 what door is that (indicating)?

22 A. That is the back door.

23 Q. So I'll ask you this: that (indicating) would be the
24 correct orientation, correct?

25 A. Correct.

GERI CHRYSTELLE SMITH - CROSS-EXAMINATION BY MR. SHEALY

1 Q. Alright, so that's the back door, so what what do ya see
2 when ya come in the back door?

3 A. As as if it were me coming in?

4 Q. Uh, yes, ma'am.

5 A. There would be the kitchen straight ahead and the dining
6 table to the left, ---

7 Q. Um, ---

8 A. --- then the right would be the hallway to the master
9 bedroom and the laundry area.

10 Q. Alright, and you testified that I guess ya'll have
11 divided the house? So you said that you had your half and he
12 had his half ---

13 A. Well, I live in one end and his room is in the other end.

14 Q. Okay. and how long have you lived at this particular
15 address?

16 A. Since May of 2014.

17 Q. Alright. And how long have you known Mr. Williams?

18 A. I've known him for several years but not, I hadn't seen
19 him in a long time until 2011 I believe it was.

20 Q. Okay, and then ya'll I guess you moved into his house I
21 suppose as a, as a tenant, it's ---

22 A. Correct, ---

23 Q. --- his house or ---

24 A. --- it's his house.

25 Q. Alright. Uh, now you've also testified that when you you

GERI CHRYSTELLE SMITH - CROSS-EXAMINATION BY MR. SHEALY

1 come home at 10:30 you get pushed to the ground ---

2 A. Well to the floor.

3 Q. To the floor, oh, fair enough, and then at that point you
4 get up and go sit on the sofa or how did that occur?

5 A. The defendant told us to get on the sofa, ---

6 Q. So ---

7 A. --- or told me to sit on the sofa.

8 Q. Said go sit on the sofa then he sat down on this
9 revolving rocking ---

10 A. Yes.

11 Q. --- chair?

12 A. Um-hum, yes, sir.

13 Q. Alright. And at that point ya'll had some kinda
14 conversation apparently sounded like.

15 A. Well that's after he had asked for the money and asked
16 for the cards and took the cell phones.

17 Q. So he took the cell phones.

18 A. Yes.

19 Q. Okay, and you, I think you testified that ya estimated
20 that conversation to be about thirty minutes?

21 A. That included the sitting in the living room and his
22 going over to the dining table to get Mr. Williams to call the
23 bank.

24 Q. Oh, so ya'll didn't do the calling of the bank in that
25 sitting room, you did that at the dining room.

GERI CHRYSTELLE SMITH - CROSS-EXAMINATION BY MR. SHEALY

1 A. Correct.

2 Q. Alright. Did you all three of ya troop to the dining
3 room ---

4 A. No, sir, ---

5 Q. --- table or did you ---

6 A. --- I ---

7 Q. --- stay on the sofa?

8 A. No, I stayed on the sofa.

9 Q. Alright, and then they went to the dining room.

10 A. Yes, and it's a very open area, it's not like room to
11 room with door, you know, door jams in between, it's an open
12 space so he could s -- he could still see me ---

13 Q. Alright, and at that point did he have the gun out?

14 A. Yes.

15 Q. Alright, so he had the pistol out the entire time.

16 A. Yes, ---

17 Q. And you testified ---

18 A. --- at least ---

19 Q. --- as to ---

20 A. --- from my visual perspective, it wasn't like he would
21 stand there in the kitchen or dining area pointing it at me
22 but it so I can't honestly say if he had it out when he was in
23 that area 'cause I couldn't see because of the counter.

24 Q. Okay. Now you testified about a neon green shirt, ---

25 A. Yes, sir.

GERI CHRYSTELLE SMITH - CROSS-EXAMINATION BY MR. SHEALY

- 1 Q. --- now I've got in my notes a t-shirt, is that what ---
- 2 A. It ---
- 3 Q. --- it was?
- 4 A. --- was a t-shirt, yes.
- 5 Q. It was a t-shirt, alright. Uh, and just to make sure
- 6 we're talkin' about the same thing t-shirt you mean just
- 7 that ---
- 8 A. Short-sleeved t ---
- 9 Q. --- short ---
- 10 A. --- shirt.
- 11 Q. --- sleeve shirt, right? Okay. Uh, we're making a
- 12 recording so I gotta make sure that we're ---
- 13 A. That's fine.
- 14 Q. Um, and you've testified that that back door was, that
- 15 the window had completely shattered?
- 16 A. Yes, ---
- 17 Q. Alright.
- 18 A. --- I mean, there mighta been little shards in the edges
- 19 or something but it it was broken, yes, there was glass all
- 20 over the floor in the liv, uh, uh, dining area.
- 21 Q. Okay, and now you've also -- when you got into this
- 22 vehicle, what kinda vehicle was it?
- 23 A. It's a Ford Explorer.
- 24 Q. Alright, and you've testified that he got in the back
- 25 seat, is that right?

GERI CHRYSTELLE SMITH - CROSS-EXAMINATION BY MR. SHEALY

1 A. Correct.

2 Q. Alright, and this Ford Explorer is it just two rows or is
3 it three rows?

4 A. It's two rows.

5 Q. Two rows, so he's sitting immediately behind
6 Mr. Williams.

7 A. Correct.

8 Q. And again, are ya'll talking at this point?

9 A. He's chatting ---

10 Q. He's chatting.

11 A. --- and just, and, you know, tryin' to make small talk, I
12 don't know if it was try to alleviate our nerves or what but
13 he was chatty.

14 Q. Okay. While you were at the house though you didn't hear
15 any banging on the safe, it was just ---

16 A. No.

17 Q. --- nothin' doin' with the safe while ya'll were at home.

18 A. Correct.

19 Q. Alright. Uh, and how long were ya'll gone to Cowpens?

20 A. An hour maybe, I honestly don't know, long enough to
21 drive to Cowpens, fifteen, uh, forty-five minutes to an hour I
22 gather.

23 Q. Okay, so you get into this Explorer and ya'll are driving
24 away and you've testified that at some point Mr. Williams had
25 moved the ---

1 A. Before we left the driveway he had moved the rearview
2 mirror because mis -- the defendant had said he did not want
3 us to look at him ---

4 Q. Okay.

5 A. --- which ironically he wanted me to look at him few
6 minutes later but he had, Mr. Williams had turned the mirror
7 up so that he couldn't see.

8 Q. So he knocked it up.

9 A. He turned it up ---

10 Q. Okay.

11 A. --- and the defendant said, No, no, turn it back down,
12 because it would be less conspicuous that way.

13 Q. Alright, so he could then -- so Mr. Williams could use
14 the rearview mirror to drive presumably.

15 A. Well, I'm sure he he was going to use the side mirrors
16 I'm sure when he had raised the rearview mirror.

17 Q. Alright, so ya'll are driving, it's testified it took
18 somewhere around fifteen, is it ten to fifteen minutes or
19 fifteen to twenty minutes?

20 A. I would say ten to fifteen.

21 Q. Alright, and it's about 8 miles you testified to.

22 A. I gather 8 miles, I'm not a road specialist as far as
23 distance goes.

24 Q. Sure. and throughout this time I guess at some point in
25 this trip he asked you to look back at a scar?

GERI CHRYSTELLE SMITH - CROSS-EXAMINATION BY MR. SHEALY

1 A. That's what he stated, ---

2 Q. Alright.

3 A. --- said I would, he says, I want you to see this scar on
4 my arm from where I was in a shootout with the police.

5 Q. Okay, and that's when you look back and saw his face.

6 A. Correct.

7 Q. Alright, and how long were ya lookin' back?

8 A. I'd say about three, four seconds.

9 Q. Alright, and did he have a scar on his arm?

10 A. I was not trying to look.

11 Q. You weren't trying to look.

12 A. No, ---

13 Q. Okay.

14 A. --- I mean, he would -- he said it was on the inside. He
15 turned his arm outward so to speak so I could see the inside
16 part of his arm but I, as I said I wasn't ---

17 Q. And was the pistol out at that point?

18 A. Pardon me?

19 Q. Was the pistol out at that point?

20 A. I I don't know.

21 Q. You don't know, ---

22 A. I.---

23 Q. --- so ---

24 A. --- honestly don't know.

25 Q. Alright, and this woulda been around about 11, what,

1 11:30 in the morning?

2 A. I would guess somewhere in that the area, yes.

3 Q. Okay, maybe 11, somewhere between 11, 11:30, is
4 that ---

5 A. That would be a good estimate, yes, ---

6 Q. Okay.

7 A. --- sir.

8 Q. Now you've testified when ya'll were driving through that
9 Mr. Williams, when ya'll got to the bank, Mr. Williams put the
10 check in the tube, ---

11 A. Yes, ---

12 Q. --- that right, ---

13 A. --- correct.

14 Q. --- and then he sent it off, ---

15 A. Correct.

16 Q. --- and you've testified that he forgot to put his ID in
17 there?

18 A. Correct.

19 Q. Alright, and then so they sent it back to him?

20 A. Yes.

21 Q. And when they sent it back to him they just sent
22 presumably the check in in the tube.

23 A. I don't know, I wasn't looking at the tube.

24 Q. You weren't lookin' at what he was doin'?

25 A. Well I I know he went, Oh, God, I forgot to put my ID in

GERI CHRYSTELLE SMITH - CROSS-EXAMINATION BY MR. SHEALY

1 the tube, ---

2 Q. Okay.

3 A. --- so when the tube came back down I don't know if the
4 check was in there or not, I just know he put his ID in the
5 tube.

6 Q. Alright, and then he put it back or then he put it back
7 and he shot it back through.

8 A. Correct.

9 Q. Okay, and it came back in an envelope you testified to?

10 A. Yes.

11 Q. Alright, and you have never seen Mr. Robertson before.

12 A. No, sir, not to my knowledge.

13 MR. SHEALY: If you'll bear with me, Judge.

14 (Pause.)

15 MR. SHEALY: Alright, I have nothing further of this
16 witness.

17 THE COURT: Anything at all from the State?

18 MR. SMITH: No, Your Honor.

19 THE COURT: Okay. Ma'am, you may step down, please be
20 careful.

21 (Whereupon, the witness left the stand.)

22 MR. SMITH: Break? Break?

23 THE COURT: Mr. Foreman, ladies and gentlemen a the jury,
24 it is my, uh, custom to not run you longer than about ninety
25 minutes, I I've been on the bench since 2:30, we're we're

MOTIONS AND MATTERS

1 about eighty f -- eight-five minutes into this so it's time
2 for a break, uh, you can count on that every day a good, uh,
3 good break if ever 'bout every ninety minutes or so, you
4 shouldn't have to sit there all that long. I forgot to tell
5 you and I will now say so if you see me stand a lot, uh, I
6 just don't like to sit in the chair so two things with that;
7 number one, if I'm sitting I'm tired a standing and if I'm
8 standing I'm tired a sitting, it has nothin' to do with
9 whether or not a witness who's testifying whether that's
10 believable or or unbelievable, it has to do with the fact that
11 I'm either tired a sitting or standing, I will also tell you
12 as jurors that you're welcome to do so as well, so if you want
13 to stand, it's fine with me, I merely ask that you sit on the
14 back row so you will not block a fellow juror's view but if
15 you are a person who likes to stand from time to time or
16 stands a lot as I do, uh, you're welcome do that. My wife
17 will tell ya that I can eat dinner before I get from the stove
18 to the table 'cause I just eat as I go but having said that
19 we're gonna take a break, don't talk about the case
20 whatsoever, it's not at an end and it would be improper for
21 you to do that so, uh, don't talk about the case, besides this
22 is work, you're at work and the last thing you wanna do on a
23 break is talk about work, 'kay. Mr. Foreman, take the jury
24 out, please.

25 (The following takes place outside the presence of the

MOTIONS AND MATTERS

1 jury.)

2 THE COURT: Okay, we're gonna take about ten, ten, almost
3 fifteen minutes or somethin' like that, bring 'em back, uh,
4 you you know that I don't generally like to run past 5 or 5:15
5 on the first day but hereafter we'll run to 5:30, 5:45, okay.

6 MR. SMITH: Yes, sir, ---

7 THE COURT: Alright, let's take ---

8 MR. SMITH: --- we've got Ms. Moffitt and Mr. Williams is
9 all we've got scheduled for the rest of ---

10 (Indiscernible cross-talk.)

11 THE COURT: Okay, we'll take take two more witnesses, uh,
12 pretty quick there.

13 MR. SHEALY: I don't know Mr. Williams' gonna be all that
14 quick, he's a victim.

15 THE COURT: Huh?

16 MR. SHEALY: I said I don't think Mr. Williams is gonna
17 be all that quick 'cause he's alleged victim, ---

18 THE COURT: Well, okay.

19 MR. SHEALY: --- that that took an hour the other victim
20 so I just wanna, that I want everybody to be aware that I'm
21 just warnin'.

22 THE COURT: If they can be a quick, I mean, we're gonna
23 stop -- well we'll take whatever it take.

24 MR. SMITH: Okay.

25 THE COURT: Okay, everybody, uh, we'll we'll be in recess

MOTIONS AND MATTERS

1 about fifteen -- what do you want it be, miss?

2 THE BAILIFF: Fifteen minutes.

3 THE COURT: Yeah.

4 (Laughter.)

5 (Whereupon, a recess was taken.)

6 THE COURT: We'll have, for planning purposes, you know,
7 we'll have forty-five to sixty minutes, somewhere in that.

8 MR. SMITH: Yes, sir.

9 THE COURT: Okay.

10 MR. SHEALY: Uh, Judge, if I may put somethin' on the
11 record.

12 THE COURT: Yes, sir.

13 MR. SHEALY: My client asked me to find a particular
14 witness, I've documented my files who that witness is.

15 THE COURT: I can't hear you.

16 MR. SHEALY: Oh, sorry. My client had asked me to find a
17 particular witness and I wanted to put on the record that we
18 looked for that witness, I've had his family look for that
19 witness and we have not been able to establish contact with
20 that witness, uh, and I just wanted to put on the record we
21 had a a phone number, that it was our last known phone number
22 and we we just were not able to get her to either answer the
23 phone and talk to us so so I did wanna put that on record.

24 THE COURT: Sir, if ya have any other way of gettin' in
25 touch whoever who this person is, you give that to your

MOTIONS AND MATTERS

1 lawyers, they'll make sure they have opportunity to try to
2 find that person ever who he or she is, I don't know.

3 MR. SMITH: I don't know either.

4 (Laughter.)

5 THE COURT: Only thing I know about is what I've heard
6 today, that's all I, that's all I'm supposed to know.

7 Alright, we ready for everybody?

8 MR. SMITH: Yes, sir, Your Honor.

9 THE COURT: Have our juries.

10 THE BAILIFF: Yes, Your Honor.

11 (Whereupon, a discussion was held off the record.)

12 (Photograph marked State's Exhibit No. 14 for
13 identification.)

14 THE COURT: Who is gonna be the next witness?

15 MR. SMITH: We're gonna call Gail and then Albert.

16 THE COURT: Okay.

17 MR. SHEALY: Ju -- Judge, may we approach on ---

18 THE COURT: Yeah.

19 MR. SHEALY: --- planning things from here?

20 (Whereupon, a bench conference was held off the record.)

21 (The following takes place in the presence of the jury.)

22 THE COURT: Solicitor, you ready?

23 MS. WALTERS: Yes, Your Honor..

24 THE COURT: Alright.

25 MS. WALTERS: Your Honor, the State calls Gail Moffitt to

GAIL MOFFITT - DIRECT EXAMINATION BY MS. WALTERS

1 the stand.

2 THE COURT: Ms. Moffitt.

3 (Whereupon, the witness came forward.)

4 THE CLERK: Raise your right, please.

5 GAIL MOFFITT, having been first
6 duly sworn, testified as follows:

7 THE CLERK: Thank you, have a seat, please.

8 THE COURT: Ms. Moffitt, tell us your full name and spell
9 your last name for madam court reporter, please.

10 THE WITNESS: Gail Moffitt, the last name is spelled
11 M-O-F-F-I-T-T.

12 THE COURT: Thank you. Solicitor.

13 MS. WALTERS: Thank Your Honor.

14 DIRECT EXAMINATION BY MS. WALTERS:

15 Q. Ms. Moffitt, where are you employed?

16 A. Clerk of court's office Spartanburg County.

17 Q. And what is your current position?

18 A. Assistant clerk of court.

19 Q. And how long have you been employed with the clerk's
20 office here in Spartanburg?

21 A. Fifty years.

22 Q. And what what are your current duties?

23 A. Uh, I do more administrative work but, uh, we're a
24 custodian of records which includes family, civil under -- and
25 common plea records.

GAIL MOFFITT - DIRECT EXAMINATION BY MS. WALTERS

1 Q. So as part of your duties you do oversee the record
2 system at ---

3 A. Right, I ---

4 Q. --- clerk's office.

5 A. --- I, like I -- and general sessions I meant to say we
6 deal custioda -- custodian of general sessions records.

7 Q. And how are the records, uh, filed and stored with the
8 clerk's office, is there a type of database, uh, how are ---

9 A. Re ---

10 Q. --- they, records maintained as part of the business
11 records of the clerk's office?

12 A. Uh, we're under the CMS System, that's where we enter the
13 data and we scan all records, we have originals and we also
14 scan 'em to have a photocopy.

15 Q. Do you keep the originals here on site?

16 A. We do for a certain amount a time then they're sent to
17 storage but they're all scanned.

18 Q. They're all scanned into the CMS System.

19 A. Right.

20 Q. It's electronic database?

21 A. Right.

22 Q. And then the originals are kept as well.

23 A. Yeah, we always keep the original.

24 Q. Can anyone, uh, delete or manipulate records?

25 A. No, they cannot.

GAIL MOFFITT - DIRECT EXAMINATION BY MS. WALTERS

1 Q. And are the records in the database complete and accurate
2 copies?

3 A. They are.

4 Q. Uh, who is in charge of maintaining records, is it the
5 whole clerk's office or certain people?

6 A. We have certain people that work in different divisions.

7 Q. Uh, are you considered a custodian of these records?

8 A. Yes.

9 Q. Uh, now, Ms. Moffitt, do you know the defendant
10 Mr. Robertson?

11 A. I do not.

12 Q. Do you know, uh, the victims, Mr. Williams here
13 (indicating) in the red?

14 A. I do not.

15 Q. Do you know Ms. Smith, uh, the second victim here
16 (indicating) in the brown dress?

17 A. No, ma'am, I do not.

18 MS. WALTERS: Your Honor, may I approach the witness?

19 THE COURT: Yes, ma'am.

20 (Whereupon, counsel approached the witness.)

21 (Copy of Indictment Number 95-2682 marked State's Exhibit
22 No. 6 and copy of Indictment Number 92-0801 marked State's
23 Exhibit No. 7 for identification.)

24 Q. Ms. Moffitt, I am handing you what's been previously
25 marked as State's Exhibit 6 and 7, can you tell me what it is

GAIL MOFFITT - DIRECT EXAMINATION BY MS. WALTERS

1 that I've handed you.

2 A. You've handed me certified copies of indictments.

3 Q. And whose indictments are those?

4 A. They are on Scott Robinson [sic] and Donald Scott
5 Robinson.

6 Q. Now do both, uh, exhibits state Mr. Robertson's name?

7 A. They do.

8 Q. Okay, and they're indictments, correct?

9 A. They are indictments.

10 Q. And are there any other identifying information besides
11 Mr. Robertson's name on front page of each a those exhibits?

12 A. Yes, there is, they're in the documentation.

13 Q. Uh, does it have a birthdate or or throughout the, uh,
14 the exhibits are there any kind of date of birth or social,
15 you don't need to read 'em but ---

16 A. They are, uh, hold on, let me look. Yes, they are date
17 of birth on the documentation, right.

18 Q. And what is the charge that's listed on each of those
19 indictments, those two separate indictments?

20 A. Burglary.

21 Q. And does it have a conviction date?

22 A. Yes, they do.

23 Q. And what was the conviction date?

24 A. Hm, for Indictment N -- uh, 1995-GS-42-2672, the
25 conviction date was January 11th 1996.

GAIL MOFFITT - DIRECT EXAMINATION BY MS. WALTERS

1 Q. And for the other indictment, can you please read the
2 indictment ---

3 A. For ---

4 Q. --- number as well.

5 A. --- Indictment 92-GS-42-801, the, uh, sentence is dated
6 5/5/92.

7 Q. And those were for guilty plea conviction dates?

8 A. Yes, both of 'em were.

9 Q. Uh, now, Ms. Moffitt, are these certified convictions for
10 both exhibits that I've shown you are those maintained as part
11 of the normal business records process and operations of the
12 clerk's office?

13 A. They are.

14 Q. And are they complete and accurate depictions of the
15 original certified convictions?

16 A. Yes, they are certified copies.

17 MS. WALTERS: Your Honor, may I approach?

18 THE COURT: Yes, ma'am.

19 MS. WALTERS: Your Honor, may I approach Ms. Moffitt?

20 THE COURT: Yes.

21 (Whereupon, counsel approached the witness.)

22 BY MS. WALTERS:

23 Q. Ms. Moffitt, I'm gonna hand back to you State's
24 Exhibit 6 and 7, it's next to Exhibit 1, it's next 2672.

25 Now, Ms. Moffitt, those are con -- certified convictions, uh,

GAIL MOFFITT - DIRECT EXAMINATION BY MS. WALTERS

1 for Spartanburg County, correct?

2 A. That's correct.

3 Q. And can you please tell me the identifying
4 information that's listed in those certified convictions for
5 Mr. Robertson, date a birth.

6 A. Okay, uh, 92-GS-42-801, the date of birth is listed as

7 [REDACTED].

8 Q. And does it state his, uh, state the race and the gender
9 as well?

10 A. Yes, it's a white male.

11 Q. And the next indictment.

12 A. This is pertaining to 95-GS-42-2682, the date of birth is
13 listed as [REDACTED].

14 Q. And the sex and the gender?

15 A. White male.

16 MS. WALTERS: Beg the Court's indulgence.

17 (Pause.)

18 Q. And, Ms. Moffitt, again, those are for two charges, two
19 indictments for which charges?

20 A. For the charge of burglary on both indictments.

21 MS. WALTERS: Your Honor, at this time I'd like to admit
22 what's been previously marked for ID purposes as State's
23 Exhibit 6 and 7 into evidence, front page only.

24 MR. SHEALY: No objection.

25 THE COURT: Without objection 6 and 7 is admitted.

GAIL MOFFITT - CROSS-EXAMINATION BY MR. SHEALY

1 MS. WALTERS: Thank Your Honor.

2 (State's Exhibit No. 6, copy of Indictment Number 95-2682
3 and State's Exhibit No. 7, copy of Indictment Number 92-0801,
4 admitted into evidence.)

5 MS. WALTERS: Okay. Your Honor, no further questions
6 from the State.

7 THE COURT: Okay. Anything from defense?

8 CROSS-EXAMINATION BY MR. SHEALY:

9 Q. Just one thing. Would you repeat those conviction dates,
10 please. Do you -- do ---

11 (Whereupon, a discussion was held off the record.)

12 Would you repeat those conviction dates for us, please.

13 A. Okay, this is pertaining to the '92 indictment GS-42-801,
14 it appears on the indictment 5/5/92.

15 Q. Okay.

16 A. This is pertaining to 95-GS-42-2682, it appears to me to
17 be January the 11th 1996.

18 Q. That's all I have for this witness.

19 THE COURT: Anything further on that?

20 MR. SMITH: No, Your Honor.

21 THE COURT: Alright.

22 MS. WALTERS: No, Your Honor.

23 THE COURT: Ms. Moffitt, you may step down, thank you,
24 please be careful.

25 (Whereupon, the witness left the stand.)

ALBERT WAYNE WILLIAMS - DIRECT EXAMINATION BY MR. SMITH

1 MS. WALTERS: Your Honor, may Ms. Moffitt be released?

2 THE COURT: Any objection?

3 MR. SHEALY: No objection.

4 THE COURT: You can go back to work, Ms. Moffitt.

5 THE WITNESS: Thank you.

6 THE COURT: Solicitor.

7 MR. SMITH: State calls Albert Williams.

8 THE COURT: Alright, Mr. Williams.

9 (Whereupon, the witness came forward.)

10 THE CLERK: Mr. Williams, before you take the stand if
11 you'll place your left hand the Bible, raise your right,
12 please.

13 ALBERT WAYNE WILLIAMS, having been
14 first duly sworn, testified as follows:

15 THE CLERK: Have a seat here (indicating), please.

16 THE COURT: Sir, tell us your full name and spell your
17 last name for madam court reporter.

18 THE WITNESS: Albert Wayne Williams, W-I-L-L-I-A-M-S.

19 THE COURT: Thank you, Mr. Williams. Solicitor.

20 DIRECT EXAMINATION BY MR. SMITH:

21 Q. Good afternoon, Mr. Williams, um, how old are you?

22 A. I'm 61.

23 Q. Okay. Where do you live?

24 A. [REDACTED] Cannons Campground Road, Spartanburg.

25 Q. Spartanburg County?

ALBERT WAYNE WILLIAMS - DIRECT EXAMINATION BY MR. SMITH

1 A. (The witness nodded in the affirmative.)

2 Q. Were you livin', uh, at that location June 17th of 2016?

3 A. I was.

4 Q. Who else lives there with you?

5 A. Geri Smith.

6 Q. Alright. Uh, Mr. Williams, can you just tell what is
7 your background, what you -- work background?

8 A. Military.

9 Q. Anything else?

10 A. Uh, welding, drivin' a tractor trailer, manager car
11 wash.

12 Q. Do you work anymore?

13 A. No.

14 Q. Retired?

15 A. Yes.

16 Q. Alright. Uh, on June 17th 2016 can you just tell me how
17 the day started, what you and Geri went to do.

18 A. We got up, we went to take off the trash and stop by
19 Walgreens and we went back home.

20 Q. Do you remember around what time of day this was?

21 A. Uh, 9:30, 10:30, somewhere in there.

22 Q. The morning?

23 A. Yeah, we got home 10:30.

24 Q. Okay, um, what happened when you got back to your
25 Cannon's Campground house?

ALBERT WAYNE WILLIAMS - DIRECT EXAMINATION BY MR. SMITH

1 A. It's a mobile home. I entered the front door and upon
2 entry the door wouldn't open all the way, as I stepped inside
3 an arm came up with a silver handgun and I kinda raised my
4 hands and just backed up and Geri came through the door and he
5 grabbed her and threw her to the floor.

6 Q. Alright, so did you back up inside the residence or
7 backed ---

8 A. Yes, ---

9 Q. --- out ---

10 A. --- backed up inside the residence, I was already in the
11 door.

12 Q. Okay. I know Ms. Smith kinda described the layout a the
13 house but would that be backin' up towards where she described
14 the couch would be or ---

15 A. Uh, the couch woulda been to my immediate left, recliner
16 woulda been across the way, ---

17 Q. Okay.

18 A. --- it's a mobile home, remember, ---

19 Q. Yes, sir.

20 A. --- so I can see the back door from the front door.

21 Q. Alright, so did you go to the, I guess the, does the door
22 open ---

23 A. I went ---

24 Q. --- to your ---

25 A. --- to the left.

ALBERT WAYNE WILLIAMS - DIRECT EXAMINATION BY MR. SMITH

1 Q. --- right?

2 A. I went to the left, yes.

3 Q. Alright, and then Ms. Smith came in, what happened to
4 her?

5 A. He grabbed her and threw her to the floor ---

6 Q. Alright. What ---

7 A. --- and he told us, then he told us to get up and set on
8 the couch which was actually the love seat.

9 Q. Okay. What what did the gun that he had look like?

10 A. It's a silver revolver with white handles.

11 Q. Okay. Do you have experience with firearms, I know you
12 said ---

13 A. I do.

14 Q. --- military.

15 A. I do.

16 Q. Do you own firearms in addition to ---

17 A. I had four rifles in the house.

18 Q. Okay, so you're familiar with the sight of a a real
19 gun?

20 A. Very.

21 Q. Did you believe that this was a real weapon that the man
22 inside your house ---

23 A. It ---

24 Q. --- had?

25 A. --- was real.

ALBERT WAYNE WILLIAMS - DIRECT EXAMINATION BY MR. SMITH

1 Q. Um, can you describe what he was wearing when you saw
2 him.

3 A. He had on a lime green t-shirt, jeans, I believe it was
4 tennis shoes, had on a ski mask that was pulled down to his
5 nose, you could clearly see his eyes and his chin.

6 Q. What color were his eyes?

7 A. They were blue.

8 Q. What -- did you notice anything about his chin? I mean,
9 could you actually see his chin or you mean you could see
10 the ---

11 A. You could see the ---

12 Q. --- the shape ---

13 A. --- chin, he had salt and pepper whiskers like ---

14 Q. So did ---

15 A. --- he does ---

16 Q. --- the, ---

17 a. --- now.

18 Q. --- did the mask just not cover that, are you just
19 talking about you saw ---

20 A. No, ---

21 Q. --- a lot ---

22 A. --- it woulda come all the way down and covered the
23 entire face ---

24 Q. Okay.

25 A. --- but he had it rolled up so that it only came came

1 down to the nose.

2 Q. So you could see ---

3 A. Yeah, ---

4 Q. --- below ---

5 A. --- presumably it was so he could breathe.

6 Q. Okay. Um, was there, was there a hole for the mouth or
7 it's a ski mask without one?

8 A. Uh, I couldn't say.

9 Q. Alright, but you were able to see stubble I guess is
10 what ---

11 A. Oh, yeah, kinda ---

12 Q. --- on ---

13 A. --- like ---

14 Q. --- his face ---

15 A. --- now, kinda like it is now.

16 Q. Alright, and what color was it?

17 A. Salt and pepper, white and black.

18 Q. Similar to ---

19 A. Yeah, similar to now.

20 Q. Okay. Uh, did you notice anything about the build of his
21 body, anything like that?

22 A. He's slim, well-built, muscular, look like he'd been
23 working construction, had a very very dark tan.

24 Q. Okay, so somebody you would think would probably for work
25 works with their hands and works outside?

ALBERT WAYNE WILLIAMS - DIRECT EXAMINATION BY MR. SMITH

1 A. Yes, I would think so, yeah.

2 Q. Uh, is there anything else you notice about him?

3 A. Uh, he had a tattoo on what would be his left arm, I put
4 in the report right arm 'cause as I was lookin' at him but it
5 was right here (indicating), it looked like three feathers or
6 three fingers, I said two tattoos only because two a the lines
7 crossed and the other one didn't, ---

8 Q. Okay.

9 A. --- I've got it on my arm if you'd like to s -- me to
10 show it, ---

11 Q. No, that's alright. Uh, ---

12 A. --- put it on with magic marker, ---

13 Q. --- uh, ---

14 A. --- it was blue by the way, looked like it been done
15 with a ---

16 MR. SHEALY: Objection, Your Honor.

17 A. --- Bic pen and ---

18 MR. SHEALY: Objection, ---

19 THE COURT: Okay, ---

20 MR. SHEALY: --- Your Honor.

21 THE COURT: --- sir, ya ya have to just answer answer
22 his ---

23 A. Okay, ---

24 THE COURT: --- questions, ---

25 A. --- yes, ---

1 THE COURT: --- okay.

2 A. --- sir.

3 Q. Um, alright, so you gave description and and what
4 happened after Geri got thrown to the ground?

5 A. He told us to sit on the love seat, he sat in the
6 recliner and he proceeded to do small talk, you know, first
7 off, Give me the watch, gimme your money, and he told Geri
8 give him what money she had, Got any credit cards, Yeah, Give
9 them to me too, uh, ---

10 Q. Did you give him money?

11 A. Six hundred dollars cash.

12 Q. Okay, did you give him cards?

13 A. Gave him what he wanted.

14 Q. Uh, then what happened?

15 A. He wanted to know how much money I had in the bank and
16 took me to the kitchen table and the rifle was layin' on the
17 kitchen table next to my ledger so he knew what I had.

18 Q. What -- had the rifle been there, is that where you keep
19 the rifle or ---

20 A. No, the rifle woulda been in the bedroom ---

21 Q. Okay.

22 A. --- along with the shotgun and the other two rifles.

23 Q. Okay.

24 A. The rifles were layin' out on the bed and rifle was in
25 the kitchen next to my ledger.

ALBERT WAYNE WILLIAMS - DIRECT EXAMINATION BY MR. SMITH

1 Q. Okay, so you believe that he had been around the house
2 and maybe had looked through your records about how much money
3 you may have?

4 A. He clearly been in there for a while, he he got
5 distracted, he was breakin' into my safe. If he hadn't a been
6 tryin' to break in my safe, I feel he would've picked up what
7 he wanted and left but the safe distracted him.

8 Q. Okay. Um, when you you walk over to that area where your
9 ledger is, what happened then?

10 A. I made a phone call to the bank, put the phone on speaker
11 so he could hear, we asked what the balance was and he said he
12 wanted me to write a check for forty one hundred, it would be
13 low enough we wouldn't have to go into the bank yet amount
14 that he was happy with.

15 Q. Alright, did you write the check there or ---

16 A. I wrote it there on on the kitchen table.

17 Q. Uh, how much was the the check for?

18 A. Four thousand one hundred.

19 Q. Okay, and then what happened from that point?

20 A. Uh, he took us outside to the vehicle, Ford Explorer, he,
21 as we went out he said, Don't look back, don't look at my face
22 or I will shoot you, ---

23 Q. Okay.

24 A. --- so I got in the driver's seat, angled my mirror up so
25 that I couldn't see him in the reflection, Geri got in the

ALBERT WAYNE WILLIAMS - DIRECT EXAMINATION BY MR. SMITH

1 passenger side and he got in the seat behind me ---

2 Q. Okay.

3 A. --- and he told me to put the mirror back down so it
4 didn't look odd.

5 Q. Uh-huh. You tried to move the mirrors so you wouldn't
6 see him?

7 A. Yeah, when I got in the vehicle.

8 Q. Alright. Alright, okay. Did you ha -- do you know if he
9 had his mask on or not or did you ever see him when he was in
10 the back seat, did you see if he had his mask on ---

11 A. No, ---

12 Q. --- or not?

13 A. --- I didn't turn around look at him, that when we were
14 comin' outta the trailer goin' to the car he said he had his
15 mask on off because we live right on main road, he didn't
16 wanna look obvious; in other words, he didn't wanna walk then
17 from from the trailer to the car with a mask on and a gun in
18 his hand, Don't turn around.

19 Q. Okay. Um, I don't know if I mention this earlier,
20 apologize if I did, was was he wearing gloves?

21 A. He had on a pair a gloves, yes, they were red with black
22 palm and they had round circular dots all over the palm for
23 better grip.

24 Q. Did, uh, did he have those on the entirety of the time he
25 was in your house?

ALBERT WAYNE WILLIAMS - DIRECT EXAMINATION BY MR. SMITH

1 A. Yes, yes, he did.

2 Q. Uh, did you ever see him take those off at any ---

3 A. No, I ---

4 Q. --- point?

5 A. --- didn't.

6 Q. Okay. Um, so you write the check at your residence, do
7 ya'll go get in a car then?

8 A. Yes.

9 Q. Alright, whose car did ya'll get into?

10 A. Was mine.

11 Q. What is it?

12 A. It's a 2004 Ford Explorer.

13 Q. Okay. Where where'd everybody sit?

14 A. I was in the driver seat, Geri was in the passenger seat
15 and he was in the seat directly behind me.

16 Q. Did he tell you where to go or did ---

17 A. Yes, he told me to take him to the bank.

18 Q. And did you just -- did he know where the bank was or you
19 you just went to your bank?

20 A. No, I told him I was at SC Telco, Herring Circle, I
21 assume he knew the area bein' from Spartanburg so we drove to
22 the Herring Circle Bank and went through the drive-thru.

23 Q. Okay. Uh, did he tell you anything about how to act when
24 you were getting the money?

25 A. Yeah, he said, Don't do anything stupid or I'll shoot

1 you.

2 Q. Okay. Uh, did you make any attempt to try to alert the
3 the teller ---

4 A. No, ---

5 Q. --- of ---

6 A. --- no, ---

7 Q. --- of what was happening?

8 A. --- no.

9 Q. Why not?

10 A. I don't know how long they've gotten away from Hardee's
11 or Burger King; other words, they're young, they might say
12 sumtin' stupid like, What's this 911 on the back, ---

13 Q. Okay, so you're ---

14 A. --- wasn't gonna ---

15 (Indiscernible cross-talk.)

16 Q. --- worried they would tip off that you had said
17 something and then ---

18 A. I wasn't gonna do anything outta the ordinary, let him
19 have the money, let him go.

20 Q. Oh. Um, did you end up getting the money from the
21 bank?

22 A. Yes, we got the money and I pass it over my shoulder
23 without looking back and he took the money.

24 Q. Okay, what happened from that point?

25 A. Well, that point I asked where he'd like to get off

ALBERT WAYNE WILLIAMS - DIRECT EXAMINATION BY MR. SMITH

1 hoping that he'd get outta the car and run but he said, No,
2 we're goin' back to the trailer so we drove back to the
3 trailer.

4 Q. Alright, what were you thinking at that point?

5 A. I hope a run across a police car and when we got to the
6 intersection a California Avenue and Asheville Highway he
7 received a phone call from someone and I could hear part a the
8 conversation, it was very brief, uh, How much did you get, and
9 the response was, I'm kinda busy right now, and he hung up,
10 that was 11:15 'cause I looked at my clock in the car, ---

11 Q. Okay. Uh, ---

12 A. --- I said then we drove on to the house ---

13 Q. Okay. Do you know how far it is to the bank, to your ---

14 A. I'd ---

15 Q. --- bank?

16 A. --- say 10 miles.

17 Q. Okay. Uh, did you see his face at any point other than
18 what you ear -- described earlier: the beard and his eyes?

19 A. I, no, I saw his eyes and I saw below his nose, ---

20 Q. So when ---

21 A. --- uh, ---

22 Q. --- he a -- when he asked Geri to turn around and you
23 didn't turn around, you didn't see ---

24 A. He didn't ask me to turn around, no.

25 Q. Right, and you were doing what you were told.

ALBERT WAYNE WILLIAMS - DIRECT EXAMINATION BY MR. SMITH

1 A. Yes.

2 Q. Alright. Uh, you end up gettin' back to the house,
3 explain how you got away.

4 A. Oh, I had plants settin' on my doorsteps, there's five
5 steps leading up to the porch 'fore you can go in, so there's
6 plants on the right side and we we had to go up single file, I
7 went up first, Geri with her injured foot followed second and
8 he was behind us. When I got up on porch, uh, I open the
9 glass door, my glass has two-way mirror privacy tint; in other
10 words, you see your reflection on this (indicating) side and
11 on the other side I can look through and see you so when I
12 pulled the door open he could not see through, I had the key
13 in my hand, put it in the lock, opened the door, stepped in
14 abruptly, turned around, grabbed Geri, pulled her in through
15 the door and then I slammed the steel door shut and locked it,
16 picked up the phone, called 911 and ran to the back room and
17 got a rifle, put a bullet in it just in case he tried to force
18 his way in.

19 Q. Okay, up until that point you'd done everything he said,
20 what what made ya decide to break, make a break for it?

21 A. I was in fear that he might kill us when we got back in
22 so that he could continue workin' on that safe 'cause he
23 couldn't continue workin' on that safe with us there, he'd
24 have to put the gun down to continue chopping on it.

25 Q. Did he tell you anything about what he intended to do

ALBERT WAYNE WILLIAMS - DIRECT EXAMINATION BY MR. SMITH

1 when you got back to the house?

2 A. He said he intended to tie us up and then leave but I had
3 no reason to believe that.

4 Q. Um, I'm gonna show you what's been previously marked as
5 State's Exhibit 14 and ask if you can, uh, describe what this
6 is.

7 A. It's, uh, two rifles and a shotgun layin' on the bed.

8 Q. Where's the bed located?

9 A. It would be in the back bedroom.

10 Q. Of your house?

11 A. Yeah, it be my bedroom.

12 Q. Alright, uh, is that what you saw on June 17th 2016?

13 A. Uh, the rifle was actually laying on the table in
14 your -- in beginning but when I got back in I picked it up off
15 the table, went to the back bedroom and got a bullet and put
16 it in real quick.

17 Q. Okay, so did you place one of those rifles I guess
18 back ---

19 A. Yeah, yeah.

20 Q. --- and the others were already there but you
21 replace ---

22 A. Yes, ---

23 Q. --- the one that you had picked up?

24 A. --- the police officers wanted to photograph this for
25 evidence so, yeah, I laid the rifle back on the bed.

ALBERT WAYNE WILLIAMS - DIRECT EXAMINATION BY MR. SMITH

1 Q. Okay, so the other two guns that you didn't put there
2 were they on your bed when you left to go to the dump?

3 A. No.

4 Q. Alright, is that (indicating) an accurate picture of what
5 your house looked like on June 17th after the police arrived,
6 you took pictures?

7 A. Yes.

8 Q. Your Honor, at this point I'd like to move State's
9 Exhibit 14 into the evidence.

10 MR. SHEALY: No objection.

11 THE COURT: Without objection State 14's admitted.

12 (State's Exhibit No. 14, photograph, admitted into
13 evidence.)

14 BY MR. SMITH:

15 Q. Uh, Mr. Williams, your checkbook does it have, like most
16 standard checkbooks does it make a a carbon copy of a check
17 that you write ---

18 A. Yes.

19 Q. --- like on precession [sic] paper, I don't know what the
20 proper te -- term for it is but ---

21 A. Kinda like a carbon paper.

22 Q. Yes, sir.

23 A. Yes, whenever write a check there's a duplicate left in
24 the checkbook..

25 Q. Okay. Did did -- was there one created on this one?

ALBERT WAYNE WILLIAMS - DIRECT EXAMINATION BY MR. SMITH

1 A. I presume so, yes.

2 Q. Alright. Do you remember showing your, um, showing the
3 officers or telling the officers that you had carbon copy of,
4 did you show them the checkbook that you had written a check
5 outta?

6 A. No, I don't believe I did.

7 Q. Okay.

8 (Carbon copy of check marked State's Exhibit No. 15 for
9 identification.)

10 Um, show you an item they're marked State's Exhibit 15,
11 ask ---

12 MR. SHEALY: Objection, ---

13 --- if you ---

14 MR. SHEALY: --- gonna object to him for -- says he
15 didn't show this to anybody.

16 MR. SMITH: Just to see if he can identify what it is,
17 Your Honor.

18 MR. SHEALY: And ---

19 A. Yes, that's me ---

20 MR. SHEALY: --- that's what he testified to.

21 THE COURT: Okay, well let's see it, what is it, go
22 ahead.

23 A. Yes, sir.

24 BY MR. SMITH:

25 Q. What i -- what is that (indicating)?

ALBERT WAYNE WILLIAMS - DIRECT EXAMINATION BY MR. SMITH

1 A. That would be a carbon copy of the check that I wrote.

2 Q. Is that your handwriting?

3 A. Yes, it is.

4 Q. Is it your bank account?

5 A. Yes, it is.)

6 Q. Is it -- what's the amount?

7 A. Four thousand one hundred dollars.

8 Q. Um, is that a copy of the check that you wrote or a
9 impressioned copy of the check that you wrote to that day June
10 17th?

11 A. I would have to say yes.

12 Q. Is it dated?

13 A. June 17th 2016.

14 MR. SMITH: Your Honor, at this point we'd move State's
15 Exhibit 15 into evidence.

16 THE COURT: Objection?

17 MR. SHEALY: I I do, Judge, I think we have somethin' to
18 take up outside the presence of the jury.

19 THE COURT: Well c'mon up.

20 MR. SHEALY: Okay.

21 (Whereupon, a bench conference was held off the record.)

22 THE COURT: That's what? State's what?

23 MR. SMITH: Fifteen.

24 THE COURT: State's 15 is, uh, over the objection of
25 defense counsel it's admitted.

ALBERT WAYNE WILLIAMS - DIRECT EXAMINATION BY MR. SMITH

1 (State's Exhibit No. 15, carbon copy of check, admitted
2 into evidence.)

3 MR. SMITH: Permission to publish it to the jury, Your
4 Honor.

5 THE COURT: Yes.

6 MR. SMITH: See if we can take it out.

7 BY MR. SMITH:

8 Q. Is that (indicating) your signature?

9 A. Yes, it is.

10 Q. Alright, that say June 17th ---

11 A. Yes, it does.

12 Q. --- 2016 and I know that's hard to read but what do you
13 think that amount is?

14 A. Forty-one hundred.

15 Q. Um, did the police ultimately respond after you got loose
16 and the defendant went wherever he went?

17 A. Yes, they got there very quickly.

18 Q. Alright. Who, initially, was just a a road deputy showed
19 up or you ---

20 A. I don't know, I think it was initially plain car deputies
21 from burglary division.

22 Q. Okay, and did you explain to him what you had seen and
23 what had occurred?

24 A. Yes, and as I was talkin' to him more deputies showed up
25 in plain cars, like several.

ALBERT WAYNE WILLIAMS - DIRECT EXAMINATION BY MR. SMITH

1 Q. Okay. Uh, and you gave a statement to police that day?

2 A. They set us down and had us write out a statement.

3 Q. Did they -- did you go, each go do your own?

4 A. They put Geri in the back of a car and I sat at a table
5 under a tree, they separated us so that we could write our
6 statement.

