

Volume I of II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM DARLINGTON COUNTY

Howard P. King, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

EMILIO BURTON CRAIG,

APPELLANT

Appellate Case No. 2011-199146

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	)	
COUNTY OF DARLINGTON	)	
	)	
THE STATE	)	AUGUST 29, 2011
	)	
PLAINTIFF,	)	
	)	
VERSUS	)	
	)	
MARDRALL D. ADDISON	)	2011-GS-16-000865
EMILIO BURTON CRAIG	)	2011-GS-16-000872
	)	
DEFENDANT.	)	
_____	)	

BEFORE

THE HONORABLE HOWARD P. KING

APPEARANCES

JOHN HOLT, ESQUIRE
PATTI MCKENZIE-PARKER, ESQUIRE
CHRISTOPHER L. JONES, ESQUIRE
ATTORNEYS FOR THE STATE

EMILY CRAYTON, ESQUIRE
ATTORNEY FOR THE DEFENDANT, MARDRALL D. ADDISON

WILLIAM GROVE, ESQUIRE
ATTORNEY FOR THE DEFENDANT, EMILIO BURTON CRAIG

Pamela Ozment-Cartee
Circuit Court Reporter

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-- DAY TWO OF TRIAL --

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VOIR DIRE

Case No.: 2010-GS-16-00865 Date: August 29, 2011
Plaintiff: The State Attorney: John Holt
Defendant: Mardrall D. Addison Attorney: Emily Crayton
Defendant: Emilio Burton Craig Attorney: William Grove
Presiding Judge: Howard P. King Reporter: Pamela Ozment-Cartee

*****										***** STRIKES *****									
Juror #		Juror Name				Race	Sex	State	Defd	Defd									
129		Donna D. Stock				W	F	✓	x	--									
112		Katherine Ownley				W	F	✓	x	--									
013		Daniel J. Boone				W	M	✓	✓	✓									
019		Diane S. Camus				W	F	✓	✓	✓									
031		Justin D. Dragan				B	M	x	--	--									
057		Clarence D. Griggs				W	M	x	✓	✓									
026		Diane C. Reveling				W	F	✓	✓	✓									
063		Antonio J. Hall				B	M	✓	✓	✓									
071		Melissa P. Hopkins				W	F	✓	✓	x									
110		Ruby C. Norwood				W	F	✓	x	--									
029		Marice N. Cusaac				B	F	✓	✓	✓									
124		Leslie M. Shoemaker				W	F	✓	x	--									
005		John E. Anderson				W	M	✓	✓	✓									
132		Edna M. Terry				B	F	✓	✓	✓									
014		Kaye M. Brock				W	F	✓	✓	x									
053		Catherine H. Gough				W	F	✓	x	--									
101		Dorothy S. McDonald				B	F	✓	✓	x									
083		Cory J. Jordan				B	M	✓	✓	✓									
028		Ruth A. Curtis				B	F	x	--	--									
100		James McDaniel				B	M	x	--	--									
051		Edell G. Gamble				B	F	✓	✓	✓									
035		Lori T. Deas				W	F	✓	✓	✓									

Juror #	Juror Name	Race	Sex	State	Defd	Defd
006	David B. Andrews	W	M	✓	x	--
141	Crystal L. Belin	B	F	✓	✓	✓
009	Jonafaye M. Belin	B	F	✓	✓	✓
118	Craig A. Rakestraw	B	M	✓	✓	✓
054	William C. Grant	W	M	✓	x	--
121	Christopher L. Rogers	B	M	x	--	--
010	Derrick Blackshear	B	M	✓	✓	✓

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JURY QUALIFICATION

(Whereupon, this trial began at 11:10 a.m. on Monday, August 29, 2011)

THE COURT: All right. Mr. Solicitor, you may call your first case.

MR. HOLT: Thank you very much, Your Honor. The State would like to call Docket Number 2011-GS-16-0865, The State versus Mardrall Addison, for driving under suspension, Your Honor. Docket Number 0866, The State versus Mardrall Addison, failure to stop for a blue light. Number 0867, The State versus Mardrall Addison, armed robbery. Number 0868, The State versus Mardrall Addison, possession of a weapon during a violent crime. GS-17-0870, pointing and presenting a firearm at a person. And number 0871, petty larceny.

His co-defendant in this matter, Your Honor, Emilio Burton, 2011-GS-16-0876, charges Mr. Burton with armed robbery. 2011-GS-16-0877, possession of a weapon during a violent crime. That is against Mr. Emilio Craig as well. 16-0879, pointing and presenting firearm at a person, Your Honor. And the final Indictment in this matter, 2010-GS-16-0880, The State versus Emilio Craig, petit larceny.

THE COURT: Okay. All right. Ladies and gentlemen of the jury panel, if you would give me your attention. You have heard the State announce that they have called

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1 the cases of The State versus Mardrall D. Addison and
2 Emilio Burton Craig. What I am going to tell you now is
3 not evidence in this case, but is simply a summary of the
4 charges against the defendants, so that you will know what
5 they are charged with, and can determine whether you would
6 have any conflict that would prevent you from serving as a
7 juror in this case.

8 But as I say, the matters that I am going to tell you
9 are not evidence. But the State does charge --- And first
10 I will talk just about Mr. Addison. The charges that Mr.
11 Addison did on or about January 13, 2011, along with the
12 co-defendant while armed with a deadly weapon, commit the
13 crime of armed robbery, by having a handgun or taking and
14 carrying away the personal property of Morris Mazyck, M-
15 A-Z-Y-C-K, and that is the charge of armed robbery. Also
16 on that date, Mr. Addison is charged with failing to stop
17 his motor vehicle when signaled to do so by law
18 enforcement officer. Also on that date he is charged with
19 operating a motor vehicle while his license was suspended.
20 And he is charged on that date with being in possession of
21 a weapon during the commission of a violent crime; the
22 violent crime being armed robbery. And also pointing and
23 presenting a firearm at Mr. Mazyck, and that is the charge
24 of pointing and presenting a firearm. And finally the
25 charge of petit larceny, that is taking \$230.00 in cash,

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1 and two cellular phones from Mr. Mazyck. Those are the
2 charges against Mr. Addison.

3 The charges against Mr. Craig are similar. He is
4 charged with the armed robbery, on that same date of Mr.
5 Mazyck. And I am not sure that I am pronouncing his name
6 correctly. How is his name pronounced?

7 MR. HOLT: Mazyck, Judge.

8 THE COURT: Mazyck. All right. And that is on
9 January 13, 2011, that he along with the co-defendant
10 while armed with a handgun did take away the property of
11 Mr. Mazyck, and that is an armed robbery. He is charged
12 with petit larceny of Mr. Mazyck's money and cellular
13 phone on those days. He is charged with pointing and
14 presenting a firearm to Mr. Mazyck, on that day. And
15 finally with being in possession of a firearm on that
16 date, and that is the charge of possession of a weapon
17 during the commission of a violent crime.

18 To these charges, both defendants have plead not
19 guilty, and have requested a jury trial.

20 The defendant, Mr. Addison is represented by Ms.
21 Crayton. Ms. Crayton, would you stand. Introduce
22 yourself to the jury, and also have your client stand and
23 face the jury, please.

24 MS. CRAYTON: Thank you, Judge. My name is Emily
25 Crayton. I work for the Fourth Circuit Public Defender's

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1 Office. This is the Defendant, Mardrall Addison.

2 THE COURT: And, Mr. Craig is represented by Mr.
3 Will Grove. Mr. Grove, would you stand and introduce
4 yourself to the jury, and have your client stand and face
5 the jury, please.

6 MR. GROVE: My name is Will Grove, I also work with
7 the Fourth Circuit Public Defender's Office. This is my
8 client, Emilio Craig.

9 THE COURT: And also, maybe involved at least on
10 the possibility of counsel basis will be Rick Jones, also
11 of the Fourth Circuit Public Defender's Office.

12 The State of South Carolina is represented by Mr.
13 John Holt. Would you stand and introduce yourself to the
14 jury, and give the names of any lawyers with whom you will
15 be working?

16 MR. HOLT: Thank you very much, Judge. I work for
17 the Solicitor Office. This is kind of like my boss, Ms.
18 Patti Parker right here. She is pregnant right now, and
19 is depending on me. And I am trying to train this young
20 man right here, Chris Jones. And he will be here. You
21 will see him. And also with me is Terry Anderson, who is
22 the lead investigator. And he will probably be at my
23 table for the whole time.

24 THE COURT: All right. Thank you. All right,
25 ladies and gentlemen, before we select a jury in this

THE STATE VERSUS CRAIG AND ADDISON

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1 case, I need to ask you some questions. Please give your
2 attention to these questions, and if any of them apply to
3 you then respond accordingly. Is there any member of the
4 jury panel related by blood, or connected by marriage to
5 either of the defendants, that is, Mardrall Addison or
6 Emilio Burton Craig? Any member of the jury panel related
7 by blood, connected by marriage to either of the
8 defendants. If so, please stand?

9 All right. The following individuals may appear as
10 witnesses in this case. And as soon as I can find the
11 witness list that was furnished to me by counsel I will go
12 over them with you. All right.

13 I would ask if the witnesses are present, if they
14 would stand when your name is called. You may stand just
15 so the jury can see you. But you may be seated after
16 that. Mr. Morris Mayzack. M-A-Y-Z-A-C-K. Jolly Perkins,
17 James Brandon Hodge, and I assume HPD is the Hartsville
18 Police Department?

19 MR. HOLT: It is, Your Honor.

20 THE COURT: These are from the Hartsville Police
21 Department. Robert McIntyre, Hartsville Police
22 Department, Sergeant Blair, Hartsville Police Department,
23 Terry Anderson, of the Hartsville Police Department, Laura
24 South of the Hartsville Police Department, Jackie Catoe,
25 of Darlington County Sheriff's Office, Robin Bryant of the

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1 Darlington County Sheriff's Office, Curtis Bryant, of
2 Darlington County Sheriff's Office, Craig Braddock of the
3 Darlington County Sheriff's Office, David Young of
4 Darlington County Sheriff's Office, Chad McInville,
5 Darlington County Sheriff's Office, and Tracy Myers, of
6 Hartsville Police Department. Of course, possibly the
7 defendants in this case, Mr. Craig and Mr. Addison. There
8 may be some duplication of this list. I will try not to
9 duplicate it. William Woodham, W-O-O-D-H-A-M. Yolanda
10 Alford, Teresa Caesar, Reed Allen, Justine Peterson,
11 Lieutenant Gough, G-O-U-G-H. Lieutenant Brian Rudick,
12 Officer Joseph Pooler, Sergeant Neal Flowers, Tracy Myers,
13 Corey Mitchell, Raynard Jenkins, I think I have already
14 given you the name of Jackie Catoe, Deputy Christopher
15 Smothers, Sergeant Baird, Sergeant Taylor Lail, Sergeant
16 Russell Harrell, Sergeant Wilber M. Flowers, Sergeant
17 Charles T. Norton, jr., Captain McLeod, Sergeant Nathan
18 Tunstall, Latona Addison, Ali Sallah, S-A-L-L-A-H,
19 Lieutenant Eric Hodges, Curtis Bryant, Craig Braddock,
20 Kate Mitchell, and Sergeant Mike Anderson.

21 Is there any member of the jury panel related by
22 blood, or connected by marriage to any of the proposed
23 witnesses? If so, please stand? Thank you.

24 Counsel, come up a minute.

25 (Whereupon, a bench conference was held in the

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1 presence of the jury panel, but out of their hearing
2 range.)

3 **THE COURT:** The lawyers have already identified
4 themselves. And you know who is representing the State
5 and the defendants. Is there any member of the jury
6 panel, represented now or has been represented in the last
7 ten years, by Mr. Holt, Ms. McKenzie, or any member of the
8 Fourth Circuit Solicitor's Office? If so, please stand?

9 The defense lawyers, all three of them have
10 identified themselves. But in addition to that, I would
11 ask, is there any member of the jury panel who is
12 represented now, or has been represented in the last ten
13 years by any of these three lawyers, or any member of the
14 Fourth Circuit Public Defender's Office, if so, please,
15 stand?

16 All right, come up, please ma'am.

17 **BAILIFF:** Kaye Brock.

18 **JUROR:** I was represented by Mr. Jones in the
19 family court about four years ago.

20 **THE COURT:** Has that been concluded?

21 **MS. BROCK:** Yes, sir.

22 **THE COURT:** Would that fact prevent you from giving
23 the State and the defense a fair trial?

24 **MS. BROCK:** No, sir.

25 **THE COURT:** Can you put that aside, and decide this

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1 case based on the evidence?

2 MS. BROCK: Yes, sir.

3 THE COURT: Thank you. Does any member of the jury
4 panel know anything about the facts of this case, as I
5 have briefly recited them to you? If so, please stand.

6 Has any member of the jury panel formed or expressed
7 an opinion as to the guilt or the innocence of either of
8 the defendant? If so, please stand.

9 Is any member of the jury panel aware of any
10 interest, any bias, or any prejudice for or against either
11 of the defendants? If so, please stand?

12 Has any member of the jury panel, or a member of your
13 immediate family, and I define immediate family as spouse,
14 parent, brother, sister, or child, been the victim of a
15 violent crime? If so, that is a crime upon their person.
16 If so, please stand. Thank you.

17 I'm thinking, and I am not sure if I have asked this
18 question. Has any member of the jury panel aware of any
19 interest, or any bias, or prejudice, against either of the
20 defendants? If so, please stand.

21 Can each member of the jury panel give to the State,
22 and the defendants, a fair and impartial trial based on
23 the evidence that you hear in this courtroom? If not,
24 please stand.

25 Does any member of the jury panel know of any reason

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1 whatsoever why he or she should not serve as juror in this
2 case? If so, please stand? All right. Come forward,
3 please, sir.

4 **BAILIFF:** Juror Number 16.

5 **THE COURT:** Come on up, Mr. Bryant.

6 **CLERK OF COURT:** This is Donald Paul Bryant.

7 **THE COURT:** That is number 16. All right. Mr.
8 Bryant, what is your situation?

9 **MR. BRYANT:** We had a robbery and murder at our
10 store in April, and I don't think that I could really be
11 impartial on this trial. We had one that was shot between
12 the eyes, and one shot over the eye.

13 **THE COURT:** That is the appropriate information
14 that we need from you. And that will prevent you from
15 being fair and impartial?

16 **MR. BRYANT:** I believe so. I would not want --

17 **THE COURT:** All right, sir. Thank you, sir, Mr.
18 Bryant.

19 All right. Are there additional questions on behalf
20 of the State, Mr. Holt?

21 **MR. HOLT:** There are none, Your Honor.

22 **THE COURT:** On behalf of Defendant, Mr. Addison,
23 Ms. Crayton?

24 **MS. CRAYTON:** Your Honor, just what we had handed
25 up to you earlier.

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1 THE COURT: I'm sorry I didn't see those. All I
2 saw was your witness list. Okay. Let me look at those.

3 (PAUSE.)

4 THE COURT: Is there any member of the jury panel
5 employed now, or has been employed within the last ten
6 years with a law enforcement agency? If so, please stand?

7 Is any member of the jury panel, or a member of their
8 immediate family, currently employed as a law enforcement
9 officer? If so, please stand.

10 Is there any member of the jury panel a member of, or
11 a contributor to an organization such as MADD, SADD, CAVE,
12 or any type of victims' rights groups, such as the ones I
13 have named? If so, please stand?

14 All right. There are a few of those I have not
15 asked, otherwise I had asked them in a different way.
16 Wait a minute.

17 All right. One other question. Has any member of the
18 jury panel, or a member of your immediate family, or a
19 close personal friend, lived at the East Park Apartments,
20 in the Hartsville area of Darlington County in the last
21 eight years? If so, please stand?

22 All right. Some of them were worded a little bit
23 different, but I have asked the first of these, but I have
24 some that I have not asked and will not ask. I will go
25 over those with counsel, and will make them a part of the

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1 record in a few minutes.

2 MS. CRAYTON: Thank you, Judge.

3 MR. GROVE: Thank you, Judge.

4 THE COURT: Counsel, come up just a moment, please.

5 (Whereupon, a bench conference was held in
6 the presence of the jury panel, but out of their hearing
7 range.)

8 THE COURT: Mr. Clerk, if you will give us a jury.
9 Ladies and gentlemen, the process will be that your names
10 have been put in a computer, and selected randomly. And
11 the clerk will call your name. I will ask that you come
12 through the right-hand side, up here to the front of the
13 courtroom, to the rail, turn around with your back toward
14 me, facing the back of the courtroom. If you are
15 acceptable to the State, the State will indicate, present
16 the juror. If you are acceptable to the defense, the
17 defense will indicate, swear the juror, and you will have
18 a seat the juror, and you will have a seat in the jury
19 box, to my right.

20 Counsel, how do you want handle it as far as the
21 strikes go. Do you want to do them separately or
22 together?

23 MS. CRAYTON: Your Honor, is that we get ten apart
24 and twenty together, or?

25 THE COURT: That's right. Maybe we had do them

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1 separately. I think that would be the better way to do
2 it. Okay. We will do it separately.

3 All right. Mr. Clerk.

4 **CLERK OF COURT:** Juror Number 129, Donna Stock.

5 **THE COURT:** Come right through there, and come
6 right up here. Yes, ma'am.

7 **CLERK OF COURT:** What saith the State?

8 **MR. HOLT:** Please seat Ms. Stock.

9 **THE COURT:** What saith Defendant Addison?

10 **MS. CRAYTON:** Please excuse Ms. Stock from the
11 service of this case.

12 **CLERK OF COURT:** You have been excused from this
13 case. Thank you. If you would just go back and have a
14 seat out in the audience for me.

15 Juror Number 112, Katherine Ownley. What saith The
16 State?

17 **MR. HOLT:** Please present Ms. Ownley.

18 **CLERK OF COURT:** What saith Defendant Addison?

19 **MS. CRAYTON:** Please excuse Ms. Ownley from the
20 services of this case.

21 **CLERK OF COURT:** You have been excused from this
22 particular case, Ms. Ownley. Please have a seat back out
23 there for me.

24 Juror Number 13, Daniel Boone. What saith The State?

25 **MR. HOLT:** Please present Mr. Boone.

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1 CLERK OF COURT: What saith as to Defendant
2 Addison?

3 MS. CRAYTON: Please seat Mr. Boone.

4 CLERK OF COURT: What saith Defendant Craig?

5 MR. GROVE: Please swear Mr. Boone.

6 CLERK OF COURT: Please have a seat in the first
7 seat in the jury box for me, Mr. Boone.

8 Juror Number 19, Diane Camus. What saith The State?

9 MR. HOLT: Please present Ms. Camus.

10 CLERK OF COURT: What saith as to Defendant
11 Addison?

12 MS. CRAYTON: Please seat the juror.

13 CLERK OF COURT: What saith as to Defendant Craig?

14 MR. GROVE: Beg the Court's indulgence.

15 (PAUSE.)

16 MR. GROVE: Please seat the juror.

17 CLERK OF COURT: Please have a seat in the jury box
18 for me, Ms. Camus.

19 Juror Number 31, Justin Dargan. What saith The
20 State?

21 MR. HOLT: Please excuse Mr. Dargan from the trial
22 of this case.

23 CLERK OF COURT: You have been excused from this
24 particular case, Mr. Dargan. If you would have a seat
25 back out in the audience, please.

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1 Juror Number 57, Clarence Griggs. What saith The
2 State?

3 MR. HOLT: Court's indulgence.

4 (PAUSE.)

5 MR. HOLT: Please excuse Mr. Griggs from the trial
6 of this case.

7 CLERK OF COURT: You have been excused, Mr. Griggs,
8 from the trial of this case. Thank you.

9 Juror Number 26, Diane Creveling. What saith The
10 State?

11 MR. HOLT: Please seat Ms. Creveling from the trial
12 of this case.

13 CLERK OF COURT: What saith Defendant Addison?

14 MS. CRAYTON: Please seat the juror.

15 CLERK OF COURT: What saith Defendant Craig?

16 MR. GROVE: Beg the Court's indulgence.

17 (PAUSE.)

18 MR. GROVE: Please swear the juror.

19 CLERK OF COURT: Have a seat in the jury box for
20 Ms. Creveling.

21 Juror Number 63, Antonio Hall. What saith The State?

22 MR. HOLT: Please present Mr. Hall.

23 CLERK OF COURT: What saith Defendant Addison?

24 MS. CRAYTON: Please seat Mr. Hall.

25 CLERK OF COURT: What saith Defendant Craig?

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1 MR. GROVE: Beg the Court's indulgence.

2 (PAUSE.)

3 MR. GROVE: Please swear the juror.

4 CLERK OF COURT: Please have a seat in the jury box
5 for me, Mr. Hall.

6 Juror Number 71, Melissa Hopkins. What saith The
7 State?

8 MR. HOLT: Please present Ms. Hopkins.

9 CLERK OF COURT: What saith Defendant Addison?

10 MS. CRAYTON: Please seat Ms. Hopkins.

11 CLERK OF COURT: What saith Defendant Craig?

12 MR. GROVE: Please excuse Ms. Hopkins from the
13 trial of this case.

14 CLERK OF COURT: You have been excused from this
15 case.

16 Juror 110, Ruby Norwood. What saith The State?

17 MR. HOLT: Please present Ms. Norwood.

18 CLERK OF COURT: What saith Defendant Addison?

19 MS. CRAYTON: Court's indulgent.

20 (PAUSE.)

21 MS. CRAYTON: Please excuse Ms. Norwood from the
22 service of this case.

23 CLERK OF COURT: You have been excused from this
24 particular case, Ms. Norwood. Thank you.

25 Juror Number 29, Marice Cusaac. What saith The

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1 State?

2 MR. HOLT: Please present the juror.

3 CLERK OF COURT: What saith Defendant Addison?

4 MS. CRAYTON: Please seat Ms. Cusaac.

5 CLERK OF COURT: What saith Defendant Craig?

6 MR. GROVE: Please swear Ms. Cusaac.

7 CLERK OF COURT: Please have a seat in the jury box
8 for me, Ms. Cusaac.

9 Juror Number 124, Leslie Shoemaker. What saith The
10 State?

11 MR. HOLT: Please present Ms. Shoemake.

12 CLERK OF COURT: What saith Defendant Addison?

13 MS. CRAYTON: Please excuse Ms. Shoemake.

14 CLERK OF COURT: You have been excused from this
15 case.

16 Juror Number 5, John Anderson. What saith The State?

17 MR. HOLT: Please present Mr. Anderson.

18 CLERK OF COURT: What saith Defendant Addison?

19 MS. CRAYTON: Please seat Mr. Anderson.

20 CLERK OF COURT: What saith Defendant Craig?

21 MR. GROVE: Please swear Mr. Anderson.

22 CLERK OF COURT: Please have a seat in the jury box
23 for me.

24 Juror Number 132, Edna Terry. What saith The State?

25 MR. HOLT: Please present Ms. Terry.

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1 CLERK OF COURT: What saith Defendant Addison?

2 MS. CRAYTON: Please seat Ms. Terry.

3 CLERK OF COURT: What saith Defendant Craig?

4 MR. GROVE: Please swear Ms. Terry.

5 CLERK OF COURT: Please have a seat in the jury box
6 for me please, Ms. Terry.

7 Juror Number 14, Kaye Brock. What saith The State?

8 MR. HOLT: Please present Ms. Brock.

9 CLERK OF COURT: What saith Defendant Addison?

10 MS. CRAYTON: Please seat Ms. Brock.

11 CLERK OF COURT: What saith Defendant Craig?

12 MR. GROVE: Please excuse Ms. Brock from the trial
13 of this case.

14 CLERK OF COURT: You have been excused from this
15 case. Thank you.

16 Juror Number 53, Catherine Gough. What saith The
17 State?

18 MR. HOLT: Please seat Ms. Gough.

19 CLERK OF COURT: What saith Defendant Addison?

20 MS. CRAYTON: Please excuse Ms. Gough.

21 CLERK OF COURT: You have been excused in this
22 particular case, Ms. Gough. Thank you.

23 Juror Number 101, Dorothy McDonald. What saith The
24 State?

25 MR. HOLT: Please seat Ms. McDonald.

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1 CLERK OF COURT: What saith Defendant Addison?

2 MS. CRAYTON: Please seat Ms. McDonald.

3 CLERK OF COURT: What saith Defendant Craig?

4 MR. GROVE: Please excuse Ms. McDonald from the
5 trial of this case.

6 CLERK OF COURT: You have been excused, Ms.
7 McDonald. Thank you.

8 Juror Number 83, Cory Jordan. What saith The State?

9 MR. HOLT: Please present the juror.

10 CLERK OF COURT: What saith Defendant Addison?

11 MS. CRAYTON: Please seat Mr. Jordan.

12 CLERK OF COURT: What saith Defendant Craig?

13 MR. GROVE: Please swear Mr. Jordan.

14 CLERK OF COURT: Please have a seat in the jury box
15 for me, Mr. Jordan.

16 Juror 28, Ruth Curtis. What saith The State?

17 MR. HOLT: Please excuse Ms. Curtis.

18 CLERK OF COURT: You have been excused in this
19 particular case, Ms. Curtis. Please have a seat back out
20 in the audience.

21 Juror Number 100, James McDaniel. What saith The
22 State?

23 MR. HOLT: Please excuse Mr. McDaniel.

24 CLERK OF COURT: You have been excused in this
25 particular case, Mr. McDonald. Thank you.

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1 Juror Number 51, Edell Gamble. What saith The State?

2 MR. HOLT: Please present Ms. Gamble.

3 CLERK OF COURT: What saith Defendant Addison?

4 MS. CRAYTON: Court's indulgence.

5 (PAUSE.)

6 MS. CRAYTON: Please seat Ms. Gamble.

7 CLERK OF COURT: What saith Defendant Craig?

8 MR. GROVE: Please swear Ms. Gamble.

9 CLERK OF COURT: Please have a seat in the jury box
10 for me, please.

11 Juror Number 35, Lori Deas. What saith The State?

12 MR. HOLT: Please present Ms. Deas.

13 CLERK OF COURT: What saith Defendant Addison?

14 MS. CRAYTON: Please seat Ms. Deas.

15 CLERK OF COURT: What saith Defendant Craig?

16 MR. GROVE: Please swear Ms. Deas.

17 CLERK OF COURT: Please have a seat in the jury box
18 for me please.

19 Juror Number 6, David Andrews. What saith The State?

20 MR. HOLT: Please present Mr. Andrews.

21 CLERK OF COURT: What saith Defendant Addison?

22 MS. CRAYTON: Please excuse Mr. Andrews from the
23 service in this case.

24 CLERK OF COURT: You have been excused from this
25 particular case.

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1 Juror number 141, Crystal Belin. What saith The
2 State?

3 MR. HOLT: Please present Ms. Belin.

4 CLERK OF COURT: What saith Defendant Addison?

5 MS. CRAYTON: Please seat Ms. Belin.

6 CLERK OF COURT: What saith Defendant Craig?

7 MR. GROVE: Please swear Ms. Belin.

8 CLERK OF COURT: Please have a seat in the jury box
9 for me, please.

10 Juror Number 9, Jonafaye Belin. What saith The
11 State?

12 MR. HOLT: Please present Ms. Belin.

13 CLERK OF COURT: What saith Defendant Addison?

14 MS. CRAYTON: Please seat Ms. Belin.

15 CLERK OF COURT: What saith Defendant Craig?

16 MR. GROVE: Please swear Ms. Belin.

17 CLERK OF COURT: Please have a seat in the jury box
18 for me please, Ms. Belin.

19 THE COURT: All right. Counsel, one alternate.
20 One, two and two.

21 MS. CRAYTON: Yes, Your Honor.

22 CLERK OF COURT: Juror Number 119, Craig Rakeshaw.
23 What saith The State?

24 MR. HOLT: Please present Mr. Rakeshaw.

25 CLERK OF COURT: What saith Defendant Addison?

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1 MS. CRAYTON: Please seat Mr. Rakeshaw.

2 CLERK OF COURT: What saith Defendant Craig?

3 MR. GROVE: Please swear Mr. Rakeshaw.

4 CLERK OF COURT: Please have a seat in the first
5 chair outside of the jury box for me please, Mr. Rakeshaw.

6 THE COURT: Counsel, let's choose another
7 alternate. Again, one, two and two.

8 MS. CRAYTON: Yes, Your Honor.

9 CLERK OF COURT: Juror Number 54, William Grant.
10 What saith The State?

11 MR. HOLT: Please present Mr. Grant.

12 CLERK OF COURT: What saith Defendant Addison?

13 MS. CRAYTON: Court's indulgence.

14 (PAUSE.)

15 MS. CRAYTON: Please excuse Mr. Grant from service
16 in this case.

17 CLERK OF COURT: You have been excused from this
18 particular case.

19 Juror Number 121, Christopher Rogers. What saith The
20 State?

21 MR. HOLT: Please excuse Mr. Rogers.

22 CLERK OF COURT: You have been excused in this
23 particular case, Mr. Rogers.

24 Juror Number 10, Derrick Blackshear. Is there any
25 show for cause from The State?

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1 MR. HOLT: There is none.

2 CLERK OF COURT: What saith as to Defendant
3 Addison?

4 MS. CRAYTON: Please seat Mr. Blackshear.

5 CLERK OF COURT: As to Defendant Craig?

6 MR. GROVE: Please swear Mr. Blackshear.

7 CLERK OF COURT: Please have a seat in the second
8 chair outside of the jury box for me please.

9 THE COURT: All right. Anything with regards to
10 strike of the jury on behalf of the State, Mr. Holt?

11 MR. HOLT: Beg the Court's indulgence, Your Honor.

12 THE COURT: Okay.

13 (PAUSE.)

14 MR. HOLT: Judge, I think at this time the State
15 does have a motion.

16 THE COURT: All right. On behalf of the Defendant
17 Addison, Ms. Crayton?

18 MS. CRAYTON: No, Your Honor, we have no motions at
19 this time.

20 THE COURT: And on behalf of Defendant Craig?

21 MR. GROVE: None on behalf of Mr. Craig. No
22 motions at this time, Judge.

23 THE COURT: All right. Ladies and gentlemen of the
24 jury selected in the trial of this case, there are some
25 matters of law that I am going to need to take up at this

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1 time. I am going to ask that you go to your jury room.
2 Please do not discuss the case among yourselves. We will
3 be with you as soon as we can take care of these matters
4 of law. But, I will tell you now that it would be
5 improper for you to discuss this matter among yourselves
6 in anyway while you are in the jury room. You can talk
7 about anything that you want to talk about weather,
8 sports, children, anything at all. But please don't talk
9 about this case. We will send for you very shortly.
10 Thank you. If you would go with the bailiff. I have to
11 take this matter up.

12 (Whereupon, the jury exits the courtroom at
13 12:36 p.m..)

14 THE COURT: All right. Ladies and gentlemen of the
15 jury, this is a matter that I do need to take up on the
16 record, and I need to do it outside of your presence. So
17 we are going to go around to the smaller courtroom, around
18 to the other side so that you will not be inconvenienced.
19 You can walk outside if you want to, but please be back in
20 your seat in about fifteen minutes, and we will take care
21 of these matters. But please don't discuss this matter at
22 all among yourselves. But you are welcome to sit here in
23 the courtroom if you would like. If you walk outside,
24 please be back in say at a quarter of twelve, or a quarter
25 of one, and we are going to take these matters up on the

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1 record in the other courtroom. Thank you very much.

2 (Whereupon, the jury panel exits the
3 courtroom at 12:39 p.m.)

4 THE COURT: All right. We are back on the record
5 in the case of The State versus Craig and Addison. Let
6 the record reflect that there are no jurors in the
7 courtroom. Are there any jurors in the courtroom, if
8 there are, I would ask that you leave now. There are
9 none. And we can take up the matter of the motion of the
10 State. Mr. Holt.

11 BATSON MOTION

12 MR. HOLT: Thank you very much, Your Honor. At
13 this time the State would request a Batson Hearing against
14 Mardrall Addison and his attorney, Judge.

15 THE COURT: All right. The State is moving
16 pursuant to the Batson case for a motion to set aside the
17 jury based on Batson. As to one defendant, or both
18 defendants?

19 MR. HOLT: Just to one defendant.

20 THE COURT: Just Mr. Addison?

21 MR. HOLT: Yes, sir.

22 THE COURT: All right. Let the record reflect then
23 --- Go ahead and tell me what your problems with her
24 strikes are? First, she has to racially group first of
25 all, Mr. Holt.

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1 **MR. HOLT:** Yes, sir, Your Honor. Caucasian
2 individuals, specifically Caucasian females. I am looking
3 at the jury pool number one and number two, which were
4 Jurors 129 Donna Stock, and Juror Number 112, Ms. Ownley,
5 Juror Pool Number 10, which was basically Juror Number
6 110, Ms. Norwood. Juror Pool Number 12, Juror Number 124,
7 Leslie Shoemaker. Juror Pool Number 16, Judge, Number 53,
8 Catherine Gough. And she actually --- a male, Number 23,
9 which was Number 6, Mr. Andrews.

10 **THE COURT:** All right. And you are objecting to
11 the strikes of Juror Numbers 6. That was the white male,
12 or just the first five you identified?

13 **MR. HOLT:** To all six total, Judge. As to being
14 Caucasians.

15 **THE COURT:** All right. The State has identified a
16 racially cognizable --- Defendant Addison struck juror
17 number 129 a white female. Juror number 112 a white
18 female. Juror number 110 a white female. Number 124 a
19 white female. Juror 53 a white female. And number 6 a
20 white male. Having identified the racially cognizable
21 group, the burden shifts to the striking party to give a
22 nondiscriminatory reason that the juror was struck. Ms.
23 Crayton.

24 **MS. CRAYTON:** Thank you, Your Honor. Juror Number
25 129, Ms. Stock, I was told by Mr. Jones that he expected

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1 her to be extremely conservative working at the private
2 school. We didn't think that she would understand the
3 culture of these defendants. And that is why she was
4 struck.

5 THE COURT: Highly conservative for what reason?

6 MS. CRAYTON: She works at a private --- I believe
7 it is a Christian School, Your Honor. And, that is why we
8 struck her, Judge. And her husband was also employed at
9 the bank that Mr. Rick Jones is involved in the board of.

10 THE COURT: The what?

11 MR. R. JONES: Your Honor, if I might. I have
12 known the family for quite some time. Her husband is
13 currently employed at the SBC Credit Union. But, up until
14 about a year ago he was employed at a bank that I am a
15 director on, Heritage Community Bank. And the family is
16 extremely conservative. I have spoken to both her and Mr.
17 Stock on many occasions.

18 THE COURT: All right. I understand. Highly
19 conservative.

20 Next, Ms. Addison.

21 MS. CRAYTON: And, Your Honor, the next juror I
22 believe 112 was the number.

23 THE COURT: Correct.

24 MS. CRAYTON: Ms. Ownley, and we had a similar
25 situation where Mr. Jones had ---

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1 THE COURT: Mr. Jones is not the attorney of record
2 in this case. You are.

3 MS. CRAYTON: I understand, Your Honor, but Mr.
4 Jones has more dealings with a lot of these Hartsville
5 people than I do. And, he --- I believe the husband of
6 the juror had done work for Mr. Jones, and he has had a
7 lot of dealing with this family, and explained to me that
8 it would be an extremely conservative family. And again
9 not likely to understand the culture of these defendants.
10 Do you have any questions on that, Your Honor, or would
11 you like for me to move onto 110?

12 THE COURT: That comes from Mr. Jones, not anything
13 from your client or from you?

14 MS. CRAYTON: No, Your Honor. He is more familiar
15 with the Hartsville area than I am, Your Honor.

16 THE COURT: All right. Go ahead, next.

17 MS. CRAYTON: Juror 110, Ms. Norwood. My client
18 advised me that he felt that she lived close to where he
19 lived. And that he may have had interactions with her, so
20 we asked that we strike her on that fact that they lived
21 so close together, he thought that she may have known of
22 him or his reputation. Do you have any questions on that,
23 Your Honor, or would you like --

24 THE COURT: No, I'm just making notes.

25 MS. CRAYTON: Okay. Number 124, Ms. Shoemake. I

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1 believe she may be related to law enforcement, and also
2 the store where she works is very close in proximity of
3 the area of the incident, or where the failure to stop
4 ended, Your Honor.

5 THE COURT: Related to law enforcement how?

6 MS. CRAYTON: I believe through marriage, Your
7 Honor.

8 THE COURT: All right. Number 53.

9 MS. CRAYTON: Okay. Your Honor, I dismissed her
10 because I felt that she would be extremely conservative.
11 Her husband is a priest.

12 THE COURT: Because of what?

13 MS. CRAYTON: Because her husband is a priest, we
14 thought she would be extremely conservative. And again,
15 Your Honor, not understanding the culture of these
16 defendants.

17 And the last, Your Honor, is Number 6, Mr. Andrews.
18 He is a member of the Army, and we felt again that he
19 would be extremely conservative, and not likely to
20 understand these defendants, Your Honor. Do you have any
21 questions, Judge?

22 THE COURT: Just making notes.

23 MS. CRAYTON: Okay. And I believe that is it, Your
24 Honor.

25 THE COURT: All right. Mr. Holt, the defendant

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1 having enumerated a racially neutral reason, or having
2 articulated a racially neutral reason, the burden shifts
3 back to the State to show that those reasons are
4 pretextual.

5 **MR. HOLT:** Thank you, Judge. I know for a fact
6 that she said for Ms. Norwood that is Juror Number 110
7 that she was struck because she lived near the defendants.
8 From what I know of where the defendants live, so do
9 number 21 and 22. So I believe that is --- and I am sure
10 if I had time to go through the list and cross reference
11 against the addresses I could come up with more examples,
12 Your Honor. I think that just the fact that we are
13 sitting up here talking about six people, and each one of
14 them had a little minor thing wrong.

15 In looking at the law, I see where the objections can
16 be silly, or superstitious. I believe very certainly they
17 are. And, I believe that they are just pretext, Your
18 Honor. I think that they are so fundamentally implausible
19 that she would find this pretext in only six people. And
20 that all --

21 **THE COURT:** Well, has anybody similarly situated
22 been seated on the jury, or allowed to sit on the jury?

23 **MR. HOLT:** Yes, sir. Juror Number 9, Ms. Gamble.
24 I know she lives in and around the area.

25 **THE COURT:** All right. Sit down and get your facts

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1 together. Don't just talk. If you are going to talk,
2 let's put it on the record so I can rule on it. I can't
3 rule on it when y'all just talk back and forth.

4 MR. HOLT: Beg the Court's indulgence for just a
5 minute.

6 (PAUSE.)

7 MR. HOLT: Thank you for that moment, to get our
8 argument together, Your Honor.

9 THE COURT: Go ahead.

10 MR. HOLT: Basically, my argument is this, Judge.
11 The fact that they excused people for believing that they
12 would not understand the culture, and Mr. Jones believing
13 that they would be conservative, that is my argument,
14 Judge. I think in a nutshell that is what has happened
15 here. Someone who is older and conservative can't serve
16 on the jury. I don't understand that.

17 THE COURT: All right. Okay, thank you.

18 (PAUSE.)

19 THE COURT: All right. Counsel, I have about got
20 my thoughts together on this, but I want to review it a
21 little bit more. And, it is lunch time. I think the best
22 thing for us to do is to bring both the jury panel and the
23 jury selected in this case back in the courtroom, and
24 excuse them for lunch, and I will rule on this matter
25 after lunch.

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1 MR. HOLT: Thank you very much, Judge.

2 THE COURT: All right. If you will ask the jurors
3 to come back in, and you can bring the jury in that is
4 selected in this case.

5 BAILIFF: All right, sir.

6 (Whereupon, the jury panel and the selected
7 jurors enters the courtroom at 12:59 p.m..)

8 THE COURT: All right. Thank you, ladies and
9 gentlemen. And thank you for your patience. We have not
10 resolved all of the matters that we need to resolve in
11 regard to this legal issue. So, it is time for our lunch
12 break, and I want to take certain matters under
13 advisement, and do a little bit of research. So, rather
14 than keeping you waiting in the jury room, or interfering
15 with the lunch break, I thought it would be better to go
16 ahead and take our lunch recess at this time, and ask you
17 to come back, please, at 2:30. That is both in regard to
18 the panel that has been selected as well as the balance of
19 the panel. For those of you that have been selected on
20 this case, I am going to ask that you go out this way, and
21 when you come back that you come back to the jury room.
22 And the bailiffs will show you how to get into the jury
23 room. That is the fourteen of you that is selected on
24 this case. And I would ask that you be back in the jury
25 room at 2:30. That is about an hour and a half, and that

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1 will give us a chance to get these issues resolved, and
2 also to get a little lunch ourselves, and then we will be
3 ready to go forward at 2:30. So, if you would go out this
4 way, and we will allow you to do that. The rest of you
5 that are on this panel, I would ask that you be back in
6 your places here in the courtroom at 2:30 this afternoon.
7 And we will have the legal issues resolved that we needed
8 to get resolved and be ready to go forward.

9 So, all of you are excused. I am going to have this
10 jury go out this way so you can see how to get out and
11 back in. The rest of you can go out this way. Jurors
12 only, please. Be back at 2:30, please.

13 (Whereupon, the jury exits the courtroom at
14 1:02 p.m..)

15 **THE COURT:** All right. Counsel, we will take a
16 recess at this time. Be back in the courtroom at two
17 o'clock, and I will be ready to rule at that time. The
18 jury is coming back at 2:30, and I will also put on the
19 record Ms. Crayton, the matters which we did in the small
20 courtroom. And I will put those on the record when we
21 come back too. We will take care of all of those matters.
22 We will start back with the jury at 2:30. But we will
23 take a break until 2:00. Thank you.

24 **MS. CRAYTON:** Thank you, Your Honor.

25 **MR. HOLT:** Thank you, Judge.

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1 (Whereupon, a lunch recess was taken from
2 1:03 p.m. until 2:04 p.m..)

RULING ON BATSON MOTION

3
4 THE COURT: All right. Back on the record in
5 regard to The State versus Craig and in the matter of The
6 State versus Addison. Let the record reflect that both
7 of the defendants are in the courtroom with their
8 attorneys. The matter before the Court is the Batson
9 Motion made by the State challenging the strikes of the
10 jury by the Defendant Addison. No Motions with regard to
11 The Defendant Craig. No motions by the defense with
12 regard to the State's strikes. The only issue is matter
13 of the six strikes exercised by the Defendant Addison of
14 the jury panel. Specifically, the strikes were addressed
15 to Juror Number 129, Juror Number 112, Juror Number 110,
16 Juror Number 124, Juror Number 53, and Juror Number 6.
17 The first five of those being white females, the sixth
18 being a white male. The reasons set forth, and the Court
19 will find that the State did identify a racially
20 cognizable group. And then the burden shifted to the
21 party exercising the strikes and show a nondiscriminatory
22 reason. The reasons have been put on the record as to why
23 all six strikes. And the burden shifts back to the State
24 to show that those reasons were pretextual.

25 The Court has looked at the six strikes, especially

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1 the ones --- I have no problem with juror strike number
2 110, Norwood. The reason given was that the defendant
3 lived close to him and might know him, and this was the
4 defendant himself. And that is the reason his counsel
5 struck that. I cannot find that that is a pretextual
6 reason. And have no problem with the defendant exercising
7 that strike.

8 The strike of number 124, Shoemake, two reasons
9 given. Related to law enforcement through marriage, and a
10 store close to the area. Again, from the defendant's
11 standpoint, I can understand with the information the
12 State had, was that the juror was related to law
13 enforcement and that they would not want that juror. And
14 I cannot find that reason is pretextual.

15 With regard to juror number 53, Ms. Gough, I guess it
16 is G-O-U-G-H, the reason the State gave for that was
17 conservative, but mainly I think that the fact her husband
18 was a priest. And, again, I cannot disagree with that
19 reasoning. I think from a defendant's standpoint, they
20 would not want somebody that falls within that category.
21 And I cannot find that that is pretextual.

22 The other three are a lot more problematic. One-
23 twenty-nine, one-twelve, and six, the reason given for all
24 three of those was that they were highly conservative, and
25 would not understand the culture from which the defendant

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1 came. While that is pretty much a generalization, and the
2 law is that generalizations cannot be used as a reason for
3 striking a juror. I have looked at these six jurors, and
4 see that all of them have some similar characteristics.
5 And, to me it is more than just a generalization, because
6 the reasons the defense counsel gave was based on personal
7 information regarding the conservatism of each one of the
8 three. And, the way that they were situated that would
9 make them not responsive to the culture of these
10 defendants. Ms. 129 --- Juror Number 129 Ms. Stock was
11 that she worked or is employed at a private Christian
12 school, and her husband is employed by a credit union. I
13 note from the juror returns that she is a college
14 graduate. Same thing with Ownley. The Court thinks that
15 she falls within the category of the conservative and
16 would not identify. And then Mr. Andrews was the same
17 reason was given. And while I feel that those are
18 generalizations in this particular case, the defense
19 counsel articulated personal knowledge of these three
20 jurors to that effect, and I don't think that that has
21 been overcome.

22 Therefore, there is no question of course under
23 Georgia versus McCollum, that the striking on the basis of
24 race applies to a defendant as well as to the prosecutors.
25 So it is not just a defense too, but the State does have

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1 the right to make the motion. And I think in this case
2 had a valid basis for the striking of the jury, because of
3 the identifiably racially cognizable group.

4 However, the Court finds that the defendant has given
5 a racially neutral explanation for striking all of these
6 jurors. I further find that the State has not met its
7 burden of showing that the race nurtural explanation given
8 by the defendant was a mere pretext.

9 Therefore the Court finds that there has been no
10 violation of Batson versus Kentucky, and the jury will
11 remain.

12 **MS. CRAYTON:** Thank you, Your Honor.

13 **THE COURT:** All right. Now, let me go ahead and
14 take care of a couple of things. I want to put on the
15 record first of all, and give to the court reporter the
16 two voir dire request from both the State, the Defendant
17 Mr. Craig, and the Defendant Mr. Addison. Both of them
18 are identical, but they were requested.

19 The Court did request all of those with the exception
20 of number four, and that is whether a member of the jury
21 panel or a member of their family contributed to the
22 Solicitor's campaign. I did not ask that question. I did
23 not ask whether a member of the jury panel had served on a
24 jury in a criminal trial. I did not ask whether they had
25 been accused of an armed robbery, a member of the jury or

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1 a member of their immediate family. And I did not ask
2 whether a member of the jury, or a close personal friend,
3 or a member of their family had been a suspect in a crime
4 when a weapon was alleged to have been used. All of the
5 rest of the charges I pretty well asked in maybe a little
6 bit different language, but I think I covered all of the
7 points that the defense wanted to cover in those. But, I
8 am going to give these to the court reporter, and you can
9 make them both Court's Exhibit Number 1, for the record.

WHEREUPON, COURT EXHIBIT

NUMBER 1 IS MARKED FOR THE

RECORD.

13 THE COURT: Now, the next matter we need to address
14 and put on the record has to do with the matter that we
15 did on the record in the small courtroom, and that had to
16 do with the Motion to Sever. And, let me find my notes.
17 The Court found that --- and this was done before going
18 through the process of going through the selection of the
19 jury. This motion was heard because it would impact upon
20 the number of strikes that would be available to the
21 defense, or to each defendant in the striking of the jury.
22 So, this motion was heard. And the Court found that the
23 defendant Mr. Addison, the motion was made on behalf of
24 the defendant Mr. Addison, and not on behalf of the
25 defendant Mr. Craig. But the Court found that the

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1 defendant had failed to show that the consolidation of the
2 cases and trying the cases together would be prejudicial
3 to the defendant, and therefore the Court has denied the
4 motion to sever.

5 The Court would further put on the record with regard
6 to the question of identification. I believe that is a
7 matter that still needs to be heard, and will be heard in
8 the morning when the witnesses are available for the
9 motion made by Mr. Addison pursuant to the Biggers Case,
10 to determine whether or not the identification is unduly
11 suggestive, and we will have to take that up in the
12 morning when the witnesses are available.

13 Then there is a motion in regards to the
14 sequestration of witnesses. The Court has ruled that both
15 sides, or all parties must sequester the witnesses. That
16 is the State and the defendants must sequester their
17 witnesses, or they will not be allowed to testify. The
18 State may keep its primary investigator as well as the
19 victim in the courtroom. Other witnesses will be
20 sequestered. The defense of course will have to sequester
21 their witnesses as well.

22 With regard to the motion to reveal the exculpatory
23 information, I ordered that the State resubmit the
24 information to the NCIC regarding the witness Morris
25 Mazyck, and with the right social security number. I

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1 think it had the correct social security number before,
2 but there was some misspelling of it, and ordered that
3 that be redone and an up to date NCIC be furnished to the
4 defense regarding that before we get into the testimony,
5 or before he testifies in this case.

6 And finally, the only other motion pending on behalf
7 of Mr. Addison is the motion to disclose under Rule
8 404(b). And, I don't know exactly where we got with that
9 Mr. Holt. Is there any 404(b) or State versus Lyle
10 evidence which the State intends to offer?

11 MR. HOLT: Judge, I made some phone calls after
12 that, and it is my impression if you would give the State
13 until in the morning to finalize our answer on that.

14 THE COURT: Okay. We will hold that open then.
15 And we will hold open the matter of the Biggers matter.

16 And is it your understanding that at this point we
17 have done all we can do today on this case, and adjourn
18 until in the morning, at which time we will take up those
19 matters outside the presence of the jury first?

20 MR. HOLT: Yes, sir. And I imagine the 404 thing
21 will be very quick, as well as the proffer of the
22 evidence.

23 THE COURT: How long do you think the Biggers issue
24 will take? An hour?

25 MR. HOLT: Yes, sir, Your Honor. And, I have a

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1 question for you, Judge. Do I need to proffer both my
2 officer and the victim, or do you think?

3 THE COURT: It is up to you. Whatever you think is
4 necessary. I'll rule on what is on the record. I am not
5 going to tell you how to do it.

6 MR. HOLT: Then about an hour will be sufficient.

7 THE COURT: All right. How about from you Mr.
8 Grove. Anything further we need to put on the record at
9 this time?

10 MR. GROVE: Not at this time, Judge.

11 THE COURT: All right. Ms. Crayton?

12 MS. CRAYTON: No, Your Honor.

13 THE COURT: All right. Then what we will do on
14 this matter is, we will be in recess until nine o'clock
15 tomorrow morning. And, we will start back at 9:00. I
16 will bring the jury in at 10:00. And we will try to get
17 those matters out of the way between 9:00 and 10:00 in the
18 morning. And then let me bring the jury, both the jury
19 panel and the --- well, let's bring this jury in first.

20 CLERK OF COURT: They are not all here Judge. You
21 told them 2:30.

22 THE COURT: That's right, 2:30. Well we will wait
23 a few minutes, and then we will take care of them.

24 But from the standpoint of the parties in this
25 matter, y'all can stand down until tomorrow morning at

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1 nine o'clock.

2 MR. HOLT: Thank you, Judge.

3 THE COURT: All right. Thank you.

4 (Whereupon, the Court stands down awaiting
5 the jury to return.)

6 THE COURT: All right. All the jurors are here.
7 Let's bring them in, and let me explain to them what we
8 need to do.

9 (Whereupon, the jury enters the courtroom
10 at 2:35 p.m..)

11 THE COURT: All right. Back on the record with
12 regard in the matter of The State versus Craig and
13 Addison. The jury in the case is present. Ladies and
14 gentlemen, I thank you for your promptness in being back
15 here. I want to apologize to you for bringing you back,
16 and then going to just let you go. But, I am going to do
17 that. The reason is, I had to take care of these legal
18 matters, and they are taken care of except for one other
19 legal matter that we have got to take up before we can get
20 into the actual trial of this case, and we can't do that
21 until in the morning. But that will not affect the case
22 as far as whether it is going forward or not. And we will
23 go forward tomorrow.

24 But I am going to excuse you for the rest of the
25 afternoon, and ask that you be back in your jury room

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1 tomorrow morning at ten o'clock. We are going to come at
2 nine to take care of these legal matters that we have to
3 take care of before the trial. But, I am going to ask you
4 to be back in your jury room tomorrow at ten o'clock.

5 There are several admonitions that I want to mention
6 to you. Again, one of which I have already mentioned, and
7 that is do not talk about this case among yourselves when
8 you are reassembling there in the jury room. I know you
9 have not heard any evidence in this case. But it would be
10 improper for you to discuss this matter among yourselves
11 anytime that you are in the jury room until the end of
12 this case, and I tell you that it is appropriate to begin
13 your deliberations. So, when you are there in the jury
14 room either in the morning, or anytime throughout the
15 trial of this case, don't talk about the case. You can
16 talk about anything you want to, sports, weather,
17 children, grandchildren, anything at all. But do not talk
18 about this case until I tell you it is appropriate to do
19 so.

20 The other thing is, I will tell you that later on in
21 this trial one of the twelve members of the jury will be
22 selected as the foreperson of the jury. I will either
23 appoint a foreperson, or allow you to select your own
24 foreperson. When I do, that person should sit in the
25 first seat in the front row. The two alternates should

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1 always sit in the seats where they are seated on the
2 outside of the jury box. The rest of the seats in the
3 jury box are not reserved, and it does not matter what
4 order you come and go from the courtroom. I would simply
5 ask that you go all the way down so it will not be a
6 situation of crawling over one another. But you can sit
7 in any of the seats in the jury box, reserving the first
8 seat here on the front for the foreperson, when that
9 foreperson is named, and of course, the seats on the
10 outside for the alternates.

11 I would also tell you that if anyone should try to
12 talk to you, or speak to you about this case in any manner
13 whatsoever while you are away from the courthouse, or at
14 anytime, if you would bring that to the attention of the
15 bailiffs, try to get their name or their description and
16 report it to the bailiffs, they will report it to me, and
17 I will deal with them.

18 And finally, I would tell you that you should not
19 listen to any media broadcast, either television or radio,
20 or read any news stories about this case. The reason for
21 that is pretty apparent. You have got to decide this case
22 based upon what you hear in this courtroom, and not on the
23 basis of what anyone else might say. And with due respect
24 to all my friends in the news media, what they report is
25 not always accurate as to what actually happens in the

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1 courtroom. And you have to decide the case based upon
2 what happens here. So, if there are any news stories on
3 television or radio, simply turn them off and do not
4 listen to them, or do not read any news stories in the
5 print media until after this case is over.

6 So, with those admonitions, then I am going to excuse
7 you now. Ask you to be back in your jury room tomorrow
8 morning at ten o'clock, and we will be ready to go forward
9 at that time. Have a pleasant evening. I'll see you
10 tomorrow.

11 (Whereupon, the jury exits the courtroom at
12 2:40 p.m..)

13 (Whereupon, this case stands down for
14 the day at 2:26 p.m..)

15 -- END OF DAY ONE --

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1 (Whereupon, court begins at 9:00 a.m. on
2 Tuesday, August 30, 2011.)

3 -- DAY TWO OF TRIAL --

4 NEAL VERSUS BIGGERS HEARING

5 THE COURT: All right. We are back on the record
6 with regard to the matter of The State versus Mardrall
7 Addison and Emilio Craig. The matters that we need to
8 consider this morning are the identification questions,
9 under Neil versus Biggers. The defendants are present
10 with their counsel. The State is present and represented
11 by Mr. Holt. And I believe the challenge is from both
12 defendants as to I.D., or is it one defendant? Tell me
13 exactly what the issue is here, Ms. Crayton, or Mr. Grove.

14 MS. CRAYTON: Your Honor, I just filed this motion
15 against --- there were two lineups in this case, in what I
16 would call a show up, and I have filed this motion in
17 regard to all three. I believe Mr. Grove this morning
18 would like to join in on that motion to exclude all the
19 lineups.

20 THE COURT: Two lineups --

21 MS. CRAYTON: Against Mr. Addison. Yes, there was
22 a further lineup against Mr. Craig.

23 THE COURT: Okay. When you say two lineups, were
24 they personal lineups, or were they photo ID's,

25 MS. CRAYTON: Photo ID's, Your Honor.

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1 **THE COURT:** Okay.

2 **MS. CRAYTON:** And the show up was actually a photo
3 as well, but it was a one person photo instead of a
4 lineup, Your Honor.

5 **THE COURT:** All right. And what about your client,
6 Mr. Grove. What is the situation as far as lineup?

7 **MR. GROVE:** There were only two lineups. The same
8 two individuals as were shown in the lineup in Mr.
9 Addison's situation. However, the show up was not
10 performed in reference to Mr. Craig.

11 **THE COURT:** All right. The defense having
12 challenged, or is challenging the out of Court
13 identification of the two defendants in this case. So,
14 the burden is on the State to present evidence to show
15 that the lineups were not --- or the identifications were
16 not, unduly suggestive. Mr. Holt, you may call your
17 witness.

18 **MR. HOLT:** Judge, I think I can help speed this
19 thing alone in the interest of judicial economy and time.
20 I decided that offering Yolanda Alford and Justine
21 Peterson might not be the best witnesses for the State. I
22 put them on the witness list out of an abundance of
23 caution. I very well may need them on rebuttal matters
24 for other parts of this trial. But I am going to forgo
25 those lineups, skip right into the victim identification

JOLLY L. PERKINS JR. - DIRECT EXAMINATION

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1 of Mardrall and Emilio, that happened shortly after the
2 crime. That is the one that I think matters.