7 Q. Okay.

8 A. Initially they did have us tell 'em what went on then
9 they took us outside while they did their job inside the
10 trailer.

11 Q. Um, and the statement you gave to law enforcement was
12 given within hours of the, or maybe even an hour of
13 this ---

14 A. Within ---

15 Q. --- crime happening ---

16 A. --- within the hour, that's ---

17 Q. --- or the end of the crime I guess.

18 A. I'd say within thirty minutes.

19 Q. Uh, did you know the defendant?

20 A. I knew him from when we were very young.

21 Q. Explain.

22 A. Uh, his mother is Leatha Riddle, she's the daughter of my
23 father's sister, uh, so Scotty would be what, a second cousin
24 but I hadn't seen him since we were like 5-years-old, his
25 mother cut our hair at one time but father bein' in the Air

ALBERT WAYNE WILLIAMS - DIRECT EXAMINATION BY MR. SMITH

1 Force we didn't stay here, we moved on. When father retired
2 he came back here, I finished high school, I joined the
3 military and I left here so no, I haven't seen him since we
4 were like 4 or 5.

5 Q. That even if you'd seen, even if you saw him, you
6 wouldn't necessarily even recognize him as ---

7 A. No, ---

8 Q. --- what was ---

9 A. --- no, ---

10 Q. --- later you ---

11 A. --- uh-uh.

12 Q. When did you find out that ---

13 A. Uh, ---

14 Q. --- you were related to him?

15 A. --- I was relatin' the incident to my sister who's
16 computer savvy, she looked up his name, it came back with the
17 address [REDACTED] Gossett Road and that's when she said that's where
18 Leatha lives, that's Scotty, ---

19 Q. But that time, ---

20 A. --- her son.

21 Q. --- at that time you already given your statement to law
22 enforcement and ---

23 A. Yes.

24 Q. --- Geri had already done everything she did.

25 A. Yes, this was two or three days later, she figured it

ALBERT WAYNE WILLIAMS - DIRECT EXAMINATION BY MR. SMITH

1 out, this is who he is.

2 Q. Uh, we looked at a watch earlier or Ms. Ms. Smith looked
3 at a watch, know you were in here, ---

4 A. Yes.

5 Q. --- did you give that to her?

6 A. Yes, I gave her a watch with a gold band, had two roses
7 on either side, small diamond chip, black face.

8 Q. Alright. I know you said that you knew, you you found
9 out a later time that you were related to him, did you ever
10 give him permission come into your house?

11 A. No, I hadn't seen him in 52 years ---

12 Q. Right.

13 A. --- or more, hm.

14 Q. Um, Mr. Williams, just answer any questions Mr. Shealy
15 has.

16 A. Okay.

17 THE COURT: Okay, let's see the lawyers and look at the
18 time here, see where we are.

19 (Whereupon, a bench conference was held off the record.)

20 THE COURT: Okay, ladies and gentlemen, Mr. Foreman,
21 ladies, gentlemen a the jury, uh, I generally work till about
22 5:30, 5:45, I start at 9 every mornin', we'll work till 5:30,
23 5:45 but I do not do that on the first day because you had no
24 way of knowing that that's my schedule, uh, so I'm not gonna
25 do that and we're about eight minutes till 5 p.m., uh,

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1 Mr. Shealy on cross-examination will take us past 5:00, uh,
2 that's not fair to you, there are many people have child care
3 issues and some of us have adult daycare issues with aging
4 parents so, uh, I try to be mindful of that; however, uh,
5 please plan the rest a the week that you're with me to be here
6 until somewhere around 5:30, 5:45, I will not stay, uh, past
7 5:45 absent some exigent circumstance, okay, some absolutely
8 and necessary that has to be done but starting 9:00 every
9 morning, we'll take a break about every ninety minutes or so,
10 we'll go to lunch between 12, 12:30 and we'll take a good
11 hour, hour fifteen minutes or at least you will, we might not,
12 but we will -- you will, uh, and we'll reconvene every
13 af -- every afternoon, again, we'll take breaks in the
14 afternoon as well, having said that we're gonna recess for the
15 day, I got one more little matter I need to take care of that
16 doesn't concern this case and doesn't concern you but I'm
17 gonna take care a something else that fill up the rest a my
18 day, uh, so having said that, uh, Mr. Foreman and ladies and
19 gentlemen, we're gonna let you go for the evening. Now,
20 remember, and I charge you again, you are not free to do any
21 research, don't try to learn anything about this case,
22 everything we we learned we're learning together must come
23 from this courtroom that is our system of justice, okay, uh,
24 so don't do any research, uh, don't talk about the case with
25 your spouse or family or friend, don't even think about the

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1 case, once again this is work and the last thing you wanna do
2 when you go home is think about work, you wanna think about
3 somethin' else, play with your child or your grandchild,
4 somethin' like that, uh, so with that I'm gonna let you go for
5 the evening, I'm gonna ask you to be back in that jury room at
6 some period prior to 9 a.m., again, we're all adults here, I'm
7 not gonna tell anybody to be here ten minutes early or fifteen
8 minutes early but the courthouse opens at 8:30, right?

9 POLICE OFFICER: Yes, sir.

10 THE COURT: I'm here by 8:00, the lawyers are here by
11 8:00, of course I have keys and I'm, I can get in but doors
12 will open 8:30. I tell ya if you missed the coffee this
13 mornin', don't miss it in the morning because these people in
14 red coats make some really good coffee and, uh, they'll have
15 some good and hot for ya in the morning, so come on in in the
16 morning between 8:30 and 8 somethin' but at 9:00, actually,
17 uh, Officer Pridgeon will come get me, he's assigned to me, so
18 he will come to my chambers at ten minutes till 9 in the
19 mornin' and walk me up here, I'll be comin' by that
20 (indicating) door that I come by every mornin', uh, and I'll
21 be in this courtroom on this bench at 9:00 tomorrow mornin',
22 I'll be callin' for you. Thank you. Mr. Foreman, if you'd
23 take the jury out and be dismissed. Have a good evenin'.

24 (Whereupon, a discussion was held off the record.)

25 COURT REPORTER: Thank you.

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1 (The following takes place outside the presence of the
2 jury.)

3 THE COURT: Mr. Williams, I'm gonna allow you to leave
4 the stand. Now you are in the middle of your testimony, what
5 that means is you cannot discuss your testimony with any
6 person over the recess this evenin', not even with, uh, uh,
7 Geri, okay, can't talk about the case at all, certainly can't
8 talk to the prosecutors or any other witnesses, it's it's like
9 you just can't do that, okay?

10 THE WITNESS: Yes.

11 THE COURT: Alright, so we'll let ya leave the stand, I'm
12 gonna ask ya in the mornin' to be back at whatever time the
13 solicitor asks you to be here but I need you in that, sittin'
14 right there (indicating) at 8:59 and a half.

15 THE WITNESS: Okay.

16 THE COURT: You can step down, please ---

17 THE BAILIFF: Be careful.

18 THE COURT: --- be careful. You understand 8:59 and a
19 half, you retired military, ---

20 THE WITNESS: Yes.

21 THE COURT: --- right? Yeah, I do too.

22 (Whereupon, the witness left the stand.)

23 (Whereupon, a discussion was held off the record.)

24 THE COURT: Okay, Mr. Shealy, you had so -- a matter that
25 you had side barred, uh, and I made a ruling but, uh, I want

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1 you put that on the record, please.

2 MR. SHEALY: Thank you, Judge, I objected to the State's
3 Exhibit regarding the carbon copy if you'll bear with me one
4 moment.

5 THE COURT: It be State's 15.

6 MR. SHEALY: It's fi -- State's 15. Uh, Judge, I would
7 argue that in order to prove the content of the check they
8 have to present the original check, that that's, well what we
9 learned it as the best evidence rule, it's now Rule 1002 of
10 the South Carolina Rules of Evidence. Now 1003 does talk
11 about the admissibility of duplicates but again, I don't know
12 that a carbon copy is necessarily a duplicate under that
13 section because anybody who's ever written on carbon paper
14 through a carbon copy knows that not necessarily everything is
15 transferred by that piece of carbon paper, now Mr. MacDonald
16 might be too young to have ever used carbon paper but I'm not
17 and it it just doesn't always transfer and, ---

18 THE COURT: And you were ---

19 MR. SHEALY: --- Ju ---

20 THE COURT: --- careful not to say that the Court
21 certainly is, right?

22 MR. SHEALY: Well, no, sir. No, sir, I would never say
23 such a thing as that but so, Judge, it would be our position
24 that it was, that that it's simply inadmissible as a, as proof
25 of the check and if it's not proof of the check then it's not

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1 proof of anything and that it's irrelevant, I mean, would be
2 the chain of logic there.

3 THE COURT: Solicitor.

4 MR. SMITH: Uh, Your Honor, our position it's it's not
5 saying that this is a copy of the check but it is a carbon
6 copy that was made contemporaneously with the writing of the
7 check and we intend to have somebody from the bank come and
8 offer a copy of the check as well but, I mean, it it is
9 evidence that he wrote that but it's not evidence that the
10 check was cashed or anything to prove like the arm robbery,
11 we're not offering it for that but just the fact that it was
12 written, that he wrote that, that's his handwriting, that's
13 the date that it was written, that's the amount.

14 THE COURT: Okay. Uh, the Court, uh, uh, rules, uh,
15 previously overruled the objection and, uh, here's what I
16 wrote a a note to myself, uh, Mr. Shealy, is it's an original
17 document in and of itself, it was contemporaneously made by
18 this gentleman when he wrote the check so it is a co -- it is
19 an original document in and of itself when used in the context
20 that's been used thus far; also, it's contemporaneously made
21 when writing of the check is also made. You cited Rule
22 102 -- 1002 and 1003 but I refer you to 1001 subparagraph 4
23 which says that, A duplicate is produced by the same
24 impression as the original, that's what we have here and then
25 if you go to Rule one, uh, thousand and two, to prove content

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1 of the writing, recording, or photograph, the original
2 writing, recording is required except as provided by rules or
3 statute, I believe unless there has been a change under 102 --
4 no, 103, you go to 103, uh, 1003, I keep sayin' 103, 1003,
5 A duplicate is admissible to the same extent as an original
6 unless a genuine question is raised as to the authenticity --
7 authenticity of original or circumstances would be unfair to
8 admit the duplicate in lieu of the original. I don't know if
9 the State intends to move the original in or not but duplicate
10 as defined 1001 is admissible, uh, and it's also admissible
11 under 1003 and requirement of 1002, the original best evidence
12 rule, my notes here that Judge, uh, who gave me this, Casey
13 Manning, Judge Casey Manning gave me this little rule, uh,
14 cheat sheet rulebook right here (indicating), uh, and it cited
15 no South Carolina case had been found that deal with
16 applicability of the best evidence rule photographs or other
17 documents so anyway, havin' said that, uh, for those reasons;
18 first of all, that it's not a copy made later, it's an
19 original document in of itself, it's not proving the check
20 itself but it is an original document and it's
21 contemporaneously made and then Rules 1001, 1002, 1003 make
22 even a duplicate copy which would also include a photocopy
23 unless unless there's an authenticity question and I've not
24 heard any argument about authenticity.

25 MR. SHEALY: Well, Judge, I haven't haven't been able to

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1 cross-examine, don't know that there is one, I don't think
2 that there is one but, I mean, I have to cross him so I can't,
3 I can't make an argument without evidence I guess is my point.

4 THE COURT: I understand.

5 MR. SMITH: Thank you, Judge.

6 THE COURT: Alright, anything further?

7 MR. SMITH: No, Your Honor.

8 THE COURT: Okay, I'll be here at 8:00 in the mornin',
9 anybody needs anything don't ex parte me, come see me, know
10 where I am, probly everybody here has my cell phone number
11 anyway if you need me durin' the evenin', you can reach, you
12 can reach, uh, Chris on the email and that stays the same, law
13 clerk email stays the same, never changes, you know how that
14 works, uh, uh, so that'll be the same, again, we'll be here at
15 8:00 in the morning, otherwise I will take the bench at 9:00
16 sharp, Barry will come get me at 8:50, we'll come through the
17 door at 8:59 and and a half.

18 MR. SMITH: We'll be here. Thank ---

19 MR. SHEALY: Thanks, ---

20 MR. SMITH: --- Your Honor.

21 MR. SHEALY: --- Judge.

22 MS. WALTERS: Thank you.

23 (Proceedings July 25, 2017)

24 (State's Exhibit Nos. 16 through 25 marked for
25 identification.)

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1 (Whereupon, a discussion was held off the record.)

2 THE COURT: Ma'am, come around if you don't mind.

3 (Whereupon, Juror Number 238 came forward.)

4 THE COURT: You are Cassandra McDonald?

5 JUROR NUMBER 238: Yes, sir.

6 THE COURT: Ms. McDonald, you've been late and can you
7 tell me what -- why you're late.

8 JUROR NUMBER 238: My car wouldn't start at first and
9 then when I got to Asheville Highway, I mean, like I was stuck
10 in traffic.

11 THE COURT: Okay, which way did you come? I understand
12 you live in Enoree.

13 JUROR NUMBER 238: Yes but I'm livin' -- well I'm not
14 livin' but I'm stayin' with my boyfriend currently for this
15 week.

16 THE COURT: Okay, where is that?

17 JUROR NUMBER 238: In Inman.

18 THE COURT: In Inman.

19 JUROR NUMBER 238: Um-hum.

20 THE COURT: Okay, do you need transportation tomorrow?

21 JUROR NUMBER 238: No.

22 THE COURT: Are you sure?

23 JUROR NUMBER 238: Yeah, I took his car and he's gonna
24 get my car fixed.

25 THE COURT: Okay, alright. Uh, if ya need transportation

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1 I can arrange for a s -- a officer to be there in the morning.

2 JUROR NUMBER 238: No, I don't need transportation.

3 THE COURT: You're sure?

4 JUROR NUMBER 238: Um-hum.

5 THE COURT: Okay, alright. Thank you, ma'am.

6 JUROR NUMBER 238: You're welcome.

7 THE BAILIFF: Okay, come back this (indicating) way.

8 JUROR NUMBER 238: 'kay.

9 (Whereupon, Juror Number 238 returned to the jury room.)

10 (Whereupon, a discussion was held off the record.)

11 (Whereupon, the witness returned to the stand.)

12 THE COURT: Thank you, Mr. Williams.

13 (Pause.)

14 MR. SHEALY: Uh, yes, sir.

15 THE COURT: Okay, we're ready.

16 THE BAILIFF: Yes, Your Honor.

17 (The following takes place in the presence of the jury.)

18 THE COURT: Good morning, ladies and gentlemen.

19 Mr. Foreman, any matters for the jury? Everything good?

20 JURY FOREMAN: No, Your Honor, everything's good.

21 THE COURT: Re -- ready to go to work.

22 JURY FOREMAN: Ready..

23 THE COURT: Mr. Shealy.

24 MR. SHEALY: Thank you, Judge, may it please the Court.

25 CROSS-EXAMINATION BY MR. SHEALY:

1 Q. Alright, Mr. Williams, would you introduce yourself again
2 just so that the, refresh the jury's memory as to who ya are.

3 A. My name is Albert Wayne Williams, I was living in [REDACTED]
4 Cannons Campground Road.

5 Q. Okay. Now you've testified that just as soon as you got
6 home the door was hard to open, is that what you were
7 testifying to?

8 A. Uh, the door opened up most a the way but rather than
9 going to the wall it stopped.

10 Q. Okay, when you say it went "most a the way," did it open
11 enough for ya to get through it or ---

12 A. It opened ---

13 Q. --- not ---

14 A. --- 90 degrees.

15 Q. Okay, so straight out from the door, from the outside
16 wall.

17 A. Yes.

18 Q. Alright, okay. Alright, and immediately at that point
19 you saw a gun, is that what you testified to?

20 A. When I stepped through the door, that's when I saw the
21 gun come up.

22 Q. Alright, did ya see the person immediately or was he
23 behind the door or where was he?

24 A. He was behind the door, I didn't see the individual, I
25 just saw the arm.

ALBERT WAYNE WILLIAMS - CROSS-EXAMINATION BY MR. SHEALY

1 Q. Okay, and at that point he asked you to sit on the
2 sofa?

3 A. No.

4 Q. Okay, what happened?

5 A. At that point I raised my hands and backed up three
6 steps, Geri walked through the door, he grabbed her by the
7 shirt, threw her to the floor, that's when he closed the door
8 and told us to sit down on the couch.

9 Q. Alright, so initially he was behind the door, you saw the
10 arm, put your hands up and you backed up three spa -- three
11 steps, is that what you said?

12 A. Yes, I did and backed up inside the trailer.

13 Q. Okay, that's -- so you were not -- when you walked in and
14 saw the gun, you did not back like this (demonstrating), you
15 kinda backed like this (demonstrating) into the trailer as
16 opposed to through the door?

17 A. I stepped through the door and as I saw the gun I turn to
18 face the individual and I backed up into the trailer.

19 Q. Alright, and you've testified that when ya saw his face
20 or well when you saw the front there was a a, was it a dark
21 ski mask? Describe the ski mask one more time.

22 A. Uh, my recollection it was like a blue or a gray ski mask
23 pulled down to, uh, his nose, you could see the eyes very
24 clearly, you'd see the chin and the mouth.

25 Q. And you testified that that chin had three to four days

1 of growth on it or whiskers or ---

2 A. 'bout like now, yes, sir.

3 Q. Okay, so and at that point he orders ya'll to sit down,
4 right?

5 A. Yes, sir.

6 Q. Okay, and ya'll make chitchat? When ya, when ya say
7 "chitchat," I understand he asked for the the pins and the
8 cards, what else is he askin' ya or tellin' ya or or
9 whatever?

10 A. He asked me if I had a safe, I told him yes, I did, I
11 didn't know he'd already found at that point.

12 Q. So he asked if ya had a safe.

13 A. Yes.

14 Q. Okay, and did he make other conversation? He ask you
15 questions about your life or so -- I mean, a chitchat just
16 seems like ---

17 A. He asked me for my watch, ---

18 Q. Okay, ---

19 A. --- he ---

20 Q. --- but ---

21 A. --- asked me ---

22 Q. --- what ---

23 A. --- for my cash, he asked Geri for her cash.

24 Q. And those are the kinds of things that he's asking for so
25 it's not really small talk, they're just a string of demands?

ALBERT WAYNE WILLIAMS - CROSS-EXAMINATION BY MR. SHEALY

1 A. Yes, sir, he was resting.

2 Q. Okay. Now do you recall him, believe you testified or
3 maybe Ms. Smith had testified about Florida, that he was
4 jabbering I believe is what Ms. Smith said about being from
5 Florida or going to Florida?

6 A. He mentioned Florida twice in casual conversation.

7 Q. Well how did that come up?

8 A. Eh, just remarks that he made like South Carolina had too
9 many black people.

10 Q. Okay, and then that that -- so so he's telling you, this
11 person that he's never met, that he's from Florida and that
12 South Carolina is bad.

13 A. Um, he didn't say he was from Florida just that
14 apparently he had been to Florida.

15 Q. Okay.

16 A. He didn't expand on it, he -- it was just a statement.

17 Q. Okay, and then once ya'll get done there -- now I'd asked
18 Ms. Smith, about how long were ya'll gone that morning to
19 Walgreens and the recycling place?

20 A. Uh, forty-five minutes to an hour, we weren't no hurry.

21 Q. Alright, so forty-five minutes to an hour you were out of
22 the house, ---

23 A. Yes, sir.

24 Q. --- is that fair? And you've also testified that
25 Mr. Robertson's never been in your house, correct?

1 A. Correct.

2 Q. Alright, and that you've never given him permission to go
3 to your house?

4 A. Correct.

5 Q. You've not seen him since you were 5-years-old?

6 A. Correct.

7 Q. Now, when did you move? I know you were, you you
8 testified that you were gone for I think you said 52 years,
9 what year did you move back to Spartanburg?

10 A. Uh, '85 or '86.

11 Q. Alright, and the house that ya live in right now it's my
12 understanding that that's on family land?

13 A. Yes, sir, ---

14 Q. Okay.

15 A. --- it's a mobile home.

16 Q. I just -- uh, is the house next to it on fo, uh, family
17 land?

18 A. Yes, ---

19 Q. Okay, ---

20 A. --- my mother's ---

21 Q. --- so ---

22 A. --- house.

23 Q. Alright, and do ya'll own other property in that area?

24 A. No, sir, just that ---

25 Q. Just that ----

ALBERT WAYNE WILLIAMS - CROSS-EXAMINATION BY MR. SHEALY

1 A. --- section, yes.

2 Q. Okay, and that came down I believe from your
3 grandparents, is that right?

4 A. Uh, my father purchased it ---

5 Q. Your father purchased it?

6 A. --- somewhere after World War II.

7 Q. Okay, uh, but again, your fa -- your, and your extended
8 family it's my understanding owns property, that's just,
9 that's where ya'll for -- live, right, where your extended
10 family owns property?

11 A. Uh, my mother lives in the house, I'm currently residing
12 in the house with her 'cause she needs care. I have the
13 trailer next door where I was staying and still have most a
14 property. My sister lives in Moore, South Carolina, she owns
15 several houses around Spartanburg.

16 Q. Okay. Alright, so once ya'll get into the car my
17 understanding is you leave or he has ya'll single file line,
18 is that right? You're in front, ---

19 A. Yes, sir.

20 Q. --- Ms. Smith is in the middle, he's in the back.

21 A. Yes.

22 Q. And does he have the gun out at this point?

23 A. Uh, we were instructed not to turn around.

24 Q. So you don't know.

25 A. I would not know.

1 Q. Alright, and yesterday ya seemed to say that or ya did
2 say that he had indicated that he had taken his ski mask off
3 but that you didn't know if he had taken his ski mask off on
4 the way to the car, is that right?

5 A. That's what he told me 'cause we live on a main road and
6 it's very busy.

7 Q. Okay, so while he is kidnapping ya he's givin' ya a play-
8 by-play of how he's taking the ski mask off.

9 A. He's instructing us as to what he would like us to do.

10 Q. Okay. Alright, so you get into the car and my
11 understanding you immediately turn the mirror to the ceiling,
12 right?

13 A. Yes, sir.

14 Q. Alright, so that you didn't see, right?

15 A. So that I wouldn't see his face so ---

16 Q. Okay.

17 A. --- he wouldn't be, uh, havin' an issue with that.

18 Q. Right, he wouldn't get angry that you were lookin' in the
19 back seat.

20 A. He went to great extent to hide his identity.

21 Q. Okay, great extent and then he told ya to put it back,
22 correct?

23 A. Yes.

24 Q. Alright, uh, and you put it back in substantially the
25 same position I'm guessin'?

ALBERT WAYNE WILLIAMS - CROSS-EXAMINATION BY MR. SHEALY

1 A. Yes, sir.

2 Q. I mean, in a position where you could use it to drive.

3 A. Yes, sir.

4 Q. Alright, and at that point do ya know if he had the gun
5 out or not?

6 A. No, sir, he was settin' directly behind me, ---

7 Q. Alright.

8 A. --- couldn't see him at all.

9 Q. Couldn't see him at all, okay. So you couldn't see him
10 at all but you were concerned that he might think you could
11 see him, is that why you messed with the mirror?

12 A. Initially when we got in the vehicle I moved the mirror's
13 position so as I wouldn't catch his glance of him, he had us
14 move the mirror back so it didn't look outta place.

15 Q. Okay, and so at that point you drive I guess it's, you've
16 testified it's 10 miles to the Asheville Highway ---

17 A. Yes, it was ---

18 Q. --- Telco?

19 A. --- but I believe that 10 miles would adequately cover
20 it.

21 Q. Okay, and when ya get there -- now you, did ya write the
22 check there or did ya write the check out at the mobile
23 home?

24 A. I wrote the check out at the mobile home.

25 Q. Okay, and that was after your conversation with the bank

1 a ---

2 A. Yes, sir.

3 Q. --- asking them how much money you could get out without
4 going in?

5 A. Uh, it was more or less to confirm exactly what was in
6 the bank and then I was told exactly how much to write the
7 check for, it was to, as he said to keep from havin' to go in
8 the bank, ---

9 Q. Okay.

10 A. --- if we wrote it out for a larger sum they'd want us to
11 come inside and he didn't wanna do that.

12 Q. So in your conversation with the bank they said that if
13 you tried to get out more than forty-one hundred dollars
14 you're gonna have to come in?

15 A. No, sir, it wasn't a conversation with any individual, it
16 was an automated phone system ---

17 Q. Okay, but ---

18 A. --- merely telling you what you had in the bank.

19 Q. Alright, so whe -- in your, in your telephone call that
20 was on speaker phone with the bank they never said how much
21 money was the limit you could take out, even ---

22 A. No, sir.

23 Q. --- if you were gonna not go into the bank?

24 A. No, sir, it really told you how much you had, it's an
25 automated system.

ALBERT WAYNE WILLIAMS - CROSS-EXAMINATION BY MR. SHEALY

1 Q. I understand it's an automated system, I'm just ---

2 A. He's the one, he's the one that came up with the figure,
3 if we went too high, he felt like we'd have to go inside.

4 Q. Okay, and my understanding is total, so there was
5 seventy-three hundred dollars in the bank and he has you write
6 the check for forty-one hundred dollars.

7 A. Correct, sir.

8 Q. So he left about thirty-two hundred dollars on the table.

9 A. Yes, sir.

10 Q. Okay. Alright, so you go to the bank and you get the
11 tube out and then you put, presumably you put the check into
12 the tube ---

13 A. Yes, sir.

14 Q. --- and then you -- did you -- did -- was there any
15 conversation with the teller?

16 A. Uh, I don't believe there was.

17 Q. Okay, and then ya sent it down its way and then you
18 waited on it, ---

19 A. Yes, sir.

20 Q. --- is that accurate? And what happened next?

21 A. They sent the check back 'cause I had forgotten to sign
22 it.

23 Q. You had forgotten to sign it?

24 A. But I'd forgotten to sign the check on the back. They
25 sent it back with an ink pen and I believe they may have asked

1 for some ID at the time too.

2 Q. Okay, uh, bear with me just one second. And at that
3 point I guess you sign it and put it back in the tube and send
4 it back on its way.

5 A. Yes, sir.

6 Q. Alright, how long did all a this take?

7 A. Uh, two minutes, they ---

8 Q. Yes, sir.

9 A. --- weren't busy, I was first in line.

10 Q. Okay, so your entire visit to the bank took about two
11 minutes?

12 A. Two to three minutes yes, sir.

13 Q. Two to three minutes? Alright, and then at that point
14 they give ya the money in a envelope I think you testified and
15 you handed it back?

16 A. Yes, sir, they sent the money in an envelope, I took it
17 outta the carrier and just held it up and he took it from my
18 hand.

19 Q. And then you drive off.

20 A. And then I drive off.

21 Q. Alright, but at no time do you do anything to signal the
22 teller that there was anything the matter.

23 A. No, sir.

24 Q. Alright, and at no time that you're aware of did Geri do
25 anything to signal the teller.

ALBERT WAYNE WILLIAMS - CROSS-EXAMINATION BY MR. SHEALY

1 A. No, sir.

2 Q. Alright, and at no time did you look in the back seat?

3 A. No, sir.

4 Q. So you wouldn't know if he had the ski mask on or off
5 that point.

6 A. I would not.

7 Q. Alright, so ya'll drive back another, you've testified
8 it's about 10 miles, how long does that ta -- drive take, it's
9 10 miles, does it take about fifteen ---

10 A. Fifteen ---

11 Q. --- minutes?

12 A. --- minutes maybe.

13 Q. Okay, so you drive fifteen more minutes back to your
14 house, 'bout how long has all of this taken?

15 A. 'scuse me?

16 Q. About how long has this from the house to the bank and
17 back to the house taken?

18 A. Uh, a half hour --

19 Q. Half an hour?

20 A. --- forty-five minutes maybe, ---

21 Q. Okay.

22 A. --- that wasn't my concern at that point.

23 Q. But I I understand. And throughout that period you and
24 he had been talkin' or well he had been talkin', you had been
25 listenin' is what it sounds like.

ALBERT WAYNE WILLIAMS - CROSS-EXAMINATION BY MR. SHEALY

1 A. That's more like it. I was listenin', he was doin' the
2 talkin'.

3 Q. Alright. Okay, and when ya get out of the car -- so
4 where do you park relative to the mobile home?

5 A. Uh, I park in front.

6 Q. Okay. Is that, and when you say "in front," do you have
7 a driveway there or just do yas park on the grass or do you
8 have to park on the street?

9 A. Let me explain it this way: ---

10 Q. Okay.

11 A. --- the mobile home runs parallel to the Cannons
12 Campground Road ---

13 Q. Okay.

14 A. --- and I have a driveway that pulls in and I pull right
15 here (indicating) ---

16 Q. Okay, so ---

17 A. --- which would be at the front then I get out and you
18 walk 'bout that (indicating), 'bout 15 feet to get to the
19 porch.

20 Q. Okay, so your, does your driveway come off a Cannons
21 Campground or does it come off of the side street ---

22 A. It ---

23 Q. --- and around?

24 A. --- comes off Cannons Campground and I can drive around
25 behind the trailer and exit on Sunset.

ALBERT WAYNE WILLIAMS - CROSS-EXAMINATION BY MR. SHEALY

1 Q. Okay, and when you parked where in relation to -- now
2 just you've testified ya had a porch, does that porch have a
3 railing on it?

4 A. Yes, it does.

5 Q. And you've testified it had plants on a ---

6 A. It -- the steps had plants.

7 Q. Alright, so is it fair that there's fairly tight
8 quarters, is that accurate?

9 A. It restricts your access, you can't walk two abreast.

10 Q. Okay. And the stairs do they come straight out from the
11 mobile home or do they go to the side?

12 A. Uh, the stairs are parallel to the mobile home, ---

13 Q. Okay.

14 A. --- there's five steps leading up to the porch.

15 Q. So you, ya'll get out, now your pa -- your driver's side
16 door is closest or is facing the mobile home, is that
17 correct ---

18 A. No, ---

19 Q. --- or am I, ---

20 A. --- the driver's side ---

21 Q. --- am I turned around?

22 A. --- door is facing the mobile home.

23 Q. The driver's side door ---

24 A. The driver's ---

25 Q. --- is facing ---

1 A. --- side is facing the mobile home.

2 Q. Alright, so when you get out you can immediate, you can
3 see the mobile home, ---

4 A. Yes, sir.

5 Q. --- right? Alright, and so sh -- Ms. Smith had to walk
6 around the car, ---

7 A. She did.

8 Q. --- to get and then ya'll got in a single file line
9 again, is that right, ---

10 A. That's ---

11 Q. --- to go up ---

12 A. --- yes, ---

13 Q. --- the ---

14 A. --- I'd say that's correct.

15 Q. Alright, and when you're getting out of the vehicle ya
16 didn't see his face then either.

17 A. No, sir, we have tinted windows, I couldn't have seen
18 through it.

19 Q. Well, I mean, but he would've gotten out as well, right?

20 A. Uh, initially there was an issue. I got outta the
21 vehicle, headed few steps towards the trailer, Geri hollered
22 out, get my attention, uh, my car has child locks so I had to
23 stop and press a button to let him outta the back seat.

24 Q. Okay, so my understanding is you had the child locks on
25 on the back seat.

ALBERT WAYNE WILLIAMS - CROSS-EXAMINATION BY MR. SHEALY

1 A. They're automatic.

2 Q. Alright, so he couldn't get outta the backseat ---

3 A. Not without me pressin' that ---

4 Q. 'kay, ---

5 A. --- button.

6 Q. --- without you pushin' that button, okay. So you push
7 the button, let him out and he gets out and then you again
8 don't see his face.

9 A. I do not see his face.

10 Q. Alright, and ya'll get in line and walk up this stair,
11 uh, and -- bear with me just one second.

12 A. Take your time, sir.

13 Q. I'm a lawyer, we can't help it. Um, you open the privacy
14 gla -- or you've testified that ya open, there's a, it's a
15 glass door and then a a front door, right?

16 A. Yes, sir.

17 Q. Alright, so you open that door and it opens towards the
18 steps.

19 A. Yes, sir.

20 Q. Alright, and on that front door it says, Video Camera
21 Security, doesn't it?

22 A. Yes, sir.

23 Q. Alright, do ya have any video cameras on your house?

24 A. At the time I didn't, now I have four.

25 Q. Okay, so ---

1 A. That time I didn't have a burglar alarm, now I have
2 one.

3 Q. --- so the video cam security that ya ---

4 A. It was a bluff, ---

5 Q. --- didn't have anything ---

6 A. --- it was a bluff.

7 Q. Okay, so ya open that door and how much space is between
8 the door and the por -- and the porch railing?

9 A. Uh, the porch itself is 10 foot by 10 foot, ---

10 Q. Okay.

11 A. --- the door would be situated in the middle of that 10
12 foot, ---

13 Q. Alright.

14 A. --- so I'd say there's, what, 3 1/2, 4 feet on either
15 side.

16 Q. Alright, but from the door to the far railing it would be
17 closer to it sounds like 6 or 7 feet if it's a 10-foot porch
18 and your door's only so wide, right?

19 A. Um, explain yourself. You mean from my front door to the
20 outside railin'?

21 Q. Right, 'cause the the porch is a ---

22 A. It's 10 ---

23 Q. --- square ---

24 A. --- foot by 10 foot, ---

25 Q. Right, ---

ALBERT WAYNE WILLIAMS - CROSS-EXAMINATION BY MR. SHEALY

1 A. --- yes.

2 Q. --- so it's a 10 foot by 10 foot square and then it leads
3 to some stairs, right?

4 A. The stairs come up on the side, ---

5 Q. Sure.

6 A. --- mobile home bein' here (indicating), steps leadin' up
7 to it.

8 Q. Okay, and then but when you open the door there's gonna
9 be a, some amount of distance between the door and the far
10 railing.

11 A. Yes, sir.

12 Q. Okay. How much is that distance do ya think?

13 A. Uh, 6 1/2 feet.

14 Q. Okay, and at that point you open the door and you go in
15 and you -- was Ms. Smith immediately behind you or ----

16 A. She was immediately behind me, ---

17 Q. Alright.

18 A. --- we walked single file.

19 Q. Right, and then you had come around and opened the door,
20 she was right behind you, where was the robber at this
21 point?

22 A. He was walking up the steps behind Geri.

23 Q. So he had been slower than Geri.

24 A. Geri was impeding traffic because she'd had a broke
25 ankle, ---

ALBERT WAYNE WILLIAMS - CROSS-EXAMINATION BY MR. SHEALY

1 Q. Um-hum.

2 A. --- she was movin' slower, with the plants on the steps
3 you couldn't go around her so he had to follow her up, ---

4 Q. Okay.

5 A. --- that gave me time to open the glass door with the
6 privacy tint ---

7 Q. Um-hum.

8 A. --- so he could only see a reflection but I could see
9 through it.

10 Q. Okay, and ---

11 A. I ---

12 Q. --- that's ---

13 A. --- had my keys in the hand ready to open the front door.

14 Q. Okay, so you open the front door with the keys and ya go
15 i -- you grab Geri and bring her in, is that right?

16 A. I open the front door, I step inside, I look and she's
17 walks around the edge a the glass door, I reach out, I grab
18 her by the shirt, pull her in and slam the steel door in his
19 face ---

20 Q. So that's ---

21 A. --- while ---

22 Q. --- a steel door?

23 A. It's a steel door ---

24 Q. Okay.

25 A. --- on the front, back however is styrofoam.

ALBERT WAYNE WILLIAMS - CROSS-EXAMINATION BY MR. SHEALY

1 Q. Alright, and at that point you don't know what happened,
2 I mean, with -- that the robber disappears that point, ---

3 A. At that point ---

4 Q. --- correct?

5 A. --- I did not no longer see him.

6 Q. Right, okay. Uh, when you were getting out of the
7 vehicle, did ya look around at all?

8 A. I did not turn back, no.

9 Q. Alright, when ya got home from the recycling place, did
10 ya look around at all?

11 A. Uh, no, sir, I just got outta the vehicle, we went up,
12 got in the trailer and that's where the problem started.

13 Q. Okay, so there were no suspicious vehicles that you're
14 aware of anywhere ---

15 A. Uh, ---

16 Q. --- around there?

17 A. --- no, sir, across the street there is a funeral
18 home, ---

19 Q. Okay.

20 A. --- parked, cars park over there all the time day and
21 night.

22 Q. Okay, but, again, the ---

23 A. There ---

24 Q. --- ya'll had ---

25 A. --- was no -- there was no indication there there

1 anyone ---

2 Q. Sure.

3 A. --- had been there, no, sir.

4 Q. And you had to take your or well ya did take your car to
5 the bank, correct?

6 A. No, sir, I pulled in my driveway and stopped at the
7 corner of the trailer ---

8 Q. Yeah. No, I'm saying that but you took -- whenever he
9 wanted to go to the bank you had to take your vehicle, ---

10 A. Yes, sir.

11 Q. --- your Ford Explorer, ---

12 A. Yes, sir.

13 Q. --- right? Alright, bear with me just one moment.

14 (Pause.)

15 Alright, so going back just one last set a questions.

16 You got back to Spartanburg around 1985 or '86, is that ---

17 A. Yes, sir.

18 Q. --- what you testified to? And then I think you've
19 testified to what you were doin' at that point but what were
20 you -- where were you workin'?

21 A. Uh, uh, believe I was managing a car wash downtown at
22 some point, mostly I was goin' to college under the old GI
23 Bill.

24 Q. Okay. What were you goin' to college for?

25 A. So, uh, I started off at USCS and then went to

ALBERT WAYNE WILLIAMS - CROSS-EXAMINATION BY MR. SHEALY

1 Spartanburg Tech.

2 Q. Alright, and that through the years I guess you you've
3 had number of jobs it looked like and but ultimately and when
4 did you retire?

5 A. Uh, 2001.

6 Q. Alright, and Ms. Smith moved into your house as a ten --
7 or your, the mobile home, excuse me, but moved into there as a
8 tenant in 2014, that right?

9 A. I believe so, yes, sir.)

10 Q. And in all that time you had not seen Mr. Robertson?

11 A. Had not seen him, no, sir.

12 Q. You, had ya seen Ms. Riddle, ---

13 A. Who ---

14 Q. --- Leatha Riddle?

15 A. Uh, who's ---

16 Q. Leatha Riddle.

17 A. No, uh-uh.

18 Q. That's his or it's his mother.

19 A. Correct. No, I've -- no.

20 Q. So he didn't come to your house in 2015 ---

21 A. No, sir.

22 Q. --- and engage in a business transaction?

23 A. No, sir, never seen him.

24 Q. And he never di -- didn't come to your house in 2016 and
25 engage in business transaction?

ALBERT WAYNE WILLIAMS - REDIRECT EXAMINATION BY MR. SMITH

1 A. No, sir.

2 Q. So you've been here since 1985.

3 A. For the most part, I was drivin' a tractor trailer for a
4 while, ---

5 Q. Alright.

6 A. --- went all over United States.

7 Q. And how long was that for?

8 A. Six months.

9 Q. Alright, so since 1985 bar six months.

10 A. 'scuse me?

11 Q. I said since 1985 bar six months when you were drivin'
12 all over the states.

13 A. Yes, sir.

14 Q. That's all I have for this witness.

15 REDIRECT EXAMINATION BY MR. SMITH:

16 Q. Uh, Mr. Williams, you talked about that man in the back
17 of the Explorer when you got back from the bank was I guess
18 stuck inside, uh, why did you let him out?

19 A. Uh, Geri raised her voice quite loud, he was threatenin'
20 her and a glass won't stop a bullet.

21 Q. Fair enough but she's still in the car?

22 A. Yeah, she was at that point, ---

23 Q. Okay, uh, ---

24 A. --- her door would be locked too.

25 Q. Passenger side can't open either?

ALBERT WAYNE WILLIAMS - RECROSS-EXAMINATION BY MR. SHEALY

1 A. It's automatic child locks.

2 Q. Okay. Uh, when you got money from the ATM or deposited
3 the check, did you count the amount of money that you got?

4 A. No, I didn't, sir.

5 Q. Do you normally count money when you get it out of a
6 bank?

7 A. Normally I would.

8 Q. Why did you not count it this time?

9 A. Didn't matter, I wasn't gonna get keep it.

10 Q. Alright, I don't have anymore questions.

11 THE COURT: Anything at all?

12 RECROSS-EXAMINATION BY MR. SHEALY:

13 Q. Alright, said you weren't gonna keep it but wouldn't it
14 have been important to make sure that it's forty-one hundred
15 dollars?

16 A. No, it wouldn't, not to me at that point.

17 Q. So if he had counted it and gotten angry that wouldn't a
18 been a problem.

19 A. It would probly been a problem but ---

20 Q. Okay, that's all I have.

21 THE COURT: Thank you, sir, you may step down, please be
22 careful.

23 (Whereupon, the witness left the stand.)

24 THE COURT: Solicitor.

25 MS. WALTERS: And, Your Honor, the State calls Julie

JULIE PENNOYER - DIRECT EXAMINATION BY MS. WALTERS

1 Pennoyer.

2 THE COURT: Alright. Come right up here (indicating) and
3 be sworn, ma'am.

4 THE WITNESS: Okay.

5 (Whereupon, the witness came forward.)

6 THE CLERK: Place your left hand on Bible, raise your
7 right, please.

8 THE WITNESS: Um-hum.

9 JULIE PENNOYER, having
10 been first duly sworn, testified as follows:

11 THE CLERK: Be seated.

12 THE WITNESS: Yes.

13 THE COURT: Ma'am, tell us your name and spell your last
14 name for my court reporter, please.

15 THE WITNESS: Sure. Julie Pennoyer, it's
16 P-E-N-N-O-Y-E-R.

17 THE COURT: Thank you. Solicitor.

18 MS. WALTERS: Thank Your Honor.

19 DIRECT EXAMINATION BY MS. WALTERS:

20 Q. Uh, Ms. Pennoyer, where are you employed?

21 A. SC Telco Federal Credit Union in Spartanburg.

22 Q. And where is that located in Spartanburg?

23 A. We're right off Asheville Highway near Herring Circle,
24 uh, North Town Drive by Bi-Lo.

25 Q. Well what's the address?

JULIE PENNOYER - DIRECT EXAMINATION BY MS. WALTERS

1 A. 130 North Town Drive, Spartanburg 29303.

2 Q. And that's in the county a Spartanburg, correct?

3 A. Yes.

4 Q. What is your current position at South Carolina Telco?

5 A. Branch manager.

6 Q. And how long have you been employed with South Carolina
7 Telco?

8 A. Two years.

9 Q. Have you been the branch manager the entire time?

10 A. No, I was lending specialist for the first year and then
11 branch manager since then.

12 Q. And as branch manager what are your duties?

13 A. I am responsible for making sure everything runs
14 smoothly: assisting members, processing loans, IRAs, uh, run
15 the teller drawer if needed, uh, coaching staff, that's pretty
16 much everything.

17 Q. Now can you please explain to us the normal pro -- like
18 check process, um, a brief pra -- brief process when South
19 Carolina Telco receives a check for payment or or a deposit or
20 withdrawal.

21 A. Um-hum. We would get an ID no matter what, even if we
22 re -- remember the member, just as a courtesy we're gonna ask
23 everybody to make sure we have the right member, uh, so we'll
24 always get the ID, make sure it's signed, verify the funds are
25 available, um, and go ahead and cash the check or process the

JULIE PENNOYER - DIRECT EXAMINATION BY MS. WALTERS

1 transaction that the member requests.

2 Q. Now what happens to those original checks that are
3 processed for payment, when you receive those, what happens to
4 those checks?

5 A. It's scanned in so there's an image and then it's kept
6 for six months retention time and then destroyed.

7 Q. Where is those -- where those original checks kept for
8 the retention period?

9 A. They're in a locked s -- uh, safe room in the branch.

10 Q. Okay, so they're actually at the bank.

11 A. Um-hum.

12 Q. And those electronic copies where are they stored, what
13 kinda database?

14 A. It's called "Laserfiche" and so it's our main, uh,
15 storage that stores like statements, the check copies,
16 membership cards, everything.

17 Q. Now are these images, um, in the database complete and
18 accurate copies of those original checks that are processed
19 for payment?

20 A. Yes.

21 Q. Now can anyone delete or manipulate those records?

22 A. No.

23 Q. Who is in charge of maintaining those records at at your
24 branch?

25 A. That would be me, I'm able to go in and print items as

JULIE PENNOYER - DIRECT EXAMINATION BY MS. WALTERS

1 needed or get video or anything that's needed, IT is the only
2 one that could make any changes and that's with a special
3 request.

4 Q. When an account holder opens a checking account, are they
5 given a debit card or and they're given a checkbook? I mean,
6 when when somebody comes in to open an account, a checking
7 account, ---

8 A. Um-hum.

9 Q. --- they're given items to start up with your bank, ---

10 A. Um-hum.

11 Q. --- are they given a checking card like a debit card, are
12 they given a checkbook with ---

13 A. We kind ---

14 Q. --- checks?

15 A. --- of, it's case by case 'cause we're going to see how
16 the member's gonna use the account so, yes, you can always
17 order checks, we can print starter checks, um, request a debit
18 card, we don't have 'em on site so you have to have it mailed
19 to you, get the pin a couple days later so just checks, debit
20 card, bill pay, mobile app, all those.