3 THE COURT: Well, all I am interested in you
4 presenting is whatever you plan to present as a part of
5 your case.

6 MR. HOLT: And all I plan on presenting is Morris
7 Mazyck, the victim in this trial; his identification, and
8 they have challenged that as well.

9 THE COURT: All right.

10 MR. HOLT: And I have the officer here, and I am
11 ready to proceed.

12 THE COURT: All right. Go ahead.

13 MR. HOLT: Oh, I apologize, Judge. The State would
14 like to call Jolly Perkins to the stand.

15 THE COURT: All right. Come around, please, sir.

16 WHEREUPON, JOLLY LEON PERKINS, JR.

17 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

18 OFFICER PERKINS: Yes, sir. I do.

19 DIRECT EXAMINATION BY MR. HOLT

20 Q. Officer Perkins, could you state your whole name, for
21 the record, please.

22 A. Yes, sir. Jolly Leon Perkins, Jr.

23 Q. And what do you do for a living Officer Perkins?

24 A. I am a law enforcement officer for the City of
25 Hartsville.

JOLLY L. PERKINS JR. - DIRECT EXAMINATION

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1 Q. Have you ever testified in General Sessions Court
2 before?

3 A. Yes, sir. I have.

4 Q. How many times?

5 A. One time previous to this.

6 Q. And have you ever --- How long have you been an
7 officer?

8 A. January will be five-years.

9 Q. Did you work anywhere else in law enforcement field
10 before this?

11 A. No, sir. I came straight here from college.

12 Q. Five-years total?

13 A. Yes, sir.

14 Q. Okay. And, the day in question, January 13, 2011.

15 A. Yes, sir.

16 Q. What were you doing that day?

17 A. I was on routine patrol. I work the streets every
18 day, so I was doing my job patrolling around the city
19 of Hartsville.

20 Q. All right. And is a street officer the same thing as
21 an investigator?

22 A. No, sir.

23 Q. All right. Now, can yo walk me through that process,
24 when you receive a call. And you can look at your
25 record anytime you need to.

JOLLY L. PERKINS JR. - DIRECT EXAMINATION

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1 A. Sure.

2 Q. When you received the call, what it was about, what
3 steps you took, and how that --

4 A. Yes, sir. On the day in question, officers received a
5 call of an armed robbery that had taken place at or
6 near [REDACTED]. Being that was my side of
7 town to work that day, I began to respond to that
8 area. It is an apartment complex, on the far east
9 end of our city. While I was on the way to the call,
10 I received more information from dispatch, saying
11 that the armed robbery possibly didn't take place in
12 the City, so that is a County issue, but they gave us
13 a vehicle description to look for, which was a
14 burgundy Buick style vehicle.

15 Q. Did you spot a car that matched that description?

16 A. Yes, sir. While I was on the way towards the
17 apartment complex, there was a burgundy Buick that
18 was on Carolina Avenue, traveling the opposite
19 direction that I was traveling. I was actually
20 traveling West.

21 Q. What did you do next?

22 A. When I saw the vehicle, I slowed down. The driver of
23 that vehicle actually stopped in the middle of the
24 roadway and watched me as I passed by. And, I
25 instinctively thought that I may have had the

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1 suspect, because it matched the same suspect vehicle.
2 As I turned around, I started to activate my blue
3 lights. The vehicle pulled right on over without me
4 activating my lights or sirens, or anything. I
5 started to take precautions, and the driver was
6 waiving me to come to the vehicle, which is an odd
7 thing for an officer, to have someone waiving me to
8 the car. I get up there and I realized that it is
9 actually not our offender, it is the victim. He was
10 telling me that he was the victim of the armed
11 robbery, and he was trying to come to the Department
12 to file a report, and he couldn't get out of the car,
13 because he was actually wheelchair bound. He had
14 control on the steering wheel to help him drive the
15 car and everything.

16 Q. Let me ask you this.

17 A. Yes, sir.

18 Q. From the time that you heard that call go out on the
19 radio until the time you first made contact with the
20 victim, what kind of time frame are we talking about
21 here?

22 A. We were dispatched at 1522 and I advised dispatch
23 that I was with him one minute later.

24 Q. All right. One minute.

25 A. Yes, sir.

JOLLY L. PERKINS JR. - DIRECT EXAMINATION

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1 Q. From the time of the call to the stop.

2 THE COURT: Excuse me. You said he couldn't get
3 out of the car why?

4 OFFICER PERKINS: He is handicapped. He was unable
5 to get out.

6 THE COURT: All right.

7 Q. So, once you had the victim --

8 A. -- Yes --

9 Q. -- What did you do next?

10 A. I stepped out of my vehicle, and was talking to him
11 on the side of the road to try to find out what had
12 actually taken place so we could get a description
13 out, potential offenders, of vehicle descriptions,
14 other than what we had. A Hartsville officer who was
15 assigned to our Narcotic Unit actually pulled up. He
16 had a county with him.

17 Q. What is his name?

18 A. Robert McIntyre. He stepped out. He didn't say
19 anything to his victim. He basically stood there
20 beside me. And while I was talking to the victim,
21 the county radio went off and said that there was a
22 pursuit with another vehicle that matched the same
23 description of the suspect vehicle we were looking
24 for. And he was actually going down Patrick Highway,
25 going out of the county. So he left at that point,

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1 and I asked the victim, because of where we were at.
2 We were on the side of the road. I wasn't very
3 comfortable talking to him there, just for safety
4 sake, so I asked him if he would drive to the Police
5 Department so we could continue the interview and
6 everything there.

7 Q. All right. Let me stop you there and ask, let me ask
8 you a question. You might be confusing the Judge and
9 everybody else. Can you hear on your radio the
10 county calls?

11 A. No, sir.

12 Q. Can the county hear your calls?

13 A. No, sir.

14 Q. Why, Robert McIntyre, who you said was an officer
15 with Hartsville, why could he hear county calls?

16 A. He is attached to the Multi-jurisdictional Drug Unit,
17 and he carries a county radio with him.

18 Q. Now, go ahead and proceed with your story where you
19 were at.

20 A. Sure. The victim agreed to go to the Police
21 Department with me. I followed him there. Once we
22 got there I asked him if he would provide us a
23 written statement as to the events that had taken
24 place as far as the incident at [REDACTED]. And
25 he agreed. I then got a phone call from my Sergeant,

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1 who as assisting the county with the vehicle pursuit,
2 and trying to locate the subjects that were in that
3 vehicle. He did tell me that one of the individuals
4 that was involved that they knew of at that point was
5 Mardrall Addison.

6 Q. All right. And how did they know Mardrall Addison
7 was one of the individuals involved in the matter?

8 A. I was informed by my Sergeant that the deputies that
9 were chasing the vehicle actually observed him
10 driving the car. But, they were not able to find him
11 after he fled the scene that day.

12 Q. Okay. So, with the information that he was driving
13 the car, what did you do?

14 A. I took his information and put it into our system. I
15 then used his physical description, the pictures that
16 we had, both him --- and I found six individuals that
17 were similar in height, weight, facial features, skin
18 colors, and age.

19 Q. Now describe --- You say the system. Describe that
20 for the Judge and everybody, so we will know what you
21 are talking about?

22 A. Sure. We use a system called Police Pack. It stores
23 pretty much anyone's information we put into it. It
24 stores --- We can download pictures from detention
25 facilities, drivers licenses information, and stuff

JOLLY L. PERKINS JR. - DIRECT EXAMINATION

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1 like that to put a picture with the name. And those
2 were the pictures we would have used in that system
3 to create our photo lineup.

4 Q. Now, what did you do next, Officer Perkins?

5 A. We were told that there were two people in the car
6 that fled, but we only had the name of one at that
7 point. Once that photo lineup was completed, I took
8 it back outside to where the victim was in his
9 vehicle, and handed it to him through the driver's
10 side window. I mean, I backed up and stood right
11 behind the side mirror for him to look at them. I
12 did tell him, when I gave it to him, to look through
13 them --- to look at every picture at least twice
14 before you make your mind up, so you can look at each
15 individual.

16 Q. Let me stop you right there.

17 A. Yes, sir.

18 Q. And let me show you what has been marked for
19 identification purposes as State's Exhibit 2. Now,
20 without telling me what it is, can you tell me if you
21 recognize it?

22 A. Yes, sir.

23 Q. And since the last time you have seen it, has there
24 been any changes, modifications, deletions, or
25 anything like that?

JOLLY L. PERKINS JR. - DIRECT EXAMINATION

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1 A. No, sir. This is the same form I filled out that
2 day.

3 Q. Okay. Now, can you tell me what it is?

4 A. Yes, sir. This is a form that we have for officers,
5 just to kind of help us --- instruction sheet for our
6 victims and witnesses.

7 Q. Not simply the first page, Officer but all the pages
8 stapled together.

9 A. Once we get the information we create the lineup, and
10 this is the six individual photos of individuals.
11 And the list would be given to the victim or witness,
12 and they are allowed to go through it and look at
13 each picture individually. Each individual person on
14 each page. And they are allowed --- the suspect may
15 be in there or it may not be. And they are told
16 before hand that the person who committed the offense
17 may be in there or they may not be.

18 Q. All right. And let me ask you this.

19 MR. HOLT: Your Honor, at this time the State would
20 move State's Exhibit 2 to be placed into evidence.

21 THE COURT: All right. It will be made a part of
22 the record at this point as State's Exhibit Number 2 for
23 purposes of this hearing only, at this point. If the
24 State wishes to us it, it will have to be introduced
25 again. But it will be admitted for purposes of the

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1 Biggers Hearing.

2 Go ahead.

3 MR. HOLT: Thank you very much, Judge.

4 THE COURT: Let me see it.

5 WHEREUPON, STATE'S EXHIBIT

6 NUMBER 2 IS MARKED AND

7 ADMITTED INTO EVIDENCE.

8 Q. Now, officer from the time of you meeting with the
9 victim, one minute after the call.

10 A. Yes, sir.

11 Q. To the time that y'all worked on this photo lineup
12 together, you were standing at his car? About how
13 long do you think that was? And it is okay if you
14 say it is less than an hour, more than an hour, but
15 less than two hours. Just give me a frame.

16 A. From the first photo lineup it was actually less than
17 thirty minutes.

18 Q. Less than thirty minutes from the call going out, you
19 were showing the victim a lineup?

20 A. Of the first one. Yes, sir.

21 Q. Okay. And about how long did it take him to go
22 through that lineup?

23 A. He went through the first time in a minute or a
24 minute and half. He went through again looking at
25 each picture in more detail. So, once he actually

JOLLY L. PERKINS JR. - DIRECT EXAMINATION

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1 made a positive identification four and a half, five
2 minutes tops.

3 Q. Okay. And, Officer when the Judge hands you that
4 back, I want you to look at the front page, and
5 explain to me what the front page specifically is.

6 A. Okay.

7 Q. And what it is used for and what the purpose is.

8 A. Yes, sir. The front page is our lineup instruction
9 form. Each officer has to complete one of these when
10 they do a photo lineup. It holds the case number,
11 the date and time that we did the photo lineup, and
12 the location where we were at, and we actually showed
13 it to the victim. It says my name on it. And I read
14 the rights thereafter to the victim. We had the
15 victim's name on here, stating that he understands
16 the above information. And he identified --- We tell
17 him how many pictures are in there, and he identifies
18 what number as the person. This one he identifies
19 person number four as Mardrall Addison. He then says
20 that he is positive --- He says I am positive,
21 certain of my selection, because of the subjects
22 eyes. And unfortunately, he was unable to sign it at
23 that point in time due to his handicap.

24 Q. So he actually wrote on there that he was positive
25 about his selection?

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1 A. Yes, sir. He didn't write it, but I asked him,
2 because he was unable to write, and he said he was
3 positive.

4 Q. Because of his condition?

5 A. Yes, sir.

6 Q. All right. Let me ask you this. Flip to the last
7 page, and explain to us what the last page of that
8 is?

9 A. The last page is actually for the Police Department.
10 This was not shown to the victim. It is a list of
11 names and information on all the people that are in
12 the lineup. It associates the picture and the number
13 with the information. For picture number one on here
14 coincides with position number one on the form.

15 Q. All right. Let me ask you this. How many
16 identifications, photo lineups, this kind of thing do
17 you think you have done in your five-years?

18 A. Three, maybe.

19 Q. Okay. And you said that you are a road deputy?

20 A. Road officer, yes, sir.

21 Q. Road officer. I apologize. Road officer versus an
22 investigator.

23 A. Yes, sir.

24 Q. You don't have any stake in the outcome of what the
25 victim picks out of that, do you?

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1 A. No, sir.

2 Q. And what I mean to say is, if he picks somebody, if
3 he picks nobody, you don't really care, because it is
4 not your case is it?

5 A. No, sir.

6 Q. All right. So you are not bias are you, Officer
7 Perkins?

8 A. No, sir.

9 Q. All right. Now, did you suggest in any way to the
10 victim who to pick out of that lineup?

11 A. No, sir. Not at all.

12 Q. Okay. Now, I notice that they are numbered one
13 through six.

14 A. Yes, sir.

15 Q. Did you hand it to him one through six?

16 A. No, sir. All the pictures were handed to him at the
17 same time. When I handed it to him, and this is not
18 a department thing, this is a personal preference.
19 When I handed him the pictures, I mixed the order up,
20 so he wouldn't look at it and say, well, this is the
21 first one he gave me; this must be the guilty party.
22 He may have seen number four first, followed by
23 number two, whatever. They are not in numerical
24 order when I give them to him.

25 Q. All right. Now, Officer Perkins, what happened after

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1 you showed him --- while you were showing him the
2 Mardrall Addison? And by him, I mean the victim
3 Morris Mazyck.

4 A. While he was being shown the one for Mardrall
5 Addison, I received a phone call from my Sergeant
6 again. We were given the nickname of the other
7 suspect, and we were trying to find out what the
8 legal name was at that point.

9 Q. What was the nickname?

10 A. P. A.

11 Q. What was it?

12 A. P. A.

13 Q. All right.

14 A. While I was on the phone with him, I heard a deputy
15 in the background, I don't know who it was, but it
16 was another officer who was with him.

17 Q. Was with who?

18 A. My Sergeant. At the scene of the fleeing vehicle,
19 told him that P. A. Was Emilio Craig. Based on that
20 information, I created a second lineup, I took Emilio
21 Craig's information that we had in the Police Pack,
22 and his picture, and found similar pictures on
23 similar age, color, height, weight, basic features,
24 and presented that lineup again to the victim.

25 Q. How did your superior officer know to select P. A. as

JOLLY L. PERKINS JR. - DIRECT EXAMINATION

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1 Emilio Craig? Do you know?

2 A. I am not sure I understand the question, sir.

3 Q. How did --- Well, you said that officers saw Mardrall
4 driving, and that is why they gave you his name, and
5 that is why you put the lineup together like him?

6 A. Yes, sir.

7 Q. But now with Emilio's name, they gave you P. A., and
8 they gave you Emilio Craig, how did they know to use
9 that name for you to start your lineup like that? Do
10 you know?

11 A. I believe at that point, to be honest I was told that
12 by my Sergeant, and I really don't know how they come
13 up --- I heard it being told in the background.

14 Q. Okay. Later on did you hear?

15 A. Later on I heard that Emilio Craig was actually
16 located hiding in the same area. And they found him
17 with the canine unit.

18 Q. The same area of the car chase?

19 A. Yes, sir.

20 Q. So in all likelihood what happened was they caught
21 him at the scene, and they told you to put him in a
22 lineup?

23 A. Yes, sir.

24 Q. Okay. And once again, as far as the Emilio lineup is
25 concerned; you don't care one way or the other that

JOLLY L. PERKINS JR. - DIRECT EXAMINATION

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1 the victim picks Emilio, Joe Smo, or doesn't pick
2 anybody? It doesn't affect your day to day job does
3 it?

4 A. No, sir.

5 Q. All right. Officer, I am going to show you what has
6 been previously marked as State's Exhibit 1, and I am
7 going to ask you, without you telling me what it is,
8 have you ever seen it before?

9 A. Yes, sir.

10 Q. So you recognize it?

11 A. Yes, sir.

12 Q. Now, since the last time you have seen it, have there
13 been any material altercations or deletions; has it
14 been modified?

15 A. No, sir.

16 Q. And you know exactly what it is, don't you?

17 A. Yes, sir. This is the photo lineup I gave in
18 reference to Emilio Craig to Mr. Morris.

19 MR. HOLT: Your Honor, at this time the State would
20 like to introduce State's Exhibit 1, into evidence for
21 this hearing.

22 THE COURT: All right. For purposes of this
23 hearing we admit it into evidence as State's Number 1.

24 WHEREUPON, STATE'S EXHIBIT

25 NUMBER 1 IS MARKED AND

JOLLY L. PERKINS JR. - DIRECT EXAMINATION

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1 ADMITTED INTO EVIDENCE

2 WITHOUT OBJECTION.

3 Q. All right. Can you tell me, without getting into ---
4 Well, let's do it just like we did the other one.
5 Give me the first page, the other pages in between,
6 and then the last page.

7 A. Okay. Just like the first one. The first page is
8 our lineup instruction form, with the case number,
9 the date, information, the rights we read to the
10 victim or witness. Mr. Mazyck was able to say that
11 number five in this photo lineup was Emilio Craig.
12 And he was pretty positive due to the eyes, and beard
13 of --

14 Q. -- And let me stop you right there, Officer Perkins.
15 I believe you misstated that. Is he saying this is
16 Emilio Craig, or is the victim saying this is the
17 person that robbed him?

18 A. He was saying this is the person he saw in the scene.
19 He didn't know him by name.

20 Q. That is what I'm asking. Please continue.

21 A. The next page is, the individual pictures of the
22 people used for the photo lineup. And again the last
23 page is something that our victim would not have
24 seen. It just coincides, the correct information
25 with the pictures that were given to him, per us.

JOLLY L. PERKINS - CROSS EXAMINATION BY MS. CRAYTON

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1 MR. HOLT: Officer Perkins, thank you very much.
2 Please answer any questions the defense counsel has.

3 THE COURT: Ms. Crayton.

4 MS. CRAYTON: Thank you, Your Honor.

5 CROSS EXAMINATION BY MS. CRAYTON

6 Q. Good morning, Officer Perkins.

7 A. Good morning.

8 Q. First I just want to ask you, you said that you got
9 pictures to do the lineup from drivers licenses, The
10 Department of Corrections --

11 A. Photos that we have taken.

12 Q. Okay. And how many photos of Mr. Addison did you
13 have to choose from?

14 A. No more than two. That is all our system stores. I
15 don't exactly remember if we had one or two in the
16 file.

17 Q. So you don't remember if he had the second one on
18 file?

19 A. I know both looked similar.

20 Q. If he --

21 A. -- If he had two, both of them --- we try to keep
22 pictures that look similar. We don't have a good
23 variance.

24 Q. Okay. So he would have looked similar to that?

25 A. Yes, ma'am.

JOLLY L. PERKINS - CROSS EXAMINATION BY MS. CRAYTON

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1 Q. Can the witness or the victim --- the photos that are
2 presented are not in order. Is that correct?

3 A. Yes, ma'am.

4 Q. Is that policy?

5 A. No, ma'am.

6 Q. Well, why do you do that?

7 A. It is just something that I do so they don't look at
8 number one and say this is the first picture that he
9 gave me, so it has to be the guilty party.

10 Q. All right. And, how are you certain that you didn't
11 hand him Mr. Addison's photo first?

12 A. I never put the suspect first.

13 Q. You never put the suspect first. So, where do you
14 normally put the suspect?

15 A. In random order. It may be different every time, but
16 I make sure it is never first.

17 Q. Because you think that if you put him first they will
18 think he is guilty?

19 A. Yes, ma'am.

20 Q. All right. Let me start back at the beginning if you
21 don't mind, when you received a call. You received a
22 call from dispatch, as you said earlier, to respond
23 to [REDACTED].

24 A. Yes, ma'am.

25 Q. You began responding, and then what happened?

JOLLY L. PERKINS - CROSS EXAMINATION BY MS. CRAYTON

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1 A. Approximately half way between where I was and that
2 location, they had give us a description of a
3 burgundy Buick vehicle. I saw a vehicle matching
4 that description with a black male in the vehicle,
5 traveling west bound leaving the --- the same
6 direction from the apartment complex.

7 Q. At that time you did what?

8 A. I turned around to pull the vehicle over, and without
9 any prompting from me he pulled over and parked on
10 the side of the road.

11 Q. Is that the only description of the vehicle, you
12 didn't have a name, or model, or anything like that?
13 You just had a burgundy Buick?

14 A. I believe so, Yes, ma'am.

15 Q. Okay. So at that time, did you advise dispatch that
16 you had the suspect?

17 A. I advised dispatch that I was out with a vehicle
18 matching the description, but I didn't know if it was
19 the victim or the suspect at that point.

20 Q. And, when the call came in, what did they advise
21 y'all? That a burgundy Buick was what?

22 A. Leaving --- We were told that an armed robbery had
23 taken place, and that that vehicle had left the
24 apartment complex already.

25 Q. Okay. And that was the vehicle you were looking for,

JOLLY L. PERKINS - CROSS EXAMINATION BY MS. CRAYTON

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1 the burgundy Buick? That was the one you were told -
2 -- dispatch had told you --

3 A. -- Yes.

4 Q. And that was the vehicle that you were told that was
5 involved in the accident, or the incident?

6 A. Yes, ma'am.

7 Q. Okay. But you didn't know if that was the suspect's
8 vehicle or the victim's vehicle?

9 A. Not at that point. No, ma'am.

10 Q. So, when you pulled the vehicle over at that time,
11 did you continue to look for a burgundy vehicle, or
12 did you think that was the car?

13 A. I didn't continue to look, but when I made contact
14 with the driver and he started telling me he was the
15 victim, I remained there with him, and told my other
16 officer via radio that I had the victim with me.
17 That this was not the vehicle, that we were actually
18 looking for as far as a suspect.

19 Q. Okay. And tell me, at that time did you get a
20 description of the suspect from the victim?

21 A. I was trying to get a physical description. At that
22 point is when the radio traffic came out with the
23 county unit that they were actually in pursuit of the
24 other vehicle.

25 Q. So did you get a physical description or not?

JOLLY L. PERKINS - CROSS EXAMINATION BY MS. CRAYTON

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1 A. To be honest I don't remember if we finished it
2 there, or if we finished the description --

3 Q. -- So --

4 A. -- I did get one, I just don't remember if it was
5 finished there or if it was done when we got to the
6 car.

7 Q. Okay. So, at some point he gave you a physical
8 description. Can you tell me what that was?

9 A. No, ma'am. I did not list the attributes that he
10 gave me. When we got back to the Police Department,
11 I had already been given Mardrall Addison's name and
12 information, and that was the lineup I used with the
13 information we had in the system.

14 Q. What about the incident report, did you list the
15 description in the incident report?

16 A. No, ma'am.

17 Q. Do you have a copy of your incident report?

18 A. Uh'huh. I do.

19 Q. Would you look on the third page?

20 A. Yes, ma'am.

21 Q. At the top of the page, did you not say victim
22 provided description of the suspect?

23 A. I'm sorry. I guess I did. Description was provided
24 that two black males, one wearing a white hoodie or
25 skull cap. The second was wearing a dark jacket.

JOLLY L. PERKINS - CROSS EXAMINATION BY MS. CRAYTON

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1 One appeared to be younger, about twenty-five-years
2 of age.

3 Q. And is that the only description that the victim
4 gave?

5 A. That is all I got, yes, ma'am.

6 Q. Did he every try to expand on that description? Did
7 you ask him any questions about the description?

8 A. I remember asking him a couple of times, but it was
9 the same thing over and over again.

10 Q. What did you ask him?

11 A. Just if he could give me a better description of what
12 he had.

13 Q. So that is pretty vague, right?

14 A. Yes, ma'am.

15 Q. Did you feel that with description it would be
16 unlikely for y'all to obtain a suspect with that
17 vague description?

18 A. Not necessarily.. Because at this point he was ---
19 Corporal McIntyre was already on the scene. We were
20 already hearing radio traffic of the pursuit. So, I
21 thought we may have already had him at that point.

22 Q. Did you ask Mr. Mazyck to describe the gun that was
23 used?

24 A. I tried, or I asked him that question and he was not
25 really able to give me a good description, no, ma'am.

JOLLY L. PERKINS - CROSS EXAMINATION BY MS. CRAYTON

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1 It was similar to the one that I had.

2 Q. Do you remember exactly what he said, or what his
3 response was to that?

4 A. No, ma'am. I don't believe I do.

5 Q. So he was not able to give you any sort of
6 information about the weapon he used?

7 A. He kept saying it was a handgun that was pointed at
8 him, but he never was actually give me a description
9 of what it looked like.

10 Q. Okay. And did he say about how long he was able to
11 view that handgun?

12 A. No. I know he said it was pointed at him. I didn't
13 ask him how long he stared at it.

14 Q. And how about how long he was able to see the
15 suspect. Did you ask him that?

16 A. He didn't give me a specific time frame. He laid out
17 the incident as it happened. As far as a time frame
18 of how long he was there, I did not ask him that. I
19 did ask him if he knew the two individuals by face or
20 by name prior to that day, and he said he didn't know
21 the suspects.

22 Q. So he said he had never had any interactions with
23 these two suspects?

24 A. No, ma'am.

25 Q. Tell me Officer Perkins, why were you uncomfortable

JOLLY L. PERKINS - CROSS EXAMINATION BY MS. CRAYTON

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1 talking to the victim on the side of the road?

2 A. Because at the start of the incident, I was not sure
3 if he was the victim or the suspect. And, I
4 positioned my vehicle partly in the roadway, and I
5 didn't feel comfortable leaving it like that and
6 talking to him. And, instead of just having an
7 interview with him on the side of the road, I asked
8 him if he would come to the department. Actually,
9 when I asked him I wasn't sure if he could get out of
10 his vehicle or not, so I didn't know until we got to
11 the Station that he was unable to get out.

12 Q. I am assuming that is not standard operating
13 procedure. What would be the standard operating
14 procedure be for that incident?

15 A. Generally when we respond to a call we interview the
16 person wherever they were at. If he had still been
17 out at Sunshine Court, we would have interviewed him
18 there. But being in danger of being on the side of
19 the road, especially with my vehicle in the road, I
20 just asked him to go somewhere else, and we were
21 close to the Police Department.

22 Q. Would you normally take that suspect into your
23 custody, or how would you normally do that?

24 A. As a victim?

25 Q. If you were not sure he was the victim. What would

JOLLY L. PERKINS - CROSS EXAMINATION BY MS. CRAYTON

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1 you do?

2 A. By the time I got to his car he was telling me he was
3 a victim.

4 Q. Would you mind looking at the photographs that you
5 provided in the lineup for Mr. Addison?

6 A. Yes, ma'am.

7 Q. What about number five?

8 A. No, ma'am.

9 Q. What about number four?

10 A. He has a smirk on his face.

11 Q. What about number six?

12 A. No, ma'am.

13 Q. What about Mr. Addison's photograph?

14 A. He has a smirk on his face as well.

15 Q. You can see his teeth?

16 A. Yes, ma'am.

17 Q. So he is smiling pretty big?

18 A. If you can call that a smile.

19 Q. Can you see, anybody else's teeth?

20 A. No, ma'am.

21 Q. Can you return back to that photograph for me? His
22 eyes are pretty well opened?

23 A. Yes, ma'am.

24 Q. What about number three?

25 A. Yes, ma'am.

JOLLY L. PERKINS - CROSS EXAMINATION BY MR. GROVE

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1 Q. What about number five?

2 A. Yes, ma'am.

3 Q. And what about number four?

4 A. Pretty much opened for him.

5 MS. CRAYTON: Court's indulgence, Your Honor.

6 THE COURT: All right. We have a ways to go yet.

7 MS. CRAYTON: Yes, Your Honor.

8 (PAUSE.)

9 THE COURT: All right, counsel. Let's move on.

10 MS. CRAYTON: No further questions, Your Honor.

11 THE COURT: All right. Mr. Grove.

12 MR. GROVE: Thank you, Your Honor.

13 CROSS EXAMINATION BY MR. GROVE

14 Q. Officer Perkins.

15 A. Yes, sir.

16 Q. I'll make this brief.

17 A. Sure.

18 Q. You said that while you were showing Mr. Mazyck a
19 lineup in which Mr. Addison was inserted, you got
20 information that my client Mr. Craig may have also
21 been a suspect in the case?

22 A. Yes, sir.

23 Q. They originally said he was identified as P. A., and
24 someone chimed in and said that is Emilio Craig?

25 A. Yes, sir.

JOLLY L. PERKINS - CROSS EXAMINATION BY MR. GROVE

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1 Q. So you entered Emilio Craig's information into a
2 system, drew out several suspects, and then presented
3 that lineup to Mr. Morris Mazyck?

4 A. Yes, sir.

5 Q. When you are formulating a lineup, and you are
6 collecting random insertions, what sort of features
7 are you looking at?

8 A. I would have taken Mr. Craig's information and used
9 about a five to ten pound variance for weight, our
10 system allows us to bracket specific number. So say
11 he weighs a hundred and fifty pounds, we could have
12 gone like a hundred and forty-five to a hundred and
13 fifty-five. We could do the same thing with height,
14 age, black or white obviously, male or female. We
15 would plug those in and we have to look at individual
16 pictures and try to find --- and I may get someone
17 like me that fits that description with no facial
18 hair, and I may get someone who has a beard. So we
19 have to kind of look -- and look at the person we
20 have as a suspect.

21 Q. So you allow the system to formulate the lineup and
22 then you tweak the lineup as you feel necessary?

23 A. Not tweak it as we feel necessary, we take out any
24 pictures that are not similar to our suspect. If I
25 am looking for a gentleman who does not have facial

JOLLY L. PERKINS - CROSS EXAMINATION BY MR. GROVE

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1 hair, and it gives me someone with similar height,
2 weight, and age who has a big old beard in the
3 picture, I am not going to put him in the lineup. I
4 am going to take him out.

5 Q. Okay. Does it measure for skin tone? I know you
6 said it measures for race. But, does it measure for
7 lightness and darkness of skin tone?

8 A. That is an option that we have. It is not normally
9 inserted. We don't normally sort that kind of
10 information on people. So it won't view that, no,
11 sir.

12 Q. What about length of hair?

13 A. If it is put into the system, we can view that as a
14 certain criteria, yes, sir.

15 Q. Did you use it this time?

16 A. No, sir.

17 Q. Again, very briefly, I know we have gone over this a
18 couple of times. How long did Mr. Mazyck say he was
19 in the presence of Mr. Craig?

20 A. He never actually gave me a time of how long he was
21 there.

22 Q. And his description of either Mr. Addison or Mr.
23 Craig, your report includes a description of both.
24 But it doesn't sound like he identified one or the
25 other?

JOLLY L. PERKINS - CROSS EXAMINATION BY MR. GROVE

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- 1 A. No, sir. The only differentiating factor that he
2 gave me was during the lineup when he was coming to
3 the one for Mr. Mardrall, he made a positive
4 identification. When he made the identification on
5 Emilio --- a difference he gave as part of the two.
- 6 Q. The fact is, identification to you prior to the
7 lineup had solely to do with clothes, and nothing to
8 do with appearance?
- 9 A. Correct.
- 10 Q. All right. Do you ever show colored photos?
- 11 A. I can't, because our printer at the Police Department
12 doesn't print in color.
- 13 Q. How long between the time of the alleged incident and
14 the showing of the lineup featuring Mr. Craig, what
15 sort of a lapse are we talking about?
- 16 A. Forty-five minutes to an hour, give or take.
- 17 Q. And that was also done in the vicinity of the Police
18 Department?
- 19 A. Yes, sir.
- 20 Q. And do you remember --- And I know you have a report
21 there in front of you, so feel free to look at that.
22 Do you remember what it was about Mr. Craig that Mr.
23 Mazyck was so certain it was him?
- 24 A. He actually said it was his eyes and his beard.
- 25 Q. How many people in the lineup featuring Mr. Craig had

JOLLY L. PERKINS - CROSS EXAMINATION BY MR. GROVE

85

1 a beard?

2 A. Seven have beards, goatees, as well as him.

3 Q. And then the photo is black and white, the eye color
4 is out of the window?

5 A. Yes, sir.

6 Q. How sure was Mr. Mazyck that Mr. Craig was in fact
7 one of the suspects?

8 A. According to what he had me put on the paperwork, he
9 said he was pretty positive due to the eyes and the
10 beard.

11 Q. Was he able to articulate further than eyes and
12 beard?

13 A. Yes, actually he was. And when I gave him the
14 picture of Mr. Craig, he did say that he was --- some
15 of the suspects were covered. He was given the
16 option of taking a piece of paper and placing it over
17 the bottom portions. He could look at the eyes and
18 not the rest of the photo. And the second time
19 through he done that, and picked out Mr. Craig.

20 Q. And how long did he spend looking at those pictures?

21 A. About the same amount of time he did with Mardrall
22 Addison, four and a half to five minutes.

23 Q. How long did it take for your computer system to
24 generate that lineup?

25 A. It would have generated all the people in about

JOLLY L. PERKINS - REDIRECT EXAMINATION

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1 thirty seconds. And then I would have to go through
2 and pick them out. It probably took me four minutes
3 or less.

4 Q. How many changes did you make to the lineup?

5 A. I didn't make any changes. It doesn't suggest a
6 lineup, it suggest people, and we pick them out and
7 put them in the lineup.

8 Q. Okay. I'm sorry, I was confused. How many people
9 did it suggest to you?

10 A. I don't remember the actual number we came up with.

11 Q. Do you remember what order you handed those photos to
12 Mr. Mazyck?

13 A. Not the exact order, no, sir. Like I say, I mixed
14 them up randomly.

15 Q. And Mr. Mazyck was in his car at the Police Station
16 when he made this identification?

17 A. Yes, sir.

18 MR. GROVE: Beg the Court's indulgence.

19 (PAUSE.)

20 MR. GROVE: Nothing further at this time, Your
21 Honor.

22 THE COURT: Redirect?

23 MR. HOLT: Just briefly, Your Honor.

24 REDIRECT EXAMINATION BY MR. HOLT

25 Q. Officer Perkins, what does an initial description of

JOLLY L. PERKINS - REDIRECT EXAMINATION

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1 a suspect or criminals have to do? What do you use
2 it for if they give it to a road officer?

3 A. Just to give us a general idea of what we are looking
4 for. It is vague.

5 Q. So there is a whole bunch of people running the
6 streets in Hartsville, okay?

7 A. Uh'huh.

8 Q. Do we want to know what they have on and what they
9 are wearing so that other road officers will be
10 looking for them?

11 A. Generally clothing and their description, and if they
12 have any features that stand out, like extremely long
13 hair, or something like that, or glasses.

14 Q. So, isn't the initial description a whole different
15 animal than a photo lineup?

16 A. Yes.

17 Q. And did the victim in this case identify both of
18 these two, because of their eyes?

19 A. I believe so. Yes, sir.

20 MR. HOLT: Thank you very much, Your Honor. I have
21 nothing else.

22 THE COURT: Re-cross?

23 MS. CRAYTON: Nothing further.

24 THE COURT: Mr. Grove?

25 MR. GROVE: None, Your Honor.

MORRIS MAZYCK - DIRECT EXAMINATION

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1 THE COURT: Thank you, officer, you may step down.

2 OFFICER PERKINS: Thank you, sir.

3 THE COURT: Mr. Holt, you may call your next
4 witness.

5 MR. HOLT: Judge, at this time, because my
6 defendant is handicapped, I am going to have to go get
7 him. But I plan on calling Morris Mazyck the victim in
8 this case. I just have to step outside.

9 THE COURT: All right. Get him in here.

10 (PAUSE.)

11 WHEREUPON, MORRIS MAZYCK

12 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

13 MR. MAZYCK: I do.

14 CLERK OF COURT: You have to speak way up. She has
15 to hear you, he's got to hear you, and everyone else has
16 to hear you.

17 THE COURT: All right, Mr. Holt.

18 MR. HOLT: Thank you, very much, Judge.

19 DIRECT EXAMINATION BY MR. HOLT

20 Q. Mr. Mazyck, I want to ask you just a couple of quick
21 questions. Not to get into the entirety of this
22 situation here. But, January 13, 2011, were you the
23 victim of the crime? And can you just tell me what
24 kind of crime it was? What type of crime was it?

25 A. I was robbed.

MORRIS MAZYCK - DIRECT EXAMINATION

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1 Q. By how many men?

2 A. Two.

3 Q. And about how long did the crime take?

4 THE COURT: You are going to have to speak up.
5 They can't hear, I can't hear. We have to have some
6 amplification.

7 Q. And, how many men robbed you that day?

8 A. Two.

9 Q. Were they wearing mask?

10 THE COURT: I still can't hear you. Speak up and
11 be clear. If I can't hear you, the court reporter can't
12 hear you, this whole exercise is futile. We have got to
13 be able to hear what you have to say. And in a little
14 while the jury is going to have to be able to hear what
15 he's got to say.

16 MR. HOLT: It is not his fault, Judge. He was in a
17 accident, and it made him talk real soft like that.

18 Q. How many men robbed you?

19 A. Two.

20 Q. Okay. Now, did you see their faces?

21 A. Yes, sir.

22 Q. And, did you get a good look at them?

23 A. Yes, sir.

24 Q. And did you give a photo lineup with Officer Perkins?

25 A. Yes, sir.

MORRIS MAZYCK - DIRECT EXAMINATION

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1 Q. And did you pick two people out?

2 A. Yes, sir.

3 Q. Did Officer Perkins in any way suggest to you who to
4 pick out?

5 A. No, sir.

6 Q. And how long was it between the time you were robbed
7 and the time you looked at the photo lineups with
8 Officer Perkins, and you can give me just an
9 estimate?

10 A. As soon as I saw the photos I knowed who it was.

11 CLERK OF COURT: Let's put a little distance
12 between you and this.

13 A. By the time I looked at the photos I knew who the
14 guys were.

15 Q. How about between the time they robbed you with that
16 gun, and the time you looked at those photos probably
17 about how much time had gone by?

18 A. About half a second.

19 Q. No, no, no, not the time you saw the faces there, but
20 the time Officer Perkins gave you the pictures on the
21 paper at the Police Station. How long between the
22 robbery and the photo lineup? Do you see what I'm
23 saying?

24 A. The time I saw the photos I know who the guys were.

25 Q. So it didn't take you long to look at them?

MORRIS MAZYCK - DIRECT EXAMINATION

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1 A. Not at all.

2 Q. All right. And how confident were you about who you
3 picked out?

4 A. A hundred percent.

5 MR. HOLT: Judge, I think no further questions from
6 the State.

7 THE COURT: All right. Cross examination, Ms.
8 Crayton.

9 MS. CRAYTON: Thank you, Your Honor.

10 CROSS EXAMINATION BY MS. CRAYTON

11 Q. I don't want to mispronounce your name; so can you
12 pronounce it for me?

13 A. Morris Mazyck.

14 Q. Mazyck, okay. If I can talk to you about the armed
15 robbery a little bit, Mr. Mazyck. How long do you
16 think that armed robbery took?

17 A. About five, ten minutes.

18 Q. Five or ten minutes. Okay. So it was a long time.

19 A. No, it wasn't long.

20 Q. A short time.

21 A. Yeah.

22 Q. And you say two people were involved?

23 A. Yes.

24 Q. Can you tell me what happened?

25 A. I was sitting there talking to my cousin, my cousin

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1 girlfriend.

2 Q. Who was that?

3 A. Sentoya. [sic.]

4 Q. Sentoya, okay.

5 A. I was sitting there talking to her. And a guy came to
6 my right side, opened the back door and asked me if I
7 can get him a sneaker, and then another guy came up
8 that I was talking to that I knew. And I was talking
9 to him, and I seen this guy coming up with a white
10 hat on but I didn't know who he was. And when he
11 opened the back door, and came up, and put a gun to
12 my side and told me to give up --- give up everything
13 that I have.

14 Q. All right. Let me stop you for just second so I can
15 ask you a couple of questions. So, you were talking
16 to your cousin's girlfriend, named Sentoya?

17 A. Yeah.

18 Q. And who is your cousin?

19 A. Derrick Frazier.

20 Q. Okay.

21 MR. HOLT: Your Honor, I am going to object to any
22 questions that don't deal with the reason for the Motion
23 in the Biggers Hearing. This doesn't need to turn into
24 some kind of digging into what he is going to say on the
25 stand.

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1 THE COURT: Well, I'll take care of that. But she
2 has a right to go into it a little bit to determine how
3 long he observed the hearing. That is part of the
4 Biggers' test. But, I am not going to let her go very far
5 as far as what happened at the robbery.

6 MS. CRAYTON: Yes, Your Honor.

7 THE COURT: Limit it --

8 MS. CRAYTON: Of course, Your Honor.

9 THE COURT: Matters that are connected to the
10 length of time, and he observed the individuals, and the
11 degree of certainty, and the heightened awareness, and
12 what they were aware --

13 MS. CRAYTON: Yes, Your Honor. I'll move on to
14 that, Your Honor.

15 Q. Now you said after someone else came up and asked you
16 for a sneaker, did they leave?

17 A. No. The guy --- was asking about it, Mardrall.

18 Q. So, you are saying Mardrall Addison was asking you
19 about a sneaker, and then someone else walked up with
20 something on their head?

21 A. No. I was talking about Mardrall Addison approached
22 me, Sentoya was sitting -- and another guy came up,
23 and he was just talking. And I know when I looked in
24 my left mirror I seen someone coming up with a white
25 hat.

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1 Q. Okay.

2 A. Pulled down.

3 Q. So you are saying that Emilio came up to your
4 driver's side?

5 A. Yes. My driver's side window.

6 Q. The back.

7 A. He opened the back door.

8 Q. He opened the back door, okay. And what did he do at
9 that point?

10 A. He put a gun on me.

11 Q. Okay. And, how long did you have to view that gun?

12 A. About five or ten minutes while he was you know,
13 padding me down to see what I had.

14 Q. Okay. So, did he proceed to the front seat? How did
15 he search you?

16 A. From the back.

17 Q. So, how long did you have to view Emilio?

18 A. About five or ten minutes, I was watching him the
19 whole time. He had a gun on me. He asked me what I
20 had, and I took the money out of the pocket, and he
21 was like --- you already in a wheelchair, do you want
22 me to shoot you.

23 Q. So that is what Emilio said to you after he came up.
24 How many people were there --- Were there several
25 people around at that time, or had they left?

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1 A. There was a van full of people that pulled up.

2 Sentoya was right there, and a guy --- he saw Emilio

3 --- he took off.

4 Q. Now, did you have a longer opportunity or a shorter
5 opportunity to view Mr. Addison?

6 A. It was longer --- he came up before Emilio.

7 Q. And he was asking you about the shoes?

8 A. Yes.

9 Q. About getting a pair of shoes?

10 A. Yes, ma'am.

11 Q. Did you provide him with a pair of shoes?

12 A. Hu'huh.

13 Q. You didn't.

14 A. Hu'huh.

15 Q. Okay. You told him you would get it for him later.

16 Did he say anything to you when Emilio was talking to
17 you, did Mr. Addison say anything to you?

18 A. Mr. Addison wanted the shoes.

19 Q. Okay. But he never said anything about what kind of
20 money you have on you or anything like that?

21 A. No.

22 Q. Okay. Now, you say that you were certain --- well
23 the sheet says, and I believe Officer Perkins filled
24 out the form for you?

25 A. Yes, ma'am.

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1 Q. And you said you were certain, and you were certain
2 because of Mr. Addison's eyes; is that correct?

3 A. Yes, ma'am.

4 Q. Can you tell me what about his eyes made you certain
5 it was him?

6 A. His eyes was like --

7 **MADAME COURT REPORTER:** I can't hear him, counsel.

8 Q. Can you just flip through these and tell me if those
9 are the photos you saw that day?

10 **THE COURT:** Identify what you are showing him.

11 **MS. CRAYTON:** I am showing him State's Exhibit 2.

12 **(PAUSE.)**

13 Q. So those are the same photos?

14 A. Can't really tell.

15 Q. And you are saying that number four is Mardrall?

16 A. (No response.)

17 Q. And have you ever talked to Mardrall before that day?
18 Had he ever asked you about -- You have to answer yes
19 or no.

20 A. No, I didn't know him.

21 Q. Okay. Had you ever talked to him about shoes before
22 that day?

23 A. No, ma'am.

24 Q. How did he know that you could get him a pair of
25 shoes?

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1 A. Um, well he came to the back of my car and knew that
2 I had a pair of my personal shoes in the back, and he
3 looked at the shoes, and asked me if I can get him
4 and said I take a eight and a half. And I told him
5 that it would probably be later.

6 MS. CRAYTON: Court's indulgence, please.

7 (PAUSE.)

8 MS. CRAYTON: No further questions, Your Honor.

9 THE COURT: Mr. Grove.

10 MR. GROVE: Thank you, Judge.

11 CROSS EXAMINATION BY MR. GROVE

12 Q. Mr. Mazyck, I am not sure that we established yet how
13 long between the robbery that you say took place and
14 the photos that you were shown later on. I know
15 earlier you said as soon as you saw the photos you
16 knew who they were. But how long between the
17 original incident and then later on the showing of
18 the photos. How much time are we talking about?

19 A. Well, after I got robbed I left to go to the Police
20 Department. I went to the other apartment waiting
21 for them to come out. If they leave, I was going to
22 follow them. But when they left they went into Pine
23 Ridge Apartments, and I rode out there and I saw
24 them. But I was going across the parking lot I seen
25 the police car, and I slowed down. And he came to

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1 the car. And I told him what happened. And then
2 after that --

3 Q. -- Are we talking about a half hour, an hour?

4 A. Ah --

5 Q. -- Two hours?

6 A. About fifteen minutes.

7 Q. Okay. And, the total length of time you say it is
8 between five and ten minutes that you were in the
9 presence of Emilio Craig and Mardrall Addison?

10 A. Yes, sir.

11 Q. And you said that you kept making this motion,
12 pulling your hands down over your face when you were
13 talking about Emilio Craig, do you mean that he had -
14 -

15 A. -- Had a hat down a little bit.

16 Q. Like a stocking cap?

17 A. No, a white cap, like a toboggan.

18 Q. Okay. How far down?

19 A. About there.

20 Q. Down to his jaw line?

21 A. No. No.

22 Q. Okay. Just above his eyebrows?

23 A. Yes.

24 Q. Okay. How long did you say it took you to recognize
25 Emilio Craig?

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1 A. When I looked at the photo?

2 Q. Yes, sir.

3 A. A second.

4 Q. And how many times had you been exposed to Emilio
5 Craig in the past?

6 A. That afternoon, I never seen him before.

7 Q. How often were you in the East Park Apartments?

8 A. I usually go out there to check on my cousin. My
9 cousin, Sentoya, and I check on her and the little
10 girl.

11 Q. Do you remember what it was about Emilio Craig that
12 made you recognize him?

13 A. From here.

14 Q. Okay.

15 MR. GROVE: Beg the Court's indulgence.

16 (PAUSE.)

17 Q. And how sure were you that it was Emilio Craig in the
18 car with you?

19 A. A hundred percent.

20 MR. GROVE: Okay. Nothing further at this time,
21 Judge.

22 THE COURT: Redirect?

23 REDIRECT EXAMINATION BY MR. HOLT

24 Q. Was Emilio Craig's beard the only thing that you
25 recognized him by?

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1 A. (No response.)

2 Q. And before you answer that, let me just show you what
3 has been marked as State's Exhibit 1. I want you to
4 --- What else did you recognize him by?

5 A. His eyes and his beard.

6 Q. His face?

7 A. (No response.)

8 MR. HOLT: Thank you very much, Mr. Morris. No
9 more questions.

10 THE COURT: Re-cross, Ms. Crayton?

11 MS. CRAYTON: No, Your Honor.

12 THE COURT: Mr. Grove?

13 MR. GROVE: None, Your Honor.

14 THE COURT: All right. Thank you. The witness may
15 stand down.

16 All right. Anything else from the State regarding
17 the identification issue, Mr. Holt?

18 MR. HOLT: There is not, Your Honor. I think the
19 State has established all five.

20 THE COURT: We'll get to the argument in a minute.
21 I mean from the standpoint of testimony.

22 MR. HOLT: I apologize.

23 THE COURT: All right. Defense motion Ms. Crayton
24 to exclude the identification, I will be glad to hear from
25 you?

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1 MS. CRAYTON: Thank you, Your Honor. We feel that
2 the lineup was suggestive, as I think I observed with
3 Officer Perkins. Mr. Addison is the only one in the
4 photos smiling. He is the only one in the photo with his
5 eyes closed, although the witness said, or the victim
6 said, that he identified Mr. Addison by the photograph by
7 his eyes. We feel that that is very suggestive.

8 THE COURT: Well, what is suggestive about that. I
9 am not sure I understand that.

10 MS. CRAYTON: He is different from all the other
11 photos.

12 THE COURT: Let me see. There are always going to
13 be some differences.

14 MS. CRAYTON: Yes, Your Honor.

15 (PAUSE.)

16 THE COURT: All right. I have reviewed them, and I
17 will say this about the photos. Incidentally, everybody
18 has been talking about six photos, and there are seven
19 photos here, seven. Every one of them has some degree of
20 facial hair that is shown. All of them have short hair.
21 All are black males, of approximately the same age. And
22 as I say, they all have some facial hair, and all have
23 short hair. None have dreadlocks, or long hair, or
24 anything of that nature. The only difference that is the
25 photos is that one of them is a smiling photo or

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1 approximate smiling and smirking photo that shows teeth,
2 and another photo shows a slight smirk on photo number
3 five. Is that what you claim that makes it suggestive?

4 MS. CRAYTON: Yes, Your Honor, that along with the
5 eyes are partially closed, and none have eyes that are
6 partially closed. If you look at all the photos together,
7 he is the only one that appears different from the other.
8 And I believe that it is suggestive. I also believe that
9 it is not a reliable lineup, Your Honor. I do not feel
10 that the witness had a great opportunity to view ---
11 unfortunately there were two suspects. There was a gun
12 involved. There was a lot to look at, Your Honor. And I
13 don't believe he had the opportunity, or a great
14 opportunity to do that, or have great attention to do
15 that. I would think that you would pay more attention to
16 someone holding a weapon, which Mr. Mazyck --

17 THE COURT: You don't think if someone is pointing
18 a weapon at you, you are going to look at them pretty hard
19 so you can identify them?

20 MS. CRAYTON: Yes, Your Honor, but I think --

21 THE COURT: -- You don't think that is going to
22 heighten their awareness?

23 MS. CRAYTON: Yes, Your Honor. What I was saying
24 is that Mr. Mazyck claims Emilio Craig was holding the
25 weapon, not Mardrall Addison. So what I'm saying is that,

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1 in my opinion --

2 THE COURT: All right. Mr. Groves.

3 MR. GROVE: Yes, Judge, thank you. Following up on
4 what Ms. Crayton was saying. I do feel that the lineup is
5 unduly suggestive. If you will look at the State, I
6 believe it is marked as State's Exhibit 1, featuring Mr.
7 Craig as number five. The photo lineup on number three
8 doesn't seem to match any of his descriptions; appears to
9 be a much larger man with a shaved head and a very full
10 beard. Number one, number two, number six all have
11 goatees instead of beards, as well as number seven, who
12 has what appears to be braids or cornrows.

13 Furthermore, Mr. Mazyck testified that Mr. Craig was
14 behind him the entire time, but was still able to make a
15 positive I.D. There also seems to be a discrepancy in
16 the amount of time.

17 THE COURT: The test here is not whether you
18 believe that the witness' testimony as to whether the
19 identification was correct. But the test is whether or
20 not it was unduly suggestive. That is what we are talking
21 about here. Something for the jury to determine whether
22 or not his identification is correct.

23 MR. GROVE: Yes, judge. But going through the
24 factors in Biggers, the opportunity of the witness to view
25 who he identifies as the suspect is certainly a factor.

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1 **THE COURT:** I understand that. But what I'm saying
2 is, and what your argument now is, is that there is a
3 misidentification as opposed to whether or not it was
4 unduly suggestive. That is the question in the Biggers
5 hearing.

6 **MR. GROVE:** Yes, Judge. Going off of his
7 identification of my client, Mr. Craig, he identified him
8 during this hearing primarily on a beard. And during the
9 time of identification on his beard and his eyes. I
10 believe only two of the gentlemen in the lineup even have
11 a beard. I think that would be suggestive. I think that
12 everyone else has a goatee.

13 The only other gentleman, who has a beard, has a
14 beard, has a very full beard, and appears to be a much
15 larger man, that being number three in the lineup.

16 **THE COURT:** All right. Thank you, sir. Mr. Holt.

17 **MR. HOLT:** Thank you, Judge. Just briefly, I think
18 that they are nit-picking the factors of the totality of
19 the circumstances. But we can't forget that in Biggers it
20 is two prong. The first step is that we have to find that
21 it was unduly suggestive to begin with. And I think there
22 has been absolutely no testimony that it was unduly
23 suggestive. And only then do you look to the second
24 factor, the totality of the circumstances, and start
25 nickpicking things. But, even if I am to believe that it

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1 was in some manner unduly, it certainly wasn't, and I
2 quote Long here, "So unduly as to give rise to a very
3 substantial likelihood of irrefutable identification."
4 And that is just on the law, Judge. But if we want to
5 start talking about Mr. Morris Mazyck's identification,
6 then the only factor I see a problem was with the accuracy
7 of the witness' prior description of the criminal. That
8 is the third factor. I think the first factor, the
9 opportunity to view the subject at the time, five or ten
10 minutes plenty. The witness' degree of attention. Your
11 Honor, remarked he had a gun on him. If somebody is going
12 to put a gun on me, I am going to remember his face. I
13 think that is common sense. The fourth factor. Level of
14 certainty at the confirmation. A hundred percent. The
15 fifth factor. Level of time between the crime and the
16 conformation. It couldn't have been that long, even if
17 you believe the long side of estimates, take it wasn't
18 days later, it was shortly after the crime. We will never
19 have an exact minute to know how long it was. But I can
20 guarantee you it wasn't two hours. And I think the
21 testimony shows it.

22 What they are really saying is that earlier when the
23 police said, who robbed you? He said, two black males,
24 one was wearing a hat and one was wearing hoodie. Okay?
25 That is what road officers want at the time of the crime,

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1 so that they can drive down the road and look for two
2 black males wearing a hat and hoodie.

3 You know, Mr. Grove is making a big deal about
4 somebody having some cornrows, when it was Mr. Groves
5 testimony that brought out the fact that Emilio was
6 wearing a handkerchief. And what can a police officer
7 tell if, Mardrall, doesn't have the good sense to not
8 smile when he is taking a photograph. Nobody has any
9 control over that. There is no guarantee that the police
10 have access to eight or nine photographs of these people.
11 Or that even eight or nine people look like them in
12 Hartsville. The police officers did exactly what was in
13 within their capability. The victim had plenty of
14 opportunity to see everything.

15 Judge, I feel like we don't even make it to the
16 second prong. But even if you were to consider the first
17 prong, then the State would have absolutely no problem
18 getting that identification in.

19 **THE COURT:** All right. Under The U.S. Supreme
20 Court Neil versus Biggers, 409 U.S. 188, 1993 Supreme
21 Court 375, that is the leading case in the case that is
22 followed throughout the country in regard to out of court
23 identifications.

24 Neil versus Biggers does cite and set forth five
25 factors to be considered in determining whether or not the

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1 identification was unduly suggestive. Those being first
2 the opportunity of the witness to view the crime, criminal
3 at the time of the crime. Second, the witness' degree of
4 attention. Third, the accuracy of the witness' prior
5 description of the criminal. Fourth, the level of
6 certainty demonstrated by the witness at the conformation.
7 And fifth, the length of time between the crime and the
8 confrontation. As I say the Biggers Case is a 1972
9 Supreme Court case. It has been adopted in South
10 Carolina, and in most in State versus Lewis, 354 SC 222;
11 580 SE2d 149, a 2003 case where the Supreme Court held
12 that in determining the admissibility of an out of court
13 identification, the Court must first determine whether the
14 identification process was unduly suggestive. And next
15 must determine whether the out of court identification was
16 nonetheless so reliable that the most substantial
17 likelihood of misidentification existed.

18 It is also the case of South Carolina, The State
19 versus Washington, where it says that a physical lineup
20 rather than a full graphic lineup is not required.

21 So the issue here is not whether the identification
22 was correct, but whether it was unduly suggestive. And
23 therefore there was a substantial likelihood of
24 misidentification.

25 Based on the testimony here, it appears to me that

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1 the witness had a --- plenty of opportunity to view the
2 witness --- to view --- the victim had plenty of
3 opportunity to view both of these defendants at the time
4 the crime was committed. That is, his attention was very
5 high, and would have been heightened by the presence of a
6 weapon. He did not give a --- it wasn't a real accurate
7 description of the individuals, except he identified them
8 by race. But, he found out who they were without
9 identifying their names or anything to the victim when
10 they were placed in this photo lineup. The victim then
11 looked at the photo lineup, and is very certain of the
12 identification of both Mr. Addison and Mr. Craig based on
13 a couple of factors other than just other features. He
14 identified them by the beard or by their eyes, and was
15 very certain about them. And there was only a period of -
16 -- it depends on whether you listen to the witness of the
17 officer who said forty-five minutes, thirty to forty-five
18 minutes. And the victim, who said fifteen minutes between
19 the time that the crime occurred and the time he was
20 actually shown the lineup. In any event, it was less than
21 an hour regardless of the witness. And they were shown
22 seven similar photographs with similar features. I don't
23 think that the fact that there was some difference of how
24 he looked at the photographs. Myself, the eyes are not
25 closed on one, they may be a little bit less open on Mr.

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1 Addison than on the others, but that may just be a
2 physical characteristic of his. But, they are definitely
3 not closed. And I don't think the fact that he has an
4 expression on his face that shows his teeth, is enough to
5 make the photograph unduly suggestive.

6 The same is true with the photographs of the victim
7 Mr. Craig. I think that they all show the defendant with
8 short hair, and also show some with facial hair. It may
9 be different amounts of facial hair. The fact that it
10 appears to me that the law enforcement took very
11 painstaking efforts to make the photographs as close to
12 each other as they could.

13 And, I would therefore find, that the photo lineup of
14 Mr. Addison is not unduly suggestive, and furthermore it
15 does not result in substantial likelihood of irrefutable
16 misidentification.

17 The same thing with Mr. Craig. I would find that the
18 photo lineup is not unduly suggestive. There is not a
19 substantial likelihood of irrefutable misidentification.

20 The motions to suppress the photo lineups of both
21 defendants is denied

22 MS. CRAYTON: Your Honor, may I just --- one more
23 thing. We didn't cover exactly what Mr. Holt not
24 presenting any evidence on the second lineup or the show
25 up, and I just want to clarify. He says that he will not

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1 be presenting evidence on that. But, I want to clarify
2 that they will not be any in court identification coming
3 from those witnesses along with none of the officers will
4 also testify about those.

5 THE COURT: That hasn't been the question. You
6 have a whole new question there. The witnesses can
7 certainly --- They weren't asked that. It wasn't brought
8 up. It wasn't made an issue. The only issue that I was
9 told that I was going to have to address was whether or
10 not the photo lineups were unduly suggestive. We haven't
11 even gotten --- The issue was never raised that when the
12 witnesses testify about the in court identification.

13 MS. CRAYTON: Your Honor, I am not asking about
14 this lineup, I am asking about the lineup that Mr. Holt
15 did not present evidence on. That is what I am asking.

16 THE COURT: I understand. But what I am saying is
17 that these witnesses that have testified --

18 MS. CRAYTON: -- Yes, Your Honor.

19 THE COURT: -- can certainly testify to an in court
20 identification. Is that what you are saying?

21 MS. CRAYTON: No, Your Honor, not at all. Not
22 these witnesses. The witnesses that John Holt did not put
23 up. There is a second lineup that was done for Yolanda
24 Alford.

25 THE COURT: He has already said that he wasn't

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1 going to do that.

2 MS. CRAYTON: I just wanted to clarify that there
3 wouldn't be any in court identification. There would not
4 be any testimony from an officer. I just wanted to
5 clarify.

6 THE COURT: Well, -- All right. Mr. Holt, tell me
7 --

8 MR. HOLT: If it becomes relevant for some other
9 reason, I perfectly want to do it, and we can take it up
10 then. But, I don't plan on bringing Yolanda or Justine, I
11 don't want this trial to last four days. I'm not planning
12 on bringing them in.

13 THE COURT: All right. Then that's it. All right.
14 We are going to take ten minutes, and be ready to start
15 with the jury.

16 (Whereupon, a recess was taken from 10:25
17 a.m. until 10:37 a.m..)

18 MS. CRAYTON: Judge, I still think we have the Lyle
19 Evidence Motion that is still unresolved. I just want you
20 to know that we are ready to take care of that as well.

21 MR. HOLT: What she is so concerned with, Your
22 Honor, is that there are allegations earlier in the day
23 they robbed somebody else.

24 THE COURT: Wait a minute. Sir?

25 MR. HOLT: There are allegations that earlier in

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1 the day the two these men robbed somebody else. That they
2 had a history of doing that in the neighborhood.

3 THE COURT: Are you going to offer that?

4 MR. HOLT: I'm not.

5 THE COURT: All right.

6 MR. HOLT: Unless the door becomes open.

7 THE COURT: Well, if --- We will worry about that -
8 -- My question to you is, are you going to offer it as
9 part of your case?

10 MR. HOLT: I do not know.

11 THE COURT: That answers my question.

12 MS. CRAYTON: That is not what I was worried about,
13 Your Honor. Your Honor, I was asking him, he said he was
14 going to look at Mardrall's record, and get me a final
15 answer on the things that was --

16 MR. HOLT: Mardrall is convicted of three things.
17 Drugs, carrying a gun, and resisting arrest.

18 THE COURT: Did you get an updated NCIC like we
19 talked about yesterday?

20 MR. HOLT: That was the NCIC for Morris Mazyck.
21 They have an updated for Mardrall, I'm sure, from their
22 office. But, they've got that.

23 THE COURT: Wait a minute. Who are we talking
24 about?

25 MR. HOLT: They are talking about Mardrall.

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1 THE COURT: Who is that?

2 MR. HOLT: Mardrall Addison.

3 THE COURT: All right. Let's call them by their
4 full names, and not call them by their first names. I
5 don't know who they are. This is a courtroom, counsel,
6 and let's treat it like that.

7 All right. What is your question, Ms. Crayton?

8 MS. CRAYTON: Your Honor, it was my understanding
9 from yesterday that we were delaying until this morning so
10 that Mr. Holt could look at their record and finalize the
11 impeachment crimes on that record.

12 THE COURT: But that doesn't become an issue until
13 he takes the stand, does it?

14 MS. CRAYTON: Yes, Your Honor. And I said at the
15 appropriate time.

16 THE COURT: All right. Then we don't need to fool
17 with it now.

18 All right. I have the Indictments on Addison?

19 (PAUSE.)

20 THE COURT: All right. Is there anything before
21 the jury is brought in, Mr. Holt?

22 MR. HOLT: Not from the State, Judge.

23 THE COURT: On behalf of the Defendant Mr. Addison,
24 Ms. Crayton?

25 MS. CRAYTON: No, Your Honor, except the issue I

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1 mentioned earlier.

2 THE COURT: What issue is that, Ms. Crayton?

3 MS. CRAYTON: I just meant the Lyle that we will
4 deal with later.

5 THE COURT: Let's talk about that. If it is not an
6 issue at this time, why do we need to address it at this
7 time?

8 MS. CRAYTON: Your Honor, we don't --

9 THE COURT: -- then why --

10 MS. CRAYTON: -- I was saying at the appropriate --

11 THE COURT: Then why are you bringing this up?

12 MS. CRAYTON: Your Honor, I was saying at the
13 appropriate time. I don't want it to get lost. That's
14 all.

15 THE COURT: Well, we will have plenty of time
16 before that becomes an issue. It does not become an issue
17 until the end of the State's case, and if the defendant
18 testifies.

19 MS. CRAYTON: Yes, sir.

20 THE COURT: Isn't that right?

21 MS. CRAYTON: Yes, Your Honor.

22 THE COURT: All right. Anything --

23 MR. GROVE: None, Your Honor.

24 THE COURT: All right. Bring the jury in, please.

25 (Whereupon, the jury enters the courtroom)

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1 at 10:40 a.m..)

2 THE COURT: All right. Thank you, ladies and
3 gentlemen. And we are now ready to proceed. I apologize
4 to you for keeping you waiting in the jury room. Again, I
5 had hoped that we would be able to start promptly at ten
6 o'clock. That is why I brought you back at ten o'clock.
7 We have been here since nine o'clock, addressing legal
8 matters that we had to address, and it took longer than I
9 anticipated. But, I do apologize for keeping you waiting,
10 and we are ready now to go forward.

11 Mr. Clerk, you may swear the jury.

12 (Whereupon, the jury was sworn at 10:42
13 a.m..)

INTRODUCTION TO A CRIMINAL CASE

14
15 THE COURT: All right. Ladies and gentlemen,
16 before we begin the actual trial of this case, I thought
17 it might be helpful if I explained to you basically how a
18 trial proceeds. I know you have all seen trials on
19 television, but I think you will find that it is a great
20 deal different in real life than it is on television.

21 First of all, the State will make an opening
22 statement. An opening statement is not evidence. It is
23 simply an outline to help you understand what the State
24 expects the evidence will show. The defendant may, if he
25 wishes to present an opening statement, but he doesn't

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1 have to for reasons I will explain later.

2 Following the opening statement you will hear the
3 testimony and evidence in this case. This will consist of
4 testimony from the State's witnesses as well as any
5 physical exhibits which may be introduced into evidence.

6 Following the completion of the testimony, the
7 attorneys will again have the opportunity to make what is
8 called a closing statement, or a summation to you. This
9 is an opportunity for the attorneys to summarize the case
10 from their respective points of view. Again, these
11 arguments are not evidence.

12 Following the closing statements by the attorneys, I
13 will instruct you on the law in South Carolina, as it
14 pertains to the issues that have arisen in this case. And
15 when I have completed my instructions to you, and you will
16 be permitted to begin your deliberations in order to reach
17 a verdict.

18 Now, ladies and gentlemen, you are now the jury in
19 this case, and I want to take a few minutes to tell you
20 something about your duty as jurors, and to give you some
21 basic instructions.

22 At the end of this trial I will give you more
23 detailed instructions, and those instructions will control
24 your deliberations. It will be your duty to decide from
25 the evidence what the facts are. You and you alone are

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1 the judges of the facts. You will hear the evidence,
2 decide what the facts are, and then apply those facts to
3 the law which the Court will give to you. That is how you
4 will reach a verdict. In doing so, you must follow the
5 law whether you agree with it or not. The evidence will
6 consist of the testimony of witnesses, documents, and
7 other things received into evidence as exhibits, and any
8 facts on which the lawyers agree, or which I may instruct
9 you to accept.

10 Now, you should not take anything that I say now or
11 at any time during this trial as indicating to you what I
12 think of the evidence, or what your verdict should be.
13 That is a matter that is solely up to you. The same law
14 that makes you the judge of the facts makes me the judge
15 of the law. You must take the law as I give it to you
16 regardless of what you think the law is, or what the law
17 ought to be. If I am wrong on the law there is another
18 place and time for that error to be corrected. But for
19 this case, you must accept the law as I instruct it to
20 you.

21 Now, this is a criminal case brought by The State of
22 South Carolina. The State charges the defendants in this
23 case with several charges, and the charges are contained
24 in the Indictments that I hold in my hand.

25 The State charges the Defendant, Mardrall Addison

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1 with armed robbery, failure to stop for a blue light,
2 petit larceny, driving under suspension, pointing and
3 presenting a firearm, and possession of a firearm during
4 the commission of a violent crime.

5 The State charges the Defendant, Emilio Craig with
6 armed robbery, petit larceny, pointing and presenting a
7 firearm, and possession of a firearm during the commission
8 of a violent crime.

9 The Indictments are not evidence of anything. They
10 are simply the description of the charges made by the
11 State against the defendant. And I will tell you that
12 throughout the trial of this case you should consider the
13 charges against each defendant separately, and weigh the
14 evidence against each defendant separately, and make your
15 determinations based upon the evidence you hear as to that
16 defendant. The defendants have plead not guilty to these
17 charges and they are presumed innocent unless and until
18 proven guilty beyond a reasonable doubt. A reasonable
19 doubt is the kind of doubt that would cause a reasonable
20 person to hesitate to act. A defendant has the right not
21 to testify, and never has to prove innocence or present
22 any evidence. The burden of proof of always on The State
23 of South Carolina.

24 Now, there are certain things that are not evidence,
25 and you must not consider them as evidence in deciding the

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1 facts of this case. Statements and arguments of the
2 attorneys are not evidence. Questions and objections of
3 the attorneys are not evidence. And testimony that I
4 instruct you to disregard is not evidence. Evidence may
5 be direct or circumstantial. Direct evidence is testimony
6 by a witness about what that witness personally saw, or
7 heard, or did. Circumstantial evidence is indirect
8 evidence. The law permits you to give equal weight to
9 both, but it is for you to decide how much weight to give
10 to any of the evidence.

11 There are rules of evidence which control what can be
12 received into court. When a lawyer ask a question, or
13 offers an exhibit into evidence, and a lawyer on the other
14 side thinks that it is not permitted by the rules of
15 evidence, that lawyer may object. If I overrule the
16 objection, the question may be answered, or the exhibit
17 may be received. If I sustain the objection, the question
18 cannot be answered, and the exhibit cannot be received.

19 Whenever I sustain an objection to a question or deny
20 a motion to admit an exhibit into evidence, you must
21 ignore the question or the existence of the exhibit, and
22 you must guess what the answer would have been or what the
23 exhibit would have shown.

24 Sometimes it may be necessary for me to request that
25 you leave the courtroom while I discuss with the attorneys

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1 legal questions that come up during the trial. If this
2 occurs, you should not speculate about our discussions or
3 the reasons that you were asked to leave the room. This
4 is simply a procedure that the law requires when certain
5 legal issues arise. There may also be occasions when I
6 ask the attorneys to approach the bench so that I can
7 discuss a matter with them in private. I will do this as
8 often as possible, so that you will not be required to
9 leave the room more than is absolutely necessary. Again,
10 if I ask the attorneys to step up to the bench, or if I
11 ask you to leave the courtroom, please don't think that
12 anybody is trying to hide anything from you, or keep any
13 evidence from you. This is simply a procedure used by all
14 lawyers and by all courts to determine and decide legal
15 questions.

16 Now, in deciding the facts of this case, you may have
17 to decide which witnesses to believe and which witnesses
18 not to believe. This is called credibility. You may
19 believe everything a witness says, or only part of it, or
20 none of it. In deciding what to believe you may consider
21 a number of factors, including the witness' ability to
22 see, or hear, or know the things the witness testified to.
23 The quality of the witness' memory. The witness' manner
24 while testifying. Whether the witness has an interest in
25 the outcome of the case, or any motive, bias, or

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1 prejudice. Whether the witness was contradicted by
2 anything the witness said or wrote before the trial, or by
3 any other evidence. And how reasonable was the witness'
4 testimony when considered in the light of other evidence
5 which you do believe.

6 Now, just a few words to you about your conduct as
7 jurors, some of which I have already told you, or
8 mentioned to you, but they are important enough that they
9 bear repeating.

10 Do not talk to each other about this case until the
11 end of the case when you go to your jury room, and decide
12 on your verdict.

13 Do not talk with anyone else about this case until
14 the end of the case, and you have been released by me to
15 deliberate your verdict.

16 Do not let anyone talk to you about the case. If
17 anyone should talk to you about the case, get their name
18 and their description, and report it to the bailiffs, and
19 they will report it to me.

20 Do not read any news stories or articles, or listen
21 to any radio or television reports about the case.

22 You are not to consider as evidence anything that you
23 may see or hear when court is not in session. Even if
24 what you see or hear is done by one of the parties or one
25 of the witnesses.

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1 Do not do any research, such as consulting the
2 internet or any other resource sources that you might have
3 access to.

4 You have got to decide this case based upon what you
5 hear in this courtroom, and not on the basis of any
6 information which you can obtain on your own.

7 And finally, and probably most important. Do not
8 make up your mind about what your verdict should be until
9 the end of the case, and you have been released by me or
10 instructed by me to begin your deliberations. You will be
11 told by either me or the bailiff when would be appropriate
12 for you to begin your deliberations.

13 Anything with regard to my initial instructions on
14 behalf of the State, Mr. Holt?

15 MR. HOLT: Not from me, Your Honor.

16 THE COURT: Ms. Crayton on behalf of Defendant
17 Addison?

18 MS. CRAYTON: No, Your Honor.

19 THE COURT: On behalf of Defendant Craig, Mr.
20 Grove?

21 MR. GROVE: No, sir.

22 THE COURT: All right. The first matter ladies and
23 gentlemen, is the matter of opening statements. And as I
24 told you, opening statements are not evidence, but simply
25 the lawyer's view of what they think the evidence will

OPENING STATEMENT BY MR. HOLT

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1 show. And for that purpose I will recognize the Assistant
2 Solicitor, Mr. Holt.

3 MR. HOLT: Thank you very much, Your Honor. May it
4 please the Court?

5 THE COURT: Yes, sir.

6 MR. HOLT: Ms. Clayton, Mr. Grove.

7 OPENING STATEMENT BY MR. HOLT

8 MR. HOLT: Ladies and gentlemen, January 13, 2011
9 of this year, two armed men robbed my victim, Morris
10 Mazyck right there. And they did so in broad daylight
11 without any type of mask on. They went up in his person,
12 and they put a gun on him. And when they were through
13 taking his money and through taking his saving bonds, they
14 wanted more. That man right there is Mr. Emilio Craig
15 Burton, and said you are already in a wheelchair, don't
16 make me shoot you. And the State is going to prove that
17 to you. I am not going to have any problem in the world
18 proving it to you. And y'all might be thinking right now,
19 people who are not familiar with this type of situation.
20 Why would someone rob somebody and not wear a mask? Why
21 would they do that? That is a stupid thing. That is
22 somebody that you hear about on the radio that gets caught
23 twenty minutes later. Well, they weren't thinking when
24 they did it. You see when you rob somebody and you get
25 right up in their face, and you aren't wearing no mask,

OPENING STATEMENT BY MR. HOLT

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1 and you let them know, I'm going to take what's yours.
2 You are letting them know, you come after me, and your gun
3 is going off next. And you come after me, and you see
4 what you are going to get. They not just steeling your
5 money and your home, and whatever junk they can find in
6 your car, they are taking your personal right to walk up
7 and down the street. And they are saying, you know what?
8 There ain't no law here. It is Mad Max time. It's my
9 law. It is my street. And I don't care who knows about
10 it. Well, let me tell you one thing, okay? They did that
11 to this man right here. This one right here, we found him
12 hiding up under a truck right after it happened at the
13 scene of the crime. The car chase. You will hear all of
14 that. This one right here, several weeks later, okay?
15 Have to set the dogs loose in the woods, he was running.
16 You are going to hear all about that. All about it. All
17 the officers involved in what happened. Now it is going
18 to be a little complicated. Maybe some confusion
19 originally of which jurisdiction had. I don't know why
20 that is important to the police. If something happens in
21 Hartsville, I want to notify Hartsville and deputies.
22 There is something about the radio, one for the city, one
23 for the county, and because of that you are going to hear
24 more people than I normally like to present. But the
25 facts ain't gonna change. Daylight, robbery, and guns.

OPENING STATEMENT BY MR. HOLT

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1 They took his stuff. The only thing they didn't count on
2 is that Mr. Mazyck actually has the guts to come up here
3 and get in front of the twelve of you and talk about it.
4 And I am going to tell you from experience that is a
5 little bit of guts. That's a lot of guts, and a little
6 bit of people happy. Okay?. Throughout the course of this
7 trial, I want you to pay attention to a lot of things.
8 Number one. It is going to be my facts, the truth. I am
9 going to speak to what I say and what has been said from
10 January 13th until today ain't changed. You are going to
11 hear all of it, okay? I want you to pay attention to
12 every other story that you hear, and every person that
13 gets up there, and I want you to think, what does this
14 person have to gain or loose because of their testimony?
15 What does this person say? Does it make sense with what I
16 know from my every day common logic? Because y'all are
17 from the community where these people live. We are all
18 from Darlington County. And what I want you to know is
19 the constitution gives you the right to be here and be the
20 judge, because this is America. It ain't Russia, and it
21 ain't communist China. All right? What happens here is
22 judged by y'all. The constitution says that the State has
23 to have a high burden. You have to prove it beyond a
24 reasonable doubt. It is the highest thing in the world.
25 But, do you know who they give to judge it to? The people

OPENING STATEMENT BY MS. CRAYTON

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1 that live where the crime happened. And that is the
2 check. It is checks and balances in this government.
3 Okay? You are going to judge the facts such as your
4 community. I don't want anybody to forget that. And I
5 don't want anybody to forget what happened. Broad
6 daylight with a gun, without a mask on. And I want you to
7 think about what they were telling him when they did it.
8 I want you to please pay attention to anything that Ms.
9 Crayton or Mr. Grove might have to say. And I will start
10 my trial very shortly.

11 Thank you very much.

12 **THE COURT:** Ms. Crayton, does the Defendant Addison
13 care to make an opening statement?

14 **MS. CRAYTON:** Yes, Your Honor. Thank you.

15 **THE COURT:** You may.

OPENING STATEMENT BY MS. CRAYTON

16
17 **MS. CRAYTON:** Good morning. My name is Emily
18 Crayton, and I work for The Fourth Circuit Public
19 Defender's Office. I work mostly here in Darlington, but
20 we represent people in Darlington, Dillon, Marlboro and
21 Chesterfield.

22 I am here today because I represent Mr. Addison.
23 Mardrall, stand up. This is Mr. Addison. I represent
24 him, and that is why I am here today. Thank you,
25 Mardrall, you may sit down.

OPENING STATEMENT BY MS. CRAYTON

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1 First, I would like to thank y'all, because we know
2 that this is incontinent for y'all to be here. And we do
3 appreciate you being here. And Mr. Holt is right. This
4 process could not be done without y'all. This is a very
5 important --- it is a very important for Mr. Mazyck. It
6 is a very important to Mr. Addison. It is a very trial.

7 We are here today as the Judge and Mr. Holt said,
8 because the State has charged Mr. Addison along with Mr.
9 Craig with crimes. With armed robbery. With failure to
10 stop for a blue light. For possession of a weapon during
11 a violent crime. With pointing and presenting a firearm.
12 And I don't disagree with several things that Mr. Holt has
13 said. He is right. Mr. Mazyck was at the East Park
14 Apartments on January 13th. Mr. Addison was there as well.
15 They were there. And Mr. Addison approached Mr. Mazyck,
16 and he asked him if he could get him a pair a shoes. A
17 specific request. He wanted a pair of Nike white Air
18 Force shoes. I don't know much about shoes. But he was
19 very specific that he wanted that pair of shoes. He asked
20 Mr. Mazyck if he could get them, and Mr. Mazyck said,
21 yeah, I'll get them for you later. Because Mr. Mazyck
22 sold shoes. That is what he does. That is Mardrall's
23 involvement. He walked up to Mr. Mazyck and asked him for
24 a pair of shoes. He did not have a gun. He did not have
25 a mask. It was broad daylight. All he wanted was a pair

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1 of shoes. And now he is here today, charged with armed
2 robbery. He didn't get the pair of shoes that day. I
3 believe Mr. Mazyck is going to testify that he was going
4 to get them for him later.

5 I want to talk to you a little bit about some
6 principles that the Judge is going to explain to you
7 later. First, anyone in this state charged with a crime
8 is presumed innocent. Right now those boys are presumed
9 innocent, until the State proves them guilty beyond a
10 reasonable doubt. Now what the presumption of innocence
11 means is, that Mardrall Addison does not have to prove
12 himself not guilty. He does not have to testify. He
13 doesn't have to prove to y'all anything. That is the
14 State's burden to prove to you that they are guilty beyond
15 a reasonable doubt. That Mr. Addison is guilty of this
16 armed robbery.

17 The judge is going to talk to you later about what
18 beyond a reasonable doubt means, and what that standard
19 requires. But I will just talk to you just briefly about
20 it. I won't talk very long. But, I would like to say
21 that beyond a reasonable doubt is the kind of doubt that
22 after you consider all of the evidence, everything that is
23 presented to you, that you are simply not sure. The
24 State's obligation, as I said before, it firmly convinces
25 you that Mardrall Addison is guilty of this crime.

OPENING STATEMENT BY MR. GROVE

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1 I want you to think about the evidence, the evidence
2 that is presented, and the evidence that is not presented.
3 What is missing in this case? That is what I want you to
4 think about. I want you to use your common sense. I
5 agree with Mr. Holt, you do need to use your common sense.

6 I believe that once you review all of the evidence,
7 and what is missing, you will realize that Mardrall
8 Addison was there to buy shoes. Nothing more, and nothing
9 less. He didn't get his shoes, but he is here today. And
10 he is not guilty of this armed robbery. Thank you.

11 THE COURT: Mr. Grove, do you care to make an
12 opening statement on behalf of the Defendant Mr. Craig?

13 MR. GROVE: Yes, Your Honor. Thank you.

14 THE COURT: All right. Yes, sir.

OPENING STATEMENT BY MR. GROVE

15
16 MR. GROVE: Mr. Holt. Good morning, ladies and
17 gentlemen. Thank you for being patient with us. As you
18 can see, I represent Mr. Emilio Craig, the gentleman right
19 here. He along with Mardrall Addison are here in relation
20 to the case that you have already heard a fair amount
21 about. I apologize, because some of what you are going to
22 hear is going to be repetitive. We have a lot of lawyers
23 in the room. Everybody knows that lawyers like to talk.
24 And I don't want to leave anything out, and I apologize if
25 you hear what sounds like duplicative or repetitive, or

OPENING STATEMENT BY MR. GROVE

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1 over and over, the same sort of thing. Ms. Crayton and
2 Mr. Holt have both touched on the law. The Judge has
3 touched on it too. I am going to kind of gloss over that
4 part. You guys are relatively familiar with reasonable
5 doubt, presumption of innocence, burden on the State. The
6 highest burden that we've got. Y'all all know that. What
7 I want to talk to you about is what actually happened that
8 day. Mr. Holt would have you believe that Mr. Mazyck was
9 there that day. A couple of people run up on him, pull a
10 gun on him, and say, give me all of your money or
11 whatever. Kind of a robbery. Robberies are relatively
12 generic in that sense. Give me your money, whatever
13 you've got, blah, blah, and let me get out of here. And
14 he is going to talk a lot about evidence that was
15 presented. The county is going to be involved. The city
16 is going to be involved. There was some kind of a car
17 chase afterwards. You know, there is going to be eye
18 witness testimony. There is going to be this, that, and
19 the other. They are not going to talk about what is not
20 going to be presented. That is one thing that you cannot
21 overlook, ladies and gentlemen. Don't think about just
22 the evidence that is presented. Think about the evidence
23 that isn't presented. Think about the evidence that
24 doesn't come in. Think about how there is no 911 call.
25 We don't know who told the police that this happened. How

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1 easy is that? You can't even tell me who called the cops?
2 What about the money that was taken? How about the cell
3 phone that was taken? What about this gun that was
4 supposed to have been used? Where is all of this stuff?
5 The arrest happened on my client shortly after Mr. Mazyck
6 said this incident took place. If that is the case, where
7 is all the stuff? You know they just kind of wrapped it
8 all together. We've got our guy. Let's lock him up and
9 let's go. Ladies and gentlemen, you have got to think
10 about the things that aren't presented as well as the
11 things that are. And Mr. Holt is absolutely right, you
12 have got to look at the bias that might be involved. If
13 anybody has an incentive to testify. If anybody is being
14 encouraged in one way or another, however it might be to
15 come up and testify before you to get some sort of a
16 benefit. Officers are going to get up, and they are going
17 to testify about witness information. They are going to
18 testify about things that they saw at the scene. They are
19 going to testify about the things they saw, they heard,
20 they experienced. People that they spoke with.
21 Information that was available to them at the time. You
22 are going to have other people come, lay witnesses that
23 are called. Lay witnesses and expert witnesses. I am not
24 sure that we will have any experts in this case, but if we
25 do. Lay witnesses talk about the facts. They talk about

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1 things like the officers will, I saw, I heard, I
2 experienced for myself. I was there. I know that it
3 happened, because I saw it, I heard it, whatever.

4 They are going to talk about the East Park
5 Apartments. Who all was there. How many people were
6 there? What all did they see? What time of day was it?
7 How long did things occur? What happened afterwards?
8 What happened before, what happened during? All of these
9 are questions that we are going to get to. I know you are
10 curious to find out about the facts of the case. We are
11 going to have a lot of officers testifying. We will have
12 a hand full of law witnesses testify too. There probably
13 won't be a lot of what we call physical evidence, just
14 tangible things that you can look at. It will probably be
15 a lot of testimony, which means we are going to have to
16 rely on you guys to remember, pay attention. People will
17 be sitting up there, you will be standing around here.
18 Remember, pay attention. We might have people come up
19 there that they won't have anything that you can touch,
20 look at, or read, or smell, feel, or anything like that.
21 It might all be words. Well, we all know how easy words
22 are to forget. So, watch what happens. Listen
23 attentively. As you heard everybody say, this is a very
24 important thing for Mr. Mazyck. It is certainly an
25 important day for Mr. Addison. And you can bet yourself

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1 that it is an important day for my client, Mr. Craig.

2 Ladies and gentlemen, that presumption of innocence
3 is going to remain with my client and Mr. Addison
4 throughout the duration of this trial. Reasonable doubt,
5 is the highest burden in the State. And it rests on the
6 State to prove that guilt beyond a reasonable doubt. And
7 that is frankly something that they simply won't be able
8 to do. Thank you.

9 **THE COURT:** All right. Mr. Holt, you may call your
10 first witness.

11 **MR. HOLT:** Thank you, Your Honor. At this time the
12 State would like to call the victim, Mr. Morris Mazyck.

13 **THE COURT:** All right. Mr. Mazyck. Ladies and
14 gentlemen, we are going to have Mr. Mazyck instead of
15 coming up right here, come over to this microphone here.
16 And we will have --- Mr. Holt, I think the better thing
17 for y'all to do is to get over this way so he will be
18 talking toward you.

19 Mr. Mazyck come right here and turn around and face
20 the jury, please. Counsel, if y'all would like to move
21 over there you certainly may.

22 **WHEREUPON, MORRIS MAZYCK**

23 **FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS**

24 **MR. MAZYCK:** Yes, sir.

25 **DIRECT EXAMINATION BY MR. HOLT**

MORRIS MAZYCK - DIRECT EXAMINATION

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1 Q. Mr. Mazyck, I realize that it is difficult for you to
2 speak. If you would just talk as loud as you can.

3 A. Yes, sir.

4 Q. Would you please give you whole name to the jury,
5 please?

6 A. Morris Mazyck.

7 Q. And, where are you from?

8 A. Hartsville, South Carolina.

9 Q. And, where do you live now?

10 A. I live in Hartsville now.

11 Q. And how old are you?

12 A. Thirty-nine.

13 Q. And what kind of accident was it that took away your
14 ability to speak?

15 A. Motorcycle.

16 Q. All right. And have you lived in Hartsville your
17 whole life?

18 A. Just about. I moved back down in here in 1980.

19 Q. Now, Mr. Mazyck, sometimes do you sell stuff?

20 A. Yeah.

21 Q. And what is it you sell?

22 A. All sneakers.

23 Q. Now, all that preliminary stuff out of the way, I
24 want to ask you about January 13, 2011. Do you
25 remember that day?

MORRIS MAZYCK - DIRECT EXAMINATION

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1 A. Yes, sir.

2 Q. Okay. Can you walk me through --- and you know just
3 what I am talking about, the relevant portion of what
4 happened to you on January 13, 2011?

5 A. Yes, sir. I went to do a check on my cousin, to see
6 how she was doing at East Park. I pulled up, and she
7 came and got in the car, and we were sitting there
8 talking. And a guy came up on the right side of my
9 car and was asking me about my White Air Force in an
10 twelve and a half. And he asked me if I could get it
11 for him, and I told him, yeah, I could get it for him
12 later. While I was talking to him another guy came
13 to the driver's side of my car and was asking the
14 person I was talking to --- and I seen somebody
15 coming up on the other side with the hat pulled down.
16 And he opened the door --

17 Q. -- Now, let me interrupt you right there. The hat
18 that was pulled down, was it pulled down to cover up
19 his face, or was it just pulled down to just cover up
20 his ears?

21 A. Yeah, to cover up his ears. He came up to the side
22 door and pulled a gun out, put it to my side, and
23 told me to give him everything I had.

24 Q. What did you get him?

25 A. He got my money, cell phone, and the rest of the

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1 shoes I had for myself out of the back of my car. He
2 told Mardrall to get the shoes. He told him to hurry
3 up and get out.

4 Q. So the one with the gun did the talking?

5 A. Yes, sir.

6 Q. And which one had the gun on him.

7 A. Emilio. They call him P. A.

8 Q. Did you know him before that day?

9 A. No, sir.

10 Q. Did you know Mardrall before that day?

11 A. No, sir.

12 Q. All right. Now, what did the person with the gun,
13 what was he telling you while the robbery was
14 happening.

15 A. He kept saying, give us what you got. We got a gun
16 right here. You better give me everything you got
17 seeing you already messed up and all. Don't make me
18 shoot you.

19 Q. And I think somebody had trouble hearing that. What
20 exactly did he say?

21 A. He told me to give him everything I got. He said you
22 are already messed up, don't make me shoot you.

23 Q. Okay. Let me ask you this, Mr. Mazyck. After that
24 robbery --- First off, about how long did the robbery
25 lasts?

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1 A. Probably about five or ten minutes.

2 Q. After that robbery, what happened next?

3 A. He got out and got the stuff, and took off. I was --
4 - I wasn't able to leave right then because there was
5 kids behind my car. So when I did leave, and I did
6 leave -- I pulled off to the apartments on the other
7 side and waited for those guys to leave.

8 Q. Hold on a second. Did you see them walk into a
9 house?

10 A. Yes, sir.

11 Q. And so you --

12 A. -- They walked into a apartment.

13 Q. Now, and your testimony is that you went around to
14 watch that apartment to know when they were going to
15 leave?

16 A. Yes, sir.

17 Q. Okay. Just keep going from right there.

18 A. I left and went on the other side --- I seen a path
19 by there where there was a Pine Ridge, and I followed
20 them. And I left out of Pine Ridge to go to the
21 Police Department to tell them where they was at.

22 Q. But on the way to the Hartsville Police Department
23 did anything happen?

24 A. Yeah, I slowed down and the police pulled me over,
25 and asked me what happened, and I told him everything

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1 that happened.

2 Q. And what did you and the officer do after that?

3 A. He talked to me and get my name and everything. And
4 he told me to follow him to the police department.
5 And I followed him, and I told him what happened. He
6 got a description --- a paper -- some photos of some
7 guys, and I picked them out of a lineup.

8 Q. How many guys were in that lineup, do you remember?

9 A. It was like --- six or seven papers they showed me. I
10 picked their faces out of the lineup.

11 Q. And when you picked those faces out of a lineup, how
12 certain are you of who you picked out of that lineup?

13 A. A hundred percent.

14 Q. And how long after the robbery till you looked at
15 that lineup? Like about how long from the time they
16 put the gun on you until the time you looked at those
17 papers? And you can estimate. Nobody is going to
18 know exactly how many minutes something happened in
19 January.

20 A. About --- Once I got to the Police Department,
21 probably about --- they brought me the papers. They
22 brought me the papers and told me to --

23 Q. Are the people that robbed you in the courtroom
24 today?

25 A. Yes, sir.

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1 Q. All right. And did you know them before the photo
2 lineup?

3 A. No, sir. I never seen them.

4 Q. Did anybody tell you who to pick out of that lineup?

5 A. No, sir.

6 Q. So it was just you and what you remembered?

7 A. Yes, sir.

8 Q. Do you think you will ever forget what those two
9 people look like?

10 A. No, sir.

11 Q. Did you look at a second lineup that day?

12 A. They showed me those pictures, you know, and told me
13 to pick out you know what I seen.

14 Q. But what I want to know, did they show you a pile of
15 pictures and then say pick out two people, or did
16 they show you some pictures and say pick out one, and
17 then another time they came back and showed you some
18 pictures and said pick out the other guy from these
19 pictures? Like did they show you one or two lineups
20 that day?

21 A. It was two.

22 Q. Mr. Mazyck, I am going to have you to turn around
23 real quick, okay. And when I do I want you to ask
24 you if you recognize the people who robbed you.

25 Okay. And where they are. Do you recognize the two

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1 people that robbed you that day? And where are they.

2 And the other one?

3 A. Them.

4 MR. HOLT: Listen, please answer any questions that
5 defense counsel may have. Thank you.

6 THE COURT: Ms. Crayton.

7 MS. CRAYTON: Your Honor, if it is okay with you,
8 Mr. Grove would like to cross examine first.

9 THE COURT: All right. That will be fine. All
10 right. Mr. Grove.

11 MR. GROVE: Thank you, Your Honor.

12 THE COURT: Get closer together. Get a little
13 closer to the microphone. There you go.

14 CROSS EXAMINATION BY MR. GROVE

15 Q. January 13 this year, that is what we are up here
16 talking about today. You said that you were there to
17 visit your cousin and her daughter? Who are they?

18 A. Sentoya.

19 Q. Sentoya?

20 A. Yes, sir.

21 Q. Sentoya who?

22 A. She's not my cousin, she's got a baby by --- I went
23 to see her and she how they were doing.

24 Q. But you don't know her last name?

25 A. I think her last name is Patterson too.

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1 Q. What about her daughter?

2 A. She's got --- her name is Frazier.

3 Q. What is her first name?

4 A. Erica Frazier (phonetic.)

5 Q. You said that one of them got in the car with you?

6 A. One of them?

7 Q. Sentoya, or I believe you said Erica?

8 A. Sentoya was sitting in the car with me.

9 Q. Was she in the car with you the whole time?

10 A. She was on the way -- getting out of the car, because
11 I was talking to Mardrall.

12 Q. Okay. You also said that at one point another man
13 came up on the right side of the car. No, I think
14 you said that a man came up on the driver's side of
15 the car and spoke with you?

16 A. That's right.

17 Q. But you weren't talking about my client nor Ms.
18 Crayton's client? Who was that?

19 A. You want to know who I was talking to?

20 Q. Yes.

21 A. A guy named --

22 Q. -- How do yo know him?

23 A. Through the neighborhood.

24 Q. And I apologize. It sounds repetitive. Make sure
25 you speak up so this nice lady can take down

1 everything we say. Okay?

2 A. Okay.

3 Q. You said his name was Dereke Wise? (Phonetic)

4 A. Yes.

5 Q. And tell me again how you know Dereke Wise?

6 A. Through the neighborhood.

7 Q. Does Wise live in East Apartments?

8 A. No, sir.

9 Q. Do you live in East Apartments?

10 A. No, sir.

11 Q. What were you doing there? Just to visit the cousin
12 and the daughter?

13 A. Yes, sir.

14 Q. You said that Mr. Addison and Mr. Craig were both in
15 the vicinity of the backseat of your car.

16 A. Yes. Yes, sir.

17 Q. Did either of them actually get into the car based on
18 your testimony?

19 A. Emilio did. He is the one that put it to my side.

20 Q. Which side of the car?

21 A. The left-side of the car. My left side.

22 Q. Directly behind you?

23 A. Yeah. He was behind me when he got in, and he came
24 up beside me and pointed a gun --- pointing a gun in
25 the side and was talking. I turned around and I

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1 looked Emilio.

2 Q. Did you get a good look at the gun?

3 A. Yes, sir.

4 Q. What did it look like?

5 A. It look like a stainless steel --- it looked like a
6 gray gun. It looked like a forty caliber handgun.

7 Q. You said at one point --- you said this robbery took
8 place, and then you said it was over, and they left,
9 and walked into somebody's apartment. Then you said
10 that you couldn't leave right away because there were
11 kids behind your car.

12 A. Yes, sir.

13 Q. Were there a lot of people outside that day?

14 A. There was some people --- there were some kids and
15 some grownups, and a van beside me.

16 Q. And you said that money and a phone were taken?

17 A. Yeah. And some shoes that was in the backseat of the
18 car.

19 Q. What size shoes?

20 A. I wear a size twelve or thirteen. I wear either a
21 twelve or thirteen.

22 Q. Just the one pair of shoes?

23 A. Two. There were two that I had in there.

24 Q. You just carry those with you wherever you go?

25 A. No, I don't carry --- I had just got the shoes.

1 Q. How much money was taken?

2 A. Probably about two hundred and fifty dollars at the
3 most.

4 Q. Okay. Anything else?

5 A. My cell phone, but I got my cell phone back.

6 Q. Who called 911?

7 A. I don't know who. Somebody out there that saw what
8 happened. But I didn't ask anyone.

9 Q. You didn't ask anybody to call 911?

10 A. That happened after I left to follow him, to see
11 where they were going.

12 Q. The people you said had a gun, you went and followed
13 them?

14 A. I followed them to the apartments. Both of them to
15 the apartments, I went there to turn around. There
16 was no way out.

17 Q. Except for the kids and the van full of people that
18 were right behind you because you couldn't leave?

19 A. Yes, sir.

20 Q. None of them called 911?

21 A. I don't think so.

22 Q. You didn't think to ask them?

23 A. No.

24 Q. But you left where people were and went to where
25 people weren't before you asked anybody to call 911?

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1 A. I was doing that after I got robbed. I couldn't back
2 up to leave. There were kids behind me. When I did
3 leave I went next door to either the other side of
4 East Apartments.

5 Q. Why in the world wouldn't you turn around and say,
6 hey, call 911. I just robbed?

7 A. I don't know. I mean I was scared.

8 Q. But not so scared that you couldn't follow the people
9 that you say just pulled a gun on you, and said they
10 were going to shoot you?

11 A. I followed them, yes, sir, to the apartments. Yes,
12 sir.

13 Q. How often do you go to East Apartment Complex?

14 A. I just went out there that day to check on them.

15 Q. Ever been there before?

16 A. Yeah.

17 Q. How often?

18 A. About once a week.

19 Q. If you are not going to see your girlfriend, or their
20 child, or whoever it was that you were going to see;
21 why would you go there? Are there people that you
22 know there?

23 A. No.

24 Q. You check on your cousin's girlfriend and her
25 daughter once a week?

1 A. Yes. I ride out there to check on them, otherwise I
2 don't go out there.

3 Q. How long --- you say Emilio Craig. my client got in
4 your car. How long was he in your car?

5 A. Five or ten minutes.

6 Q. And you were shown a photo lineup at one point,
7 correct?

8 A. Yes, sir.

9 Q. And you identified my client Emilio Craig as one of
10 the suspects in the case?

11 A. Yes, sir.

12 Q. Do you remember what it was about my client that you
13 recognized?

14 A. Eyes, face, his facial hair.

15 Q. What color are his eyes?

16 A. Brown.

17 Q. You could tell that from a black and white photo?

18 A. No. I didn't --

19 Q. -- You could tell that his eyes were brown in a black
20 and white photo?

21 A. No, no. I remember them by looking. He got a gun
22 stuck in my side. A gun stuck in my side, and I
23 turned around and looked dead at him. I mean, I
24 never forget his face.

25 Q. You said that they walked into an apartment. Where

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1 was that apartment?

2 A. East Apartments.

3 Q. In relation to where you were parked, where was that
4 apartment?

5 A. Out back to the left. When I backed up and moved, he
6 was going into an apartment. He was running in an
7 apartment. There is apartments on the left side.

8 Q. Was it the closest apartment to you? Was it ten
9 apartments away? Give me a guess. I am not going to
10 hold you to anything.

11 A. It's like --- it wasn't that far from where I was at.

12 Q. How many apartments were between you and the
13 apartment that you said they ran into?

14 A. It was the apartment he went in, is the first
15 apartment on the right.

16 Q. Do you remember giving a description of who you
17 thought the suspects were to the police?

18 A. Yes, sir.

19 Q. Do you remember what that description was?

20 A. They showed me a lineup --

21 Q. -- I'm sorry, I know that was confusing. My question
22 is before you ever saw a lineup, did you make an
23 attempt to identify the people you say robbed you?

24 A. Yes, sir.

25 Q. What did you --

1 A. -- I told them one had on a hat, and the other guy
2 Mardrall -- I told -- I just tried to put his face in
3 my mind. He had brown eyes, probably like basically
4 five nine.

5 Q. You gathered that from him sitting in your car?

6 A. Yeah. He wasn't sitting, he was standing up.

7 Q. What about Emilio. How did you describe him?

8 A. Kind of light skin, he had on a white hat.

9 Q. Could you describe any of the other clothes he had
10 on?

11 A. Um.

12 Q. Can you give me an age?

13 A. Well --

14 Q. Weight?

15 A. Average built.

16 Q. Height?

17 A. I told him he was about six feet.

18 Q. And you got that from him sitting in your car?

19 A. Yes.

20 MR. GROVE: Beg the Court's indulgence.

21 THE COURT: Yes, sir.

22 (PAUSE.)

23 Q. Mr. Mazyck, I am going to come back around in just
24 one second. Okay? You said that you sell shoes from
25 time to time?

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1 A. Yes, sir.

2 Q. Do you have a licence to do that?

3 A. No, sir.

4 Q. Where do you get the shoes?

5 A. From friends that do the same thing.

6 Q. Is that what you were there doing in the East Park
7 Apartments that day?

8 A. No. I was going to see my cousin.

9 Q. But you had just three or four pairs of shoes in the
10 backseat just in case?

11 A. Yes. They were my personal shoes. I sell shoes, but
12 those are my shoes. The guy that came up to the car
13 you know, he saw my shoes and wanted to know if I had
14 Air Force his size, and I told him I'd get them. I
15 asked him --- I didn't know he had a gun and was
16 going to rob me.

17 Q. Did you tell the cops that day you were selling
18 shoes?

19 A. I wasn't selling shoes that day.

20 Q. Did you talk to the cops about shoes at all?

21 A. No.

22 Q. Is that because it is illegal?

23 A. He asked me about the shoes.

24 Q. Do you sell anything else that is illegal?

25 A. No.

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1 Q. Never?

2 A. Never.

3 MR. HOLT: Objection, Your Honor. Mr. Grove has
4 his answer.

5 THE COURT: All right. This is cross examination.
6 He has asked the question, and I believe he has answered
7 the question.

8 MR. GROVE: May we approach, Your Honor, very
9 briefly?

10 THE COURT: Yes, sir.

11 (Whereupon, a bench conference was held in
12 the presence of the jury, but out of their hearing
13 range.)

14 THE COURT: All right. Ladies and gentlemen, we
15 have a legal matter that I now need to take up with the
16 attorneys. If you would go to your jury room for just a
17 minute while I take care of this, and we will send for you
18 in about five minutes. Thank you.

19 (Whereupon, the jury exits the courtroom at
20 11:32 a.m..)

21 THE COURT: All right. Make your proffer, Mr.
22 Grove.

23 MR. GROVE: Thank you, Judge. Beg your indulgence
24 for just one moment.

25 (PAUSE.)

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PROFFER - CROSS EXAMINATION BY MR. GROVE

Q. Mr. Mazyck do you have an arrest for distribution of drugs?

THE COURT: Arrest is not the test.

Q. I apologize. Do you have a conviction for distribution of drugs?

A. A long time ago.

THE COURT: The answer is yes?

A. Yes.

THE COURT: All right.

Q. Distribution of cocaine in 1994?

A. Yes, sir.

Q. Do you have any other convictions on your record?

A. No, sir.

Q. You don't have two convictions for assault?

THE COURT: Ask him specifics, Mr. Grove.

Q. In 1991 conviction for assault and battery. Later on in 1991 another conviction for assault and battery. Then in 1994 a conviction for distribution of cocaine.

A. I never did any jail time for stuff like that.

Q. I understand. But were you convicted of those things?

THE COURT: The question is, do you have a conviction for assault and battery in 1991?

1 A. I don't remember.

2 THE COURT: Do you have more than one conviction
3 for assault and battery in 1991?

4 A. I can't remember.

5 THE COURT: And do you have a conviction for
6 distribution of drugs in 1994?

7 A. I remember that.

8 THE COURT: All right.

9 MR. GROVE: And, Judge I may get off base just a
10 little bit here in talking about more recent things as
11 they go to bias, which I am assuming Mr. Holt will also
12 object to. While the jury is out, I would like to cover
13 that also.

14 THE COURT: Well, no let's talk about this first of
15 all. These are the evidence of impeachment of convictions
16 of crimes.

17 What is your position, Mr. Holt?

18 MR. HOLT: They definitely do not come in, Judge.
19 They fall well outside the ten-year time frame. They
20 don't have anything to do with truth or voracity. I
21 think, you know, Mr. Grove basically just asked a bunch of
22 leading questions that were very confusing right up until,
23 did you sell anything? Shoes. Do you sell anything else.
24 And he has tried to trap him in a lie.

25 THE COURT: Well, that wasn't the proper way to do

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1 it, and that is why I stopped it. The right way to
2 impeach somebody for evidence of conviction of a crime is
3 under 609, and he has asked him now if he has a conviction
4 for distribution of cocaine. Let's take that one first,
5 in 1994. And your position is that is not admissible for
6 what reason?

7 MR. HOLT: Because it doesn't go to truth or
8 voracity, judge.

9 THE COURT: Well, is that required?

10 MR. HOLT: Because it falls outside of the ten-year
11 time frame. You can't --- I think the rules are enacted
12 that they can't drudge up things from a long time ago when
13 you were a different person. There is a ten-year time
14 frame on things for a reason. There is truth and voracity
15 for a reason.

16 THE COURT: The rule doesn't have anything to do
17 with truth and voracity. It doesn't say anything about
18 truth and voracity. What the rule says is, evidence a
19 witness other than an accused has been convicted of a
20 crime, shall be admitted subject to Rule 403, if the crime
21 is punishable by death or impressment in excess of more
22 than one year, and evidence that the accused has been
23 convicted of such a crime shall be admitted, if the Court
24 determines that the probative value of admitting this
25 evidence outweighs the prejudicial effect on the accused.

1 That is when you have the accused. But, the witness ---
2 the test is --- and then we get into the time limits. The
3 evidence or a conviction under this rule is not admissible
4 if a period of more than ten years has elapsed since the
5 date of the conviction, or the release of the witness from
6 the confinement imposed for that conviction, whichever is
7 later. Unless the Court determines in the interest of
8 justice that the probative value of the conviction
9 supported by specific facts and circumstances
10 substantially outweighs the prejudicial effect. However,
11 evidence of a conviction of more than ten years old is
12 calculated, and is not admissible unless the proponent
13 gives to the adverse party sufficient advanced written
14 notice of intent to use the evidence to provide the
15 adverse party with a fair opportunity to contest the use
16 of the evidence. So, your position is that it is a
17 conviction that is more than ten years since the
18 punishment would have expired, whatever that may be. It
19 hasn't been introduced yet, but I am assuming that
20 distribution would have carried enough to get him into the
21 ten-year period. What was the punishment for, Mr. Grove?

22 MR. GROVE: Your Honor, it was in July 25, 1994,
23 three years suspended to eighteen months probation and
24 forty-five days of public service.

25 THE COURT: All right. Three years would run it to

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1 1997. So, would it not still be outside the ten-year
2 limit?

3 MR. GROVE: It would, Judge.

4 THE COURT: All right. Then why is it admissible?

5 MR. GROVE: My position is that it goes to the
6 impeachment of the witness based on his voracity. I
7 certainly think he can be impeached. He has admitted to
8 selling illegal shoes.

9 THE COURT: What is illegal about selling shoes? I
10 don't understand that at all.

11 MR. HOLT: There hasn't been anything brought up
12 that says it is illegal, Judge.

13 THE COURT: Yeah. I don't --- you have insinuated
14 that, but where is anything illegal about selling shoes?
15 Mr. Grove?

16 MR. GROVE: Your Honor, and my co-counsel may be
17 able to help me here. I believe he was charged with that.
18 I believe that he was actually arrested and charged with
19 selling counterfeit goods.

20 MS. CRAYTON: Your Honor, I can explain.

21 MR. HOLT: What does that have to do -- I don't
22 understand.

23 THE COURT: Stop, counsel. We are getting way
24 afield here now. There is no evidence in the record about
25 that whatsoever, none. There is no evidence in the record

1 about anything about selling shoes being illegal. Is
2 there?

3 MR. GROVE: Not yet, Your Honor.

4 THE COURT: All right.

5 MR. HOLT: Your Honor, if I may speak. And I
6 apologize. But there are several other facets to my
7 argument, if I can have a say.

8 THE COURT: Well, no. I want to keep this thing
9 focused to where we are now. We are talking about the
10 admission of a crime of distribution of cocaine in 1994,
11 and whether that is admissible under 609. And I will hear
12 from you, Mr. Grove. You give me your exact reasons
13 specific, and Mr. Holt you give me reasons why you think
14 it is not. That is the sole issue here.

15 MR. GROVE: Beg the Court's indulgence, Judge.

16 (PAUSE.)

17 MR. GROVE: Judge, I will sum it up as quickly as I
18 can. One thing is that it is a factor in our defense to
19 assert that Mr. Mazyck was participating in illegal
20 activity himself. And certainly for those reasons he
21 would loose credibility. And furthermore --

22 THE COURT: What is the illegal activity that he
23 was participating in?

24 THE COURT: Judge, we intend to introduce evidence
25 leading up to this point about counterfeit shoes. There

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1 also may be evidence introduced about drugs as well. That
2 is a part of our defense, that we hope to be able to
3 present.

4 THE COURT: Well, you may get your chance to do
5 that, but there is no evidence in the record at this
6 point. And you know you can call Mr. Mazyck back and
7 impeach him if that evidence is ever admitted into
8 evidence. But right at this point there is nothing in the
9 record about that.

10 MR. GROVE: Yes, Judge. And that being said --

11 THE COURT: But that is still not --- that doesn't
12 have anything to do with the issue before the Court at
13 this time. And that is, your question is, whether or not
14 the conviction for distribution of cocaine in 1994 is
15 admissible under 609.

16 MR. GROVE: Yes, Judge. And our position would be
17 that because it is more probative than prejudicial.

18 THE COURT: What is it probative of?

19 MR. GROVE: It is probative of the lifestyle, and
20 the criminal activity that the defendant himself was
21 involved --- or that the prosecuting witness was involved
22 in.

23 THE COURT: But that doesn't make it probative of
24 whether or not he was robbed or not.

25 MR. GROVE: I understand, Judge.

1 THE COURT: All right. At least based on the
2 record that is before the Court at this time, Rule 609
3 provides that evidence of a witness other than accused has
4 been convicted of a crime shall be admitted subject to
5 Rule 404. If the crime is punishable by death or
6 imprisonment for more than one year. The first part of
7 that is met. The conviction for distribution of cocaine
8 does carry more than one year, and would fall within Rule
9 609(a)(1). However, under 609(b) evidence of a conviction
10 under this rule is not admissible if a period of more than
11 ten years has elapsed since the date of the conviction, or
12 the release of the witness from the combined. So, the
13 latest possible date would be 1997, so it would fall
14 outside of the ten-year period. In addition to that then
15 the Court needs to make a 403 analysis to determine
16 whether or not, even if relevant, the evidence may be
17 excluded if the probative value is substantially
18 outweighed by the danger of unfair prejudice, confusion of
19 the issues, or the misleading of jury, or the considering
20 of undue delay, waste of time, or needless presentation of
21 cumulative evidence.

22 I find that the evidence of the distribution of
23 cocaine in 1994 is not admissible under Rule 609, because
24 it falls outside of the ten-year period of time. And
25 further that the probative value is negligible if there is

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1 any probative value of the crime that is in question here.
2 But in any event, it is substantially outweighed by the
3 danger of unfair prejudice. And I would rule that the
4 evidence regarding the conviction of the distribution of
5 cocaine is not admissible.

6 With regard to the two assault and batteries, there
7 is no evidence in the record that the two assault and
8 batteries that have been eluded to carry more than one
9 year. So the evidence regarding those is inadmissible as
10 well. It does not qualify under Rule 609.

11 MR. GROVE: Thank you, Judge. Before we bring the
12 jury back in, I did mention that I might have another
13 issue about the dismissal of charges, and that being a
14 bias. Would you like for me to argue that now?

15 THE COURT: Yes, sir. Let me hear from you.

16 MR. GROVE: Okay, Judge. As I told you, we
17 received an up to date rap sheet yesterday afternoon for
18 Mr. Mazyck with the correct spelling of his name. That
19 rap sheet --- shows in November of 2009. Mr. Mazyck was
20 arrested for grand larceny, kidnaping, armed robbery while
21 armed with a deadly weapon, and trademark and counterfeit,
22 between ten thousand and fifty thousand dollars. I looked
23 on line on the record search, Darlington County shows,
24 that those charges were dismissed August 2nd of this year.

25 THE COURT: Why would that be probative of anything

1 to do with these charges two years later?

2 MR. GROVE: Your Honor, I don't think that it is
3 probative in relation to these charges. But I do think it
4 goes to the bias of the prosecuting witness. As an
5 incentive to testify he just had an --

6 THE COURT: -- What was the incentive?

7 MR. GROVE: He had charges dismissed, Your Honor.

8 THE COURT: But they were dismissed two years
9 before these charges were brought.

10 MR. GROVE: No, I apologize, if I, mis-spoke, Your
11 Honor. Earlier this month. They arose from two years.
12 They were dismissed less than four weeks ago.

13 THE COURT: All right. Then I understand it then.
14 I understood that the charges were made and dismissed over
15 two years ago.

16 MR. GROVE: And I apologize if I was confusing on
17 that.

18 THE COURT: All right. Mr. Holt, let me hear from
19 you about that. If the State dismissed charges against
20 him, while these charges against these defendants were
21 pending, we have a different kettle of fish.

22 MR. HOLT: I've got two words. Pat Lee. For two
23 years that file sat in our office, and never received a
24 case file. I think that the sheriff or somebody from
25 their office can gladly say not turning in a case is a

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1 reason we dismiss, Judge.