21 Q. Um, now, Ms. Pennoyer, do you know the defendant,
22 Mr. Robertson, who's who's seated over there (indicating) in
23 the white shirt?

24 A. No, ---

25 Q. Do ---

JULIE PENNOYER - DIRECT EXAMINATION BY MS. WALTERS

1 A. --- but ---

2 Q. --- you know, uh, the victim, uh, Mr. Williams, Albert
3 Williams or Ms. Smith?

4 A. Just from being a member.

5 Q. Not -- so you have an account for by the name of Albert
6 Williams. Do you know how long he's had an account with South
7 Carolina Telco?

8 A. Long-time member, I'm not sure a the time but I know it's
9 a long time.

10 Q. Have you seen him in the bank?

11 A. Yes.

12 Q. Uh, Ms. Pennoyer, was Mr. Williams issued checks by South
13 Carolina Telco?

14 A. Yes.

15 Q. Your Honor, may I approach the witness?

16 THE COURT: Sure.

17 (Whereupon, counsel approached the witness.)

18 Ms. Pennoyer, can you please tell the Court what it is
19 that I just handed you.

20 A. Um-hum, this is the image of the check that was presented
21 and scanned into Laserfiche and the front and the back where
22 it's scanned and signed so it's the actual check that was
23 cashed.

24 Q. Was the check that was cashed. Can you tell me little
25 bit about the check, uh, the date, who it was made payable

JULIE PENNOYER - DIRECT EXAMINATION BY MS. WALTERS

1 to, ---

2 A. June the ---

3 Q. --- who signed the back.

4 A. Yep, it's dated June 17th 2016, made pal -- payable to
5 Albert Wayne Williams, uh, four thousand one hundred dollars,
6 signed and Mr. Williams signed the back as well.

7 Q. So he signed his name on the made payable to line, ---

8 A. Yeah, payable ---

9 Q. --- si ---

10 A. --- to him, signed as the account holder and signed as
11 the person cashing the check.

12 Q. And this is a South Carolina Telco check.

13 A. Yes.

14 Q. And how do you know it's a South Carolina Telco check,
15 that it was provided by South Carolina Telco?

16 A. Oh, I was able to print it through Laserfische, our
17 system, that's where ---

18 Q. Do you all have a logo on your check?

19 A. Yes, logo on our check and it says it's rewards checking
20 account.

21 Q. So you a -- you're able to pull that from your system.

22 A. Um-hum.

23 Q. Now was this check maintained as part a the normal
24 business records process and operations at South Carolina
25 Telco?

JULIE PENNOYER - DIRECT EXAMINATION BY MS. WALTERS

1 A. Yes.

2 Q. Is it complete and accurate depiction of the original
3 check front and back?

4 A. Yes.

5 Q. Was there any problem with this check bein' processed at
6 your bank?

7 A. No.

8 Q. Your Honor, at this time I'd like to move what's been
9 previously marked, Your Honor, as, uh, State's Exhibit 23 for
10 ID purposes, I'd like to admit that into evidence.

11 MR. SHEALY: No objection.

12 THE COURT: Without objection it's admitted.

13 (State's Exhibit No. 23, copy of check, admitted into
14 evidence.)

15 MS. WALTERS: Your Honor, may I publish this to the jury?

16 THE COURT: Absolutely.

17 BY MS. WALTERS:

18 Q. Now, Ms. Pennoyer, you stated, there we go, you stated
19 that, um, Mr. Williams' name was here (indicating), pay to the
20 order, payable to ---

21 A. Yes.

22 Q. --- and that it, you stated previously that he signed as
23 the account holder ---

24 A. Um-hum.

25 Q. --- and he signed it on the back and it has, these checks

JULIE PENNOYER - DIRECT EXAMINATION BY MS. WALTERS

1 have their account holder's name and address in the top left.

2 A. Yeah.

3 Q. Sir, we can have the lights turned off.

4 (Whereupon, the bailiff turned the lights off.)

5 And what does it say, I know it's hard to read, as

6 Mr. Williams' address?

7 A. I don't know the numbers but was Cannon Campground Road.

8 Q. That's here in Spartanburg?

9 A. Yes.

10 Q. And what are all these numbers here (indicating)?

11 A. That be the transaction number, when the check gets
12 imaged it has a code that prints on it.

13 Q. So if it has the -- would it have the date all crunched
14 in there?

15 A. Yes.

16 Q. Would it have like a teller ID number?

17 A. Yes.

18 Q. Now how do you know, I know it's hard to read on here,
19 how would you know that this, when this check was deposited?

20 A. We have a receipt that prints along with the check copy
21 that gives the time, the teller number as well so you can
22 clearly see it all.

23 MS. WALTERS: Your Honor, may I approach the witness?

24 THE COURT: Yes.

25 (Whereupon, counsel approached the witness.)

JULIE PENNOYER - DIRECT EXAMINATION BY MS. WALTERS

1 Q. Ms. Pennoyer, I am showing you what's been previously
2 marked as State's Exhibit 24 for ID purposes, can you please
3 tell me what that is.

4 A. This is the receipt that we would provide to the member
5 and it has their account number, the date, the teller number,
6 receipt member's number, uh, the member's name, the date, real
7 date 'cause you can change the effective date but generally
8 wouldn't do that, uh, time and what the transaction was so
9 when it's an honest check, that's a check you write for to
10 yourself for cash so it's just showing that we received the
11 check and disbursed cash.

12 Q. And are those deposit slips are those also stored in the
13 same electronic database that you've spoke of previously?

14 A. Yes.

15 Q. And those are, that electronic database is accessible at
16 your branch location in Spartanburg.

17 A. Yes.

18 Q. Now is it -- are those maintained as part a the normal
19 business records process and operations of South Carolina
20 Telco?

21 A. Yeah.

22 Q. Is that a complete and accurate depiction of the original
23 deposit or transaction slip?

24 A. Yes.

25 Q. Your Honor, at this time I'd like to move what's been

JULIE PENNOYER - DIRECT EXAMINATION BY MS. WALTERS

1 previously marked as State's Exhibit 24 into evidence.

2 MR. SHEALY: No objection.

3 THE COURT: It's without objection.

4 (State's Exhibit No. 24, SC Telco withdrawal receipt,
5 admitted into evidence.)

6 MS. WALTERS: Thank Your Honor, may I publish it to the
7 jury?

8 THE COURT: Yes, ma'am.

9 BY MS. WALTERS:

10 Q. And, Ms. Pennoyer, for the jewel -- for the jewelry --
11 for the jury at the top it has your bank logo, um, can you
12 t -- you tell us the date of this transaction.

13 A. Yes, it's June 17th 2016 at 11:09 a.m. by teller 1130.

14 Q. And who is teller 1130?

15 A. It's Denecia Bertick (phonetic).

16 Q. And what is the sequence number, what does that mean?

17 A. That way we can locate the transaction.

18 Q. And that had account -- what is that? That has the
19 amount, the forty-one hundred ---

20 A. Yes, it's since the honest check for cash is kinda like a
21 withdraw, that's why it says withdraw from rewards checking,
22 and then you'll see the honest clearing of forty-one hundred
23 and what the cash was dispensed was forty-one hundred.

24 Q. So that's his balance after the forty-one hundred was
25 withdrawn?

JULIE PENNOYER - DIRECT EXAMINATION BY MS. WALTERS

1 A. Correct.

2 Q. He had a balance of three thousand eight hundred
3 twenty-five dollars and ten cents?

4 A. Yes.

5 Q. Beg the Court's indulgence.

6 THE COURT: Yes.

7 (Pause.)

8 MS. WALTERS: Um, . . .

9 (Whereupon, a discussion was held off the record.)

10 MS. WALTERS: Your Honor, may I approach the witness?

11 THE COURT: Yes, ma'am.

12 (Whereupon, counsel approached the witness.)

13 Q. Ms. Pennoyer, I'm handing you what's been previously
14 marked as State's Exhibit 25, can you please tell the Court
15 what that is.

16 A. Yes, this is the video surveillance from the drive-thru
17 transaction that day that was provided to the detective from
18 this ---

19 Q. And how do you know that that's the surveillance video?

20 A. When the detective first came in, uh, to the branch, I
21 was responsible for pulling up our video and showing him the
22 video so we watched that together and then we had, uh, it
23 printed on a CD and provided.

24 Q. Now did you review that copy today before court?

25 A. Yes.

JULIE PENNOYER - DIRECT EXAMINATION BY MS. WALTERS

1 Q. And did you verify that was the same surveillance video
2 that was submitted to the investigator?

3 A. Yes.

4 Q. Did you sign and date?

5 A. Yes, sign and dated.

6 Q. But did you sign, date the envelope and the CD?

7 A. Yes, both.

8 Q. Now, Ms. Pennoyer, do you have video surveillance all
9 throughout the bank?

10 A. Yes, there's probly twenty-four cameras.

11 Q. And this is the one that would be in the ATM line?

12 A. Drive-thru lane 2 I believe it is, yes.

13 Q. Okay. Do you have a video for every drive-thru lane or
14 is it just certain ---

15 A. Just 2 and 3 and ATM.

16 Q. So that one was at the ---

17 A. Second lane.

18 Q. --- second one, so this isn't the one when you first pull
19 into the bank, it's the one that you actually are face-to-face
20 with the teller?

21 A. Yeah, 'cause when you first, the first lane we don't use
22 because the drawer is hard to operate and it could hit a car
23 but you wouldn't need a camera 'cause you're face-go-face at
24 that point but there's a camera for us for lane 2.

25 Q. Okay, so so in in this incident Mr. Williams wouldn't be

JULIE PENNOYER - DIRECT EXAMINATION BY MS. WALTERS

1 right next to the drawer ---

2 A. No.

3 Q. --- teller where you can actually see their face and they
4 can see yours, ---

5 A. No, further away, ---

6 Q. --- would be the ---

7 A. --- lane 2.

8 Q. --- one down.

9 A. Um-hum.

10 Q. Now how are videos stored with South Carolina Telco, is
11 it the same type of program or database?

12 A. It's called "Vid-Center," and it's where you can look up
13 security cameras, real-time, uh, backdated, stored so it's the
14 same type system but just for video.

15 Q. Now are they all electronic or do you electronic and hard
16 copies of the videos?

17 A. It's electronic and we can provide any copies when we
18 need to.

19 Q. Now are they, uh, maintained and stored as part of your
20 normal business records procedures ---

21 A. Yes.

22 Q. --- in South Carolina Telco? Can these videos be deleted
23 or manipulated?

24 A. No.

25 Q. Who has access to these videos besides you?

JULIE PENNOYER - DIRECT EXAMINATION BY MS. WALTERS

1 A. Branch managers, compliance department and IT.

2 Q. Who was able to burn that video for you?

3 A. That was done by, uh, Matt in our compliance department.

4 Q. And are these videos in the database are they complete
5 and accurate copies?

6 A. Yes.

7 Q. Is that (indicating) a complete and accurate copy?

8 A. Yes.

9 Q. Your Honor, at this time I'd like to admit and introduce
10 into evidence what has been previously marked as State's
11 Exhibit 25 for identification purposes.

12 THE COURT: Any objection?

13 MR. SHEALY: I have no objection.

14 THE COURT: It's without objection, it's admitted.

15 (State's Exhibit No. 25, SC Telco video surveillance DVD,
16 admitted into evidence.)

17 MR. SMITH: Thank Your Honor. May we publish this to the
18 jury?

19 THE COURT: Yes, ma'am.

20 THE COURT: Your Honor, beg the Court's indulgence, it's
21 gonna take us a second to do the video on the . . .

22 (Pause.)

23 THE COURT: I will say we're gettin' cl -- very close to
24 a break, if you're gonna take a minute or two, you want me to
25 go ahead and break now?

JULIE PENNOYER - DIRECT EXAMINATION BY MS. WALTERS

1 MR. SMITH: I think we're almost done with this ---

2 THE COURT: Okay.

3 MR. SMITH: --- witness, Your Honor.

4 THE COURT: Okay, alright.

5 MS. WALTERS: Yes, Your Honor.

6 (Pause.)

7 (Whereupon, State's Exhibit No. 25 was played for the
8 jury.)

9 BY MS. WALTERS:

10 Q. Ms. Pennoyer, can you tell us, um, who that (indicating)
11 is driving up to the window.

12 A. Yes, that's Mr. Williams.

13 Q. And what is the date?

14 A. June 17th 2016.

15 Q. And the time?

16 A. 11:10 a.m.

17 Q. And that you stated that was the second drive up lane?

18 A. Correct.

19 Q. And all the drive-up lanes from I guess has, 2 to 4 have
20 the tubes?

21 A. Um, 2 and 3 next door there and the third's the ATM.

22 (Whereupon, a discussion was held off the record.)

23 Q. Now, Ms. Pennoyer, normally with a forty-one hundred
24 dollar withdrawal is it normal for customers, account holders
25 to, uh, write checks to themselves and in order to do a

JULIE PENNOYER - DIRECT EXAMINATION BY MS. WALTERS

1 withdrawal for cash?

2 A. Yes.

3 Q. Is it normal for them to do it through the ATM with their
4 debit card withdraw cash?

5 A. There's only a five hundred dollar a day limit in the ATM
6 so you can only get up to five hundred per day.

7 Q. So would not be able to take forty-one hundred outta the
8 ATM.

9 A. No.

10 Q. Do account holder -- 'count holders normally write, um,
11 withdrawal slips as well to receive money?

12 A. Yeah, if they don't use checks they'll write a withdrawal
13 slip.

14 Q. So it is normal for somebody taking out forty-one hundred
15 dollars to write a check to themselves.

16 A. Yes.

17 Q. Do you all require, um, a person to come into the bank
18 with that amounta money or do you just require the
19 verification with ID?

20 A. We have to have the ID, verify the check is signed, we'll
21 verify the signature to the membership card as well and we
22 don't have a set policy that says, Okay, if it's five thousand
23 dollars you come inside but in general rule if it is about
24 five thousand we would have the member come inside.

25 Q. So if he had ha -- if he had wrote it for nine hundred

JULIE PENNOYER - DIRECT EXAMINATION BY MS. WALTERS

✓ 1 dollars more, he woulda been required to come inside.

2 A. Yes.

3 Q. Now was Mr. Williams reimbursed for that money through
4 the bank?

5 A. Yes.

6 Q. And when was he reimbursed the forty-one hundred?

7 A. It was January I believe the date's 26th.

8 Q. So it was about seven months later.

9 A. Yes.

10 Q. And how was he reimbursed, did he have to file a report?
11 a claim?

12 A. He was instructed, uh, first to file police report and
13 then we had that and then there was a letter written to
14 request the funds be reimbursed.

15 Q. Now the investigator had already arri -- did he, the
16 investigator on this case already arrive on this date?

17 A. Yeah, he was here just this afternoon on June 17th
18 2016.

19 Q. So there -- then there was already a police report
20 starting so ---

21 A. Right, yes.

22 Q. --- and well an investigation starting in the case I
23 should say.

24 A. Yes.

25 Q. Beg the Court's indulgence.

JULIE PENNOYER - DIRECT EXAMINATION BY MS. WALTERS

1 (Pause.)

2 Ms. Pennoyer, the way these videos are it seems very
3 splotchy, can you explain to the Court why it's like that and
4 not a continuous stream of like well how it be on YouTube
5 where it would be a normal video and there's not this robotic
6 movement.

7 A. Um-hum, it is -- well the camera's set and it points that
8 (indicating) way so it's not, I know it's on a DVR and I don't
9 know, I'm not all tech-savvy, but it records to a DVR so I'm
10 sure it's the storage space and limits that it's not like
11 perfect streaming video.

12 Q. When you all watch it on your database, is it perfect
13 streaming?

14 A. You can reset, um, there's like times one, times two,
15 times four to speed it up like real-time and so if you s -- do
16 slow it down it gets splotchy.

17 Q. Okay, so this is slow down?

18 A. Yeah, it's a little bit slow.

19 Q. And that's why it would be splotchy?

20 A. Yes.

21 Q. Beg the Court's indulgence.

22 (Pause.)

23 Your Honor, the State has no further questions for this
24 witness.

25 THE COURT: Okay, let's let's take a break this point,

MOTIONS AND MATTERS

1 it's been runnin' about ni -- Ladies and gentlemen,
2 Mr. Foreman, we've been runnin' for, uh, we've been here close
3 to ninety minutes, uh, I know we are-a little late gettin'
4 started this morning but, uh, but we've been here so, uh, the
5 staff, I have to make sure we all take take a break this
6 mornin'. Uh, I hope ya enjoyed some coffee this morning, I,
7 uh, I I did and it's it's good and I, and I hope everybody
8 enjoyed it, there might be some more back there if you want
9 some. Uh, we're gonna let ya go out to, on to your mornin'
10 break, this'll be a good fifteen, eighteen-minute break, use
11 facilities, get some water if you'd like some water or some
12 coffee, uh, I don't know if there's anything else back there,
13 if ya need somethin' let one a the bailiffs know, we'll try
14 very hard to accommodate ya.

15 Mr. Foreman, ladies and gentlemen, the case has not
16 ended, you cannot deliberate about the case, don't talk about
17 the case with each other, uh, don't discuss it, don't even
18 think about it, again, you're at work and ya don't wanna be
19 workin' on your break.

20 Now, I didn't say this yesterday and and I don't like
21 sayin' it but I will, uh, if you smoke and I hope ya do not
22 because it killed my sister but if you smoke and you need to
23 go outside, you'll have to be escorted and you'll, someone
24 will have, one a the bailiffs or officers will have to stay
25 with you so if you, uh, if that -- if you need to do that, we

MOTIONS AND MATTERS

1 can accommodate you on that, uh, but you'll have to be
2 escorted out and escorted back in, okay, so I'll let you
3 decide
4 that and I hope ya don't and if ya do smoke please quit.
5 Mr. Foreman, if you'll take the jury out.

6 (The following takes place outside the presence of the
7 jury.)

8 THE COURT: Ms. Pennoyer, I'm gonna have to take you in
9 custody and handcuff -- no ---

10 (Laughter.)

11 THE COURT: You may step down, you cannot talk with
12 anyone about your testimony ---

13 THE WITNESS: Okay.

14 THE COURT: --- but feel free to get some water, some
15 coffee, we'd be happy to accommodate ya, just can't talk to
16 anyone about your testimony till it's ended and then you can
17 talk about it all you like.

18 THE WITNESS: Thank you.

19 THE COURT: Thank you, ma'am.

20 THE WITNESS: Thank you.

21 (Whereupon, the witness left the stand.)

22 THE COURT: Let's be in recess about fifteen minute.

23 (Whereupon, a recess was taken.)

24 (Whereupon, a discussion was held off the record.)

25 THE COURT: Ms. Pennoyer, you return back to the stand,

JULIE PENNOYER - CROSS-EXAMINATION BY MR. SHEALY

1 please.

2 (Whereupon, a discussion was held off the record.)

3 (Whereupon, the witness returned to the stand.)

4 THE COURT: Okay, you remain under oath, you understand?

5 THE WITNESS: Uh, sure thing.

6 THE COURT: Ready for the jury?

7 MR. SMITH: Yes, sir.

8 MR. SHEALY: Yes, Your Honor.

9 THE COURT: Okay, we'll have the jury.

10 (Whereupon, a discussion was held off the record.)

11 (The following takes place in the presence of the jury.)

12 (Photographs marked State's Exhibit Nos. 26, 27, 28 29
13 and 30 for identification.)

14 THE COURT: Mr. Foreman, uh, everything good with the
15 jury?

16 JURY FOREMAN: Yes, Your Honor.

17 THE COURT: Ready to work?

18 JURY FOREMAN: Ready.

19 THE COURT: Alright, Mr. Shealy.

20 MR. SHEALY: Thank Your Honor.

21 CROSS-EXAMINATION BY MR. SHEALY:

22 Q. Ms. Pennoyer, you've testified that there is, there's no
23 set policy on how much ya have to cash to get to come inside
24 but that usually ya'll ask about five thousand dollars.

25 A. Correct.

JULIE PENNOYER - CROSS-EXAMINATION BY MR. SHEALY

1 Q. Alright, is that on your automated system?

2 A. No.

3 Q. So if you call into the bank looking for that information
4 through the automated system, it wouldn't tell you five
5 thousand dollars is the limit and you can write a ---

6 A. No.

7 Q. --- check for the right or is that listed anywhere on
8 your website?

9 A. No.

10 Q. Is that broadcast on any of your statements, anything
11 like that?

12 A. No.

13 Q. No, okay, so a member wouldn't necessarily know that
14 that's the limit or that that's ya'lls policy, is that
15 correct?

16 A. Right.

17 Q. Okay. Alright, you've testified that that that that
18 receipt, believe it's up here, listed the time of the
19 withdrawal at 9 -- at 11:09 I believe.

20 A. Um-hum.

21 Q. Alright, and if you don't mind I'm just, I have to have a
22 witness up here, I'm gonna publish I believe it's State's
23 Exhibit No. 25 so everybody can just watch it, I won't be
24 asking any questions about it but we gotta do it at some point
25 so he's ---

JULIE PENNOYER - CROSS-EXAMINATION BY MR. SHEALY

1 A. Um-hum.

2 (Whereupon, State's Exhibit No. 25 was played for the
3 jury.)

4 Q. Alright, Ms. Pennoyer, you were not the teller who took
5 this particular transaction, correct, ---

6 A. Right.

7 Q. --- these transactions, so you don't know what was said,
8 any discussions they had or went on, is that correct?

9 A. Right, we have just a normal greeting, How may we,
10 welcome to SC Telco, how may we serve you, so just that sort
11 of normal transaction we have done.

12 Q. Okay, um, and you don't know what -- well, again, you
13 don't know if the teller told him that you're close to the
14 line or somethin' like that, ---

15 A. No.

16 Q. --- any a that stuff? Oh, and you've testified also that
17 there was a reimbursement?

18 A. Yes.

19 Q. And when was that?

20 A. January 26th.

21 Q. So you put the forty-one hundred dollars back in the
22 account in January.

23 A. Right.

24 Q. Alright. Thank you, ma'am, that's all I have of this
25 witness.

JULIE PENNOYER - REDIRECT EXAMINATION BY MS. WALTERS

1 THE COURT: Anything?

2 MS. WALTERS: Yes, Your Honor, brief.

3 THE COURT: Brief.

4 REDIRECT EXAMINATION BY MS. WALTERS:

5 Q. Uh, you're, Ms. Pennoyer, um, you had stated earlier
6 there two different databases for the records and for the
7 video, ---

8 A. Um-hum.

9 Q. --- are the video and the records database linked
10 together?

11 A. No, they'd be two separate systems 'cause there's
12 Whittenbox Security Systems that's our cameras and then
13 Symitar is our system for processing transactions so that
14 they're not the same.

15 Q. So that the video started 11:10, 20 seconds. Your Honor,
16 may I approach?

17 THE COURT: Sure.

18 (Whereupon, counsel approached the witness.)

19 Q. And what was the time on the receipt?

20 A. 11:09 a.m.

21 Q. So it's about a minute twenty seconds off so they
22 wouldn't a been linked together with the ---

23 A. No, ---

24 Q. --- time.

25 A. --- there's a, when we audit and we find that there is a

JULIE PENNOYER - REDIRECT EXAMINATION BY MS. WALTERS

1 difference in time, we have to have it put back so it's on the
2 same ---

3 Q. But this was the same transaction.

4 A. Yes.

5 Q. And -- beg the Court's indulgence.

6 (Pause.)

7 Ms. Pennoyer, in reference, um, to your voice greeting
8 when you, when a account call -- account holder calls and are
9 they able to get their account balance, I know Mr. Shealy
10 said that that you don't have the policy stated on the
11 greeting but a caller can get an -- get their account
12 balance?

13 A. Yeah, there's two different lines: there's the audio
14 response line which is just automated and then the line where
15 you can call our member service center and talk to a person.

16 Q. So you can do either option ---

17 A. Yes.

18 Q. --- but in either option could get your account balance.

19 A. Yes.

20 Q. Beg the Court's indulgence.

21 (Pause.)

22 Ms. Pennoyer, the bank reimbursed, uh, Mr. Williams for
23 the forty-one hundred dollars, why would they have reimbursed
24 him the forty-one hundred dollars?

25 A. When we knew there was a police report and all this had

JULIE PENNOYER - RECROSS-EXAMINATION BY MR. SHEALY

1 happened, uh, we reimbursed after knowing that SC Telco wasn't
2 the victim, that the victim should be reimbursed and then our
3 insurance imbur -- reimbursed the credit union.

4 Q. So the bank declared that Mr. Williams was a victim.

5 A. Yes.

6 Q. And do you all get a copy of the investigative report?

7 MR. SHEALY: Objection, Your Honor, I don't know that
8 that's relevant. I don't believe the bank gets to determine
9 who's a victim and who's not.

10 THE COURT: Well, uh, it's overruled, she's on, uh,
11 redirect but and and you asked questions about the money but
12 let's move along.

13 A. What was your last ---

14 Q. The bank in order determine who's refunded the money
15 would need to get a copy the investigative report, correct?

16 A. Yes.

17 Q. And they determined he was the victim.

18 A. Yes.

19 MR. SHEALY: Alright, ---

20 Q. No further questions.

21 MR. SHEALY: --- I gotta ask questions about that.

22 RECROSS-EXAMINATION BY MR. SHEALY:

23 Q. So do ya'll have a bank detective?

24 A. We have security and compliance department.

25 Q. Alright, but you don't have a detective ---

JULIE PENNOYER - RECROSS-EXAMINATION BY MR. SHEALY

1 A. No.

2 Q. --- like they used to have the, uh, hotel detective in
3 these places when you see murder mysteries and things, ya'll
4 don't have a bank detective ---

5 A. No.

6 Q. --- who goes out and investigates ---

7 A. No.

8 Q. --- and interviews witnesses ---

9 A. No.

10 Q. --- and has them come -- have them come in and swear to
11 things.

12 A. No.

13 Q. No, okay. So the investigation that the bank does is, We
14 got a police report and so we're gonna reimburse, is that my
15 understanding?

16 A. Yeah, they had to have all the documentation in order to
17 do a reimbursement.

18 Q. Okay, and barring the time stamps on the receipt whenever
19 it prints out does that at the beginning of the transaction or
20 is at the end of the transaction?

21 A. It be at right as it's completed so the end.

22 Q. So the 11:09 on that receipt would be the end time
23 regarding that transaction.

24 A. Yeah, so if the teller ran the transaction, like keyed it
25 in really quick and then she's counting the money or whatever

JULIE PENNOYER - RECROSS-EXAMINATION BY MR. SHEALY

1 she's doing for that extra time, that would have been
2 processed already so, yeah, right after it's run.

3 Q. Okay, that's all I have for this witness.

4 THE COURT: Thank you, you may step down.

5 THE WITNESS: Thank you.

6 (Whereupon, the witness left the stand.)

7 MR. SMITH: State calls Mike Doshi.

8 THE COURT: Okay.

9 MR. SHEALY: Judge, I have a matter of law.

10 THE COURT: Okay, ya'll wanna come up.

11 MS. WALTERS: Your Honor, may Ms. Pennoyer be released?

12 THE COURT: Any objection?

13 MR. SHEALY: I have no objection.

14 THE COURT: Ma'am, you may stay or go, whichever you
15 choose.

16 THE WITNESS: Alright, thank you.

17 (Whereupon, a bench conference was held off the record.)

18 THE COURT: Mr. Foreman and ladies and gentlemen, this is
19 one a those times where I'm gonna have to excuse you from the,
20 uh, courtroom for a few minutes, uh, take up a matter of law,
21 uh, again, it's one a these rules in this (indicating) book
22 and and, uh, I think we're gonna be in a discussion about that
23 so I'm gonna ask you to leave the room at this time. Uh,
24 listen, don't talk about the case, don't discuss the case
25 whatsoever, it certainly is not at end end. Mr. Foreman.

3 THE COURT: Okay, jury is out. At this time I I
4 understand that there's a argument about relevancy of the
5 testimony so you wanna proffer the witness?

8 THE COURT: C'mon up, sir, and be sworn.

10 THE WITNESS: Afternoon.

13 MIKE DOSHI, having been first
14 duly sworn, testified as follows:

16 THE COURT: Sir, tell us your full name and spell your
17 last name, please.

19 THE COURT: Thank you. Solicitor.

21 Q. Uh, Mr. Doshi, you're retired now but you used to be a
22 manager at Days Inn?

25 Q. Okay, is is that on Highway 9?

MIKE DOSHI - DIRECT EXAMINATION BY MR. SMITH

1 A. It is on Highway 9, off off Highway 9, it's on the Rogers
2 Commerce Boulevard.

3 Q. What else is around there, is a ---

4 A. There's a restaurant, uh, there a Capris, uh, Fatz Café,
5 there is a post office across the street.

6 Q. Is a Zaxby's there?

7 A. There's a Zaxby, uh, on Highway 9, yes.

8 Q. Okay. Um, as part a bein' a manager, do you collect
9 records of new registrations of guests?

10 A. Yes, sir, I do.

11 Q. What information do you take down from guests when
12 somebody ---

13 (Indiscernible cross-talk.)

14 A. We run the ID and from the ID we copy the name, address
15 and we also require the kind of a vehicle they drive.

16 Q. Alright, and what do you end up doing with those records?

17 A. We are required to keep the records for seven years.

18 Q. Who requires you to do that?

19 A. Um, our CPA.

20 Q. What's that?

21 A. Our accountant.

22 Q. Okay, and so that's for making your books accurate or
23 whatever ---

24 A. That is ---

25 Q. --- that monies ---

MIKE DOSHI - DIRECT EXAMINATION BY MR. SMITH

1 A. --- correct.

2 Q. --- come in?

3 A. That is correct.

4 Q. Uh, do you -- every single guest that comes in fills in a
5 new re -- registration?

6 A. We fill out, they sign the paper.

7 Q. Okay, so you fill out, it's typed.

8 A. It is done in the computer system and then we we do, we
9 put, uh, put the information in the computer and print out the
10 signing sheet, ---

11 Q. Okay.

12 A. --- they sign it and put the information about their car.

13 Q. I'm gonna show you what's been previously marked as
14 State's Exhibit 22, ask if you can identify what that is.

15 A. This here is just your paper copy of the registration
16 paper.

17 Q. Okay, and that's from your, ---

18 A. That is from ---

19 Q. --- you don't have anymore but the Days Inn you used to
20 own?

21 A. That is correct, that's the Days Inn that I used to own,
22 okay.

23 Q. Okay. What is the date for the registration?

24 A. In June 17 Friday.

25 Q. Okay, of what ---

MIKE DOSHI - CROSS-EXAMINATION BY MR. SHEALY

1 A. 2016.

2 Q. Okay. Who was it rented out to?

3 A. It was rented out to Terri Lynn Johnson.

4 Q. Alright. Um, is there any other information on there
5 about Ms. Johnson?

6 A. No, I don't see anymore information other than her
7 address.

8 Q. Her address, was that what you would have gotten off of a
9 driver's license?

10 A. From her ID. Uh, some people do not have I, uh, driver's
11 license so we require ID.

12 Q. Okay, but some sort of official identification?

13 A. Correct.

14 Q. Um, do these records get manipulated in any way?

15 A. No, sir, no, they don't.

16 Q. Uh, do you have any specific recollection of providing
17 this specific registration to police?

18 A. I do not recall right now.

19 Q. Alright. Uh, Your Honor, be seeking to introduce that
20 exhibit in through Mr. Doshi during the trial but that is
21 essentially the questions that we would have for him.

22 THE COURT: Yes.

23 CROSS-EXAMINATION BY MR. SHEALY:

24 Q. Well, Mr. Doshi, would it surprise you if your hotel is
25 7.4 miles away from the incident location, that surprise you?

MIKE DOSHI - CROSS-EXAMINATION BY MR. SHEALY

1 A. From what loca -- where they from?

2 Q. [REDACTED] Cannons Campground Road.

3 A. Uh, that sounds about right.

4 Q. Okay, so you know where Cannons Campground Road is?

5 A. Yes, sir, I do.

6 Q. Uh, well so it sounds like it's about 7.4 miles away?

7 A. I would say that is correct.

8 Q. Alright, and you've got listed on that registration, uh,
9 a box for a vehicle, ---

10 A. Correct.

11 Q. --- what does it say in that box?

12 A. No vehicle.

13 Q. So there's no vehicle, 7.4 miles away.

14 A. Correct, they may be probly dropped by somebody possibly.

15 Q. Okay, but you don't know.

16 A. No, I do not know.

17 Q. I mean, and do you re -- you -- do you remember taking
18 this registration?

19 A. No, I don't remember that.

20 Q. Alright, so you don't, you don't know if someone checked
21 in with their -- with her or any a that stuff?

22 A. One of my employee must have checked in and then I do not
23 recall that.

24 Q. No? So this was probably checked in by somebody other
25 than you.

MIKE DOSHI - REDIRECT EXAMINATION BY MR. SMITH

1 A. Correct.

2 Q. Alright, sir, that's all I have.

3 MR. SMITH: I have a couple questions.

4 REDIRECT EXAMINATION BY MR. SMITH:

5 Q. Uh, Mr. Doshi, a -- does the -- is there any indication
6 of when the room was booked on this sheet or or when the
7 registration ---

8 A. It was booked on June 17th 2016 at 10:32 p.m.

9 Q. Okay, and that that's indica -- is that up here
10 (indicating) in the upper ---

11 A. That is ---

12 Q. --- right corner where it says ---

13 A. Correct.

14 Q. --- printed and has the date and time? Uh, do you
15 physically go out and check to see if they have a vehicle or
16 are you kinda just taking them at their word on that?

17 A. No, we do -- I do not go out and check for the vehicle,
18 we just take the information and that's how we bill it.

19 Q. Okay, I mean, that do you tow pe -- if there's vehicles
20 that are inside there that do you issue parking passes or
21 anything like that for ---

22 A. No, we don't.

23 Q. Okay, so it's totally possible that somebody has a
24 vehicle but just chose to not tell you.

25 A. That is correct.

MIKE DOSHI - REDIRECT EXAMINATION BY MR. SMITH

1 Q. That's all I have for Mr. Doshi and then that the
2 relevance would all be added to by Detective Clark.

3 THE COURT: Okay, well that's what I need to hear too.

4 MR. SMITH: Okay.

5 THE COURT: Sir, you may step down.

6 THE WITNESS: Thanks.

7 (Whereupon, the witness left the stand.)

8 MR. SMITH: We call Detective Tom Clark.

9 MR. SHEALY: Uh, Judge, it's -- why don't we just have
10 him, have the detective testify in front of the jury and then
11 have Mr. Doshi testify or not testify and ---

12 THE COURT: Well at this point, I'm gonna do this, uh, at
13 this point the relevance has not been established under 401,
14 okay, but I'm told today at the side bar that the detective is
15 gonna connect the dots on that, ---

16 MR. SHEALY: Okay.

17 THE COURT: --- I don't know that.

18 MR. SHEALY: Oh, yes, sir, that's, uh, that's ---

19 THE COURT: At this point ---

20 MR. SMITH: If we need to change the order, we we can.

21 THE COURT: Well, at this point he's objectin' on
22 relevance ground and and that's, there's no evidence before
23 me. I understand what I was told at side bar, ---

24 MR. SMITH: Yes, sir.

25 THE COURT: --- that's not in the record so at this point

MOTIONS AND MATTERS

1 Mr. Doshi's testimony is not relevant, it might be made
2 relevant by this witness so Mr. Shealy.

3 MR. SHEALY: Judge, I believe they called Detective Clark
4 so we'll we'll have out that.

5 THE COURT: Well they gonna call him we ---

6 MR. SHEALY: That's ---

7 THE COURT: --- gon ---

8 MR. SHEALY: --- fine.

9 THE COURT: --- you want his prof -- you want his
10 testimony proffered or do you know that he's gonna testify
11 that Terri ---

12 MR. SHEALY: Yes, ---

13 THE COURT: --- Lynn ---

14 MR. SHEALY: --- sir, I I suppose. I mean, it's it's
15 their proffer but it, I guess they've called him so . . .

16 THE COURT: Well I'm just askin' that he, is there any
17 question about he's gonna say that Terri Lynn is -- was the
18 girlfriend and that they were together?

19 MR. SHEALY: Well I don't know exactly what he, I mean,
20 I I I don't know what he's gonna say and you ---

21 THE COURT: C'mon ---

22 MR. SHEALY: --- know know, Judge, you you've done this a
23 long time, I ---

24 THE COURT: I did.

25 MR. SHEALY: --- there's a lotta weird things come out.

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 THE COURT: Twenty twenty-five years I did. Ha -- have a
2 seat right there (indicating), Detective, and let's see, let's
3 see.

4 ((Whereupon, the witness came forward.))

5 THOMAS LOREN CLARK, having been
6 first duly sworn, testified as follows:

7 THE CLERK: Okay, have a seat, please.

8 THE COURT: Now we're just here on the proffer on
9 that ---

10 MR. SMITH: Yes, sir, ---

11 THE COURT: --- issue of relevance, we're not ---

12 MR. SMITH: --- I'll ---

13 THE COURT: --- gonna take ---

14 (Indiscernible cross-talk.)

15 MR. SMITH: --- I'll skip how long he's worked at the
16 sheriff's ---

17 THE COURT: Yeah.

18 MR. SMITH: --- office.

19 THE COURT: Sir, tell us who ya are, spell your last
20 name, please.

21 THE WITNESS: My name's Thomas Clark, my last name's
22 spelled C-L-A-R-K.

23 THE COURT: Thank you. Solicitor.

24 DIRECT EXAMINATION BY MR. SMITH:

25 Q. Detective Clark, did you ultimately sign warrants on

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 this defendant?

2 A. Yes, sir, I did.

3 Q. Was he apprehended about a week after the incident?

4 A. Yes, sir.

5 Q. Did you speak with him at the sheriff's office?

6 A. Yes, sir.

7 Q. You go over Miranda rights prior to that?

8 A. Yes, sir.

9 Q. Uh, did he agree to talk to you about some things?

10 A. Yes, sir.

11 Q. Uh, did he tell you who his associates were, who he had
12 been around the time of the alleged crime?

13 A. Yes, sir.

14 Q. What -- who did he tell you he had been with?

15 A. He gave the name of a female, Terri Lynn Johnson.

16 Q. Okay. Um, what did he say about Ms. Johnson in regards
17 to this incident?

18 A. They were ex-boyfriend and girlfriend but they still were
19 friends, would be together, um, and that, um, that he was with
20 her during, later during that day and that night.

21 Q. On June the 17th of ---

22 A. Seventeen ---

23 Q. --- 2016?

24 A. --- yes, sir.

25 Q. Did he say where he was at with her?

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 A. The Days Inn.

2 Q. He said he was at the Days ---

3 A. I'm sorry, ---

4 Q. --- Inn?

5 A. --- I'm sorry, he said that he was on -- with her
6 originally at White Avenue.

7 Q. Okay, di -- but he denied his involvement in this
8 incident?

9 A. Yes, sir.

10 Q. Um, did you ultimately -- did he tell you where else he
11 had been living or other places he'd been staying?

12 A. He stated that he had several friends, um, in several
13 different places around Spartanburg that he would stay, that
14 he was homeless and that he would stay in the woods or several
15 different places.

16 Q. Did he tell you about a location near the Days Inn?

17 A. Yes, sir.

18 Q. Where was that?

19 A. He said, uh, near Zaxby's on Highway 9 which Zaxby's is
20 across the street. We canvassed the woodline around Zaxby's
21 and then across the street around behind the Waffle House and
22 where we found, um, some clothing.

23 Q. Okay, you believe that to be the location he described to
24 you?

25 A. Yes, sir.

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 Q. Uh, how did you get to the Days Inn from that point?

2 A. The woodline, where we were at where the Waffle House is
3 right behind there is Fatz Restaurant, Capris' Restaurant and
4 then the Days Inn, um, based on my experience as an
5 investigator I went to the Days Inn to see if Mr. Robertson
6 had been at the Days Inn.

7 Q. Why would you think he may have been there?

8 A. He was someone who had committed this crime and had
9 forty-one hundred dollars and was homeless, that would give
10 him the opportunity to not be homeless for a while.

11 Q. Okay, did you go to the Days Inn?

12 A. Yes, sir.

13 Q. Who did you speak to when you were there?

14 A. Mr. Doshi.

15 Q. Uh, what did you, what did you tell him?

16 A. I showed him a single photograph of Mr., um, um,
17 Robertson and asked him if he had ever seen that person.

18 Q. Alright. Now he said he can't, don't want you to say
19 what he said but what, after you showed him the picture what
20 did he do?

21 A. He gave me a hotel registration form for Terri Lynn
22 Johnson.

23 Q. And did you see what date that registration form was for?

24 A. It was on the incident locat -- incident date, the ---

25 Q. And the time?

THOMAS LOREN CLARK - CROSS-EXAMINATION BY MR. SHEALY

1 A. Yes, sir, I don't have the form in front of me ---

2 Q. Okay.

3 A. --- so I don't ---

4 Q. Um, did you collect a copy of that registration, make it
5 part of your case file?

6 A. Yes, sir.

7 Q. Your Honor, I don't have any further questions this time.

8 THE COURT: Mr. Shealy.

9 CROSS-EXAMINATION BY MR. SHEALY:

10 Q. Alright, now, Detective Clark, you testified that
11 Mr. Robertson had told ya that he was homeless, correct, ---

12 A. Yes, sir.

13 Q. --- and and that he had a number of various campsites?

14 A. Number of different places he would stay including
15 different place at campsites that he ---

16 Q. Alright, ---

17 A. --- would stay at.

18 Q. --- and you said you were ki -- canvassing the woodline
19 and you saw s -- you found some clothes.

20 A. We went up into the woods behind the Waffle House.

21 Q. Okay, and you found some clothes.

22 A. Yes, sir.

23 Q. Alright. Okay, did ya get any DNA off a those clothes?

24 A. No, sir.

25 Q. Did any a those clothes have a ID on it, ---

THOMAS LOREN CLARK - CROSS-EXAMINATION BY MR. SHEALY

- 1 A. No, sir.
- 2 Q. --- in 'em, ---
- 3 A. No, sir.
- 4 Q. --- anything like that?
- 5 A. No, sir.
- 6 Q. Alright, and at that point you went to the Days Inn ---
- 7 A. Yes, sir.
- 8 Q. --- and got this registration.
- 9 A. Yes, sir.
- 10 Q. Now my understanding from Mr. Doshi that he be -- you
- 11 were in the courtroom when he testified, right?
- 12 A. Yes, sir.
- 13 Q. Alright, so he just testified that he thought that the --
- 14 an employee had taken that registration ---
- 15 A. Yes, sir.
- 16 Q. --- but you're sayin' that he told ya that it was a
- 17 registered guest.
- 18 A. Yes, sir. Well he saw, he he he said that he had seen,
- 19 him and he gave me the registration for Terri Lynn Johnson,
- 20 that she had registered in the room.
- 21 Q. Okay. Where is White Avenue?
- 22 A. White Avenue is off of Howard Street by the sheriff's
- 23 office.
- 24 Q. Okay, and you've testified that he had told ya that he
- 25 was at White Avenue?

THOMAS LOREN CLARK - CROSS-EXAMINATION BY MR. SHEALY

1 A. He had been there.

2 Q. For that entire day?

3 A. No, sir.

4 Q. Okay. I got nothin' further further ---

5 THE COURT: Anything at all?

6 Q. --- of witness.

7 MR. SMITH: No, Your Honor.

8 THE COURT: Officer, you may step down, please be
9 careful.

10 (Whereupon, the witness left the stand.)

11 MR. SHEALY: We, Judge, as, I mean, I still don't see how
12 it's relevant to anything. Somebo -- that any number of
13 people can stay at the Days Inn, I I don't, that it doesn't
14 make any fact in this case any more or less likely to have
15 occurred, there's a, any of those elements, a burglary or
16 armed robbery or kidnapping or anything, there's just, there's
17 nothing that makes it more or less likely and that's the test
18 of relevance so there's no relevance.

19 THE COURT: Solicitor.

20 MR. SMITH: Well, I might need recall him. Uh, Your
21 Honor, I forgot there's there's somethin' I need to ask
22 Detective Clark if we can recall him to the stand.

23 THE COURT: Okay.

24 (Whereupon, the witness returned to the stand.)

25 REDIRECT EXAMINATION BY MR. SMITH:

THOMAS LOREN CLARK - REDIRECT EXAMINATION BY MR. SMITH

1 Q. Did you contact Terri Johnson as after Donald Robertson
2 told you that he had dated her and had been with her on the
3 incident date?

4 A. Yes, sir.

5 Q. Uh, did you have her come down to the sheriff's office?

6 A. Yes, sir.

7 Q. You had a conversation with her, did you inform her that
8 he had been arrested on these charges in connection with a
9 home invasion ---

10 A. Yes, sir.

11 Q. --- and that things had been taken as a result of that
12 home invasion?

13 A. Yes, sir.

14 Q. Uh, did you, did you end end up ending that interview and
15 she left?

16 A. Yes, sir.

17 Q. Did she contact you again?

18 A. Yes, sir.

19 Q. Did you meet back up again?

20 A. Yes, sir.

21 Q. What happened at that meeting?

22 A. She gave me a gold watch with, um, a link bracelet ---

23 Q. Okay.

24 A. --- with roses on ins -- inside.

25 Q. Did you make any effort to contact the victim after

THOMAS LOREN CLARK - REDIRECT EXAMINATION BY MR. SMITH

1 getting that watch?