2 THE COURT: No.

3 MR. HOLT: There was never any deal. Two years ago
4 he was charged with a crime. Number one, it is not a
5 conviction.

6 THE COURT: Well, you have a right to explain that
7 by testimony if you want to. But doesn't he have the
8 right to ask the question: Weren't charges --- Didn't
9 you have charges pending against you, and weren't those
10 charges dismissed in the last month by the Solicitor's
11 Office?

12 MR. HOLT: Definitely, not.

13 THE COURT: Why not?

14 MR. HOLT: Because number one they are not
15 convictions.

16 THE COURT: It doesn't matter. That is not what he
17 is trying to show. He is not trying to show convictions.
18 He is trying to show that the charges were dismissed by
19 the Solicitor's Office, while you knew, and he was your
20 witness in this case, and he is trying to show to
21 insinuate to the jury, which I think he has the right to
22 do, that the dismissal causes this witness, or was part of
23 the reason this witness would be bias or prejudice. He
24 has the right to ask him if it was dismissed. And the
25 answer is yes or no. And then if you want to explain why

1 they were dismissed, then you have the right to introduce
2 the evidence to that effect.

3 MR. HOLT: Then 403 is all I can say, Judge. He
4 has made --- He has already by just brining this up and us
5 being out here and talking about this, and the jury being
6 in there, made my client look like a bad person. They
7 can't take that back. If they had wrote me notice on that
8 other stuff, we could have had this earlier, and it
9 wouldn't be a problem.

10 THE COURT: Wait a minute. What does 403 have to
11 do with this? Are you talking about relevance?

12 MR. HOLT: Yes, sir. And I'm saying if you are
13 saying that because of bias his charges could come in,
14 then I will say --

15 THE COURT: No, what I'm saying is, and I am not
16 even going to let it get into what the charges were. But
17 they can ask him. Didn't you have at the time that this
18 case arose, didn't you have pending charges against you?
19 Yes or no? That is a simple question. And he did.

20 MR. HOLT: That's true. I am not arguing that.

21 THE COURT: Okay. And secondly, weren't those
22 charges dismissed within the last month? Yes or no?

23 MR. HOLT: Then I feel like he should explain
24 himself. Because I told him why those charges were
25 dismissed.

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1 THE COURT: Well.

2 MR. HOLT: He should be able to say, yeah that's
3 because they never turned in a case file because they were
4 frivolous. And that is why the case file never got out of
5 there.

6 THE COURT: Well, you can present testimony to that
7 effect, or you can rehabilitate him if you want to. But
8 he has the right to ask him: Did you have charges
9 pending against you, yes or no? And, were those charges
10 dismissed by the Solicitor's Office, yes or no? And then
11 if you want to rehabilitate him, you can rehabilitate him.
12 That is up to you.

13 Any problem with that, Mr. Grove? I think you can
14 ask him that. You can ask him if he had charges pending
15 against him at the time he made these charges? And were
16 those charges subsequently dismissed, or dismissed within
17 the last thirty days. And doesn't that give you the
18 answers that you need?

19 MR. GROVE: Yes, Judge. I would be interested to
20 know as to whether or not a discussion on what the charges
21 were are admissible?

22 THE COURT: Why?

23 MR. GROVE: I think they are substantially similar
24 to the case that we have in front of us now.

25 THE COURT: Armed robbery?

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1 MR. GROVE: Yes, Judge. Armed robbery,
2 counterfeiting.

3 THE COURT: We are not before the Court now on
4 counterfeiting.

5 MR. GROVE: Judge, that was one of the charges that
6 he faced, and that again plays into at least a portion of
7 our defense.

8 THE COURT: Well, we will see about that. I don't
9 know what your defense is.

10 The ruling of the Court is that you can ask him if he
11 had charges --- General Session Court charges pending
12 against him at the time he made these --- that this
13 robbery took place, or this robbery that he claims took
14 place. And, his answer of course is going to have to be
15 yes. And, were those charges subsequently dismissed by
16 the Solicitor's Office's? I don't see where going into
17 the nature of the charges has anything to do with the
18 facts of this case. What you are doing is attacking his
19 credibility on the basis of bias. And the showing of bias
20 is based upon the fact that the charges were dismissed by
21 the Solicitor's Office, and thus his incentive to testify.

22 MR. GROVE: Thank you, Judge.

23 MS. CRAYTON: Your Honor, may I be heard just
24 briefly?

25 THE COURT: Yes.

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1 **MS. CRAYTON:** Your Honor, if I could just explain
2 briefly the similarities between the armed robbery that
3 Mr. Mazyck is charged with and the armed robbery we have
4 here. It is an armed robbery involving a car.

5 **THE COURT:** I didn't understand that he was charged
6 with armed robbery.

7 **MS. CRAYTON:** He was charged with an armed robbery
8 in 2009, Your Honor. It was involving people walking up
9 to a car, and he --- shoes were taken during the robbery.
10 Counterfeit shoes, as they were here, were taken during
11 the robbery. It is a very similar set of circumstances,
12 which is why I believe that Mr. Grove wanted to explain
13 that.

14 **THE COURT:** Well, what is the purpose of the ---
15 whether it is counterfeit shoes or whatever was stolen,
16 what does that have to do with anything?

17 **MS. CRAYTON:** Your Honor, it only has to do --- I
18 mean, it reaffirms our defense, Your Honor, that he was
19 there to buy counterfeit shoes. That my client was there
20 --

21 **THE COURT:** Why do we have to get into whether the
22 shoes are legal or illegal. He was there to buy shoes.
23 Whether they are legal or illegal, what difference does it
24 make if it is a knock-off Izod, or whether it is a knock-off
25 Reeboks, or whatever it is, it is just shoes.

1 MS. CRAYTON: Your Honor, and it doesn't in my
2 opinion. That wouldn't be part of the questioning during
3 the --- about his 2009 armed robbery. But, it is a very
4 similar set of facts.

5 THE COURT: Well, the similarity is that it is
6 armed robbery, which I did not realize.

7 MS. CRAYTON: Armed robbery.

8 THE COURT: I do agree with that.

9 MS. CRAYTON: Yes, Your Honor.

10 THE COURT: And I do agree with that. Then I think
11 you have a right Mr. Grove to ask him, if he had charges
12 against him --- wait a minute now, I don't understand it.
13 Charges against him for the armed robbery?

14 MS. CRAYTON: He had charges that resulted from a
15 2009 incident of an armed robbery. He was charged in an
16 armed robbery case that was very similar. It was a car.
17 Shoes were taken. It was a very similar case to the one
18 we have in front of us.

19 THE COURT: All right. We are not going to get
20 into whether the goods are counterfeit or not counterfeit.

21 MS. CRAYTON: Yes, Your Honor.

22 THE COURT: You may ask him if he had pending
23 charges, Mr. Grove. If he had pending charges of armed
24 robbery against him at the time this was brought. And did
25 that charge of armed robbery involve the theft of shoes?

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1 And were those charges dismissed?

2 MR. GROVE: Thank you, Judge.

3 MR. HOLT: Your Honor.

4 THE COURT: Yes, sir.

5 MR. HOLT: Judge, I think first off we are
6 confusing these charges. I think they come from two
7 separate incidents. It is something that happened in
8 2009. I think that now I am going to object to that under
9 403. And I am going to ask the Court is --- What they are
10 going to do is confuse the issue that it is going to be so
11 prejudicial that it is not going to have any probative
12 effect. They are not going for bias.

13 THE COURT: Yes, they are.

14 MR. HOLT: That's their facade. What they are
15 really going for is to discredit him, and make him look
16 like he is as bad as the rest of them for the armed
17 robberies and the other stuff. If those cases were worth
18 anything, we would have prosecuted them.

19 THE COURT: You have the right to explain that.
20 But they certainly have the right to ask him whether or
21 not he had charges against him that were dismissed. And I
22 think that it does the --- it gives him the incentive for
23 showing --- for being untruthful. And whether that is the
24 case or not, they have the right as a matter of cross
25 examination to go into that. But, to that limited effect

1 they have the right to ask him if he had charges against
2 him for armed robbery? And were those charges dismissed?
3 And, were they dismissed within the last month. And I
4 think that that does --- they have the right to impeach
5 the witness to that extent.

6 MR. HOLT: Yes, sir. And I understand what you are
7 saying. All I want to know is, now we are going to get
8 into members of the Solicitor Office testifying.

9 THE COURT: Well, that is your problem. You know,
10 if they do or they don't. But the ruling of the Court has
11 been made. That is what will be allowed. And how you
12 rehabilitate him, or whatever it is, the fact of the
13 matter is that charges --- he did have charges against
14 him. The charges were dismissed by the Solicitor's
15 Office. Those charges were dismissed when these charges
16 were pending, and he was a prosecuting witness. And the
17 jury has a right to know that.

18 MR. GROVE: Thank you, Judge.

19 MS. CRAYTON: Thank you, Your Honor.

20 THE COURT: All right. Okay. Let's take five
21 minutes, counsel.

22 (Whereupon, a recess was taken from 11:58
23 a.m. until 12:10 p.m..)

24 THE COURT: All right. We are back on the record
25 with regard to the matter of the State versus Craig and

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1 Addison.

2 Counsel, I want to be very clear on what my ruling
3 is.

4 The defense can ask this witness whether he was
5 himself accused in 2009 --- I think it was September, I am
6 not sure of the date.

7 MR. GROVE: November, Judge.

8 THE COURT: November of 2009, if he himself was
9 accused of armed robbery. And that those charges were
10 recently dismissed by the Solicitor's Office. I don't
11 want any mention of any counterfeit goods. You can say in
12 connection with the sale of shoes, that is fine. But, I
13 don't think counterfeit goods has any probative value
14 whatsoever. Because the whole purpose of introducing this
15 testimony is not whether he did or did not do these
16 things, but whether his testimony is credible, or
17 believable, or bias, or prejudice, because of the
18 dismissal of the charges. That is what the issue is here.
19 So, that is what he will be allowed --- that is what you
20 will be allowed to ask him, Mr. Grove.

21 MR. GROVE: Thank you, Judge.

22 THE COURT: Thank you, Your Honor.

23 THE COURT: All right. Bring the jury in.

24 BAILIFF: All right, sir.

25 THE COURT: Incidentally, after the testimony, I am

1 going to give the jury, a little instruction to that
2 effect too.

3 (Whereupon, the jury enters the courtroom
4 at 12:12 p.m..)

5 THE COURT: All right. Mr. Grove, you may resume
6 your cross examination.

7 MR. GROVE: Thank you.

8 THE COURT: Thank you, ladies and gentlemen. I
9 appreciate your patience. I apologize for keeping you
10 waiting a few minutes. But, we did have to address this
11 legal issue.

12 MR. GROVE: Thank you, Your Honor.

13 CROSS EXAMINATION CONTINUED BY MR. GROVE

14 Q. Mr. Mazyck.

15 A. Yes, sir.

16 Q. Were you charged with an armed robbery involving the
17 sell of shoes in 2009?

18 A. Yes, sir.

19 Q. Were those charges subsequently dismissed?

20 A. Yes, sir.

21 Q. Were they dismissed this month?

22 A. I don't know how long ago they were dismissed.

23 Q. But they are no longer pending; is that correct?

24 A. Yes, sir.

25 MR. GROVE: Thank you.

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1 Q. I am going to back track just a little bit. We
2 talked about --

3 THE COURT: Before you go into that Mr. Grove, and
4 I will allow you to. Let me tell the ladies and gentlemen
5 of the jury, a little bit about this testimony.

6 The defendants have offered testimony in this case
7 that the witness himself was accused of an armed robbery,
8 arising out of an incident in November of 2009. And that
9 these charges were recently dismissed by the Solicitor's
10 Office. This evidence is admitted by the Court not to
11 show that the defendant committed these acts, or to show
12 that he is a bad person, or that these were prior bad acts
13 against him. The only reason for this evidence being
14 presented to you is for the purposes of determining the
15 witness' credibility or believability, or whether this
16 testimony, or whether his testimony is biased or
17 prejudiced because of the dismissal of the charges. So,
18 that is the sole purpose of this evidence being admitted.

19 All right. You may proceed.

20 MR. GROVE: Thank you, Judge.

21 Q. Going back you said earlier that during this incident
22 that you say took place some money was taken. And I
23 think you said it was about two hundred and fifty
24 dollars. Do you remember what kind of denominations
25 we are talking about?

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1 A. No, sir.

2 Q. Was it all the money that you had on you?

3 A. Yes, sir.

4 Q. And the cell phone was taken as well?

5 A. Yes, sir.

6 Q. And a couple of pairs of personal shoes?

7 A. Yes, sir.

8 Q. Was it two pairs of shoes?

9 A. About two or three pairs.

10 Q. Okay. But you don't remember exactly?

11 A. No, sir.

12 Q. Okay.

13 MR. GROVE: Beg the Court's indulgence.

14 (PAUSE.)

15 MR. GROVE: Mr. Mazyck, I don't have any further
16 questions at this time. Please answer any questions Ms.
17 Crayton may have.

18 THE COURT: Cross examination, Ms. Crayton?

19 MS. CRAYTON: Thank you, Your Honor.

20 CROSS EXAMINATION BY MS. CRAYTON

21 Q. Mr. Mazyck, I think you told Solicitor Holt that you
22 had never seen either one of the defendants prior to
23 that day; is that correct?

24 A. Yes, ma'am.

25 Q. What about on Christmas Day? Did you sell a pair of

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1 white Air Forces on Christmas Day?

2 A. To who?

3 Q. To Mr. Addison?

4 A. No, ma'am.

5 Q. You don't remember selling a pair of white Air
6 Forces, the ones you said he asked you about later,
7 you don't remember selling him another pair earlier
8 in the year?

9 A. No, I don't.

10 Q. How did he know that you sold shoes?

11 A. I don't know.

12 Q. I mean, do some of the people know in the
13 neighborhood?

14 A. I guess.

15 Q. So, I gather from your testimony, that you did
16 receive a benefit for testifying here today; correct?

17 A. I don't ---

18 Q. -- The charges being dismissed, was that not a
19 benefit to you?

20 A. I didn't know about no charges. I been robbed.

21 Q. You didn't know that the Solicitor's Office had
22 dropped the charges?

23 A. No, ma'am.

24 Q. Have you come to court recently on those charges?

25 A. No, ma'am.

1 Q. And nobody from the Solicitor's Office called you and
2 told you those charges were being dismissed?

3 A. No, ma'am.

4 Q. Mr. Holt did not explain to you why those charges
5 were being dismissed?

6 A. No, ma'am.

7 Q. Besides selling shoes, do you do anything else for a
8 living, but does that kind make up your income?

9 A. I don't do it all the time, just every now and then I
10 sell the shoes.

11 Q. And where do you get these shoes?

12 A. From one of my home boys. He's got some, and every
13 now and then I get a pair of shoes.

14 Q. Do you ever have large quantities of shoes?

15 A. No, ma'am.

16 Q. You never have large quantities of shoes?

17 A. I have never had large quantities of shoes, and I was
18 holding some shoes for a friend one time.

19 Q. How many shoes were you holding for a friend one
20 time?

21 A. I don't know, probably nine or ten.

22 MS. CRAYTON: Your Honor, can we approach for a
23 minute?

24 THE COURT: Yes.

25 (Whereupon, a bench conference was held in

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1 the presence of the jury, but out of their hearing range.)

2 Q. Mr. Mazyck, so it is my understanding that your
3 testimony is that you don't have large quantities of
4 shoes on your normally, but you do sell shoes every
5 now and then; is that correct?

6 A. Yes, ma'am.

7 Q. Wasn't there an incident where the police served a
8 search warrant on your property, your house, and
9 found two hundred and fifty, three hundred pairs of
10 shoes in your house?

11 A. Yeah, but it wasn't my shoes. It was some shoes from
12 a guy that I knew that I was holding the shoes for
13 him.

14 Q. So you were holding two hundred and fifty to three
15 hundred pairs of shoes in your house?

16 A. I don't know how many there was.

17 Q. Okay. So, you were holding them for a friend?

18 A. Yes, ma'am.

19 Q. You weren't selling them?

20 A. Not them, no, ma'am.

21 Q. Okay. You don't sell shoes?

22 A. Yeah, I sell them. But, I mean, I wasn't selling
23 that many shoes.

24 Q. Okay. Did anyone in the Solicitor's Office, I know
25 you said they didn't tell you that your charges were

1 going to be dismissed. Did they tell you that your
2 charges would be dismissed if you testified today?

3 A. Yeah, they told me.

4 Q. All right. Let's get back to the day of the
5 incident. Okay? You said you were talking to one of
6 your fiends --- one of your friend's wives. Is that
7 correct?

8 A. Yeah.

9 Q. Do you know his real name?

10 A. I call him Wise.

11 Q. Just tell me if I am wrong, but I think what you were
12 saying earlier is that you were in your vehicle on
13 Sunshine Court, and Sotoya was in the car with you;
14 is that correct?

15 A. (No response.)

16 Q. Mardrall came up and asked you about the pair of
17 shoes. And then Wise came up; is that correct?

18 A. Yes, ma'am.

19 Q. And what did Wise talk to you about?

20 A. (No response.)

21 Q. Did he also ask you about a pair of shoes?

22 A. I don't remember.

23 Q. You don't remember what he was talking to you about?

24 A. Yeah, it wasn't about shoes. I think he asked me
25 about his brother, because his brother stay around

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1 the street from me.

2 Q. Okay. And, I'm sorry. Go ahead.

3 A. He was asking me did I see his brother, Hugo.

4 Q. And had you seen his brother Hugo?

5 A. I didn't ask him.

6 Q. And at that point was Mr. Wise still there; did Mr.
7 Emilio walk up?

8 A. Yeah, he --- he asked me if I seen --- and he turned
9 to Emilio coming up and took off.

10 Q. So, Wise left?

11 A. He see Emilio coming up and it was like --- and he
12 took off.

13 Q. I'm sorry, could you repeat that?

14 A. When Emilio was coming up and Wise saw him he took
15 off.

16 Q. Like he knew what was going to happen?

17 A. (No response.)

18 Q. So, do you believe Mr. Wise was involved in this
19 armed robbery as well?

20 A. I don't know.

21 Q. Did you tell that to the police?

22 A. No, ma'am.

23 Q. So you didn't tell them that you thought Mr. Wise
24 might be a suspect?

25 A. No, ma'am.

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1 Q. Mr. Mazyck, if I brought you a pair of shoes, would
2 you be able to tell me if those were a pair of shoes
3 that you had sold?

4 A. (No response.)

5 Q. Do you think you could?

6 A. (No response.)

7 Q. Mr. Mazyck, you go to see your cousin's girlfriend,
8 is that right, once a week?

9 A. Sometimes I go out there more.

10 Q. And you said her name was Sentoya Addison?

11 A. Yes, ma'am.

12 Q. Was she --- And you said she was in the car during
13 the robbery?

14 A. She was --- she and --- she wasn't in the car when
15 Emilio pulled the gun out, but one of the girls that
16 I was talking to --

17 Q. And you said that two or three, or three or four
18 pairs of shoes personal shoes were in your car that
19 day. Can you tell me where --- were they in the
20 front seat?

21 A. In the backseat.

22 Q. Where in the backseat, were they behind you?

23 A. No, behind the passenger seat.

24 Q. They were behind the passenger seat?

25 A. Yes, ma'am.

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1 Q. And you said they were size, you said twelve?

2 A. Yeah.

3 Q. Did you report the missing shoes to the police?

4 A. I think I did?

5 Q. Why didn't you?

6 A. I'm not sure.

7 Q. Well, wouldn't you make sure if somebody robbed you
8 that you would report everything that was missing?

9 A. I don't --

10 Q. -- So, you don't know why you didn't report that?

11 A. I'm not sure if I did or not.

12 Q. Okay. I had a hard time hearing you earlier, so I
13 just want to clarify. You said that about two
14 hundred and fifty dollars, you don't know exactly,
15 was stolen along with two cell phones, or one cell
16 phone?

17 A. A cell phone that wasn't working, and it was a cell
18 phone that was in the glove compartment.

19 Q. And did you say that you got those back?

20 A. Yeah, I got my cell phone back.

21 Q. The one that was working?

22 A. Yes, ma'am.

23 Q. How did you get it back? From who?

24 A. Somebody just gave it to me.

25 Q. Somebody just came up on the street and handed you a

1 cell phone?

2 A. No, someone called me and told me they had it.

3 Q. And what day was that?

4 A. I don't remember. I know she said she found the cell
5 phone.

6 Q. She found it.

7 MS. CRAYTON: Court's indulgence, Your Honor.

8 THE COURT: Yes, ma'am.

9 (PAUSE.)

10 Q. Mr. Mazyck, you say that both cell phones were
11 working, one working and one not, and then you
12 received a call that someone had your cell phone.
13 Where did they call you? Did they call you on
14 another cell phone?

15 A. They called my little brother.

16 Q. Okay. They called your little brother.

17 A. They told me they had my cell phone. They told --

18 Q. -- so not your little brother, they called your
19 fiancé'?

20 A. They called him and he come to the house -- somebody
21 called and said that they got my cell phone.

22 Q. Okay. Mr. Mazyck, do you know someone named Corey
23 Mitchell?

24 A. Who?

25 Q. It is actually a female named Corey Mitchell.

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1 A. Not a Corey Mitchell.

2 Q. Doesn't ring a bell?

3 A. (No response.)

4 Q. Mr. Mazyck, can you just describe for us the car that
5 you were driving that day?

6 A. A burgundy Grand Marques 2001.

7 MS. CRAYTON: Your Honor, no further questions.

8 THE COURT: All right. Redirect, Mr. Holt?

9 MR. HOLT: Thank you very much, Judge.

10 REDIRECT EXAMINATION BY MR. HOLT

11 Q. Do you understand what they are trying to do is make
12 it sound like you and I had a deal for you testifying
13 here today?

14 A. We don't have a deal.

15 Q. Did you and I ever come up with a plan or a scheme
16 for your testimony here today?

17 A. No, sir.

18 Q. When did you get in your accident?

19 A. 1999.

20 Q. When were those charges brought against you?

21 A. Which charges?

22 Q. Those charges that they questioned you about.

23 A. Two years ago.

24 Q. Were you in the same shape you are in now two years
25 ago?

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1 A. Yes, sir.

2 Q. Did you ever talk to the police about the people that
3 filed those charges against you; and, if so, what did
4 they tell you?

5 MS. CRAYTON: Objection, Your Honor. I think that
6 is outside of the scope.

7 THE COURT: Well, it is not outside of the scope,
8 it is hearsay. Objection sustained.

9 Q. Did you ever find or track down the person who had
10 charges against you?

11 A. They told me that --

12 THE COURT: You can't tell what they told you.

13 Q. Were there going to get charges against him --- the
14 person who filed charges against you?

15 A. Yes, sir.

16 Q. Now, let me ask you this. She made a lot of deals
17 about people that contacted you on the phone. Did
18 anybody ever contact you and offer you money?

19 A. Yes, sir.

20 Q. Money to do what?

21 A. To drop the charges.

22 Q. Did you drop those charges?

23 A. No, sir.

24 Q. Why did you not drop the charges?

25 A. Because I done been through this one time, and if

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1 they do it again, they do it to other people.

2 Q. Just to be clear. Did you and I ever talk about some
3 other charges that you had before today?

4 A. No, sir.

5 MR. HOLT: Thank you very much, Mr. Morris. No
6 further questions.

7 THE COURT: Re-cross, Mr. Grove?

8 MR. GROVE: One moment, Judge.

9 (PAUSE.)

10 RE-CROSS EXAMINATION BY MR. GROVE

11 Q. Mr. Mazyck, very briefly, I don't have much for you
12 on cross. Were you contacted by anyone in the
13 Solicitor's Office about the charges that were
14 pending against you that were dismissed about three
15 and a half or four weeks ago?

16 A. No, sir.

17 MR. HOLT: That was asked on original cross.

18 THE COURT: Overruled. That is proper cross
19 examination.

20 Ms. Crayton.

21 MS. CRAYTON: Thank you, Your Honor. I also will
22 be very brief with Mr. Mazyck.

23 RE-CROSS EXAMINATION BY MS. CRAYTON

24 Q. You said that you didn't know that your charges were
25 dismissed; is that correct?

1 A. Uh'huh.

2 Q. You didn't know that the Solicitor had dismissed your
3 charges?

4 A. No, ma'am.

5 Q. She never contacted you and told you that?

6 A. No, ma'am.

7 Q. You don't know this lady right there?

8 A. No, ma'am.

9 MS. CRAYTON: Court's indulgence, Your Honor. No
10 further questions, Your Honor..

11 THE COURT: All right. Thank you. The witness may
12 step down.

13 Counsel, come around a minute and let's talk about
14 scheduling.

15 (Whereupon, a bench conference was held in
16 the presence of the jury, but out of their hearing range.)

17 THE COURT: All right. Ladies and gentlemen, I was
18 checking with counsel about the next witness, and it will
19 run us into the lunch hour. So, we are going to go ahead
20 and recess for lunch at this time. In order to move this
21 matter along though we are going to kind of make a short
22 lunch recess of about an hour. What I am going to ask you
23 to do is go and get your lunch and be back in your jury
24 room please at 1:30. That is about fifty-five minutes.
25 We will try to be ready to start promptly at that time, so

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1 we can move this matter along.

2 Over the lunch recess, do not discuss the case with
3 anyone. Do not allow anyone to discuss it with you. If
4 anybody should approach you or try to talk to you about
5 the case, get their name or their description, and report
6 it to the bailiffs, and I will deal with them. And do not
7 discuss the case among yourselves when you are in the jury
8 room. You certainly have not heard all of the testimony
9 in this case, and any discussion among yourself would
10 still be premature. So, if you would go and get your
11 lunch and please be back in the jury room, let's say 1:35,
12 that is an hour, to give you an hour. And we will try to
13 be ready to start promptly at that time. Thank you, you
14 may go get your lunch.

15 (Whereupon, the jury exits the courtroom at
16 12:34 p.m..)

17 THE COURT: All right. Counsel, any matters we
18 need to take up before we take a lunch recess. Is there
19 anything the State wishes to put on the record at this
20 time, Mr. Holt?

21 MR. HOLT: No, sir, Your Honor.

22 THE COURT: Mr. Grove?

23 MR. GROVE: No, sir.

24 THE COURT: Ms. Crayton?

25 MS. CRAYTON: No, Your Honor.

1 **THE COURT:** All right. Let's be in recess. Try to
2 get back here, and let's try to start promptly at 1:30 if
3 we can, or 1:35, but let's try to get going and move it
4 along as quickly as we can.

5 Thank you and we will be in recess for lunch at this
6 time.

7 (Whereupon, a lunch recess was taken from
8 12:35 p.m. until 1:35 p.m..)

9 **THE COURT:** All right. Back on the record with
10 regard to the matter of The State versus Addison and The
11 State versus Craig. Both defendants are present in the
12 courtroom with their counsel. The State is present and
13 represented by Mr. Holt. Anything before we bring the
14 jury in and proceed, Mr. Holt?

15 **MR. HOLT:** There is not, Your Honor.

16 **THE COURT:** From the defendant, Mr. Grove?

17 **MR. GROVE:** No, Your Honor.

18 **THE COURT:** Ms. Crayton?

19 **MS. CRAYTON:** No, Your Honor. Thank you.

20 **THE COURT:** All right. Bring the jury in please.

21 (Whereupon, the jury enters the courtroom
22 at 1:32 p.m..)

23 **THE COURT:** All right. Good afternoon, ladies and
24 gentlemen, and thank you for your promptness in being back
25 here. I did mean to tell you one thing before we went to

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1 lunch, but I will tell you now, and you can do it at the
2 next break. When you do go out the next time I would like
3 for you, from among the twelve of you who constitute the
4 principle jury to select a foreperson. Whoever that
5 foreperson is selected you can advise me when you come
6 back in who that person will be.

7 But for now we are ready to go forward, and the State
8 will continue to present their case. Mr. Holt.

9 MR. HOLT: Thank you very much, Judge. At this
10 time the State would like to call Jolly Perkins to the
11 stand.

12 THE COURT: All right.

13 WHEREUPON, JOLLY LEON PERKINS, JR.

14 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

15 OFFICER PERKINS: Yes, sir. I do.

16 DIRECT EXAMINATION BY MR. HOLT

17 Q. Officer Perkins, would you state your full name for
18 jury, and where you are employed?

19 A. Yes, sir. My name is Jolly Leon Perkins, Jr. I am
20 employed with the Hartsville Police Department.

21 Q. How long have you been employed there?

22 A. January of next year will be five-years.

23 Q. Is that the only place you have ever been in law
24 enforcement?

25 A. Yes, sir. It is.

1 Q. So, all combined you have five-years experience.

2 A. Yes, sir.

3 Q. Okay. Let me ask you this. Have you ever testified
4 in General Sessions Court before?

5 A. Yes, sir. I have.

6 Q. How many times?

7 A. Once prior to this.

8 Q. Are you nervous?

9 A. A little bit.

10 Q. All right. Now, you say you have worked for
11 Hartsville for five-years, let me catch up on my
12 question. All right. What exactly is your job
13 within the Police Department, and what duties does
14 that job entail?

15 A. Yes, sir. I am a road officer. I work as a second in
16 command shift supervisor on the road. We do standard
17 patrol, and run traffic, answer calls for service.

18 Q. All right. Were those your duties on the day in
19 question, January 13, 2011?

20 A. Yes, sir. They were.

21 Q. All right. Did you answer --- you say a call, where
22 does the call from?

23 A. We get calls from our --- our calls come to us from
24 our dispatch.

25 Q. Did you get a dispatch call that addressed you to at

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1 or near [REDACTED] in the City of Hartsville
2 on January 13, 2011?

3 A. Yes, sir. We did.

4 Q. Now, can you tell me, from your memory, what --- if
5 you have a report you can look at it. What that call
6 entailed; what you did that day, and just walk me
7 through the process and then I will fill in the
8 questions as needed.

9 A. Yes, sir. On that date in question, I was patrolling
10 the City of Hartsville. We obtained a call from our
11 dispatch in reference to an armed robbery, which had
12 taken place at [REDACTED]. Officers received
13 a description of a vehicle that had left the scene,
14 which was a burgundy Buick car. We didn't have any
15 specific make or model, just a burgundy Buick. I
16 left to head for that location. And about halfway
17 there I found a burgundy Buick traveling west bound
18 just leaving the area of the apartment complex. I
19 saw a vehicle, turned around, initiated a traffic
20 stop thinking this may be the actual suspect vehicle.
21 And before I even activated my blue lights, the
22 vehicle pulled off to the side of the road and the
23 driver began motioning for me to come and talk to
24 him. I got up to the car, because this was kind of
25 an unusual reaction to see someone motioning for us

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1 to come and see them. I got up there and realized
2 that the individual is handicapped, and was actually
3 unable to get out of his vehicle. He started telling
4 me that he was the victim of the armed robbery, and
5 he was trying to get to the Police Department to file
6 a report.

7 Q. Let me stop you right there.

8 A. Yes, sir.

9 Q. What shape through your five-years being a police
10 officer, and you can judge what kind of condition
11 people are in. What condition was he in? Did he
12 appear anxious, distraught, happy, what was his
13 emotional state?

14 MR. GROVE: Objection, Your Honor. Speculation.

15 THE COURT: The Court rules that 803, overruled.

16 The witness may answer.

17 Q. You may answer.

18 A. What was his condition like?

19 Q. Yes, sir.

20 A. The victim was --- for me to see he was highly upset.
21 It looked like he had been through some kind of an
22 ordeal. He was having a hard time at first getting
23 his sentences to run together. You could just tell
24 he had like a thousand thoughts running through his
25 head at the same time.

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1 Q. All right. Then you started talking with him, and
2 take us from there.

3 A. Okay. Once I realized that I actually had the victim
4 of the crime with me and not the suspects, because I
5 had told our dispatch that I was out with a vehicle
6 that matched the description that they had given to
7 us. I informed other officers that I actually had
8 the victim with me and not the other people that we
9 were looking for, so they could continue to search
10 the area. I began trying to talk to them to find out
11 a better physical description, clothing description,
12 if he might have known the people; what kind of
13 weapons we were looking for if any. And while I was
14 talking to him, we actually had an officer that works
15 for the City Police Department, and he had a county
16 radio with him at the time.

17 Q. Let me stop you right there.

18 A. Sure.

19 Q. You say a city police officer and a county radio.

20 A. Yes, sir.

21 Q. Why is that?

22 A. He is assigned to the county multi-jurisdictional
23 drug task force. So he carries a county radio with
24 him when he is working with them specifically.

25 Q. And what is the difference between a city radio and a

1 county radio?

2 A. It operates on two different wavelengths. They can't
3 hear us on our regular traffic just like we can't
4 hear them.

5 Q. Okay. Go ahead.

6 A. We heard over his radio that they were actually ---
7 county units were in a pursuit with a vehicle that
8 matched the description that we were looking for
9 again, the burgundy Buick. At that point he left to
10 go on to assist his fellow officers, because he
11 realized I had the victim with me. Once he left, due
12 to the fact I wasn't aware if I had the victim or
13 offender at first, I had positioned my vehicle in
14 such a manner that it was actually partially blocking
15 the roadway. So, I asked the victim if he would
16 drive to the Police Department, because I could tell
17 he was handicapped, but I didn't know to what extent.
18 I was going to have him come to the department and
19 interview him there, so I could have him in a little
20 bit of a safer environment than just on the side of
21 the road. He agreed to come up to the department
22 with us, and I followed him up there. Once we got
23 there I realized that he was actually not able to get
24 out of his vehicle.

25 Q. You realized at the police station he can't get out

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1 of his vehicle, correct?

2 A. Correct. I had already received a phone call on my
3 way there from my Sergeant who was assisting the
4 county with the vehicle that fled. I was given the
5 name of Mardrall Addison as one of the potential
6 suspects in the event.

7 Q. Why were you given that name?

8 A. My Sergeant informed me that that was the person
9 driving the vehicle that fled. I went inside to our
10 Police Pac, which is a system that we use to input
11 all of our reports, tickets, just general information
12 that we get from people. And I pulled up Mr.
13 Mardrall Addison's information. The victim was still
14 out in his car because he couldn't come in with me.
15 Using Mr. Mardrall's physical attributes, such as
16 height, weight, age range, race, sex, I tried to put
17 a photo lineup together of six or seven individuals
18 including him, so I could take them out there and
19 present them to our victim. Our victim had stated
20 that he had not had any dealings with the offenders
21 previous to today, so I was hoping that a photo
22 lineup --- he would be able to pick out the person
23 that had committed the act against him.

24 Q. Did you take that photographic lineup out there to
25 the victim?

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1 A. Once it was completed --- the first one was
2 completed, it was taken to the victim in his vehicle.

3 Q. And tell me what happened?

4 A. Once it was presented to him, he was advised --- he
5 was advised to look at each picture twice. The
6 pictures that was given to him was one picture on
7 each page. And he was advised to look at them each
8 twice before actually telling me which one he thought
9 was the suspect. He was also informed that the
10 suspect may not even be in there. That there was
11 just some information that we received and we put the
12 lineup together based on that. After looking at the
13 pictures for a few minutes, he made a positive
14 identification on Mr. Mardrall Addison, and when I
15 asked him --- We have a form that we have to fill
16 out, and I asked him specifically what attributes or
17 what features of Mr. Addison stood out to him, and he
18 said he remembered him based on his eyes.

19 MR. HOLT: Permission to approach, Your Honor?

20 THE COURT: Yes, sir.

21 Q. Officer, I am going to hand you what has been marked
22 as State's Exhibit 2, for identification purposes
23 only.

24 A. Yes, sir.

25 Q. And without telling us what it is, I need to ask you,

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1 have you ever seen that before?

2 A. Yes, sir.

3 Q. And since the last time you saw it, has there been
4 any modifications, alterations, deletions, has it
5 changed in any way?

6 A. No, sir.

7 Q. Okay. And, did you prepare that?

8 A. Yes, sir. I did.

9 Q. Okay. And what is that?

10 A. The first page that you have here.

11 Q. -- No, just tell me what the entire thing --- what is
12 it?

13 A. Okay. This is our lineup instruction and photo
14 lineup form that we have.

15 Q. Okay.

16 MR. HOLT: Your Honor, at this time the State would
17 move State's Exhibit 2 into evidence.

18 THE COURT: All right. Mr. Grove, Ms. Crayton, any
19 objection other than previously stated with regard to
20 State's Exhibit 2?

21 MR. GROVE: None, Your Honor.

22 MS. CRAYTON: No, Your Honor. Thank you.

23 THE COURT: All right. State's Exhibit 2 admitted
24 into evidence subject to the objection previously made.

25 WHEREUPON, STATE'S EXHIBIT

1 NUMBER 2 IS MARKED AND

2 ADMITTED INTO EVIDENCE

3 WITHOUT OBJECTION.

4 Q. Officer, would you explain to the jury what that
5 first page is on there so that they know?

6 A. Yes, sir. The first page that we have is our lineup
7 instruction form. It is a form given to us by our
8 department, kind of to assist officers who don't deal
9 with photo lineups every day. It involves us putting
10 the case number on here, the date and time that we
11 show the photo lineup to our victim or witness.

12 Q. Tell me what the date and time are?

13 A. The date is January 13th, at approximately 4:10 p.m.

14 Q. And looking at your report, about what time did you
15 get the dispatch call to go out that day?

16 A. Oh, the call came out to us at approximately 3:20,
17 3:22.

18 Q. Okay. So, within the hour --

19 A. -- Yes, sir.

20 Q. You got a photographic lineup in the victim's hand?

21 A. Yes, sir.

22 Q. All right. Now, talk about the rest of the page, and
23 explain the rest of the page to us.

24 A. Yes, sir. Once we put that basic information in, we
25 have some rights that we read to our victim that

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1 basically tells them this is our photo lineup that we
2 have put together on the information that we have.
3 Your suspect may or may not be in here, but it is an
4 option for you to look at to see if this may be one
5 of them. He was provided with seven photographs.
6 And after looking at each individual photograph, our
7 victim, Mr. Morris identified number four as Mardrall
8 Addison. And stated that he was positive of his
9 selection based on the subject's eyes. We do have a
10 spot for our victim to sign, but unfortunately due to
11 this handicap, he was unable to. So, all of his
12 information had to be put in by me.

13 Q. Do you have a spot on there for them to give you a
14 reason that they chose that individual?

15 A. Yes, sir. It actually ask them --- it says that I am
16 certain/positive, however they want to put it in of
17 my selection because of, and then they can fill in
18 the blank thereafter.

19 Q. And he filled in the blank there what again?

20 A. I filled it in for him, and it says because of the
21 subjects eyes.

22 Q. All right. Now, explain to us --- I think everyone
23 can tell a lineup if six people walked in a room,
24 with a mirror and all of that, that is not true.
25 Explain to us how a photographic lineup takes place

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1 and how you gave him the photos to examine.

2 A. Sure. We create photo lineup, obviously because we
3 can't have access to people there all the time. The
4 usual suspect's names doesn't work --- really work in
5 real life. We collect photos from several different
6 places. It may be from booking photos from a
7 Detention Center. It can be from photos that we take
8 just dealing with people on our own, and uploading
9 them to our system. Or it can be from the South
10 Carolina Department of Motor Vehicles. We can
11 actually pull your driver's license photo and attach
12 it, so we can have a picture of you to put with your
13 face --- to put with your name. What we do for our
14 photo lineup, is we take who we think our suspect is.
15 We take the information we have for them and we try
16 to find at least five to six people that have similar
17 features, be it skin color, height, weight, age,
18 facial features such as scars, or facial hair, or
19 length of hair. And then we put each person's
20 picture --- each picture we give them is one person.
21 It is not six on one page. They look at each picture
22 individually. Once we give it to them, they go
23 through it and see which person it is.

24 Q. How do you number --- do you hand it to them in
25 order?

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1 A. I don't hand them to them in order. Our machine will
2 print them out and number them one through --- in
3 this case one through seven for Mr. Mardrall's
4 lineup. Personally, I mix the pictures up. They may
5 look at number one, excuse me, they may look at
6 number three first, and it may have number five
7 behind it, number four, so and so. The numbers are
8 not in order.

9 Q. About how long, looking at those photographs, did it
10 take for him to tell you --- to pick out the
11 individual?

12 A. He looked at them four --- about four and half
13 minutes, at the most.

14 Q. And was he certain or uncertain about who he picked
15 out?

16 A. On the Mardrall Addison and Emilio Craig he said he
17 was either positive or pretty positive on both.

18 Q. All right. And did you in any way whatsoever suggest
19 to the victim who to pick?

20 A. No, sir. The photos were actually handed to him, and
21 I stepped away from him so as not to stand over him.
22 And actually had his door and his mirror between me
23 and him, and he was allowed to look and pick.

24 Q. But you are a road deputy in this case, right?

25 A. Yes, sir.

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1 Q. Road officer. You are not an investigator are you?

2 A. No, sir.

3 Q. You don't really care who he picks or what happens do
4 you?

5 A. No, sir.

6 Q. You just kind of come in and do your job, and walk
7 away and go home?

8 A. Yes, sir.

9 Q. And it is up to the people above you?

10 A. Yes, sir.

11 Q. So you don't have a bias do you? And just to be
12 clear, and I am going to move on. Who did he pick
13 out? What is the person's name?

14 A. He picked out picture number four, which was Mr.
15 Mardrall Addison.

16 Q. All right. Now, after you and he worked on that one.

17 A. Yes, sir.

18 Q. What did you do next?

19 A. While he was actually looking through the photos, I
20 received another phone call --- our shift Sergeant
21 who was still out on scene. And we were told that
22 there was a second person in the vehicle that had
23 fled as well. At that point we were only given a
24 nick name of P. A., and we were trying to figure out
25 who that was, because we knew it was familiar but we

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1 weren't sure of a real name. And while I was on the
2 phone with him, another deputy or another person who
3 was on that scene, I am assuming it was a deputy,
4 said that P. A. was --

5 MR. GROVE: Objection, Your Honor.

6 THE COURT: What is the objection?

7 MR. GROVE: Hearsay.

8 THE COURT: All right. The objection is overruled.

9 The statement is not being offered as the truth of the
10 evidence. Therefore under 801(d) it is not hearsay. He
11 may testify as to what he did with the information he got.

12 MR. HOLT: Thank you, Judge.

13 Q. So you got his name. What did you do next?

14 A. We were told that it was Emilio Craig. So, just like
15 I did with Mr. Mardrall Addison's information, I put
16 Emilio in our system. We have him --- we had his
17 information in our files as far as height and weight.
18 I took his information, put it back into our photo
19 lineup, just like I did with Mr. Mardrall Addison,
20 and found similar subjects, height, weight, race,
21 age, all of that, just like Mr. Mardrall Addison.
22 And put together a photo lineup for Mr. Emilio Craig,
23 and it was taken out and presented to our victim as
24 well.

25 Q. How many people in all?

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1 A. Seven.

2 MR. HOLT: Permission to approach the witness,
3 Judge?

4 THE COURT: Yes, sir.

5 Q. I am going to show you what has been marked as
6 State's Exhibit 1. Without telling me or the jury
7 what it is, can you tell me if you recognize that
8 item?

9 A. Yes, sir. I do.

10 Q. Did you take that?

11 A. Yes, sir. I did.

12 Q. Since you created it, has there been any changes,
13 modifications, deletions, things of that nature ---
14 material changes?

15 A. No, sir. It is the same.

16 Q. Can you tell me, without getting into specifics, what
17 it is?

18 A. Yes, sir. This would be the photo lineup I provided
19 to our victim.

20 MR. HOLT: Your Honor, at this time the State would
21 like to move please State's Exhibit 1 into evidence.

22 THE COURT: Again, subject to previous rulings of
23 the Court, and those objections being preserved, are there
24 any further objections to the admission of the evidence,
25 Mr. Grove?

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1 MR. GROVE: None further, Your Honor.

2 THE COURT: Ms. Crayton?

3 MS. CRAYTON: No, Your Honor.

4 THE COURT: Admitted into evidence subject to the
5 objections previously made and ruled on by the Court.

6 WHEREUPON, STATE'S EXHIBIT

7 NUMBER 1 IS MARKED AND

8 ADMITTED INTO EVIDENCE.

9 Q. All right. And reading the first page, explain to
10 the jury what that is and how it works?

11 A. This is the same thing as with Mr. Mardrall Addison.
12 This is our lineup instruction form for the officers
13 to fill out and go through. Once that information as
14 give again to the victim for a second time, he was
15 allowed to go through the pictures that I had for
16 this photo lineup as opposed to a separate set of
17 pictures for the Mardrall incident.

18 Q. And --

19 A. -- Yes, sir.

20 Q. And what number did he pick out?

21 A. Upon going through this he picked out photo number
22 five as Emilio Craig, or as the person that committed
23 the incident. He stated he did not know them by
24 name.

25 Q. He didn't know him by his name did he?

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1 A. No, sir. He never gave us a name.

2 Q. He just knew the faces of the people who robbed him,
3 correct?

4 A. Yes, sir.

5 Q. All right. Now, is that page different from all the
6 other pages. Can you explain to the jury what the
7 back page is?

8 A. Yes, sir. The back page on this is never presented
9 to our victim. It is just the people's information.
10 In this case we had one person, one through seven for
11 our photo lineup. This is for law enforcement. It
12 contains their name and their information. So, I
13 know who he picked out. If he picked out the wrong
14 one or the right one, and that is his choice. But we
15 have the person's information here. So when he picks
16 out photo number five in this case, I've got this
17 sheet in front of me, and I will go down and look,
18 and see which one number five is.

19 Q. You talked about there being a place on there for you
20 to write the time when you showed it to him.

21 A. Yes, sir.

22 Q. What time did you put on there?

23 A. 4:10, approximately the same time, because I was
24 working on this one as he was looking at the other
25 one.

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1 Q. Okay. Now, throughout the course you didn't call
2 dispatch and tell them that you worked on these photo
3 lineups. What did you after that was over with?

4 A. Once the photo lineups were completed, that
5 information was added to the report that I had
6 completed already, or was actually in the process of
7 working on. And the information for the positive
8 identification was --- I called my Sergeant and told
9 him that we had a positive I.D. on both Mardrall
10 Addison and Emilio Craig.

11 Q. All right. Now, let me ask you this. The car around
12 [REDACTED], did you ever find out who lived
13 there?

14 A. I never --

15 Q. At [REDACTED]. All right. Let me ask you
16 this. Did you ever find out who the car was
17 registered to?

18 A. Yes, sir. I have, being a supervisor on the road, I
19 actually have DMV access to pick out pictures and run
20 driver's licenses information. And because it was
21 involved in our case and with the county's case, my
22 Sergeant gave me the license plate information while
23 I was at the Police Department, and I ran the license
24 plate through DMV to find out who it was actually
25 registered to.

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1 Q. The car that was used in the chase, who was it
2 registered to?

3 A. I believe the last name is Alford, Yolanda Alford.

4 Q. And, did you first figure out who lived at 111
5 Sunshine Court?

6 A. No, sir. I never went to that address.

7 MR. HOLT: Thank you very much, officer. Please
8 answer any questions that defense counsel has.

9 THE COURT: All right. Mr. Grove.

10 MR. GROVE: Thank you, Judge.

11 THE COURT: Yes, sir.

12 CROSS EXAMINATION BY MR. GROVE

13 Q. Good morning, Officer Perkins.

14 A. How are you?

15 Q. You say that when Mr. Mazyck was pulled over you
16 originally thought that Mr. Mazyck's car was a
17 suspect?

18 A. It fit the same description. Yes, sir.

19 Q. So you pulled him over first. And earlier testified
20 that he had a hard time speaking, that he wasn't
21 formulating good sentences and that sort of thing; is
22 that correct?

23 A. Yes, sir. He was upset.

24 Q. Right. You also said he wasn't able to get out of
25 the vehicle?

JOLLY L. PERKINS, JR. - CROSS EXAMINATION - MR. GROVE 207

1 A. No, sir. He was bound to a wheelchair.

2 Q. Did he appear to be mobile within the vehicle?

3 A. He had controls on a steering column to help him
4 maneuver the vehicle. I mean, he couldn't move from
5 seat to seat, but he could move his hands to drive
6 and maneuver, yes, sir.

7 Q. What did the inside of his car look like?

8 A. The inside of a Buick, four seats.

9 Q. Two seats up front with a console, or a solid front
10 seat; do you remember?

11 A. I really don't. I was really spending more time
12 trying to figure out how he was driving with all the
13 controls, because I hadn't seen one set up like that
14 in a while.

15 Q. And you say that the two of you then proceeded to the
16 Police Department, your intention being to help him
17 fill out a report, and give him a couple of photos
18 for a lineup, correct?

19 A. Actually the original intent was just to have an
20 interview with him away from the roadside, because we
21 didn't have any potential suspects, so I had no photo
22 lineup to give him.

23 Q. Did you get his version of the events that he says
24 occurred at or around [REDACTED]?

25 A. I got a brief overview on the side of the road, while

JOLLY L. PERKINS, JR. - CROSS EXAMINATION - MR. GROVE 208

1 we were just trying to get information. And then I
2 got a complete story once we got to The Department.

3 Q. Did he indicate that anyone had entered his vehicle?

4 A. He did indicate that a door, a back driver's side
5 door was opened. And at one point he said that he
6 was searched. And I never actually was explained how
7 they went from the back seat to the front, if they
8 actually opened the front door and got in with him.

9 Q. Did he ever indicate that there was more than one
10 person in the vehicle at the time?

11 A. Not in his vehicle. There was supposedly two
12 suspects involved. I was never told if both --- if
13 both of them got in the vehicle or not.

14 Q. Did you look in the vehicle to try to preserve any
15 evidence that might be in the vehicle?

16 A. No, sir.

17 Q. Did you look in the vehicle for an inventory search
18 of maybe things that could be left behind by
19 potential suspects or things that Mr. Mazyck thought
20 were taken, but in fact weren't taken?

21 A. No, sir. As far as I remember, there was actually
22 nothing in the vehicle outside of the driver.

23 Q. Do you know if anyone after you examined the vehicle
24 for potential evidence?

25 A. No, sir.

JOLLY L. PERKINS, JR. - CROSS EXAMINATION - MR. GROVE 209

1 Q. After you had spoken to Mr. Mazyck about the incident
2 that he said occurred, then you went on to the photo
3 lineup, and you testified that you had gotten some
4 information about who the potential suspects were
5 going to be; correct?

6 A. Yes, sir.

7 Q. And you said that you got some sort of computer
8 system that you plug in relevant information, and it
9 gives you a return of possible people to include in a
10 lineup?

11 A. Correct.

12 Q. But ultimately, the decision was yours as to who the
13 six, seven, eight, or however many people are there?

14 A. Yes, sir.

15 Q. How many people do you think --- and I apologize.
16 When I am speaking about a lineup, I am speaking
17 about my client, Emilio Craig.

18 A. Correct.

19 Q. As far as his lineup is concerned, how many potential
20 lineup entrants do you think there were?

21 A. It varies based on physical description. I mean, we
22 have a little over two or three thousand people
23 listed in our database.

24 Q. And you chose seven, is that correct?

25 A. Yes, sir.

JOLLY L. PERKINS, JR. - CROSS EXAMINATION - MR. GROVE 210

1 Q. Do you always choose seven?

2 A. Either six or seven. Yes, sir.

3 Q. No more, no less than six or seven?

4 A. Nope.

5 Q. What factors did you use as far as Emilio's was
6 concerned?

7 A. We tried to look for people --- we put in similar
8 height and weight requirements. Similar age-range.
9 Of course, race, sex. We were told that since we had
10 already identified Mr. Mardrall by that point, and we
11 were told that the other suspect had facial hair or a
12 beard, we tried to limit it to people who had some
13 form of facial hair, some sort of beard covering
14 their chin. So we used that as a criteria as well.

15 Q. Did Mr. Mazyck give you a description that helped you
16 select potential applicants?

17 A. The initial description that we got from the victim
18 was very broad and very vague, which is generally
19 what we get on the road as far as law enforcement is
20 concerned. It is not where we are looking for broad
21 categories to talk to people, not specific; he had
22 six inches of beard hair. He had, you know,
23 something like that. We get broad categories.

24 Q. Did he give you any physical characteristics
25 whatsoever?

JOLLY L. PERKINS, JR. - CROSS EXAMINATION - MR. GROVE 211

1 A. Outside of the fact that one of them had facial hair,
2 not much.

3 Q. Height?

4 A. It was probably hard for him to justify, considering
5 he was sitting in a chair or in the car.

6 Q. Age?

7 A. He gave us a age range of younger, about twenty-five-
8 years of age.

9 Q. But no eye color other than facial hair, no physical
10 description?

11 A. Not really. No, sir.

12 Q. And I know you testified to it earlier. How long did
13 Mr. Mazyck look at the lineups do you think?

14 A. About four and a half to five minutes max for each.
15 Each individual lineup.

16 Q. Right. Is that typical?

17 A. About normal.

18 Q. Do you ever have people look at a lineup and say, oh,
19 that's not the one?

20 A. We do have some that do that.

21 Q. That some people identify Emilio?

22 A. Yes, sir.

23 Q. But within several minutes he looked back and forth
24 through all the pictures?

25 A. Well, his took a little extra time, because of his

JOLLY L. PERKINS, JR. - CROSS EXAMINATION - MR. GROVE 212

1 handicap. He had a hard time actually flipping the
2 pages over. He has --- he can't write, and he has a
3 hard time maneuvering his hands.

4 Q. Do you remember, and I know the exhibits are near by
5 if you need to refer to them, that is perfectly all
6 right? Do you remember what he said as far as his
7 certainty of identification was in reference to Mr.
8 Craig?

9 A. According to the paperwork he said he was pretty
10 positive that it was Emilio Craig.

11 Q. Pretty positive, those were his words?

12 A. Yes, sir.

13 Q. And did he identify what it was about Mr. Craig's
14 photo that made him pretty positive?

15 A. He said that it was due to the eyes and the facial
16 hair, or the beard.

17 MR. GROVE: Beg the Court's indulgence.

18 THE COURT: Yes, sir.

19 (PAUSE.)

20 MR. GROVE: No further questions at this time,
21 Officer Perkins.

22 OFFICER PERKINS: Yes, sir.

23 THE COURT: Cross examination, Ms. Crayton?

24 MS. CRAYTON: Thank you, Your Honor.

25 CROSS EXAMINATION BY MS. CRAYTON

JOLLY L. PERKINS, JR. - CROSS EXAMINATION - MS. CRAYTON 213

1 Q. Officer Perkins, I promise not to be too long. You
2 identified Mr. Mazyck in his vehicle, and you began -
3 -- do you remember him saying to you what happened?

4 A. At first he explained that he had been robbed. He
5 said he was kind of upset, distraught. We tried to
6 calm him down and try to get his side of the story.
7 And in the process of doing that, that is when the
8 chase came out, and it kind of got hectic.

9 Q. And did he tell you what had been taken?

10 MR. HOLT: Objection, Your Honor. Hearsay.

11 THE COURT: All right. The objection is to the
12 hearsay rule, Ms. Crayton. What is your response?

13 MS. CRAYTON: I'll move on.

14 THE COURT: All right. Objection sustained.

15 Q. Did you write a report about this incident?

16 A. Yes, ma'am.

17 Q. In that report, what did you write what was taken
18 from the victim?

19 A. Some cash, and two cell phones.

20 Q. Is that it?

21 A. That's all I was informed of.

22 Q. And that is what you wrote in your report?

23 A. Yes, ma'am.

24 Q. Did you confirm that with the victim, that that is
25 all that was taken?

JOLLY L. PERKINS, JR. - CROSS EXAMINATION - MS. CRAYTON 214

1 A. That is all that I was informed of that day. He was
2 told that if anything else was missing, he could come
3 back and add it to the report via law enforcement.

4 Q. And that is important for y'all to keep a proper
5 report?

6 A. Yes, ma'am.

7 Q. Now in your report that you wrote, how much money was
8 taken? It was about two hundred and fifty dollars,
9 does that sound about right?

10 A. I believe so. Yes, ma'am.

11 Q. Did you question Mr. Mazyck about what he was doing
12 at the time of the robbery?

13 A. The only thing that I was told that he was doing was
14 actually talking to a friend?

15 Q. And he didn't say that to you?

16 A. When I talked to him, he said he was talking to a
17 gentleman by the name of Wise.

18 Q. Did you do any investigation about who Wise is, or
19 get a statement from him?

20 A. I didn't get any type of statement from him. I found
21 out through my Sergeant later that Wise was a Mr.
22 Reed Allen.

23 Q. But that is really not your job to investigate, that
24 job belongs to somebody else?

25 A. I find out who they are and I pass it on.

JOLLY L. PERKINS, JR. - CROSS EXAMINATION - MS. CRAYTON 215

1 Q. Have you ever met Mr. Mazyck before that day?

2 A. No, ma'am.

3 Q. I understand that you are saying that you are not an
4 investigator. So you didn't do any sort of
5 investigation, fingerprints or anything like that?

6 A. No, ma'am.

7 Q. You didn't do anything to the victim's car?

8 A. No, ma'am.

9 Q. Did you put in your report how Mr. Mazyck described
10 the gun?

11 A. He could not actually give us a description other
12 than it was a firearm. We even allowed him to look
13 at the sidearms that we have to see if that might
14 help him jog his memory, and all he could say was
15 that it was weapon or a firearm. He never really
16 could give us a description.

17 Q. Couldn't give you the color or anything?

18 A. No, ma'am.

19 Q. Officer Perkins, what is your standard operating
20 procedure with a regard to a arrest warrant.

21 MR. HOLT: Objection, Your Honor, relevance.

22 THE COURT: This is cross examination, I'll give
23 her a little leeway. Are you talking about --

24 MS. CRAYTON: I am talking about an arrest warrant,
25 Your Honor.

JOLLY L. PERKINS, JR.- CROSS EXAMINATION - MS. CRAYTON 216

1 THE COURT: All right. Go ahead.

2 Q. Do you serve arrest warrants?

3 A. Yes, ma'am.

4 Q. How do you normally do that? Do you sign a warrant
5 and someone else serves it?

6 A. It depends on the situation at hand. If we take
7 someone to jail, and it is like, our third shift, and
8 we don't have access to a judge, night shift will
9 complete a sworn Affidavit, or complete warrants.
10 And will write them such that an officer can sign
11 them the following morning and actually serve them on
12 the suspect.

13 Q. And that is the standard operating procedure that you
14 would sign a warrant, and a subsequent officer would
15 serve that warrant?

16 A. Yes, highly possible, yes, ma'am.

17 Q. Do you normally follow that procedure?

18 A. Depends on the circumstances, but yes, ma'am.

19 Q. Did you recover any of the property that Mr. Mazyck
20 said was taken?

21 A. I did not. I never went to the actual incident
22 location.

23 Q. Okay.

24 MS. CRAYTON: Court's indulgence, Your Honor.

25 THE COURT: Yes, ma'am.

JOLLY L. PERKINS, JR. - REDIRECT EXAMINATION

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1 (PAUSE.)

2 MS. CRAYTON: No further questions, Your Honor.
3 Thank you Officer Perkins.

4 THE COURT: Redirect.

5 MR. HOLT: Briefly, Judge.

6 REDIRECT EXAMINATION BY MR. HOLT

7 Q. Mr. Grove and Ms. Crayton made a big deal about
8 asking additional questions.

9 A. Yes, sir.

10 Q. Why do you ask those questions, and what kind of
11 description do you look for?

12 A. We generally look for a broad description, such as
13 race, gender, clothing description, anything that a
14 road officer can use to get out with someone who may
15 be a potential suspect. If I get a description that
16 I am looking for a white male with a red shirt on
17 walking down the Highway, I can eliminate forty other
18 people that I may see, because they don't match that
19 description. I am not going to get specifics. It is
20 just going to be a broad category.

21 Q. So you don't get super specific hair style, what your
22 chin looks like, and all that kind of stuff. They
23 don't do all of that do they?

24 A. Not unless it is something that stands out. If a
25 person had extremely long hair, they are walking

JOLLY L. PERKINS, JR. - RE-CROSS EXAMINATION - MR. GROVE 218

1 around with a big Mohawk or something.

2 MR. HOLT: No further questions, Officer Perkins.

3 Thank you.

4 THE COURT: Mr. Grove, any Re-cross examination?

5 MR. GROVE: Briefly, Your Honor.

6 RE-CROSS EXAMINATION BY MR. GROVE

7 Q. Did you ask Mr. Mazyck about physical descriptions?

8 A. I did, yes, sir.

9 Q. What was he able to tell you?

10 A. The description that he gave us was race, as he gave
11 us two black males. He gave us a vague clothing
12 description of either a ball cap or a white hoodie,
13 and a dark shirt or a dark jacket was the other one.

14 Q. Either a white hat or a hoodie sweat shirt?

15 A. Yes, sir.

16 Q. Did you pry into more specific physical attributes to
17 that?

18 A. We got done on the side of the road, and by the time
19 I got to the department, we already had suspects, so
20 I didn't pursue anything further.

21 MR. GROVE: Thank you.

22 THE COURT: Re-cross Ms. Crayton?

23 MS. CRAYTON: No, Your Honor. Thank you.

24 THE COURT: Thank you, you may step down. All
25 right. Mr. Holt, you may call your next witness.

MARTIN BLAIR - DIRECT EXAMINATION

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1 MR. HOLT: Your Honor, at this time, I am going to
2 turn it over to co-counsel.

3 MR. C. JONES: The State calls Officer Martin
4 Blair.

5 WHEREUPON, MARTIN BLAIR

6 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

7 OFFICER BLAIR: I swear.

8 DIRECT EXAMINATION BY MR. C. JONES

9 Q. Officer Blair, how are you doing?

10 A. Good.

11 Q. All right. Where are you currently employed?

12 A. Hartsville Police Department.

13 Q. How long have you been working there?

14 A. Sixteen years.

15 Q. Have you had any previous law enforcement
16 experiences?

17 A. No, sir.

18 Q. You have been there the whole time?

19 A. Yes, sir.

20 Q. What position do you currently hold there?

21 A. I am the training officer and the accreditation
22 manager.

23 Q. On January 13, 2011, what was your position?

24 A. Same.

25 Q. Okay. And after lunch at around three o'clock that

MARTIN BLAIR - DIRECT EXAMINATION

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1 day, what were you doing?

2 A. I was going from the Police Department back to my
3 office. My office is actually in the East Park
4 Apartments. It is on Lane Court, which is about a
5 block away from where this call originated on
6 Sunshine Court.

7 Q. And tell us a little bit about that call that you
8 received?

9 A. I was going from the Police Department to my office.
10 And I was about a half a mile, a quarter mile away
11 from it. And, there was a call over the radio. The
12 call they gave out was that there had just been an
13 armed robbery, and somebody wanted to meet with one
14 of our officers, I believe at the Markette Gas
15 Station, there on East Carolina. And they gave out a
16 description of a burgundy car, and said be on the
17 lookout for this car. I was sent originally to [REDACTED]
18 [REDACTED]. When I drove up, one of the other
19 officers told me over the radio that he was under the
20 impression that the call actually originated in the
21 county, not to worry about going to Sunshine Court.
22 I just pulled up in the driveway. I turned right
23 around. I went a block away to my office, and I was
24 getting out at my office when Officer Perkins gave me
25 some different information. He said, okay, wait we

MARTIN BLAIR - DIRECT EXAMINATION

221

1 do need to go back to [REDACTED].

2 Q. And when you say the call originally went to county,
3 what do you mean by that?

4 A. Perkins had got on the radio and said, I think this
5 call came from the county. I don't know if it is
6 ours or not, is what he had said. He wasn't sure
7 exactly where the robbery had taken place. We didn't
8 get complete information from dispatch.

9 Q. Okay. And when they finally said actually this is
10 our jurisdiction, what did you do?

11 A. I left my office and I went back over, like I said,
12 one street over, [REDACTED]. When I pulled up,
13 Sergeant Hodge told me to wait on him to get there.
14 I pulled up and I saw a couple of bills lying in the
15 driveway in front of the residence. I waited on
16 Sergeant Brandon Hodge to arrive. When he arrived we
17 went up to the front door, knocked on the door to see
18 if anybody was in there. We didn't know whether a
19 victim was inside or who might be inside. So we
20 knocked on a door, and Yolanda Alford came to the
21 door eventually, and hollered from inside, and we did
22 speak with her. He asked where her car was, and she
23 said --

24 MS. CRAYTON: Objection, Your Honor.

25 MR. GROVE: Objection, Your Honor.

MARTIN BLAIR - DIRECT EXAMINATION

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1 **THE COURT:** All right. The objection is to the
2 hearsay rules. Mr. Jones?

3 **MR. C. JONES:** No, Your Honor.

4 **THE COURT:** All right. Objection sustained. You
5 can't testify as to what somebody told you, or told
6 somebody else. Go ahead.

7 Q. When we pulled up to the house, how long did you wait
8 there before the other officer arrived?

9 A. Four or five minutes.

10 Q. Okay. So you approach the house, knock on the door,
11 and Yolanda came to the door.

12 A. Yeah.

13 Q. And continue from there.

14 A. Okay. She came to the door. We were both inside.
15 Hodge went inside with her, and I was standing there
16 watching him talk to her. He told me to stick
17 around. And we were waiting on an investigator,
18 Sergeant Anderson was on his way. When Anderson got
19 there, I asked him if he had a camera, we needed to
20 collect this money that was sitting there on the
21 pavement. He said, no, he didn't have a camera. And
22 Officer Hodge did not have one either. I had my own,
23 which I used to photograph the money.

24 Q. When you pulled up, was there a vehicle already in
25 the driveway in front of the -

MARTIN BLAIR - DIRECT EXAMINATION

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1 A. -- There was another vehicle in the driveway.

2 Q. Was that driveway shared by two houses?

3 A. Yeah.

4 Q. Okay.

5 A. Yeah. They are duplex apartments, so often there are
6 three or four spots actually, so each person in the
7 building can have two cars.

8 Q. Okay.

9 MR. C. JONES: Your Honor, permission to approach
10 the Court Reporter?

11 THE COURT: Permission granted.

12 (PAUSE.)

13 MR. C. JONES: Permission to approach the witness?

14 THE COURT: Yes, sir.

15 Q. Officer Blair, do you recognize those photographs?

16 A. Yes, sir.

17 Q. Describe those photographs for me? What are those
18 photographs?

19 A. These are photographs --

20 THE COURT: Identify them by the Court Reporter's
21 identification so we will know what we are talking about.

22 MR. C. JONES: Three and Four.

23 THE COURT: For identification only at this point.
24 Proceed.

25 Q. Officer Blair, do you recognize State's Exhibit 3?

MARTIN BLAIR - DIRECT EXAMINATION

224

1 A. Yes, sir.

2 Q. And State's Exhibit 4?

3 A. Yes, sir.

4 Q. And how do you recognize those?

5 A. These are pictures that I had taken on January 13th.

6 Q. Are there any material alterations or deletions to
7 those photographs?

8 A. No, sir.

9 Q. Did you take those photographs?

10 A. Yes, sir.

11 Q. And what are the photographs?

12 A. The first one actually is on Exhibit 4, and it is
13 just the case number and the address that I took the
14 picture of, back when I was training film that is
15 what we did, because you would have a bunch of cases
16 on the same roll. So that is just the case number
17 and the address of the actual incident.

18 Now, the second one is actually of some
19 money laying next to a white Buick.

20 Q. Officer Blair, don't show them to the jury yet.

21 A. Okay. It is some money laying next to a white Buick.
22 The next two photographs on State's Exhibit 3, are
23 some closeups of that money lying in the same place.

24 MR. C. JONES: Your Honor, at this time, I would
25 like to enter those exhibits into evidence.

MARTIN BLAIR - DIRECT EXAMINATION

225

1 THE COURT: Any objections, Mr. Grove?

2 MR. GROVE: Yes, Judge.

3 THE COURT: All right. What is the objection?

4 MR. GROVE: My understanding is Judge, that they
5 are not the originals. I understand that some sort of a
6 foundation has been laid. I don't think without
7 submitting the originals, the best evidence rule applies.

8 THE COURT: All right. According to the South
9 Carolina Rules of Evidence, normally there is a
10 requirement for the original. That is Rule Number 1002.
11 And Rule 1003, permits the admissibility of duplicates.
12 Unless there is a genuine issue as to the authenticity of
13 the originals, and the circumstances which would render it
14 unfair to the originals, which one of those objections --

15 MR. GROVE: Your Honor, 1003. I don't see any need
16 to enter the duplicates if the originals exist?

17 MR. C. JONES: The --

18 THE COURT: Mr. Groves, it says it is admissible
19 unless one of those two things. And which of the two are
20 you relying on to say that it is not admissible?

21 MR. GROVE: It would be Subsection 2, Your Honor.

22 THE COURT: And why is it unfair?

23 THE COURT: Without being able to cross examine on
24 the actual originals themselves, I think that is certainly
25 an unfair prejudice.

MARTIN BLAIR - DIRECT EXAMINATION

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1 **THE COURT:** All right. The objection is overruled.

2 **MR. C. JONES:** Thank you, Judge.

3 **THE COURT:** Admitted into evidence. State's 3
4 and 4.

5 **WHEREUPON, STATE'S EXHIBIT**
6 **NUMBER 3 AND 4 ARE MARKED**
7 **AND ADMITTED INTO EVIDENCE**
8 **OVER OBJECTION.**

9 Q. Officer Blair, do you think the money was on the
10 ground for a long time, or do you think it was
11 freshly --

12 **MR. GROVE:** Objection, Your Honor. Speculation.

13 **THE COURT:** All right. That objection is
14 sustained. Lay a foundation if you want to. Otherwise,
15 as asked it is sustained.

16 Q. Officer Blair, are you familiar with that area where
17 you were in that day?

18 A. Yes, sir.

19 Q. Have you spent a lot of time at East Side Apartments?

20 A. I have been working in that particular apartment
21 complex for about six-years.

22 Q. And, is it a high crime area?

23 A. It is a high foot traffic area. There are a lot of
24 people in and out of the area.

25 Q. You say a high foot traffic area, do you patrol there

MARTIN BLAIR - CROSS EXAMINATION - MR. GROVE

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1 often?

2 A. My office is there.

3 Q. Okay.

4 MR. C. JONES: No further questions, Your Honor.

5 THE COURT: All right. Cross examination, Mr.
6 Grove, or Ms. Crayton?

7 MR. GROVE: Yes, Judge. Thank you.

8 CROSS EXAMINATION BY MR. GROVE

9 Q. Good afternoon, Officer Blair. You say that a call
10 came through from dispatch when you were actually
11 headed back to the East Park Apartments, right?

12 A. Yes.

13 Q. Who made that call?

14 A. To dispatch?

15 Q. Yes.

16 A. I don't have that information.

17 Q. Do you know what time it came in?

18 A. Approximately 3:30.

19 Q. If you have notes in front of you, feel free to look
20 at them. Do you know what time that call came to
21 you?

22 A. To me?

23 Q. Or what time you heard it over dispatch?

24 A. Approximately 3:30.

25 Q. All right. So almost no lapse in time between what

1 we presumed was the call to 911 and then dispatch
2 alerting officers.

3 A. (No response.)

4 Q. You said at one point there was some confusion
5 between the county and the city. Is that because the
6 city line is right near by?

7 A. I think the confusion came from one of the responding
8 officers, Perkins. He wasn't sure exactly where it
9 had occurred.

10 Q. The photos that you were describing earlier when Mr.
11 Jones was asking you questions. Where are the
12 originals?

13 A. Originals? Well, they are digital pictures, so they
14 were copied to the Police Pac System, which is our
15 Records Management System.

16 Q. Okay. And you said that you took those with your
17 personal camera?

18 A. Yes, sir.

19 Q. Is that standard?

20 A. Our policy allows us to use a personal camera, and I
21 have permission to do that. I have a signed form
22 that allows me to use a personal camera for taking
23 photographs for the department. Our policy allows it
24 when no other camera is available?

25 Q. But is it standard?

MARTIN BLAIR - CROSS EXAMINATION - MR. GROVE

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1 A. It is permitted by policy.

2 Q. But unusual?

3 A. Yes, sir.

4 Q. Speaking of policy, arrest warrants, do you serve
5 those?

6 A. Not very often.

7 Q. But you have in the past?

8 A. Yes, sir.

9 Q. And you sign off on some as well?

10 A. Yes.

11 Q. As an Affiant?

12 A. Yes.

13 Q. Do you ever serve warrants that you signed as an
14 Affiant?

15 A. I'm not sure. I may have.

16 Q. Can you think of a specific incident when you know
17 that you have?

18 A. No.

19 Q. Policy not to do that?

20 A. No.

21 MR. GROVE: Beg the Court's indulgence.

22 (PAUSE.)

23 MR. GROVE: Nothing further at this time, Judge.

24 Thank you, Officer.

25 THE COURT: All right. Ms. Crayton.

MARTIN BLAIR - CROSS EXAMINATION - MS. CRAYTON

230

1 MS. CRAYTON: Thank you, Your Honor.

2 CROSS EXAMINATION BY MS. CRAYTON

3 Q. Is it Officer Blair?

4 A. Officer, Sergeant, anything works.

5 Q. I am reading your report and the call came in over
6 the radio; am I correct?

7 A. Uh'huh.

8 Q. That you were looking for a burgundy vehicle?

9 A. Uh'huh.

10 Q. Did it give a make or a model?

11 A. I don't remember.

12 Q. Do you have your report with you?

13 A. I think it fell behind --- there it is. Yes, a Buick
14 or a Crown Victoria.

15 Q. And what was --- what was that vehicle, what did
16 dispatch say about that vehicle?

17 A. They said at the time the suspects would be in the
18 vehicle.

19 Q. I think you testified earlier that you had taken
20 photographs with your personal camera. Is that
21 something that you carry in your vehicle?

22 A. Yeah.

23 Q. Do you always carry it in your vehicle?

24 A. Almost always. Not so much lately.

25 Q. Okay. And what did you do with those photographs

MARTIN BLAIR - CROSS EXAMINATION - MS. CRAYTON

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1 after you took them?

2 A. I copied them to our server, and attached them to a
3 Records Management System, and then I erased the
4 memory card.

5 MS. CRAYTON: Court's indulgence, Your Honor.

6 (PAUSE.)

7 MS. CRAYTON: No further questions, Your Honor.

8 THE COURT: Redirect?

9 MR. C. JONES: None, Your Honor.

10 THE COURT: All right. Thank you, sir. You may
11 step down.

12 All right. Ladies and gentlemen, we are going to
13 take about a ten minute recess at this time. We will be
14 ready to go forward in just a few minutes. It is about
15 twenty-five till, and we will be ready to start back at
16 quarter till three. Thank you, you may go to your jury
17 room. And be sure while you are out to select a foreman,
18 and let the bailiff know who your foreperson is, and
19 advise me when you come back in.

20 (Whereupon, the jury exits the courtroom at
21 2:32 p.m..)

22 THE COURT: Let's take ten minutes counsel, and be
23 ready to start back at quarter till.

24 MS. CRAYTON: Thank you, Judge.

25 MR. GROVE: Thank you, Judge.

1 (Whereupon, a recess was taken from 2:34
2 p.m. until 2:47 p.m..)

3 THE COURT: All right. Back on the record with
4 regard to the matter of The State versus Addison and
5 Craig. The defendants are present in the courtroom with
6 their attorneys. The State is present and represented by
7 Mr. Holt.

8 I have been advised that the jury has selected Juror
9 Number 19, Ms. Camus as the Foreperson of this jury. And
10 I will recognize her as such when the jury returns.

11 Is there anything before we bring the jury in, Mr.
12 Holt?

13 MR. HOLT: No, sir.

14 THE COURT: Mr. Grove?

15 MR. GROVE: No, sir, Your Honor.

16 THE COURT: Ms. Crayton?

17 MS. CRAYTON: No, Your Honor.

18 THE COURT: All right. Bring the jury in, please.

19 BAILIFF: All right, sir.

20 (Whereupon, the jury enters the courtroom
21 at 2:47 p.m..)

22 THE COURT: All right. Ms. Camus, you are Ms.
23 Camus?

24 MS. CAMUS: Yes, sir.

25 THE COURT: Ms. Camus, the jury has selected you as

JACKIE CATOE - DIRECT EXAMINATION

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1 the foreperson of this jury. And I will confirm that
2 appointment. And from now on you should sit in that seat
3 where you are seated during the rest of this trial. And
4 the alternates should seat where they are seated. And the
5 rest of the jurors can sit anywhere in the jury box.

6 We are now ready to go forward. Mr. Holt, you may
7 call your next witness.

8 MR. HOLT: Thank you, very much, Your Honor. At
9 this time the State would call Jackie Catoe to the stand.

10 THE COURT: Okay.

WHEREUPON, JACKIE CATOE

FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

11
12
13 DEPUTY CATOE: I do.

DIRECT EXAMINATION BY MR. HOLT

14
15 Q. Deputy Catoe, where are you employed?

16 A. Darlington County Sheriff's Office.

17 Q. How long have you been there?

18 A. Almost two years.

19 Q. Any law enforcement experience before this?

20 A. Yes, sir.

21 Q. How many years?

22 A. Three years.

23 Q. All total, how many years in law enforcement do you
24 have?

25 A. Five-years.

JACKIE CATOE - DIRECT EXAMINATION

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1 Q. All right. In the Sheriff's Office where you work,
2 what is your job?

3 A. Just a normal patrol deputy.

4 Q. Tell us who don't know what a normal patrol deputy
5 is?

6 A. I respond to call, service the needs --- basically to
7 clients.

8 Q. And were those your duties on the day in question
9 January 13, this year?

10 A. Yes.

11 Q. And what were your duties that day?

12 A. I was doing normal patrol.

13 Q. And, the specific case at hand, how did you come to
14 be involved in this case?

15 A. I was sitting at the carwash near Alphabet Hill on
16 Fifth Street, writing a report for a previous call,
17 and dispatch came over and said all Hartsville area -
18 -- it was a little confusing the way dispatch said
19 it, basically it said that there was an armed robbery
20 suspects in a burgundy vehicle, and gave a partial
21 tag of the vehicle.

22 Q. And what was that partial tag?

23 A. It was --- the partial tag was DSF. It was a
24 burgundy vehicle, and they were nearing the Markette
25 on East Carolina.

JACKIE CATOE - DIRECT EXAMINATION

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1 Q. And, what did you do next?

2 A. Since I was out that way I turned around and went
3 straight down Patrick Highway. I cut through
4 Alphabet Hill, and went straight to Patrick Highway
5 and turned left.

6 Q. When you say met --- tell me what happened?

7 A. I pulled up to the stop light to turn left.

8 Q. Where?

9 A. At Patrick Highway and Home Avenue.

10 Q. Patrick Highway and Home Avenue.

11 A. Yes, sir.

12 Q. And you pulled up to a stop sign. What did you
13 witness next?

14 A. I was going to turn left towards the Markette, and I
15 see a burgundy vehicle coming towards me. Right when
16 they turned, I was watching the driver and watching
17 the car turn by me going on Patrick Highway where I
18 was at, I could see the partial tag of DSF. So I
19 automatically did a U-turn.

20 Q. All right. You saw the partial tag?

21 A. Yes.

22 Q. Before you saw that partial tag, did you see who was
23 driving the car that day?

24 A. Yes, I did.

25 Q. Have you had any dealings with the person who was

JACKIE CATOE - DIRECT EXAMINATION

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1 driving that car before previously?

2 A. No.

3 Q. Did you have any kind of bias towards him?

4 A. I didn't know him before. I never saw him before in
5 my life.

6 Q. Do you recognize that person?

7 A. Yes.

8 Q. Today in the courtroom?

9 A. Yes.

10 Q. And who is it?

11 A. The gentlemen sitting over there.

12 Q. And what is his name?

13 A. Mardrall Addison.

14 Q. And you saw him driving a burgundy four-door car that
15 day when you got that call?

16 A. Yes.

17 Q. All right. Tell me what happened next?

18 A. I did a U-turn to get behind the vehicle. And while
19 I was making the U-turn he accelerated to a high rate
20 of speed.

21 Q. Now you say accelerated to a high rate of speed. You
22 know that is sort of a police call. Tell me what
23 happened?

24 A. Before I could do it --- while I was turning around,
25 I saw the vehicle take off. While I was doing the U-

JACKIE CATOE - DIRECT EXAMINATION

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1 turn the vehicle accelerated at a high rate of speed.
2 There were a couple of vehicles traveling the same
3 direction that we were. I passed him on the bridge.
4 I activated my blue lights and sirens, and continued
5 to try to get him to pull over.

6 Q. Were you close enough that they could have heard your
7 blue lights and your sirens?

8 A. Yes.

9 Q. Did they know somebody was chasing them?

10 A. Yes.

11 Q. Tell me what happened next?

12 A. He went up the curve at Alphabet Hill on Patrick
13 Highway. He tried to veer over into one of those
14 small streets. He tried to get over and he lost
15 traction a little bit. I believe it was F. Street,
16 let me make sure. On F. Street. He went up and
17 there and there were three people there. Both of the
18 doors were opened, and the two front doors were
19 opened. And the driver was looking back at me.

20 Q. Could you see his face?

21 A. He was looking back at me, and we were this close
22 together by then. We were only traveling ten miles
23 an hour as they were trying to get out the door. He
24 kept looking back at me and they shut the door, and
25 both went out the passenger door.

JACKIE CATOE - DIRECT EXAMINATION

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1 Q. Was anybody behind you?

2 A. Yes.

3 Q. Who was behind you?

4 A. Investigator McInville.

5 Q. All right. And when the two defendants took off out
6 of the car running away from you on foot, what did
7 you do then?

8 A. I stayed with the third person that was still in the
9 vehicle.

10 Q. And who was the third person, did you ever find out?

11 A. Justine Peterson.

12 Q. Male or female?

13 A. Female.

14 Q. Did y'all determine that she was part of the armed
15 robbery at all?

16 A. I didn't determine that. She spoke with another
17 individual.

18 Q. But you are not in charge of investigating cases are
19 you?

20 A. No, sir.

21 Q. What do you do?

22 A. I take initial reports. If there is something
23 serious it is assigned to an investigator.

24 Q. If you have, or if you see somebody, or say you don't
25 see somebody, what do you do? Just tell the truth?

JACKIE CATOE - DIRECT EXAMINATION

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1 A. I'm sorry?

2 Q. You don't have an interest in this case do you?

3 A. No, sir.

4 Q. You just report what you do?

5 A. Yes, sir.

6 Q. Are you one hundred percent positive that you saw
7 Mardrall Addison driving that car that day?

8 A. Yes, sir. I am.

9 Q. Have you ever had any dealings with him before?

10 A. No, sir.

11 Q. Now, DSF that is the tag, what type of car was it?

12 A. It was a Buick.

13 Q. And what is the whole tag number, Deputy?

14 A. The entire tag was DSF-289.

15 Q. Who does that car belong to? Did you say 289?

16 A. Yes, sir.

17 Q. Who is that car registered to?

18 A. Yolanda Alford.

19 Q. Does she have an address on file ---

20 THE COURT: Wait a minute. The Court Reporter has
21 a question.

22 MADAME COURT REPORTER: Please spell her name?

23 A. A-L-F-O-R-D.

24 THE COURT: All right. Go ahead, Mr. Holt.

25 Q. Is there an address attached to her name?

1 A. [REDACTED].

2 Q. [REDACTED]?

3 A. Yes, sir.

4 MR. HOLT: Thank you very much, Deputy Catoe.

5 Q. What did, and tell me what your standard operating
6 procedure for when you charge somebody with a crime,
7 you write a warrant, who wrote the warrants?

8 A. I did.

9 Q. And what did you charge the people in that car with?

10 A. I charged the driver with failure to stop for blue
11 lights, driving under suspension. But, we got a
12 printout and it was the third or more offense.

13 Q. Where did you get the printout from?

14 A. The investigators bring it up on a computer printout
15 that we get.

16 Q. What did you charge the driver with?

17 A. Failure to stop for blue lights, and driving under
18 suspension third or more offense.

19 MR. HOLT: Deputy, thank you so much. Answer any
20 questions defense counsel may have.

21 THE COURT: Ms. Crayton.

22 MS. CRAYTON: Thank you, Your Honor.

23 CROSS EXAMINATION BY MS. CRAYTON

24 Q. You told Mr. Holt that you observed Mr. Addison
25 operating this vehicle; is that correct?

JACKIE CATOE - CROSS EXAMINATION - MS. CRAYTON

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1 A. Yes.

2 Q. You said that it was a burgundy Buick?

3 A. It was described as a burgundy vehicle with a partial
4 tag.

5 Q. Okay. It was described as a burgundy vehicle. Do
6 you know where the description came from?

7 A. Dispatch, as far as I know.

8 Q. You don't know where they got it from?

9 A. No, ma'am.

10 Q. I would like to go over when you first say you saw
11 the car. You told John Holt that it was going in the
12 opposite direction, or where was it you said you saw
13 him?

14 A. At the intersection of Home Avenue and Patrick
15 Highway, it is a T-intersection.

16 Q. Okay.

17 A. And they were coming one way. I was at the stop
18 sign. They were coming in and turning right towards
19 me, and came right past me.

20 Q. And tell me, when did you activate your blue lights?

21 A. As soon as I turned around and saw them accelerate.

22 Q. Were you able to see who was in that vehicle?

23 A. Not until he passed me. But I already had my lights
24 and siren on.

25 Q. And the person that you recovered is --- the person

1 in the vehicle --

2 A. -- Yes.

3 Q. Who, what was her name?

4 A. Justine Peterson.

5 Q. What was the weather like that day?

6 A. Cold. It was snowing.

7 Q. Snow on the ground, snow on the cars?

8 A. Snow.

9 Q. Was your car equipped with a camera?

10 A. Yes. But it wasn't working then.

11 Q. How long has that been.

12 A. Sometimes it works and sometimes it doesn't, it just
13 depends.

14 Q. But normally those videos are activated when you turn
15 on the blue lights; is that right?

16 A. You can set them up that way.

17 Q. But they just happened not to be working that day?

18 A. Yes, ma'am.

19 Q. Do you often search a vehicle after a stop?

20 A. The vehicle was searched. It is more or less --

21 Q. -- And you did that?

22 A. Yes.

23 Q. What did you find in that vehicle?

24 A. Ms. Peterson, and a box of shoes.

25 Q. What kind of shoes?

JACKIE CATOE - CROSS EXAMINATION - MR. GROVE

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1 A. Air Force.

2 MS. CRAYTON: No further questions, Your Honor.

3 THE COURT: All right. Mr. Grove, I don't think
4 there is any testimony here that indicates your client in
5 anyway whatsoever.

6 MR. GROVE: Just one very brief question, if I may,
7 Your Honor.

8 THE COURT: All right.

9 MR. GROVE: I apologize.

10 CROSS EXAMINATION BY MR. GROVE

11 Q. You said that there were two other people in the car.

12 A. There were three total.

13 Q. Who were they?

14 A. I could only see the driver, Mr. Addison, and after
15 the fact, Ms. Peterson.

16 MR. GROVE: Thank you.

17 THE COURT: Redirect?

18 REDIRECT EXAMINATION BY MR. HOLT

19 Q. How did they wreck their car?

20 A. They basically jumped out with it still --- it hadn't
21 stopped.

22 Q. And when you searched that car, what did you find in
23 the car?

24 A. Ms. Peterson and a couple of boxes of shoes. They
25 were still in the box.

JAMES BRANDON HODGE - DIRECT EXAMINATION

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1 Q. New shoes? Old shoes?

2 A. Brand new.

3 Q. Ragged shoes?

4 A. Brand new shoes.

5 Q. Brand new shoes?

6 A. Yes, sir.

7 MR. HOLT: Thank you, Deputy.

8 THE COURT: Anything else, Ms. Crayton?

9 MS. CRAYTON: No, Your Honor.

10 THE COURT: Thank you. You may step down. All
11 right. You may call your next witness.

12 MR. C. JONES: Your Honor, the State calls James
13 Brandon Hodge.

14 THE COURT: All right.

15 WHEREUPON, JAMES BRANDON HODGE

16 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

17 OFFICER HODGE: I do.

18 DIRECT EXAMINATION BY MR. C. JONES

19 Q. How are you doing, Officer Hodge?

20 A. I am doing pretty well.

21 Q. Where are you currently employed?

22 A. At the Hartsville Police Department.

23 Q. And how long have you been working there?

24 A. A good many years.

25 Q. Did you have any previous law enforcement experience?

JAMES BRANDON HODGE - DIRECT EXAMINATION

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1 A. Yes, sir.

2 Q. And what is your current position there?

3 A. I am a Sergeant assigned to patrol division.

4 Q. On January 13, 2011, what were your duties?

5 A. I was a Sergeant then as well.

6 Q. And around three o'clock that day, what were you
7 doing?

8 A. I was actually at the Police Station working on some
9 papers.

10 Q. Did you receive a call over the radio or dispatch?

11 A. Yes, sir. We did.

12 Q. Would you describe that please?

13 A. The actual call come out as --- if I recall
14 correctly, it was someone had been robbed at [REDACTED]

15 [REDACTED].

16 Q. What did you do after you received that?

17 A. I responded with going to that area. Officer Perkins
18 actually got to the victim on Carolina Avenue. I
19 stopped to make sure that the victim was okay, and
20 then I actually proceeded to the crime scene.

21 Q. And when you arrived at [REDACTED] was there
22 another officer there?

23 A. Myself and Sergeant Mark Blair pretty much arrived at
24 the same exact time.

25 Q. What did you do after you arrived at that residence?

JAMES BRANDON HODGE - DIRECT EXAMINATION

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1 A. We parked our vehicles and approached on foot. And
2 as we walked up we seen some money lying on the
3 ground at [REDACTED] Apartments.

4 Q. Are you familiar with this area, [REDACTED]?

5 A. Yes, sir. I am.

6 Q. Would you say it is a high crime area?

7 A. Yes, sir. I would say so.

8 Q. In your opinion with money laying on the ground,
9 would it last very long?

10 MR. GROVE: Objection, Your Honor. Speculation.

11 THE COURT: Sustained. Disregard the answer.

12 Q. When you approached the house, what did you do?

13 A. I approached the house, and about the same time I was
14 coming up to knock on the door on the left, I heard
15 on my police radio that the vehicle was in chase
16 belonged to a lady by the name of Yolanda Alford, and
17 was actually registered to that address on 111
18 Sunshine Court. I knocked on the door, and Ms.
19 Alford came to the door.

20 Q. What was the weather like that day?

21 A. If I remember correctly, it was sunny and it was
22 cool. There was some snow on the ground.

23 Q. And after you spoke to Yolanda, what did you do?

24 A. After speaking with her I left the scene, and I went
25 up to an area of Hartsville called Alphabet Hill, the

JAMES BRANDON HODGE - DIRECT EXAMINATION

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1 F. Street area. That is where the chase actually
2 ended, by Deputy Catoe.

3 Q. And why did you go to Alphabet Hill? Did you receive
4 another call?

5 A. Well, actually the chase ended, and the two subjects
6 had gotten out of the vehicle and fled on foot. I
7 went to assist and try to locate the subjects that
8 had fled on foot.

9 Q. And when you got to the area where you said the chase
10 ended, about how many officers were around the area?

11 A. I'd say between eight and ten, possibly. That is a
12 ballpark figure.

13 Q. At this time did you have --- did you use the Canine
14 Unit?

15 A. At that time I had a German Shepherd Canine assigned
16 to me.

17 Q. And he was in your vehicle?

18 A. Yes, sir.

19 Q. Did you attempt to use him?

20 A. I attempted to --- the dog was trained to track. By
21 the time I got on the scene, or that scene, the chase
22 had ended. And probably thirty or forty minutes had
23 passed. The scene was contaminated from where all
24 the people had been walking around and looking around
25 in the snow, because there was still snow on the

1 ground.

2 Q. So, you are saying that because there was so many
3 people walking around there, it was difficult to
4 track?

5 A. Yes, sir. It was very difficult.

6 Q. How was Emilio located that day?

7 A. It was --- I stayed on the scene for thirty minutes
8 or so, me being a Sergeant, Supervisor, I had to go
9 back to town and take care of some other matters that
10 were going on. I received a phone call from Corporal
11 Robert McIntyre, with the city saying they had Emilio
12 Craig and he was found hiding underneath a pickup
13 truck. They said three streets over to the east
14 still in the Alphabet area.

15 MR. C. JONES: No more questions, Your Honor.

16 THE COURT: Cross examination, Mr. Grove.

17 MR. GROVE: Thank you, Judge.

18 CROSS EXAMINATION BY MR. GROVE

19 Q. That is something that you heard, Sergeant Hodge?

20 A. Which part, sir?

21 Q. The part in reference to an officer had located
22 Emilio Craig, that is something you heard?

23 A. I received a telephone call from Corporal Robert
24 McIntyre.

25 Q. Not something that you were present for?

JAMES BRANDON HODGE - CROSS EXAMINATION - MR. GROVE

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1 A. That he had been located.

2 Q. Who made the call to 911 that a robbery had taken
3 place at 111 Sunshine Court?

4 A. I think the victim. I am not for certain, but I
5 think the victim.

6 Q. It sounds like you kind of ran all over Hartsville
7 that day, that you were in one place with Officer
8 Perkins, and then another place with Officer Blair,
9 and then out on Alphabet Hill, and then back and
10 forth and all around. How long would you think that
11 you had as far as an opportunity to speak with the
12 victim --- to speak with Ms. Alford? I am not
13 concerned with the substance of the conversations,
14 but the length of time that you were able to discuss
15 the events that people were alleging that had
16 happened? How much time?

17 A. From the time that Craig was actually located?

18 Q. No, sir. From the time that you began a conversation
19 with Mr. Mazyck, if you did, how long you spoke with
20 him about it?

21 A. I didn't speak to the victim.

22 Q. How long did you speak with Ms. Alford?

23 A. I spoke with her approximately I would say, ten to
24 fifteen minutes.

25 Q. Did you speak with anyone else, not other officers,

1 but witnesses?

2 A. No, sir.

3 Q. How long do you think you were in the East Park
4 Apartments?

5 A. Approximately twenty, twenty-five minutes.

6 Q. Anybody else standing around, walking around?

7 A. No, sir. Not to my knowledge.

8 Q. Did you knock on any doors?

9 A. [REDACTED].

10 Q. Anywhere else?

11 A. No, sir.

12 MR. GROVE: Nothing further. Thank you, Sergeant.

13 THE COURT: All right. Ms. Crayton, I don't think
14 there are any implications for your client. But, do you
15 have any questions?

16 MS. CRAYTON: Your Honor, I just have one question.

17 THE COURT: All right.

18 CROSS EXAMINATION BY MS. CRAYTON

19 Q. I just read in the incident report that you were
20 originally with Corporal Perkins, is that correct?
21 And it was a little confusion with the car, because
22 you say, both cars the victim's car as well as the
23 suspects car were the same color?

24 A. I think they were both maroon or burgundy in color,
25 both vehicles were.

DAVID YOUNG - DIRECT EXAMINATION

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1 MS. CRAYTON: That's all, Your Honor.

2 THE COURT: Redirect?

3 MR. C. JONES: No, Your Honor.

4 THE COURT: All right. Thank you. You may step
5 down. All right. You may call your next witness.

6 MR. C. JONES: The State calls David Young.

7 WHEREUPON, DAVID YOUNG

8 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

9 OFFICER YOUNG: I do.

10 DIRECT EXAMINATION BY MR. C. JONES

11 Q. Mr. Young, where are you currently employed?

12 A. Darlington County Sheriff's Office.

13 Q. And what is your position there?

14 A. I am an Investigative Sergeant, and I am assigned to
15 the Criminal Investigation Division.

16 Q. Explain the difference between an investigator and
17 just a road officer?

18 A. A road officer respond to additional calls, service,
19 they take police reports. They are turned into
20 administration. Any cases that are assigned or
21 needed to be followed up such as burglaries,
22 robberies, anything like that is assigned to the
23 Criminal Investigation Division, and then our captain
24 assigns an individual investigator.

25 Q. And how long have you been in this position?

DAVID YOUNG - DIRECT EXAMINATION

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1 A. I have been an investigator with the Sheriff's Office
2 since 2008.

3 Q. Explain what is a case file?

4 A. A case file? Once we work a case, and an arrest is
5 made, after the arrest is made all of our information
6 that is gathered during that case is put in a file,
7 and that file is sent to the Solicitor's Office.

8 Q. And, what happens if you don't turn in a case file?

9 A. If a file is not turned in, the prosecution couldn't
10 --- that file would be --- that case would be
11 dismissed.

12 Q. On January 13, 2011, what capacity was you working in
13 the Sheriff's office?

14 A. As a Criminal Investigator.

15 Q. And what were you doing around three o'clock that
16 day?

17 A. Myself and another Investigator, Sergeant McInville,
18 we were in my vehicle. We were out following up on
19 another case.

20 Q. Did you get a call over dispatch around three
21 o'clock?

22 A. We did. We overheard a call that was being
23 dispatched to patrol officers to respond to the
24 Markette on East Carolina, that dispatch had put out
25 that there was an armed robbery suspect there, and

DAVID YOUNG - DIRECT EXAMINATION

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1 give out the vehicle as a burgundy Buick.

2 Q. And were there any other details that they gave to
3 you?

4 A. There was no other details. We were kind of unaware
5 of any robbery had taken place.

6 Q. So, in your mind was that a lot of information that
7 they gave you?

8 A. That was not any hardly.

9 Q. And after you got that call over dispatch, what did
10 you do?

11 A. Myself and Sergeant McInville --- we were on Patrick
12 Highway in Hartsville, and we proceeded toward the
13 East Markette location.

14 Q. And when you got to --- as you were going towards the
15 Markette, what happened?

16 A. We were traveling down Patrick Highway, and as we got
17 to the stop sign at Patrick Highway and Home Avenue,
18 it was a marked patrol car in front of us as well.
19 As we were sitting at that stop sign, we should have
20 gotten a --- taken a left and we observed a burgundy
21 Buick coming from --- coming down East Home, coming
22 from the area of the Markette, and it was turning
23 right on Patrick Highway where we were sitting.

24 Q. How much time had passed when you got the call from
25 dispatch to where you were coming up to the stop sign

DAVID YOUNG - DIRECT EXAMINATION

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1 and you saw a burgundy car coming up the road?

2 A. It was just a matter of minutes. It was a very short
3 time.

4 Q. And after you saw that vehicle, what did you do?

5 A. We did observe the other vehicle coming. It was
6 taking a right. Both of us --- we did observe it.
7 We were looking at the vehicle, trying to determine
8 maybe this was the vehicle that we were --- that we
9 had just gotten the call about.

10 MR. C. JONES: Court's indulgence.

11 (PAUSE.)

12 Q. Officer, did you recognize anybody in the vehicle?

13 A. I did.

14 Q. Did it appear that they recognized you as well?

15 A. Yes.

16 Q. And who was in the vehicle that you recognized?

17 A. As the vehicle was turning right on Patrick Highway,
18 I observed Mardrall Addison driving that vehicle.

19 Q. About how far was the vehicle when y'all passed it?

20 A. We were sitting at the stop sign, and it turned right
21 beside us. I would say six to eight feet.

22 Q. Were you able to make eye contact?

23 A. Yes.

24 Q. And after you passed each other, and it was evident
25 to you that you recognized him, what did the vehicle

DAVID YOUNG - DIRECT EXAMINATION

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1 do?

2 A. As soon as the vehicle passed us, it appeared to
3 speed off. The marked unit turned around behind him,
4 we turned around behind the marked unit, and as we
5 turned around behind the vehicle, he was taking off,
6 and he was passing cars. The marked unit did turn
7 his blue light and siren on as well as I --- and we
8 pursued this vehicle to F. Street.

9 Q. Did you ever figure out who was in the marked
10 vehicle?

11 A. Yes.

12 Q. Who was that?

13 A. It was Deputy Catoe.

14 Q. All right. About how long did this chase last?

15 A. It was a very short chase, about a half a mile.

16 Q. At the end of the chase, what did you do?

17 A. The marked patrol car was much faster; we were in a
18 Ford Explorer. By the time we reached F. Street, the
19 vehicle had stopped. And Deputy Catoe had stopped.
20 When we pulled up behind Deputy Catoe, I observed
21 Deputy Catoe getting out, going up to the vehicle, or
22 running up to the vehicle. And there were two
23 individuals running away from the vehicle.

24 Q. Did you pursue on foot, or did you remain in the
25 vehicle?

DAVID YOUNG - DIRECT EXAMINATION

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1 A. I pulled up momentarily, dropped Investigator
2 McInville out, and he pursued them on foot, and I
3 drove on around and went over to the next street to
4 try to get ahead of them.

5 Q. And when you went over to the next street, were you
6 able to locate either one of them?

7 A. No, they had already made it across. And when I
8 pulled up Sergeant McInville was coming out.

9 Q. Did you give up looking for the suspects?

10 A. No. I parked my vehicle. We did call for other
11 officers. I would say a dozen or so officers did
12 respond. We tried to set up a parameter for around
13 that neighborhood, and we started checking abandoned
14 houses, basically searching for the individuals.

15 Q. About how long would you say that you looked for
16 them?

17 A. I would say a hour maybe, as far as myself.

18 Q. How long did it take you from the time you began the
19 car chase to the time you realized that Emilio was
20 captured?

21 A. I would say we were there probably an hour maybe.
22 And after we left, myself and Sergeant McInville ---
23 there were still other officers there searching. And
24 I did hear over the radio that one of the individuals
25 was captured, and he was I.D. as Emilio Craig.

DAVID YOUNG - CROSS EXAMINATION - MS. CRAYTON

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1 Q. And about how long was that?

2 A. I would say within two hours, I would think.

3 MR. C. JONES: No further question, Your Honor.

4 THE COURT: All right. Mr. Grove.

5 MR. GROVE: I have nothing for him, Your Honor.

6 THE COURT: All right. Ms. Crayton?

7 MS. CRAYTON: Court's indulgence, Your Honor.

8 (PAUSE.)

9 CROSS EXAMINATION BY MS. CRAYTON

10 Q. Investigator Young, correct? Investigator?

11 A. Yes.

12 Q. Just briefly, you said you were driving a Ford
13 Explorer?

14 A. Yes.

15 Q. Is that equipped with a camera?

16 A. No, it is not.

17 Q. It is not.

18 MS. CRAYTON: No further questions, Your Honor.

19 THE COURT: All right. Anything further?

20 MR. C. JONES: No further questions, Your Honor.

21 THE COURT: Thank you. You may step down. All
22 right. You may call your next witness.

23 MR. C. JONES: The State calls Chad McInville.

24 WHEREUPON, CHAD MCINVILLE

25 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

CHAD MCINVILLE - DIRECT EXAMINATION

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1 OFFICER MCINVILLE: I do.

2 DIRECT EXAMINATION BY MR. C. JONES

3 Q. Good afternoon. How are you doing?

4 A. Good.

5 Q. Where are you currently employed?

6 A. Darlington County Sheriff's Office.

7 Q. And how long have you worked there?

8 A. Approximately thirteen years.

9 Q. Did you have any previous law enforcement experience?

10 A. Just Darlington County.

11 Q. What is your position?

12 A. I am the First Sergeant in the Criminal Investigation
13 Unit.

14 Q. You are an investigator?

15 A. Yes.

16 Q. And on January 13, 2011, around three o'clock, what
17 were you doing?

18 A. Myself and Investigator Young were just on the north
19 end of town.

20 Q. Did you receive a call over dispatch?

21 A. Yes.

22 Q. Can you describe what that call was about?

23 A. The call came in --- it was a call about some
24 subjects that were supposed to be at the Markette
25 Store on East Carolina. Possibly in a burgundy

CHAD MCINVILLE - DIRECT EXAMINATION

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1 vehicle, involved in some type of robbery.

2 Q. Is that all the information that you got? Did they
3 give you any details?

4 A. That was about it. It was a little confusing.
5 Anyway, we started going that way.

6 Q. So you normally get a little more information as to
7 what is going on, right?

8 A. Yes.

9 Q. So, you headed towards the Markette, what happened
10 next?

11 A. We were traveling down on Patrick Highway, and when
12 we got to the stop sign there at Home Avenue, we
13 observed a burgundy Buick make kind of quick turn.
14 And, that is when I observed Mr. Addison driving the
15 vehicle, and I heard him --- I could tell the vehicle
16 was beginning to speed up. And that is when we
17 turned around, myself and Investigator Young in the
18 vehicle. We turned around, and Deputy Catoe was with
19 us --- in front of us, and he turned around also, and
20 the chase began.

21 Q. And how long from the time you got the radio dispatch
22 till the time you saw the burgundy vehicle coming
23 your way?

24 A. I don't know the exact time. It was pretty quick,
25 within minutes.

CHAD MCINVILLE - DIRECT EXAMINATION

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1 Q. And, describe after the burgundy car passed you, what
2 happened after that?

3 A. When it passes someone, we can definitely tell it was
4 speeding up very quick, and we could see weave it in
5 and out of cars at a very high rate of speed. And,
6 you know, we were at a high rate of speed trying to
7 catch up with it. They turned up on Alphabet Hill,
8 and I remember seeing a black male subject jump out
9 and run. I jumped out of the vehicle that we were
10 in, and I started a foot chase after him myself.

11 Q. When they passed you, about how far were you?

12 A. The vehicles were side by side, within six feet, five
13 feet.

14 Q. And you were driving the vehicle or was Mr. Young?

15 A. Mr. Young was driving.

16 Q. So, you turned around and how long was the chase?

17 A. Fairly short. Half a mile, three fourths of a mile.

18 Q. Where was the location they stopped?

19 A. They stopped on one of the Alphabet streets, about
20 half way up the street they stopped and jumped out
21 and run, and that is where I got out of the vehicle,
22 and run behind the subjects.

23 Q. And how long did you chase them?

24 A. I only chased approximately a hundred yards, and I
25 lost sight of them. Actually thought they went into

CHAD MCINVILLE - CROSS EXAMINATION - MR. GROVE

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1 an abandoned house. And I began to check the house.
2 You know, there was no one in the house, and that was
3 the extent of the actual foot chase on my end.

4 Q. So the time line is about how long?

5 A. It was all within minutes, very quick.

6 Q. So what did you do after you realized you lost them?

7 A. I just got back, and other officers started showing
8 up, and we basically got like a parameter, and we all
9 just started looking, and kind of fanning out
10 checking different places.

11 Q. Did you later receive word that Emilio was taken into
12 custody?

13 A. Yes.

14 MR. GROVE: Objection, Your Honor. Hearsay.

15 THE COURT: All right. It is hearsay. I'll
16 sustain the objection. Disregard the answer.

17 MR. C. JONES: I have no further questions, Your
18 Honor.

19 THE COURT: All right. Mr. Grove.

20 MR. GROVE: Very briefly. Mr. McInville, I won't
21 keep you long.

22 CROSS EXAMINATION BY MR. GROVE

23 Q. After the foot chase, did you return to the site
24 where the burgundy vehicle was located?

25 A. Not that I recall. I remember searching the

1 abandoned buildings, and it was you know, I kind of
2 kept looking for him.

3 Q. Did you ever go back to the Ford Explorer?

4 A. Later on, I remember going back to the scene, yes.

5 Q. Was it in the vicinity of the burgundy Buick, I think
6 it was?

7 A. What is your question again?

8 Q. The burgundy car that you were chasing, did you go
9 back to that after you got out of the car on foot?

10 A. After I got out of the car, Investigator Young stayed
11 in the vehicle I was in, and he basically patrolled
12 around with it while I was on foot.

13 Q. Yes, sir. My point is, after you got out of the
14 car, I know you ran for a minute or so. Did you ever
15 come back to where the abandoned burgundy car was?

16 A. Yes.

17 Q. Did you have an opportunity to search that car?

18 A. No. I did not.

19 Q. Did you collect any evidence?

20 A. Myself, no.

21 Q. Did you see anyone collect any evidence?

22 A. No, sir.

23 Q. Did you talk to any potential witnesses?

24 A. Not that I recall, no.

25 Q. Did you interview anybody in the area?

CHAD MCINVILLE - CROSS EXAMINATION - MS. CRAYTON 263

1 A. Not that I recall, no.

2 MR. GROVE: Nothing further. Thank you.

3 THE COURT: Ms. Crayton?

4 MS. CRAYTON: Investigator McInville, I will be
5 brief.

6 CROSS EXAMINATION BY MS. CRAYTON

7 Q. When you say that you made a U-turn and started
8 pursuing the vehicle, you said that you saw it going
9 in and out of cars. What did you mean by that?

10 A. The burgundy vehicle was passing cars that was on the
11 road.

12 Q. It was passing vehicles.

13 A. Yes.

14 Q. So at some point there were cars in between you and
15 the other officer in front of you, and that vehicle,
16 the vehicle that you were pursuing; is that correct?

17 A. Yes.

18 MS. CRAYTON: Nothing further, Your Honor.

19 THE COURT: Redirect?

20 MR. C. JONES: Just a minute.

21 (PAUSE.)

22 MR. C. JONES: Briefly, Your Honor.

23 REDIRECT EXAMINATION BY MR. C. JONES

24 Q. Did you ever loose sight of the vehicle, when you
25 turned around and gave chase?

CURTIS BRYANT - DIRECT EXAMINATION

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1 A. The only time I recall losing sight was when they
2 turned up on Alphabet Hill.

3 Q. And was it the same car when you pulled up to the
4 scene, that was the car that you were chasing?

5 A. Yes, it appeared to be. Yes.

6 MR. C. JONES: That's all, Your Honor.

7 THE COURT: Anything else, Mr. Grove?

8 MR. GROVE: No, Your Honor.

9 THE COURT: Ms. Crayton?

10 MS. CRAYTON: No, Your Honor. Thank you.

11 THE COURT: Thank you. You may step down.

12 OFFICER MCINVILLE: Thank you.

13 THE COURT: All right. You may call your next
14 witness.

15 MR. C. JONES: The State calls Curtis Bryant.

16 WHEREUPON, CURTIS BRYANT

17 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

18 OFFICER BRYANT: I do.

19 DIRECT EXAMINATION BY MR. C. JONES

20 Q. How are you doing Officer Bryant?

21 A. I'm doing good.

22 Q. Where are you currently employed?

23 A. Darlington County Sheriff's Office.

24 Q. And how long have you been working there?

25 A. Approximately eleven years.

CURTIS BRYANT - DIRECT EXAMINATION

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1 Q. What is your current position?

2 A. I'm a patrol lieutenant, shift supervisor.

3 Q. And, on January 13, of this year what was your
4 position?

5 A. I was supervising my shift on day shift.

6 Q. And on that same day, January 13, around three
7 o'clock, what were you doing?

8 A. I was patrolling the north end of the county, which
9 was around North Fifth Street, Ousleydale Road, that
10 area.

11 Q. Did you receive a call over dispatch?

12 A. We received a general call from dispatch to all units
13 in the vicinity, to be on the look out for a red or
14 burgundy colored Buick vehicle that was possibly
15 identified as being used in an armed robbery.

16 Q. After you got that call, describe what you did?

17 A. I just kind of stayed in the area that I was in. A
18 few moments later one of my deputies, Jackie Catoe
19 called on the radio and said he had spotted the
20 vehicle.

21 MR. GROVE: Objection, Your Honor, hearsay.

22 THE COURT: All right. If that falls within one of
23 the exceptions of hearsay, which one, Mr. Solicitor.

24 MR. C. JONES: Business records, Your Honor.

25 THE COURT: Overruled. The objection is sustained

CURTIS BRYANT - DIRECT EXAMINATION

266

1 under --- Objection is sustained.

2 Q. After you got the call from dispatch, you were
3 already in the area. Did you receive a call from --

4 A. -- Catoe.

5 Q. What did you do after you received that call?

6 A. I immediately went to his assistance.

7 Q. And specifically, what address did you go to?

8 A. He was on Patrick Highway, the Alphabet Hill
9 community, F. Street, area. I proceeded to that
10 area, and the chase had already stopped by the time I
11 got there.

12 Q. Describe what you saw when you got to the scene?

13 A. I seen Deputy Catoe have somebody in handcuffs. I
14 didn't know who it was. I then approached him, asked
15 him what was going on, he told me. I then began
16 riding the area looking for the two suspects.

17 Q. Did you ever get out of your vehicle and search on
18 foot?

19 A. No. I did not.

20 MR. C. JONES: Court's indulgence.

21 THE COURT: All right.

22 (PAUSE.)

23 Q. Officer Bryant, you were looking for the defendants,
24 what happened while you were looking for them?

25 A. I was sitting at the corner of Patrick Highway and H.

CURTIS BRYANT - DIRECT EXAMINATION

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1 Street. A citizen came by in a vehicle and told me
2 that there was somebody --

3 THE COURT: Stop.

4 MR. GROVE: Objection.

5 THE COURT: Tell me why that is admissible, Mr.
6 Solicitor?

7 MR. C. JONES: Your Honor, it does go to the truth
8 of the matter of --

9 THE COURT: I am not sure if it does or not.

10 MR. C. JONES: He is trying to explain why he did
11 what he did.

12 THE COURT: All right. Without saying what was
13 told to him, he can say what he did as a result of that
14 conversation.

15 Q. As a result of the conversation, and a citizen
16 stopped you, what did you do after that?

17 A. I proceeded to several houses down from where I was
18 sitting at. Three or four houses to a yellow house,
19 and found a black male suspect laying under a
20 vehicle.

21 Q. And as you approached that vehicle, what did you do?

22 A. I then drew my duty weapon, gave loud verbal commands
23 to place his hands where I could see them. After a
24 few seconds, he did do that. I then grabbed him by
25 the wrist, and pulled him from under the vehicle,

CURTIS BRYANT - DIRECT EXAMINATION

268

1 through some pretty heavy snow for our area, because
2 there was snow all over the ground. I then
3 handcuffed him and placed him under arrest.

4 Q. When you were approaching the truck, was there
5 another officer in the area, or in the vicinity of
6 the --

7 A. -- There were several officers coming to the general
8 area.

9 Q. Can you name the officers?

10 A. One was Craig Braddock, he was maybe a hundred yards
11 from me, and another one was Neil Flowers, who had
12 pulled up about the same time, just a few seconds
13 behind me.