2 A. Yes.

3 Q. Who did you call?

4 A. I called the residence and spoke with Mr. Williams, uh,
5 Ms. Smith was unavailable.

6 Q. What did Mr. Williams tell you about the watch?

7 A. I asked him, um, if he recognized, I gave him description
8 a the watch, he said yes, that he had purchased the watch for
9 Ms. Smith.

10 Q. Did you give him a description of the watch or did ---

11 A. I ---

12 Q. --- you ---

13 A. --- I ---

14 Q. --- ask ---

15 A. --- asked him, ---

16 Q. --- him what a description of ---

17 A. --- I a ---

18 Q. --- the watch ---

19 A. --- I'm sorry, ---

20 Q. --- was?

21 A. --- misspoke. I asked him ---

22 (Whereupon, the witness reviewed the incident report.)

23 Q. It's your last page like third ---

24 A. I'm ---

25 Q. --- paragraph up.

THOMAS LOREN CLARK - REDIRECT EXAMINATION BY MR. SMITH

1 A. --- I'm tryin', I'm tryin' to read through it now.

2 Q. Okay.

3 A. "After leaving the sheriff's office I was contacted by
4 Terri, she told me ---

5 MR. SHEALY: Judge, I'm gonna object to reading the
6 incident report.

7 Q. Your -- see what your report says and tell me whether you
8 told him what the watch was or whether he described the watch.

9 A. Okay. Bear with me just a second and I don't know if I
10 can find it.

11 Q. Okay.

12 (Pause.)

13 A. While I was talking to Ms. Johnson I cont -- I placed her
14 on hold and I contacted Mr. Smith and asked him about ---

15 Q. Mr. Williams or ---

16 A. --- or Mr. Williams about the watch and he gave me the
17 description of the watch.

18 Q. Okay. Did you end up eventually contacting Geri Smith?

19 A. Yes, sir.

20 Q. Was that -- when was that?

21 A. It was the following day.

22 Q. What happened in that conversation?

23 A. I asked her if she was missing a watch ---

24 Q. Okay.

25 A. --- and she gave me the description of same watch.

THOMAS LOREN CLARK - RECROSS-EXAMINATION BY MR. SHEALY

1 Q. Alright. Did you take that watch into evidence as part a
2 this case?

3 A. Yes, sir.

4 Q. Alright. Your Honor, I don't have any further question.

5 THE COURT: Mr. Shealy.

6 RECROSS-EXAMINATION BY MR. SHEALY:

7 Q. Alright, you testified that you contacted Terri Johnson,
8 what day was that?

9 A. This was on 6/20 -- sorry, hold on just one second, 6/28.

10 Q. So that woulda been eleven days after this incident,
11 correct?

12 A. Yes, sir.

13 Q. Then you said couple of, that she recontacted ya? What
14 day was that?

15 A. Same day after she left.

16 Q. Same day and then you met with Ms. Johnson at -- on June
17 29th, correct?

18 A. Yes, sir.

19 Q. Alright, and June 30th is when ya spoke with Geri,
20 correct, ---

21 A. Yes, sir.

22 Q. --- Ms. Smith?

23 A. Yes, sir.

24 Q. So that woulda been thirteen days after the alleged
25 incident, right?

THOMAS LOREN CLARK - RECROSS-EXAMINATION BY MR. SHEALY

1 A. Yes, sir.

2 Q. Alright. You got it back or allegedly on twelve days
3 after the incident, right?

4 A. Yes, sir.

5 Q. Alright, that's all I have for this witness.

6 THE COURT: Okay, and, sir, you may step down, please be
7 careful.

8 (Whereupon, the witness left the stand.)

9 THE COURT: Mr. Shealy, anything further?

10 MR. SHEALY: I have some argument, uh, if this is the
11 proper time, I don't know. Um, Judge, that it's still not
12 relevant because these -- apparently they get this watch from
13 a person who is not going to testify and believe it was eleven
14 days -- well, they speak with her eleven days after, twelve
15 days after they recover the watch, thirteen days after when
16 they talk with Ms. Smith, watch obviously is very small and
17 our test for these things is that the easier that they're
18 turned over, easier to turn them over, the less time the
19 relevancy, the less time it's relevant that she has it, so
20 eleven days for a watch is an eternity. I have TVs that get
21 turned over four or five times in eleven days, get sold and
22 resold, resold and resold and with my clients. They have
23 failed to establish how any of this is relevant to whether
24 this happened or not, whether this burglary, armed robbery,
25 kidnapping happened or not, all they have established is that

MOTIONS AND MATTERS

1 eleven, that my client may have been with Ms. Johnson when
2 Ms. Johnson paid for a room on June 17th, now I understand
3 that the officer says that Mr. Doshi told him that but
4 Mr. Doshi's not gonna testify to that and obviously the
5 officer can't testify what Mr. Doshi told him. They have
6 established that eleven days later they speak with a
7 Ms. Johnson and Ms. Johnson apparently then turns over this
8 watch twelve days later, twelve days, so I don't, that
9 they they haven't linked my client particularly, well
10 Ms. Johnson to begin with but; further, all they can prove is
11 that they recovered a watch from Ms. Johnson thirteen days or
12 twelve days, excuse me, after it was allegedly taken and as
13 I've said that that's just not, it's just not relevant,
14 Ms. Johnson if she were here and were to testify where she got
15 it from then it might be relevant and probably would be
16 relevant but Ms. Johnson isn't here, isn't gonna be testifying
17 and I'm gonna be objecting obviously to anything that was,
18 that builds off of hearsay testimony so I I I just, I don't
19 think that they can establish a relevancy in front of a jury.
20 Thank you.

21 MR. SMITH: Well, I think we were careful to avoid
22 hearsay and how we got the evidence in, I mean, he's saying
23 that he met, he's not saying that Terri Johns -- or Terri said
24 that Donald Robertson gave her the watch, we have a link of
25 that they were together, um, through his own admission to the

MOTIONS AND MATTERS

1 defendant on the date of this incident, uh, while I know he
2 thinks that twelve or thirteen days is a long time, they
3 didn't know of Terri Johnson until they interviewed him, at
4 that point after she finds out that he's under investigation
5 for these things and then she's met with the sheriff's office
6 she decides to call them and hand over a watch, uh, I think it
7 it's fair that a jury could draw a conclusion that she
8 believed that the watch was stolen or that there was a reason
9 that the sheriff's office needed to have that watch, it just
10 so happens to be a watch that's described as bein' stolen in
11 the home invasion that he has been identified as the victim as
12 committing it, uh, ---

13 MR. SHEALY: I don't know if you're done ---

14 MR. SMITH: Yeah, I I ---

15 MR. SHEALY: And therein lies the problem, Judge, it
16 invites rank speculation by a jury as to what Ms. Johnson was
17 thinking, what she was going to do, why she was gonna do it or
18 why she didn't do it, it's just, it just invites rank
19 speculation that is not at all grounded in the facts.

20 THE COURT: Well at this point the motion before the
21 Court unless I'm really missin' somethin' in here the
22 only reason Detective Clark took the stand was tie
23 Ms. Johnson as part of Mr. Doshi's testimony so it --
24 my motion before the Court is the relevancy of Mr. Doshi's
25 testimony, right?

MOTIONS AND MATTERS

1 MR. SMITH: That's correct.

2 THE COURT: Okay, Court finds that that testimony is
3 relevant under 401 and admissible under 402. The officer has
4 tied together that the reason that the slip is or the receipt
5 is in the name of Terri Lynn Johnson is that there's
6 acquaintance, uh, of the defendant so that's the only motion
7 before the Court, I'll deal with the relevancy on other
8 issues, uh, as we go along.

9 MR. SHEALY: Judge, ---

10 MR. SMITH: Your Honor, while ---

11 MR. SHEALY: --- Judge, it would be our position that the
12 the relevancy the, that it all ties into the relevancy of
13 the -- that document and Mr. Doshi's testimony. If if they
14 can't tie my client to Ms. Johnson then I don't think they can
15 tie him to this registration I guess is and I may have
16 inartfully stated my argument.

17 THE COURT: The the the gentleman what produced a receipt
18 but from Terri Lynn Johnson with registration when asked by
19 the officer, that's what I heard, about this gentleman here
20 (indicating), not asked about Terri Lynn Johnson, he asked
21 about this gentleman here (indicating) and this gentleman
22 produced that receipt, that ties him to that receipt. He, I
23 mean, I don't know if he can say, I don't know what he's gonna
24 say and I don't know if he's gonna say remembers it or doesn't
25 remember this gentleman but for whatever reason Mr. Doshi

MOTIONS AND MATTERS

1 produced a receipt when asked, as that's the testimony I
2 heard, when asked about this (indicating) gentleman, the
3 defendant, and I may -- am am I missin' somethin'?

4 MR. SMITH: That was how we've worded it, Your Honor.

5 THE COURT: Okay. Alright, we ready?

6 MR. SMITH: We -- I -- is it -- I -- is the order okay if
7 if it -- if we call Mr. Doshi and then call Tom and that ---

8 THE COURT: That's that's fine with me, Mr. Shealy, you
9 know, might object to that but, uh, if so, uh, I can do two
10 things and I've done it before is, uh, if it's not made
11 relevant, I will order it stricken from the record, ---

12 MR. SMITH: Okay.

13 THE COURT: --- that I prefer not to do that, I'm gonna,
14 I'm goin' on good faith you're gonna call Officer Clark some
15 point.

16 MR. SMITH: We're we're callin' him.

17 THE COURT: Okay. We ready?

18 MS. WALTERS: Yes, Your Honor.

19 MR. SMITH: Yes, Your Honor.

20 THE COURT: Okay.

21 (Whereupon, a discussion was held off the record.)

22 THE COURT: Just ball park figure this a twenty minute
23 witness, fifteen?

24 MR. SMITH: I I think it'll be what you saw in the the
25 proffer.

MIKE DOSHI - DIRECT EXAMINATION BY MR. SMITH

1 THE COURT: Okay, we may break for lunch then.

2 (Whereupon, a discussion was held off the record.)

3 (The following takes place in the presence of the jury.)

4 THE COURT: Mr. Foreman, are we ready to work?

5 JURY FOREMAN: Yes, Your Honor, we're ready.

6 THE COURT: Thank you. Solicitor.

7 MR. SMITH: The State calls Mike Doshi.

8 THE COURT: Sir, c'mon up and be sworn.

9 (Whereupon, the witness came forward.)

10 MIKE DOSHI, having been first duly
11 sworn, testified as follows:

12 THE CLERK: Thank you, have a seat here (indicating),
13 please. Thank you.

14 THE COURT: Sir, tell us your name and spell your last
15 name for the court reporter, please.

16 THE WITNESS: My name is Mike Doshi, D-O-S-H-I.

17 THE COURT: Thank you. Solicitor.

18 DIRECT EXAMINATION BY MR. SMITH:

19 Q. Uh, Mr. Doshi, where did you work on, uh, June 17th of
20 2016?

21 A. I was working at Days Inn in Boiling Springs, South
22 Carolina.

23 Q. Where is that located in Boiling Springs?

24 A. It's located on 115 Rogers Commerce Boulevard right
25 behind Fatz Cafe.

MIKE DOSHI - DIRECT EXAMINATION BY MR. SMITH

1 Q. Alright. Uh, what did you do there, you s -- did you say
2 you were the owner and manager?

3 A. I was an owner and a manager.

4 Q. What did you do as being an owner and a manager?

5 A. I managed, I do everything that comes under the business.

6 Q. Okay. Uh, as a part of ya'lls business do you take in,
7 uh, registration information when a new guest comes in?

8 A. When a new guest comes to check in, we require their ID
9 and we copy the ID and the computer printout that is, uh,
10 signing 'ceipt, we request a guest to sign paper and put
11 information about the vehicle they drive.

12 Q. Okay. Uh, you do this for every guest that comes?

13 A. For all the guests who stayed in the motel.

14 Q. And how are the records maintained?

15 A. These records are maintained for seven years.

16 Q. And who requires you to or why do you keep the record for
17 seven ---

18 A. We ---

19 Q. --- years?

20 A. --- keep it required by, it is advised by our CPA or
21 accountant.

22 Q. To make sure that your books are accurate or something
23 like that?

24 A. Which I do that 'cause I think it's also federal law to
25 require to keep for seven years.

MIKE DOSHI - DIRECT EXAMINATION BY MR. SMITH

1 Q. For bein' an innkeeper?

2 A. Correct.

3 Q. Um, where do ya'll store the records, you -- is it
4 electronic, are they stored physically?

5 A. These records are stored in the audit boxes at the
6 location of the business.

7 Q. Okay, and then do you, after you do the printout do you
8 have the the guests sign the the registration?

9 A. That is correct, the guest signs the paper, correct.

10 Q. Okay. I'm gonna hand you what we previously marked as
11 State's Exhibit 22 ask if you can just tell me what this
12 (indicating) is.

13 A. This is the signing sheet that, uh, normally guests
14 check, uh, signs when they check in, also tells you the name,
15 address of the guest, also it tells you the date and the time
16 they check in physically.

17 Q. Okay. Um, does that look, is that a record from your
18 business?

19 A. That is correct, has my address and it's from my
20 location, correct.

21 Q. Um, as a part of your job, uh, do you, uh, sometimes pull
22 these for the police and is it ---

23 (Indiscernible cross-talk.)

24 A. I have done -- we have that many times for the state
25 officials, sir.

MIKE DOSHI - DIRECT EXAMINATION BY MR. SMITH

1 Q. Okay, so this is all all, even your interaction with the
2 police is just in the ordinary course ---

3 A. It's very ---

4 Q. --- of business.

5 A. --- very routine, yes, sir.

6 Q. Okay. Um, can you tell me who the name on that piece of
7 evidence is for.

8 A. The person who registered, uh, is Terri Lynn Johnson.

9 Q. Okay. Does it have her address?

10 A. Her address, uh, and it did, uh, her address is that plus
11 the time and the date she checked in.

12 Q. Okay, what date was the check-in for?

13 A. She checked in on June 17, 2016 at 10:32 p.m.

14 Q. Um, is that an accurate copy of the registration that was
15 for that guest?

16 A. That is correct, very accurate.

17 Q. Alright. Your Honor, at this point we'd like to move
18 State's Exhibit 22 into evidence, permission to publish it.

19 THE COURT: Mr. Shealy.

20 MR. SHEALY: I'd renew my objection.

21 THE COURT: It's over defense counsel's objection.

22 MR. SMITH: Okay.

23 (State's Exhibit No. 22, Days Inn registration, admitted
24 into evidence.)

25 BY MR. SMITH:

MIKE DOSHI - DIRECT EXAMINATION BY MR. SMITH

1 Q. Do you have any recollection of your interaction with
2 police pertaining to this registration?

3 A. No, sir, I do not recollect this time because it's very
4 routine, we do several times a year and I do not remember all
5 of them.

6 Q. That and is there a reason that you have a lot of
7 interaction with police and is it ---

8 A. I guess we have lot of criminals around.

9 Q. Okay. Can you see, uh, one, wait one second, it'll get
10 brighter, it's the, that's (indicating) the name a the
11 guest?

12 A. That is that.

13 Q. The address below that's an address her, does that come
14 off of an identification card or driver's license, whatever
15 that ---

16 A. Some kind of ID, I cannot tell you was driver's license
17 or something else.

18 Q. Okay, it's got the room info, the s -- the anticipated
19 stay, cost and all that different information.

20 A. That tells you that originally they checked in for two
21 nights then they extend it for three, six and so on but they
22 keep extending it, look like they stayed for over seven days.

23 Q. Seven days? Where you ---

24 A. And now you see that? Uh, tonight, two, three or week,
25 see the handwriting?

MIKE DOSHI - DIRECT EXAMINATION BY MR. SMITH

1 Q. That's -- yeah, ---

2 A. They extended ---

3 Q. --- uh, ---

4 A. --- the stay for, you know, first time they check in for
5 two nights and you can see they paid for two nights that hun,
6 uh, one thirties, forty somethin', one ---

7 Q. Right.

8 A. --- yeah, one thirty-six forty ---

9 Q. Okay.

10 A. --- then they extend it for one more night so they must
11 have paid 68.20 more then we see 204.60 ---

12 Q. Okay.

13 A. --- and they extend it for six night and seven nights
14 like that.

15 Q. Alright, and is this (indicating) the signature that --
16 you didn't fill this part out, did you?

17 A. No, they are, they always written by the guest.

18 Q. Alright, and up here (indicating) that's the time that
19 the ---

20 A. That ---

21 Q. --- check-in occurred?

22 A. --- that is correct, that's the date 6/17/2016 at 10:30
23 to 59 second.

24 Q. So they give you the information, you key it in, print
25 this (indicating) out and they sign it?

MIKE DOSHI - CROSS-EXAMINATION BY MR. SHEALY

1 A. That is correct.

2 Q. Alright. Oh, does the the receipt indicate how the room
3 was paid for, through a card ---

4 A. Yes, ---

5 Q. --- or ---

6 A. --- it says right here (indicating) they, uh, they handed
7 cash, they paid cash.

8 Q. Alright.

9 A. If that was a credit card, you would see the four, last
10 four digits of the credit card ---

11 Q. Okay, ---

12 A. --- when ---

13 Q. --- would that be cash for a, the the entire stay?

14 A. Correct.

15 Q. Alright.

16 MR. SMITH: I I don't have any further questions, Your
17 Honor.

18 THE COURT: Mr. Shealy.

19 MR. SHEALY: Thank Your Honor.

20 CROSS-EXAMINATION BY MR. SHEALY:

21 Q. Alright, Mr. Doshi, you familiar with Cannons Campground
22 Road?

23 A. Yes, I am.

24 Q. Alright, how 'bout how far away is that from your hotel?

25 A. I will guess 7 to 8 miles.

MIKE DOSHI - REDIRECT EXAMINATION BY MR. SMITH

1 Q. Seven to eight miles.

2 A Um-hum.

3 Q. Alright. And you just saw that State's Exhibit No. 22,
4 does it list a vehicle number on it or a make or a model?

5 A. No.

6 Q. No, alright, and that information is ordinarily provided
7 to you, ---

8 A. Correct.

9 Q. --- presumably that's why it's on the form.

10 A. Right, they said they do not own vehicle, that's what it
11 says.

12 Q. Okay. And, again, just to make sure, this room was
13 purchased by a Terry Lynn Johnson.

14 A. That is correct.

15 Q. Alright. Now did you take this registration, did an
16 employee did take this registration or do you know?

17 A. I do not recall but I do have information and I can get
18 you that information and who was the employee who took this,
19 uh, registration.

20 Q. Okay, that's all I have.

21 THE COURT: Anything at all?

22 MR. SMITH: Yes, Your Honor.

23 REDIRECT EXAMINATION BY MR. SMITH:

24 Q. Um, do you issue parking passes for the Days Inn?

25 A. No, sir, we don't.

MIKE DOSHI - REDIRECT EXAMINATION BY MR. SMITH

1 Q. Do you check to see if they arrived in a vehicle or do
2 you just take 'em at their word?

3 A. We take their words.

4 Q. Alright, so if a car is found in the lot and it's not
5 registered, you're not gonna call for it to be towed?

6 A. No, we don't do that.

7 Q. Alright. This says departure up here (indicating), says
8 6/19/2016, how did --- how does that square with the the two,
9 three, six, seven nights part?

10 A. Yeah, they check in on Friday for two nights, that makes
11 Sunday the check out date but then they keep extending so
12 Sunday was not the real day they leave there, they really
13 left, they musta left after seven days so they probly left
14 Friday after on 24th.

15 Q. Well why wouldn't there been a an indication that the
16 bill is more or anything like that?

17 A. Oh, we do not keep printing every day, we just, oh, no,
18 scratch it and handwrite on the ---

19 Q. I know you did that for one extra day but why is it
20 not ---

21 A. I I have no idea why we did not do it because we don't do
22 that all the time.

23 Q. Do you know that he's ---

24 MR. SHEALY: Judge, ---

25 A. Yeah, ---

MOTIONS AND MATTERS

1 (Indiscernible cross-talk.)

2 MR. SHEALY: --- I'm gonna object ---

3 (Indiscernible cross-talk.)

4 THE COURT: Hold on, hold on, hold on, sir, hold on,
5 objection.

6 MR. SHEALY: Uh, I I I don't know the relevance of this,
7 it's goes way past redirect, ---

8 THE COURT: Yes, sir, ---

9 MR. SHEALY: --- it's s ---

10 THE COURT: --- that's sustained, this goes way past
11 redirect.

12 MR. SMITH: Thank Your Honor, ---

13 THE COURT: Thank you.

14 MR. SMITH: --- we're done with Mr. Doshi and if he could
15 be excused, please.

16 THE COURT: Sir, you may step down, please be careful.

17 THE WITNESS: Thank you.

18 (Whereupon, the witness left the stand.)

19 THE COURT: Alright, it's gettin' close to lunchtime so
20 where are we on the witnesses here? Let's see the lawyers.

21 (Whereupon, a bench conference was held off the record.)

22 THE COURT: Mr. Foreman, ladies and gentlemen, we're
23 talkin' about takin' a break here for lunch, uh, an and it's
24 gonna be a little longer, uh, uh, lunch break because I
25 actually have somethin' I have to do not regarding this case,

MOTIONS AND MATTERS

1 uh, at at 12:30, so, uh, I actually have to, we'll get the
2 next trial kinda in place and some things like that which is
3 why you've been seein' some people come and go from the
4 courtroom, so having said that, we are gonna recess now for a
5 extra long lunch break and this only happens every so often so
6 you're you're a, you're in good standing, uh, but we're gonna
7 come back at 2, come back at 2, back to your jury room. Now,
8 I will tell you once again, I think I mighta said this
9 yesterday, I got some other things to do that don't concern
10 this case but it would not be proper for you to come into the
11 courtroom during those matters either so I don't want a juror,
12 we have open courtroom in in America of course and in South
13 Carolina but at this point I don't, I would ask you not to
14 come in this courtroom 'cause I'm gonna continue to work,
15 again, won't concern this case but I got some other things I
16 gotta do, uh, and so I will ask you not do that. Don't
17 discuss the case, don't talk about it, don't think about it,
18 you're on lunch break from work, uh, but it's an extra long
19 lunch break, 2:00, you might even get a chance to run by, uh,
20 one a your favorite shoppin' places, shoot, I love to
21 go to Tractor Supply at lunchtime, suppertime, so anyway,
22 Mr. Foreman, take your jury out, I'll see you back at 2:00,
23 again, please be timely in your service, okay, I'm not goin'
24 very far, I'll be right here.

25 (The following takes place outside the presence of the

MOTIONS AND MATTERS

1 jury.)

2 THE COURT: Okay, we can be off the record, we just gonna
3 be in, uh, recess here until 2.

4 (Whereupon, a recess was taken.)

5 (Whereupon, Juror Number 238 came forward.)

6 THE COURT: Ms. McDonald, uh, we're back on the record
7 here 'cause I don't ever talk to jurors outside the presence
8 of the court reporter so we're tardy again today, can you tell
9 me where you've been, ma'am.

10 JUROR NUMBER 238: I have just exchanged my car, my car
11 was worked on this mornin', that's why I said that I didn't
12 need a, uh, officer in the mornin' and so I just picked up my
13 car.

14 THE COURT: So you went and switched cars and got
15 your ---

16 JUROR NUMBER 238: Yes, ---

17 THE COURT: --- car?

18 JUROR NUMBER 238: --- I got my car, my boyfriend had my
19 car. He took my car this mornin', ---

20 THE COURT: Okay.

21 JUROR NUMBER 238: --- he got it fixed or whatever and we
22 switched out cars.

23 THE COURT: Okay, well I've talked with the lawyers and
24 and here here, this this is, this is an official warning,
25 okay, uh, from here on out as long as this trial lasts I ---

MOTIONS AND MATTERS

1 JUROR NUMBER 238: Um-hum.

2 THE COURT: --- need you here timely, ---

3 JUROR NUMBER 238: Okay, ---

4 THE COURT: --- understand?

5 JUROR NUMBER 238: --- I will, ---

6 THE COURT: In the event ---

7 JUROR NUMBER 238: --- I will, sir.

8 THE COURT: --- that there's a violation of that, uh,

9 I've already talked to the lawyers, I'm gonna remove you from
10 the jury but if I have to do that I'm gonna hold a contempt
11 citation, ---

12 JUROR NUMBER 238: Alright.

13 THE COURT: --- okay, so, uh, I need you to be timely
14 because you're holding not only us up ---

15 JUROR NUMBER 238: Yeah, I I understand.

16 THE COURT: --- but you got thirteen other people back
17 there, okay.

18 JUROR NUMBER 238: Yeah, I understand.

19 THE COURT: Thank you, ma'am.

20 JUROR NUMBER 238: Thank you.

21 (Pause.)

22 (Whereupon, a discussion was held off the record.)

23 THE COURT: Ready for the jury?

24 MR. SMITH: Yes, Your Honor.

25 MR. SHEALY: Yes, Your Honor.

MARK STEVEN FINLEY - DIRECT EXAMINATION BY MS. WALTERS

1 THE COURT: We'll have the jury.

2 THE BAILIFF: Yes, Your Honor.

3 (Whereupon, a discussion was held off the record.)

4 (The following takes place in the presence of the jury.)

5 THE COURT: Mr. Foreman, any matters for the jury?

6 JURY FOREMAN: No, sir.

7 THE COURT: Ready to go?

8 JURY FOREMAN: Ready to go.

9 THE COURT: Solicitor.

10 MS. WALTERS: Thank Your Honor. The State calls its next
11 wit -- witness, uh, Deputy Mark Finley.

12 (Whereupon, the witness came forward.)

13 MARK STEVEN FINLEY, having been
14 first duly sworn, testified as follows:

15 THE CLERK: Have a seat there please, sir.

16 THE COURT: Officer, tell us your full name and spell
17 your last name for madam court reporter, please.

18 THE WITNESS: Full name is Mark Steven Finley,
19 F-I-N-L-E-Y.

20 THE COURT: Thank you. Solicitor.

21 MS. WALTERS: Thank Your Honor.

22 DIRECT EXAMINATION BY MS. WALTERS:

23 Q. Deputy Finley, what law enforcement agency are you
24 employed by?

25 A. Spartanburg County Sheriff's Office.

MARK STEVEN FINLEY - DIRECT EXAMINATION BY MS. WALTERS

1 Q. And how long have you been employed by Spartanburg County
2 sheriff's Office?

3 A. Thirty-one years.

4 Q. And what were the positions that you've held?

5 A. I've been a ID officer, patrol, detectives, um, currently
6 I'm family court security, um, sketch artist.

7 Q. And how long have you been in law enforcement, thirty-one
8 years?

9 A. That's it, um-hum.

10 Q. And do you have any other degrees?

11 A. Have a a bachelor of arts in journalism.

12 Q. Okay. And what are your present duties with the
13 sheriff's office?

14 A. Uh, well, court court security, we, um, we're assigned to
15 a judge, I'm assigned to a judge in family court and when she
16 is not present I, uh, go over to the warrant office and help
17 serve warrants, arrest warrants.

18 Q. And when you were, um, were you on patrol last year in
19 June?

20 A. No, last year I worked working in family court.

21 Q. You're working in family court and were you working on
22 the day of June the 17th of last year?

23 A. Yes.

24 Q. What shift were you working?

25 A. First.

MARK STEVEN FINLEY - DIRECT EXAMINATION BY MS. WALTERS

1 Q. And can you explain to the jury what shift that is, the
2 first shift, ---

3 A. It's ---

4 Q. --- what time a day.

5 A. --- 8:30 to 5.

6 Q. So you were here at at the courthouse?

7 A. Yes.

8 Q. And how did you get involved in this case?

9 A. Uh, Detective Clark called me and asked me if I could do
10 a sketch, um, kind of explained the situation and gave me an
11 address where I was to go to the home the victim and so it's
12 what I did.

13 Q. Do you remember what time of day that was?

14 A. I'd say middle a the afternoon.

15 Q. How did you get involved in doing sketches?

16 A. Uh, well I've always kind of enjoyed as a hobby sketching
17 faces and about twelve years ago I thought it might be
18 interesting to see if I could be the sketch artist at the
19 sheriff's office so, uh, I approached the sheriff about it, He
20 said, you know, that, uh, that might work, um, ---

21 Q. Were ---

22 A. --- that ---

23 Q. --- there other sketch artists the sheriff's office at
24 that time, were you the ---

25 A. No, ---

MARK STEVEN FINLEY - DIRECT EXAMINATION BY MS. WALTERS

1 Q. --- only one?

2 A. --- we were, that we were without sketch artist. Um, I
3 attended the FBI's 3-week course in in sketch artistry and we
4 went from there.

5 Q. When when was that that you attended that ---

6 A. Twelve ---

7 Q. --- class?

8 A. --- years ago.

9 Q. And you said it was for three weeks?

10 A. Three weeks, yes.

11 Q. And how did you get enrolled in the FBI class?

12 A. Uh, I took it upon myself to to call up there and find
13 out about the the little course and, uh, how I would go about
14 enrolling. Um, I had to send some, um, sketches that I've
15 done and then they they accepted me, you just don't walk into
16 the FBI's school, you have to kinda prove yourself so . . .

17 Q. So you you sent in sketches ---

18 A. Yes.

19 Q. --- and they approved you ---

20 A. Yes.

21 Q. --- and then you did the 3-week class?

22 A. Yes.

23 Q. So you've been doing sketches ever since then for the
24 sheriff's office?

25 A. Yes.

MARK STEVEN FINLEY - DIRECT EXAMINATION BY MS. WALTERS

1 Q. How many sketches would you say, rough estimate, have you
2 done since you started doing sketches with the sheriff's
3 office?

4 A. Actually I don't do that many, it's not like hundreds or
5 an anything like that, might be, I don't know, maybe
6 seventy-five.

7 Q. Have you done any sketches recently with the sheriff's
8 office?

9 A. I think this was the last sketch that I did.

10 Q. Last year? So we go back to the incident date on June
11 the 17th, so you were called as you stated by Investigator
12 Clark and you were working here, so what happened after you
13 got the call?

14 A. I I I have my, um, uh, paper, pencils and all that in the
15 car so I just went out to the address that Detective Clark had
16 told me, you know, where to go to the house and and I
17 proceeded to do the sketch.

18 Q. That was [REDACTED] Cannons Campground Road?

19 A. I remember it was on Cannons Campground Road.

20 Q. And who did you speak with when you arrived there to do
21 the sketch?

22 A. Um, the couple that lived there.

23 Q. Did you speak with, you speak with Geri Smith?

24 A. Whatever the lady's name is, I I've I've forgotten.

25 Q. When you start a sketch, how how does that work?

MARK STEVEN FINLEY - DIRECT EXAMINATION BY MS. WALTERS

1 A. Um, we -- well we sit down, I sit down with the the the
2 person I'm working with and the FBI has a a facial
3 identification catalogue that has hundreds of, uh, facial
4 features: eyes and noses, lips, shapes of head, hair, ears,
5 um, and I ask the the person to to think about, you know, the
6 face that we're going to do and then we go through the
7 catalogue and pick out the various features. Um, each feature
8 has a code beside it and I write down the code next to, if
9 it's eyes, that'll have a code, nose will have a code, and
10 when we're done picking out all the features, I can go back
11 and and flip through and and get those particular features and
12 and draw them.

13 Q. Your Honor, may I approach the witness?

14 THE COURT: Yes, ma'am.

15 (Whereupon, counsel approached the witness.)

16 Q. Deputy Finley, I'm handing you what's been previously
17 marked as State's Exhibit, first, let me show it to opposing
18 counsel.

19 (Whereupon, defense counsel examined the exhibit.)

20 Can you please tell the Court what it is that I'm handing
21 you.

22 A. That's the FBI facial identification fact sheet, um, that
23 is what I use to, um, enumerate features and put the codes
24 beside each feature so that I can go back later and and, uh,
25 look through the catalogue and pick the, that exact feature

MARK STEVEN FINLEY - DIRECT EXAMINATION BY MS. WALTERS

1 out.

2 Q. And at the top there's some information that's filled
3 out, can you read to the Court what information that is.

4 MR. SHEALY: Judge, I'm gonna object to reading, that's
5 hearsay and there's no other, there's no exception that would
6 allow this in, it would be like putting in a police report,
7 something like that.

8 MS. WALTERS: Your H -- Your Honor, may we approach?

9 THE COURT: Yeah.

10 (Whereupon, a bench conference was held off the record.)

11 MS. WALTERS: Your Honor, may I approach?

12 THE COURT: Yeah.

13 (Whereupon, counsel approached the witness.)

14 BY MS. WALTERS:

15 Q. Master Deputy Finley, can you please tell the Court, um,
16 which codes were given ---

17 A. You want me to read all these codes?

18 Q. --- and what was checked off.

19 A. Put on my glasses.

20 MR. SHEALY: Judge, may we approach again?

21 THE COURT: Yeah.

22 (Whereupon, a bench conference was held off the record.)

23 BY MS. WALTERS:

24 Q. Deputy Finley, can you recollect the description that
25 Ms. Smith gave you for you to be able to do the sketch in

1 reference to the facial features.

2 A. I I couldn't recollect all those features, been a year
3 ago, I mean, I can, I can look at this and tell but . . .

4 Q. Beg the Court's indulgence.

5 (Pause.)

6 Deputy Finley, I'm gonna backtrack a little bit to to
7 your code book and your process, so you're -- you have a
8 catalog you stated, how big is this catalog?

9 A. It's about that (indicating) thick and pages and pages
10 and pages.

11 Q. Is it separated by eyes, nose, mouth, all the facial
12 features ---

13 A. Yes.

14 Q. --- in different sections, ---

15 A. Yes.

16 Q. --- like different chapters of a book?

17 A. Yes, it's got hairstyles, um, yes.

18 Q. How many where you'd say are different options for each
19 chapter, just rough estimate, hundreds? more than a hundred?

20 A. Maybe a hundred per feature, ---

21 Q. Alright, about a hundred per feature ---

22 A. --- just say ---

23 Q. --- just a guesstimate.

24 A. --- there's ---

25 Q. And you stated that each feature has a code?

MARK STEVEN FINLEY - DIRECT EXAMINATION BY MS. WALTERS

1 A. Yes.

2 Q. So each each little picture ---

3 A. Is coded.

4 Q. --- is coded and from what Ms. Smith pointed out to you,
5 did she point out and say -- how did sh -- how did she
6 determine which which code for you to write down?

7 A. Well I'll normally tell people to just take a minute,
8 take a deep breath, maybe close your eyes, visualize the face
9 that you are going to describe to me, just relax, and, um,
10 then we will start from the head shape. You know there,
11 you've got round head, you've got square head, you've got
12 triangular heads and we we start there to get a basic kinda
13 framework for the face, um, and I will ask her what what what
14 shape would you say that head was and, you know, if they say
15 it was very round then there's a section in the book for very
16 round head shapes or triangular and we'll turn to that section
17 and I will say, Look at, look at all these options that you
18 have and tell me which one is the best fit, so then the person
19 will look, and they'll pick out one that, and then we'll write
20 the code for that specific picture then we will go to maybe
21 eyes and do the same thing, just visualize those eyes, tell me
22 a and look through this catalog, tell me which eyes and you
23 recall and and then noses, lips, ears, cheeks, jaw line, hair,
24 just specific until we worked all the way through, uh, ---
25 Q. So once you've gotten all those codes down after that's

MARK STEVEN FINLEY - DIRECT EXAMINATION BY MS. WALTERS

1 selected do you start drawing after that or do you, did you
2 take it and draw elsewhere, where did you do the sketch?

3 A. I did it at her kitchen table, um, and the person can be
4 sitting there or they can, if they have to kinda be in the the
5 same room or in the same house but go maybe somewhere. I can
6 do a lot of it on my own but I I bring 'em back and ask 'em
7 periodically, you know, how's this lookin', how's the shape a
8 that head lookin', is that kinda what your remember, uh, how
9 those eyebrows comin', you know, just we kinda collaborate,
10 um, ---

11 Q. So as soon as you got those code numbers you started
12 drawing that sketch right there ---

13 A. Yes.

14 Q. --- on her kitchen table and how long were you there
15 doing the sketch?

16 A. I don't re -- I I think it was maybe maybe a little over
17 two hours, that I think it took about thirty minutes to
18 forty-five minutes just to pick out the features, that that's
19 that's kinda the first part of procedure and it's very
20 important so that takes a while, um, but I don't exactly, it
21 was maybe two, two and a half hours to do the whole s -- whole
22 thing.

23 Q. Beg the Court's indulgence.

24 THE COURT: Yes, ma'am.

25 (Pause.)

MARK STEVEN FINLEY - DIRECT EXAMINATION BY MS. WALTERS

1 Q.9 Your Honor, may I approach the witness?

2 THE COURT: Yes, ma'am.

3 (Whereupon, counsel approached the witness.)

4 Q. Deputy Finley, I'm showing you what's been previously
5 marked as State's Exhibit 2, let me show this to opposing
6 counsel.

7 (Whereupon, defense counsel examined the exhibit.)

8 Can you please tell the Court what it is that I have just
9 handed you.

10 A. That is is a sketch of a male head, face.

11 Q. Did you do that sketch?

12 A. I I did.

13 Q. And how do you know you did that sketch?

14 A. Well my name is written down below the sketch and it says
15 2016 and I know it's my sketch.

16 Q. And is this a sketch you did for this incident?

17 A. Yes.

18 Q. Your Honor, at this time I'd like to introduce what's
19 been previously marked as State's Exhibit 2 into evidence.

20 MR. SHEALY: Judge, when they offered it with Ms. Smith I
21 objected, I'm gonna object again based on that Ms. Smith had
22 testified that it was not complete so it's not and an
23 incomplete sketch and meaning I don't, I think that it's maybe
24 it's irrelevant, ---

25 THE COURT: Yes, sir.

MARK STEVEN FINLEY - DIRECT EXAMINATION BY MS. WALTERS

1 MR. SHEALY: --- probably approach.

2 (Whereupon, a bench conference was held off the record.)

3 BY MS. WALTERS:

4 Q. Deputy Finley, when you were working on that sketch, did
5 any other law enforcement come to the home ---

6 A. No.

7 Q. --- when you were workin' on the sketch or when you were
8 ending the sketch?

9 A. Detective Clark, uh, came by as I was finishing the
10 sketch.

11 Q. And can you, uh, elaborate on that to the Court and ---

12 A. Um, that he came to the home with a a photographic
13 lineup.

14 Q. And you were fi -- finishing up at that time?

15 A. I had just finished.

16 Q. You had just finished.

17 A. Finished.

18 Q. Did he ask to speak with you or did he ask to speak to
19 the victim at that time?

20 A. He spoke with me briefly before he showed the lady the
21 lineup.

22 Q. But you had completed the lineup, ---

23 A. I had, yeah, ---

24 Q. --- I mean, excuse me completed sketch.

25 A. Yeah, it was complete.

MARK STEVEN FINLEY - DIRECT EXAMINATION BY MS. WALTERS

1 Q. Your Honor, at this time the State would again, uh, like
2 to introduce what's been previously marked as State's Exhibit
3 2 into evidence.

4 THE COURT: Mr. Shealy.

5 MR. SHEALY: I think that that covered my objection.

6 THE COURT: It's admitted without objection.

7 (State's Exhibit No. 2, sketch, admitted into evidence.)

8 MS. WALTERS: Your Honor, may I publish it to the jury?

9 THE COURT: Yes.

10 MS. WALTERS: Beg the Court's indulgence.

11 (Pause.)

12 BY MS. WALTERS:

13 Q. Deputy Finley, have you ever seen this, the defendant
14 Mr. Robertson before this incident?

15 A. No.

16 Q. How was Ms. Smith when she was giving you the details,
17 um, o -- for you to be able to do the sketch?

18 A. She was very positive, uh, very good at picking out the
19 features, she, uh, she had a good grasp of what features she
20 wanted to pick out.

21 Q. So she was, she was very quick at pi -- at picking those
22 out in the book?

23 A. Quick and decisive.

24 Q. Was this a very fast process for you doing the sketch or
25 for pickin' the codes out and doing the sketch?

MARK STEVEN FINLEY - CROSS-EXAMINATION BY MR. SHEALY

1 A. It was probly the fastest sketch I've done and she she
2 was quick, forty-five minutes to pick out features is is is
3 pretty quick.

4 Q. Now I know I just asked have you ever seen the defendant
5 Mr. Robertson before, have ya ever seen a picture of him
6 before you did the sketch?

7 A. No.

8 Q. So you had no idea what he looked like ---

9 A. No, ---

10 Q. --- 'fore this.

11 A. -- no idea.

12 Q. So you were going off what Ms. Smith had told you ---

13 A. Yes.

14 Q. --- in reference to his, all his features to be able to
15 create this sketch?

16 A. Yes.

17 Q. And one last question, Deputy Finley, after you did the
18 sketch did you leave the residence?

19 A. Yes.

20 Q. Okay. No questions at this time, Your Honor, ---

21 THE COURT: Mr. Shealy.

22 Q. --- further questions.

23 MR. SHEALY: Thank Your Honor.

24 CROSS-EXAMINATION BY MR. SHEALY:

25 Q. Just couple a questions. So you see what's been marked

MARK STEVEN FINLEY - CROSS-EXAMINATION BY MR. SHEALY

1 as State's 3, marked as, was it State's 2, yeah, what's marked
2 as State's 2, in that description that you were given was
3 there any mention of whiskers, mustache, beard, any a that?

4 A. I don't know, I don't think she mentioned a mustache,
5 beard or any facial hair.

6 Q. Didn't mention any facial hair, okay, that's all I have
7 for this witness.

8 THE COURT: Thank you. Sir, you may step down, please be
9 careful.

10 (Whereupon, the witness left the stand.)

11 THE COURT: You need the officer to stay, Solicitor?

12 MS. WALTERS: Beg beg the ---

13 MR. SMITH: Can ---

14 MS. WALTERS: --- Court's indulgence.

15 MR. SMITH: --- can we ask one follow-up question of that
16 witness related to that point?

17 THE COURT: Related to the one point.

18 MR. SMITH: Yes, Your Honor.

19 THE COURT: Come back up, Officer.

20 (Whereupon, the witness returned to the stand.)

21 REDIRECT EXAMINATION BY MR. SMITH:

22 Q. Did your interaction making this ---

23 MR. SHEALY: Judge, I'm gonna object, it's Ms. Walters'
24 witness. Ms. Walters ---

25 THE COURT: Her witness.

MARK STEVEN FINLEY - REDIRECT EXAMINATION BY MS. WALTERS

1 MR. SHEALY: --- has to answer the question -- ask the
2 question.

3 REDIRECT EXAMINATION BY MS. WALTERS:

4 Q. I'm just gonna confirm one point, Deputy Finley, your
5 interaction was with Ms. Smith, the female victim.

6 A. As far as the sketch goes, yes.

7 MS. WALTERS: Thank Your Honor.

8 THE COURT: Anything as to that one question?

9 MR. SHEALY: Uh, no, ---

10 THE COURT: Sir, you may ---

11 MR. SHEALY: --- Your Honor, ---

12 THE COURT: --- step down.

13 MR. SHEALY: --- I I got nothin'.

14 (Whereupon, the witness left the stand.)

15 MR. SMITH: Um, State calls Detective Tom Clark.

16 (Whereupon, the witness came forward.)

17 THOMAS LOREN CLARK, having been
18 first duly sworn, testified as follows:

19 THE CLERK: Thank you, have a seat please.

20 THE WITNESS: Yes.

21 THE COURT: Sir, tell us your name and spell your last
22 name for my court reporter, please.

23 THE WITNESS: My name's Thomas Loren Clark, my last name
24 is spelled C-L-A-R-K.

25 THE COURT: Solicitor.

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 DIRECT EXAMINATION BY MR. SMITH:

2 Q. Uh, Detective Clark, where are you employed?

3 A. The Spartanburg County Sheriff's Office.

4 Q. How long have you been there?

5 A. Uh, just under twenty years.

6 Q. What have you done at your time with the sheriff's
7 office?

8 A. I was initially assigned to uniform patrol for a short
9 period then uniform patrol policing which involved
10 neighborhood watch programs and investigations, uh, targeting,
11 uh, high risk, uh, crime area, I then transferred to uniform
12 patrol investigations, um, short time after that I was
13 transferred to investigations where I've worked property
14 crimes, um, arsons, white collar cases, um, the Special
15 Victim's Unit and for the last six years I've been part a the
16 Violent Crimes Unit and I now work cold case homicide.

17 Q. Okay. Were you worked the Violent Crimes Unit back on
18 June 17th of 2016?

19 A. Yes, sir, my main function was rob -- or what was
20 robberies.

21 Q. Robbery was your specialty?

22 A. Yes, sir.

23 Q. Um, how did you find out about this case on June 17th of
24 2016?

25 A. I was notified initially, um, by a supervisor, um, that

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 the incident had occurred and that there were officers
2 responding.