14 Q. Who did you pull out from beneath the truck?

15 A. He was identified as Emilio Craig.

16 Q. Do you recognize that person in the courtroom?

17 A. Yes, sir.

18 Q. Can you point him out to us?

19 A. He is right there, in the white shirt.

20 Q. Are you a hundred percent positive that that is him?

21 A. Yes, sir.

22 MR. C. JONES: No further questions.

23 THE COURT: Cross examination, Mr. Grove?

24 MR. GROVE: Thank you, Judge.

25 CROSS EXAMINATION BY MR. GROVE

CURTIS BRYANT - CROSS EXAMINATION - MR. GROVE

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- 1 Q. Lieutenant Bryant, did you fill out a report?
- 2 A. No, sir. I did not.
- 3 Q. You made an arrest, but didn't fill out a report
- 4 about it?
- 5 A. There was a report already made out of the incident.
- 6 Q. The incident that dispatch called in fifteen minutes
- 7 earlier?
- 8 A. The incident that my deputy had called in.
- 9 Q. That hadn't been going on for all that long, they
- 10 already had an incident report about it?
- 11 A. There was an incident report to be done, a case
- 12 number had been issued.
- 13 Q. But you didn't contribute the information involving
- 14 the arrest of Emilio Craig to that incident report?
- 15 A. No, the deputy --- the other deputy added that into
- 16 his report.
- 17 Q. Is that unusual?
- 18 A. No, that is common.
- 19 Q. How long do you believe he had been on Alphabet Hill?
- 20 A. It is hard to say. Maybe thirty, forty-five minutes.
- 21 Q. You said that someone was in handcuffs already when
- 22 you arrived?
- 23 A. Yes.
- 24 Q. Male or female?
- 25 A. I believe it was a female.

CURTIS BRYANT - CROSS EXAMINATION - MR. GROVE

270

1 Q. You stayed in your vehicle, but patrolled the area, I
2 am assuming while other officers were on foot?

3 A. I don't know how many other officers were there.

4 Q. Do you remember what time you were dispatched to that
5 location?

6 A. I can refer back to the incident report. It was 3:31
7 p.m.

8 Q. When you were dispatched?

9 A. When the call came out. When the chase initially
10 started.

11 Q. I'm talking about do you have any recollection as to
12 why you were dispatched?

13 A. I was never dispatched by dispatch. When another
14 officer says they are in a chase, we automatically
15 go.

16 Q. Certainly. And do you remember what time you left
17 Alphabet Hill?

18 A. It was probably getting around 5:30.

19 MR. GROVE: Beg the Court's indulgence.

20 THE COURT: Yes, sir.

21 (PAUSE.)

22 Q. I believe you said that Officer Braddock was with you
23 as well?

24 A. He wasn't with me. He was near by.

25 Q. In the vicinity, I mean. I apologize.

CURTIS BRYANT - REDIRECT EXAMINATION

271

1 A. Yes.

2 Q. Anyone else?

3 A. Agent Neil Flowers, one of our drug agents. A few
4 city officers, and I think our Chief Deputy Thompson
5 pulled up shortly afterwards.

6 Q. In the law enforcement other than Hartsville Police
7 or Darlington County Sheriff?

8 A. Not that I recall.

9 Q. U. S. Marshalls?

10 A. They were with us. U. S. Marshalls are deputies, and
11 are officers of the Hartsville Police Department.

12 Q. Is Officer Braddock one of those?

13 A. He is a drug agent.

14 MR. GROVE: Nothing further, Your Honor.

15 THE COURT: Ms. Crayton?

16 MS. CRAYTON: No, Your Honor. Thank you.

17 THE COURT: Anything further on redirect?

18 MR. C. JONES: Yes, Your Honor. Just one.

19 REDIRECT EXAMINATION BY MR. C. JONES

20 Q. Who did you pull out of from under the truck?

21 A. Emilio Craig.

22 MR. C. JONES: That's all, Your Honor.

23 THE COURT: All right. Thank you. You may step
24 down.

25 THE COURT: All right. Mr. Solicitor, you may call

TERRENCE M. ANDERSON - DIRECT EXAMINATION

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1 your next witness.

2 MR. HOLT: At this time the State would like to
3 call Terry Anderson, from the Hartsville Police
4 Department.

5 THE COURT: All right. Mr. Anderson.

6 WHEREUPON, TERRENCE M. ANDERSON

7 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

8 OFFICER ANDERSON: I do.

9 DIRECT EXAMINATION BY MR. HOLT

10 Q. Officer Anderson, would you please give your whole
11 name, position, where you work?

12 A. My name is Terrence Michael Anderson. I am a
13 detective with the Hartsville Police Department.

14 Q. How long have you been in law enforcement?

15 A. I have been in law enforcement about sixteen years.

16 Q. What else have you done?

17 A. I was in the Marine Corp.

18 Q. How many years?

19 A. Twenty years.

20 Q. What are your jobs --- what is your jobs --- Explain
21 your duties at HPD?

22 A. I am currently a detective in the Investigative
23 Division. And what I do is in the morning when I
24 come into work, if there is a burglary, or some kind
25 of serious crime, if it is assigned to me I go out

TERRENCE M. ANDERSON - DIRECT EXAMINATION

273

1 and investigate it. I talk to witnesses, talk to
2 victims, and collect evidence.

3 Q. Now, the date in question, January 13, 2011. What
4 were your duties that day, and how did you become
5 involved in the case at hand?

6 A. My duties were the same as they are now. I was a
7 detective. And I had heard about the call out at 111
8 Sunshine Court. Before anybody asked me to come out
9 there, because I knew it was an armed robbery, I
10 decided I was going to drive out there and assist in
11 any way I could.

12 Q. All right. Did you become assigned to this case?

13 A. Yes, it was assigned to me.

14 Q. All right. Now, is this case a little more
15 complicated than the normal case would be?

16 A. It is.

17 Q. As far as the agency is concerned?

18 A. Yes, it is in some respects, because a lot of times
19 we don't have to do anything with the Sheriff's
20 Department as far as this, because currently we are
21 on two totally different radio frequencies. So,
22 there was a lot of lost communications. If I am
23 normally investigating the case, I do deal with the
24 Sheriff's Department on a regular basis. But I can
25 call them on the phone. There is really not that

1 time where you have to get something done real quick.

2 Q. But, if you have to get something done real quick, a
3 time crunch, is there some type of overlap between
4 the agencies?

5 A. Oh, definitely.

6 Q. Did that occur here?

7 A. Yes, sir. It did.

8 Q. Who did you find living at [REDACTED]?

9 A. I believe it is --- the first name here, Yolanda
10 Alford.

11 Q. During the course of your investigation, did you find
12 out she was romantically involved?

13 A. -- Yes, sir. I did.

14 Q. Who did you find out you were the she was
15 romantically involved with?

16 A. Emilio Craig.

17 Q. Now, there was a third person in the car that day at
18 the crime scene, did you find out who that person
19 was?

20 A. Yes.

21 Q. And who was it?

22 A. Justine Peterson.

23 Q. Did you find out if she had anything to do with the
24 robbery, or do you believe she had anything to do
25 with the robbery? Let me ask you that.

TERRENCE M. ANDERSON - DIRECT EXAMINATION

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1 A. I don't believe she had anything to do with it, no,
2 sir.

3 Q. All right. Now, officer, just standard operating
4 procedure questions? Okay. Explain to us who signs
5 a warrant, and how sometimes your office might have
6 the word for, and who signs the warrant?

7 A. In particular when it is for a patrol officer, it is
8 kind of hard when you work nights, or when the arrest
9 someone to do a warrant. An example would be if I
10 was working last night, or yesterday afternoon, and
11 arrested someone or had to have someone arrested, I
12 complete an investigation, I would not be able to
13 sign a warrant today, because we do not have a judge
14 available all the time. I would not have been able
15 to sign a warrant today, because I have been up here
16 in court all day. And this court takes precedence
17 over anything for City Court. So, the Clerk of Court
18 gets someone who is actually in jail, she would have
19 another police officer come over. He would sign the
20 top of the warrant where it says Affiant. He would
21 put that --- if I were signing it for someone else, I
22 would but Sergeant Terry Anderson, for Officer Jolly
23 Perkins.

24 Q. Why?

25 A. That way, because I would be the one, signing the

1 warrant, because Officer Perkins is not able to be
2 there at the time. He may have worked last night. A
3 bond hearing is at 9:30 in the mornings. He got off
4 at 6:00 in the morning. It is just not physically
5 possible for them to be there all the time.

6 Q. Now, you talked so far, and you have been in here,
7 you are the lead investigator; Jackie Catoe finding
8 the car, the car being in an accident, two people ran
9 out, Emilio Craig was found near the scene. Did you
10 go out to the car during the course of this
11 investigation?

12 A. No, sir. I did not.

13 Q. And why did you not go out to the scene?

14 A. I was interviewing someone I would consider a witness
15 to part of it.

16 Q. Do you wish in hindsight that you did go out to the
17 car?

18 A. Most definitely.

19 Q. Do you make a little bit off --

20 A. -- I'm sorry, would you repeat that?

21 Q. You are not perfect are you?

22 A. Oh, no, sir.

23 Q. Do you often make mistakes?

24 A. Yes, sir. I do.

25 Q. I do too. Let me ask you this. Why did you think it

TERRENCE M. ANDERSON - DIRECT EXAMINATION

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1 was more important to be out interviewing as opposed
2 to going with everyone.

3 A. I was trying to find out who --- I was interviewing
4 the owner of the car, and I was trying to find out
5 who that person had given the car to so we would have
6 suspects. That was before we received some
7 information as far as who everybody involved was.

8 Q. You've got sixteen years experience on the job?

9 A. Yes, sir.

10 Q. Say you have a failure to stop for a blue light, what
11 is the common theory behind --

12 MS. CRAYTON: Objection, Your Honor. Speculation.

13 THE COURT: Sustained. Let's stick with this
14 incident. Let's not get into theories or whatever else is
15 done at another time.

16 Q. If you don't turn in a case file on something like
17 this, what generally happens to it?

18 A. My case is going to be dismissed.

19 Q. Let me ask you this. Have you ever had any cases
20 dismissed before?

21 A. Yes, sir.

22 Q. Did you get a bunch of phone calls?

23 A. No, sir.

24 Q. You don't know why your case got dismissed do you?

25 A. That is correct.

TERRENCE M. ANDERSON - CROSS EXAMINATION

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1 Q. But it got dismissed didn't it?

2 A. That's correct

3 MR. HOLT: Thank you. No further questions, Your
4 Honor.

5 THE COURT: Cross examination, Mr. Grove?

6 MR. GROVE: Yes, Your Honor. Briefly, Detective
7 Anderson.

8 CROSS EXAMINATION BY MR. GROVE

9 Q. You were interviewing or speaking with Yolanda Alford
10 at one point, correct?

11 A. Yes, sir.

12 Q. Did you speak with anybody else?

13 A. Eventually, I did, yes, sir.

14 Q. Did you speak with anybody else that day?

15 A. That day, no sir, I don't believe I did.

16 Q. Did you talk to any neighbors?

17 A. No, sir. I don't believe I did.

18 Q. Did you talk to anyone who may have been standing
19 outside at [REDACTED] ?

20 A. No, sir.

21 Q. Did you talk to Mr. Mazyck?

22 A. No, sir. I did not.

23 Q. Did you collect any evidence, or did you solely take
24 statements?

25 A. There was no evidence for me to collect.

TERRENCE M. ANDERSON - CROSS EXAMINATION - MS. CRAYTON 279

1 Q. And Justine Peterson, I believe she was a young lady
2 in the burgundy car?

3 A. Yes, sir.

4 Q. Never charged?

5 A. No, sir. She was not.

6 Q. Okay.

7 MR. GROVE: Thank you. Nothing further at this
8 time.

9 THE COURT: Ms. Crayton?

10 MS. CRAYTON: Just briefly.

11 CROSS EXAMINATION BY MS. CRAYTON

12 Q. Mr. Anderson, you are the lead investigator?

13 A. Yes, ma'am.

14 Q. In this case?

15 A. Yes, ma'am.

16 MS. CRAYTON: That's all, Your Honor.

17 THE COURT: Redirect?

18 REDIRECT EXAMINATION BY MR. HOLT

19 Q. You said you didn't collect any evidence, didn't you
20 in fact collect money --

21 A. -- I'm sorry, yes, sir. When I first got to the
22 scene Sergeant Blair was outside, and Sergeant Hodge
23 was inside the apartment talking to Yolanda Alford.
24 Sergeant Blair brought to my attention that there was
25 some money on the ground on the concrete parking pad.

LAURA SOUTH - DIRECT EXAMINATION

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1 He photographed it, collected it, and gave it to me,
2 and I turned it into evidence.

3 MR. HOLT: Thank you very much, Officer.

4 THE COURT: Mr. Grove, Re-cross?

5 MR. GROVE: None, Your Honor.

6 THE COURT: Ms. Crayton?

7 MS. CRAYTON: No, Your Honor. Thank you.

8 THE COURT: Thank you. You may step down. All
9 right. You may call your next witness.

10 MR. HOLT: The State would like to call Laura South
11 from the back.

12 WHEREUPON, LAURA SOUTH

13 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

14 OFFICER SOUTH: I do.

15 DIRECT EXAMINATION BY MR. HOLT

16 Q. Please state your name?

17 A. Laura South.

18 Q. Where are you employed?

19 A. I am a detective and also the evidence custodian for
20 Hartsville Police Department.

21 Q. All right. If someone hands you some evidence what
22 procedure do you take?

23 A. I would log it into the computer and store it in our
24 evidence safe.

25 Q. Now, would you explain to me the procedure real

LAURA SOUTH - DIRECT EXAMINATION

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1 quick, how somebody gives you something, how you log
2 it in, you know, just briefly.

3 A. Okay. Well, normally either they will drop --- they
4 will fill out an evidence sheet. They will secure
5 their evidence. Like in this case, they secured it,
6 sealed it in a money envelope. And they will either
7 drop it in our secure mailbox, or hand it directly to
8 me. I log it into our computer system, and then I
9 lock it in our safe.

10 Q. And there is a record of who has had that evidence?

11 A. Yes, sir.

12 Q. What do you call that?

13 A. Chain of custody.

14 MR. HOLT: Your Honor, permission to approach?

15 THE COURT: Yes, sir.

16 Q. You are holding what has been marked as State's
17 Exhibit 5.

18 A. Yes, sir.

19 Q. Do you recognize that?

20 A. Yes, sir.

21 Q. Can you tell me how you recognize that item?

22 A. It's the evidence sheet with a chain of custody has
23 my writing on the bottom where I logged it into the
24 evidence. And it is sealed in one of our money
25 envelopes.

LAURA SOUTH - DIRECT EXAMINATION

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1 Q. Since the last time you saw that item, has there been
2 any material alterations, or deletions, or anything
3 like that?

4 A. No, sir.

5 Q. And can you tell me what that is?

6 A. This is forty dollars in cash. It is a twenty, a
7 ten, and two fives.

8 Q. Who handed you that envelope?

9 A. The money was given to me by Terry Anderson, one of
10 our officers.

11 MR. HOLT: Your Honor, at this time the State would
12 like to introduce State's Exhibit 5 into evidence.

13 THE COURT: Any objection, Mr. Grove?

14 MR. GROVE: None from me, Your Honor.

15 THE COURT: Ms. Crayton?

16 MS. CRAYTON: No, Your Honor. Thank you.

17 THE COURT: All right. It is admitted as State's
18 Exhibit Number 5 without objection.

19 WHEREUPON, STATE'S EXHIBIT

20 NUMBER 5 IS MARKED AND

21 ADMITTED INTO EVIDENCE

22 WITHOUT OBJECTION.

23 Q. What day does your records tell you that was admitted
24 into evidence?

25 A. It was collected January 13, 2011.

ROBIN BRYANT - DIRECT EXAMINATION

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1 Q. What day did you log it in?

2 A. I logged it into evidence on January 14, 2011.

3 MR. HOLT: Thank you.

4 MS. SOUTH: You are welcome.

5 THE COURT: Any questions, Mr. Grove?

6 MR. GROVE: None, Your Honor. Thank you.

7 THE COURT: Ms. Crayton?

8 MS. CRAYTON: No, Your Honor. Thank you.

9 THE COURT: Thank you. You may step down.

10 MS. SOUTH: Thank you.

11 THE COURT: All right. You may call your next
12 witness.

13 MR. HOLT: Your Honor, at this time the State would
14 like to call Robin Bryant from the back.

15 WHEREUPON, ROBIN BRYANT

16 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

17 OFFICER BRYANT: I do.

18 DIRECT EXAMINATION BY MR. HOLT

19 Q. Deputy, would you give your full name for the jury,
20 please?

21 A. Robin Bryant.

22 Q. And what do you do for a living?

23 A. I am employed by the Darlington County Sheriff's
24 Office, Sheriff J. Wayne Byrd. I am currently
25 assigned to the United States Marshall Fugitive Task

ROBIN BRYANT - DIRECT EXAMINATION

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1 Force, Florence Division.

2 Q. How long have you been in law enforcement?

3 A. Since 1976 either part time or full time?

4 Q. Do you know how many years that is?

5 A. That's close to thirty-six.

6 Q. That is more than I am. Let me ask you this. How are
7 you involved in the case in hand here against
8 Mardrall Addison?

9 A. On the night that this incident occurred, several of
10 our unit was involved in assisting the Police
11 Department in trying to locate a vehicle that they
12 were trying to find. And later on our unit was asked
13 to investigate the fugitive case for Mardrall
14 Addison.

15 Q. Explain fugitive cases?

16 A. Fugitive cases is usually a person that is hard to
17 find by law enforcement, or they are trying to get --
18 - usually we work violent felony. And they become a
19 difficult case to be able to put their hands on. So
20 they request --- the Chief or the Sheriff request our
21 assistance to work that case full time. And time is
22 based on our side, because that is all we do.

23 Q. And what exactly did your investigation consist of
24 regarding Mardrall Addison?

25 A. To interview persons known to Mr. Addison,

ROBIN BRYANT - DIRECT EXAMINATION

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1 acquaintances, and we did that, and ultimately about
2 two weeks later he was captured.

3 Q. Was the date January 27th?

4 A. As I recall, yes, sir.

5 Q. And where did you capture him?

6 A. He was captured just off of what we call --- commonly
7 known as Southern Pines Road, right near Highway 340,
8 or the Oates Highway.

9 Q. Is that the Oates Community?

10 A. Oates Community. He was caught in some real small
11 patch of woods near some houses.

12 Q. Did he just walk up to you and say, hey, it's me,
13 take me to jail? What did he do?

14 A. Well, we followed leads that we had accumulated over
15 a couple of weeks, and had information that he would
16 be in the Oates Community on that specific day.
17 Checking residences that may have been known to him.
18 Later on getting information that he possibly was in
19 some woods, and this was about nightfall. We were
20 there about all day in that area. And by nightfall
21 he was in some woods. We were assisted by Deputy
22 David Zeller of the Sheriff's Office with a canine,
23 which went in and actually located him, and arrested
24 him.

25 Q. And what did you do with him after that; do you know?

THE STATE VERSUS CRAIG AND ADDISON

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1 A. My partner Tracy Myers and I transported him to the
2 Darlington County Detention Center and booked him.

3 MR. HOLT: I don't have any further questions, for
4 Mr. Bryant. Thank you.

5 DEPUTY BRYANT: Thank you.

6 THE COURT: Cross examination, Ms. Crayton?

7 MS. CRAYTON: No, Your Honor. Thank you.

8 THE COURT: Mr. Grove?

9 MR. GROVE: None, Your Honor. Thank you.

10 THE COURT: Thank you, Mr. Bryant. You may step
11 down.

12 OFFICER BRYANT: Thank you.

13 THE COURT: All right. You may call your next
14 witness, Mr. Holt.

15 MR. HOLT: Your Honor, if I could just briefly
16 check the evidence, I believe that would be the State's
17 case.

18 THE COURT: There have been five exhibits offered
19 and admitted.

20 (PAUSE.)

21 MR. HOLT: Thank you very much, Judge. At this
22 time the State rests.

23 THE COURT: All right. Ladies and gentlemen of the
24 jury, you have heard that the State has announced that
25 they have rested their case. That means that you have

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1 heard all of the evidence from the State that you will
2 hear at this time.

3 There are certain matters of law that I need to now
4 take up with the lawyers. And I am going to do that. And
5 that is going to take us about fifteen minutes, and it is
6 probably appropriate that we take a break at this time.

7 So, I am going to ask that you go to your jury room.
8 Do not discuss the case among yourself. It is still
9 premature for you to begin any deliberations. But I do
10 have to take up these matters of law on the record, and
11 outside of your presence. So if you would go to your jury
12 room, and relax for about fifteen minutes, and we will be
13 ready to go forward. Thank you. You may go with the
14 bailiff.

15 (Whereupon, the jury exits the courtroom at
16 4:00 p.m..)

17 THE COURT: All right. We will take a fifteen
18 minute break.

19 (Whereupon, a recess was taken from 4:00
20 p.m. until 4:11 p.m..)

21 MOTION FOR A DIRECTED VERDICT

22 THE COURT: All right. We are back on the record
23 with regard to the State versus Mardrall Addison and
24 Emilio Craig. Mr. Craig and Mr. Addison are present with
25 their counsel. The State is present and represented by

THE STATE VERSUS CRAIG AND ADDISON

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1 Mr. Holt. The Court has been advised that the State has
2 rested. And is now appropriate for any motions on behalf
3 of the defendant, Mr. Grove or Ms. Crayton, whichever one
4 of you would like to go first, you may do so.

5 MR. GROVE: I will, Your Honor. Thank you. At
6 this time on behalf of Emilio Craig, I would move for a
7 Directed Verdict on all of the charges, those being, armed
8 robbery, possession of a firearm during the commission of
9 a violent crime. Pointing and presenting a weapon, and
10 petit larceny as well.

11 Your Honor, Rule 19 says a lack of competent evidence
12 is grounds to grant a Directed Verdict. There is no need
13 to send this case to a jury. It can be decided right now.
14 The State has gone through their entire case in chief, and
15 not presented enough competent evidence to --

16 THE COURT: -- How do you define competent evidence
17 as used in that rule?

18 MR. GROVE: Judge, I define it as relevant evidence
19 that would tend to show my client is guilty of these
20 charges.

21 THE COURT: I disagree with you. I think competent
22 evidence as used in that rule means, evidence entered into
23 the record. I don't think it envisions any weighing or
24 determination of how much the truthfulness of that
25 evidence, or whether it is believable or not. But, I

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1 think it is evidence admitted into the record.

2 As some of you may know, I headed a task force
3 regarding amendment to the criminal rules. We had
4 completed our work, and those proposed amendments have
5 been submitted to the Supreme Court. They have not been
6 acted on by the Supreme Court yet. But one of the things
7 that we noted in that task force, and those amendments to
8 the rule was the unfortunate use of the word competent
9 evidence in Rule 19. Because, most people tend to
10 envision that that would be a weighing of the evidence, or
11 a determination as to what the believability of that
12 evidence. We clarified that in the new proposed rule.
13 But Rule 19 goes on to say that --- of course if there is
14 a failure of competent evidence, which is what you cited,
15 tending to prove the charge in the Indictment then a
16 Directed Verdict should be granted. But the second
17 sentence of that Rule 19(a) is that in ruling on this
18 motion the judge shall consider only the existence and non
19 existence of the evidence, and not its weight. And, so, I
20 don't see how the Court can make a determination, because
21 then I am making a determination based upon the
22 credibility and believability of the testimony in the
23 record. And it is a question of whether there is evidence
24 in the record or not. And what I would like to know from
25 you, based on Rule 19, using that standard, is which

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1 charges fail to meet that test. And if so, in what
2 particulars?

3 MR. GROVE: Beg the Court's indulgence, Judge.

4 (PAUSE.)

5 MR. GROVE: Judge, and again I am not going to the
6 weight of the evidence, but to relevant competent
7 evidence. Pointing and presenting a weapon specifically,
8 but that being a critical element in the rest of the
9 charges based on that information, I would say that all of
10 the charges fail to meet the burden --

11 THE COURT: -- What element of pointing and
12 presenting is not present?

13 MR. GROVE: I don't think that the weapon was ever
14 pointed or presented. There is no weapon in evidence.

15 THE COURT: There doesn't have to be a weapon in
16 evidence. Don't we have the testimony of the victim that
17 a weapon was stuck in his side?

18 MR. GROVE: Yes, Your Honor.

19 THE COURT: If that is not pointing and presenting,
20 what is?

21 MR. GROVE: I am not sure, Judge. That being said,
22 Emilio Craig moves for a Directed Verdict on all of his
23 charges.

24 THE COURT: All right. I understand. Ms. Crayton.

25 MS. CRAYTON: Yes, Your Honor. I do have a little

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1 few more specifics. But also at this time we would also
2 move --- Mr. Addison would move for a Directed Verdict on
3 all counts. Specifically, Your Honor, the armed robbery,
4 and the petit larceny. I think that there is no competent
5 evidence that Mr. Addison was involved in the armed
6 robbery. The only evidence in the record is the victim
7 said that Mr. Craig told Mardrall Addison to get the
8 shoes.

9 **THE COURT:** To what?

10 **MS. CRAYTON:** To get the shoes. I think that was
11 the only thing in the evidence that Mr. Morris Mazyck said
12 that --

13 **THE COURT:** How about accomplice accomplish
14 liability?

15 **MS. CRAYTON:** Your Honor, I don't think it applies
16 in this case, because I don't think there is any evidence
17 that they approached the vehicle. There is no evidence
18 that they had a plan to rob him together.

19 **THE COURT:** They didn't have to. That would be
20 conspiracy. The evidence is that they were both there
21 actively participating in the crime. And the hand of one
22 is the hand of all.

23 **MS. CRAYTON:** And, Your Honor, I don't think that
24 applies in this case. I don't think there is evidence to
25 that. Mr. Addison had walked up to the car. He was

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1 talking to the victim previously. Then Emilio walks up.
2 And the only evidence that they were together at all, or
3 even knew each other was the victim said that Mr. Craig
4 said to Mr. Addison give or shoot. They were not on the
5 same side of the car even it seems, Your Honor. I just
6 feel that there is no competent evidence whatsoever that
7 they were acting in concert.

8 And, Your Honor, would you like for me to move on?

9 **THE COURT:** Go ahead.

10 **MS. CRAYTON:** Yes, sir. And specifically, again to
11 the weapon charge, possession of a weapon during the
12 commission of a violent crime, and pointing and
13 presenting. There is absolutely no evidence whatsoever in
14 the record that Mr. Addison at any point had a firearm,
15 presented a firearm --

16 **THE COURT:** -- Well, I agree with that. But, again
17 I think we are back to the accomplice liability you can
18 have in a felony situation, you can have people that are
19 both guilty of a crime, just like in a murder situation
20 where only one shoots the gun that causes the fatal wound,
21 both defendants can be liable under accomplice liability
22 whether there is only one weapon involved, and that is the
23 same thing that we have got here.

24 **MS. CRAYTON:** Yes, Your Honor. I understand that.
25 But what I am saying is, I don't believe there is any

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1 competent evidence to show that they were acting in
2 concert, or that they were accomplices in this --- in this
3 incident. And so we would ask for a Directed Verdict
4 specifically on the armed robbery, petit larceny, and both
5 the weapons charges, but again on all charges that are
6 presented today.

7 THE COURT: Well, he is also charged, and that
8 doesn't have to do with the driving offenses, does it?

9 MS. CRAYTON: No, Your Honor.

10 THE COURT: So it is not all charges?

11 MS. CRAYTON: Yes, Your Honor. I guess you are
12 right. I guess it wouldn't be hard not to concede the
13 failure to stop, and the driving under suspension, Your
14 Honor.

15 THE COURT: All right. Mr. Holt.

16 MR. HOLT: Judge, I'll talk about Ms. Crayton, and
17 I don't think it is a Directed Verdict Motion. I think
18 competent means --

19 THE COURT: -- Well, where is the evidence that he
20 was aware of and participated --- that Mr. Addison was
21 aware of and participated in the robbery?

22 MR. HOLT: Number one, just that he was unloading
23 the car while Emilio had the gun on him. I don't think I
24 have to prove anything more than that.

25 THE COURT: All right. He was unloading the car.

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1 Who was unloading the car?

2 MR. HOLT: Mardrall. Mardrall Addison.

3 THE COURT: Was unloading the victim's car?

4 MR. HOLT: Yes, sir.

5 THE COURT: And where is the evidence of that?

6 MR. HOLT: The victim said that he went back ---
7 well, number one, Jackie Catoe found the shoes in the
8 getaway car.

9 THE COURT: Well, that is different. That may be
10 in possession of something, but that is not what your
11 statement was. Your statement was that he was unloading
12 the car. I want you to refresh my memory as to where that
13 evidence is in the record?

14 MR. HOLT: Morris Mazyck the victim.

15 THE COURT: And what did he say?

16 MR. HOLT: Emilio yelled out, get that stuff out
17 the back of the car at the same time he had the gun on the
18 victim.

19 MS. CRAYTON: Your Honor, I don't believe --

20 THE COURT: -- Wait a minute. He sat and listened
21 to you, and I am going to listen to him too. Go ahead.

22 MR. HOLT: Then when Ms. Crayton was asking the
23 victim what was stolen, she made a big deal about the
24 shoes, and how he didn't take the shoes. And he said
25 Mardrall took the shoes. Originally, in the police

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1 report, they don't talk about the shoes. Ms. Crayton
2 wanted to make a big deal about that one, and now she
3 can't have it both ways. She can't ring out the victim at
4 trial that Mardrall stole his shoes, and then on Directed
5 Verdict Motion say that there is no evidence. Which way
6 does she want it? Both ways. But what I am saying is
7 that she can't have it.

8 THE COURT: Okay. Now, I will hear from you, Ms.
9 Crayton.

10 MS. CRAYTON: Thank you, Your Honor. What I was
11 saying was, Your Honor, the only competent evidence --- I
12 believe the testimony was not that he took the shoes, it
13 was the testimony from Mr. Morris Mazyck was that Emilio
14 told Mardrall to get the shoes. There was not testimony
15 that he actually took the shoes. We don't know if Emilio
16 took the shoes. We don't know. We don't know what
17 happened, because there was no testimony --

18 THE COURT: -- But wait a minute, isn't the
19 statement to someone there at the scene to take the shoes,
20 evidence, be it circumstantial or whatever, but isn't that
21 evidence that he was participating in the robbery?

22 MS. CRAYTON: No, Your Honor. Not if he didn't
23 actually take the shoes, and there is no evidence that he
24 did.

25 THE COURT: Maybe it is attempted robbery then.

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1 MS. CRAYTON: Well, Your Honor, that is not what he
2 is charged with. And, I still don't believe --

3 THE COURT: -- But it is circumstantial evidence of
4 a robbery, isn't it?

5 MS. CRAYTON: No, Your Honor. Not in my opinion,
6 no. I do not believe that meets the competent evidence --
7 -

8 THE COURT: -- You agree with me that
9 circumstantial evidence, it can go to the jury on
10 circumstantial evidence, and overcome Rule 19?

11 MS. CRAYTON: I'm sorry. Can you repeat that, Your
12 Honor?

13 THE COURT: You would agree with me that even
14 though you don't agree that that is circumstantial
15 evidence, you would agree with the legal principle that
16 circumstantial evidence is sufficient to overcome Rule 19?

17 MS. CRAYTON: Yes, Your Honor. But in this case I
18 think that there has to be some evidence that they were
19 acting together, and there is not. The only evidence is
20 that Mr. Craig said to Mr. Mardrall, get the shoes. Now,
21 if he just said to a bystander get the shoes and he didn't
22 get the shoes, I don't believe that it is attempted armed
23 robbery, or armed robbery, Your Honor. There is no
24 evidence that he actually participated. And I think there
25 needs to be some sort of participation, and there is no

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1 evidence there, Your Honor. Whether competent or not.

2 THE COURT: All right. I was looking back at my
3 notes, and the notes that I have do say that Mr. Mazyck
4 testified that Craig said, get the shoes and went further
5 to say that the shoes were stolen.

6 MS. CRAYTON: Yes, sir. Your Honor, may I just?

7 THE COURT: Uh'huh.

8 MS. CRAYTON: Yes, Your Honor. I understand that
9 that was the testimony, that he said the shoes were
10 stolen. But as I said, he doesn't say he stole it, and it
11 could be completely plausible that Emilio Craig stole the
12 shoes, but Mr. Mazyck was not asked that question. And
13 none of that testimony was brought out. And I think that
14 because it was not brought out, then the case should be
15 granted a Directed Verdict, Your Honor.

16 THE COURT: All right. The Court understands the
17 arguments of counsel in this matter. And as I have
18 already said, Rule 19 does provide that a Directed Verdict
19 should be granted if there is a failure of the unfortunate
20 use of the word "competent" end quote, evidence tending to
21 prove the charge in the Indictment.

22 With regard to Mr. Craig, there is definite evidence
23 in the record that he was in possession of a weapon. That
24 there was a robbery. Mr. Mazyck testified that he said
25 give up what you got, or whatever --- or words to that

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1 effect while pointing a firearm at him, and in his side.
2 And that property was taken. There is definitely evidence
3 in the record with regard to Mr. Craig --- direct evidence
4 in the record with regard to Mr. Craig of an armed
5 robbery, being in possession of a weapon during the
6 commission of that armed robbery, pointing and presenting
7 a firearm, and theft.

8 So, the motion with regard to a Directed Verdict as
9 far as Mr. Craig is respectfully denied.

10 With regard to Mr. Addison, Ms. Crayton very gracious
11 concedes that she doesn't have a Directed Verdict Motion
12 with regard to the traffic offenses, failure to stop for
13 the blue light, and driving under suspension. So those
14 matters are really not before the Court as far as the Rule
15 19 Motion is concerned. The only thing that is regarding
16 the Rule 19 Motion by the Defendant Addison is the armed
17 robbery, the possession of a weapon, and pointing and
18 presenting a firearm, petit larceny. And while I think it
19 is a close question in this case, I think there is
20 circumstantial evidence that they were involved together,
21 and the jury could conclude that there was accomplice
22 liability here. There was evidence to the effect that Mr.
23 Craig told Mr. Mazyck to get the shoes while holding a
24 weapon on him. It is not likely that he would make that
25 statement to a complete stranger, while holding a weapon

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1 on a victim. And, there is evidence to the effect that
2 shoes were stolen. And I think that is enough
3 circumstantial evidence to overcome the Motion for a
4 Directed Verdict. And the motion would be respectfully
5 denied.

6 MR. GROVE: Thank you, Judge.

7 MS. CRAYTON: Thank you, Your Honor.

8 FIFTH AMENDMENT EXAMINATION OF BOTH DEFENDANTS

9 THE COURT: All right. Now, let me talk with both
10 of you please, counsel, if you would have your clients
11 stand. Mr. Craig and Mr. Addison. I want to tell both of
12 you that under the Constitution of the United States and
13 under the Constitution of The State of South Carolina, you
14 have the right to remain silent. You cannot be required
15 to provide testimony or evidence against yourself. You
16 may be called as a witness in this case, but that
17 determination has not been made yet, and I don't want you
18 to make that decision as to whether you do or do not wish
19 to testify unless you fully understand that you do not
20 have to testify in this case. And that if you make the
21 election not to testify, the Court will instruct the jury
22 that they are not to infer anything from your decision not
23 to testify. That you have that you have that
24 constitutional right. That the burden of proof is on The
25 State of South Carolina to prove your guilt beyond a

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1 reasonable doubt. And that they are not to infer anything
2 from either of the defendants refusal or election not to
3 testify. You have the right not to testify, but you also
4 have the right to testify. But that is a matter ---
5 nobody can waive that right except you. It is a personal
6 privilege which the law extends to you, and no one can
7 waive the right and privilege against self-incrimination
8 but you. And I will give you an opportunity in just a
9 minute to confer with your lawyers as to whether you do or
10 do not wish to testify in this matter. But my question to
11 you now --- Oh, if you do elect to testify in this matter,
12 you will be treated like any other witness in this case,
13 and you could be impeached by any other testimony --- or
14 impeached by any matters that were competent under the
15 rules of law, and under the rules of evidence. You will
16 be treated just like any other witness in this case. Do
17 you understand the constitution right that I have
18 explained to you under the Fifth Amendment, Mr. Addison?

19 MR. ADDISON: Yes, sir.

20 THE COURT: Mr. Craig, do you understand the
21 constitutional rights that I have explained to you?

22 MR. CRAIG: Yes, Your Honor.

23 THE COURT: Do you have any questions of me that
24 you would like to ask me about your constitutional right,
25 Mr. Addison?

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1 MR. ADDISON: No, Your Honor.

2 THE COURT: Mr. Craig?

3 MR. CRAIG: No, sir.

4 THE COURT: Do you wish to confer with your lawyer
5 as to whether you should or should not testify in this
6 case, Mr. Addison?

7 MR. ADDISON: Yes.

8 THE COURT: Okay. I will give you an opportunity
9 to do so.

10 Mr. Craig, do you wish to confer with your lawyer as
11 to whether you should or should not testify in this
12 matter?

13 MR. CRAIG: Yes, sir.

14 THE COURT: All right. I will give you an
15 opportunity to do so.

16 How much time do y'all need to talk with your lawyers
17 about this? Have y'all talked with --- Ms. Crayton, Mr.
18 Grove have y'all spoke with them about these matters?

19 MS. CRAYTON: Briefly, Your Honor. But I would
20 like to speak to Mr. Addison a little more now that we
21 have figured out his record, and what --

22 THE COURT: -- Well, that is the other thing that I
23 was going to say. I have always thought that one of the
24 factors that impacts whether or not --- you may be seated,
25 gentlemen.

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1 MR. CRAIG: Thank you, sir.

2 THE COURT: Impacts whether a defendant waives his
3 right under the Fifth Amendment, has to do with what is
4 considered impeachment materials. Mr. Holt, what do you
5 have as far as what you would consider impeachment
6 materials against Mr. Addison?

7 MR. HOLT: Judge, I think what is impeachable
8 against Mardrall is definitely the resisting, the drug
9 case, and the possession of a weapon.

10 THE COURT: That is not going to do it. I have to
11 have specifics.

12 MR. HOLT: He was arrested in 2009 for --

13 THE COURT: -- Arrest is not the test. Convictions
14 are the test.

15 MR. HOLT: He was convicted Judge, is what I'm
16 trying to say in 2009 of distribution of narcotics,
17 resisting arrest, as well as possession of a weapon.

18 THE COURT: Simple possession of a weapon, a pistol
19 what was it?

20 MR. HOLT: A pistol.

21 THE COURT: Okay. That was a 2009 conviction?
22 Resisting arrest, the one year statute?

23 MR. HOLT: Yes, sir, Your Honor.

24 THE COURT: And simple possession of a weapon is
25 less than a year, is it not? I would have to look it up.

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1 Was it unlawful possession of a pistol or unlawful
2 carrying?

3 MR. HOLT: Unlawful possession.

4 THE COURT: All right. Unlawful possession would
5 be a five-year offense.

6 MS. CRAYTON: Your Honor, I'm sorry, I don't mean
7 to interrupt, but it is just that I believe that --- I am
8 not positive that Mr. Holt is referring to, but I believe
9 he might be referring to a 2007 incident, which is an
10 unlawful carrying of a weapon.

11 THE COURT: Well, he said in 2009 he had a
12 distribution of narcotics, I assume.

13 MS. CRAYTON: Your Honor, I believe he has the
14 dates wrong.

15 MR. HOLT: I did, Judge.

16 THE COURT: All right. Tell me again. What are
17 the offenses you consider --- you would want to use to
18 impeachment purposes if he takes the stand, Mr. Holt?

19 MR. HOLT: 2007, possession of marijuana second,
20 that he received one year on. And unlawful carrying of a
21 pistol, and a resisting arrest. He received one year
22 concurrent on all three of those charges. That was on
23 Mardrall. I read it wrong. Mr. Craig's is a little more
24 length Judge.

25 THE COURT: All right. Wait just a minute. Let me

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1 -- All right, the 2007 is still within the ten years. But
2 isn't the rule in excess of one year, and the resisting
3 arrest carries just a year; is that correct?

4 MR. HOLT: Yes, sir.

5 THE COURT: Rule 609 is that it would have to be in
6 excess of a year. So, the resisting arrest would not be
7 impeachable.

8 MR. HOLT: You are correct on that.

9 THE COURT: Okay. And the unlawful carrying is up
10 to one year. Isn't that right? So that would not be in
11 excess of one year.

12 MR. HOLT: He beat me by --

13 THE COURT: -- Sir?

14 MR. HOLT: He beat me by a day on both of those.

15 THE COURT: No, I am just applying the rules.

16 MR. HOLT: No, he won. I can't help that one bit.
17 I ain't arguing against that.

18 THE COURT: All right. And possession of marijuana
19 second.

20 MR. HOLT: Well over one year.

21 THE COURT: It does carry more than a year. You
22 are right there.

23 MR. HOLT: No, it might just carry a year as well,
24 Your Honor.

25 THE COURT: Let me look at it. I'm looking at it

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1 right now.

2 (PAUSE.)

3 THE COURT: For possession of marijuana, over a
4 ounce carries --- I show 180 as the CDR Code as being up
5 to one year.

6 MR. HOLT: Yes, sir, Your Honor. But I want to
7 look at CDR Code 170, which is PWID marijuana second,
8 which is what he plead to and that is --

9 THE COURT: -- So, it was not possession, it was
10 PWID.

11 MR. HOLT: Am I right about that, or am I wrong
12 about that?

13 MS. CRAYTON: I don't believe he is right about
14 that, Your Honor. I would love to let you look at it.
15 It is a little confusing copy I read.

16 THE COURT: All right. Let me look at it. Was it
17 here in Darlington?

18 MS. CRAYTON: It looks like it is, yes, sir. So
19 we can pull it up on the personal file items.

20 THE COURT: All right. Let's --- I will have the
21 Clerk get the sentencing sheet on the 2007 convictions.

22 MS. CRAYTON: Thank you, Judge.

23 THE COURT: Okay. What else while we are deciding
24 about the marijuana, what other --- any other impeachment
25 offenses?

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1 MR. HOLT: That's all with Mardrall.

2 THE COURT: All right. What about Craig.

3 MR. HOLT: I have several, Your Honor.

4 THE COURT: All right.

5 MR. HOLT: Just looking at convictions, Judge.
6 Assault and battery of a high and aggravated nature, he
7 got that charge in 2005, and he was convicted of assault
8 and battery of a high and aggravated nature..

9 THE COURT: All right.

10 MR. HOLT: And that came down off a lewd act,

11 THE COURT: I am not going to let you say that.

12 MR. HOLT: I was speaking out loud. I apologize.
13 Failure to stop for a blue light. He was convicted of
14 that in 2005.

15 THE COURT: All right. That is up to three years.
16 ABHAN would be up to ten at that time.

17 MR. HOLT: Distribution, sells, etcetera, crack
18 cocaine or PWID. He was convicted in 2007, sentenced to
19 ten years, and that was suspended to six-years. And I
20 think he actually served time for that.

21 THE COURT: All right. Distribution of crack does
22 carry more than a year. And also is within the ten years.

23 MR. HOLT: He has a lengthy record from out of
24 state that is confusing to me. But I know he has what I
25 believe is a failure to stop, and attempting to elude

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1 police.

2 THE COURT: Well, what I want to know --- I really
3 don't care what his record is at this point in time. What
4 I want to know is what you intend to try to use?

5 MR. HOLT: The assault and battery of a high and
6 aggravated nature. The --

7 THE COURT: Okay. The failure to stop for a blue
8 light.

9 MR. HOLT: The failure to stop for a blue light.

10 THE COURT: And distribution of crack.

11 MR. HOLT: The distribution of crack.

12 THE COURT: Okay.

13 MR. HOLT: And the eluding police officers.

14 THE COURT: And when was that?

15 MR. HOLT: 2005.

16 THE COURT: And where is that from?

17 MR. HOLT: That is from -- That is Darlington
18 County. Fleeing to elude police officers in Pennsylvania.
19 That was in 1997, fleeing to elude a police officer. I
20 have a hard time with, out of state.

21 THE COURT: All right. So that was fourteen years
22 ago. Okay. But we don't know if it was ten years from
23 whenever the sentence --- does it show what sentence he
24 received.

25 MR. HOLT: It says he got a year for that. That

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1 won't count.

2 **THE COURT:** Okay. All right.

3 **MR. GROVE:** I apologize, Judge. Can we have those
4 three again?

5 **THE COURT:** The three are ABHAN 2005, failure to
6 stop for a blue light in 2005, distribution of crack 2007.

7 **MR. GROVE:** Judge, I would have an objection, if I
8 am allowed, into the cross --- into the entrance of the
9 conviction for the narcotics and the conviction for the
10 ABHAN as well as the failure to stop for a blue light. So
11 long as my client's good character isn't presented, I
12 don't see how any of this relevant. I think State v Knox
13 even goes so far as to say specifically acts of violence
14 are not admissible under prior convictions, even if they
15 fall within the ten-year window, because they don't go to
16 truthfulness of credibility.

17 **THE COURT:** It doesn't have anything to do with it
18 under Rule 609, Mr. Grove. It doesn't have to go to
19 truthfulness or credibility. Under 609, a person who is
20 attacking the credibility of a witness, evidence that an
21 accused has been convicted of a crime shall be admitted,
22 subject to Rule 403, if the crime is punishable by
23 imprisonment in excess of one year. And that the
24 probative value admitted this evidence outweighs the
25 prejudicial effect to the accused. And in determining

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1 this you look at the --- whether it was within ten years,
2 or whether --- or whether it is more than a year
3 punishment. And, of course, I think the case law is
4 pretty clear that if it meets those two requirements, and
5 there is a finding by the Court with regard to the
6 probative value --- the prejudicial effect it is
7 admissible.

8 All right. I understand what you are saying, and it
9 is for purposes of attacking the credibility. But, it
10 says it shall be admissible if it meets the other
11 requirements of the rules. But I will look at that.

12 What did we come up with in the Clerk's Office.

13 CLERK OF COURT: We have it listed by case number
14 or warrant, so we have had to search his whole name, and
15 there is a lot -- if we don't have a warrant number or a
16 case number.

17 THE COURT: All right. The only potential one then
18 with regard to your client, Ms. Crayton would be the
19 distribution of pot, and --

20 MS. CRAYTON: Possession.

21 THE COURT: Possession of pot, and we have to
22 determine whether or not that was PWID or simple
23 possession. If it was simple possession, if it was a
24 simple possession second it is still just a one year
25 offense and does not qualify. If it is a possession with

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1 intent to distribute, then it would be more than a year
2 and it would be impeachable. So, we will let the Clerk's
3 Office work on that.

4 With regard to Mr. Craig, the Court would find that
5 the convictions in 2005 assault and battery of a high and
6 aggravated nature, the failure to stop for a blue light in
7 2005, and distribution of crack in 2007 do meet the
8 requirements of Rule 609 as having occurred within a ten-
9 year period, and do carry more than one year in prison.
10 And the Court will further find that the probative value
11 of admitting this evidence outweighs the prejudicial
12 effect. And I would allow impeachment on those three
13 matters as far as Mr. Craig is concerned.

14 All right. Now, counsel what I would like to do
15 since we have already wasted about the forty-five minutes,
16 and I was hoping that we could maybe go forward a little
17 bit more this afternoon. But I think it is appropriate
18 that we stop at this time, so that y'all can make a
19 decision.

20 What I want to do is reconvene in the morning at 9:15
21 for the purposes of making a determination as to whether
22 the defendants desire to testify in this matter, and get
23 that matter on the record before we go forward. I will
24 bring the jury back at 9:30, and we will be ready to go
25 forward at that time.

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1 Mr. Grove, without going into whether at this time
2 whether he is going to testify or not, do you anticipate
3 presenting other testimony, or would the defense rest?

4 MR. GROVE: Yes, Judge. We do plan to present some
5 testimony.

6 THE COURT: Okay. I am not asking you what it is,
7 I'm just trying to know for planing purposes. How long do
8 you anticipate it would take to present? I know you can't
9 anticipate cross examination, but how long do you
10 anticipate it would take to present the defense case?

11 MR. GROVE: I would be shocked if we made it till
12 noon, Judge.

13 THE COURT: If you what?

14 MR. GROVE: Made it to noon.

15 THE COURT: How about it Ms. Crayton?

16 MS. CRAYTON: I agree, Judge.

17 THE COURT: For both of you?

18 MS. CRAYTON: I would think so, Judge. I mean, I
19 can't --

20 THE COURT: All right. Do you plan on presenting
21 testimony s well ?

22 MS. CRAYTON: Yes, Your Honor, I am. But, I think
23 that we have some of the very same witnesses, and I am not
24 sure --

25 THE COURT: -- You realize of course counsel that

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1 the rule is that one --- that you are in the same canoe,
2 one of you cannot present testimony and the other one
3 thinks that they will get the last argument.

4 MS. CRAYTON: No, Your Honor.

5 THE COURT: Okay.

6 MR. GROVE: And, Your Honor, when I said noon, I
7 had both of us in mind as far as presenting testimony.

8 THE COURT: All right. Well, let's see if we can
9 finish the testimony by lunch tomorrow, and maybe argue
10 and charge tomorrow afternoon. What does this signify?

11 CLERK OF COURT: 182.

12 THE COURT: 182 okay. 182 was the CDR Code, and
13 that is possession of marijuana second offense up to one
14 year.

15 MS. CRAYTON: Thank you, Your Honor.

16 THE COURT: Okay.

17 MR. HOLT: I want to thank you on that one, Judge.

18 THE COURT: Not admissible. CDR Code makes it
19 excluded. All right. Bring the jury in, please.

20 (Whereupon, the jury enters the courtroom
21 at 4:46 p.m..)

22 THE COURT: All right. Thank you ladies and
23 gentlemen, I apologize for keeping you waiting in the jury
24 room. As I told you when we first began this case, that
25 many times there are times when I do have to keep you in

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1 your jury room while matters of law are taken up on the
2 record, and this is one of those times. And it took a
3 good bit longer than I expected, but that happens
4 sometimes. But, I will tell you that you have heard the
5 State announce that they have rested. That means, as I
6 said before you went to your jury room, that you will not
7 hear any more evidence from the State at this time.
8 However, the defense does have the right to present any
9 testimony, evidence to you, that they wish to present.
10 But rather than get into that this afternoon, I think the
11 better thing for us to do is to get into the defense case
12 tomorrow, and so I am going to excuse you now and ask you
13 to be back in your jury room please tomorrow morning at
14 9:30. We have some matters that we need to take up, and
15 we will be taking them up before that. But, we will have
16 those out of the way, and ready to go with you at 9:30.

17 Over the evening recess, do not discuss the case with
18 anyone. When you see your family or your friends, do not
19 discuss the case with them. You can tell them that you
20 are serving on a jury, but that you cannot discuss the
21 case with them because the judge told you not to, and of
22 course, the reasons for that are pretty apparent. You
23 have got to decide this case based upon what you hear in
24 this courtroom, and not on the basis of what anyone else
25 might say.

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1 Also, when you are reassembling in the jury room
2 tomorrow, do not discuss the case among yourselves, it is
3 still premature for you to begin any discussion of the
4 case. Do not allow anyone else to discuss it with you.
5 Do not --- if anyone approaches you, or tries to talk with
6 you about the case over the evening recess, get their name
7 and their description and report it to the bailiffs, and I
8 will deal with them. So, basically, over the evening
9 recess don't read any news stories, listen to any
10 broadcast media. So, basically over the evening recess
11 just forget about this matter until in the morning, and
12 come back, refreshed and ready to hear the rest of the
13 testimony in this manner. And then we will go forward to
14 them. But with those admonitions, then I am going to
15 excuse you now. Allow you to go to your homes and
16 families, and ask you to be back in the jury room tomorrow
17 morning at 9:30. I'll see you at that time.

18 (Whereupon, the jury exits the courtroom
19 for the day at 4:49 p.m..)

20 **THE COURT:** All right. Counsel, we will be ready
21 to stand aside in this case in just a minute. But, before
22 we do that, let's talk a little bit, about jury charges. I
23 will tell you what I plan to charge on my general charge
24 including the presumption of innocence, burden of proof,
25 credibility, and reasonable doubt. I will also charge

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1 direct and circumstantial evidence. Depending on whether
2 one or more defendants does not testify in this case, the
3 possibility of charging the right of the defendant not to
4 testify. And then of course the substantive offenses of
5 armed robbery, possession of a weapon during the
6 commission of a violent crime. Pointing and presenting a
7 firearm, petit larceny, driving under suspension, and
8 failure to stop for a blue light. I will also charge the
9 general charge on multiple charges and multiple
10 defendants, that they are to be considered separate from
11 one another. And I've got a couple of other things and I
12 will see how y'all feel about it, but anything else the
13 State feels like it needs to be charged; accomplice
14 liability?

15 MR. HOLT: We would like that charged, Judge.

16 THE COURT: All right. How about anything from the
17 defense, Mr. Grove?

18 MR. GROVE: Yes, Judge. A charge on strong armed
19 robbery. It is our position that by the time the jury
20 charge comes around there will be evidence in the record
21 that there was not a gun. And that strong armed robbery
22 as a lesser included offense may be appropriate.

23 THE COURT: If there is evidence in the record;
24 right now there is no evidence in the record of anything
25 but an armed robbery. And, so, we will have to see what

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1 happens as far as the evidence is concerned. But, that
2 would be a lesser included if there is any evidence in the
3 record. All right. What else?

4 MR. GROVE: As of this moment, Judge, I don't have
5 anything else.

6 THE COURT: Okay.

7 MS. CRAYTON: Yes, Your Honor. I would like a
8 charge on identification. Also, mere presence, Judge.
9 And I know your earlier ruling during the Directed
10 Verdict, but I would again object to accomplice liability
11 being charged, again because I don't think there is any
12 evidence in the record. So, I would object to that, Your
13 Honor.

14 THE COURT: All right. I think as you say that
15 there is probably circumstantial evidence, and for that
16 reason I will probably charge it. I will allow you to
17 take exception to that at the appropriate time.

18 MS. CRAYTON: Thank you, Your Honor.

19 THE COURT: All right. Then I'll get those
20 together. So, about the only thing that we are having to
21 have a question about is the whether the lesser included
22 or the strong armed robbery, and that will depend on what
23 the evidence reveals.

24 MR. GROVE: That's correct, Judge.

25 THE COURT: All right. Counsel, let's be here at

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1 9:15 in the morning, so we can --- And counsel, I want
2 your clients to be prepared to address the Court, or to
3 tell the Court whether they do or do not wish to testify
4 at that time, so we will know where we stand on that. And
5 then we will go forward with the jury at 9:30.

6 MR. GROVE: Thank you, Judge.

7 THE COURT: All right.

8 (Whereupon, this case stands down for
9 the day at 4:54 p.m..)

10 -- END OF DAY TWO --

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1 (Whereupon, court begins at 9:28 a.m. on
2 Wednesday, August 31, 2011.)

3 -- DAY THREE OF TRIAL --

4 THE COURT: All right. Back on the record in the
5 matter of The State versus Mardrall Addison and Emilio
6 Craig. Both defendants are in the courtroom with their
7 counsel. And the State is present and represented by Mr.
8 Holt.

9 Mr. Grove and Ms. Crayton, are you prepared to advise
10 the Court regrading their fifth amendment rights?

11 MR. GROVE: They are, Your Honor.

12 THE COURT: All right. Mr. Craig, would you stand,
13 please?

14 MR. CRAIG: Yes, sir.

15 THE COURT: Mr. Craig, yesterday I advised you of
16 our rights under the Fifth Amendment of the Constitution
17 of the United States, and the similar counterpart
18 provision of The State of South Carolina. That is, that
19 you do not have to testify, or could not be required to
20 testify in this case. But that you had the right to
21 testify. At that time you advised me that you understood
22 your constitutional rights, and that you wanted to confer
23 with your lawyer. Have you had a chance to confer with
24 your lawyer about your constitutional rights under the
25 Fifth Amendment?

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1 MR. CRAIG: Yes, Your Honor.

2 THE COURT: And have you understood your
3 discussions with him?

4 MR. CRAIG: Yes, Your Honor.

5 THE COURT: And do you have any questions of either
6 your lawyer or me what your rights are under the Fifth
7 Amendment to the Constitution?

8 MR. CRAIG: No, sir, Your Honor.

9 THE COURT: And have you made a decision as to
10 whether you do or do not wish to testify?

11 MR. CRAIG: Yes, Your Honor.

12 THE COURT: And what is that decision?

13 MR. CRAIG: I shall testify.

14 THE COURT: All right. The Court finds that the
15 defendant, Mr. Emilio Craig after having been advised by
16 the Court and his attorney of his Fifth Amendment
17 protection against self-incrimination has made a free,
18 voluntary, knowing, and intelligent decision to waive
19 those protections and to testify in this case. The Court
20 will honor that decision. Sir, you may be seated.

21 Mr. Addison, yesterday I advised you of our rights
22 under the Fifth Amendment of the Constitution to the
23 United States, and the similar counterpart provision of
24 the constitution of The State of South Carolina. And you
25 advised me that you understood those rights; is that

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1 correct?