3 Q. Uh, where did you go first?

4 A. I initially went to the bank, I was advised that a, that
5 the victims had been taken to a, to the bank, um, to their
6 bank where that check -- where check was cashed, ---

7 Q. Alright.

8 A. --- this was the SC Telco at Herring Circle.

9 Q. Herring Circle. Uh, who did you speak to when you were
10 there?

11 A. Ms., uh, Julie Ponyer ---

12 Q. Alright.

13 A. --- Pennyor, sorry.

14 Q. Pennoyer?

15 A. Pennoyer.

16 Q. Um, what was her position at the bank?

17 A. I don't, um, I don't recall exactly what her position was
18 at that time.

19 Q. She some sort of supervisory role you imagined?

20 A. Yes, sir.

21 Q. Um, what did you ask her?

22 A. I explained to her the situation and briefly what was
23 going on and asked her if we could view the video of the
24 transaction.

25 Q. Did you have the time of when you thought the tra --

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 transaction happened or did ---

2 A. Yes.

3 Q. --- she look up the transaction?

4 A. I had an approximate time. Um, I gave her the victim's
5 name and she was able to pull up the transaction and based off
6 that information pull up the video.

7 Q. Okay, and did you watch the video while you were at the
8 bank?

9 A. Yes, sir.

10 Q. Uh, Your Honor, I'd like to once again publish, uh, the
11 bank video Detective Clark saying what he saw on it.

12 MR. SHEALY: Uh, gonna object to Detective Clark saying
13 what he sees on it, the video can speak for itself. He wasn't
14 there, he can't narrate the video, Judge, I would object to
15 that, I believe that the video speaks ---

16 THE COURT: Video speaks ---

17 MR. SHEALY: --- for itself.

18 THE COURT: --- for itself. Well you wanna ask him a
19 question 'bout the video?

20 MR. SMITH: Make observations of what he believed he saw
21 in the video, what he sees in the video.

22 THE COURT: Well ya'll come here.

23 (Whereupon, a bench conference was held off the record.)

24 THE COURT: Okay, alright.

25 BY MR. SMITH:

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 Q. You watch the security video with Ms. Pennoyer?

2 A. Yes, sir.

3 Q. After watching the video you decided to continue your
4 investigation of the case?

5 A. Yes, sir.

6 Q. What did ya do at that point?

7 A. I then re -- I requested a copy of the video and a copy
8 of the check that had been presented by Mr. Williams for four
9 thousand one hundred dollar.

10 Q. Did you get copies of it that day?

11 A. No, sir, ---

12 Q. Alright.

13 A. --- she had to go through her legal process to be able to
14 find.

15 Q. Okay. Uh, where did you go after you'd been to the bank?

16 A. I went to the scene on Cannons Campground Road.

17 Q. [REDACTED] Cannons Campground ---

18 A. Yes, sir.

19 Q. --- Road? Uh, what did you observe when you got there?

20 A. When I first arrived on scene, um, I spoke briefly with
21 the responding officer, um, and then spoke with the forensics
22 officer, um, about processing the scene, um, what was gonna be
23 processed, things of that nature and ---

24 Q. Can you ---

25 A. --- then ---

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 Q. --- explain what a forensics officer is.

2 A. They, um, take photographs of the scene, process the
3 scene for fingerprints, um, things of that nature, ---

4 Q. That would be ---

5 A. --- collecting ---

6 Q. --- kind of ---

7 A. --- evidence.

8 Q. --- like a CSI-type guy?

9 A. Something a -- something along that line, they process or
10 collect any evidence.

11 Q. Okay. Uh, can you describe what the house is like or
12 what the trailer is like.

13 A. It's mobile home. Um, when you go up your front door is
14 almost to the center, front center a the residence, there's a
15 s -- a front porch 10 by 10, um, roughly to my estimate, uh,
16 there's stairs coming up if facing the residence to the right,
17 um, they're out just a bit from the residence, there's a small
18 partition fence right here (indicating) and then the door is
19 in, roughly in the middle of the porch.

20 Q. Okay. Did you see any signs of forced entry on the front
21 door?

22 A. No, sir.

23 Q. You continue on into the house?

24 A. Yes, sir.

25 Q. What did you see inside the house?

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 A. Inside the house the back window had been taped, there
2 was glass laying on the kitchen floor just inside ---

3 Q. Okay.

4 A. --- the back window, um, there was a safe. When you walk
5 in the residence, it's kind of open up and there's a partition
6 between the living room area, dining room area and the kitchen
7 area, it's like a little like this (indicating) way to go to
8 the kitchen and in the dining room area there's a partition
9 say about this (indicating) high and then on the other side is
10 a little table, uh, there's a room to this (indicating)
11 direction and there was a safe that had been, look -- appeared
12 that someone had been trying to get in it in that the door had
13 been vandalized.

14 Q. Okay, I'm gonna hand you a couple pictures and ask if you
15 can tell me what these are.

16 MR. SHEALY: Should be over there (indicating).

17 Q. Yeah. This is State's Exhibit 26, 27, 28 and 29, ask if
18 you can identify what these are.

19 A. Yes, sir, this (indicating) is the, uh, front of the
20 mobile home.

21 Q. Okay, that's as you believe as you saw it that day?

22 A. Yes, sir.

23 Q. Alright.

24 A. This (indicating) photograph is the dining room area to
25 the back door, ---

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 Q. Okay.

2 A. --- um, the, where the tape, where the window was taped
3 up, it's photograph number 27 or i -- item number 27, I'm
4 sorry. Um, this (indicating) is the floor, um at the base a
5 the door that had been damaged where we believe entry had been
6 gained and then this (indicating) is another photograph of
7 that same, it's just a more closer, more detailed photograph.

8 Q. Are all four of those true and accurate copies a what you
9 saw back when you responded to the scene ---

10 A. Yes, sir.

11 Q. --- at Cannons Campground? 'Your Honor, this point we'd
12 like to move State's Exhibit 26 through 29 into evidence with
13 permission to publish.

14 MR. SHEALY: No objection.

15 THE COURT: Without objection they're admitted, you may
16 publish.

17 (State's Exhibit Nos. 26, 27, 28 and 29, photographs,
18 admitted into evidence.)

19 BY MR. SMITH:

20 Q. State's Exhibit 26, is this (indicating) the the door
21 that's the taping that you're talking' about?

22 A. Yes, sir.

23 Q. Is this (indicating) the, what you're referring to as
24 what you I guess believe is the window that had previously
25 been there?

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 A. Yes.

2 Q. Okay, State's Exhibit 28.

3 A. That is a closer-up picture of the ---

4 Q. Appears to be ---

5 A. --- floor betwe -- at the door, this is the chair right
6 here (indicating) and table ---

7 Q. Looking ---

8 A. --- right ---

9 Q. --- straight down?

10 A. Yes, sir.

11 Q. Finally 29.

12 A. And that's a closer-up ---

13 Q. Okay, that was was this (indicating) glass?

14 A. Yes, sir.

15 Q. Um, did you speak with the victims, I know you said that
16 you directed ID what to do, what did you tell them to to do as
17 far as processing the scene?

18 A. We were told, I was told by the responding officer and by
19 the forensics officer who was on scene on my arrival that they
20 had been advised that, by the victims that the, um, suspect
21 wore gloves during the encounter, um, so it was believed that
22 there were not going to be any fingerprints; however, to err
23 on the side a caution, um, was not sure that gloves were worn
24 the entire time so there were so -- and and some items had
25 been moved in the residence, um, so I asked that they be

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 processed, look for prints and and to be photographed.

2 Q. Okay. Uh, did you do anything with -- did -- the car, is
3 that included as part of the crime ---

4 A. Yes.

5 Q. --- scene?

6 A. Yes, sir.

7 Q. Do you have them ---

8 A. Yes, sir.

9 Q. --- photograph and ---

10 A. Yes, sir.

11 Q. --- fingerprint that as well? Um, what else do -- what
12 did you do next to continue your investigation?

13 A. I reviewed, I was advised by responding officer that the
14 victims were separated and want that upon his arrival, um, and
15 were provided written statements, I then went on to, read the
16 written statements and then went over the written statements
17 with each one the victims.

18 Q. Okay. Did you -- do you look around the area and see
19 just ki -- what kind of area is this area of Cannons
20 Campground Road?

21 A. It's, there, and I forget the name of it, there is a, uh,
22 mortuary, uh, directly across the street, it's just past, uh,
23 Mary Black Hospital if you're leaving Spartanburg and it's
24 almost across from Summit Hills Nursing Home. There is
25 another road that intersects, corresponds right there

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 (indicating) so you can actually, their driveway when you come
2 off Cannons Campground it kinda comes up beside the the end a
3 the mobile home and you can look around back onto this little,
4 and I don't remember the name a the road, um, I got, well I
5 walked outside, um, with, um, the responding officer and the
6 forensics officer and canvassed the area around the property.
7 There's, um, part of the property belonging to the victim was
8 on to the back side, um, went around there to see if there was
9 anything of evidentiary value there, um, I then after speaking
10 with the victims, um, and their statements, um, canvassed the
11 area to see if there was any potential video.

12 Q. Did you find any places that you ---

13 A. No, sir.

14 Q. --- thought -- so you didn't pull any video from
15 anywhere?

16 A. No, sir.

17 Q. Um, you spoke with both a the victims while you were
18 there after they had completed their statements?

19 A. Yes, sir.

20 Q. Uh, did you understand if any of them had seen
21 the suspect's face?

22 A. Yes, ma'am, ---

23 Q. Alright.

24 A. --- yes, sir. Um, Ms. Smith indicated, she said she saw
25 the defendant's face or the suspect's face and said that, um,

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 she said she saw his face.

2 Q. Okay, what did you do then?

3 A. I asked her, um, if she felt like she would be able to
4 describe him to a sketch artist to potentially give a, um, for
5 him to generate composite photograph.

6 Q. What did she say?

7 A. She said she could.

8 Q. What did you do that point?

9 A. We talked a few, a little while further and she said that
10 she felt like, she she said that she could recognize the
11 person if she saw him again.

12 Q. Okay.

13 A. Um, after talking to her briefly she wa -- she was
14 visibly shaken, um, after talking to her briefly, um, I
15 requested, um, I contacted Sergeant Bradley and asked her
16 if O -- Deputy Finley would be available to respond to speak
17 with M -- uh, Ms. Smith about doin' composite.

18 Q. Okay. What did you do then?

19 A. I spoke with Deputy Finley, I gave him the address where
20 he needed to respond to, um, I explained to Ms. Smith that
21 Deputy Finley would be responding, he would be in a marked
22 unit, um, so that she didn't, if she saw an unexplained
23 vehicle pull up she didn't need to worry, that it would be a
24 marked unit and then I returned to the sheriff's office to
25 further inves -- start the investigation.

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 Q. Um, so were -- you were not present at the scene when
2 Deputy Finley arrived ---

3 A. No, sir.

4 Q. --- begin the sketch?

5 A. No, sir.

6 Q. Uh, did you communicate to Deputy Finley, that did you
7 have a suspect in mind, did you communicate anything to Deputy
8 Finley other than where to go?

9 A. No, that, uh, that was all I, all I gave him.

10 Q. Um, what happened when you return to the sheriff's
11 office?

12 A. When I return to the sheriff's office, um, I was able to
13 continue, other investigators, I was given the name of an
14 individual who was known to that area ---

15 Q. Uh, ---

16 MR. SHEALY: Objection, ---

17 A. --- to ---

18 MR. SHEALY: --- Your Honor, we may approach.

19 (Whereupon, a bench conference was held off the record.)

20 BY MR. SMITH:

21 Q. You were speaking to -- you ha -- you had a description
22 from the victims ---

23 A. Yes, sir.

24 Q. --- combined what the suspect ---

25 A. Basically from Ms. Smith, yes, sir.

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 Q. Alright, okay. Um, alright, and when you returned to the
2 sheriff's office what did you do?

3 A. I, I was able to develop a, through speaking with
4 investigators, a name of a person who lived and was known to
5 be in the area that matched that description, ---

6 Q. Okay, ---

7 A. --- um, ---

8 Q. --- and who was that?

9 A. That was Mr. Robertson.

10 Q. Alright, and then what did ya do?

11 A. I then generated a photo lineup contained Mr. Robertson.

12 Q. Okay, can you explain how a photo lineup gets
13 generated, ---

14 A. Our ---

15 Q. --- least at the sheriff's off -- at the Spartanburg
16 Sheriff's Office.

17 A. --- our system we, um, we type in person's name, it
18 gives, um, it has parameters set up for their height, weight,
19 age, hair color or its complexion, skin complexion, things of
20 that nature, basically to encompass their physical
21 description, um, and then it generates matches, potential
22 matches to go with that, people that look like that, have the
23 same basic physi -- physical description.

24 Q. Okay, and so I I'm guessing the computer takes a
25 description and pulls people that based off certain parameters

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 are in a range that looks like ---

2 A. Yes, sir.

3 Q. --- the person that you start with.

4 A. Yes, sir.

5 Q. Uh, and then you said you get a big list of results or
6 maybe a small list a results but ---

7 A. It depends on the person and on physical description,
8 sometimes you may get small amount, sometimes you may get one.

9 Q. And then do you pick which of that list goes in in
10 addition with the ---

11 A. You can, yes, you do, yes, sir.

12 Q. Is that, is that how you generate ---

13 A. Yes, sir.

14 Q. --- this one? Okay. Um, I'll show you what's previously
15 been admitted as State's Exhibit 4, ask if you can identify
16 what this is.

17 A. Excuse me. Yes, sir, this is the photo lineup I
18 generated.

19 Q. Alright, and which position is Mr. Robertson in on the
20 photo array?

21 A. Position number 5.

22 Q. Okay. Permission to publish this to the jury, Your
23 Honor. Um, ---

24 THE COURT: What is that, it's 2?

25 MR. SMITH: This is, uh, State's Exhibit 4.

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 THE COURT: State's 4, okay.

2 Q. Um, so after you get the photo lineup array, what did you
3 do next?

4 A. We also have an affidavit that we have to take with us
5 when we present a photo lineup.

6 Q. And what does the affidavit generally say?

7 A. It's instructions, um, for presenting the photo lineup
8 and ---

9 (Whereupon, a discussion was held off the record.)

10 --- it's instruction for presenting the photo lineup and
11 it's also the place for the victim if they do identify someone
12 from the photo lineup for them to fill out and for them to
13 sign.

14 Q. So is -- there's a routine instruction that you give
15 to ---

16 A. Yes, sir.

17 Q. --- everybody that you show a photo ---

18 A. Yes, sir.

19 Q. --- lineup to? What's the purpose of that instruction
20 being the same every time everything?

21 A. Consistency and to make sure that the photo lineup is
22 fair and not biased.

23 Q. Alright. I'm gonna show you what's previously been
24 admitted as State's Exhibit 5 ask if you can identify that.

25 A. Yes, sir, this is the affidavit that, um, Ms. Smith

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 signed on ---

2 Q. Okay. What do you explain to the person that you're
3 presenting a photo array to or how do you explain to them,
4 just go through it like you'd be goin' through it on a routine
5 day.

6 A. We tell 'em, uh, prior me doin' instructions that
7 suspect's facial descriptions, hair, facial hair may change,
8 body weight may change, I as a standard I take it a little bit
9 further, this says that, um, their facial hair may change, um,
10 that they're not compelled to identify anybody, the suspect
11 may may not appear as they did when the incident occurred,
12 depending on the time frame of the incident, um, they're due
13 to change in hairstyle, facial hair, um, or the quality of
14 photograph and witness that, um, not to discuss the procedure
15 with any other witnesses that there may potentially be.

16 Q. Okay.

17 A. I take it a step further, um, when I show a photo lineup
18 I tell the person that the person that committed the crime or
19 the wit -- person that they witnessed in a crime may or may
20 not be in the lineup, ---

21 Q. Right.

22 A. --- not to feel compelled to identify anybody and not to
23 eliminate anybody, to look at each picture individually, if
24 they recognize someone to tell me who and where they recognize
25 them from because they may recognize someone in the photo

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1 lineup from somewhere else which has happened to me before.

2 Q. Okay. Uh, this is the, an original copy of the lineup
3 that was presented to Ms. Smith?

4 A. Yes, sir.

5 Q. It -- why is it in black and white?

6 A. Ms. -- Mr. Robertson, um, and and he has very blue eyes,
7 uh, his eyes stand out, um, could not in the lineup pull, find
8 compatible individuals with eyes that would not make him stand
9 out on the photo or we're taught our photo lineup that there's
10 supposed to be consistency across the board as best we can do
11 so sometimes photo lineups will be in color, um, I would -- I
12 did not want to because of Mr. Robertson's eyes I felt that if
13 I had done the photo lineup in color that it would have been
14 biased, um, because of his eye color or or 'cause of his eye
15 color.

16 Q. Alright, uh, when you got back to the scene, what was
17 happening at Cannons Campground Road?

18 A. Deputy Finley had just, was just finishing up and just,
19 uh, was basically just finished up with the, uh, with the
20 sketch.

21 Q. Okay. Uh, what did you do?

22 A. I spoke with, um, Deputy Finley briefly, um, about the
23 sketch, asked him how things went, um, he explained that, um,
24 Ms. Smith did a good job, she, as far as feeling very
25 confident, very comfortable with the process, um, and that she

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 was confident, um, and positive with the composite that had
2 been generated.

3 Q. Okay. Did you look at the composite?

4 A. I s -- yes, I did.

5 Q. Alright, and then what did you do?

6 A. After which, um, I then spoke with Ms. Smith and advised
7 her that I needed her to look at some photographs and, um,
8 gave her the instructions that I mentioned a few minutes
9 ago.

10 Q. Okay, and describe how the selection process went.

11 A. When she first looked at the photographs, she said number
12 1's hair stuck up similar to what the suspect's hair, it's how
13 the hair, his hair was, um, and then she immediately went to
14 number 5, looked at him and went to number 5 and said that
15 number 5 was the person that robbed them.

16 Q. Okay, so would you describe it as decisive?

17 A. Yes, sir. I I asked her and it's in the affidavit, um,
18 if she was positive in her identification and she said she
19 was.

20 Q. Alright, at that point what did you do?

21 A. At that point I went back to the sheriff's office, I
22 typed up a supplemental, um, adding, um, Mr. Robertson as the
23 suspect in the investigation and went and presented the case
24 to a magistrate ---

25 Q. For warrants?

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 A. --- for warrants.

2 Q. Alright. Um, and that all of this events that we've
3 described in testimony occurred on June the 17th?

4 A. Yes, sir.

5 Q. Um, does the -- do you have the affidavit sheet that she
6 signed, what time is it?

7 A. She signed the affidavit, I presented it to her and she
8 signed the affidavit at, um, 1745 which is 5:45 p.m.

9 Q. Okay. Do you remember when the incident was reported?

10 A. It was roughly 11:45 that I wa -- I was, just after 11:45
11 when I was notified.

12 Q. Okay. Uh, was Mr. Robertson ultimately picked up on
13 those warrants?

14 A. Yes, sir, he was.

15 Q. Was -- do you -- did you have an opportunity to speak
16 with him?

17 A. Yes, sir, I did.

18 Q. Where did that occur?

19 A. At the sheriff's office.

20 Q. Um, prior to speaking with him did you go over his
21 rights?

22 A. Yeah. Yes, sir, I did.

23 Q. Uh, did he understand them?

24 A. Yes, sir.

25 Q. Was he in handcuffs when you began the interview?

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 A. No, sir.

2 Q. Okay, so it's just s -- describe a room that these
3 interviews take place in.

4 A. The, um, I don't mean to interrupt, if she's looking for
5 the Miranda form it's in case file packet, it's not in the
6 evidence sheet, ---

7 Q. Alright.

8 A. --- I mean, evidence envelope. It, um, it's roughly a 12
9 by 12 room, maybe a little bigger, maybe a little smaller, I
10 never measured it, um, there is a table a little bit smaller
11 than the tables the attorneys are sittin' at, um, and then
12 there's, um, two chairs, one chair on one side, one chair
13 on -- at the end and another chair on the other side ---

14 Q. Okay.

15 A. --- which which Mr. Robertson was sitting at when when I
16 entered the room.

17 Q. Is there a form that you go over, I mean, or do you just
18 tell them what their rights ---

19 A. We read them their rights from, uh, ---

20 Q. Hold on one sec.

21 A. We read them their rights from a form provided by the
22 sheriff's office.

23 Q. Alright, it's just like the photo identification form, is
24 it the same thing ---

25 A. Yes, sir.

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 Q. --- every single time?

2 A. Yes, sir.

3 (Miranda pre-interrogation waiver form marked State's
4 Exhibit No. 31 for identification.)

5 Q. I'm gonna hand you what's been marked as State's
6 Exhibit 31 ask if you can tell me what this is.

7 A. Yes, sir, this is the Miranda form that was, uh,
8 presented to Mr. Robertson.

9 Q. Was that the original?

10 A. Yes, sir.

11 Q. Uh, your Honor, this time I'd like to move State's
12 Exhibit 31 into evidence with permission to publish it.

13 MR. SHEALY: No objection.

14 THE COURT: Without objection State's 31.

15 (State's Exhibit No. 31, Miranda pre-interrogation waiver
16 form, admitted into evidence.)

17 Q. Do you have the defendant acknowledge with signature that
18 they understand the rights?

19 A. Yes, sir, and then we also has a -- have them -- it
20 notarized.

21 Q. Okay. Was somebody else present in there with you when
22 you interviewed him?

23 A. Yes, sir.

24 Q. Okay. What does he have listed as his ---

25 A. He ---

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 Q. --- home?

2 A. --- s -- he stated that he was homeless.

3 Q. Okay. Just for some biographical information, I know you
4 probly don't just lead in in an interview with get down to
5 gist of things, what did Mr. Robertson tell you about what he
6 had been, what had been going on in his life?

7 A. He said that he had, um, lost his job sometime earlier I
8 believe, um, bear with me just a second.

9 MR. SHEALY: This is objection, Your Honor, I'm gonna
10 object to relevance. What -- I I don't see how -- that
11 question is; one, vague, what was goin' on in
12 his life at the time and; two, I don't see how it's relevant
13 to ---

14 Q. Was Mr. Robertson employed?

15 THE COURT: Well hang on a second. Did - did --
16 Solicitor.

17 MR. SHEALY: So those would be my objections, Your Honor.

18 MR. SMITH: Well we can withdraw it, we've already ---

19 (Indiscernible cross-talk.)

20 THE COURT: No, I mean, you're gonna make -- you got, you
21 got a a point, you gonna make it relevant or . . .

22 MR. SMITH: Yes, Your Honor, I I -- we wanna approach.

23 (Whereupon, a bench conference was held off the record.)

24 BY MR. SMITH:

25 Q. Was he employed at at the time?

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 A. No, sir, he said he was not.

2 Q. Did he tell you where he had recently been staying?

3 A. Here and there in the woods, ---

4 Q. What -- can you further ---

5 A. --- either Highway 9 area, ---

6 Q. Okay.

7 A. --- um, and different different friends and and and
8 mainly in the woods.

9 Q. Okay. Are are we talking multiple locations?

10 A. Multi -- yes, sir, multiple locations.

11 Q. Alright. What about any family members or other pla --
12 re -- actual residences that he stayed.

13 A. He would -- he said that he would stay, go to a friend's
14 house on White Street here in Spartanburg off Howard Street.

15 Q. Okay, and who was that friend?

16 A. Terri Lynn Johnson.

17 Q. Alright, did he say how he knew Ms. Johnson?

18 A. She was an ex-girlfriend.

19 Q. Anybody else that he stayed with: family members or, um,
20 friends, anything?

21 A. He didn't mention any -- I don't -- I -- and he didn't
22 mention anybody specific, ---

23 Q. Alright.

24 A. --- um, that I recall, he just was that he would stay
25 with different friends and and and and in the woods at

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 different locations.

2 Q. Okay. Um, when you asked him about June 17th, what did
3 he tell you, where'd he tell you he had been?

4 A. He had been with Terry Lynn Johnson at her mother's
5 residence on White Street the entire day.

6 Q. Alright. Is, when you speak to Mr. Robertson and you get
7 the name Terri Johnson, is that the first time that you've
8 heard that name in relation to this case?

9 A. Yes, sir.

10 Q. Alright. So he denied any involvement in this crime.

11 A. Yes, sir.

12 Q. Did he mention any areas that he hangs out and frequents,
13 I know he's homeless and has places around but ---

14 A. Highway 9, uh, near Zaxby's, the, in the wooded areas up
15 in there.

16 Q. Okay, any other places that he mentioned?

17 A. The Highway 9 corridor and there were some other places
18 over near Cannon's Campground Road, uh, or in Gossett Road
19 area, just that that general vicinity.

20 Q. Do you know why he'd be in Gossett Road?

21 A. His mother, uh, lives on Gossett Road, I don't remember
22 the exact address.

23 Q. Is is Goss -- is that area close to [REDACTED] Cannons
24 Campground Road?

25 A. It's it's a couple miles down the road but it in --

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 actually intersects with Cannons Campground Road.

2 Q. Alright. So did that essentially conclude your interview
3 with him?

4 A. Yes, sir. at that point, um, yes, sir.

5 Q. Okay. What did you do after you spoke with him?

6 A. I then, myself and other investigators responded, 'scuse
7 me, to the area of Zaxby's and the woodline there and the
8 woodline across the street where the Waffle House is.

9 Q. On Highway 9?

10 A. Yes, sir, right there above, um, 85.

11 Q. What was your purpose of 'goin' to this area?

12 A. To try to locate any place that he might be staying, any
13 clothing ---

14 Q. Okay.

15 A. --- or anything of like -- of that nature that might
16 belong to Mr. Robertson.

17 Q. Did you ultimately find anything?

18 A. We fou -- we did find some articles of clothing and other
19 items.

20 Q. Show you what's been previously marked as State's 19 and
21 20 and ask if you can tell the jury what these are.

22 A. It's a backpack with some clo -- a back, um, black bag,
23 I'm sorry, uh, with some jeans and some clothing in it and a
24 drink bottle next to it.

25 Q. Is that what you found at the, in the location that he

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 had described to you?

2 A. Yes, sir.

3 Q. Is that an accurate representation of what you found that
4 day?

5 A. Yes, sir.

6 Q. Your Honor, at this point I'd like to move Defendant's 19
7 and 20 into evidence.

8 MR. SHEALY: Again, Judge, I'm objecting for relevance
9 because they they can't even prove these articles of clothing
10 are Mr. Robertson, at least I haven't heard any testimony
11 ties them to my client.

12 THE COURT: Solicitor.

13 MR. SMITH: He went to the area off of his description of
14 where he had been staying.

15 THE COURT: They're they're relevant, they're admitted
16 over objection.

17 (State's Exhibit Nos. 19 and 20, photographs, admitted
18 into evidence.)

19 MR. SMITH: Your Honor, may I publish 'em to the jury?

20 THE COURT: Yes, the numbers again?

21 MR. SMITH: 19 and 20.

22 THE COURT: Yes, sir, you can publish.

23 BY MR. SMITH:

24 Q. Alright, did you find anything of evidentiary value to
25 this case and these belongings?

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 A. No, sir.

2 Q. Alright. What did you do after you found this
3 location?

4 A. Finished canvassing the area and went, I -- the Days Inn,
5 just behind the woodline where we're at is Fatz, Capri's and
6 then the Days Inn rest, uh, the Days Inn Hotel, ---

7 Q. Okay.

8 A. --- um, I decided to go to the Days Inn Hotel to see if
9 Mr. Robertson had by chance been staying there.

10 Q. What was your reason for suspicion of that or why did
11 your head go that way?

12 A. Um, a check for forty-one hundred dollars in cash as well
13 as cash had been taken from the victims so someone that is
14 homeless and has come into some money is more than likely
15 gonna not wanna be homeless and ---

16 MR. SHEALY: I'm gonna object, Judge, that's just
17 speculation.

18 THE COURT: It's it's overruled, go ahead.

19 Q. Um, ---

20 A. --- so I went to the hotel to see if he had stayed
21 there.

22 Q. Okay. Who did you speak to when you were at the hotel?

23 A. I spoke with the manager slash owner, Mike Doshi.

24 Q. And what did you say to Mr. Doshi?

25 MR. SHEALY: Objection, Your Honor, that calls for

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1 hearsay.

2 THE COURT: He asked what he said.

3 MR. SMITH: What did he ---

4 MR. SHEALY: What ---

5 MR. SMITH: --- say.

6 MR. SHEALY: --- he said, that's still a statement out of
7 court.

8 THE COURT: What he ---

9 MR. SMITH: What ---

10 THE COURT: --- said.

11 MR. SMITH: --- what ---

12 MR. SHEALY: Yes, sir, but if we may approach.

13 THE COURT: Yes.

14 (Whereupon, a bench conference was held off the record.)

15 THE COURT: How 'bout, uh, don't talk about the case,
16 take the jury out for just a minute.

17 (The following takes place outside the presence of the
18 jury.)

19 THE COURT: Mr. Shealy.

20 MR. SHEALY: Judge, my position is anything that he said
21 to Mr. Doshi and anything that Mr. Doshi then said to him is
22 hearsay and it's made hearsay by the fact that believe he's
23 gonna testify as to things that he did after Mr. Doshi talked
24 to him, that builds upon the hearsay and I think that all of
25 that, everything that he's going to talk about from the Days

MOTIONS AND MATTERS

1 Inn Hotel Mr. Doshi has already testified he doesn't remember
2 any a this conversation ---

3 MR. SMITH: Okay.

4 MR. SHEALY: --- and I I think that it's gotta stop at
5 that point when Mr. Doshi says, I don't remember anything
6 about this conversation. They don't -- they can't go around
7 with the hearsay rule by saying that he asked if this person
8 was here and then he went and talked to Mr. -- Ms. Johnson and
9 then he did this based on all, based on what Mr. Doshi says he
10 doesn't remember having said; in other words, it it's all
11 simply hearsay, it builds upon hearsay and it's a way, they
12 can't circumvent a hearsay rule simply by having him by some
13 kind of clever manipulation of he asked these questions,
14 Mr. Doshi gave some answer, we're not going to say what
15 the answer is but he gave some answer, And then I went to
16 Ms. Johnson, I I think that that, again, that that's simply
17 not permissiveness, that shoehorns or it circumvents our
18 hearsay rules and we've already had as I've said Mr. Doshi
19 testified that he doesn't remember anything about this
20 conversation.

21 THE COURT: Okay, Solicitor.

22 MR. SMITH: Your Your Honor, that that is admissible, I
23 mean, and you can say that you had a meeting with somebody and
24 then after the meeting what did you do, don't tell me what
25 they said, he's not gonna testify anything to what Mr. Doshi

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1 testified, we went through this in a, in a proffer earlier,
2 Your Honor, but he can testify about what he s -- he cer -- I
3 don't know how it's hearsay for him to testify about what he
4 said, I don't know how witnesses could testify otherwise but
5 it -- what what Tom did and what happened after he speaks to
6 Mr. Doshi is not hearsay, it's ju -- it's just not.

7 THE COURT: Mr. Shealy, your objection that he can't say
8 what he said to Mr. Doshi, is that hearsay?

9 MR. SHEALY: Yeah, a -- my position is that what they're
10 getting into at this point is all an attempt to circumvent our
11 hearsay rules because their witness won't testify the way they
12 want to -- want her t -- or want him to and they can't find
13 another witness, that would be Ms. Johnson, Ms. Johnson's not
14 gonna be testifying, and I believe now we haven't, we may not
15 have gotten there yet but I believe that I I can foresee what
16 he's gonna testify to, particularly given we've had a
17 proffer ---

18 THE WITNESS: Um-hum.

19 MR. SHEALY: --- and so, Judge, it would be my position
20 that what they're doin' is simply an attempt to get around a
21 hearsay rule because they can't get folks to testify the way
22 they want them to testify.

23 THE COURT: Okay, the Supreme Court has also held that
24 evidence of a prior statement that was made by a witness who
25 testifies at the trials, quote, simply does not meet the

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1 definition of hearsay, *State v. Dingle* at 279 South Carolina
2 278, that's a 1983 decision. In *Dingle* the witness, declarant
3 herself, testified to her prior statement, so any statement
4 that he made to Mr. Doshi or anyone else is not hearsay within
5 within 801 and never have been. Now if your position is that
6 he cannot testify, law enforcement cannot testify to what they
7 did as a result of havin' a conversation with someone, uh,
8 that's overruled too and that's that's not, that's not hearsay
9 either. If if, it's my understanding, now somebody correct me
10 here, but if he testifies that he gets a tip or this officer
11 or that officer, anybody and they they talk with someone on
12 the street, they don't even identify who that person is, as a
13 result of that they conduct their investigation, they learn
14 somethin', that's not hearsay, um, am am I missin' the boat
15 here?

16 MR. SMITH: No, Your Honor, ---

17 THE COURT: Mr. ---

18 MR. SMITH: --- that ---

19 THE COURT: --- Mr. Shealy, you think I'm missin' the
20 boat, help me, give me a case.

21 MR. SHEALY: Well, I don't have a case on me and, Judge,
22 again, that you've you've overruled me and I'm ---

23 THE COURT: No, I understand ---

24 MR. SHEALY: --- okay with ---

25 THE COURT: --- but I'm ---

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1 MR. SHEALY: --- that but, ---

2 THE COURT: --- askin' for, ---

3 MR. SHEALY: --- I mean, ---

4 THE COURT: --- I'm askin' ---

5 MR. SHEALY: --- my, ---

6 THE COURT: --- to ---

7 MR. SHEALY: --- but the problem again, Judge, is and it
8 it may not necessarily be to this particular question but
9 where we're going is that that the, his conversation with
10 Mr. Doshi who has testified ---

11 THE COURT: Yes.

12 MR. SHEALY: --- that he has no recollection of any of
13 this and there is no view, I mean, that he ca -- he has no
14 picture of my client, Mr. Doshi has no picture of my client,
15 he cannot independently recall this this conversation that
16 they're supposed to have had, that that then led to a Terri
17 Johnson who then gave a watch eleven days later. My objection
18 is that the fact witnesses who would be necessary to prove
19 those assertions are not going to be here or have testified in
20 contradiction to what has been te -- or what is going to be
21 testified to or has been testified to, Mr. Doshi said, I don't
22 remember.

23 THE COURT: Okay, so it it, movin' down the street on
24 this, on this matter to where we're headed and we all know
25 because a the proffer but is your position gonna be that this

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1 officer right here (indicating) cannot say that he was given a
2 watch by Terri Lynn Johnson?

3 MR. SHEALY: That that would be my position, yes, sir.

4 THE COURT: Under what rule?

5 MR. SHEALY: Well, Judge, one, I don't think they proved
6 that it's relevant because, again, they can't prove that it
7 came from my client, they can prove that it came fr -- they --
8 Judge, that would be like if I gave him somethin' outside a
9 court, he couldn't just come in and testify that I gave him a
10 thing, it's gotta be tied to this particular case and it's
11 gotta be tied to the particular defendant. My defendant or my
12 client is not tied to this watch by Ms. Johnson who apparently
13 returns it many days later. ---

14 THE COURT: So ---

15 MR. SHEALY: --- and so all of that becomes simply not
16 relevant because it's givin', uh, we don't know where
17 Ms. Johnson got it, it ---

18 THE COURT: No ---

19 MR. SHEALY: --- invites speculation by a jury to say,
20 Well why wh -- why did she give this or where did she get it
21 from but without that witness it just, we descend into
22 speculation and and whispers of conspiracy things and and I
23 think that our rules are against that.

24 THE COURT: Mr. Smith.

25 MR. SMITH: Your Honor, that I'm tryin' to find a case.

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1 The case I'm thinkin' of is it's, it was initially tried and
2 then they retried it and the lady had died after that and
3 at ---

4 MR. SHEALY: That ---

5 MR. SMITH: --- the trial they said, "Did you speak ---

6 MR. SHEALY: --- that ---

7 MR. SMITH: --- to her at the hospital," and they said,
8 "Yes." "Don't tell me anything that she said, what did you do
9 after?" "I signed warrants against so and so for criminal
10 sexual conduct against the defendant," and that's okay because
11 it's not saying what that individual said, it's just saying
12 what he did after having a conversation. I saw another one
13 with a will case which is, "Don't tell me what you said 'cause
14 the person's dead." "Well what did you do?" "Right after the
15 conversation I went and changed the will to the beneficiary,"
16 from Matt Shealy to Judge Kelly or something like that, and
17 that, and that he may say it's an in around the hearsay rule
18 and it very well may be an in around the hearsay rule but the
19 the rules are the rules and it's not a violation of the rules
20 the way that we're phrasing the question, that most a the
21 rules of evidence are about phraseology, not about the content
22 of the information that's coming out, I think the way we're
23 asking it's not calling him to testify to what Mr. Doshi said
24 or anything like that, just that he received items from
25 people.

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH.

1 THE COURT: Yeah, I -- and we're not gonna get into what
2 Mr. Doshi said, Mr. Doshi was here, he had his own say so if
3 he remembers he remembers, if he doesn't remember, he doesn't
4 remember but we're not gonna get into that. Ready?

5 MR. SMITH: Yes, Your Honor.

6 THE COURT: We have our jury.

7 THE BAILIFF: Maxie, we're ready.

8 (The following takes place in the presence of the jury.)

9 THE COURT: Everything good, Mr. Foreman?

10 JURY FOREMAN: Jury's ready, Your Honor.

11 THE COURT: Yes.

12 MR. SMITH: Thank Your Honor.

13 BY MR. SMITH:

14 Q. Um, Detective Clark, we talked about that Mr. Robertson
15 had been arrested on June 24th on these warrants but you were
16 continuing your investigation, ---

17 A. Yes, sir.

18 Q. --- um, when you're going out to continue an
19 investigation, is it common for you to carry a picture of who
20 the defendant is or the suspect to to show to people they had
21 seen ---

22 A. Yes, sir.

23 Q. --- him?

24 A. Yes, sir.

25 Q. Did you generate one in this case?

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1 A. Yes, sir.

2 Q. Alright, I'm gonna show what's previously been marked as
3 State's Exhibit 21 ask if you can tell me what that is.

4 A. This is a photograph of Donald Scott Robertson that I
5 generated, printed out print.

6 Q. Is it the same photo from the photo lineup just ---

7 A. Yes, sir, it ---

8 Q. --- with just a bigger version.

9 A. --- it's just an enlarged version.

10 Q. Okay. Your Honor, this, uh, time we'd like to move
11 State's Exhibit 21 in, uh, with per -- it's State's 21 into
12 evidence.

13 THE COURT: Any objection?

14 MR. SHEALY: No objection to this particular exhibit, no.

15 THE COURT: Without ---

16 MR. SMITH: Um, ---

17 THE COURT: -- objection.

18 (State's Exhibit No. 21, photograph, admitted into
19 evidence.)

20 THE COURT: --- thank Your Honor.

21 BY MR. SMITH:

22 Q. Um, did you have that with you when you went up to the
23 woods behind Highway 9 and then when you went to the Days Inn?

24 A. Yes, sir.

25 Q. Okay. And we talked about that you had met with, you met

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 Mike Doshi at the manager slash owner of the Days Inn on
2 Highway 9, ---

3 A. Yes, sir.

4 Q. --- correct? Did you show him that picture?

5 A. Yes, sir.

6 Q. Alright. After you showed him that picture what did he
7 do?

8 A. He gave me a hotel registration form for a Terri Lynn
9 Johnson.

10 Q. I'm gonna hand you State's Exhibit 22, is that what he
11 handed you?

12 A. Yes, sir.

13 Q. When does the registration indicate that the room is
14 booked?

15 A. It's -- you bear with me 'cause I don't know how to read
16 this thing.

17 Q. Oh.

18 A. 6/17/2016, ---

19 Q. Alright.

20 A. --- um, at 10:32:59 p.m.

21 Q. Alright, and after that did you leave the Days Inn?

22 A. Yes, sir.

23 Q. Um, did you ever reach out and attempt to contact
24 Ms. Terri Johnson?

25 A. Yes, sir.

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 Q. Were you successful?

2 A. Yes, sir.

3 MR. SHEALY: Uh, Judge, I'm gonna renew my objection.

4 THE COURT: Okay, overruled.

5 Q. Um, how how did you contact her?

6 A. Went to her mother's residence on White Street, told her
7 mother that I needed to talk to her.

8 Q. Did you, did both a you go back to the sheriff's office
9 then?

10 A. She was not there, she contacted me and then met me at
11 sheriff's office.

12 THE COURT: 'scuse me. Officer, will you adjust that,
13 I'm havin' trouble hearin'.

14 A. I'm sorry.

15 THE COURT: Thank you.

16 A. Thank you. She, uh, she was not there, she met me at a
17 later time at the sheriff's office.

18 Q. Okay, she ---

19 A. Is that better, Judge?

20 Q. Just speak up 'cause all ---

21 A. Okay.

22 Q. --- the mics not workin', likes to pretend.

23 A. Okay.

24 Q. Um, did she come in -- she came in voluntarily?

25 A. Yes, sir.

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 Q. Um, that what what did you tell her?

2 A. I told her that I was investigating Mr. Robertson in
3 reference to a, um, robbery, burglary, um, and kidnappin'
4 case.

5 Q. Did you tell her when it had occurred?

6 A. Yes, sir, I did.

7 Q. Did you, did you tell him -- did you tell her that he had
8 been arrested on these charges?

9 A. Yes, I told her that he had been char -- again, he had
10 al -- had been arrested.

11 Q. Uh, and she ultimately she just left the sheriff's
12 office, not ---

13 A. Yes, sir.

14 Q. --- wasn't charged with anything?

15 A. No, sir.

16 Q. Um, did you hear from -- what date was that that you met
17 with Terri Johnson?

18 A. June the 28th at approximately 5 p.m.

19 Q. Okay. Did you ever hear from Terri Johnson again during
20 your investigation of this case?

21 A. Yes, sir.

22 Q. And how did that, how did that occur?

23 A. I received a phone call from Terri.

24 Q. And, again, not gonna say what she said but during the
25 course of the phone call what did you do?

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 A. I contacted, I I contacted the residence of Mr. Williams,
2 um, trying to reach, uh, Ms. Smith.

3 Q. What was the purpose of that?

4 A. To ask if she owned a gold watch with roses on this band.
5 Um, Mr. Williams told me that Mrs. Smith -- Ms. Smith was out
6 of town, was unavailable, he told me that he ---

7 Q. Wait, ---

8 A. I'm sorry.

9 Q. --- did, that you said -- did you tell them that what the
10 watch looked like that or ---

11 A. No, I'm sorry, I asked him if if she owned a watch,
12 he said, I, and I apologize, he, I asked Mr. Williams if
13 Ms. Smith owned a watch, he told me that he had bought her a
14 gift ---

15 MR. SHEALY: Objection, Your Honor, hearsay.

16 THE COURT: It's the statement of Mr. Williams?

17 MR. SMITH: Yeah, he testified to that, Your Honor, ---

18 THE COURT: Okay, ---

19 MR. SMITH: --- that ---

20 THE COURT: --- overruled.

21 A. He told me that he had bought her a gift, it was a gold
22 watch with roses on each side a the band and a diamond chip on
23 the face.

24 Q. Was Ms. Johnson on hold while you had this ---

25 A. Yes, sir.

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 Q. And then you end up renewing your conversation or goin'
2 back to the line with Ms. Johnson ---

3 A. Yes, sir.

4 Q. --- and ultimately concluded the conversation?

5 A. Yes, sir.

6 Q. Uh, what happened next?

7 A. Then on, um, the 29th at about 5 p.m. I met Ms. Johnson
8 at the sheriff's office.

9 Q. Okay. When you meet with people for an interview or
10 anything like that at the sheriff's office, do you identify
11 who they are in addition to who they purport to be?

12 A. Yes, sir.

13 Q. How do you do that?

14 A. By their driver's license ---

15 Q. Okay.

16 A. --- information.

17 Q. So the first time that you met with Terri how f -- even
18 before maybe meeting here had you already pulled up a a
19 driver's license of what she looks like?

20 A. Yes, sir.

21 Q. Okay. And, uh, the person you met with at the sheriff's
22 office was Terri Johnson?

23 A. Yes, sir.

24 Q. And and what happened when you met her that second time?

25 A. I recovered a lady's gold watch with rose, small roses on

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 each side a the, on the band on each side and a small diamond
2 chip on the face.

3 Q. Oh, I'm gonna hand you what's previously been marked as
4 State's Exhibit ---

5 MR. SHEALY: Yeah, I'm I'm aware of it, I'm gonna renew
6 my objections well that I've been making all this ---

7 THE COURT: Alright.

8 MR. SHEALY: --- renew.

9 Q. --- what's previously been marked for identity purposes
10 as State's Exhibit 13, ask if, is that the watch that you
11 received that day is at the meeting with Ms. Johnson?

12 A. Yes, sir.

13 Q. Uh, and after receiving it what did you do with it?

14 A. It was placed in evidence.

15 Q. Alright. Your Honor, this time I would move State's
16 Exhibit 13 into evidence with permission to publish it to the
17 jury.

18 MR. SHEALY: Again, Judge, I've made a number of
19 different objections to this particular watch.

20 THE COURT: Okay, it's over objection of defense counsel,
21 it's admitted. That's State's what?

22 MR. SMITH: Thirteen, Your Honor.

23 (State's Exhibit No. 13, watch, admitted into evidence.)