2 MR. ADDISON: Yes, Your Honor.

3 THE COURT: You were also advised that you wished
4 to talk with you lawyer before you made a decision; have
5 you had a chance to discuss these rights with your lawyer?

6 MR. ADDISON: Yes, Your Honor.

7 THE COURT: And have you understood your
8 discussions with him?

9 MR. ADDISON: Yes, Your Honor.

10 THE COURT: And do you have any questions of either
11 her or me with regards to your Fifth Amendment rights?

12 MR. ADDISON: No, sir, Your Honor.

13 THE COURT: And have you made a decision as to
14 whether you do or do not wish to testify?

15 MR. ADDISON: Yes, Your Honor.

16 THE COURT: And is that decision freely and
17 voluntarily made on your part?

18 MR. ADDISON: Yes, Your Honor.

19 THE COURT: And what is that decision?

20 MR. ADDISON: Yes, sir. I want to testify.

21 THE COURT: You wish to testify?

22 MR. ADDISON: Yes, Your Honor.

23 THE COURT: All right. The Court finds that the
24 defendant, Mr. Mardrall Addison after having been advised
25 by the Court and having conferred with his attorney about

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1 these rights, has made a free, voluntary, knowing, and
2 intelligent decision to waive those rights and to testify
3 in this case. The Court will respect that decision.

4 Thank you, sir. You may be seated.

5 All right. Is there anything else that we need to
6 consider outside of the presence of the jury on behalf of
7 the State, Mr. Holt?

8 MR. HOLT: No, sir, Your Honor.

9 THE COURT: Mr. Grove, Ms. Crayton, how do y'all
10 plan to proceed?

11 MR. GROVE: Your Honor, we were actually going to
12 ask you about that. We were discussing late yesterday
13 afternoon and early this morning based on Your Honor's
14 preference, I don't know if you would like for one of us
15 to present our entire defense and rest and have the other
16 present their entire defense and rests, or present
17 simultaneous defense in terms of calling witnesses. We
18 are at your discretion as to how to proceed. My
19 understanding is that the witnesses will testify to
20 generally the same facts, that there will not be a lot of
21 dispute as to the facts that are presented, but we can
22 call them in any order that you see fit.

23 THE COURT: I have no preference. And, it is
24 alright with me if you would like to be able to present
25 the entire case on behalf of Mr. Craig, and then I will

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1 allow Ms. Crayton to examine those witnesses and Mr. Holt.
2 And then you can rest. Then Ms. Crayton can call whatever
3 witnesses she wants to call, and then you can ask
4 questions of those witnesses and Mr. Holt and we will do
5 it that way. Just go through your part of the case first
6 would probably be the easiest way to do it, since we have
7 kind of handled it separately all along, including the
8 striking of the jury, and that is probably the way we
9 ought to do it here. Is that agreeable?

10 MR. GROVE: One moment, Your Honor.

11 (PAUSE.)

12 MR. GROVE: If given a preference of the two I
13 think we would prefer it the other way.

14 THE COURT: Okay. All right. I don't have a
15 problem with that.

16 MR. GROVE: I didn't know if you had a set rule
17 that you liked to follow. But, if we are given the
18 option, I think we would like to join in the defense.

19 THE COURT: All right. That will be fine. We will
20 let you both call and then y'all decide who will go first
21 and who is going to go second.

22 MR. GROVE: Thank you, Judge.

23 THE COURT: Where do we stand with the jury?

24 BAILIFF: We are missing just one.

25 THE COURT: Just one. Okay. Anything else before

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1 we bring the jury in that we know of?

2 MR. GROVE: It might not be the appropriate time,
3 Judge, but I did have one thing that I would like to
4 request redacted from the lineup featuring Emilio Craig.
5 I know we can cover that at the end of the defense, but if
6 we have a few moments, we can discuss it now.

7 THE COURT: What is it?

8 MR. GROVE: In the proffer of both of the lineups,
9 Officer Perkins who testified, indicated that law
10 enforcement keeps multiple pictures of defendants, or
11 clients, or you know former incarcerated persons, and on
12 the far right column of the very last page of I believe it
13 is Exhibit 1, the lineup featuring Emilio Craig, the
14 personal information of all of those parties in the lineup
15 is there in the far right column includes which picture
16 was used from their database, and I believe Emilio Craig's
17 indicated that it was picture number two, implying that he
18 has multiple pictures on file with law enforcement. I
19 don't have any problem with the remainder of the lineup.
20 My only issue is redacting that one column that indicates
21 that he has more than one photo on file in the law
22 enforcement database.

23 THE COURT: All right. Let me see it, Madame
24 Reporter, State's Number 2.

25 (PAUSE.)

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1 **THE COURT:** That is Addison, I need State's 1.

2 **MR. GROVE:** And again, my only problem with that is
3 that it does go back to the jury. I don't have a problem
4 with it if it remains.

5 **THE COURT:** I see what you are saying.

6 **(PAUSE.)**

7 **THE COURT:** All right. Mr. Holt, what is your
8 position?

9 **MR. HOLT:** I don't support that at all, Judge. I
10 think it should stay on there. But, if you rule that, I
11 am not going to cry about it.

12 **THE COURT:** Okay. All right. What I am going to
13 do is I am going to redact both lineups, or before they go
14 to the jury redact both lineups simply to blackout the
15 numbering in the right-hand column of all seven
16 individuals, so no one is singled out or anything of that
17 nature. Number two, which is Mr. Addison's lineup, they
18 have two people had two images, and although Mr. Addison
19 was one image, we can simply block out the image numbers
20 in that right-hand column all the way down and do the same
21 on Exhibit Number 1 on Mr. Craig, so there will not be any
22 indication of to any of the defendants.

23 **MS. CRAYTON:** Your Honor, I will just have one
24 witness who will be testifying, and I am just wondering if
25 after she testifies if it would be okay if she remains in

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1 the courtroom, after her testimony is complete.

2 THE COURT: I have no objection to any of the
3 witnesses remaining in the courtroom after they testify,
4 provided that they do not talk to any other potential
5 witnesses over a recess or anything of that nature, and
6 provided there is no way they would be called in way of
7 rebuttal.

8 MS. CRAYTON: No, Your Honor. I don't believe she
9 would.

10 MR. HOLT: Say, if we could just police that to
11 make sure it doesn't happen. How would we do that?

12 THE COURT: What, they not talk to anybody? That
13 is the problem.

14 MR. HOLT: They are sitting close enough so they
15 can text.

16 MS. CRAYTON: Your Honor, she is the last witness
17 beside the defendants that will be testifying. So there
18 is on way she would be able to talk to anybody.

19 THE COURT: Right before you close?

20 MS. CRAYTON: Right before the defendants testify.

21 THE COURT: Oh, right before the defendants
22 testify.

23 MS. CRAYTON: And she won't be able to talk to
24 them. So there is no way she could talk --

25 THE COURT: -- So, that will be fine. Basically,

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1 she wants to be in the courtroom is when the defendants
2 testify?

3 MS. CRAYTON: Yes, Your Honor, and during closings,
4 that's it.

5 THE COURT: There is no problem with that. All
6 right. According to the Clerk, one of the alternates has
7 not come back. My intention would be, and we have gotten
8 this far, and we have not had to replace and we still have
9 another alternate, would be to go forward, and I will
10 worry about that alternate, and I will let him or her go
11 at the end of all the testimony anyhow. So, rather than
12 wait and hold the matter up any longer, I will propose
13 that we go ahead without the first alternate, and go ahead
14 and excuse him. Any objection to that, Mr. Holt?

15 MR. HOLT: There is none, Your Honor.

16 THE COURT: Mr. Grove?

17 MR. GROVE: None from me, Your Honor.

18 THE COURT: And from Ms. Crayton?

19 MS. CRAYTON: No, Your Honor. Thank you.

20 THE COURT: All right. If he comes in just excuse
21 him. And in the mean time we have the thirteen jurors.
22 Is everybody to go forward?

23 MS. CRAYTON: Yes, Your Honor.

24 THE COURT: All right. Bring the jury in.

25 (Whereupon, the jury enters the courtroom

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1 at 9:39 a.m..)

2 CLERK OF COURT: He is here, Judge.

3 THE COURT: All right. He is here. That is a non
4 issue.

5 All right. Good morning, ladies and gentlemen. And
6 thank you for your promptness in being back here this
7 morning. And we are now ready to proceed. You will
8 recall that I told you yesterday that you had heard that
9 the State had retried their case. And the defendants will
10 now have an opportunity to present any testimony or
11 evidence to you that they wish to present, and we will do
12 that in just a few minutes. But before we begin, I need
13 to ask you, if any member of the jury panel has been
14 approached by anyone, or anyone has tried to talk to you
15 about this case in any manner whatsoever during the
16 evening recess, I would need to know about it now.
17 Negative response, and that is good.

18 I would also ask you if anyone has read any news
19 stories, or heard any broadcast media reports about this
20 case in any manner whatsoever over the evening recess, I
21 would also need to know about that now. Again negative
22 response, and that is good.

23 All right. The defendants do have a right and an
24 opportunity now to present any evidence to you that they
25 wish to present, and I will call on them to do so. Mr.

COREY MITCHELL - DIRECT EXAMINATION - MR. GROVE

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1. Grove, or Ms. Crayton.

2. MR. GROVE: Thank you, Judge. The defense calls
3. Corey Mitchell.

4. WHEREUPON, COREY MITCHELL

5. FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

6. MR. MITCHELL: I do.

7. DIRECT EXAMINATION BY MR. GROVE

8. Q. Good morning, Mr. Mitchell, how are you doing?

9. A. Okay.

10. Q. Mr. Mitchell, if you would speak up. There is a
11. microphone right in front of you. The jury is down
12. here. The jury has got to hear you. I've got to
13. hear you. The judge and all these people have to
14. hear you as well. Okay? All right. Before we get
15. started, can you spell your name for the record.

16. A. Corey Mitchell, C-O-R-E-Y M-I-T-C-H-E-L-L.

17. Q. Thank you.

18. THE COURT: Pull that chair up to the microphone.

19. Q. Where do you, Ms. Mitchell?

20. A. [REDACTED] in Hartsville.

21. Q. Just right in the middle of town?

22. A. Yes, something like that.

23. Q. We have been here all week. My client is Emilio
24. Craig. And the person charged in connection with
25. Mardrall Addison, and more specific that they walked

COREY MITCHELL - DIRECT EXAMINATION - MR. GROVE

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1 in earlier this year --

2 THE COURT: Please don't make any factual
3 statements. Just ask the questions.

4 MR. GROVE: My apologies, Your Honor.

5 Q. Morris Mazyck, do you know him?

6 A. Yes, sir.

7 Q. How do you know him?

8 A. I use to date his nephew, or he calls him his nephew.

9 Q. How long have you known Mr. Mazyck?

10 A. Going on two years.

11 Q. Okay. How often do you and Mr. Mazyck have a chance
12 to meet or talk?

13 A. Not very often. We might talk in passing or
14 something like that. Not constantly.

15 Q. But you know him pretty well?

16 A. Uh'huh.

17 Q. Okay. Have you ever had an opportunity to talk with
18 Morris Mazyck?

19 A. Not really?

20 Q. Anything at all?

21 A. I mean we talk, yes.

22 Q. Do you ever text back and forth?

23 A. We text more than we talk.

24 Q. Have you ever texted about the allegations that he is
25 making against Emilio Craig and Mardrall Addison?

1 A. Yes.

2 Q. Based on your conversations with him, and the
3 allegations that he made on this case, what was your
4 impression of his opinion on the charges?

5 A. I'm --- he is willing to take three thousand dollars
6 to drop the charges.

7 Q. That is your opinion of the conversations you have
8 had with him?

9 A. That's what -- That is what the text said.

10 Q. When did you have the conversation that would have
11 given you that impression?

12 A. January 15, 16, somewhere in there.

13 Q. Okay. And that was via telephone, on the cell phone?

14 A. It's --

15 Q. How well do you know Emilio Craig?

16 A. Cousins.

17 Q. You are cousins?

18 A. Uh'huh.

19 THE COURT: Speak up.

20 MR. GROVE: Make sure you speak up.

21 Q. And you said that you use to date Morris Mazyck's
22 nephew, is that right?

23 A. Yeah, he calls him his nephew.

24 Q. Right.

25 MR. GROVE: Beg the Court's indulgence.

COREY MITCHELL - CROSS EXAMINATION - MS. CRAYTON

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1 (PAUSE.)

2 MR. GROVE: I have no further questions for you at
3 this time, Ms. Mitchell. Thank you so much.

4 THE COURT: Ms. Crayton.

5 MS. CRAYTON: Thank you, Your Honor.

6 CROSS EXAMINATION BY MS. CRAYTON

7 Q. I know you are very nervous, Ms. Mitchell. We talked
8 this morning, and I know you are ver nervous today
9 about testifying, but you are doing great. Do you
10 need any water or anything? Are you okay? Ms.
11 Mitchell, would you mind telling the Court what you
12 do for a living? Where you work?

13 A. I do day care at the ABC Voucher Program, DSS.

14 Q. Okay. So you take care of kids. Do you have any
15 children?

16 A. Um.

17 Q. What type of education do you have?

18 A. I graduated.

19 Q. You graduated high school?

20 A. In Georgia.

21 Q. And you said in Georgia. So, how long have you lived
22 in South Carolina?

23 A. Born and raised.

24 Q. Born and raised, okay. You just went to school.

25 MS. CRAYTON: Ms. Mitchell, thank you so much for

1 being here today. Mr. Holt is going to ask you some
2 questions.

3 **THE COURT:** Cross examination, Mr. Holt?

4 **CROSS EXAMINATION BY MR. HOLT**

5 Q. Ms. Mitchell, there ain't nothing to be scared of. I
6 saw the look on your face. There is nothing to be
7 scared of. Ms. Mitchell, you've got a job don't you?

8 A. Yes.

9 Q. And you work don't you?

10 A. Uh'huh.

11 Q. And Emilio is our cousin isn't he?

12 A. Uh'huh.

13 Q. And you love him don't you?

14 A. Uh'huh.

15 Q. Now, I couldn't help but notice that look you gave
16 him on the way in. That was kind of a disapproving
17 look wasn't it?

18 A. It was a look.

19 Q. You are not real happy about being here today are
20 you?

21 A. No.

22 Q. And you say --- Mr. Grove, I let him get into a good
23 bit of hearsay, and talking about how you know Mr.
24 Morris Mazyck. And you don't really know him do you,
25 you are just kind of acquaintances aren't you?

COREY MITCHELL - CROSS EXAMINATION - MR. HOLT

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1 A. Uh'huh.

2 Q. And Emilio didn't really have a way to talk with Mr.
3 Morris did he? He kind of talked to him through you
4 didn't he?

5 A. Yes.

6 Q. Okay. And when you say y'all were talking, you were
7 just really texting weren't you?

8 A. Yes.

9 Q. And you initiated those texts didn't you?

10 A. Well, when I heard what happened, I texted him and
11 asked him if it had happened?

12 Q. That's right.

13 A. And he said yes.

14 Q. So the answer is yes to my question. And you were
15 just trying to sell the charges weren't you?

16 A. What?

17 Q. What you were trying to --

18 THE COURT: Just a minute, what?

19 MR. GROVE: Objection, Your Honor.

20 THE COURT: What is the objection?

21 MR. GROVE: It is speculation, it's --

22 THE COURT: No, he can go into her motive. It is
23 proper cross examination.

24 Q. And I am not trying to be ugly, okay? But you are
25 trying to help your cousin aren't you? You love him

1 don't you?

2 A. Right is right and wrong is wrong, but Morris and I
3 were cool, so I heard something happened to him, so I
4 texted him and asked him if it happened.

5 Q. And what did he say?

6 MR. GROVE: Objection, Your Honor.

7 MS. CRAYTON: Objection, Your Honor.

8 MR. GROVE: Hearsay.

9 THE COURT: All right. You can't testify as to
10 what anybody told you unless there is an exception, and I
11 want to know what the exception is. Ask the questions and
12 let's move this on.

13 MR. HOLT: Party opponent.

14 THE COURT: All right. Ask the question again.

15 Q. Your Honor, I have done forgot. That's all right.
16 I've got the next question. It is funny that you say
17 right is right and wrong is wrong.

18 A. Uh'huh.

19 Q. Okay. You are saying to the jury that he was going
20 to take three thousand dollars for what Emilio did to
21 him; is that what your testimony was with Mr. Grove?

22 A. That is what he said, yes. He would take three
23 thousand dollars to drop it.

24 Q. So, you believe that Emilio did it, or else you
25 wouldn't be trying to help him would you?

COREY MITCHELL - CROSS EXAMINATION - MR. HOLT

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1 A. I don't know ---

2 MR. GROVE: Objection, Your Honor.

3 A. I can't say I believe what happened.

4 THE COURT: Overruled, cross examination. Go
5 ahead.

6 Q. So, January --

7 THE COURT: Wait a minute. Now y'all one at a
8 time, and don't talk over me, and don't talk over each
9 other. That objection is overruled, and you may ask that
10 question and the question may be answered.

11 MR. HOLT: I apologize, Your Honor.

12 Q. So, do you believe that Emilio did it?

13 A. I don't know. I mean --

14 Q. Do you suspect he did it?

15 A. No. I don't know.

16 Q. You don't know. That's okay. And I am not trying to
17 trip you up.

18 THE COURT: All right. No comments. Just move on.

19 Q. Did Morris Mazyck ever make the deal?

20 A. What do you mean make the deal? He offered and that
21 was it.

22 Q. But you admit that you texted him first, right?

23 A. To ask him if it happened, yes.

24 Q. And at any time during all of this were you also
25 communicating also with Emilio or anybody in his

1 family?

2 A. I was talking to him when he called collect.

3 Q. So you were talking to Emilio and Morris?

4 A. Yes.

5 Q. You are kind of like a go between?

6 A. Uh'huh.

7 Q. To your knowledge, did Morris ever agree to drop
8 those charges?

9 A. The text said he would drop it if he gave him three
10 thousand dollars. That's all I know.

11 Q. Is it possible that he was just telling you that to
12 be nice? That you were asking him to drop it?

13 A. No, I never asked him to drop anything.

14 MR. HOLT: Thank you very much, Ms. Mitchell. I
15 appreciate everything you came up here to say.

16 THE COURT: Redirect?

17 MR. GROVE: No, Your Honor. Thank you.

18 THE COURT: Ms. Crayton?

19 MS. CRAYTON: No, Your Honor. Thank you, Ms.
20 Mitchell.

21 THE COURT: All right. You may step down. All
22 right. Mr. Grove, you may call your next witness.

23 MR. GROVE: Your Honor, I will defer to Ms.
24 Crayton.

25 THE COURT: All right. Ms. Crayton. Your Honor, I

TERESA CEASAR - DIRECT EXAMINATION - MR. GROVE

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1 would like to call Teresa Caesar. Mr. Jones has just
2 stepped out to get her.

3 THE COURT: Come around please, Ms. Caesar.

4 WHEREUPON, TERESA CEASAR

5 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

6 MS. CAESAR: I do.

7 DIRECT EXAMINATION BY MS. CRAYTON

8 Q. How are you doing this morning, Ms. Caesar?

9 A. Fine, how are you.

10 Q. Good. Are you a little nervous?

11 A. Yes, ma'am.

12 Q. All right. Don't be nervous. You will be fine.

13 Will you go ahead and state and spell your name for
14 the record?

15 A. Teresa Caesar. T-E-R-E-S-A C-E-A-S-A-R.

16 Q. Okay. Let me start off by asking you what do you do
17 for a living?

18 A. I work in a convenient store.

19 Q. Okay. And, do you have any children?

20 A. One.

21 Q. What is her name?

22 A. Tykera Anderson. (Phonetic)

23 Q. And Teresa, who is Tykera's father?

24 A. Mardrall Addison.

25 Q. Mardrall is your child's father?

TERESA CEASAR - DIRECT EXAMINATION - MR. GROVE

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1 A. Uh'huh.

2 Q. And Teresa, where do you live?

3 A. I stay in the Oaks Community.

4 Q. In Hartsville?

5 A. No, it's actually in Lamar.

6 Q. Oh, Lamar, okay. Teresa, we have been discussing an
7 incident that happened January 13. And I just want
8 to ask you, did you see Mr. Addison that day?

9 A. Yes, ma'am.

10 Q. Okay. And, can you tell me where you saw Mr. Addison
11 that day?

12 A. I picked him up from the top of Pine Ridge
13 Apartments.

14 Q. And is Pine Ridge Apartments in Hartsville?

15 A. Yes, ma'am.

16 Q. And is that the apartment complex that is next to
17 East Park Apartments?

18 A. Yes, ma'am.

19 Q. How did you know he was going to be there?

20 A. Well, he was suppose to come out to my apartment
21 earlier that day, and watch my daughter while I go to
22 work. So I called him around three o'clock, and he
23 said he needed for me to pick him up. So I picked
24 him up.

25 Q. Did he watch your daughter often?

TERESA CEASAR - DIRECT EXAMINATION - MR. GROVE

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1 A. Every now and then if I can't get nobody else to
2 watch her.

3 Q. And when do you go to work?

4 A. I usually work in the afternoon.

5 Q. And about what time did you pick him up that day?

6 A. I don't know the exact time, I knew it was close to
7 four o'clock.

8 Q. Okay. And I understand that you took Mardrall to
9 your house?

10 A. Yes, ma'am.

11 Q. In Lamar.

12 A. When I say in Oats, it is not all the way in Lamar.

13 Q. Okay. Close to Lamar. Nots in Hartsville though?

14 A. No, it is not in Hartsville.

15 Q. Okay. And when you picked Mardrall up, was he
16 carrying anything?

17 A. He had two boxes of shoes with him.

18 Q. Did you ask him where he got them?

19 A. No.

20 Q. No. Ms. Ceasar, do you know if he committed that
21 armed robbery?

22 A. No, ma'am.

23 Q. Do you know anything about that armed robbery?

24 A. No, ma'am.

25 MS. CRAYTON: Thank you, Ms. Ceasar, Mr. Grove is

1 going to ask you some questions. Okay?

2 THE COURT: Mr. Grove.

3 MR. GROVE: Court's indulgence.

4 (PAUSE.)

5 MR. GROVE: I don't have any questions for you.

6 Thank you, Ms. Caesar.

7 THE COURT: Mr. Holt?

8 MR. HOLT: Thank you, Judge.

9 CROSS EXAMINATION BY MR. HOLT

10 Q. So you say you picked him up around four, but you are
11 not sure what time it was?

12 A. No, I am not sure. It was close to time for me to go
13 to work.

14 Q. What number was he calling from, do you remember?

15 A. It was my cell phone, he had my telephone --

16 MADAME COURT REPORTER: Judge, I didn't get that.

17 THE COURT: Wait a minute. Say that again, we
18 didn't get the last part of it. You have to speak a
19 little more slowly, a little louder, everybody has got to
20 hear you.

21 A. It is [REDACTED].

22 Q. But unless --- let's be clear about your testimony
23 today. You don't know anything about that robbery do
24 you?

25 A. No, sir.

TERESA CEASAR - CROSS EXAMINATION - MR. HOLT

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1 Q. And it could have been anybody who did that, couldn't
2 it?

3 A. Yes, sir. It could.

4 Q. And that robbery happened near those apartments in
5 Hartsville, didn't it?

6 A. Yes, sir.

7 Q. And it happened a little bit before four o'clock
8 didn't it?

9 MS. CRAYTON: Objection, Your Honor.

10 MR. GROVE: Objection, Your Honor. He has already
11 said that she didn't know anything about it, and he is
12 continuing to ask her questions.

13 MS. CRAYTON: Speculation, Your Honor.

14 THE COURT: Well, it is cross examination and if
15 she doesn't know, she can say she doesn't know. Overruled.

16 MR. HOLT: Thank you.

17 Q. You say you live out in Oaks, right?

18 A. Yes, sir.

19 Q. Now, at any time did the Marshall Service come out
20 and speak to you and say they were looking for
21 Mardrall?

22 A. Yes, sir.

23 Q. And what did you tell them?

24 A. I told them I hadn't seen him.

25 Q. But you just said you --

1 A. -- But they didn't come until four days after it.

2 Q. Yes, ma'am. Just tell the story.

3 A. And I told them that I didn't see him. And they said
4 they had a call that he was at my house that day they
5 was calling to come out there, but he was not at my
6 house. He watched my baby. When I came home from
7 work he left, and I didn't see him anymore. And
8 when they came I did not see him.

9 Q. You didn't see him any more before the 27th when he
10 was arrested?

11 A. No, sir. I did not.

12 Q. Okay. There is nothing wrong with that. I'm just --
13 - Let me ask you this. You say every now and then he
14 watches the child?

15 A. He does.

16 Q. When you can't find anybody else?

17 A. Uh'huh.

18 Q. And he is the child's father?

19 A. Yes, he is.

20 Q. Now, does he give you any money a lot of times?

21 A. No, sir.

22 Q. Did he give you any money on the 13th?

23 A. No, sir.

24 Q. So he never gives you any money?

25 A. No, sir. I don't ask him for any money.

TERESA CEASAR - CROSS EXAMINATION - MR. HOLT

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1 Q. But he is the child's father.

2 A. He doesn't have a job either. He doesn't give me
3 anything.

4 Q. How does he support --

5 MS. CRAYTON: Objection, Your Honor. Relevance.

6 THE COURT: Overruled.

7 Q. How does he support himself?

8 A. I don't know. He doesn't have a job. I don't ask
9 him for anything. I work and take care of my child
10 myself.

11 MR. HOLT: I'm sorry. Thank you very much, Ms.
12 Ceasar.

13 THE COURT: Redirect?

14 MS. CRAYTON: No, Your Honor.

15 THE COURT: Mr. Grove?

16 MR. GROVE: No, Your Honor.

17 THE COURT: Thank you. You may step down. All
18 right. Ms. Crayton or Mr. Grove, you may call your next
19 witness.

20 MR. GROVE: Thank you, Judge. The defense calls
21 Emilio Craig.

22 THE COURT: All right. Mr. Craig, come around
23 please.

24 WHEREUPON, EMILIO BURTON CRAIG

25 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

EMILIO BURTON CRAIG - DIRECT EXAMINATION - MR. GROVE 344

1 MR. CRAIG: Yes, sir.

2 DIRECT EXAMINATION BY MR. GROVE

3 Q. Do me a favor and state your name and spell it for
4 the record.

5 A. Emilio E-M-I-L-I-O, last name Craig C-R-A-I-G.

6 Q. Emilio, we have been here all week, and while we are
7 here why doing you tell me what happened on January
8 13th of this year.

9 A. On the morning of January 13th I took Yolanda Alford
10 to work, I had borrowed her car that morning. I went
11 to her apartment rested up for a while and I got a
12 call from a friend of mine Mardrall Addison, and he
13 asked me to help him move some stuff to his new
14 apartment that he had --- that he was staying at
15 every now and then. When he call me I went and got
16 him, I went out there moved some boxes, moved him
17 from Pennington Circle. He has a house on Pennington
18 Circle, and moved his stuff from there to the
19 apartment in Oaks. So after that Ms. Alford --- she
20 called me and she was like come and let me in because
21 I am at the house. So, I said okay, I'm on my way.

22 Q. Why did you have to let her in?

23 A. Because I had the keys --- the keys to her apartment
24 on the key ring.

25 Q. They were for her car?

EMILIO BURTON CRAIG - DIRECT EXAMINATION - MR. GROVE 345

1 A. Yes, sir.

2 Q. Got yah. Keep going.

3 A. So I go back to her apartment which is in East Park
4 Apartments. She stays at [REDACTED]. I go
5 back and let her in the apartment. She goes inside,
6 I you know give her a hug, asked her how her day been
7 and everything. She went in the back forwards the
8 kitchen, and noticed that the trash was kind of built
9 up in there, you know, and I was like, dang, you have
10 my car all day at least you could have take my trash
11 out, you know. So, it was like you know, I've got
12 you, all right, you know what I'm saying. I was
13 trying to be a gentleman and take the trash out. I
14 took the trash out. While I was going outside I
15 noticed a car --- a guy who I know who sells shoes,
16 Mr. Mazyck.

17 Q. Let me stop you there. You knew him at the time as
18 Mr. Mazyck, or you knew him at the time as the guy
19 who sold shoes out of his car?

20 A. I knew him as Mr. Mazyck.

21 Q. Okay. Keep going.

22 A. I seen both his car doors open in the back. I was
23 going to the trash can, and he was parked
24 approximately not even five or ten feet away from the
25 Dumpster. I seen the car door opened --

1 Q. -- Let me stop you right there. You are talking
2 about the dumpsters, taking out the trash, where was
3 the dumpster in relation to [REDACTED]?

4 A. I say about forty or fifty feet away from our house.
5 About fifty feet.

6 Q. There are little duplexes there, right?

7 A. Yes, sir.

8 Q. And there is one on one side and one directly across
9 from each other all the way down Sunshine Court,
10 right?

11 A. Exactly.

12 Q. How many units down would you say it is?

13 A. About six --- maybe about six.

14 Q. All right. Keep going.

15 A. All right. Well, when I was going to the trash to
16 take the trash out, I noticed a vehicle and the doors
17 were opened,, and there was people around the car. So
18 I figured you know they were probably buying shoes or
19 something. So I looked in, and I inquired about some
20 shoes myself. There was about nine or ten pairs or
21 so.

22 Q. What size shoe do you wear?

23 A. A ten or eleven. Between a ten and a eleven. So I
24 inquired you know like do you have anything in a ten.
25 He was like, yeah, there are about three boxes with

EMILIO BURTON CRAIG - DIRECT EXAMINATION - MR. GROVE 347

1 size tens in them.

2 Q. Okay.

3 A. So I was like you know let me get the three for the
4 hundred, because he does a little deal with them
5 every now and then and I figured since I bought some
6 shoes from him prior to that --- I think I bought
7 some shoes about two weeks before that from him, so I
8 figured he would probably give me a nice little deal
9 on them.

10 Q. So he is willing to negotiate the price? He doesn't
11 have a set price, I'm guessing?

12 A. Yeah, we was going back and forth. And he was like
13 man if you don't want them then put them back. And I
14 was like, come on man. So, at that point I just put
15 the money that I was going to pay for the shoes with
16 on the front seat, I laid it in there and I took the
17 shoes I wanted. I didn't remember no more going back
18 and forth about it or nothing.

19 Q. What kind of shoes did you buy?

20 A. I bought all white Air Force Ones, all white Red
21 Maxes, and some black A.C. Juice, Nike boots.

22 Q. How much did you pay for all of that stuff?

23 A. A hundred dollars.

24 Q. Okay. What happened next?

25 A. After that I got shoes that I wanted and left so we

1 didn't have to do no more negotiating or talking or
2 nothing. And I was like come on man, you know what
3 I'm saying. And after that you know there was other
4 people still there trying I guess to get some shoes,
5 and what they were saying like I said prior to me
6 going to the car they were already over there. But
7 I'm getting mine and I'm going to go. So after that
8 I walked away to take the trash can back to the house
9 with the shoes that I had. I took the trash can back
10 to the house and was telling Yolanda, she was like
11 hey you know I'm going to go do something, I'm going
12 to get in the shower, so you need to talk to these
13 people, because there was people with me when I came
14 there. So, you know, let me go drop them off and I
15 will come back and get you. So when I went to her
16 house I dropped the trash can off, I took the shoes,
17 and I was getting in the car. A friend of mine was
18 there named Tree, he was out there with another guy -

19 -

20 Q. -- Let me stop you there. Tree?

21 A. Yes, sir.

22 Q. Okay. Keep going.

23 A. Tree and Mr. Addison were also out there. Mr.
24 Addison had gotten a pair --- he told me he had
25 bought two pair of sneakers from him too. And I

EMILIO BURTON CRAIG - DIRECT EXAMINATION - MR. GROVE 349

1 never asked Tree if he got any, but he did have some.
2 So, you know, I was under the assumption that he took
3 them out of his car or he bought them, you know. But
4 at the time he had some shoes also. So, he came to
5 the car with me, got in, we drove over to --- Addison
6 told me that his girlfriend was waiting on him, and
7 she was suppose to come pick him us to take him over
8 to Pine Ridge Apartments. So, at that time I drove
9 over to Pine Ridge Apartments, and dropped Mr.
10 Addison off. While we were at the Pine Ridge
11 Apartments, my friend Tree was like you know why
12 don't you let me drive to my Mom house or my people
13 house you know what I'm saying. He was like they
14 stay on Alphabet Hill. So, okay, be careful because
15 of the weather, you know what I mean. So he took the
16 wheel in Pine Ridge. Addison had already gone. He
17 told me he was going to call me later on. That he
18 appreciated me helping him out earlier and all of
19 that, and I at you later. While in Pine Ridge I seen
20 that same car of Mr. Morris' and I was like I wonder
21 why this guy is following us. He is not going to get
22 that actual little bit of money, he wanted a buck
23 fifty for them, and I gave him a buck, and I'm like -
24 -- So finally in Pine Ridge is seen his car come
25 through, and why is this man following me, you know?

1 Do you know what I'm saying? So, he is not going to
2 get that fifty dollars out of me, not for them shoes.
3 They bootleg anyway --

4 Q. -- Make sure you slow down, so we can get everything
5 you are saying. So you left Pine Ridge?

6 A. Yes. And Justine --- Justine is also in the car, Ms.
7 Peterson, who is also my cousin.

8 Q. All right. And then you left Pine Ridge, and you
9 headed to Alphabet Hill?

10 A. Yes, sir.

11 Q. Keep going.

12 A. We were coming from Pine Ridge down East Home Avenue.
13 Like I said the weather was bad, so I was telling the
14 man, be careful with the driving, because this is you
15 know this girl's car, and I was responsible, because
16 she left me in charge. So I'm telling him to slow
17 down. But we got to the intersection and there was a
18 Sheriff's car there. I said police right there make
19 sure you got your seatbelt in. Be careful man, slow
20 down. He leaned like --- so he couldn't be seen.
21 And I was like what are you doing man? Just chill,
22 you know, just drive. You know. So, he kept on
23 driving, and that's when I looked and I seen the
24 police do a U-turn. And I was like man what's going
25 on with --- the police is coming now. And he was

EMILIO BURTON CRAIG - DIRECT EXAMINATION - MR. GROVE 351

1 like man he will probably say I took these shoes or
2 something. And I was like what do you mean, because
3 I didn't know if he had paid for them, or if he would
4 have took them or whatever happened. Do you
5 understand what I'm saying?

6 Q. Sure.

7 A. I was under the impression that okay now if you took
8 these shoes he probably told him some old crazy
9 stuff. I don't know what happened. So he kept
10 driving, and I found out later that he didn't have no
11 licenses, so that was another reason he was running
12 too. Then he pulled off. He was speeding down on
13 Patrick Highway. He had me scared. I told him to
14 slow this car down cause I thought we were going to
15 wreck. So I finally convinced him to slow the car
16 down enough where the car was stopped, you know what
17 I mean. And when the car came to a stop I exited the
18 vehicle. And I got out of there too, because I
19 didn't know what was going on. He jumped out too.
20 But as he ran I ran also because I didn't know --- I
21 was kind of like man I you know this dude ain't
22 trying to set us up, you know.

23 Q. Okay. And then you were arrested later that day?

24 A. Yeah, yeah.

25 Q. Earlier on it sounds like the story from start to

1 finish. So I am going to back up and ask you a few
2 more questions. All right. At East Park that day --

3 A. -- Yeah.

4 Q. Did you have a gun?

5 A. No, sir.

6 Q. Did you point a gun?

7 A. Never sir.

8 Q. Did you threatened Morris Mazyck?

9 A. No, sir. Never.

10 Q. Did you see anybody with a gun?

11 A. No, sir.

12 Q. How long do you think that you were in or around Mr.
13 Mazyck's car?

14 A. About --- say about five minutes, because we were
15 going back and forth about the price of the shoes.

16 Q. And, how many people do you think were around his
17 car?

18 A. When I got out there I'd say about four, and didn't
19 include me, about five.

20 Q. And when you say around this car, do you mean within
21 just a few feet of his car, right?

22 A. Yeah, they were leaning in looking at the shoes, like
23 seeing which ones they wanted to get and stuff like
24 that.

25 Q. How long have you known Morris Mazyck?

EMILIO BURTON CRAIG - DIRECT EXAMINATION - MR. GROVE 353

1 A. Probably --- I'd say about six months.

2 Q. Okay. How long have you been a resident of the
3 Hartsville area?

4 A. Since 2003.

5 Q. And you say that you have bought shoes from Morris
6 Mazyck before January 13th?

7 A. Yes, sir.

8 Q. And you knew that he sold shoes?

9 A. Yes, sir.

10 Q. And you knew that he was kind of a negotiator?

11 A. Yes, sir. I was introduced to him through a mutual
12 friend, a girl that you know he knows. She, you
13 know, call him for me and that is how I first met
14 him.

15 Q. Have you ever been convicted of assault and battery
16 of a high and aggravated nature?

17 A. Yes, sir.

18 Q. When?

19 A. I believe I was convicted of it in 2009.

20 Q. Would that be 2005?

21 A. I was probably charged with it then, but we went to
22 court, I guess --

23 Q. -- Do you remember what your sentence was?

24 A. Thirty-nine days, sir.

25 Q. Do you have any other convictions?

EMILIO BURTON CRAIG - DIRECT EXAMINATION - MR. GROVE

354

1 A. Yes, sir.

2 Q. Tell me about them.

3 A. I have a conviction for distribution of crack
4 cocaine.

5 Q. When was that?

6 A. And that was 07.

7 Q. What did you get for that?

8 A. Six-years nonviolent.

9 Q. And you got a failure to stop for a blue light?

10 A. Yes, yes.

11 Q. Is that somehow tied in with the assault and battery
12 of a high and aggravated nature?

13 A. Yes, sir.

14 Q. And you got thirty-nine days for that?

15 A. Yes, sir. They were together.

16 Q. In just one minute I'm going to --- we are almost
17 done here. You bought some shoes from Morris Mazyck?

18 A. Yes, sir.

19 Q. He wasn't happy with the price?

20 A. No, sir.

21 Q. Did you have a gun?

22 A. No, sir. Never.

23 MR. GROVE: No more questions at this time. Please
24 any questions Ms. Crayton may have.

25 THE COURT: Ms. Crayton.

EMILIO BURTON CRAIG - CROSS EXAMINATION - MS. CRAYTON 355

1 MS. CRAYTON: Thank you, Your Honor.

2 CROSS EXAMINATION BY MS. CRAYTON

3 Q. How are you doing, Emilio?

4 A. All right, and you?

5 Q. Emilio, you say that you were in a car with a guy
6 named Tree?

7 A. Yes, ma'am.

8 Q. Was Tree a friend of yours?

9 A. Yeah. He is from the neighborhood.

10 Q. Do you know his real name?

11 A. I just --- I know him as Tree, because like I say I
12 haven't lived here all my life, and a lot of people I
13 meet on a first name basis. And you know nick name
14 basis.

15 Q. So, you have seen him around as acquaintances; is
16 that right?

17 A. Yes, ma'am.

18 Q. When you went up to Mr. Mazyck's car, about how many
19 shoes do you think were in the backseat?

20 A. At least ten, that's the least. But I couldn't be
21 exactly sure.

22 Q. And were they just on the backseat, or were then in
23 the floorboard as well?

24 A. They was all over.

25 Q. Does Mr. Mazyck come to that neighborhood a lot

1 selling shoes?

2 A. I mean he is all over really, but I don't know just
3 for say that area except --

4 Q. -- Because you don't live there?

5 A. No.

6 Q. And you say you bought three pairs of shoes from him?

7 A. Yes, ma'am.

8 Q. Had you purchased some shoes from Mr. Mazyck before,
9 you said you have?

10 A. Yes, ma'am.

11 Q. What kind of shoes were they?

12 A. All white Air Force Ones.

13 Q. Prior to this day?

14 A. Yes, ma'am.

15 Q. Do you remember about when it was?

16 A. Like two weeks prior to that. Probably around
17 Christmas time.

18 Q. And you say he gives good deals, or he will
19 negotiate?

20 A. Yeah, I think since I had already dealt with him that
21 he wouldn't be trying you know give me a hard time.

22 Q. But you said they were bootleg shoes?

23 A. Yes, ma'am. They are not originals, like if I go to
24 the store to buy a pair of shoes?

25 MR. HOLT: Objection, Your Honor, relevance.

EMILIO BURTON CRAIG - CROSS EXAMINATION - MS. CRAYTON 357

1 THE COURT: Sustained.

2 Q. Can you tell me what Tree looks like? Is he black,
3 is he white, how old he is?

4 A. He is a black male. He is probably about Mr.
5 Addison's height.

6 Q. What about age?

7 A. Twenty-three.

8 Q. So he is a young guy?

9 A. Yes, ma'am.

10 Q. Young black male?

11 A. Yes, ma'am.

12 Q. You say you know Mr. Mazyck by name, does he know you
13 by name?

14 A. Yeah, he probably knows me by name. He probably
15 knows me by like P. A., or something like that.

16 Q. That is your nickname?

17 A. Yes, ma'am.

18 Q. Mardrall, does he know Mardrall by name?

19 A. Yes, ma'am.

20 Q. Okay. Do you know if Mardrall has ever bought shoes
21 from him before?

22 A. Yeah. He has. And I believe he bought some that
23 same day in question too.

24 Q. That is what you said, you said you saw Mardrall with
25 a couple of pairs of shoes?

EMILIO BURTON CRAIG - CROSS EXAMINATION - MS. CRAYTON 358

1 A. Yeah.

2 Q. That he said he bought?

3 A. That he bought, yeah.

4 MS. CRAYTON: Court's indulgence, Your Honor.

5 (PAUSE.)

6 MS. CRAYTON: Mr. Craig, I just have a couple of
7 more questions.

8 Q. This isn't the first time that you say that a guy
9 that you named by Tree was driving the car?

10 A. No, ma'am.

11 Q. Did you tell Officer Anderson about that?

12 A. Yes, ma'am.

13 Q. And did he ask you any questions about it?

14 A. No, he never asked about it.

15 MS. CRAYTON: No further questions. Thank you, Mr.
16 Craig.

17 THE COURT: All right. Mr. Holt.

18 CROSS EXAMINATION BY MR. HOLT

19 Q. Mr. Craig, where is Tree today?

20 A. He's out there somewhere probably.

21 Q. Looking like Mardrall?

22 A. Possible.

23 Q. Talking like Mardrall?

24 A. No, he don't talk like Mardrall.

25 Q. But he looks like Mardrall?

EMILIO BURTON CRAIG - CROSS EXAMINATION - MS. CRAYTON 359

1 A. I mean not identical, but they favor in several
2 descriptions.

3 Q. About the same height as Mardrall?

4 A. Yeah, definitely, man.

5 Q. So you talked to Terry Anderson?

6 A. Yes, sir.

7 Q. Did you talk with him anything about these shoes?

8 A. Yes, sir.

9 Q. What did you say?

10 A. I told him that I took the trash out, and I went to
11 take the trash out at East Park, and the guy named
12 whatever his name is Mazyck was sitting out there,
13 and I believe he was out there distributing shoes.

14 Q. Did you tell Terry that you bought the shoes?

15 A. No, I never told Terry about me purchasing myself.

16 Q. Were you in here when Jackie Catoe was testifying?

17 A. Yes, sir.

18 Q. Did you hear him say that they found three boxes of
19 shoes in that car?

20 A. I heard him say they found some boxes of shoes, but I
21 never heard the reported amount?

22 Q. Is it true or untrue that the first time you said
23 that you bought three boxes of shoes was after you
24 heard Jackie Catoe testify in court today?

25 A. No.

EMILIO BURTON CRAIG - CROSS EXAMINATION - MS. CRAYTON 360

1 Q. Okay. Tree didn't come up here to help you?

2 A. I mean, I don't see why he would be --- I mean I
3 don't even know his whole name to get him subpoenaed.
4 I would of --- I would have had him subpoenaed if I
5 had his address and name.

6 Q. And by your own testimony you don't know his whole
7 name?

8 A. Not his whole name.

9 Q. But you let him drive your girlfriend's car around
10 that you were responsible for?

11 A. We were together.

12 Q. This is what I'm saying. If a person had another
13 person's property, and you are in charge of it, you
14 don't give it Willie-nillie to people you don't know.

15 A. I do know him, but I don't know him to a degree where
16 I know his social security is, last name, his
17 address. I don't know everything about him.

18 Q. But there is a degree of knowing somebody that you
19 let him drive your car?

20 A. Yeah, I know him enough that I trust him with that
21 though. I had trusted him.

22 Q. So you were running and hiding with Tree? And your
23 story is the entire time the police was chasing you,
24 you don't know what it is, but you have a suspicion
25 it is about those shoes?

EMILIO BURTON CRAIG - CROSS EXAMINATION - MS. CRAYTON 361

1 A. No, he mentioned to me in the car that maybe he had
2 called him, and I figured he must have took some of
3 them shoes. But I thought the Dude was saying, when
4 he followed us to Pine Ridge that he wanted the rest
5 of the money that he was trying to charge me for the
6 shoes that I had paid for. But, it turns out I guess
7 Tree had got some too.

8 Q. So it wasn't you that did this crime, it was this
9 mysterious one armed Tree who did this?

10 A. I mean, I don't know --

11 Q. -- That's okay. All right. You went to prison for
12 selling drugs?

13 A. Yeah.

14 Q. You have been in prison for assault and running from
15 the police?

16 A. I haven't been to prison for assault.

17 Q. Where did you go?

18 A. County jail.

19 Q. All right. I apologize. The county jail for assault
20 and running from the police. So, is it true untrue
21 that you make your living from crime?

22 A. No, sir. That is not true.

23 Q. Even though you have been convicted of it?

24 A. I have been convicted of it, but I also work though
25 at different jobs.

EMILIO BURTON CRAIG - CROSS EXAMINATION - MS. CRAYTON 362

1 Q. All right. Where were you working at the time?

2 A. At the time, I wasn't working. But I had gotten laid
3 off though.

4 Q. So the last eight months since the occurrence of
5 this, your life has changed with these ridiculous
6 accusations to this trial. You haven't been looking
7 for this Tree. You haven't heard anything about this
8 Tree. You don't what is going on with Tree? Even
9 though he could be up here and --

10 THE COURT: -- That is an argument. Ask your
11 question, Mr. Holt.

12 Q. You haven't been looking for him?

13 A. There is no way for me to see him, because I am
14 incarcerated. But, I mean I have heard about him
15 that he is still out there. That he is still around.

16 MR. GROVE: Objection, Your Honor. Move to strike.

17 THE COURT: All right. He volunteered the answer,
18 you didn't ask him. That is overruled.

19 Q. My point is that you have been incarcerated for eight
20 months. That you have used your cousin, who is a
21 nice lady, who is up here for you today --

22 MR. GROVE: -- Objection, Your Honor. He is
23 testifying again.

24 THE COURT: All right. All right. Mr. Holt, don't
25 repeat the whole question, just ask him. Don't repeat the

EMILIO BURTON CRAIG - CROSS EXAMINATION - MS. CRAYTON 363

1 whole answer, and don't repeat the facts that are already
2 in evidence. Just ask the question.

3 Q. You used your cousin to reach out to somebody. Why
4 not use your cousin to reach out to Tree?

5 A. Cause in actuality I didn't use my cousin. She knows
6 him, and she was appalled by the allegations. So she
7 said that she got in touch with him on her own. I
8 never told her to call him. I never told her to call
9 her. I had no dealings with that. But she told me
10 what he said though, which was you know I'm
11 interested in knowing why he would say that.

12 Q. Were you in here with David Young, Jackie Catoe, and
13 Chad McInville testified?

14 A. Yes, sir.

15 Q. Did you or did you not hear them say that they all
16 saw Mardrall driving the getaway car?

17 A. I heard what they said, but it was not my place to
18 tell them who was driving at the time.

19 Q. When the car slammed down, and people jumped out.
20 Why didn't you go, hey, I didn't do anything? Why
21 didn't you talk to the police then?

22 A. Well, I didn't know what was going on. I was scared
23 out of my mind. I am in a car with a guy doing
24 ninety miles an hour.

25 Q. Why hide under a truck?

EMILIO BURTON CRAIG - CROSS EXAMINATION - MS. CRAYTON 364

1 A. Well, they have a description that they are giving
2 you. It was not under the truck but by the truck.

3 Q. Why hide if you haven't done anything wrong?

4 A. I don't know what they was looking for.

5 MR. HOLT: Beg the Court's indulgence.

6 (PAUSE.)

7 MR. HOLT: No further questions of this witness.

8 THE COURT: Redirect, Mr. Grove?

9 MR. GROVE: One second, Your Honor.

10 (PAUSE.)

11 MR. GROVE: No redirect. Thank you, Mr. Craig.

12 THE COURT: All right. Ms. Crayton?

13 MS. CRAYTON: No, Your Honor. Thank you.

14 THE COURT: Thank you, Mr. Craig. You may step
15 down.

16 MR. CRAIG: You are welcome, sir.

17 THE COURT: All right. The defense may call your
18 next witness.

19 MS. CRAYTON: Your Honor, I would call Mardrall
20 Addison to the stand.

21 THE COURT: All right. Mr. Addison.

22 WHEREUPON, MARDRALL ADDISON

23 FIRST BEING DULY SWORN TESTIFIES AS FOLLOWS

24 MR. ADDISON: I do.

25 DIRECT EXAMINATION BY MS. CRAYTON

MARDRALL ADDISON - DIRECT EXAMINATION - MS. CRAYTON 365

1 Q. If you would pull that microphone towards you.

2 Mardrall, would you just state your full name for the
3 record, and spell it for the Court Reporter.

4 A. My name is Mardrall Deon Addison. It is

5 M-A-R-D-R-A-L-L D-E-O-N A-D-D-I-S-O-N.

6 Q. And, Mr. Addison, what do you do for a living?

7 A. Right now I am unemployed. But usually I help my
8 friend's uncle at his auto mechanic shop.

9 Q. What do you do at the auto mechanic shop?

10 A. Just servicing cars.

11 Q. Mr. Addison, tell me about January 13, 2011, what
12 happened when you got up that morning?

13 A. When I got up, me and my girlfriend had just got a
14 little house off of Oaks Highway, and we got some
15 stuff moved off of Pennington Circle. I called Mr.
16 Emilio and asked him if he would help me move some of
17 my stuff from Pennington Circle out there, and he
18 told me he would. And he came out there and we went
19 and got some stuff to eat and stuff. We were moving
20 back and forth for a little while, and went and
21 talked to my cousin.

22 Q. Hold on just a second. When you say you were moving
23 your stuff from one house to the other, was one of
24 them with your girlfriend?

25 A. Yes. I was moving the stuff from the house I was

1 staying at to the house with me and my girlfriend off
2 of Oats Highway.

3 MS. CRAYTON: Let me get you to back off that
4 microphone a little bit.

5 Q. And who is your girlfriend?

6 A. Ms. Teresa Caesar.

7 Q. And you have a child in common with her, correct?

8 A. Yes, ma'am.

9 Q. When you spoke with Mr. Emilio Craig and he helped
10 you move your boxes, what car was he driving? Was he
11 driving Ms. Alford's car?

12 A. Yes, ma'am. Are you talking about when we moved them
13 boxes?

14 Q. Yes.

15 A. Yes, ma'am. He was driving me there.

16 Q. Okay. He was driving her car that day?

17 A. Yes, ma'am.

18 Q. Did you drive that car that day?

19 A. No, ma'am. I never driven that car.

20 Q. How long have you known Ms. Alford?

21 A. Probably two or three weeks.

22 Q. So not very long?

23 A. I really --

24 MADAME COURT REPORTER: Please don't speak so loud
25 in that microphone.

MARDRALL ADDISON - DIRECT EXAMINATION - MS. CRAYTON 367

1 **THE COURT:** You don't need to talk so loud into
2 that microphone. Just talk --

3 A. All right. I really didn't know her. I only knew
4 her through like going out with him and seeing her
5 come to the door. I've been to her house one time
6 prior.

7 Q. So you knew her as Emilio's girlfriend?

8 A. Yes, ma'am.

9 Q. Tell me about when you dropped your Mom off at work,
10 you and Mr. Craig did that, correct?

11 A. Yes, ma'am.

12 **MR. HOLT:** Objection, Your Honor. She is just
13 continuously leading her witness.

14 **MS. CRAYTON:** I apologize, Your Honor.

15 **THE COURT:** He is your witness.

16 Q. Who was driving the car when you dropped Ms. Alford
17 off?

18 A. Mr. Craig.

19 Q. And what did you do after you dropped her off at
20 work?

21 A. We got something to eat. Then we started moving my
22 stuff.

23 Q. And did you eventually make your way back to Sunshine
24 Court?

25 A. Yes, ma'am.

1 Q. And why was that?

2 A. Well, when we went back around town we ran into a
3 girl Justine Peterson, she was walking and she asked
4 if she could get a ride to Piggy Wiggly, so she could
5 cash her check, I think it was. And he told her
6 yeah, so he did. After that it was like time for Ms.
7 Alford to get off work so we went back to East Park.

8 Q. And why was it important for y'all to get back to
9 those apartments before Ms. Alford, or around when
10 Ms. Alford got home?

11 A. Cause he had her keys, and she needed to get into her
12 house.

13 Q. And it was cold?

14 A. Yes, ma'am. It was snow on the ground.

15 Q. When y'all finally arrived at East Park Apartments,
16 at Ms. Alford's house, what happened then?

17 A. Um, we got out of the car. He went in the house.

18 Q. Who is he?

19 A. Emilio Craig. He got out went in opened the door for
20 Ms. Alford, they went in the house. And there was a
21 couple of people out there. My cousin girlfriend,
22 and a guy named Sam, was out there. So we was just
23 in the parking lot talking with --- you know. I saw
24 a guy named Morris that sells shoes, and I went over
25 to his car. My cousin Sentoya and a guy by the name

MARDRALL ADDISON - DIRECT EXAMINATION - MS. CRAYTON 369

1 of Wise was at the car. I went over to the car and
2 asked him, and he was telling me what he had in a
3 eight.

4 Q. So you wear either a seven and half or an eight?

5 A. Yes, ma'am. Depending on how the shoe is cut.

6 Q. Did you speak to your cousin Sotoya?

7 A. Yes, ma'am. It was brief. I just asked her how she
8 was doing. Spoke to her. Asked about her kids.

9 Q. Did you ask Mr. Mazyck if he had any shoes you were
10 looking for?

11 A. I just asked him what he had, you know, what he had
12 in my size.

13 Q. And what did he tell you?

14 MR. HOLT: Objection, Your Honor. He can't testify
15 what somebody said.

16 THE COURT: Well, this is the victim in this case,
17 and I am going to overrule you.

18 Q. What did he say that he had in a seven and a half or
19 an eight?

20 A. Oh, he wasn't sure. He told me to look back in the
21 backseat in the boxes.

22 Q. Okay. And, how many shoes do you think were in the
23 backseat of the car?

24 A. Maybe between ten and fifteen. There was boxes in
25 the backseat and in the floor.

1 Q. Like in the floorboard?

2 A. Yeah. Like in the floor behind the passenger and
3 driver seat, and laying on the backseat.

4 Q. Did you look to see what shoes he had in a seven and
5 a half or an eight?

6 A. Yes, ma'am. I was looking at the boxes and see what
7 he had.

8 Q. What did you find he had?

9 A. Oh, he had some --- he had some black ACG boots. He
10 had some Air Maxes, and they were ugly, and you could
11 tell they were ugly, so I didn't want them and the
12 SCG boots were big. Like it ain't my style. So he
13 had those yellow black and white Jordans right there.
14 And --

15 Q. All right. So, what you are saying is you bought
16 these yellow and black shoes, and what size are those
17 shoes?

18 A. A seven and a half.

19 Q. And did you talk about how much he was charging for
20 the shoes?

21 A. Yes, ma'am. He told it was sixty-five for the
22 Jordans, and fifty for the Air Forces.

23 Q. Did you pay him what he was asking for the shoes?

24 A. Yes, ma'am.

25 Q. Have you purchased shoes from Mr. Mazyck before?

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1 A. Yes, ma'am.

2 Q. This was on Christmas morning. I called him through
3 my friend Teresa. I bought my girlfriend a pair of
4 Air Forces, and I bought me some all white Jordans
5 with red.

6 Q. So, you bought your girlfriend Teresa a pair of all
7 white Air Forces, Nike Air Forces. Is that right?

8 A. Yes, ma'am.

9 Q. And you bought a pair of white with red in them
10 Jordans?

11 A. I bought some Jordans, I don't remember what number
12 they was, but I got them --- they are all white with
13 red in them.

14 Q. And you paid --- isn't it true that you paid
15 substantially less than you would at like a
16 department store?

17 A. Well, yes, ma'am. Probably about half price if I
18 went to the store, I'd probably pay about a hundred
19 and thirty dollars for a real shoe.

20 Q. When you bought the shoe at Christmas, did you pay
21 what he was asking for the shoes then?

22 A. Yes, ma'am. Whatever he asked for. He charged me
23 fifty dollars for the Jordans I bought on Christmas.
24 And fifty dollars for the Air Forces. So I got both
25 of those for a hundred dollars. But on that day I

1 paid a hundred and fifteen dollars.