24 BY MR. SMITH:

25 Q. Did you ever end up making contact with Ms. Smith?

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 A. Yes, on June the 30th at 'proximately 9:30 a.m. I
2 contacted Ms. Smith by telephone and asked her if she owned a
3 watch.

4 Q. Did you ask her if it had been taken ---

5 A. I a ---

6 Q. --- or ---

7 A. --- I did.

8 Q. --- missing?

9 A. She said that she realized that she was missing a
10 watch ---

11 Q. Where ---

12 A. --- from from her residence.

13 Q. And did she acc -- accurately describe the watch that you
14 had ---

15 A. Yes, sir, ---

16 Q. --- in your ---

17 A. --- she ---

18 Q. --- possession?

19 A. --- she specifically said it was a gold watch with a
20 segmented type band with a diamond in the top a the face and
21 she went further on to describe the rose.

22 Q. Um, sorry, I'm going a little out of order here but when
23 you met with Mr. Robertson after he'd been picked up on
24 warrants, uh, did you ask for pictures to be taken of him?

25 A. Yes, sir.

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 Q. What's the purpose of that?

2 A. The pictures of him to, uh, for markings of the
3 tattoos ---

4 Q. Okay.

5 A. --- and things of that nature.

6 Q. Okay, and you saw what he looked like that day when he
7 came in?

8 A. Yes, sir.

9 Q. Were were you there when you -- when they took pictures
10 of him?

11 A. Uh-huh.

12 Q. I'm gonna hand you what's been marked as State's Exhibit
13 16, 17 and 18, ask if you tell me what these are.

14 A. These (indicating) are front facial and photographs and
15 photograph Mr. Robertson standing.

16 Q. Alright.

17 A. This is, these (indicating) are tattoos of pi --
18 photographs of his right arm and the tattoos that are on his
19 right arm, um, one of them appears to be a rose with
20 underneath it is what people refer to as a, uh, "angel
21 catcher" with feathers on it and then above it it has a name,
22 I believe it says Crystal but I can't be for sure.

23 Q. And the next one?

24 A. And then the next one is his left arm, um, on top has two
25 tattoos, the upper tattoo is some kind of an animal face I

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 believe and the bottom is, uh, of the grim reaper type
2 character.

3 Q. And those are accurate of what you saw that day lookin'
4 at Mr. Robertson?

5 A. Yes, sir.

6 Q. Your Honor, this point I'd like to move State's Exhibit
7 16, 17 and 18 and with permission to publish.

8 THE COURT: Any objection?

9 MR. SHEALY: No, sir, thank you.

10 THE COURT: Okay, without objection.

11 (State's Exhibit Nos. 16, 17 and 18, photographs,
12 admitted into evidence.)

13 BY MR. SMITH:

14 Q. Did you notice anything about Mr. Robertson's complexion?

15 A. Excuse me, he was, um, tan, um, looked like he spent a
16 lot of time in the sun, farmer's tan; you could see where his
17 shirt would stop and his tan line would begin right below the,
18 where the tattoo, where the bottom tattoo is, you can see the
19 tan line ---

20 Q. Alright.

21 A. --- and you can see it on this (indicating) arm as well
22 in the middle of the what I call a grim reaper type tattoo.

23 Q. Okay. Did you ultimately end up receiving, uh, copies of
24 the check and the surveillance video from the bank?

25 A. Yes, sir.

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 Q. Please answer any questions Mr. Shealy has, please.

2 THE COURT: Mr. Shealy.

3 MR. SMITH: Now ---

4 MR. SHEALY: Judge, may we approach?

5 THE COURT: Sure.

6 (Whereupon, a bench conference was held off the record.)

7 THE COURT: Alright, Mr. Foreman, ladies and gentlemen,
8 the lawyers have reminded me that it's past my ninety minutes
9 and I appreciate them doin' that 'cause sometimes I do forget
10 but it is, we've been running for a good ninety minutes now,
11 it's 2, uh, actually, uh, 3:35 so, uh, it is time for our
12 afternoon break, this will be a good solid 15, 20-minute break
13 for ya because we'll come back and then we'll run to the rest
14 of the day so, uh, be sure to, uh, refresh yourself, uh, water
15 is here, they've made some coffee if, I don't know if they
16 have any coffee made but if you want some they'll make some
17 for you, uh, just, uh, tell us what you need and, again, if
18 you, if you smoke and, uh, and you need to go out and do that
19 and I hope you don't, uh, you have to be escorted out, uh,
20 they'll bring you back, okay. Don't talk about the case on
21 your break. Mr. Foreman.

22 (The following takes place outside the presence of the
23 jury.)

24 THE COURT: Any matters from the State this time?

25 MR. SMITH: No, Your Honor.

THOMAS LOREN CLARK - DIRECT EXAMINATION BY MR. SMITH

1 THE COURT: From the defense?

2 MR. SHEALY: No, Judge.

3 THE COURT: Alright, let's be in recess and refresh
4 ourselves. Mr. Clark, you can't talk with anyone as you know
5 'bout your testimony, don't ---

6 THE WITNESS: Yes.

7 THE COURT: --- don't have any conversations, please come
8 back up there at about five minutes till.

9 THE WITNESS: Yes, sir.

10 THE COURT: Thank you.

11 (Whereupon, the witness left the stand.)

12 (Whereupon, a recess was taken.)

13 (Whereupon, the witness returned to the stand.)

14 THE COURT: We ready?

15 MR. SMITH: Yes, sir.

16 THE COURT: Matt?

17 MR. SHEALY: Yes.

18 THE COURT: Okay.

19 THE BAILIFF: Um-hum. Uh, Lynn, we're ready.

20 (The following takes place in the presence of the jury.)

21 THE COURT: Mr. Foreman, is the jury ready?

22 JURY FOREMAN: Ready, Your Honor.

23 THE COURT: Okay, Mr. Shealy.

24 MR. SHEALY: Thank Your Honor.

25 CROSS-EXAMINATION BY MR. SHEALY:

THOMAS LOREN CLARK - CROSS-EXAMINATION BY MR. SHEALY

1 Q. Uh, Detective Clark, you've testified regarding this --
2 well we'll start with the affidavit, the photo identification,
3 State's Exhibit No. 5. Okay, I'll hand that to ya and in that
4 document, I understand you keep calling an affidavit but is
5 that sworn to?

6 A. In regard to?

7 Q. Is it a sworn document, is a notarized document?

8 A. This one, ---

9 Q. That ---

10 A. --- this one ---

11 Q. --- that ---

12 A. --- is not no, sir.

13 Q. --- it is not notarized.

14 A. No, sir, it's ---

15 Q. Do ya'll have, do ya'll have notaries at the sheriff's
16 department?

17 A. Yes, sir, we do.

18 Q. Okay, but ya'll didn't get that particular document
19 notarized.

20 A. Because of the time of day I did not have one
21 available.

22 Q. Ya didn't have a notary available?

23 A. No, sir, I was by, I was by myself at that point when
24 I -- when Investigator Finley or Deputy Finley was not a
25 notary.

THOMAS LOREN CLARK - CROSS-EXAMINATION BY MR. SHEALY

1 Q. Okay, so at 5:45 in the afternoon the sheriff's
2 department closes?

3 A. Uh, there were no investigators available for me to
4 contact to have it notarized.

5 Q. So and there isn't any way you could look in the phone
6 book and call a notary public?

7 A. I didn't.

8 Q. Ya didn't do that.

9 A. No, sir, I didn't do ---

10 Q. Okay, ---

11 A. --- that.

12 Q. --- so it's not really an affidavit, it's just a
13 statement that she signed, correct?

14 A. I guess you could say that.

15 Q. Okay. Now you've testified also regarding these clothes
16 off Highway number 9, you found a bag you said?

17 A. Yes, sir, um-hum.

18 Q. Let's see if I can find those. That's gonna be State's
19 Exhibits 18 and 19, I'll just hand them to you.

20 A. Uh, sure.

21 Q. Now now in that bag what did you find?

22 A. Clothing, miscellaneous clothing, um, jeans, things a
23 that nature, some deodorant, ---

24 Q. Alright, ---

25 A. --- things ---

THOMAS LOREN CLARK - CROSS-EXAMINATION BY MR. SHEALY

1 Q. --- did ya ---

2 A. --- of that nature.

3 Q. --- swab any a those things for DNA?

4 A. No, sir, they were not.

5 Q. Okay. Did ya find any identifying cards or anything like
6 that?

7 A. No, there were nothing found.

8 Q. Did you find a gun?

9 A. No, there was no gun found.

10 Q. Okay. In fact, you've testified that you found nothing
11 of evidentiary value there, ---

12 A. That's correct, ---

13 Q. --- correct?

14 A. --- nothing was found.

15 Q. Now as you've testified about this lineup that you gave,
16 you testified that it was in black and white, right, ---

17 A. Yes.

18 Q. --- and that you generated that lineup?

19 A. Yes, I did.

20 Q. From a description that you had been given by Ms. Smith,
21 correct?

22 A. Not from a description I'd been given by Ms. Smith, no.

23 Q. So what description, who gave ya the description?

24 A. I went back to the sheriff's office with the description,
25 I spoke with other investigators, um, ---

THOMAS LOREN CLARK - CROSS-EXAMINATION BY MR. SHEALY

1 Q. Who gave ya the description is my question.

2 A. Ms. Smith.

3 Q. So you generated the lineup from a description given to
4 you by Ms. Smith ---

5 A. Yes, ---

6 Q. Oh.

7 A. --- I didn't, I didn't just based off the description,
8 no, ---

9 Q. Alright, but ---

10 A. --- I thought ---

11 Q. --- Ms. ---

12 A. --- that, I thought that's what you were asking just
13 based off the description.

14 Q. No, no, I was ---

15 A. Okay.

16 Q. --- asking who made the description and did ya get any
17 description from Mr. Williams?

18 A. No, sir.

19 Q. You'll bear with me, Judge. Just a couple more
20 questions. Uh, Investigator Clark, did you take into evidence
21 this, uh, for the record I'm showing you State's Exhibit
22 Number ni -- 29 that (indicating), did ya take that into
23 evidence?

24 A. I cannot recall off the top a my head if -- I would have
25 to look at, I don't recall off the top a my head.

THOMAS LOREN CLARK - CROSS-EXAMINATION BY MR. SHEALY

1 Q. Okay. Uh, do you know what that (indicating) thing is?

2 A. I'd have to say maybe looks similar to like something
3 like a Pop-Tart ---

4 Q. A ---

5 A. --- thing.

6 Q. --- piece a foil wrapper maybe?

7 A. Something, uh, and along that line.

8 Q. But again, we took, it looks like State's Exhibit 27 has
9 it in there, State's Exhibit 28 ---

10 A. Um-hum.

11 Q. --- State's Exhibit 29 so we took three pictures of it
12 but we didn't take it into evidence and I'll show you State's
13 ev -- 27, 28, 29 if you'd like me to. I may approach the
14 witness, ---

15 THE COURT: Yes.

16 Q. --- I've been neglecting to ask, I apologize, Your Honor.

17 A. Yes, sir, it is in all three pictures, it's also in all
18 three pictures of the door and the glass that was broken
19 through the window.

20 Q. Okay. Now you've testified that ya'll took the, I
21 guess was it Talanges who took fingerprints or what
22 ID officer was ---

23 A. Tala ---

24 Q. --- there?

25 A. --- Talanges.

THOMAS LOREN CLARK - CROSS-EXAMINATION BY MR. SHEALY

1 Q. It was Talanges, alright, and you were the lead
2 investigator, correct?

3 A. Yes, sir.

4 Q. Okay, so you told 'em what to fingerprint, what not to
5 fingerprint?

6 A. We consulted.

7 Q. Okay. Now this is State's Exhibit Number 8, that's
8 (indicating) the presumed route of entry, correct?

9 A. Correct.

10 Q. Did ya'll swab or check for fingerprints that door handle
11 or that lock?

12 A. No, sir, he did not.

13 Q. Okay. Gonna show ya State's Exhibit No. 9, did you take
14 fingerprints or are you aware of any fingerprints or any DNA
15 swabs of either the safe or that handle a that tool that's
16 kinda taken out there?

17 A. Without looking his report I cannot recall the top a my
18 head if he processed the safe, we we did have a discussion
19 about the safe but since we were told that the suspect was
20 wearing gloves I can't recall without looking his report.

21 Q. Okay. Gonna show ya State's Exhibit Number 11 where
22 there a whole bunch a tools, do you recall any a those being
23 cr -- processed ---

24 A. No, ---

25 Q. --- by ---

THOMAS LOREN CLARK - CROSS-EXAMINATION BY MR. SHEALY

1 A. --- for the same reason.

2 Q. Alright, and here's State's Exhibit Number 14 and were
3 those ---

4 A. I ---

5 Q. --- fingerprint ---

6 A. --- cannot, I I don't believe so for the same reason.

7 Q. Okay. Now do you recall Ms. Smith giving you some
8 cigarette butts?

9 A. I don't recall her giving me any cigarette butts.

10 Q. Okay. Were any cigarette butts taken into evidence in
11 this case?

12 A. I don't recall 'em without looking at the evidence sheet
13 or Investigator Talanges' report.

14 Q. If you'll bear with me, Judge.

15 (Pause.)

16 Alright, so you don't recall if Officer Talanges
17 collected two used cigarette butts.

18 A. I I do not recall.

19 Q. Alright. Do you recall him collecting a beer can?

20 A. I do remember him mentioning a beer can that was found, I
21 think it was on the side a the road but I don't recall ---

22 Q. Alright, ---

23 A. --- the exact conversation.

24 Q. --- but those things were not -- well, we don't have any
25 DNA in this case.

THOMAS LOREN CLARK - REDIRECT EXAMINATION BY MR. SMITH

1 A. No, sir.

2 Q. Alright, and presumably cigarette butts would carry
3 DNA, is that your your training and experience?

4 A. It could, yes, sir.

5 Q. Okay. That's all that I have for this witness, Your
6 Honor.

7 THE COURT: Solicitor?

8 MS. WALTERS: Beg the Court's indulgence.

9 (Pause.)

10 REDIRECT EXAMINATION BY MR. SMITH:

11 Q. The pictures that were shown of the Pop-Tart wrapper you,
12 what do you think, what was the picture taken of?

13 A. The window and the gla -- the door and the glass.

14 Q. What was the replacement window made out of?

15 A. Is made out of tape and I don't have a close-up but it
16 appears to be s -- it looks to be like maybe a garbage bag or
17 something along that line.

18 Q. Okay. I I don't have anymore questions.

19 THE COURT: Alright, anything at all on this, uh, a
20 little bit, sir?

21 MR. SHEALY: No, no, nothing on that, no, ---

22 THE COURT: So, ---

23 MR. SHEALY: --- Your Honor.

24 THE COURT: --- Officer, you may step down.

25 (Whereupon, the witness left the stand.)

GERI CHRYSTELLE SMITH - DIRECT EXAMINATION BY MR. SMITH

1 MR. SMITH: Uh, Your Honor, if we could recall Ms. Smith
2 briefly. State calls Geri Smith.

3 (Whereupon, the witness returned to the stand.)

4 THE COURT: Ms. Smith, you were previously sworn and you
5 remain under oath.

6 THE WITNESS: Yes, sir.

7 THE COURT: Solicitor.

8 DIRECT EXAMINATION BY MR. SMITH:

9 Q. Uh, Ms. Smith, did the defendant smoke cigarettes during
10 your interaction with him inside your house or the person
11 inside your house?

12 A. Yes, I offered him a cigarette.

13 Q. Inside ---

14 A. Inside, ---

15 Q. --- Cannons Campground?

16 A. --- yes, sir.

17 Q. Did he accept?

18 A. Yes, he did.

19 Q. Did he smoke?

20 A. Yes, he did.

21 Q. What did he do with the cigarette butt?

22 A. I have no idea, he did not put it in the ashtray.

23 Q. Okay, so you don't think the cigarette butt was inside
24 your house after he left?

25 A. Not to my knowledge.

GERI CHRYSTELLE SMITH - CROSS-EXAMINATION BY MR. SHEALY

1 Q. Did you smoke on the way to the bank?

2 A. Yes.

3 Q. Did he smoke on the way to the bank?

4 A. Yes.

5 Q. Now how did that come about?

6 A. I offered him a cigarette again and again no cigarette
7 butt.

8 Q. Was not left in the car?

9 A. No.

10 Q. Did you tell the investigators this?

11 A. Yes.

12 Q. But they collected the cigarettes butts anyway?

13 A. Yes.

14 Q. The the defendant was wearing gloves when you saw him
15 inside your house?

16 A. Yes.

17 Q. I don't have any further questions, Your Honor.

18 THE COURT: Mr. Shealy.

19 CROSS-EXAMINATION BY MR. SHEALY:

20 Q. Ms. Smith, you've testified previously in this trial,
21 correct?

22 A. Yes, sir.

23 Q. Alright, didn't testify anything about offering a
24 cigarette, did ya, ---

25 A. It wasn't brought up to my ---

GERI CHRYSTELLE SMITH - CROSS-EXAMINATION BY MR. SHEALY

1 Q. --- not back ---

2 A. --- attention or asked of me.

3 Q. And so you've test -- you're testifying that you offered
4 the armed robber a cigarette.

5 A. There's no smoking allowed in Mr. Williams' house;
6 however, I asked Mr. Williams, I said, Is it okay under these
7 circumstances that I smoke a cigarette, and at that point I
8 did offer the defendant a cigarette in hopes that he would
9 leave a cigarette butt in the ashtray for DNA evidence. /

10 Q. Okay, so they collected two cigarette butts, ---

11 A. Correct.

12 Q. --- correct? Okay. Now -- that's all I have of this
13 witness, Judge.

14 THE COURT: Alright, ma'am, you may step down, please be
15 careful.

16 THE WITNESS: Yes, sir.

17 (Whereupon, the witness left the stand.)

18 MR. SMITH: Your Honor, if we can just check evidence
19 that might be ready to ---

20 THE COURT: Alright.

21 (Whereupon, a discussion was held off the record.)

22 MR. SMITH: Your Honor, this point State would rest.

23 THE COURT: State rests, okay. Now, Mr. Foreman, ladies
24 and gentlemen, the significance of that what he just said is
25 the State at this point has has in -- at this point has called

MOTIONS AND MATTERS

1 all witnesses that it intends to call, uh, this case is not at
2 an end but it's getting very close to being at an end. Now,
3 when the State rests there's a couple of matters of law that I
4 have to take up, uh, outside of your presence, uh, and I'll be
5 back with you but this might take about, uh, twenty minutes or
6 somethin' like that, alright. Do not discuss this case, it is
7 not over, the State has rested but I've got some things I
8 gotta take up with the lawyers, uh, which are called "matters
9 of law," so, Mr. Foreman, take your jury to the jury room, be
10 back and we'll -- I'll be back with ya in 'bout twenty
11 minutes, fifteen, twenty minutes.

12 (The following takes place outside the presence of the
13 jury.)

14 THE COURT: Matters from the State?

15 MR. SMITH: Nothing, Your Honor.

16 THE COURT: Matters from the defense?

17 MR. SHEALY: Judge, we would move for a directed verdict
18 on these cases based on my prior objections, motions, things
19 of that nature, thank you.

20 THE COURT: Well let's let's, uh, Mr. Shealy, let's put
21 this on, a little more clearly on the record, how 'bout that.
22 Motion for directed verdict.

23 MR. SHEALY: Yes, Your Honor. Judge, it would be our
24 pet -- position State's failed to elicit evidence that a
25 competent jury, uh, that even when viewed in the light most

MOTIONS AND MATTERS

1 favorable to the State could go to prove that my client was
2 armed with a deadly weapon or had two prior convictions
3 unfortunately. Judge, uh, we believe that the State has
4 failed to present enough evidence to prove that he's actually,
5 that this was actually forcible taking of any property which
6 is obviously an element of armed robbery, I also believe the
7 State has failed to produce enough, a sufficient amount of
8 evidence in that he had a weapon so that would regard his
9 possession of a firearm case.

10 And as for the kidnappings, I don't believe the State or
11 we would argue that State's not produced a sufficiency of
12 evidence to prove or to -- and when viewed in the light most
13 favorable to the State that my client actually kidnapped
14 anybody or abducted or carried them away, uh, when in fact I
15 think at one point that Mr. Williams testified that they had
16 locked the armed robber in a car, he then unlocked it, so,
17 Judge, we believe that and yet we would make that motion for
18 directed verdict, we'd also renew our previous motions to
19 suppress the in -- sta -- the in-court identification, yet if
20 the in-court identification were to have been suppressed we
21 believe that the State certainly have, wouldn't have proven
22 enough information regarding identification.

23 We would renew our motion regarding the watch that was
24 turned over by Ms. Johnsons allegedly, alle -- believe it was
25 twelve days after, um, this alleged incident or thirteen or

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1 no, was twelve days after this alleged incident, it was
2 returned Ms. Smith thirteen days after the alleged incident
3 so, Judge, we would argue that there's nothing that ties that
4 watch and we have already argued I believe persuasively that
5 there's nothing that ties that watch to my client except that
6 Ms. Johnson turned it in but again there's no evidence that
7 Mr. Robertson gave her that watch or that she was in any way
8 involved in this alleged armed robbery, she coulda gotten it
9 off the street, could have changed hands any number of ways.
10 Uh, Judge we don't believe and well, it would be our position
11 that had that motion or that motion been granted that we
12 believe there -- again, the State would have failed to have
13 produced enough evidence to identify my client, I mean,
14 that's, we believe that motion should have been granted as
15 well, uh, we would also renew any other motions that I have
16 neglected to mention just now.

17 THE COURT: Uh, Solicitor.

18 MR. SMITH: Um, Your Honor, in the light most favorable
19 to the State, Ms. Smith identified Mr. Robertson as the person
20 that, um, committed this crime, both she and Mr. Williams
21 stated that he had a real firearm, in the light most favorable
22 to State, that would mean that he was armed. Mr. Sm --
23 uh, Williams testified that he had not given this man
24 permission to be inside of his house, that makes it a
25 burglary, Ms. Moffitt testified about two prior burglary

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1 convictions and offered certified convictions which would meet
2 the elements of burglary first but also we believe that he had
3 a weapon, there's evidence in the light most favorable to the
4 State that the person that was inside the house moved weapons
5 which would mean they possessed weapons during the commission
6 of the burglary, they testified about that they were ordered
7 to sit on the sofa, that they were ordered to go to the bank,
8 while they weren't bound or anything that would meet the
9 definition of a kidnapping. Mr. Smith testified that he gave
10 six hundred dollars to the victim inside of the house,
11 Ms. Smith gave fifteen dollars. Uh, Ms. Smith's position is
12 that the watch was taken not off of her person but under case
13 law that her, the resistance a the victim woulda still been
14 overcome by the weapons so that would also meet the armed
15 robbery and the bank transaction could meet the armed robbery.
16 Uh, Your Honor, as far as the possession of weapon by a person
17 convicted of violent crime, there's a stipulation that he has
18 the violent crime and the evidence, um, saying that he
19 possessed a weapon would be sufficient in the light most
20 favorable to State to withstand the motion.

21 THE COURT: Uh, this court respectfully denies the motion
22 for a directed verdict, uh, by the defense, the, uh, Court is
23 concerned with the existence of evidence, not the weight and
24 also, as everyone correctly mentioned when reviewing a denial
25 of a directed verdict, uh, the Court views the evidence and

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1 all the reasonable inferences most and in and all reasonable
2 inferences in the light most favorable, uh, to the non-moving
3 party which is the State a South Carolina.

4 As to the motion to suppress, uh, the, uh, Court
5 identification or out-of-court -- in-court identification, uh,
6 Court reaffirms its, uh, its ruling on that, uh, for the
7 reasons heretofore previously stated which are in the record.

8 As to the watch the motion was for relevance, court found
9 that it was relevant evidence, uh, and respectfully disagrees
10 with defense's position in that it is circumstantial evidence,
11 it is not direct evidence but it is circumstantial evidence
12 that the girlfriend or former girlfriend at least an
13 acquaintance now, uh, of defendant had the watch, uh, turned
14 that watch over to law enforcement, it was properly introduced
15 into evidence as, uh, property, uh, int -- recovered in this
16 matter, uh, that she had, and that she had that watch which is
17 the watch of Ms. Smith and she testified to what it looked
18 like, she identified it on the phone, uh, the record is
19 replete.

20 As to the hotel receipt, the Court finds, uh, and you you
21 you are renewing your motion that an objection to that, that
22 was also on relevance, once again, a hotel, uh, was, uh, a
23 officer went to the hotel, uh, asked with a picture of this
24 defendant if he had seen him, I know it was not before the
25 Court but I understand it is a disagreement as to what the

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1 property owner/manager said but that's not, uh, in the record,
2 it's not before the Court but nonetheless as a result of that
3 investigation the officer, Detective Clark was then provided a
4 a hotel receipt in the name of, uh, Terri Lynn Johnson which
5 is either the girlfriend, former girlfriend or certainly
6 acquaintance, uh, and then the, uh, Mr. Doshi, uh, explained
7 that instead of one night or two nights it was actually
8 extended for a 7-night period. Do I have that document? Do
9 you have it handy?

10 COURT REPORTER: What one?

11 THE COURT: The hotel.

12 COURT REPORTER: Got this (indicating).

13 THE COURT: Days? That's it I believe. Yes, that's, uh,
14 State's Exhibit 22, uh, and that it was paid for in cash so
15 again, that's circumstantial evidence, uh, that he was there,
16 he, uh, he told the officers himself that he was homeless and
17 staying in areas, clothing was found in that vicinity, it's
18 not been tied, uh, directly to this defendant, again, all that
19 is circumstantial evidence so at any rate anything further
20 from the defense?

21 MR. SHEALY: Uh, no motions, I didn't know if you wanted
22 to do the charge, ---

23 THE COURT: I do.

24 MR. SHEALY: --- discuss the charge.

25 THE COURT: Well let's do this, uh, do do you wanna put

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1 on the record that you talked to your client?

2 MR. SHEALY: Yes, sir. Well, Judge, I've s -- to begin
3 we need to do a mot, uh, make a motion to settle my client's
4 record as to what State believes to be impeachable offenses
5 were he to testify.

6 THE COURT: Okay, is that not settled?

7 MR. SHEALY: Well we gotta, we gotta put it on the
8 record, there's a PCR about that.

9 THE COURT: Okay, State.

10 MS. WALTERS: Beg the Court's indulgence.

11 MR. SMITH: One one second, Your Honor.

12 (Pause.)

13 MR. SMITH: Your Honor, he has a 2016 breach of trust
14 with fraudulent intent.

15 THE COURT: Mr. Shealy.

16 MR. SHEALY: Judge, I don't believe he's been convicted
17 of that, I have, I believe I represent him currently on ---

18 MR. SMITH: This is ---

19 MR. SHEALY: --- that ---

20 MR. SMITH: --- a Campobello, it appears to be a
21 magistrate court charge.

22 THE COURT: Is there disposition?

23 MR. SMITH: It it says convicted on the rap sheet, Your
24 Honor. It's four counts of grand larceny that are gonna be
25 and one, uh, petty larceny and four four forgeries, I don't

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1 know.

2 THE COURT: Let Mr. Shealy look, see if he's got that.

3 MR. SHEALY: Judge, uh, my client tells me he doesn't
4 remember a Campobello breach a trust so we would ask that the
5 State prove that by something other than a rap sheet 'cause
6 as Your Honor I'm sure knows rap sheets are notoriously,
7 uh, ---

8 THE COURT: Besides the, ---

9 MR. SHEALY: --- not ---

10 THE COURT: --- besides Campobella, what about the
11 others?

12 MR. SMITH: Um, Your Honor, has a, some a these are
13 older, um, I understand it's a 10-year but he's also was in
14 prison for about fifteen years and he was released in 2014 so
15 I I don't know if you want anything that's beyond ten, um,
16 that he has grand larceny from 1996.

17 THE COURT: Mr. Shealy.

18 MR. SHEALY: Well, Judge, this -- to to go beyond ten
19 years, State has to provide me with written notice, they've
20 not provided me with written notice, so I think where he was
21 residing doesn't matter within, in within the rule, I mean.

22 THE COURT: So what do ya got at this point, just the
23 forgeries?

24 MR. SMITH: Within within ten years we we won't have
25 anything except the breach of trust which I imagine overnight

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1 we could probably get a certified conviction of that from
2 Campobello but other than that he has numerous pending charges
3 that are but that's not good enough.

4 THE COURT: Alright, Mr. Shealy.

5 MR. SHEALY: Well, so, Judge, I mean, my understanding is
6 then that the State would have and again, my client says he
7 doesn't remember 2016 ---

8 THE COURT: Well unless he's got -- unless he gets a
9 certified copy a conviction that won't come.---

10 MR. SHEALY: Yes, ---

11 THE COURT: --- in.

12 MR. SHEALY: --- sir, so my understanding then would be
13 that that would be the only charge that they would endeavor to
14 get or to im -- impeach him with so, Judge, if you'll give me
15 just one second, let me talk to him.

16 THE COURT: Okay.

17 (Attorney/client discussion held off the record.)

18 MR. SHEALY: Judge, I think we're ready for you to do the
19 colloquy, I don't believe Mr. Robertson's gonna testify but I
20 I would feel more comfortable if Your Honor asked him.

21 THE COURT: I'll be, I'll be happy to. Sir, if you'd
22 stand and be sworn, please.

23 (Whereupon, the defendant stood.)

24 THE CLERK: Raise your right hand, please.

25 DONALD SCOTT ROBERTSON, having

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1 been first duly sworn, testified as follows:

2 EXAMINATION BY THE COURT:

3 Q. Sir, you are Mr. Donald Scott Robertson, is that true?

4 A. Yes, sir.

5 Q. Mr. Robertson, you have been in the courtroom these two
6 days during these entire proceedings, have you not, ---

7 A. Yes, sir.

8 Q. --- and you read, write, and understand the English
9 language.

10 A. Yes, sir.

11 Q. Mr. Robertson, at this time I want to explain certain
12 rights to you and if you do not understand something I say or
13 if you wanna speak with either or both of your lawyers, you
14 stop me and I'll just, and I will stop because it's important
15 that you talk with your lawyers, understand?

16 A. (The defendant nodded in the affirmative.)

17 Q. Okay. Sir, we have reached the stage of the trial where
18 you may present your defense. You have a right to claim
19 protections given to you by the Fifth Amendment to the
20 Constitution of the United States which says in part, No
21 person shall be compelled in any criminal case to be a witness
22 against himself. Additionally, you have the right to claim
23 the protections given to you by Article I, Section 12 of the
24 South Carolina Constitution which states in part, No person
25 shall be compelled in any criminal case be a witness against

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1 himself, this means you cannot be required to testify in this
2 case. Sir, you have the right to testify in your own defense
3 but no one can make you do so, this is a personal right and no
4 one can waive this right except you. If you decide testify,
5 you'll be subject to the same rules that govern other
6 witnesses and you may be examined and cross-examined on any
7 relevant issue in this case. Additionally, if you have
8 convictions involving dishonesty or false statement or for
9 crimes punishable by imprisonment for more than one year and
10 this court determines the probative value of admitting the
11 evidence outweighs its prejudicial effect, a solicitor will be
12 able to introduce your record to attack your credibility. If
13 you decide testify, this decision on your part must be freely,
14 intelligently and voluntarily made with the knowledge of
15 protections given to you by both Constitution of the United
16 States and the State a South Carolina and the consequences of
17 your decision. If you decide not to testify, I will instruct
18 jurors they cannot give the fact that you did not testify any
19 consideration and that there will be absolutely no prejudice
20 to you because you did not testify. Sir, it is entirely your
21 decision as to whether or not you testify, do you understand
22 what I have explained?

23 A. Yes, sir.

24 Q. Do you have any questions about what I have explained?

25 A. No, sir.

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1 Q. Have you discussed with your lawyers, plural, you have
2 two, whether you should or should not testify?

3 A. Yes, sir.

4 Q. Do you wish to talk with your lawyers any further about
5 this issue?

6 A. No, sir.

7 Q. Sir, do you wish to testify?

8 A. No, sir.

9 Q. Are you under the influence of drugs, alcohol or any
10 medication that interferes your thinking ability?

11 A. No, sir.

12 Q. You are clear mind and know what you're doing?

13 A. Yes.

14 Q. And that's your decision?

15 A. Yes.

16 Q. Thank you, Mr. Robertson.

17 THE COURT: Mr. Shealy.

18 MR. SHEALY: Judge, that would be the only issue that we
19 had so we'll rest on record ---

20 THE COURT: Okay, ---

21 MR. SHEALY: --- once they come back.

22 THE COURT: --- if, uh, I do this often, uh, and I offer
23 it to ya now, you're now resting on the record, I'll let you
24 do that in fronta the jury if you'd like.

25 MR. SHEALY: Yes, sir, that's that's my normal or ---

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1 THE COURT: Okay.

2 MR. SHEALY: --- our normal practice that ---

3 THE COURT: Alright, ---

4 MR. SHEALY: --- so, yes, Judge.

5 THE COURT: --- so you're resting at this point.

6 Anything from the State?

7 MR. SMITH: No, Your Honor.

8 THE COURT: Anything from the defense?

9 MR. SHEALY: I just renew those prior directed verdict
10 motions as ---

11 THE COURT: And ---

12 MR. SHEALY: --- well ---

13 THE COURT: --- and ---

14 MR. SHEALY: --- as the other motion.

15 THE COURT: --- and the rulings are the same and you are
16 protected, you have raised all of those for, uh, for for the
17 appeal if necessary. Okay, uh, with that I wanna return the
18 jury, allow Mr. Sh -- uh, Shealy to then rest in fronta the
19 jury and we'll excuse them for the night, okay. Alright.
20 We'll have our jury.

21 (The following takes place in the presence of the jury.)

22 THE COURT: Mr. Foreman and ladies and gentlemen of the
23 jury, uh, at this time give your attention to the defendant.
24 Mr. Shealy.

25 MR. SHEALY: Judge, defense would rest.

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1 THE COURT: Defense rests.

2 MR. SHEALY: Defense would rest, yes, sir.

3 THE COURT: Alright, there being defense has now rested,
4 there no reply from State, okay. Mr. Foreman and ladies and
5 gentlemen, this case is now at an end, all the testimony that
6 you are going to see or hear is now before you, due to the
7 lateness of the hour I'm not gonna send you out in a little
8 bit here to deliberate so I'm gonna tell ya how this will
9 proceed. Closing arguments will be next, the lawyers will
10 have twenty, twenty-five, thirty minutes, somethin' like that
11 each, uh, to make a closing statement to you and then I will
12 charge you on the law in this case after which time I will ask
13 you to retire to the jury room, uh, and begin your
14 deliberations so you could expect in the mornin' that I will
15 be here as usual 8:00, couple minutes after, I'm here few
16 minutes till this mornin', uh, I will meet with the lawyers,
17 we will talk about any little small details or issues that we
18 might need to talk about after which time I will take the
19 bench at 9 a.m. sharp, 9 a.m. sharp. When you come and sit in
20 that (indicating) box, you will ex -- you will hear from the
21 lawyers in their closing statements, they will present their
22 closing statements to you after which I will then charge you
23 on the law so you could expect to have this case, uh, to you
24 somewhere around 10:30 tomorrow morning, okay, usually takes
25 about ninety minutes to get that done so about 10:30 tomorrow

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1 the case will be yours.

2 Now, until I tell you to begin to deliberate tomorrow
3 somewhere around 10:25, you are not free to do so. Please do
4 not discuss this case with anyone at home, don't discuss it
5 with each other, don't even discuss it within your own mind,
6 okay, you're at work, you don't need to be goin' home and
7 thinkin' about work, you wanna go home and look at the ball
8 game or rerun the race or somethin', get ready for Bristol
9 here shortly, so somethin' like that but we don't need to be
10 worryin' about work, but tomorrow, tomorrow mornin' at 9:00,
11 uh, lawyers will, I call your attention to the lawyers,
12 they'll make closing statements, I will charge you the law and
13 then it will be your time to deliberate. Again, don't try to
14 do any research or learn anything about the case, please,
15 okay.

16 Now, I am gonna once again ask you please be timely in
17 your jury service, cannot start without all of you, okay, with
18 that, Mr. Foreman, if you will take your jury out, be
19 dismissed for the evening, see you tomorrow morning.

20 (The following takes place outside the presence of the
21 jury.)

22 THE COURT: Matters from the State?

23 MR. SMITH: Nothing, Your Honor.

24 THE COURT: Matters from the defense?

25 MR. SHEALY: Nothing, Your Honor.

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1 (Proceedings July 26, 2017)

2 THE COURT: Ready to go?

3 MR. SHEALY: Uh, Judge, you'll just give me just one,
4 just a few seconds to set everything up.

5 MR. SMITH: Your Honor, they didn't put up a case, is it
6 we go and then they're goin', that's is ---

7 THE COURT: Yeah.

8 MR. SMITH: Okay.

9 THE COURT: Um-hum. They they didn't put up a case and
10 didn't introduce anything ---

11 MR. SMITH: Yes, sir.

12 THE COURT: --- so . . . Ready to go?

13 MR. SHEALY: Uh, yes, sir.

14 THE COURT: I'm not rushing anybody but, everybody, my my
15 minister can say it in twenty minutes on Sunday so keep that
16 in mind. We have the jury.

17 THE BAILIFF: Yes, Your Honor.

18 (Whereupon, a discussion was held off the record.)

19 (The following takes place in the presence of the jury.)

20 THE COURT: Good morning, ladies and gentlemen,
21 Mr. Foreman, uh, thank, I thank all of ya for your patience,
22 we ready to go?

23 JURY FOREMAN: Yes, Your Honor, ready to go.

24 THE COURT: Okay. Lawyers ready?

25 MR. SMITH: Yes, Your Honor.

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1 MR. SHEALY: Yes, sir.

2 THE COURT: Mr. Smith.

3 MR. SMITH: Thank you. This (indicating) sketch was made
- 4 by Geri Smith after the robbery, within hours of the robbery
5 when they, when Albert and Geri came home and found a man
6 inside their house. During the course a the robbery the time
7 she was with him she said that she saw his face for about
8 three seconds from the passenger seat of the Ford Explorer
9 back to the rear driver's side, saw the defendant's face
10 without ever seeing a picture with him -- of him, without ever
11 meeting him with the Deputy Mark Finley and she's able to come
12 up with this (indicating) sketch through Deputy Mark Finley
13 who's trained with the FBI, has been doin' sketches for over a
14 decade and that is the picture that she identifies out of a
15 photo lineup as the person that was inside a the house, robbed
16 her of her cash, robbed Mr. William of cash, credit cards and
17 ultimately ordered them to go to the bank withdraw four
18 thousand one hundred dollars, this was not given to her, there
19 was nothing suggested to her, this is her recollection of what
20 he looks like and it is the defendant, 'fore she ever, before
21 the police ever even had a suspect she knew exactly what he
22 looked like, it's scary. Every time I think of this case this
23 is what I think of: how good the sketch is compared to what
24 Mr. Robertson looks like in the photo lineup that she
25 identified him out of: salt and pepper hair. One thing you

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1 don't get in it is the clear blue eyes which both Mr. Williams
2 and Ms. Smith testified to because he was wearing a ski mask.
3 Uh, Mr. Williams didn't see his face, he saw his eyes, he has
4 distinctive blue eyes, it's him. Additionally, this is the,
5 Ms. Smith's contribution to the case, the best thing she
6 contributes to the case, she saw his face but that's not all
7 we have, Mr. Williams was able to provide some details about
8 his body. Mr. Williams said he was skinny which the
9 defendant is, he said he had a tan like he works outside and
10 he described a tattoo on his arm that came down below the
11 t-shirt line and if you look he had a farmer's tan, this upper
12 right picture has a farmer's tan and below the t-shirt line is
13 two what looks like feathers or something like that and he
14 described two strings or lines coming down from the de -- from
15 the perpetrator's arm, it's totally consistent with what you
16 see in this (indicating) picture: there's a tan line, you can
17 see where his shirt would be and you can see that there's a
18 little bit of a tattoo that's hanging down below the tan line,
19 that's what he's able to offer, he also offers the fact that
20 he had blue eyes, the fact that he had salt and pepper hair
21 because of what he was able to see in the beard, that's also
22 consistent with what the defendant has. These two things
23 alone are pretty strong evidence but that's also not all we
24 have, we have the bank video, I'd like to watch it with ya'll
25 again. I direct your attention to something different than

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1 what you probly looked at the first time you watched it 'cause
2 it's not what I saw the first time I watched it. Most people
3 would look at Albert and Geri most likely, what I would like
4 you to look at is this in the back right here (indicating).
5 Now as you can tell this video is not running seamlessly, it's
6 one second stills, if you look at the timing here it's going
7 one second. If you look at that (indicating) black image
8 there that's behind the reflection, it's a tinted glass and
9 there's a reflection of the bank and the sky but if you look
10 at this (indicating) throughout the video, it moves, you can
11 see light coming through from behind right there (indicating)
12 which was just not there, there's something inside the car
13 that's moving, that's exactly where Mr. Williams and Ms. Smith
14 describe the defendant as sitting when they went to SC Telco
15 on Asheville Highway, that it's the shape of a head and it
16 moves right there (indicating), right there (indicating),
17 moving forward, that there is a person seated in the back seat
18 of this car and that person is Donald Scott Robertson. What
19 you'll also see as we get into the video more there's
20 continued movement throughout. One thing you'll see Albert
21 never looks back ever, doesn't make any attempt to look back,
22 even when he ends up handing him the money it's just a
23 straight back, he's actually looks, he's looking down at the
24 seat of the, uh, almost at the steering wheel and just hands
25 it back. He doesn't count it? very unusual for somebody who's

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1 withdrawing forty-one hundred dollars from a bank, you'd
2 expect somebody to check the balance but as he told you he
3 didn't care because the money was going to this (indicating)
4 man that's in the back seat that he found inside his house on
5 Cannons Campground Road on June 17th of 2016 after they came
6 back from the dump.

7 Now they look calmer in this (indicating) part, it's also
8 not live so it's hard to tell what their emotions are but the
9 defendant; number one, has been inside their house and had a
10 conversation for an extended period of time, they've had time
11 possibly for their nerves to calm down, additionally he has a
12 weapon and has told them that they need to comply with what he
13 says and to not do anything funny or he would do harm to them
14 and that he had nothing to lose and that they needed to do
15 everything he said and they did that. Mr. Williams testified
16 he didn't try to alert the teller because he was worried about
17 what would happen if the teller tipped off the robber by
18 saying something.

19 I'm gonna jump forward just a little bit here. Alright,
20 again, right there (indicating), there's no image there, the
21 head is here (indicating), it's gonna come back, you can see
22 that's different than what you saw at the beginning of the
23 video and that is not a reflection, that is something inside
24 of the car, it's a person inside a the car. There
25 (indicating) it is moving again. Now I don't know if you saw

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1 that, that's (indicating) a hand, that was the hand of
2 Mr. Robertson taking the cash from Mr. Williams and there
3 (indicating) it is, you can see it. Mr. Williams is reaching
4 back, not looking back whatsoever in the back seat because
5 he's been told to not to look in the back seat and there's
6 (indicating) a hand grabbing the money from him. This
7 happened, it's on video, they testified about it, it's all
8 consistent.

9 \ Okay, so after they come back from the bank, you can take
10 the lights up, after they come back from the bank they get
11 out, they get loose, Geri speaks to the initial officer that
12 gets there, gives him a description, speaks to Tom Clark, Tom
13 Clark says, Okay, sounds like she's got a pretty good look at
14 this guy, we don't have anything else: we don't have any
15 surveillance, we don't have a car, we don't know where this
16 guy came from, you know, there's there's no sign of who it is
17 so let's do a sketch artist and she does the sketch. They end
18 up, he goes back to the sheriff's office, conducts an
19 investigation there, comes up with a a potential that Donald
20 Scott Robertson fits the description of the person who
21 committed this crime, the information he's getting from the
22 witnesses. He generates a 6-person photo lineup. She
23 identifies and there's three different witnesses that
24 testified about how quickly it was, how confident it was, how
25 assertive she was and one hundred percent that it was Don

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1 Robertson, she talked about she hesitated for a second on
2 number 1, Tom Clark talked about that too because she thought
3 the hair was like salt and pepper and spiky but as soon as she
4 got to 5 she knew it was him, he di -- Tom Clark again, he
5 took the extra step of making it black and white to not make
6 it any more suggestive than it already and that it not make it
7 suggestive at all because he has blue eyes and the blue eyes
8 could ruin the the photo array but as we've already seen she
9 drew a sketch that's almost identical to the picture that she
10 picked out. Um, so Tom Clark gets warrants, Detective Clark
11 gets warrants for her based off of her identification and what
12 they have at the scene. If you remember the pictures, the
13 safe is broken, the back window's open or the back window is
14 broken, it has been taped up, there's glass inside the house,
15 the safe is ruined, uh, just absolutely beaten, there's tools,
16 guns, everything moved around inside of the house, there's all
17 the evidence consistent that a burglary was interrupted and
18 then it turned into a kidnapping and armed robbery.

19 Well, what happens when Mr. Robertson gets picked up? he
20 gets picked up about a week after the warrants are issued,
21 warrants issued on June 17th the day of the crime, all of
22 these things, all of this happens on the day of the crime,
23 Mr. Williams' description, Ms. Smith's description, the
24 photo array, the sketch, all that comes in that day.
25 Mr. Robertson gets brought into the sheriff's office and he

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1 speaks with Detective Clark after being advised of his rights
2 and speaks freely with him. He gives a, he does not admit to
3 the crime, he in fact denies it, gives an explanation a where
4 he was when it happened but he gives some information I think
5 ends up being very important for their continuing
6 investigation of the case: he lets us know that he has an on-
7 again, off-again girlfriend, maybe more than an off-again
8 girlfriend, named Terri Lynn Johnson and that he was actually
9 with her on June 17th on White Avenue over off of Herring
10 Circle and that that is Ms. Johnson's mother's house, okay, he
11 then states that he's homeless, he has clothes here, there and
12 everywhere and that one of the places that he tells the police
13 that he has clothes is behind Highway 9 or off of Highway 9 by
14 Fatz, well Detective Clark goes out to that area, he canvasses
15 it with other deputies and they find a clothes pile consistent
16 with somebody who's living in woods, yes, they didn't swab him
17 for DNA but it's where the defendant told him to go and where
18 he'd been camping and they find a bag of clothes, well he's
19 been doin' this for think twenty years he said, he's got
20 plenty of experience investigating violent crimes and how
21 somebody who's committed a crime may behave after they've
22 committed that crime. His reasoning was this is a man that's
23 told me that he's homeless, this is a man that told me that
24 he's been out of work for months and he's literally living in
25 the woods and if the, well the warrants that he signed are

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1 correct he's come into six hundred dollars off of
2 Mr. Williams' person, fifteen dollars off Ms. Smith, a gold
3 watch that's been taken and forty-one hundred dollars that was
4 removed at the SC Telco that Ms. Pennoyer testified to you
5 about, that's a lotta money for somebody who just goes from
6 being homeless and living in the woods, he said, you know,
7 I'll check the nearest motel just on a hunch maybe see if he
8 just walked over there, he said he doesn't have a car so he
9 goes to the next closest place. He talked to you about
10 speaking to Mike Doshi at the Days Inn and that he showed the
11 picture that I showed you earlier of Donald Scott Robertson to
12 Mr. Doshi and Mr. Doshi brings back and testified about the
13 room registration for Terri Lynn Johnson, it was taken out on
14 June 17th at 10:32, the defense made a issue about how far
15 away it is, this crime's alleged to have occurred at about
16 11:15 in the morning, somewhere in the 11 to 12 area 'cause
17 the, this is 11:15 when they're at here so I guess 10:30 to
18 noon is the rough area it happened, so we're talking about ten
19 and a half, eleven, twelve hours later in which they check in
20 the Days Inn, that's plenty a time to get anywhere, could have
21 gotten a ride, any number of explanations, the room is paid
22 for in cash, maybe unusual for a hotel room, um, also doesn't
23 indicate who paid for it but the room was paid for in cash,
24 that is the defendant's admitted girlfriend, ex-girlfriend,
25 acquaintance, friend, whatever it is who he actually admitted

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1 to law enforcement he was with on the day that this crime
2 happened and on the day that this crime happened that lady
3 checked into the Days Inn, Mr. Doshi talked about how he
4 checks with a photo identification, okay, then naturally like
5 any investigator will do he would have the desire to speak to
6 Terri Johnson because Mr. Robertson had said that he was with
7 her, certainly needs to investigate whether she had anything
8 to do with this crime or whether she knows anything about it,
9 any evidence that she can offer so he contacts her, was able
10 to get in contact with her on June 28th, four days after
11 Mr. Ro -- Robertson has been arrested and there's some
12 information that he told her that I think is important. He
13 tells her that Mr. Robertson has been arrested on these
14 charges and they come from June 17th, he said that he was
15 with you, well they end their conversation and Ms. John -- Ms.
16 Johnson leaves the sheriff's office, that same day she
17 contacts Detective Clark again and they had a phone
18 conversation and Detective Clark testified about how during
19 that phone conversation he placed Ms. Johnson on hold, he
20 contacted Mr. Williams, he was trying to contact Ms. Smith but
21 Ms. Smith was outta town, he talked to Mr. Williams and asked
22 if Ms. Smith owned a watch and then he asked him to describe
23 it. He described it as a gold segmented watch, woman's watch
24 with roses on it and a diamond at the top, I know you saw it
25 earlier, he gets back on the phone with Ms. Johnson, they

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1 conclude their phone conversation and the next day Terri
2 Johnson shows up at the sheriff's office and hands Detective
3 Tom Clark this (indicating) watch, the very watch that
4 Mr. Smith Smith described as being taken from her on June
5 17th, it's his girlfriend who he said he was with on the date
6 of the crime committed, that they came into cash, they rented
7 a hotel room. I think it's important to note that she stays
8 on White Avenue with her mom, well I was gonna hang out with
9 my ex-girlfriend or my ex-girlfriend, probly not gonna hang
10 out at mom's house if I've got four thousand dollars, we're
11 gonna go get a hotel room and that's what they did.

12 Now, Mr. Shealy brought up points about fingerprints and
13 DNA swabs and there's explanations for that. Both victims in
14 this case testified(not only that the defendant have a mask
15 but he had gloves on during the entirety of the robbery so
16 there shouldn't be any expectation that we would find
17 fingerprints but the police checked anyway because sometimes
18 you get lucky, uh, maybe a glove ripped or somethin', who
19 knows. The DNA swabs. Ms. Smith testified about havin' a
20 cigarette in the, in the room, she said that the defendant did
21 not place the cigarette's there, she was actually hoping that
22 he would but he did not. Those are things I'd like to
23 emphasize about the State's case and now I'd like to talk
24 briefly about what the law is on this, what we -- how you
25 apply the facts and the evidence that we've introduced to what

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1 he's actually charged with. He's charged with a number of
2 distinct offenses; first, I'll go with burglary in the first
3 degree. Burglary is the entering of a dwelling, that place
4 this would be a house, they both testified that they live
5 there without consent, Mr. Smith said he had no reason for
6 Mr. Robertson to be there, Mr. Robertson to be there and that
7 you would have an intent to commit a crime therein. The
8 evidence shows there's obviously intent to commit a crime
9 therein I think and originally the intent was just to steal
10 things but then ultimately it turned into a kidnapping, armed
11 robbery. Next is armed robbery -- oh, and the aggravated
12 factors that make it a burglary first would be the fact that
13 he had a weapon, that he moved weapons, whether you believe
14 that he had a pistol or not, there's evidence that he moved
15 weapons inside of the house, that alone would be enough to
16 convict him of burglary first, that he threatened the use of a
17 weapon, they both said that he made threats to them, sit on
18 the sofa, do what he said or else or that Ms. Gail Moffitt
19 testified about that he has two prior burglary convictions,
20 certified convictions that are run through the clerk's office
21 in regular course of business, that he's previously been
22 convicted twice of burglary, that is an aggravating factor and
23 one of those aggravating factors in combination with entry of
24 a dwelling with an intent to commit a crime is a burglary
25 first. Next is armed robbery and there's one count for Geri

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1 and one count for Albert. Armed robbery is the forcible
2 taking of goods with the intent to deprive the person of that
3 and you use a weapon in the commission, that we are alleging
4 that he used a weapon as both victims testified to a silver
5 revolver with white grips. There is number of things that
6 were stolen off of their person. Mr., uh, Williams testified
7 about six hundred dollars cash, credit cards taken off of
8 them, Ms., uh, Smith's I believe said she got fifteen dollars
9 off of her and the gold watch, you also have the additional
10 forty-one hundred dollars that was taken through force, with a
11 weapon against Mr. Williams, those are armed robbery and
12 kidnapping I know most people imagine, you know, being tied
13 up, duct taped or something like that, that didn't happen in
14 this case but there's no doubt that they were not free to
15 leave at any point during this case, they were complying with
16 everything he said because they feared that he would hurt them
17 otherwise.

18 Now, there's one other charge is possession of a weapon
19 by a person convicted of a crime of violence and you're gonna
20 hear the judge talk about a stipulation that was entered into
21 between the defense and the State and that is that he has a
22 prior conviction for what's classified under our law as a
23 violent felony, that's, you'll hear from the judge that that
24 is true and you must accept that to be true and that if you
25 believe that he possessed a weapon then he's guilty of that

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1 charge as well.

2 Um, the judge is gonna talk to you about direct and
3 circumstantial evidence and the differences between those
4 two. Ms. Smith identifying him saying that's the person
5 I saw, that's, she perceived it, that's direct evidence.
6 Circumstantial evidence: watch, hotel room, these type
7 of things, the the campsite in the woods, you know,
8 Mr. Mr. Williams has direct evidence with what he saw about
9 his arm, his tan, things like that. In this case I like that
10 we have a combination of both because maybe maybe you question
11 Ms. Smith's either how she came up with this sketch or the
12 lineup or anything like that but you have other pieces to
13 indicate, yeah, she is in fact right, she's not picking out
14 the wrong person, she's not just -- has an erie recollection
15 of what this guy looks like, there's other evidence that links
16 him to this other than her recollection of what he looks like.
17 Um, like I said, the first time I ever looked at this case,
18 the sketch and then the picture of him outta the lineup is
19 uncanny, I don't even know how I could describe somebody that
20 well, she's obviously very good, the dete -- Detective Finley
21 testified about how it was a much faster job than he normally
22 is able to do because she was just very certain about her
23 identification and he was there present when she picked him
24 outta the photo lineup, also no hesitation. There is no way
25 that we can prove anything beyond every possible doubt but

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1 that's now what we have to do, we have to prove things beyond
2 a reasonable doubt and I would submit to you the evidence is
3 overwhelming that he did this crime, her identification of him
4 alone with the certainty, the corroboration from Mr. Williams
5 and what he saw about the defendant, the bank video, the Days
6 Inn and ultimately the watch, the watch that is recovered off
7 of the defendant's girlfriend who he said he was with on the
8 day he committed this crime and I'd ask that you return
9 verdict of guilty on all these charges. Thank you.

10 THE COURT: Thank you, sir. Mr. Shealy.

11 MR. SHEALY: Uh, Judge, if you'll bear with me one minute
12 I'll set up my computer.

13 (Pause.)

14 (Whereupon, a discussion was held off the record.)

15 MR. SHEALY: Alright, ladies and gentlemen of the jury, I
16 promised ya a bizarre case and I think I brought you a bizarre
17 case. Now I didn't expect Mr. Williams to testify that he had
18 had the armed robber locked in the vehicle and then let him
19 out, didn't expect that to happen but that's what he testified
20 to, so I'm gonna start with the fact that this, I've been
21 doin' this for a while, this was the most civil armed robbery
22 that I have ever seen now except for the very beginni7ng where
23 they say that he threw her on the ground, other than that
24 there was absolutely no violence; in fact, for giant portions
25 of it they don't even know if he has a gun or not, that's what

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1 they testified to so initially whenever Mr. Williams comes in
2 and sees the gun he backs up but he doesn't back outta the
3 house, he backs into the house and that's when he alle -- then
4 the robber grabs Geri and pulls her inside at which point they
5 apparently sit down and hang out for thirty minutes. She
6 offers him a cigarette, she has him smoke one, she smokes one,
7 keeps saying that those two butts and cigarette in the ashtray
8 were not the robber's but they also only testified two
9 cigarettes got smoked and that no smoking was allowed in
10 Mr. Williams's house, Mr. Williams doesn't smoke, that's what
11 they testified to and yet they did no testing on those and I
12 understand she told them don't do testing on them but why
13 would she tell them that, because again there are two
14 cigarette butts, only one a her.

15 MR. SMITH: Your Honor, object.

16 THE COURT: See the lawyers.

17 (Whereupon, a bench conference was held off the record.)

18 MR. SHEALY: Alright, and then at that point after they
19 have smoked their two cigarettes they walk in a single file
20 line to the car and they say that, Mr. Williams says that he
21 may have taken his ski mask off at that point, they don't know
22 if he's still got the gun in his hand or not 'cause they don't
23 look at him even though they get into the vehicle. Now the
24 robber has to get into the passenger or the si -- the rear
25 driver door, has to get in right next to Mr. Williams but

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1 Mr. Williams doesn't see his face, doesn't see the ski mask,
2 doesn't see anything 'cause he's been told not to look at him
3 so he's not been lookin' at. When they get into the car,
4 Mr. Williams immediately flips the mirror up, there's no
5 prompting for that, there's no insistence on that but he does
6 it anyway and then this robber says, No, no, that's fine, you
7 go ahead and just put it back. Now ya'll have all driven in
8 cars, ya'll have all used rearview mirrors, ya'll have all
9 done this before and ya'll know just as well as I do that if
10 you look in a rearview mirror to drive you can see the people
11 in the back but I guess Mr. Williams was just too polite to
12 look at this man's face. Now they also say that he he who
13 said, Don't look at me, don't look at me, don't look at me,
14 don't look at me but they were all so comfortable with each
15 other that he wants to show off a scar while he has his mask
16 off, so he's taken his mask off and I get, I don't know if
17 he's trying to flirt with her or what they're alleging but
18 he's like, Look at this cool thing I got on my arm, does that
19 make any sense? He's gone to all these great extent, these
20 great lengths for them not to look at his face but he says,
21 Look at this scar. Now we don't know if it's a scar 'cause
22 she couldn't remember that, she couldn't remember the tattoos,
23 so far as I can recall she didn't testify to any tattoos that
24 are on my client's arm where presumably she's looking but,
25 man, she got a look at that face and they want you to believe

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1 that.

2 Now throughout that video, we're gonna talk more about
3 the video, I'm gonna show you some spots on video. He's mess,
4 Mr. Williams is messing with the center console and again,
5 ya'll can watch that video just as often as ya'll would like,
6 I'm gonna show you some spots where if if he's not lookin'
7 back, I don't know where he's lookin'. He's messin' with the
8 center console, there's no way he can possibly not see the
9 person who's sitting allegedly right behind him, it's just not
10 possible and again, you can watch the video and they're not
11 distraught. Ms. Smith's drinkin' out of a water bottle,
12 smokin' a cigarette, one point it looks to me like she's
13 playin' on the phone, I'm not entirely sure what it is in her
14 hands but there's somethin' in her hands that she is engrossed
15 in, so they come back to the house at this point where
16 Mr. Williams gets out and and initially he testifies that she
17 got out, there was a problem with the doors and she starts
18 yelling, Let the guy out, and so he does, Mr. Williams clicks
19 the, because the child locks were on and so he had to let the
20 guy in the back seat out, the one that's robbing them, now he
21 tried to fix it by saying, Oh, well, I mean, Geri was maybe in
22 the car and so I was afraid that he might shoot her or
23 something like that but and that she was stuck too I believe
24 he, at one point he tried to say but we've all, again, been in
25 cars, we know how child locks work. Child locks don't work on

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1 the passenger door, least I've never seen a child lock on a
2 passenger door, in the back sure, you can get those, but I'm
3 unaware of any passenger seat, front passenger seat door that
4 opened or that locks based on a child lock, so after they've
5 let him out that's when we have the the big break where he
6 gets, where Wayne gets in and closes the door and locks out
7 the robber but what was odd, and he testified to this twice,
8 Mr. Williams says that he opens the glass door with keys in
9 his hand to get in to open the door, the robber let him lock
10 his door, that's the only conclusion you can draw from that
11 line testimony, so the robber was so concerned that on the way
12 to the bank Mr. Williams's possessions be protected that he
13 let him lock the door and I even asked him it was, I would
14 asked him if he had left, if he had needed to unlock the door,
15 open the door, get inside and he answered yes, does that make
16 any sense? Again, this is all much more civil than I've ever
17 heard an armed robbery be. So they call the police at that
18 point which I don't know what phones they use because they
19 testified he took all their cell phones but maybe it's the one
20 that Geri, that Ms. Smith is playing on in video, I don't
21 know, but somehow they call 9 and they get an officer out
22 there, so these officers come out and there no fingerprints,
23 there's no DNA, there's no anything that links my client to
24 this house, we've got cigarette butts but, again, we didn't
25 test those. And Mr. Smith made a big deal of them testifying

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1 about gloves, that well they both testified that he had gloves
2 on so he wouldn't have left fingerprints, well that may be
3 true but they had to recall Ms. Smith to testify to that, she
4 didn't testify to it to begin with so what a difference two
5 days of testimony can make, she testified to it when they
6 recalled her and I think that suggests some duplicity and if
7 ya look on these various exhibits, they're -- I'm gonna show
8 'em to you in just a little bit, that the hammers and the
9 chisels and the safe and all of this stuff, he admitted that
10 they didn't take any finger, they didn't even try -- try to
11 take fingerprints, Mr. Smith just told ya they did and maybe
12 they tried to take a finger print off of a car or something
13 but they didn't dust all of these tools, they didn't dust the
14 point of entry, they didn't dust the front door, they didn't
15 dust -- dust the glass door, didn't dust any of those things,
16 they didn't swab any of these things, they recovered these
17 cigarette butts, no testing was done and now they do get this
18 (indicating) watch and this watch kind of appears because
19 Ms. Johnson didn't testify so we don't know why -- where she
20 got the watch from, we don't know why she gave it to the police, we
21 don't know anything about that, all that we know is that
22 twelve days -- or eleven days after the incident she shows up.
23 Eleven days in a watch's life is a very long time. A watch
24 can be turned over, particularly a gold one, any number of
25 times. I don't know if ya'll ever been approached by folks

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1 in a parking lot, you can buy these things, it's very easy. I
2 ha -- I've had other clients who like I say could get rid a
3 that watch lickety-split and there's really no proof even
4 that my client was in the room that they have offered you with
5 Ms. Johnson with the exception of his telling the police, I
6 was with Ms. Johnson. There's no proof he provided the cash
7 for this room; in fact, I assume that the person who has to
8 give the cash is the one that has to register otherwise why do
9 they have to register, why bother, if you can just buy it for
10 cash then what do ya need that information for 'cause you
11 don't know who's rentin' the room, so they want you to believe
12 part of his what he told the police but not all of what he
13 told the police and does that make sense? They both vouch for
14 and then attack his credibility and it just doesn't make any
15 sense; further, when they get to this place, believe it's
16 State's Exhibits 19, State's Exhibits 19 then State's
17 Exhibit 20 are closer-up pictures, what they actually found
18 are a pair a jeans in what looks like a trash bag off the side
19 of a road, not just any road but Highway 9, is that surprising
20 that ya found a bag of clothes, a bag of apparently trash off
21 the side of Highway 9 and they've testified that, and
22 Detective Clark actually said that these pictures and this
23 information has no evidentiary value, meaning it isn't
24 evidence of anything but we put eight pictures of it in so
25 thank goodness for that.

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1 Now what they didn't find in that area or a Days Inn
2 hotel room or anywhere else is a gun, they didn't find these
3 gloves, they didn't find a ski mask, they didn't find a lime
4 green t-shirt, I guess they found some faded jeans but we
5 don't even know what size those jeans are so we don't know
6 they even fit my client, didn't find any boots, didn't find
7 anything except for apparently some stuff in a trash bag yet
8 they attribute it to Mr. Robertson and if ya attribute it to
9 Mr. Robinson -- Robertson then I will point out you got no
10 instrumentalities of these crimes, you got no clothing that
11 was used in these crimes, this is Mr. Robertson's stuff then
12 where are these things? And so then we have an
13 identification, so once we've got the investigation goin' on
14 we got an identification, she draws this (indicating) picture
15 and she picks him out of a lineup but when she draws this
16 picture, when she picks him out of a lineup, when she
17 describes him to Detective Clark, nowhere does it mention
18 facial; in fact, her description of his face is different from
19 Mr. Williams' description of his face. She says he's got a
20 ski mask on, it's got a mouth hole, it's got eye holes and
21 it's got red around those holes, now what Mr. Williams
22 testified to is that he's got eye holes but it's rolled up so
23 he can breath and he can see all of this (indicating) and it's
24 three to four days of facial hair growth, he's got three to
25 four days of growth but that wasn't anywhere on the sketch and

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1 Detective Finley or Officer Finley testified that nowhere did
2 she mention facial hair, that that box wasn't checked, that
3 that code wasn't given and; further, they say that he
4 got -- she got such a good view of him, and I've already
5 talked a little bit about this, in this glance into the back
6 seat which is what she said it was, she says she looks, she
7 doesn't see the gun, she doesn't see a scar, she doesn't see
8 the tattoos, she sees nothin', nothin', other than allegedly
9 his face, that's it, and again, that doesn't make sense and it
10 doesn't, it's not consistent to what she testified earlier to
11 which was that, I was paying most attention to the gun, so
12 either the mask had eye and mouth holes or it didn't, either
13 he had on boots as she says or he had on tennis shoes, either
14 he had tattoos or he didn't have tattoos, they're asking you
15 to believe these two people who have described different
16 people, they're just not the same and, ladies and gentlemen, I
17 would submit to ya that if Mr. Robertson's arms, I'm not sure
18 that I'm seeing him, I'm gonna put up State's Exhibit 17 which
19 Mr. Smith showed ya, talk about this tan line 'cause, ya know,
20 it's not like we're in South Carolina and anybody's got a
21 farmer's tan. They testified that Mr., that the robber was
22 jacked, he had big arms, if that guy's got big arms then I'm
23 huge, that's what they testified to and it doesn't match, they
24 have described two different people and neither of those
25 people are Mr. Robertson.

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1 Okay, now as to this bank video, not, we're not gonna
2 watch the whole thing I promise, ya'll can though, ya'll can
3 watch as often as you want, can watch it however you want,
4 ya'll can stop it, you can pause it, you can move it, you can
5 manipulate, you do it, do whatever you need to do with this
6 bank video so that ya'll are confident in your verdict but I'd
7 like to point out some things, that he initially puts, that
8 Mr. Williams initially puts things into this (indicating) tube
9 at about 11:10 on the, on the video, alright, he also does
10 some other things, he puts his hand on the roof a the vehicle
11 which apparently doesn't make the robber dumb, he's concerned
12 about the mirror but doin' this (demonstrating) on the roof,
13 that's fine. At 11:10:48 it looks to me as though he takes
14 his ID out of his wallet and he puts that wal -- that ID into
15 the tube, now that's crucial because he testified that he
16 didn't, that that was the mistake that he made, he had
17 forgotten to give them the ID and that's why it looks like
18 there are two transactions on this video and as I told ya at
19 various times Geri appears to be drinking out of a water
20 bottle, she also appears as I told ya to be playing on her
21 phone. Just bear with me.

22 (Pause.)

23 She seems to be laughing at that (indicating) point and
24 then it looks like she's got somethin' in her hands, I can't
25 tell what, it looks to me like a phone quite frankly but as

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1 I've said I can't tell. At 11:13 he takes out what appears to
2 be an envelope, at 11:13:07 it appears that he has money in
3 his hand to me, as I've said let me skip forward, and there
4 again he's messin' in the center console but still he says he
5 didn't see the alleged robber. At 11:13 he looks back so that
6 he can see, right there (indicating), I apologize I'm not as
7 skilled at this as Mr. Smith is, but he appears to look into
8 the back seat, he also appears to hand something back to the
9 back seat so it's the exact same motion that he makes at the
10 point that Mr. Smith is so interested in telling ya about but
11 all of this is when he has taken the tube out the first time
12 when he said he didn't get any money and as I told ya we're
13 not gonna watch the whole thing. So, ladies and gentlemen, as
14 I told ya that bank video does not even suggest they're
15 telling the truth, they're not under any stress, he's --
16 it -- they just aren't. They're smoking cigarettes, they're
17 drinking water, that she seems to laugh at one point, he's
18 reaching in the back seat but he's looking in the back seat as
19 well, he's messing in the center console and again which you
20 don't see after he takes the tube out the second time what I'd
21 failed to see was where he puts his ID in, I also am not
22 entirely sure that I see where he's signing the check. He's
23 messin' on the center console for a little while but if ya
24 look at the signature on the back a the check the endorsement,
25 what he says he didn't do, in nice big, crisp letters, they're

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1 not the scratch of a person who is under a time crunch,
2 they're not the concerned scribble of someone who is under
3 some kind of of pressure, that he just isn't, and and as I
4 told ya this, these are just, it just doesn't make any sense,
5 this case doesn't make any sense the way that they've told it.
6 This is kinda like, I don't know if ya'll ever seen but
7 there's a cartoon of a dog in front of a dam and the dam
8 springs a leak, he puts his paw on the leak then it springs
9 another leak, he puts his paw on that leak, he springs a third
10 leak, he puts a paw on that leak and the leaks gets
11 progressively worse and he's trying to cover them all up but
12 ultimately he's swept away by the water, they keep trying to
13 explain things and it just makes it worse. They say that
14 Mr. Robertson went into a house he had never been in
15 previously for forty-five minutes to an hour assuming he went
16 into that house immediately after Mr. Williams' and Ms. Smith
17 left. If ya assume that he was waiting on them to leave and
18 he went to the house at that point then he apparently had time
19 to walk through the house, discover State's Exhibit No. 11,
20 all of these (indicating) tools, State's Exhibit 12, that
21 (indicating) safe and that (indicating) ball-peen hammer,
22 these (indicating) three rifles, move those three rifles to
23 the bed, do that (indicating) to the safe, and State's Exhibit
24 10 is a closer version of that safe, he did all of that, he
25 then heard them arrive, he managed, I guess he woulda pulled

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1 on the ski mask at that point, pulled his gun out, gone to the
2 front door because this was apparently not in the front door,
3 waited on them, oh, and by the way he also had found their
4 ledger, gone through their ledger at the kitchen table, put a
5 gun on the kitchen table, so he's waiting -- he -- they come
6 in, he then armed robs 'em, all of this in a house he's never
7 been in and he's able to find all of this stuff, move it
8 hither an yon throughout and still conceal his identity, get
9 to the fronta the house and then hold them hostage, they
10 further say that Wayne hadn't seen him in fifty years, he
11 couldn't recognize his fa -- his cousin's voice despite the
12 fact that he's been in Spartanburg for nineteen, for since
13 1985, now I can't go through Bi-Lo without seein' at least two
14 clients but he can go through, what's this, thirty years of
15 life, thirty-two years of life without having ever seen his
16 second cousin despite the fact that his second cousin's mother
17 lives at [REDACTED] Gossett Road which is a couple of miles down the
18 road from this trailer but they've never seen and as I've said
19 they say that he took their cell phones but they called 911,
20 he took all their cards but he made them drive to the bank,
21 they say he broke the back door window in order to get in,
22 that's gonna be State's Exhibit 27, 28 and 29, that's
23 (indicating) 27, that's (indicating) 28, that's (indicating)
24 29. First, he broke the window while wearing, at some points
25 they testified he's wearing gloves, sometimes he didn't or

CLOSING ARGUMENTS

1 they didn't testify to that but if he's wearing gloves he's
2 certainly wearing a lime green t-shirt and he reaches over
3 through that window, unlocks the door, opens the door without
4 slicing all of this (indicating) of his arm and anybody who's
5 ever broken a window knows no, uh, window forever breaks
6 clean, ever. And then they say that this foil packet doesn't
7 matter, State's Exhibit No. 29, that's a close-up view of it,
8 and ordinarily I probably agree with, what does a foil packet
9 have to do with an armed robbery? Well they didn't testify he
10 was armed with a toaster pastry, with a Pop-Tart and yet that
11 foil wrapper is on the top of the alleged broken glass, it
12 can't get on top of broken glass unless it happened second, if
13 that is what they're alleging, it is impossible, it's simply
14 not possible.

15 Okay, and as I've told ya they re -- had to recall
16 Ms. Smith which again, I've been doin' this for a while,
17 doesn't happen very often, that she needed to clean up this
18 glove thing, she also needed to clean up this cigarette butt
19 thing 'cause they took these butts into evidence, never
20 tested, I think we've covered that sufficiently.

21 Now, we've also talked about the the shiftings of these
22 masks. So he puts, he has the mask on and then he takes the
23 mask off then it's unclear to me whether he puts the mask back
24 on for the trip back from the vehicle to the house because,
25 remember, Wayne has to let him out of the car, he has to

CLOSING ARGUMENTS

1 unlock the car to see and the robber has to get outta the back
2 seat, how does he not see his face then, well nobody testified
3 to that but why would he put the mask back on having already
4 shown his face allegedly to Ms. Smith? Why would he roll it
5 back on? He asked if Wayne a -- has a safe, he's already
6 supposedly been workin' on this safe for minutes and, uh,
7 possibly up to half an hour. When Wayne calls the bank on
8 speaker, Geri says it's conversation with a real person or
9 they're askin' whether it's what the limit to withdraw money
10 is on a check if you're outside, Wayne says it's an automated
11 teller system, it's just a verification of the balance but out
12 of all of these thing the oddest thing is where Mr. Williams
13 testified that I told him that my bank was SC Telco, being
14 from Spartanburg I assumed he would know the area, how does he
15 know that person that he's never seen was from this area? Why
16 would he assume such a thing?

17 Now we're taught in law school to be decisive, you gotta
18 decide what the facts are but I'll be honest with ya I got no
19 idea what to make of this case, none of this makes any sense
20 to me. The only thing that seems clear and consistent is what
21 Detective Clark says my client told him which was, I was with
22 Ms. Johnson so I don't know, I didn't do this. Now when I,
23 when I got it and I read through it it read quite frankly like
24 some kinda weird drug deal to me, now it makes sense 'cause if
25 they know Wayne's cousin is homeless they can blame him, they

CLOSING ARGUMENTS

1 can draw him and then they don't have to blame a drug dealer,
2 a drug dealer doesn't get arrested. I don't know that that's
3 what's happened here 'cause forty-one hundred dollars is a
4 lotta money in a drug deal or it may just be that they wanted
5 the money, they got forty-one hundred dollars back from the
6 bank tax free. The bank reimbursed them all of this money,
7 now it took a couple a months, s -- I believe it was seven
8 months total, but she testif -- Ms. Pennoyer testified that
9 all ya need is a police report, they don't look into that
10 stuff, so long as they get those police reports they're happy,
11 they're insurance will pay for it and while seven months may
12 be a while to wait for forty-one hundred dollars, it's not
13 that long if you've kept the cash and, ladies and gentlemen,
14 I'll tell ya I don't have to know what happened but ya'll have
15 to be convinced of it beyond a reasonable doubt, ya'll have to
16 determine a set a facts beyond a reasonable doubt then apply
17 those facts to the law as the judge gives it to ya and that
18 reasonable doubt is the doubt that would make a reasonable
19 person hesitate and if you can't determine what happened
20 beyond a reasonable doubt then ya have to find my client not
21 guilty. Now what is a reasonable doubt? My dad used to tell
22 this reasonable doubt story, it's if you go to for instance a
23 Bi-Lo or a Food Lion or somethin' like that, you go to the
24 meat section and in the meat section they usually have some
25 kind of special, it's got a sticker on it that says reduced

JURY CHARGE

1 for qui -- quick sale, now ya look at it, reduced for quick
2 sale obviously means it's old, that it's gettin' towards its
3 expiration date, ya look at it, now maybe ya buy it maybe ya
4 don't buy it but that doesn't matter, the fact is ya hesitated
5 to buy it because you didn't know if you wanted it or not
6 because it might not be any good anymore. If you hesitate to
7 act in this case and if you hesitate to act on the facts, not
8 just the law, on the facts then you have to find Mr. Robertson
9 not guilty, you can't do anything other than that.

10 Now the judge is also gonna explain to ya, and this will
11 be the last thing that I mention, about circumstantial
12 evidence. Circumstantial evidence it's a very, it's a
13 specific charge, it requires all the facts be consistent with
14 themselves and point conclusively to the defendant's guilt, if
15 it's just suspicious, if ya just think as one a my friends
16 would say that it sounds hinky, that's not enough, you have,
17 it's got to believe, again, point conclusively to that guilt
18 and, ladies and gentlemen, as I've told ya I don't know what
19 to make of this, I don't see how any reasonable person could
20 find facts as the State has alleged them and that's their
21 burden is to prove the facts as they've alleged them, hold
22 them to that burden, if you do that you have no choice but to
23 find my client not guilty. Thank you.

24 THE COURT: Mr. Foreman and ladies and gentlemen of the
25 jury, you have seen and heard the evidence presented in this

JURY CHARGE

1 case as well as the arguments of the lawyers and it's now my
2 duty and obligation to instruct you, uh, in this case, on the
3 law in this case and it will be your duty to begin your
4 deliberations, through this process you will apply the facts,
5 the law as I instruct it and render a fair and an impartial
6 verdict. It is your job and your job alone to determine what
7 the facts are in this case, you do that by applying your
8 common sense to the testimony and the evidence presented
9 during this trial. You twelve jurors alone will decide what
10 effect, value and weight is to be given to any particular
11 testimony or evidence received, quite simply, ladies and
12 gentlemen, your job, your obligation is to give both the State
13 and this defendant a fair and impartial trial based on the
14 evidence presented and the law in this case.

15 The indictments charge this defendant with the offenses
16 of two counts of armed robbery, possession of a weapon during
17 a violent crime, possession of a firearm or ammunition by a
18 person convicted of a violent crime, two counts of kidnapping
19 and first degree burglary, specifically it is alleged that on
20 June 17 of 2016 this defendant Donald Scott Robertson did in
21 Spartanburg County, South Carolina while armed with a deadly
22 weapon, being a handgun, or while alleging through actions or
23 words that he was armed while using a representation of a
24 deadly weapon or any object which a person presented during
25 the robbery reasonably believed to be a deadly weapon did in

JURY CHARGE

1 Spartanburg County, South Carolina feloniously take from a
2 person or presence of Albert, uh, Williams by means of force,
3 violence and/or intimidation goods or monies, such goods or
4 monies being described as U.S. currency with the intent of
5 depriving him permanently of the property in violation of law,
6 it's also specifically alleged that he did this and did in
7 Spartanburg County, South Carolina while armed with a deadly
8 weapon, that being a handgun, while allegedly through actions
9 or words that he was armed while using a representation of a
10 deadly weapon or object which a person present during a
11 robbery reasonably would believe to be a deadly weapon did
12 this county and state feloniously take from the person of Geri
13 Smith by means of force, violence and/or intimidation of goods
14 or monies, that being U.S. currency, with the intent of
15 depriving her permanently of the property in violation of law,
16 it is further alleged that this defendant Donald Scott
17 Robertson did in Spartanburg County, South Carolina on or
18 about June 17 of 2016 possess or physically displayed a
19 handgun during commission of a violent crime, that is, armed
20 robbery in violation of state law. It's alleged in the
21 indictments that Donald Scott Robertson did in Spartanburg
22 County, South Carolina on or about June 17 of last year have
23 possession of a handgun after having previously been convicted
24 of a violent felony as defined by state law, it's specifically
25 alleged that Donald Scott Robertson did Spartanburg County,

JURY CHARGE

1 South Carolina on or about June 17 of 2006 wilfully and
2 unlawfully with criminal intent seize, confine, kidnap, abduct
3 or carry away Albert Williams without authority of law, in
4 violation of state law, it's also alleged that this defendant
5 did in Spartanburg County, South Carolina on or about June 17
6 of 2016 wilfully and unlawfully with criminal intent seize,
7 confine, kidnap, abduct or carry away Geri Smith without
8 authority of law, in violation of state law and it's alleged
9 that this defendant Donald Scott Robertson did in Spartanburg
10 County, South Carolina on or about June 17 of 2016 commit the
11 crime of burglary in the first degree in that he entered a
12 dwelling located in this county and state without consent and
13 with the intent to commit a crime therein and that he did
14 enter dwelling and/or while inside the dwelling and/or while
15 in immediate flight from the dwelling either armed himself
16 with a deadly weapon and/or used or threaten the use of a
17 dangerous instrument and/or cause physical injury to a person
18 who was not a participant in the crime or displayed what is or
19 appeared to be a handgun or other firearm and additionally
20 that he has two or more prior convictions for burglary or
21 housebreaking or a combination of both in violation of state
22 law.

23 Once again, Mr. Foreman, ladies and gentlemen, I remind
24 you and charge you that the defend -- the fact the defendant
25 was arrested, charged and indicted is not evidence in this

JURY CHARGE

1 case and cannot be considered by you as evidence of guilt nor
2 does it create a presumption of inference of guilt, the
3 indictments are simply written instruments which bring the
4 case before the Court, defendant has entered a plea of not
5 guilty to each and every, uh, charge in the indictments and he
6 is presumed innocent of those charges.

7 Now the indictments, uh, the indictments in this case
8 allege, uh, the kidnapping of Geri Smith, kidnapping of Albert
9 William [sic], first degree burglary, armed robbery of Geri
10 Smith, the armed robbery of Albert Williams, possession of a
11 weapon during the commission of a violent crime and possession
12 of a firearm or ammunition by a person previously convicted of
13 a violent crime, each indictment, ladies and gentlemen, is a
14 separate and distinct offense, you must decide each indictment
15 separately on the evidence and the law applicably to it
16 uninfluenced in your decision as to any other indictment.
17 Defendant may be convicted or acquitted on any or all of the
18 offenses, you will be asked to write a separate verdict of
19 guilty or not guilty for each indictment against this
20 defendant.

21 The burden of proof, that the defendant has entered a
22 plea of not guilty and the, that puts the burden of proof
23 squarely on the State a South Carolina to prove his guilt
24 beyond a reasonable doubt. A person charged with committing a
25 criminal offense in South Carolina is never required to prove

JURY CHARGE

1 himself innocent. I charge you it is a cardinal, important,
2 vital rule of law that in all criminal trials no matter what
3 the seriousnesses of the charge may be for which he stands
4 charged a defendant is always presumed to be innocent of the
5 crime for which the indictment was issued unless guilt has
6 been proven by evidence satisfying you of guilt beyond a
7 reasonable doubt, this presumption of innocence does not end
8 when you begin your deliberation but it accompanies this
9 defendant throughout the trial until you reach a verdict of
10 guilt based on evidence satisfying you of guilt beyond a
11 reasonable doubt. The presumption of innocence has been
12 described as a robe of innocence placed about the shoulders of
13 the defendant which remains with every defendant from the
14 moment of his arrest and continues until it has been stripped
15 from his shoulders by evidence satisfying you of the
16 defendant's guilt beyond a reasonable doubt. A presumption of
17 innocence is not legal theory nor is it a legal phrase, it is
18 a substantial right to which every defendant is entitled
19 unless you twelve jurors are satisfied from the evidence of
20 his guilt beyond a reasonable doubt.

21 The State alleges this defendant is the perpetrator of
22 the crimes charged, the State a South Carolina has the burden
23 of proving identity beyond a reasonable doubt. Identification
24 testimony is the expression or belief or impression by a
25 witness. You may consider the opportunity of a witness, uh,

JURY CHARGE

1 to observe the alleged offender at the time of the offense and
2 thereafter make an identification, it is for you, the jury, to
3 determine the accuracy of the identification of the defendant.
4 You must consider the credibility of each identification
5 witness in the same way as any other witness. You can
6 consider that witness's, uh, tr -- uh, testimony as well as
7 the capacity, opportunity and circumstances of the observation
8 of the matters about which that witness testified.

9 Now, ladies and gentlemen, a stipulation is an agreement,
10 an admission or a concession made in judicial proceeding by
11 the parties or their lawyers, stipulations are binding upon
12 those who make them. A stipulation is an agreement, an
13 understanding, the Court and the jury must accept stipulations
14 as binding and if counsel for the parties have stipulated to
15 any fact or any fact has been admitted by counsel, you will
16 regard that fact as being conclusively proved as to the party
17 or parties making stipulation for admission. In this case the
18 State and defense have stipulated the defendant has previously
19 been convicted of a violent crime defined by law, this
20 stipulation should only be considered for the purpose of
21 determining whether or not a defendant is guilty of Indictment
22 2017-3586 which is possession of a firearm or ammunition by a
23 person convicted of a violent crime and for no other purpose,
24 the State has also offered evidence that this defendant has
25 been convicted of two prior burglaries, the defense, the

JURY CHARGE

1 defense has not stipulated to this fact, this evidence should
2 only be considered in determining whether or not the defendant
3 is guilty of Indictment 2016-5530, burglary in the first
4 degree. You are only to consider these convictions to
5 determine whether the State has met its burden to prove the
6 elements of the crimes of possession of a firearm or
7 ammunition by a person convicted of a violent crime and first
8 degree burglary, you are not to consider prior, these prior
9 convictions as evidence that this defendant committed the
10 crime for which he is currently on trial or should you
11 consider the convictions as character evidence. You should
12 not conclude that because this defendant has been previously
13 convicted of burglary or a violent, uh, crime that he is
14 likely to have committed these offenses, you are to consider
15 his prior convictions simply as a part of the elements that
16 the State must prove in order to make a charge of possession
17 of a firearm or ammunition by a person convicted of a violent
18 crime and first degree burglary.

19 I remind you that during this trial you and I have
20 certain duties to perform. As the trial judge it is my
21 responsibility to preside over the trial and additionally I
22 have the duty to rule on admissibility of evidence offered,
23 you are to consider only the evidence that you have, uh,
24 received here in this courtroom. If any testimony was ordered
25 stricken, you must disregard that, you are to consider only

JURY CHARGE

1 the testimony which has been presented in this witness -- from
2 this (indicating) witness stand and the exhibits which have
3 been made part of the record and any stipulations by the
4 lawyers. It is your duty to find facts from all the evidence
5 admitted, to those facts you must now apply the law as I give
6 it to you, it's your duty to apply the law exactly as I give
7 it to you whether you agree with it or disagree with it. You
8 must not be influenced by any personal likes or dislikes,
9 prejudices or sympathy, that must me -- that means you must
10 decide this case solely on the evidence presented, uh, before
11 you and according to the law, you will recall that you took an
12 oath previously to do so. In following my instructions you
13 must follow all instructions and not single out some, ignore
14 others, they're all equally important. You must not interpret
15 any of my instructions or anything else I have said or done as
16 a suggestion regarding your verdict you as a jury should
17 return, that is a matter entirely for you twelve jurors.

18 State a South Carolina has the burden of proving this
19 defendant guilty beyond a reasonable doubt. Ladies and
20 gentlemen, proof beyond a reasonable doubt is proof that
21 leaves you firmly convinced of this defendant's guilt. I tell
22 you and charge you there are very few things in this world
23 that we know with absolute certainty and in criminal cases the
24 law does not require proof that overcomes every possible
25 doubt. A reasonable doubt may be described as the kind of

JURY CHARGE

1 doubt that would cause a reasonable person to hesitate to act,
2 if you have such a doubt as to the guilt of this defendant, he
3 is entitled to a verdict of not guilty. Reasonable doubt may
4 arise from evidence in this case or from the absence or lack
5 of evidence in a case. Based on your consideration of the
6 evidence if you are firmly convinced this defendant is guilty
7 of crimes charged, you must find him guilty; on the other
8 hand, if you think there's a real possibility he is not
9 guilty, you must give him the benefit of the doubt and find
10 him not guilty, you twelve alone must make determination of
11 whether or not reasonable doubt exists as to the guilt of this
12 defendant.

13 There are two types of evidence that the law recognizes:
14 direct evidence and circumstantial evidence. Direct evidence
15 proves the existence of a fact and does not require deduction,
16 circumstantial evidence is proof of a chain of facts
17 indicating the existence of a fact. Crimes may be proven by
18 circumstantial evidence, the law makes no distinction between
19 the weight or value to be given either direct or
20 circumstantial evidence, however, to the extent the State
21 relies on circumstantial evidence, all circumstances must be
22 consistent with each other and when taken together point
23 conclusively to the guilt of the accused beyond reasonable
24 doubt, if these circumstances merely portray the defe --
25 defendant's behavior as suspicious, proof has failed. The

JURY CHARGE

1 State has the burden of proving the defendant guilty beyond a
2 reasonable doubt and this burden rests with the State
3 regardless of whether the State relies on direct or
4 circumstantial evidence or a combination of two.

5 Now under the Constitution of South Carolina you twelve
6 jurors are the finders of fact, in deciding what the facts
7 are, you may have to decide what testimony you believe and
8 what testimony you do not believe. It is your duty as jurors
9 to analyze and evaluate the evidence and determine which
10 evidence is convincing to you. In determining the
11 believability of witnesses who have testified, you may believe
12 one over several or several over one, you may believe all of
13 what a witness says or some a witness says or you may believe
14 none of what a witness says. In deciding what to believe may
15 consider a number of factors including but not limited to
16 witness's ability to see, hear or know the things about which
17 he or she has testified, quality of that witness's memory, the
18 witness's manner while testifying, whether or not the
19 witness's testimony is, uh, at trial is contradicted by
20 anything the witness said or wrote before the trial or how
21 reasonable the witness's testimony is when considered in light
22 of all the evidence, whatever your good judgment and common
23 sense tells you is the most believable testimony is the
24 testimony you should accept and reject other testimony.

25 I instruct you and emphasize the fact this defendant did

JURY CHARGE

1 not testify is not a factor to be considered any way during
2 your deliberations or consideration on the question of guilt
3 or innocence, it must not be considered by you in the jury
4 room. A defendant has the Constitutional right to remain
5 silent and the assertion of this right must not be considered
6 in your deliberations, the fact this defendant did not testify
7 should not be discussed in the jury room. As I've told ya
8 previously the burden of proof is on the State a South
9 Carolina, a defendant is not required prove his innocence but
10 proof or the burden of proof remains with the State.

11 Criminal intent is a necessary element of each crime that
12 must be proved by the State beyond a reasonable doubt,
13 criminal intent is a matter that must be determined by the
14 jury from circumstances, uh, surrounding the situation.

15 Ladies and gentlemen, there is no way to prove to a
16 mathematical, uh, prove criminal intent by a mathematical
17 certainty, there's no way medical science can take a person's
18 brain and determine what that person had in mind so the law
19 says that criminal intent, criminal intent may be inferred
20 from the circumstances shown to have existed. Criminal intent
21 is a state of mind which when operated jointly with an act is
22 the commission of a crime. Criminal intent is a mental state,
23 it's a conscious wrongdoing so it's up to you, the jury, to
24 determine what this defendant intended to do based on the
25 circumstances shown to have existed. I tell you the State

JURY CHARGE

1 must prove criminal intent beyond a reasonable doubt just as
2 it must prove every element beyond a reasonable doubt. It is
3 not necessary to establish by direct and positive evidence but
4 the criminal intent may be established by inference the same
5 way as any other fact, while the State may prove motive, it's
6 unnecessary for the State to do so but State must prove
7 criminal intent.

8 The defendant is charged with armed robbery, now in order
9 to prove this offense the State must prove beyond a reasonable
10 doubt that this defendant took personal property from the
11 person or presence of another person. Property is in the
12 presence of a person if it is in -- within that person's
13 reach, inspection, observation or control so that the person
14 could if not overcome with violence or permitted by fear keep
15 possessions of his or her property, State must also prove
16 beyond a reasonable doubt that the defendant carried the
17 property away intending to permanently deprive the owner of
18 the property and keep the property for his own use. I tell
19 you the slightest removal of property or complete possession
20 even for an instant by this defendant would be sufficient to
21 make a showing that or a taking and carrying away of the
22 property. Taking and carrying away must have been done with
23 violence or by putting the owner of the property in fear of
24 violence. And, finally, the State must prove beyond a
25 reasonable doubt defendant was armed with a deadly weapon

JURY CHARGE

1 during the robbery or that he was armed while using a
2 representation of a deadly weapon or object which a person
3 present during the commission of the robbery reasonably
4 believed to be a deadly weapon. A deadly weapon is any
5 article, instrument or substance which is likely to cause
6 death or great bodily injury. Whether an instrument has been
7 used as a deadly weapon depends on the facts and circumstances
8 of each case but I tell you the following are examples of
9 instruments which may be deadly weapons: a pistol, a shotgun,
10 a rifle, knife, metal knuckles, a gun may be a deadly weapon
11 even if it's not operating. Also included within the offense
12 of armed robbery is a lesser included offense of strong-armed
13 robbery. If you find that the State failed to prove defendant
14 was armed with a deadly weapon, you may then consider whether
15 the State proved beyond a reasonable doubt that this defendant
16 committed strong-armed robbery. In order to prove strong-
17 armed robbery, State must prove beyond a reasonable doubt all
18 elements that I previously explained except he was not armed
19 with a deadly weapon.

20 Defendant is charged with possession of firearm during
21 the commission of a violent crime in violation of state law
22 which provides if a person is in possession of a firearm or
23 visibly displays what appears to be a firearm during the
24 commission of a violent crime and is convicted of committing
25 or attempting to commit a violent crime as defined by our law,

JURY CHARGE

1 he is guilty of this crime. A firearm is defined as any
2 machine gun, rifle, revolver, pistol or any weapon which will
3 or is designed to or would be readily converted to expel a
4 projectile. Section 16-160 in our code of laws provides that
5 armed robbery is a violent crime. For you to find the
6 defendant guilty of a separate offense of possession of a
7 firearm during the commission of violent crime, you must first
8 find him guilty of committing a violent crime or attempting
9 commit a violent crime, in this case the crime of armed
10 robbery of Albert Williams. If you find the defendant guilty
11 of armed robbery of Albert Williams, you must then determine
12 whether the State has proved beyond a reasonable doubt that
13 the defendant was in possession of a firearm or visibly
14 displayed what appeared to be a firearm during commission of
15 the violent crime. Now possession means more than simply
16 having an object in his possession, conviction of possession
17 requires proof of possession, actual or constructive, coupled
18 with the knowledge of the firearm's presence. Possession can
19 be shown by either actual possession or constructive
20 possession. Actual possession occurs when the firearm is in
21 the actual physical custody of person charged, constructive
22 possession along with knowledge of the presence of a firearm
23 is sufficient to support conviction. To prove constructive
24 possession State must show the defendant had dominion or
25 control or the right to exercise dominion or control over the

JURY CHARGE

1 firearm. Constructive possession may be established through
2 either direct or circumstantial, uh, evidence, possession
3 requires again more than mere presence.

4 The defendant is charged with possessing a firearm or
5 ammunition having been previously convicted of a violent crime
6 in violation of state law, the State must prove beyond a
7 reasonable doubt that this defendant did possess a firearm and
8 that the defendant has previously been convicted of a violent
9 crime as defined by law, this matter the State and the defense
10 have stipulated the defendant has previously been convicted of
11 a violent crime. Evidence of the defendant's prior
12 convictions should not -- should only be considered
13 determining whether the defendant is guilty of this individual
14 charge. Do not consider evidence of prior convictions as
15 evidence of this defendant's character or and that he acted in
16 this instance in accordance with prior character.

17 Now defendant is charged with kidnapping Albert Williams,
18 State must prove beyond a reasonable doubt that this defendant
19 knowingly and unlawfully seized, confined, kidnapped, abducted
20 and carried away another person without authority of law. Do
21 a thing unlawfully is to do it willfully and against the law,
22 knowingly means with knowledge, consciously, not accidentally;
23 seized means take hold of or suddenly suddenly and forcibly;
24 confine means to limit, restrict or enclose within bounds or
25 shut up or keep; kidnap is to remove a person against his, or

JURY CHARGE

1 her will; abduct means to carry carry off secretly or by force
2 or illegal purpose; carry away means to remove. State does
3 not have to prove that this defendant did all of things,
4 instead if you find beyond a reasonable doubt this defendant
5 did any of these things you may find this defendant guilty of
6 kidnapping of Albert Williams.

7 In the indictment he's charged with kidnapping of Geri
8 Smith, State must prove beyond a reasonable doubt that this
9 defendant knowingly and unlawfully seized, confined,
10 kidnapped, abducted or carried away of Geri Smith without
11 authority of law. Again, define means to limit, restrict or
12 enclose; kidnapping means to remove a person against her will
13 by unlawful force or by fraud; abduct means to carry off
14 secretly or by force; carry away means to remove. Once again
15 the State does not have to prove that this defendant did all
16 those things but instead you find beyond a reasonable doubt
17 that he did any of these things, you may find this defendant
18 guilty of the kidnapping of Geri Smith.

19 Defendant's charged with burglary in the first degree and
20 what is burglary in the first degree? Person is guilty of
21 burglary in the first degree if a person enters dwelling
22 without consent and with intent commit a crime in the dwelling
23 and either when effecting entry or while in the dwelling or
24 its immediate flight that he is armed with a deadly weapon or
25 causes physical injury to a person not a participant or uses

JURY CHARGE

1 or threatens the use of a dangerous instrument or displays
2 what is or appears to be a knife, pistol, revolver, rifle,
3 shotgun, machine gun or any other firearm or the burglary is
4 committed by a person with a prior record of two or more
5 convictions for burglary or housebreaking or a combination of
6 both. Under the statute State must prove the following four
7 elements: entry into a dwelling. State must show there was an
8 entry, that is, that this defendant actually went inside the
9 dwelling or some part of it. Entry is not defined to
10 intrusion of the whole body, the slightest entry is sufficient
11 and it may be consistin' of the insertion of any part of the
12 body or any instrument under the defendant's control, no force
13 need to be used to gain entry, literally entry is the act
14 going into the place but the word has a broader significance
15 in the law, uh, burglary for the entry may be accomplished by
16 merely putting through a portion of the body into the
17 dwelling. Place must be a dwelling. A dwelling is any house,
18 apartment, building, shed or box in which there sleeps a
19 proprietor, a tenant, watchman, clerk, laborer or any person
20 who lodges there with a view to protection of property, also
21 means the living quarters of a building which is used or
22 normally used for sleeping, living or lodging by a person,
23 must be without consent, entry must be without consent of the
24 owners, proprietors, tenants, entry of building without
25 consent, without consent of the person who is in lawful

JURY CHARGE

1 possession of that property, must be with intent to commit a
2 crime, any crime, a felony or misdemeanor whether or not a
3 crime is actually committed. The mere entry into a dwelling
4 without consent is not sufficient to constitute burglary first
5 degree, there must have been intent to commit a crime once
6 inside. To convict the defendant of first degree burglary,
7 you must find that at the time he entered the dwelling a
8 defendant intended to commit a crime once they're in.

9 Now what's criminal intent mean? Again, criminal intent
10 state of mind which operates jointly with an act or omission,
11 in the commission of a crime, criminal intent is a mental
12 state, it's a conscious wrongdoing. Must be presence of
13 aggravating circumstance. If you find the defendant entered
14 the dwelling without the consent and with the intent commit a
15 crime, you much then reach the question and find whether the
16 presence of at least one of the following circumstances,
17 aggravating circumstances in order to convict. The
18 aggravating circumstances are when entering or while in the
19 dwelling or in fleeing the scene the defendant either was
20 armed with a deadly weapon or caused physical injury, uh, to a
21 person not a participant or used or threaten the use of a
22 dangerous instrument or displayed what appeared to be a knife,
23 pistol, revolver, rifle, shotgun, machine gun or firearm or
24 that the burglary was committed by a person with prior record
25 of two or more convictions for burglary or housebreaking or a

JURY CHARGE

1 combination of both. Evidence of defendant's prior
2 convictions should only be considered in determining whether
3 the requisite aggravating circumstances are met, do not
4 consider evidence of any prior convictions as evidence of this
5 defendant's character or evidence that he acted in accordance
6 with his prior conduct.

7 Ladies and gentlemen, you twelve have been selected as
8 fair and impartial jurors sworn to impartially try the
9 criminal facts in this case and your are to decide this case
10 according to the testimony you have heard and seen along with
11 the evidence introduced. Mr. Foreman, ladies and gentlemen,
12 your verdict must be a unanimous verdict. Mr. Foreman, when
13 the jury reaches a verdict, you will indicate your verdict in
14 space provided on verdict forms and I'm gonna explain
15 momentarily here, sign your name as the foreperson of the
16 jury, knock on the door, tell the bailiff you've reached a
17 verdict and we'll return you to the courtroom to receive your
18 verdict. Now, Mr. Foreman, the jury must be together when
19 it's deliberating. If someone needs to use the facilities,
20 someone needs to smoke and I hope they don't, I'll keep sayin'
21 that, hate cigarettes, but someone needs to be, uh, absent,
22 the jury must suspend its deliberations until all twelve are
23 back together then resume your deliberations, again all twelve
24 must be together at all times during deliberations, you
25 certainly may take a break, uh, use facilities, do whatever

JURY CHARGE

1 you do, if you do so suspend deliberations until that
2 individual is once again back.

3 Now, Mr. Foreman, this (indicating) is the jury verdict
4 which I speak, my clerk, uh, here seated with me all week
5 prepares this in every criminal case that I do, it is merely a
6 form, that you're gonna have seven separate pieces of paper,
7 remember, you have seven different verdicts that you, seven
8 different offenses, you must reach a verdict on each and every
9 one. The first one says, it has the caption a the case and
10 number, that means nothing other than goes with these
11 indictments, it says, We, the jury, unanimously find the
12 defendant Donald Scott Robertson on the charge of armed
13 robbery, let's see, Albert William, not guilty or guilty. I
14 tell ya there is no significance to whether not guilty comes
15 first or guilty comes first, I simply put 'em in this order on
16 every case that I try. Whatever the verdict of the jury,
17 unanimous verdict of the jury is, Mr. Foreman, it is your duty
18 to write a check mark, an "x," initial, it matters not to me,
19 mark that signifies whichever verdict it is, it also says, If
20 if if you have reached a verdict of not guilty on question 1,
21 please answer question 2 and that is, We, the jury,
22 unanimously find the defendant Donald Scott Robertson on the
23 lesser offense of strong-armed robbery not guilty or guilty
24 then you certify that's decision of jury. You will not answer
25 question 2 if you answer question 1 guilt, uh, guilty, it's a

JURY CHARGE

1 lesser included offense so it says, If you've reached not
2 guilty, proceed to question 2, otherwise once the decision's
3 made sign your name and sign has a place for the date. The
4 next form says, If you reach the verdict of guilty on the
5 armed robbery of Albert Williams, please answer the following
6 question: We, the jury, unanimously find the defendant Donald
7 Scott Robertson on the charge of possession of a weapon during
8 the commission of violent crime not guilty or guilty and sign.
9 Again, pay close attention please, it says, If you've reached
10 a verdict of guilty of the armed robbery, otherwise you will
11 not answer this question. 2006, I'm sorry, hey, that's right,
12 5531, We, the jury, unanimously find the defendant Donald
13 Scott Robertson on charge of armed robbery, let's see, Geri
14 Smith not guilty or guilty and it has the same instructions
15 about the lesser included; We, the jury, unanimously find this
16 defendant Donald Scott Robertson on the charge of burglary
17 first degree not guilty or guilty, sign on behalf a jury; We,
18 the jury, unanimously find the defendant Donald Scott
19 Robertson the charge of kidnapping of Geri Smith not guilty or
20 guilty; we, the jury, unanimously find defendant Donald Scott
21 Robertson on the charge of kidnapping Albert Williams guilty
22 or not guilty and; finally, we, the jury, unanimously find
23 defendant Donald Scott Robertson charged with possession of a
24 firearm, ammunition by a pers -- person previously convicted
25 not guilty or guilty. Again, Mr. Foreman, ladies and

JURY CHARGE

1 gentlemen, your verdicts on each and every offense must be
2 unanimous and I tell ya once again you may find him guilty of
3 some, guilty of all, not guilty of any, you have seven
4 different questions, uh, to ask -- answer.

5 Mr. Foreman, I'm about two seconds here, little over, I'm
6 gonna release you from the courtroom, please do not begin your
7 deliberation. I practiced law many years, twenty-five years
8 before I came up here, it is so very easy to be a lawyer
9 practicing down there, walk over and pick up one a these
10 exhibits which belong to you, use it in closin', show it to
11 ya, walk back to counsel table, now you got evidence missing,
12 that evidence belongs to you and I let you, when I ask you to
13 leave the courtroom, I'm gonna ask these lawyers to come up
14 here, get with my court reporter, she has a list, they're
15 gonna ensure that every piece of evidence is present, nobody
16 has is it layin' on the table, don't mean to do it, I I've
17 done it countless times, I wanna make sure it's all present,
18 once that's accounted for which'll just take a matter couple
19 minutes the bailiff is gonna bring all a this (indicating) to
20 you along with this (indicating), my two alternates, ladies,
21 the bailiff comes with the evidence for the jury, you two will
22 leave with my bailiff, you'll no longer be in jury room, only
23 twelve will be there at that time, they'll have a place for
24 you to sit, uh, comfortably, get you some refreshments or
25 whatever you might need while the jury deliberates but you

JURY CHARGE

1 will not be in the room so that'll be your signal to leave
2 with my bailiff when he brings this to Mr. Foreman and the
3 jury. Mr. Foreman, if you'll please take jury out.

4 (The following takes place outside the presence of the
5 jury.)

6 THE COURT: Matters from the State?

7 MR. SMITH: No, Your Honor.

8 THE COURT: From the defense?

9 MR. SHEALY: No.

10 THE COURT: Gentlemen, ladies, please, if you'll look at
11 the evidence and see if we have it all.

12 (Pause.)

13 (Whereupon, a discussion was held off the record.)

14 THE COURT: Okay, let me see, we got everything?

15 Everything's ready?

16 MR. SHEALY: Yes, sir. Yes, sir, ---

17 THE COURT: Okay.

18 MR. SHEALY: --- everything's there.

19 MR. SMITH: Yes.

20 (Whereupon, a discussion was held off the record.)

21 (Whereupon, the jury began deliberating at 11:21 a.m.)

22 (Whereupon, a recess was taken.)

23 (Whereupon, the jury reached a verdict at 1:36 p.m.)

24 (Whereupon, a discussion was held off the record.)

25 THE COURT: See the lawyers up here real quick.

MOTIONS AND MATTERS

1 (Whereupon, a bench conference was held off the record.)

2 THE COURT: Ready for our, ready for the jury?

3 MR. SMITH: Yes, the State's ready, Your Honor.

4 THE COURT: Okay, we need to talk to everybody, there'll
5 be no celebratings, not the time with celebration or
6 jubilation or otherwise, understand? Okay, alright, we'll
7 have our jury.

8 THE BAILIFF: Yes, Your Honor, and, Your Honor, may I
9 approach, ---

10 THE COURT: Yeah, ---

11 THE BAILIFF: --- please.

12 THE COURT: --- yeah.

13 (Whereupon, a bench conference was held off the record.)

14 (Whereupon, a discussion was held off the record.)

15 (The following takes place in the presence of the jury.)

16 THE COURT: Mr. Foreman, I'm told the jury has reached a
17 verdict, is that true?

18 JURY FOREMAN: Yes, Your Honor.

19 THE COURT: Would you give those to the bailiff, please.

20 (Whereupon, the jury foreman complied.)

21 THE BAILIFF: Permission to approach?

22 THE COURT: Yeah.

23 (Whereupon, the bailiff handed the verdict to the Court.)

24 THE COURT: Madam clerk, will you publish the verdicts of
25 the jury, ---

VERDICT

1 THE CLERK: Yes, sir.

2 THE COURT: --- please.

3 THE CLERK: In the court of general sessions Case Number
4 2016-GS-42-5532, State of South Carolina vs. Donald Scott
5 Robertson, we, the jury, unanimously find the defendant Donald
6 Scott Robertson on the charge of armed robbery of Albert
7 Williams guilty, this is signed by the foreperson and dated
8 today's date; Indicted 2016-GS-42-5532, um, we, the jury,
9 unanimously find the defendant Donald Scott Robertson on the
10 charge of possession of a weapon during commission of a
11 violent crime guilty, this is also signed by the
12 foreperson and dated today's date; in Case Number
13 2016-GS-42-5531, we, the jury, unanimously find the defendant
14 Donald Scott Robertson on the charge of armed robbery of Geri
15 Smith of guilty, this is signed by the foreperson and dated
16 today's date; Case Number 2016-GS-42-5530, we, the jury,
17 unanimously find the defendant Donald Scott Robertson on the
18 charge of burglary first degree guilty, signed by the
19 foreperson and dated today's date; Case Number
20 2016-GS-42-5528, we, the jury, unanimously find the defendant
21 Donald Scott Robertson on the charge of kidnapping Geri Smith
22 guilty, signed by the foreperson and dated today's date; Case
23 Number 2016-GS-42-5529, we, the jury, unanimously find the
24 defendant Donald Scott Robertson on the charge of kidnapping
25 Albert Williams guilty, signed by the foreperson and dated

VERDICT

1 today's date; and Case Number 2017-GS-42-3586, we, the jury,
2 unanimously find the defendant Donald Scott Robertson on the
3 charge of possession of a firearm by ammunition by a person
4 convicted of a violent crime guilty, also signed by the
5 foreperson and dated today's date. Ladies and gentlemen of
6 the jury, if these are your verdicts and still your verdicts,
7 please raise your right hand. So say you all.

8 THE COURT: Polling a the jury by the State?

9 MR. SMITH: No, Your Honor.

10 THE COURT: By the defense?

11 MR. SHEALY: We would ask for that, Your Honor.

12 THE COURT: Yes, ma'am, Madam clerk.

13 THE CLERK: Ladies of t -- a jury of, of the jury, I will
14 pose a question to you after which I will call your name out
15 individually and ask you to stand and answer my question, the
16 question being is this your verdict and still your verdicts.
17 Number 122, Kristen O'Shields.

18 JUROR NUMBER 122: Yes, ma'am.

19 THE CLERK: Thank you. Number 21, Trevis [sic]
20 Campbell-Boozer. Will you answer out for me, please.

21 JUROR NUMBER 21: Ma'am?

22 THE CLERK: Will you answer the question openly for me,
23 please.

24 THE BAILIFF: Out loud.

25 THE BAILIFF: Out loud.

VERDICT

1 JUROR NUMBER 21: Oh, yes.
2 THE CLERK: 273, May Vang.
3 JUROR NUMBER 273: Yes.
4 THE CLERK: Number 210, John Fowler.
5 JUROR NUMBER 210: Yes, ma'am.
6 THE CLERK: Number 149, Goble Shackelford.
7 JUROR NUMBER 149: Yes.
8 THE CLERK: Number 102, Joshua Mayes.
9 JUROR NUMBER 102: Yes, ma'am.
10 THE CLERK: Number 138, Courtney Ricè.
11 JUROR NUMBER 138: Yes, ma'am.
12 THE CLERK: Number 27, Thomas Coats.
13 JUROR NUMBER 27: Yes, ma'am.
14 THE CLERK: Number 277, John Wilber.
15 JUROR NUMBER 277: Yes, ma'am.
16 THE CLERK: Number 223, Katrena Jones.
17 JUROR NUMBER 223: Yes, ma'am.
18 THE CLERK: Number 221, Nelson Hunter.
19 JUROR NUMBER 221: Yes, ma'am.
20 THE CLERK: And Number 238, Cassandra McDonald.
21 JUROR NUMBER 238: Yes, ma'am.
22 THE COURT: Your Honor, the jury has been polled.
23 THE COURT: Thank you. Other matters from the State?
24 MR. SMITH: No, Your Honor.
25 THE COURT: From the defense?

MOTIONS AND MATTERS

1 MR. SHEALY: No, ---

2 THE COURT: Mi ---

3 MR. SHEALY: --- not while the jury's here.

4 THE COURT: Yes, thank you. Mr. Foreman, uh, your 1 --
5 one of your last acts, next to the last last act as a
6 foreperson is you must come forward and sign the indictments
7 for madam clerk so if you would come up to madam clerk, she's
8 gonna ask you to sign the indictments, please, that's
9 important.

10 (Whereupon, the jury foreperson came forward.)

11 (Pause.)

12 THE COURT: Everything?

13 THE CLERK: Yes, sir.

14 THE COURT: Mr. Foreman, ladies and gentlemen a the jury,
15 thank you so very much for your service this week, uh, this is
16 your courtroom, it belongs to you, belongs to me, I'm a
17 Spartanburg County resident myself, can't always say that when
18 I'm in ne -- another county but that, uh, this courtroom
19 belongs to you, this courthouse belongs to you. I encourage
20 you to come any time and see what's goin' on, this is your
21 courthouse, your courtroom, I simply have the privilege of
22 working here. Jury ob -- jury, uh, duty is both an obligation
23 and a privilege and I thank you for your service, many of us
24 in this room and maybe some on the jury too, I don't know, uh,
25 carried a weapon for Uncle Sam so that you can serve our jury

MOTIONS AND MATTERS

1 so we thank you once again for your service, uh, with that
2 we're gonna let ya go, uh, be excused, uh, and turn in your
3 badges. I've got some news for ya, I don't know if it's good
4 news or bad news, but, uh, this is the last jury of the week,
5 everything else has pled because we get jurors here things
6 happen so, uh, this is it, so your brothers and sisters who
7 were back here earlier have been released, this will conclude
8 your jury service, I'll be here tomorrow and I'll be here
9 Friday but we be doin' other things besides, um, and I'll be
10 here rest a the afternoon, we be doin' things that won't
11 require a jury so this ends your service, having said that I
12 have been asked in the past so I will tell you this that, uh,
13 sometimes jurors ask if they can remain in the courtroom, uh,
14 because they've been part of the the, uh, process for two or
15 three days or or weeks long, answer to that is yes. Uh, if
16 you choose to remain in the courtroom, I would ask that when
17 you leave this room and turn in your badges, uh, the bailiffs
18 will show you the way around to the public entrance on this
19 (indicating) side and you're certainly welcome to come into
20 the courtroom, uh, we're gonna proceed to motions and
21 sentencing, uh, and you're we -- you're -- you are invited to
22 do that if you like, you're not required to do that, I just
23 sometimes have one or two that wanna see and so it's with that
24 said, you'll turn in your badges, uh, you gonna mail their pay
25 or do they need a armed guard?

MOTIONS AND MATTERS

1 THE CLERK: No, Gail ---

2 THE COURT: They will ---

3 THE CLERK: --- Gail will mail it.

4 THE COURT: Mail it?

5 THE CLERK: Mail, yes, sir.

6 THE COURT: Okay, gonna mail it and when you get it
7 you're gonna need a law enforcement officer go with ya, cash
8 it 'cause it's a million dollars ---

9 (Laughter.)

10 THE COURT: --- for you service so, uh, no, it's not but
11 anyway we do appreciate your service so very much. Your last
12 official act as foreman, Doctor, is to take your jury out at
13 this time and let everybody be excused and you can be on your
14 way, thank you again for your service.

15 (Whereupon, the jury left the courtroom.)

16 THE COURT: Matters from the State?

17 MR. SMITH: Nothing, Your Honor.

18 THE COURT: Matters from the defense?

19 MR. SHEALY: Judge, we would make a motion for a new
20 trial based on all of the things that I've already said
21 regarding the directed verdict motions as well as our other
22 motions regarding, uh, believe that there was some evidence
23 admitted incorrectly, uh, Judge, we believe that there was
24 some testimony that was ad -- admitted incorrectly, we would
25 make a motion, uh, for a new trial on that basis.

MOTIONS AND MATTERS

1 THE COURT: Solicitor..

2 MR. SMITH: Uh, Your Honor, he went on to reargue the
3 motions or you ---

4 THE COURT: He's makin' a motion, he's movin' for, he's
5 moving a motion for a new trial ---

6 MR. SMITH: And there's some ---

7 THE COURT: --- and the State is in opposition?

8 MR. SMITH: Um, yes, Your Honor, we think that the jury
9 had a sound factual basis to uphold the verdict that they did.

10 THE COURT: Yes. Motion for a new trial is denied, uh,
11 and that the record, uh, uh, has sufficient evidence from
12 which the jury could have convicted this defendant, uh, and
13 did, uh, do so and you're also, you're also renewing your
14 previous objections ---

15 MR. SHEALY: All of ---

16 THE COURT: --- as well?

17 MR. SHEALY: Yes, Your Honor, ---

18 THE COURT: And for ---

19 MR. SHEALY: --- all ---

20 THE COURT: --- the same reason they, you are protected,
21 for the same reason, uh, they are denied again as well.

22 MR. SHEALY: Thank you.

23 THE COURT: Anything further from S -- from the defense?

24 MR. SHEALY: No, Your Honor.

25 THE COURT: Okay, we'll proceed to sentencing. You got

MOTIONS AND MATTERS

1 some sheets? See the lawyers while she's printing that.

2 (Whereupon, a bench conference was held off the record.)

3 (Pause.)

4 MR. SMITH: Your Honor, as far as sentencing, the State,
5 uh, filed a notice of intent to seek life sentence in this
6 case back in January. He has convictions from May 16th of
7 2002 York County on Indictment 2002-GS-46-198, that was an
8 indictment for kidnapping, it's a most serious offense and
9 also 2002-GS-46-200, that was an indictment for armed robbery
10 and pled as charged, that was also a most serious, we'd just
11 ask that you impose the mandatory life sentence on all of the
12 life cases, Your Honor, or most serious cases.

13 THE COURT: Mr. Shealy.

14 MR. SHEALY: Thank Your Honor. Judge, we would obviously
15 retain our position that Mr. Robertson did not commit these
16 crimes, understand the jury convicted him and is adamantly
17 opposed to that conviction, uh, other than that we understand
18 that there is that single sentence that can be imposed, uh, so
19 understanding that I don't have a anything else but
20 Mr. Robertson may wish to address the Court.

21 THE COURT: Certainly. Mr. Robertson, uh, like to speak?

22 THE DEFENDANT: (Nodded in the negative.)

23 MR. SHEALY: Uh, Judge, if I may just for the record
24 purpose, Mr. MacDonald got onto this case, he's with our
25 office, he's a young lawyer in our office, he got on this case

SENTENCE

1 on I think Thursday, he didn't really, I gave him the
2 discovery, he went over the discovery, we have discussed the
3 case but any errors or good things that have happened are on
4 me, not on him, again, he took some notes for me, he helped
5 suggest cross-examination questions, he did not question any
6 witnesses, he did not do an opening or closing, so again, any
7 errors are strictly mine. Thank you.

8 THE COURT: Thank you. Sir, on the 2016-5529 due to the
9 seriousness this, of this, your prior record legislature has
10 set aside the mandatory sentencing, I'm without discretion on
11 that, uh, Mr. Robertson. 2016-5529 you're confined to State
12 Department of Correction for life, that's without parole, all
13 indictments are consecutive, I will give you credit credit for
14 any time you served; 2016-5530 State Department of Correction
15 for life, consecutive, credit; 2016-5528 State Department
16 Corrections for life, consecutive, con -- and give you credit
17 for time; 2016-5531, uh, the State Department Corrections for
18 life, that is consecutive, credit for any time; 2016-5532
19 State Department of Correction for life, consecutive, uh,
20 credit for time, that's on the, uh, armed robbery; on
21 2016-5532A, uh, there is no sentence pursuant to Section
22 S 17-25-45; 2017-3586 State Department a Correction for
23 5 years, consecutive, credit for time. Very best a luck to
24 ya, sir.

25 MR. SMITH: Thank you, Your Honor.

1 THE COURT: Thank you.

2 MS. WALTERS: Thank Your Honor.

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WITNESSES

Spartanburg County Sheriff's Department

1. REPORTED ☒

2. CHARGED ☒

3. INDEXED ☒

4. CLERKED ☒

5. FILED ☒

6. RETURNED ☒

ARREST WARRANT NUMBER

2016A4210102281

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date: *10/28/2016*

VERDICT

Guilty

John Brian Fowler
Foreperson of Petit Jury
Date:

DOCKET NO. -

16-CS-42-5528
The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

OCT 31 2016

TERM

THE STATE
vs.

Donald Scott Robertson

Indictment for
KIDNAPPING

SC Code: 16-03-910
CDR Code: 0095
Class FEL-A

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2016 NOV -4 AM 9:58

M. HOPE BLACKLEY

SC

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

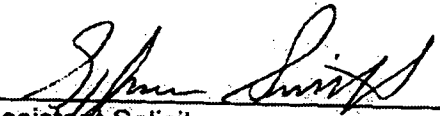
INDICTMENT

At a Court of General Sessions, convened on OCT 28 2016 the
Grand Jurors of Spartanburg County present upon their oath:

KIDNAPPING

That Donald Scott Robertson did in Spartanburg County on or about June 17, 2016, willfully and unlawfully with criminal intent seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Geri Smith, without authority of law, all in violation of Section 16-03-910, *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.


Assistant Solicitor

ac

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

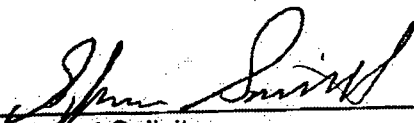
INDICTMENT

At a Court of General Sessions, convened on OCT 28 2016, the
Grand Jurors of Spartanburg County present upon their oath:

KIDNAPPING

That Donald Scott Robertson did in Spartanburg County on or about June 17, 2016, willfully and unlawfully with criminal intent seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Albert Williams, without authority of law, all in violation of Section 16-03-910, *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.


Assistant Solicitor

331

WITNESSES

SCSO

A. [illegible]

G. [illegible]

Jimmy W. [illegible]

NEGATIVE COPY

ARREST WARRANT NUMBER

2016A4210102277 (AMENDED)

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

JUL 21 2017

VERDICT

Guilty

Foreperson of Petit Jury

Date:

John Brian Fowler

DOCKET #

16-GS-42-5530

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUL 24 2017

TERM

**THE STATE
vs.**

Donald Scott Robertson

Indictment for

**BURGLARY, FIRST DEGREE
(Dwelling)**

SC Code: 16-11-0311

CDR Code: 0079

Class: FEL/EXM (V)

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

JUL 21 2017

At a Court of General Sessions, convened on _____, the Grand Jurors of
Spartanburg County present upon their oath:

BURGLARY, FIRST DEGREE

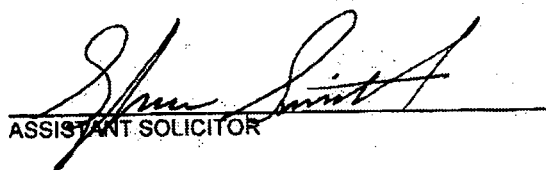
(DWELLING)

That the Defendant, Donald Scott Robertson, did in Spartanburg County, on or about June 17, 2016 enter the dwelling located at 1899 Cannons Campground Road, Spartanburg, SC, without consent and with the intent to commit a crime therein, and that the defendant did enter the dwelling, and/or while inside the dwelling, and/or while in immediate flight from the dwelling either:

- (1) arm himself with a deadly weapon; and/or
- (2) use or threaten the use of a dangerous instrument; and/or
- (3) cause physical injury to any person who is not a participant in the crime; and/or
- (4) display what is or appears to be a handgun or other firearm

Also, the Defendant has two or more prior convictions for Burglary or Housebreaking or a combination of both, in violation of Section 16-11-311, 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.


ASSISTANT SOLICITOR

338

WITNESSES

Spartanburg County Sheriff's Office

1. I. [Signature]

2. [Signature]

[Signature]

ARREST WARRANT NUMBER

2016A4210102279 (Amended)

ACTION OF GRAND JURY

True Bill

QE
Foreperson of Grand Jury
Date: JUL 21 2017

VERDICT

Guilty

John Brian Fowler
Foreperson of Petit Jury
Date:

DOCKET NO.

16-GS-42-5531

The State of South Carolina

County of Spartanburg

Barry J. Barnette, *Solicitor*

COURT OF GENERAL SESSIONS

JUL 24 2017

TERM

THE STATE
vs.

Donald Scott Robertson

Indictment for

ARMED ROBBERY
SC Code: 16-11-330 (A)
CDR Code: 139
Class FEL/A

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

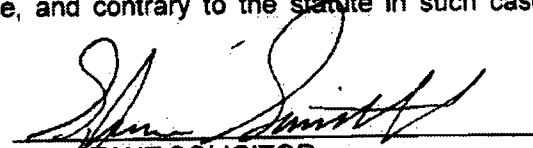
JUL 21 2017

At a Court of General Sessions, convened on _____ the Grand
Jurors of Spartanburg County present upon their oath:

COUNT ONE--ARMED ROBBERY

That Donald Scott Robertson, did in Spartanburg County on or about June 17, 2016, while armed with a deadly weapon, being a handgun, or while alleging, through actions or words, that he was armed while using a representation of a deadly weapon or any object which a person present during the robbery reasonably believed to be a deadly weapon, did feloniously take from the person or presence of Geri Smith, by means of force, violence, and/or intimidation, goods or monies, such goods or monies being described as follows: a sum of U.S. currency and/or wristwatch, with intent to deprive the owner permanently of such property, in violation of §16-11-330 (A), *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.


ASSISTANT SOLICITOR

335

WITNESSES

Spartanburg County Sheriff's Office

1. ~~REPORTING OFFICER~~

2. ~~REPORTING OFFICER~~

3. ~~REPORTING OFFICER~~

[Handwritten signatures and initials over witness lines]

ARREST WARRANT NUMBER

2016A4210102278- Count One

(Direct Indictment)- Count Two

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date:

OCT 28 2016

VERDICT

Guilty

John Brian Fowler
Foreperson of Petit Jury
Date:

DOCKET NO.

16-ES-42-5532

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

OCT 31 2016

TERM

THE STATE
vs.

Donald Scott Robertson

Indictment for

ARMED ROBBERY AND POSSESSION OF
WEAPON DURING COMMISSION OF A
VIOLENT CRIME

SC Code: 16-11-330 (A): 16-23-490

CDR Code: 139: 549

Class FEL/A: FEL/F

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2016 NOV -4 AM 9:58

M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

OCT 28 2016

At a Court of General Sessions, convened on _____, the Grand
 Jurors of Spartanburg County present upon their oath:

COUNT ONE--ARMED ROBBERY

That Donald Scott Robertson, did in Spartanburg County on or about June 17, 2016, while armed with a deadly weapon, being a handgun, or while alleging, through actions or words, that he was armed while using a representation of a deadly weapon or any object which a person present during the robbery reasonably believed to be a deadly weapon, did feloniously take from the person or presence of Albert Williams, by means of force, violence, and/or intimidation, goods or monies, such goods or monies being described as follows: a sum of U.S. currency, with intent to deprive the owner permanently of such property, in violation of §16-11-330 (A), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

**COUNT TWO--POSSESSION OF WEAPON DURING
 COMMISSION OF A VIOLENT CRIME**

That Donald Scott Robertson, did in Spartanburg County on or about June 17, 2016 possess or visibly display a handgun during the commission of a violent crime, to-wit: ARMED ROBBERY, in violation of Code §16-23-490, *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.


 ASSISTANT SOLICITOR

337

WITNESSES

Spartanburg Sheriff's Office

2. RETURNED

3. CANCELED

4. ISSUED

5. CANCELED

6. RETURNED

7. CANCELED

ARREST WARRANT NUMBER

Direct Indictment

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

JUL 21 2017

VERDICT

Guilty

Foreperson of Petit Jury

Date:

DOCKET NO.

17-GS-42-3586

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUL 24 2017

TERM

THE STATE

vs.

Donald Scott Robertson

Indictment for

**POSSESSION OF A FIREARM OR
AMMUNITION BY PERSON
CONVICTED OF A VIOLENT CRIME**

SC Code: 16-23-500 (A)

CDR Code: 3434

Class FEL/F

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

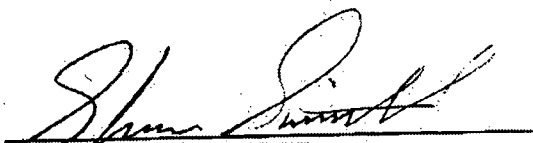
INDICTMENT

At a Court of General Sessions, convened on JUL 21 2017 the
Grand Jurors of Spartanburg County present upon their oath:

POSSESSION OF A FIREARM OR AMMUNITION BY PERSON
CONVICTED OF A VIOLENT CRIME

That Donald Robertson, did in Spartanburg County on or about June 17, 2016, have in his possession a handgun after having previously been convicted of a violent felony as defined by §16-1-60, in violation of Code §16-23-500 (A), *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.


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS.
Donald Scott Robertson

AKA:

Race: Sex: M Age: 59

DOB: SS#:

Address:

City, State, Zip:

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Kidnapping / Kidnapping (0-30)

INDICTMENT/CASE#: 2016GS4205529

A/W#: 2016A4210102280

Date of Offense: 6/17/2016

S.C. Code §: 16-03-0910

CDR Code #: 0095

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST 101370 101370 101370 101370
SMITH, SPENSER H SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of Life days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient: *Fine: \$

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ § 56-5-2995 (DUI Assessment) \$12 \$ § 56-1-286 (DUI Breath Test) \$25 \$ Proviso 61.6 (Public Def/Probation) \$500 \$ § 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00§ 14-1-213 (Drug Court Surcharge) \$150 \$ § 50-21-114 (BUI Breath Test Fee) \$50 \$ § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ 3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75Clerk of Court/ Deputy Clerk Court Reporter:

SCCA/217 (07/2016)

PTUP days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ beginning \$ paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel,

Proviso 61.6 requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees.

Presiding Judge Judge Code: Sentence Date: 26 July 2017

340

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

SPARTANBURG

VS.

Donald Scott Robertson

AKA:

Race:

Sex: M

Age:

59

DOB:

SS#:

Address:

City, State, Zip:

DL#:

SID#:

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

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

TO: Kidnapping (0-30)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS4205528

A/W#: 2016A4210102281

Date of Offense: 6/17/2016

S.C. Code § 16-03-0910

CDR Code #: 0095

SENTENCE SHEET

☐ CONVICTED OF or ☐ PLEADS

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

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

ATTORNEY

SMITH, SPENSER H

SC Bar# 101370

Defendant

Attorney for Defendant

SC Bar# 77724

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,☐ County Detention Center,for a determinate term of Life days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 61.6 (Public Def/Probation)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (BUI Breath Test Fee)

§ 56-5-2942(I) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

PTUP

 days/hours Public Service EmploymentObtain GED. ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning \$ paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel,
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge

Judge Code:

Sentence Date:

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
STATE VS.

Donald Scott Robertson

AKA:

Race: Sex: M Age: 59

DOB: SS#

Address:

City, State, Zip:

DL#: SID#:

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

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

TO: Burglary / Burglary (After June 20, 1985) - First degree (15-Life)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS4205530

A/W#: 2016A4210102277

Date of Offense: 6/17/2016

S.C. Code §: 16-11-0311

CDR Code #: 0079

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

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

ATTEST

SMITH, SPENSER H

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of Life days/months/years or ☐ under the Youthful Offender Act not to exceed — yearsand/or to pay a fine of \$ —; provided that upon the service of — days/months/years and/or paymentof \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for —

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

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ — plus 20% fee: \$ —

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 61.6 (Public Def/Probation)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

PTUP

— days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. —May serve W/E beginning —Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ — beginning —\$ — paid to Public Defender FundOther: —☐ Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code:

Sentence Date:

342

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
 STATE VS.
Donald Scott Robertson
 AKA: _____
 Race: _____ Sex: M Age: 59
 DOB: SS#:
 Address: _____
 City, State, Zip: _____
 DL#: SID#:

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

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

TO: Armed Robbery, robbery while armed or allegedly armed with a deadly weapon (10-30yr)

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

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

ATTORNEY: John Smith 101370 79727
SMITH, SPENSER H SC Bar# Defendant Attorney for Defendant SC Bar#

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

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

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

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
 Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
 Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP
 Total: \$ plus 20% fee: \$ days/hours Public Service Employment
 Payment Terms:
☐ Set by SCDPPPS
 Recipient:
 *Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	<u> </u>
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	<u>\$ 100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	<u> </u>
§ 56-5-2995 (DUI Assessment)	\$12	<u> </u>
§ 56-1-286 (DUI Breath Test)	\$25	<u> </u>
Proviso 61.6 (Public Def/Probation)	\$500	<u> </u>
§ 14-1-212 (Law Enforce. Funding)	\$25	<u>\$25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	<u> </u>
§ 50-21-114 (DUI Breath Test Fee)	\$50	<u> </u>
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	<u> </u>
3% to County (if paid in installments)		<u>\$ 3.75</u>

TOTAL

\$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS4205531
 A/W#: 2016A4210102279
 Date of Offense: 6/17/2016
 S.C. Code § : 16-11-0330(A)
 CDR Code #: 0139

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

Presiding Judge

Judge Code:

Sentence Date:

R. Keith Kelly
2165
26 July 2017

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

343

COUNTY OF SPARTANBURG
STATE VS.

Donald Scott Robertson

AKA:

Race: Sex: M Age: 59

DOB: SS#: [REDACTED]

Address:

City, State, Zip:

DL#: SID#:

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

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

TO: Armed Robbery, robbery while armed or allegedly armed with a deadly weapon (10-30yr)

INDICTMENT/CASE#: 2016GS4205532

A/W#: 2016A4210102278

Date of Offense: 6/17/2016

S.C. Code § 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

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

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: SMITH, SPENSER H SC Bar# 101370 Defendant Attorney for Defendant SC Bar# 7322WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of Life days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient: *Fine: \$ § 14-1-206 (Assessments 107.5%) \$ § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ § 56-5-2995 (DUI Assessment) \$12 \$ § 56-1-286 (DUI Breath Test) \$25 \$ Proviso 61.6 (Public Def/Probation) \$500 \$ § 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00§ 14-1-213 (Drug Court Surcharge) \$150 \$ § 50-21-114 (BUI Breath Test Fee) \$50 \$ § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ 3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75Clerk of Court/ Deputy Clerk: Court Reporter:

SCCA/217 (07/2016)

PTUP days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.Presiding Judge: Judge Code: 2165Sentence Date: 26 July 2017

344

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
STATE VS.

Donald Scott Robertson

AKA:

Race: Sex: M Age: 59

DOB: SS#: [REDACTED]

Address:

City, State, Zip:

DL#: SID#:

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

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

TO: Possession of Firearm or Ammunition by Person Convicted of Violent Felony (0-5yr)

in violation of § 16-23-0500(A) of the S.C. Code of Laws, bearing CDR Code # 3434

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

ATTORNEY: [Signature] 10137A Defendant

SMITH, SPENSER H

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years

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

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

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of

probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied

by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic

Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5%) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 61.6 (Public Def/Probation) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114(BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk: [Signature]

Court Reporter: [Signature]

SCCA/217 (07/2016)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS4203586

A/W#: 2017GS4203586

Date of Offense: 6/17/2016

S.C. Code § 16-23-0500(A)

CDR Code #: 3434

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

PTUP days/hours Public Service Employment

Obtain GED ☐Attend Voc. Rehab. or Job Corp. ☐May serve W/E beginning ☐Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel,

Proviso 61.6 requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees.

Presiding Judge: [Signature]

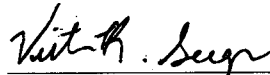
Judge Code: 2465

Sentence Date: 26 July 2017

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,



Victor R Seeger
Appellate Defender

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ATTORNEY FOR APPELLANT

This 5th day of December, 2018.

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