2 Q. So you paid a little more for the two pair that you
3 bought on January 13th?

4 A. Yes, ma'am. I guess because it is a newer shoe.

5 Q. A newer shoe.

6 A. Yes, ma'am.

7 Q. Does Mr. Mazyck sell anything out of his car besides
8 shoes?

9 A. When we came up he was selling a boy some marijuana.
10 Which was his purpose for being out there.

11 Q. And who did he sell that to?

12 A. A guy by the name of Wise. I don't know his real
13 name. But they stated that they knew him.

14 Q. So, Mr. Wise knew him?

15 A. Yes.

16 Q. Mardrall, did you see Mr. Mazyck being robbed?

17 A. No, ma'am. I didn't see nothing like that going on.

18 Q. Did you hear anything that would make you believe he
19 was robbed?

20 A. No, ma'am.

21 Q. Did you have any participation whatsoever in the
22 robbery that day?

23 A. No, ma'am. I don't rob nobody. My family take good
24 care of me.

25 Q. Did you have a gun that day?

MARDRALL ADDISON - DIRECT EXAMINATION - MS. CRAYTON 373

- 1 A. No, ma'am.
- 2 Q. Did you see a gun that day?
- 3 A. I saw no gun.
- 4 Q. And you have already testified that you paid for
- 5 those shoes that you had?
- 6 A. Yes, ma'am. With cash out of my pocket.
- 7 Q. Where did you get the money?
- 8 A. I took before Christmas --- I just sold a Bonneville
- 9 that was in my backyard.
- 10 Q. Is that a car?
- 11 A. My Grandpa is auto. Yes, ma'am. It is a car. It is
- 12 an old school car, a year 85, a Bonneville with a 350
- 13 motor. I sold that car for nine hundred dollars.
- 14 Q. And you bought those shoes on Christmas, I am
- 15 assuming you bought those shoes with some of that
- 16 money?
- 17 A. I also had an old Suburban that my girl had bought
- 18 for --- and something was wrong with the transmission
- 19 and I took it to the steel, and got offered seven
- 20 hundred dollars off of that.
- 21 Q. After you bought those shoes from Mr. Mazyck on
- 22 January 13, what did you do after that?
- 23 A. Talking about East Park?
- 24 Q. Yes.
- 25 A. After I bought the shoes I --- after I bought the

1 shoes my cousin girlfriend, she had called me over to
2 the car, they was about to leave out of the complex,
3 and they start like --- and she asked me how much I
4 paid for the shoes, and she was like buy some shoes,
5 joking or whatever was talking. And I started bad
6 talking and that is whenever my girlfriend come and
7 she told me it was about time for her to go to work,
8 and she needed for me to come watch my daughter. And
9 I told her to meet me around by Emilio Mom house.

10 Q. Where does Emilio's Mom live?

11 A. She lives in Pine Ridge, which is --- she lives in
12 Pine Ridge, which is right around the corner from the
13 apartment complex where we was at.

14 Q. So, it was the next apartment over?

15 A. Yes, ma'am.

16 Q. And how did you --- Did you walk to that apartment?
17 How did you get there?.

18 A. Emilio his friend girl Justine Peterson around the
19 corner.

20 Q. What is Emilio's friend's name?

21 A. He said his name is Tree. I didn't know him like
22 that.

23 Q. So you don't know who he is?

24 A. Naw, I see him a couple of times but I don't know
25 him.

MARDRALL ADDISON - DIRECT EXAMINATION - MS. CRAYTON

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- 1 Q. Can you describe him? How old he is? And is he
2 black or white?
- 3 A. I think about twenty-one, twenty-two, black --
- 4 Q. -- So he is several years younger than you?
- 5 A. Yes, ma'am. Brown skin. Low cut.
- 6 Q. Who was driving when you were dropped off at Pine
7 Ridge Apartments?
- 8 A. When I was dropped off at Pine Ridge Apartments,
9 Emilio's friends.
- 10 Q. Did you go into Emilio's mom's house, or did you wait
11 outside?
- 12 A. No, ma'am. Girl told me she was already on her way
13 coming from uptown. She was already like coming from
14 the Markette in the south side area. So I just went
15 ahead and stood at the road and she met me in the
16 road.
- 17 Q. When you were waiting for Teresa to pick you up at
18 Pine Ridge Apartments, did you see Mr. Mazyck?
- 19 A. Yes, ma'am. I did see him come out there. He came -
20 -- There are two entrances to Pine Ridge Apartments.
21 All right. I was standing at one entrance. He came
22 like from the back entrance from like off Carolina.
23 And he came in and they have like speed bumps like in
24 the road as you are going through. And he is just
25 kind of like cruse an stop in the middle of the road

1 about where one of the speed bumps and he was sitting
2 there for a minute. And he sat there for a minute
3 and then he just rode past me. He didn't say nothing
4 to me that day or nothing about no armed robbery or
5 nothing, and I was standing at the stop sign. He
6 said nothing about no armed robbery. He rode up,
7 went past me, and left out. He took a left and left
8 out.

9 Q. Do you think he saw you that day?

10 A. Yes, ma'am. It was impossible for him not to see me.
11 I was at the stop sign.

12 Q. And y'all did not have any sort of interaction, you
13 didn't talk to him, or anything like that?

14 A. Uh'huh.

15 Q. You didn't say anything to him?

16 A. No. I just threw my hand up like you know.

17 Q. Like waiving hello?

18 A. Yeah, goodbye.

19 Q. All right. About how long do you think --- what is
20 your daughter's name, I'm sorry?

21 A. Tykera Lasha Patterson. (Phonetic)

22 Q. Tykera. How long do you think you watched Tykera on
23 January 13?

24 A. Well, I stayed at home all night.

25 Q. For a while, several hours?

MARDRALL ADDISON - CROSS EXAMINATION - MR. GROVE

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1 A. Yes, ma'am. She got off probably around twelve
2 o'clock that night.

3 Q. And about what time --

4 A. -- She was home --- we was all home together.

5 Q. And about what time did she go into work that day?

6 A. I think she had to be at work around four.

7 MS. CRAYTON: Court's indulgence, Your Honor.

8 (PAUSE.)

9 MS. CRAYTON: No further questions. Mardrall,
10 there are some other people that are going to ask you some
11 more questions. Do you need more water?

12 MR. ADDISON: Oh, No, ma'am. I'm okay.

13 THE COURT: Mr. Grove.

14 MR. GROVE: Thank you, Judge.

15 CROSS EXAMINATION BY MR. GROVE

16 Q. Mardrall, I am going to keep it brief. I only have a
17 few questions for you. You said there was a man
18 named Wise out there. What is Wise's real name?

19 A. I think Mr. Addison stated that his name is Mr. Reed
20 Allen.

21 Q. Did you know that before this trial?

22 A. Nah, I never knew his real name.

23 Q. Is that weird to not know his real name?

24 A. Nah, because that is what everybody calls me. I
25 wasn't trying to get to know him. We never hung out

1 or nothing like that.

2 Q. How long do you think you --- I know you don't know
3 him well, but how long do you think you have known of
4 Wise?

5 A. Known of him, I have known of him for a long time.

6 Q. Never knew his real name until this week?

7 A. Nah, I never knew his whole name.

8 Q. Did you ever see my client Emilio Craig with a gun?

9 A. No, sir.

10 Q. You were with him earlier that day through the early
11 afternoon. No talk about a gun?

12 A. No, sir. I never seen him with a gun, sir.

13 Q. No talk about a robbery?

14 A. No, sir. Both of our families are straight. We
15 ain't never talked about no robberies.

16 MR. GROVE: Thank you, no further questions.

17 THE COURT: Cross examination, Mr. Holt.

18 MR. HOLT: Thank you very much, Judge.

19 CROSS EXAMINATION BY MR. HOLT

20 Q. The thirteenth through the twenty-seventh of January,
21 where were you?

22 A. Sir?

23 Q. The thirteenth of January through the twenty-seventh
24 when they found you in the woods, where were you?

25 A. Ah, I was staying with a friend. Well, back and

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1 forth with two friends.

2 Q. Is that where you normally stay?

3 A. No, sir.

4 Q. Isn't it coincidental that between the thirteenth
5 through the twenty-seventh, you stayed somewhere you
6 don't normally stay?

7 A. It was for a reason, sir.

8 Q. Was the reason because the U.S. Marshalls were after
9 you?

10 A. Yes, sir.

11 Q. Now, you said that you were moving in with your girl
12 fried, Teresa Caesar. True or untrue?

13 A. True.

14 Q. Okay. Teresa Caesar said that you don't support her
15 since never. True or untrue?

16 A. That's not true, sir.

17 Q. So, some of what she said --

18 A. -- She said I wasn't going to give her no money
19 because I wasn't employed, sir.

20 THE COURT: Back off. Back off.

21 MR. ADDISON: Yes, sir.

22 Q. Some of what she said is true, and some of what she
23 said is untrue?

24 MS. CRAYTON: Objection, Your Honor. Is he making
25 a statement or asking a question?

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1 THE COURT: Wait, wait, wait. What is your
2 objection. Your Honor, he is not asking a question.
3 There wasn't a question in there.

4 THE COURT: Well, I think he did.

5 MR. ADDISON: I can answer the question.

6 THE COURT: You just listen to me.

7 MR. ADDISON: Yes, sir. I'm sorry.

8 THE COURT: When an objection is made, you just
9 hush until I rule.

10 MR. ADDISON: Yes, sir.

11 THE COURT: The question is all right. Re-ask the
12 question, and he may answer it.

13 Q. So, some things that she said is true, and some
14 things --- don't look at --- and some things are
15 false. Is that your testimony?

16 A. That is not my testimony, sir.

17 Q. Okay. Let me ask you this. You said that you were
18 moving into Oaks; is that correct?

19 A. Yes, sir.

20 Q. On the thirteenth, correct?

21 A. No, sir. I was going somewhere. I think it was on
22 that day, but we were already there. We just
23 recently got the house.

24 Q. You were already there, but from the thirteenth
25 through the twenty-seventh you didn't live there?

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1 A. No, sir. I have been there.

2 Q. But it wasn't a coincidence that you weren't living
3 there during this time, the thirteenth through the
4 twenty-seventh.

5 A. No, it is not a coincidence, sir. Like I told you it
6 was because the U.S. Marshalls were looking for me.

7 Q. And herein is my point. Have you ever given the
8 police a statement?

9 A. A statement?

10 MS. CRAYTON: Objection, Your Honor.

11 MR. HOLT: Okay.

12 THE COURT: All right. What is the objection?

13 MS. CRAYTON: Your Honor, may we approach?

14 THE COURT: Come around, please.

15 (Whereupon, a bench conference was held in
16 the presence of the jury, but out of their hearing range.)

17 THE COURT: The objection is sustained.

18 Q. Were you here when Young, Catoe, and McInville
19 testified yesterday?

20 A. Yes, sir. I was.

21 Q. Okay. Did you hear them talk about the shoes?

22 A. Um, I heard them talking about shoes that was in the
23 car.

24 Q. Now, is it true or untrue that up until today, you
25 had never once brought up the shoes to anybody?

1 A. Sir, the only person I talked to was my lawyer, and
2 yes I did bring up the shoes that I bought with my
3 money.

4 Q. This is what I want to ask you. Do you believe that
5 it is true that if you had brought up this story
6 earlier, you could --

7 **MS. CRAYTON:** Objection, Your Honor. I'm sorry.
8 Speculation.

9 **THE COURT:** Overruled. This is cross examination.
10 He has a right to answer if he has told this story to
11 anybody before, why or why not.

12 Q. Don't you think it would be smart to tell other
13 people about this mysterious Tree fellow, if in eight
14 months from the time this happened until now you
15 should have told somebody about Tree, that if you
16 were worried about your innocence, don't you think
17 that is the thing to do?

18 A. Am I allowed to answer this question, Your Honor?

19 **MS. CRAYTON:** Objection, Your Honor. He is
20 badgering the witness.

21 **THE COURT:** No, sir. Proper question.

22 A. Okay. Sir, the police never talked to me. Got a
23 statement from me at all. They charged me with this
24 charge and just went on with it. They never asked me
25 about this, or tried to get a statement from me. I

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1 didn't refuse to give them a statement, they didn't
2 come and talk to me, sir.

3 Q. But don't you understand that if a normal person is
4 facing these kinds of charges, they might reach out
5 to the police? Why didn't you do that?

6 MS. CRAYTON: Objection, Your Honor.

7 THE COURT: Don't make comments like that. Just
8 ask the question. The last part of it is fine. The first
9 part of it is objectionable. The objection is sustained.

10 Q. Why not reach out to somebody?

11 A. I reached out to somebody. I thought that is what
12 she is for, sir.

13 Q. What are those pairs of shoes doing on our table?

14 A. Sir?

15 Q. Those shoes, what shoes are those?

16 A. Those are a seven and a half pair of Jordans. One of
17 the shoes that I bought from Mr. Mazyck that day.
18 They were on my table, because I notified my lawyer
19 that there was a pair of shoes that I bought from him
20 that day, and I thought he said they were only
21 twelves and thirteens in the back of his car. And I
22 thought everybody should know that it is a lie.

23 Q. Okay.

24 A. You know.

25 Q. How many pairs of shoes did you buy over all?

1 A. Overall four pairs.

2 Q. Okay. Where did you get these shoes from?

3 A. Mr. --

4 Q. -- These shoes that are right here. Where were they
5 before today?

6 MS. CRAYTON: Objection, Your Honor. May we
7 approach, please?

8 (Whereupon, a bench conference was held in
9 the presence of the jury, but out of their hearing range.)

10 THE COURT: Rephrase the question. Rephrase the
11 question, Mr. Holt.

12 Q. Were those shoes in your personal property before
13 today?

14 A. Yes, sir.

15 Q. Where are the other shoes?

16 A. At my house, in Oaks.

17 Q. And you are saying --

18 THE COURT: -- Wait a minute. Let him finish the
19 question. Go ahead with your answer.

20 Q. And you are saying --

21 THE COURT: Mr. Holt, you have interrupted him. I
22 am going to let him finish his answer. Now, you may
23 answer the question. Go ahead.

24 A. What was the question, sir?

25 THE COURT: Where were the other shoes?

MARDRALL ADDISON - CROSS EXAMINATION - MR. HOLT

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1. A. On my --- at my house on Oaks Highway.

2. Q. Why didn't you bring all four pair of shoes if you
3 are saying that you bought four pair of shoes?

4. A. Because they were in different locations, and these
5 were easier access for me to bring this morning.

6. Q. So, you could have, you just chose not to bring the
7 rest of the shoes?

8. A. Yes, sir. I can get them before the day is over, if
9 you want me to. Same size, same description, if you
10 want me to, sir.

11. Q. Do you understand that all that proves is that you
12 owned the shoes?

13. A. Yes, sir. I'm just telling the truth. I'm just up
14 here telling the truth, sir.

15. Q. How long have you know Tree?

16. A. Tree, I don't know Tree like that. Just like the
17 Wise guy, I saw him around. I don't know him like
18 that.

19. Q. Don't you think Tree could clear your name up here
20 today?

21. A. My name should have been cleared. I didn't have ---
22 When the guy --

23. **THE COURT:** -- Answer the question.

24. A. I don't know him like that, sir.

25. Q. Isn't it true that in eight months you have never

1 said anything about Tree?

2 A. I talked to my lawyer about it. The first time I got
3 here --- the first time I got locked up, I filed for
4 a fast and speedy trial. And I talked to my lawyer
5 about it. So I can bring guidance to the Court's
6 attention.

7 Q. Isn't it true that you could have brought it to
8 somebody's attention a long time before today?

9 A. Yes. Yes.

10 THE COURT: Objection, Your Honor.

11 A. Yes, sir. If my motion had been heard.

12 THE COURT: Wait a minute.

13 MS. CRAYTON: Wait, wait, wait.

14 THE COURT: Wait, a minute.

15 MR. ADDISON: I'm sorry, sir. I didn't --

16 THE COURT: Whenever your lawyer objects, you hush.

17 MR. ADDISON: Yes, sir. I'm sorry.

18 THE COURT: Objection?

19 MS. CRAYTON: Asked and answered, Your Honor,
20 previously.

21 THE COURT: Overruled. Re-ask the question and
22 anser it.

23 Q. Isn't it true that you could have brought it to
24 somebody's attention earlier than today?

25 A. I did, sir. Do you need for me to explain how, sir?

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1 Q. Teresa Ceasar, how long have y'all been dating?

2 A. Twelve years, sir.

3 Q. She bought you a Tahoe?

4 A. Yes, sir.

5 Q. And when you sold it, you --

6 A. -- It is a Suburban.

7 Q. You kept the money when you sold it?

8 A. Yes, sir. There was some things I wanted to do for
9 her for Christmas, and put towards some rent and
10 bills we had and stuff.

11 Q. But she said you never supported her for a day. And
12 by your own testimony --

13 THE COURT: --- Stop, stop, stop. That is not a
14 question, Mr. Holt.

15 MR. ADDISON: This is turning into a nightmare.

16 MR. HOLT: I don't have any more questions, Judge.

17 THE COURT: All right. Redirect?

18 MS. CRAYTON: No, Your Honor. Thank you.

19 THE COURT: Mr. Grove?

20 MR. GROVE: None, Your Honor. Thank you.

21 THE COURT: All right. Step down.

22 MR. ADDISON: Thank you, sir.

23 THE COURT: All right. You may call your next
24 witness.

25 MS. CRAYTON: Your Honor, the defense rest at this

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1 time.

2 MR. GROVE: As does Mr. Craig, Your Honor.

3 THE COURT: All right. Anything in rebuttal?

4 MR. HOLT: There is none, Judge.

5 THE COURT: All right. Ladies and gentlemen, you
6 have now heard all of the testimony in connection with
7 this matter, and there are only two things that remain to
8 be done. That is the arguments of counsel, and the
9 instructions on the law by the Court. However, before I
10 get into those matters, there are --- before we get into
11 those matters, before you there are matters of law that I
12 now need to take up with the attorneys in this case, and I
13 am going to do that at this time. So I am going to ask
14 you to go to your jury room while we take up these matters
15 of law, and also a recess. It is about time for our
16 midmorning recess anyhow. And then I will send for you
17 and we will be ready to go forward. But I will tell you
18 now it is improper for you to begin any discussions of
19 this case. You have not heard the arguments of counsel,
20 nor have you heard the instructions on the law by the
21 Court. So do not talk about the case at this time.
22 Again, talk about anything but this case, and we will send
23 for you very shortly when we have taken care of these
24 legal matters. Thank you. You may go with the bailiff.

25 (Whereupon, the jury exits the courtroom at

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1 10:58 a.m..)

2 THE COURT: All right. Mr. Grove, motions on
3 behalf of the defendant?

4 MR. GROVE: Your Honor, we would renew our Directed
5 Verdict Motion on the same grounds as before.

6 THE COURT: All right. Same ruling. Ms. Crayton?

7 MS. CRAYTON: Court's indulgence, Your Honor.

8 (PAUSE.)

9 MS. CRAYTON: Your Honor, I would also like to
10 renew my Directed Verdict Motion, but I would like to go
11 into a little more depth than Mr. Grove, if that is
12 pleasing to the Court.

13 THE COURT: All right.

14 MS. CRAYTON: I again would, just state to the
15 Court that there was not competent evidence in the record
16 for this case to proceed forward. I think before the
17 defenses case you said it was a close call, and I don't
18 think it is that close anymore, Your Honor. And I don't
19 think there is competent evidence.

20 THE COURT: Isn't the question credibility? Isn't
21 the question believability between the victim and the
22 defense in this case, and isn't that a jury issue?

23 MS. CRAYTON: Well, Your Honor, I don't believe it
24 is a case of believability, because --- or maybe it is,
25 but the victim --- the only thing that he said was that

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1 Emilio might have said to Mardrall get the shoes, or did
2 say to Mardrall get the shoes. There was nothing else in
3 the record at all that said that Mardrall was part of that
4 armed robbery.

5 **THE COURT:** So, what has changed from the time that
6 I ruled on the Directed Verdict Motion, and said that
7 there was sufficient circumstantial evidence in the record
8 at that time? Why wouldn't there still be sufficient
9 circumstantial evidence in the record at this time?

10 **THE COURT:** I think that Mr. Addison's testimony
11 has helped that issue. I think that you could believe
12 both the victim and Mr. Addison. I don't believe it is a
13 believability issue, because Mr. Craig could have said to
14 Mr. Addison, get the shoes. And yet he still not be part
15 of that armed robbery, had ne not actually participated.
16 There is nothing in the record that shoes that he
17 participated whatsoever. And I think there is less
18 testimony now because part of that was negated by --

19 **THE COURT:** It is not less testimony. What you are
20 saying is that there is refuted testimony?

21 **MS. CRAYTON:** Yes, Your Honor. That would be
22 correct. I am sorry. I did mis-speak there. And so I
23 would ask for a Directed Verdict Motion. I think that it
24 is not a question for the jury. And, I think it is a
25 question about accomplice liability, and in this case I

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1 think there is no competent evidence to prove that, Your
2 Honor.

3 THE COURT: Mr. Holt, what is the evidence against
4 Mr. Addison with regard to the armed robbery?

5 MR. HOLT: Judge, the same evidence I had in the
6 Directed Verdict Motion. The fact that Mardrall was
7 there. That Emilio told him to get the stuff. That my
8 victim when I asked him, did these two men rob you, said
9 these two men robbed me. Even if all --

10 THE COURT: -- I don't recall him saying that.

11 MR. HOLT: I turned him around in his wheelchair,
12 and I said, can you identify the two men that robbed you
13 that day.

14 THE COURT: Okay. You are right.

15 MR. HOLT: And he said those two men robbed you.
16 And I think if all I had was his testimony, and all they
17 had was Mardrall's testimony, then it is a jury question
18 and not a motion question.

19 THE COURT: He did identify him as the individuals
20 who robbed him.

21 MS. CRAYTON: Yes. May I be heard briefly, Your
22 Honor? I'm sorry?

23 THE COURT: Yes, ma'am.

24 MS. CRAYTON: He did identify them as the two men
25 who robbed him. But when expanding on that, the only

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1 thing he said that connected Mr. Addison was Emilio
2 saying, get the shoes. There was no further testimony.
3 So, it is really the definition of what he thinks robbery
4 is, and if --- and if he thinks --

5 **THE COURT:** -- But this is not a jury issue?

6 **MS. CRAYTON:** No, Your Honor, I don't believe it
7 is.

8 **THE COURT:** I disagree. I think that it is a jury
9 issue. I think that he identified him as the individuals
10 who robbed him. Robbery is a common English term, and
11 everybody knows what it means. And I think there is
12 evidence in the record. It is not my job to determine
13 the believability of the witness --- the evidence under
14 Rule 19, and I cannot weigh the evidence. I can only
15 determine the existence or the nonexistence of the
16 evidence. And while I don't think it is probably the
17 strongest evidence in the world, that would be my putting
18 my view on it, which I can't do. I think that is a jury
19 issue. So, I would respectfully deny the Motion for a
20 Directed Verdict?

21 All right. Counsel, we talked yesterday about the
22 charges. And, there was some discussion yesterday about -
23 -- Mr. Grove, I will let you tell me again Mr. Grove what
24 you think of the situation of a request to charge, or a
25 verdict form for strong-armed robbery.

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1 **MR. GROVE:** Your Honor, at this point, after the
2 defenses case, I think there is more than enough evidence
3 to warrant a charge on strong armed robbery, in addition
4 to armed robbery. My client, his co-defendant --

5 **THE COURT:** -- Let's look at that why? Your
6 position is that there was no robbery at all. So, it
7 looks like to me it is either armed robbery or nothing.
8 Your client testified that he bought the shoes. That he
9 didn't rob anybody. So why is there any evidence of
10 strong-armed robbery at all?

11 **MR. GROVE:** Your Honor, there are suggestions that
12 my client didn't have a gun, and didn't pay full price,
13 which the jury would certainly argue --

14 **THE COURT:** -- That wouldn't be armed robbery if he
15 didn't pay full price. It might be something else, but it
16 is not robbery. He paid for.

17 **MR. GROVE:** Again, Your Honor, he took an amount
18 that he didn't contribute enough money to, and didn't have
19 a gun. From the presence of the victim, I think that that
20 qualifies all of the elements of strong-armed robbery. He
21 doesn't actually have to physically remove anything from
22 the victim himself. He also doesn't have to have a
23 weapon. And I think there is testimony on both sides of
24 the argument. There is testimony to charge the jury on
25 armed robbery, in addition to --

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1 **THE COURT:** -- If you purchase something how can
2 there be any robbery involved?

3 **MR. GROVE:** Your Honor, if you didn't pay full
4 price for it, obviously you didn't buy it. And, against
5 he jury has the option of splitting the baby here.

6 **THE COURT:** His position was that this was an
7 agreed price. That he offered him this, that he left him
8 money, and there was no complaint, and you know that he
9 bought the shoes. I just don't see where there is any
10 robbery at all.

11 **MR. GROVE:** I think that the testimony was that the
12 asked for price was a hundred and fifty dollars, and the
13 purchase price was a hundred dollars. Leaving a
14 discrepancy of at least fifty dollars.

15 **THE COURT:** That came afterwards, if I recall. He
16 originally said --- I don't exactly remember the sequence
17 of it, but I have a hard problem with strong-armed robbery
18 in this situation.

19 **MR. GROVE:** Your Honor, there is testimony that
20 there was not a gun. And I think that that in itself is
21 more than enough to suggest the possibility of a strong-
22 armed robbery rather than an armed robbery. The jury is
23 more than happy to decide on their own that a robbery did
24 in fact take place, and simultaneously decide on their own
25 that there was no weapon.. There is evidence to suggest

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1 all of those possibilities. That in itself is sufficient
2 for strong-armed robbery.

3 THE COURT: I don't see where there is evidence of
4 a robbery, and you have got to tell me where it is. The
5 State's testimony is that there was an armed robbery.
6 There was a weapon there. The defenses' position is, and
7 they testified was that there was no robbery. That it was
8 a purchase. So, where does the strong-armed robbery come
9 in there at all?

10 MR. GROVE: It falls in between Judge. The jury,
11 on its volition can decide --

12 THE COURT: -- No they can't, not if they don't
13 have any evidence before them.

14 MR. GROVE: They can decide that they believe part
15 of one story and part of the other, Judge. I believe that
16 they are within their right to say we only believe part of
17 Mr. Mazyck's testimony.

18 THE COURT: All right. What part of Mr. Mazyck's
19 are they not going to believe?

20 MR. GROVE: They are not going to believe that
21 there was a weapon, Judge.

22 THE COURT: Okay. Then he wasn't robbed.

23 MR. GROVE: He was robbed, he was --- shoes were
24 taken from --- if they believe that shoes were not paid
25 for, shoes were taken out of his car, taken out of his

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1 presence, that is sufficient for a charge on strong armed
2 robbery.

3 THE COURT: What is the State's position?

4 MR. HOLT: I think it is a weak argument, Judge.
5 But if you want to let the strong armed on the ticket.

6 THE COURT: All right. The State concurs. We will
7 make a verdict form as to strong-armed robbery as an
8 argument.

9 MR. GROVE: Thank you, Judge.

10 THE COURT: Don't thank me, I don't agree.

11 MS. CRAYTON: Your Honor, would you mind just
12 reading off the list of all the ones. I just want to make
13 sure that we got everything for all the charges. Would
14 you mind just reviewing that one more time for me? I
15 apologize. I just want to make sure.

16 THE COURT: I don't think I brought them in here.
17 Do you mean the various charges?

18 MS. CRAYTON: Yes, Your Honor.

19 THE COURT: All right. This is what I am going to
20 charge, counsel.

21 MS. CRAYTON: Thank you, Your Honor.

22 THE COURT: All right. My general charge which will
23 include presumption of innocence, burden of proof,
24 reasonable doubt, credibility, direct and circumstantial
25 evidence, identification, accomplice liability, multiple

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1 charges, multiple defendants, armed robbery, strong armed
2 robbery, possession of a weapon during the commission of a
3 violent crime, pointing and presenting a firearm, petit
4 larceny, driving under suspension, and failure to stop for
5 a blue light. The defendant not testifying, of course,
6 will not be appropriate at ths time.

7 MS. CRAYTON: Your Honor, can I just briefly renew
8 my motion or objection to accomplice liability being
9 charged for the record?

10 THE COURT: It is noted.

11 MS. CRAYTON: Thank you, Your Honor.

12 THE COURT: And, of course, I will give you a
13 chance after the charge to take exception.

14 All right. Counsel, let's talk about arguments.
15 What order do y'all want to go in, and how do you want to
16 do it with --- I assume you are going to waive opening on
17 the law, Mr. Holt?

18 MR. HOLT: Definitely, Judge.

19 THE COURT: All right.

20 MS. CRAYTON: Your Honor, I'll be first. I believe
21 Mr. Grove will be second.

22 THE COURT: All right. How long do you need?

23 MS. CRAYTON: I don't want to under estimate,
24 Judge. So I am going to say forty-five minutes. I may be
25 closer to thirty, but I would hate to under estimate.

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1 THE COURT: Mr. Grove?

2 MR. GROVE: About the same, Judge. Maybe less.

3 THE COURT: Mr. Holt?

4 MR. HOLT: An hour.

5 THE COURT: I am going to tell y'all like I tell my
6 preacher. Anything over twenty minutes is lost anyhow.

7 All right. Counsel, I think that unless you go way
8 over it, I'm not going to call you. But I would like for
9 everybody to --- I would like for both defense arguments
10 to be held to thirty-five minutes, and state's argument be
11 held to fifty. That is a total of a hundred and twenty
12 minutes. I will call you if you run way over. We are
13 going to take about ten minutes at this time. And then we
14 will be ready to go into arguments, right after we take
15 about a ten minute break. All right. Let's do that.
16 Let's take a ten minute break at this time, and we will be
17 ready to go into closing arguments.

18 (Whereupon, a recess was taken from 11:21
19 until a.m. until 11:30 a.m..)

20 THE COURT: All right. Back on the record then
21 with regard to the matter of The State versus Addison and
22 Craig. The defendants are present in the courtroom with
23 their counsel. The State is present and represented by
24 Mr. Holt.

25 Anything before we bring the jury in, and go into

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1 closing arguments, Mr. Holt?

2 MR. HOLT: There is none, Judge.

3 THE COURT: Mr. Grove?

4 MR. GROVE: Not at this time, Judge.

5 THE COURT: Ms. Crayton?

6 MS. CRAYTON: No, Your Honor. Thank you.

7 THE COURT: All right. Bring the jury in, please.

8 (Whereupon, the jury enters the courtroom
9 at 11:31 a.m..)

10 THE COURT: All right. Thank you very much, ladies
11 and gentlemen. We are now ready to go forward in this
12 matter. As I told you before we broke for the recess that
13 you have now heard all of the testimony in this case. And
14 there are only two things that remain to be done. Those
15 are the arguments of counsel, and the instructions on the
16 law by the Court. I will tell you now as I did at the
17 first of this case that the arguments of counsel are not
18 evidence in this matter. They are simply the lawyer's
19 view of what they think the evidence shows. You will
20 decide this case based upon the evidence that you have
21 heard from this witness stand, and from any exhibits that
22 have been introduced into evidence, and not based on what
23 counsel says.

24 However, counsel does have the right to address you
25 now, and to give you their views of what they think the

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1 evidence shows. After they have done that I will then
2 instruct you on the law in South Carolina, as it applies
3 to the issues in this case. And you will be allowed to go
4 to your jury room to deliberate your verdict.

5 You will hear first from Ms. Crayton on behalf of Mr.
6 Addison. And then from Mr. Grove on behalf of Mr. Craig.
7 And then from the Solicitor on behalf of the State. Ms.
8 Crayton.

9 MS. CRAYTON: Thank you, Your Honor.

10 CLOSING ARGUMENT BY MS. CRAYTON

11 MS. CRAYTON: I was going to say good afternoon,
12 but it is still morning. First I would like to say, and
13 the Judge is going to instruct you on the law. I am going
14 to talk a little bit about it. But if I say anything that
15 contradicts what he says, please listen to him. He knows
16 the law.

17 But first, I would like to thank y'all for paying so
18 much attention this week. This has been relatively a
19 short trial. And we appreciate your full attention in
20 this case.

21 As I said in the beginning of the case, I represent
22 Mr. Addison, and Mr. Grove represents Mr. Craig. I also
23 talked a little bit about the State's burden, and I would
24 just like to talk a few minutes about that. The burden in
25 this case is beyond a reasonable doubt. We all know that

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1 to be a high standard, the highest standard. High
2 standards have to be the State's obligation to meet. The
3 State has to firmly convince you of his guilt. I think
4 that they have not met that standard. As stated earlier
5 in the testimony, or earlier in the opening, Mr. Addison
6 and Mr. Craig, until all the testimony is in, and we have
7 reached it at this time.. I just want to talk to you
8 briefly about the things that I agree with, with Mr. Holt,
9 which is Mr. Addison was absolutely at East Ridge
10 Apartments that day, January 13. He was there on Sunshine
11 Court. Mr. Mazyck was also there that day. Mr. Addison
12 was not wearing a mask, not trying to hide his face, and
13 he definitely had conversation with Mr. Mazyck, and it was
14 definitely about shoes. Bootleg illegal shoes, that is
15 what they were talking about, because Mr. Addison wanted
16 to purchase some shoes. And Mr. Mazyck, as he stated,
17 sold shoes. Now there is a little bit of a contradiction
18 about whether he bought shoes that day or not. Mr.
19 Addison said absolutely, I bought two pairs of shoes. One
20 of them is sitting right there. They are not size twelve
21 or eleven. They are an eight and a half. They are seven
22 and a half, obviously very different.

23 This case against Mr. Addison is just completely
24 incomplete. And it has unanswered question after
25 unanswered question. Every part of it screams reasonable

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1 doubt. There is absolutely nothing that connects Mr.
2 Addison to an armed robbery. It is just not. I would
3 like to know where all of the eye witnesses are. Mr.
4 Mazyck testified that there were children playing. There
5 was a van full of people beside him. Sentoya Addison is
6 there. Reed Allen, Wise as people know him, they are all
7 there. Where are those people? Why aren't they here
8 saying absolutely, somebody pulled a gun? Where are they?
9 They are not here. To me there is reasonable doubt.

10 I would like to know --- Mr. Mazyck said, that he
11 didn't even know if Wise was involved, that maybe he was
12 involved in an armed robbery too. Why isn't he sitting at
13 that table? Did he do anything different than Mr. Addison
14 did? I think not. They were both there. They were
15 buying things. They weren't involved in an armed robbery
16 though. Either one of them. And yet, Mr. Addison, where
17 as Mr. Wise --- why is he not here? Why is he not charged
18 as well? And there is another missing witness, Justine
19 Peterson. She wasn't charged with anything. She was in
20 the car. She was found with the boxes of shoes. But yet
21 the lead investigator said, she wasn't involved. Why was
22 she not involved? How did he determine he wasn't
23 involved? How is she any different than Mardrall Addison?

24 Interesting how the lead investigator in this case --
25 - they were told that money was missing. Cell phones were

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1 missing. They were not told shoes were missing. Nobody
2 said anything about shoes being taken. You would think
3 that Mr. Mazyck --- If I got robbed, I would think of
4 every single thing that was taken. Why didn't they
5 include the shoes? I mean, three boxes of shoes, you
6 would remember that. It is not something easily taken
7 without noticing. You would notice that. Why did he not
8 want to tell the police that the shoes were taken? Why
9 did he leave stuff out? His story is completely --- it is
10 just incomplete. Everything is incomplete about it. And
11 that to me screams reasonable doubt.

12 The other thing missing from this case is who called
13 911? We know Mr. Mazyck didn't call 911. Where is the
14 911 tape? Where is the 911 report? This investigation --
15 - There are missing things in this investigation. They
16 got the two boys that they wanted. That is all they have
17 done in the investigation. They didn't even bother
18 talking with Mardrall to hear his side of the story. I
19 did that. And that is what we are hearing here today.

20 This case is really about what Mr. Mazyck thinks, and
21 what these two boys think. I would like to just review
22 Mr. Mazyck's testimony. I am sure you all remember it.
23 He testified first in this case. And he did testify that
24 he was out there, and that he had shoes. He testified
25 that he often sold shoes out of his car. He even

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1 testified that at one point that the police found over
2 three hundred pairs of shoes at his house, but they were
3 not his. He was holding them for a friend. Does it
4 really matter if he was selling shoes or not? But it does
5 corroborate what Mr. Addison said. He was there. He had
6 purchased shoes before. He bought two pairs of shoes from
7 him before on Christmas day. He had money to buy it,
8 because he had sold a car. He bought them for his
9 girlfriend Teresa. I think it is very interesting that
10 Mr. Mazyck said, I did not know Mr. Addison before that
11 day. I had never met him before. But Mr. Mazyck's
12 testimony is that Mr. Addison walked up and said, do you
13 have a pair of white eight and a half Air Force, and Mr.
14 Mazyck said no, but I will get them for you later. How is
15 he going to call him? Mr. Addison doesn't live there at
16 Sunshine Court. How was he going to contact him if he
17 doesn't already know him? But it does seem kind odd
18 doesn't it? The other thing that is odd to me, you know,
19 this Wise guy, everybody talks about Wise. Even Mr.
20 Mazyck talks about Wise. He says, Mardrall Addison walked
21 up to his driver's side door, and talked to him about the
22 shoes, and then this Wise guy, walked up and talked to
23 him, and they were friends. And then he says, Mr. Craig
24 walked up with a gun. So, how are all of these people at
25 the driver's side door? Had Mr. Addison already walked

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1 away? Was Mr. Wise gone as well? Where were all of these
2 people? And how were they all standing there at the
3 driver's side door? Even Mr. Mazyck said that Mardrall
4 Addison was not trying to cover his face. He didn't have
5 anything covering his face. He didn't say or do anything
6 that made him feel like he was part of the robbery. He
7 never said anything to him. Give me your money. He never
8 said anything that would make you think he was involved in
9 the robbery. He didn't even say he knew --- Mr. Mazyck
10 said that. But what he does say is, he thought Emilio
11 said to Mr. Addison, get those shoes. If somebody tells
12 me to do something illegal, and I don't do it, am I guilty
13 of a crime? God, I hope not.

14 Another missing witness is Sentoya Addison.
15 Supposedly, she was sitting in the car with Mr. Mazyck
16 when Mr. Addison walked up. Where is she? Why didn't she
17 testify? Didn't she have to have seen this robbery? I
18 mean, she was right there. She had to have seen
19 something. Something that could have been useful. But
20 the State didn't call her. The thing that gets me the
21 most is, there is nothing in the record, no testimony
22 whatsoever that Mardrall ever had a gun that day.
23 Mardrall Addison never had a gun. Mr. Mazyck did not say
24 he had a gun. But he was somehow involved in this
25 robbery. Mr. Mazyck also said, maybe Reed Allen, Wise was

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1 also involved. Well, were they really or were they just
2 there? They were merely present when something happened
3 to Mr. Mazyck that he was unhappy about. He is unhappy
4 because he is here today. Now, Mr. Craig said it is
5 because he is bringing this charge. But Mr. Craig said it
6 was because he didn't pay him enough money for the shoes.
7 Mr. Addison says, I paid him. I paid him more than I paid
8 him last time, because these were newer shoes. So I paid
9 him a hundred and fifteen dollars. Last time I just paid
10 him a hundred dollars. I paid him exactly what he was
11 asking.

12 Mr. Mazyck, that wasn't the first time he had told
13 that story --- his story. And he repeatedly told his
14 story to law enforcement. And every single time he said
15 Mardrall did not have a gun. And it is not armed robbery,
16 that is a reasonable doubt.

17 Mr. Mazyck's testimony is that Emilio Craig got
18 inside of his car, and put that gun to his side. There is
19 no testimony that Mardrall Addison was in that car. That
20 he put anything to Mr. Mazyck's side, a gun or anything,
21 or had asked him for anything during that robbery, or when
22 Mr. Mazyck said that robbery happened. He didn't make
23 demands. He didn't say anything to him. There is not any
24 testimony about where Mr. Addison was during that robbery.
25 Was he inside the car? Was outside the car? There is

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1 nothing I there that connects him to this armed robbery.

2 Another interesting fact that I find is, one of the
3 deputies got up and said that he interviewed Mr. Mazyck.
4 And that he pressed him, please, can you describe this gun
5 for us, because the police always want to find the gun.
6 They want to get these guns off the street. If there is a
7 gun out there, and it has been used in something, they
8 want to get it off the street. Please describe this gun.
9 Show me, what does it look like? Does it look like mine?
10 He could not say anything. He could not describe it at
11 all. He had no idea what it looked like. And during his
12 testimony he has turned around and looked at Mr. Craig.
13 You would think he would look at the weapon as well. That
14 he would know what it was. That he would know what it
15 was. But from January 13, when he said this happened to
16 me now, he could not describe it, until the other day when
17 he was asked. I know what it looked like. It was
18 stainless steel, and it looks like this. It is probably
19 this caliber. That seems odd that his memory had gotten
20 better over time. Or is it that he never saw a gun, and
21 one was never used? Which is it? What is more plausible?
22 But that really doesn't really matter with Mr. Addison,
23 because it doesn't really matter to him if a gun was used
24 or not, because he was not involved. No matter what
25 happens, whether it is what Mr. Craig said, that he just

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1 didn't pay him the extra fifty dollars for the shoes, or
2 if it is what Mr. Mazyck said, and he actually robbed him.
3 It doesn't matter to Mr. Addison, because Mr. Addison was
4 not involved at all. Interesting testimony about Mr.
5 Mazyck was about his cell phone. That it was stolen
6 during the robbery. It was listed on the police report as
7 stolen. The price was listed beside it. It was probably
8 taken, and then he says, but I got it back. He could not
9 even describe how it was returned to him. Through
10 somebody's friend. He could not describe how it connected
11 him. He never told that to Mr. Anderson, he was the lead
12 detective on the case. He never told that to anybody.
13 You would think that would be an important fact. How did
14 he get that phone back. The person stole it. Somehow it
15 was returned to me. Let met get this connected to them.
16 He did not want to do that. He just wanted the three
17 thousand dollars to dismiss the case. All of this adds up
18 to reasonable doubt. All of the witnesses, the children
19 playing behind Mr. Mazyck's car. He gets robbed. The van
20 full of people. Nobody comes forward. Law enforcement
21 doesn't find --- they never find a gun. This all adds up
22 to reasonable doubt. Mr. Mazyck stated that he did not
23 receive a benefit for testifying today. Yet, he had an
24 armed robbery charge that was dismissed. He himself was
25 charged with armed robbery. But he is not sitting in the

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1 courtroom today, because he came in here, testified, he
2 did his part for the State. So, his charges are gone. At
3 the beginning of all of this, they were dismissed.

4 When we began preparing this case, all of a sudden
5 Mr. Mazyck does not have any charges. Those charges were
6 pending for two years. And the Solicitor's Office and Ms.
7 Parker decided now is a good time to dismiss them. And is
8 that because he didn't want to cooperate, is that because
9 they knew this was not an armed robbery, that somebody
10 didn't pay an extra fifty dollars for the shoes? Is that
11 it? There is bias there. He has a reason to lie. He
12 lied because he got a benefit. He got a benefit from the
13 Solicitor's Office. He came in here and prosecuted this
14 case, because they wanted it prosecuted. And as a
15 benefit, Ms. Parker dismissed that case. An armed robbery
16 case where shoes were stolen, doesn't that sound good?

17 I want to talk briefly about the officer's testimony,
18 and I am trying not to hold y'all too long. I believe
19 Jolly Perkins was the first officer who testified. He
20 testified that the victim was in a burgundy Buick. That
21 Mr. Mazyck could not describe the gun. And Officer
22 Perkins pressed him, here is my gun, what did the gun look
23 like, and he gave no description whatsoever. No
24 description. He testified that no one knows who called
25 911. No one, absolutely no one knows who reported the

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1 crime. Seems odd. It is interesting that no gun was ever
2 found, and that is what these officers are trained to do.
3 Find these guns and get them off the street. Yet, no gun
4 was found. It would have been a lot easier if we had had
5 something from Mr. Mazyck. Was this the gun? They did
6 not have that. No gun was actually found.

7 Deputy Catoe said something that I thought was
8 interesting. That after the car and the car chase had
9 stopped, that both of the suspects got out of the
10 passenger side, and I think that was really interesting.
11 But you know, it seems as though the police were a little
12 confused about how many people were in that car. We know
13 Justine Peterson was in that car, but she is not here to
14 say that Mr. Addison was in that car. She wasn't called
15 by the State to say, who was in the car with you? It is a
16 simple question. Who was in the car with you when you got
17 arrested? Right before that, who was in the car? Who was
18 driving the car? What happened? Did they say anything
19 about an armed robbery? Was Tree there? Did he say he
20 robbed Mr. Mazyck? Did Emilio say he didn't pay all the
21 money for the shoes? Where were these people? Why were
22 they not here to testify? There was Officer Hodge and
23 Young, all testified that they found Mr. Craig near or
24 about the end of the car chase. Officer Young testified
25 that twelve officers responded to the car chase. The

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1 canine unit responded. And they set up a parameter. They
2 also knew who was driving. It was Mardrall, they knew
3 that, and they set up a parameter. Twelve officers and a
4 canine unit, and they can't find him. Is this because he
5 was never there? That makes the most sense to me. They
6 spent over an hour looking for him. It seems odd that
7 this man would outsmart twelve police officers, very
8 unlikely. Most likely he just wasn't in the car.

9 You know, Mr. Anderson, the lead investigator, said
10 something that I thought was very telling. He said there
11 is a lot of lost communication between the Police
12 Department and the Sheriff's Office. We are on different
13 channels on the radio. And there is a lot of lost
14 communication. I thought that was very interesting when
15 he said that, and I think that is very true in this case.

16 Terry Anderson, who is sitting right there, he made
17 the decision not to prosecute Justine. He made the
18 decision to prosecute Mr. Addison. He made the decision
19 not to prosecute Reed Allen, to --- Mr. Mazyck's even
20 admits that maybe he was involved. Mr. Mazyck had no idea
21 who was involved, except he knows that it was Mr. Emilio
22 Craig.

23 Corey Mitchell, who was a friend of Emilio's took the
24 stand, and I think she said she is a cousin. And she said
25 she initiated contact with Mr. Mazyck and asked him, she

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1 heard about a robbery. She wanted to make sure he was
2 okay. Seems like a completely reasonable thing to do.
3 And he says, yeah, I'm fine. Happy to drop the case for
4 three thousand dollars. Three thousand dollars and he
5 will drop the case. Seems like there is motive there.
6 There is some type of bias with Mr. Mazyck. He is getting
7 charges dropped. He wants money. He wants something out
8 of this trial. He is unhappy about how much he got paid
9 for shoes from Mr. Craig, and he wants something out of
10 this trial. He doesn't want to walk away empty handed.

11 Teresa Ceasar, who lives --- Mr. Addison's
12 girlfriend, and the mother of his child, she took the
13 stand. Said she picked Mardrall up on January 13. He had
14 two boxes of shoes. She did not ask him where he got them
15 from. She was late for work. He watched her child that
16 evening. She goes to work normally around four o'clock.
17 She was running a little late that day. She was trying to
18 get there, so she did not ask where he got the shoes from,
19 or what size shoes they were. And Mr. Addison watched
20 their daughter from then until she got home. And then
21 they stayed there as a family. It looks like they were in
22 the process of moving in together. He was slowly moving
23 boxes from one house to hers. But I think it is
24 interesting that she came in here and said, how in the
25 world could Mr. Addison be in two places at once. She

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1 specifically remembers January 13. I did not know that
2 anyone was looking for Mr. Addison for an armed robbery. I
3 had no idea. But he watched my child, and I came home
4 from work. She didn't know anything about the armed
5 robbery. She had no earthly idea. She could only tell us
6 that she knows what she did.

7 Mr. Craig testified that he paid a hundred dollars
8 for three pairs of shoes. Sounds reasonable to me. I
9 don't buy real expensive shoes, so I am not sure about
10 that. But he says that Mr. Mazyck was willing to
11 negotiate, because these are bootleg shoes, they are not
12 real Nike brand. So he is willing to negotiate on the
13 price a little. They bickered back and forth. They could
14 not come up with an agreement. But Mr. Craig wanted the
15 shoes, so he took the shoes, and he gave him the hundred
16 dollars. Because the buyer or the seller is unhappy with
17 the price does not mean that a robbery was committed. Mr.
18 Craig stood up there and he said, I had four people in the
19 car with me. I dropped Mr. Addison at Pine Ridge
20 Apartments where my mom lives, and then I proceeded on and
21 Mr. Tree was driving. I don't know who this guy Tree is.
22 I don't know his full name. Mr. Addison doesn't know his
23 full name, and doesn't really know --- it is not unusual
24 to know somebody by a nick name, or a first name, and not
25 their last name. I don't have any way of locating him. I

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1 wish I did. But I doubt he would get here and tell us
2 that he did something wrong. Mr. Craig says he has know
3 Mr. Mazyck for six months, and that he bought shoes from
4 him. And I think a lot of people in the Hartsville
5 community have bought shoes from this man before. I think
6 he is known for selling shoes. And I think these two boys
7 knew him. I know Mr. Addison knew him. He bought shoes
8 from him just at Christmas. This was only January 13. It
9 had not been that long. He bought different shoes then.
10 One was a gift for Teresa, and the other a pair for him.
11 He bought two more pair that were different, that are
12 black and yellow. On the day of January 13, he paid full
13 price. He didn't even negotiate. He did not even haggle.
14 He paid the price. He told you where he got that money
15 from. He got it from selling a car. He paid some rent.
16 He paid some other things. And he paid for these shoes
17 and gifts.

18 Mr. Addison sat up there and he told you he didn't
19 see an armed robbery. He didn't hear an armed robbery.
20 He was not involved in an armed robbery. He did not see a
21 gun that day. He was not involved in this armed robbery.

22 Now, the Solicitor grilled Mr. Addison about why
23 didn't you tell anybody? Why didn't you tell anybody your
24 side of the story? And Mr. Addison's response was, I did.
25 I told my lawyer. He told me. The police did not bother

THE STATE VERSUS CRAIG AND ADDISON

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1 to interview him. Did not want to interview him. They
2 were happy with the result.

3 Now, I am not exactly sure what Mr. Mazyck is upset
4 about. Because this Tree guy, did not pay for the shoes?
5 I am not sure if he is upset because Mr. Craig did not pay
6 the extra fifty dollars? But, I can assure you, it is not
7 because Mr. Addison did not pay the price. He paid the
8 full price. No negotiations. He paid for these shoes.
9 He took his property after they had agreed on a price and
10 he left. He went and babysat his daughter. He finds out
11 later that the Marshalls are looking for him. The
12 Solicitor, went into a big, where were you from January 13
13 to January 27? He says I wasn't staying at my house, the
14 Marshalls were looking for me. He didn't know why they
15 were looking for him. But, he did not want to be
16 arrested, because he did not have anything involved in
17 that armed robbery. He was visibly upset with this,
18 because he was not involved in this. The missing
19 witnesses, the consistent story of Mr. Mazyck, and
20 definitely Mr. Mazyck's bias. He wants money. He wants
21 charges dismissed, and he is going to get everything he
22 can out of this case. This is reasonable doubt. Please
23 use your common sense today, and really think about how is
24 Mr. Addison involved? He wasn't. No testimony that he
25 took anything at all. No testimony that he said anything

CLOSING ARGUMENT BY MR. GROVE

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1 to Mr. Mazyck during that robbery. Mr. Mazyck didn't say
2 he deprived him of anything. Where is there an armed
3 robbery against Mr. Addison? Why is he charged with armed
4 robbery, petit larceny, and possession of a weapon during
5 the commission of a violent crime? There is no evidence
6 that he ever possessed a weapon. There is no evidence
7 that he ever pointed a firearm, because he didn't.
8 Because he was not involved. They could have charged a
9 lot of people in this case, the same as they did Mr.
10 Addison that were not involved, but were simply there.
11 And yet he is the only one here. I really would like for
12 you to think about this case. Really think about all the
13 evidence. And please use your common sense and find Mr.
14 Addison not guilty of these charges.

15 Thank you for your time.

16 THE COURT: Mr. Grove.

17 MR. GROVE: Thank you, Your Honor. May it please
18 The Court.

CLOSING ARGUMENT BY MR. GROVE

20 MR. GROVE: Ladies and gentlemen, good afternoon to
21 you. As you know, we have been here all week, and I am
22 sure you are well aware that I represent Emilio Craig.
23 And it has been my pleasure to represent him this week.
24 And I do thank you guys for paying attention, and
25 listening.

CLOSING ARGUMENT BY MR. GROVE

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1 Like I told you yesterday morning, I guess it was,
2 not a lot of tangible evidence in this case, but a lot of
3 testimony. A lot of people up there on the stand talking
4 about what they saw, heard, experienced, and that sort of
5 thing. I know that is not physically exhausting, but
6 sitting there and having to pay attention to all of that
7 stuff, and trying to retain it, can be draining mentally,
8 and we are almost done. So, bear with us a little bit
9 longer, and we will be through.

10 I do want to, as Ms. Crayton did, kind of review with
11 you the evidence that was presented, and evidence that
12 wasn't presented. Before I get into that, I want to get
13 off to the good start of giving you the idea of why we
14 might be here.

15 Mr. Mazyck sat right here yesterday, and testified
16 that he was robbed by a couple of people. So, there was a
17 gun. Yesterday he said it was silver gun, a chrome gun,
18 stainless steel. It looked like it may have been a forty
19 caliber. That is a lot of information for a guy who, the
20 day he says this happened, had no idea. He identified it
21 as a firearm. Man, that is specific; isn't it? He knew
22 it was a gun. I think it had bullets in it. A trigger
23 and a handle, and a barrel. That is not a description of
24 a weapon, it certainly is not the description that he gave
25 us yesterday. Six, seven, eight months after this

CLOSING ARGUMENT BY MR. GROVE

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1 happened, he maliciously --- Oh, I have had a miracle
2 recovery of my memory. He didn't bother to tell the
3 police about it since then. He didn't bother to come back
4 and say, oh, I forgot to tell you that I did remember. It
5 was a silver gun. It was a handgun. It was a pistol. It
6 looked like it may have been a forty caliber. No, I don't
7 remember, what kind of gun it was. I am not sure if it
8 was black, brown. I don't know if it was a revolver or a
9 pistol. But it was a gun. It was definitely a gun.
10 There is no doubt in my mind that I saw it, I felt a gun,
11 I just can't tell you what it looked like. What? And he
12 padded me down and he took all of my money. But they
13 didn't take any of my shoes, because I didn't have any
14 shoes. Well, yesterday I had some shoes. I forgot I did
15 have some shoes yesterday. Yeah, you're right. You're
16 right. The other day back in January I did have some
17 shoes, but I did not bring them. Well tell me, in leaving
18 out the details that you think are inconvenienced for you,
19 adding in details that turned out to help you out. Don't
20 forget, four weeks ago yesterday --- four weeks from the
21 date that he testified to armed robbery involving shoes,
22 gone. Dismissed. Maybe that gives him a bias, maybe it
23 doesn't. Maybe it is just a coincidence. What are the
24 odds? I hope you bought a lottery ticket, because he
25 seems like he is a pretty lucky guy. Maybe, maybe what

CLOSING ARGUMENT BY MR. GROVE

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1 happened is, he didn't get the full price for his shoes,
2 and do you know what happens out on the street when you
3 are selling counterfeit shoes, and somebody doesn't pay
4 you full price, they don't pay you the asking price?

5 Nobody pays your asking price. The price of shoes just
6 went down. Fifty dollars a pair; I don't think so.

7 Thirty-three dollars a pair, now you can get three pair
8 for a hundred bucks. Go out there, and all you have got
9 to do is give him a hundred dollars and take whatever
10 shoes you want. That doesn't fly with Morris Mazyck.
11 Morris Mazyck says, no way. If you don't give me what I
12 want, you are going to get what's coming to you. All of a
13 sudden you robbed me, there is a gun, you stole my money.
14 But, I'll let it all go away if you give me my money back.
15 If you give me three thousand dollars, all of this will go
16 away. Weird isn't it?

17 Now, let's start from the beginning, as Ms. Crayton
18 did. We had Officer Perkins testify that he conducted a
19 lineup. It doesn't surprise me. I'm not alarmed that
20 Morris Mazyck knows what my client looks like. He was mad
21 at him. He feels like he got ripped off. He didn't pay
22 full price, and they had an argument about it. Of course
23 he knows what he looks like. But he wouldn't tell the
24 officer that he knew his name. Ah, oh, I --- I --- I
25 don't know a thing. No. No, that is definitely him

CLOSING ARGUMENT BY MR. GROVE

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1 though. I know him because of his eyes. I have never
2 seen him before today, but I can see it in his eyes. From
3 where he was sitting in the back seat of my car. What?
4 You memorized what his eyes looked like, from the backseat
5 of your car? I don't think one time yesterday he turned
6 around in his chair without turning his entire body
7 around. I want you to try to understand that he is
8 handicap, and I am not trying to belittle that, I am not
9 trying to undermined that at all. I can't imagine what
10 that is like to live through. But what I also can't
11 imagine is how he turned around, and got a good look at
12 this mysterious gun, and the mysterious armed robber. I
13 can't imagine that either. I can imagine that he was mad
14 at somebody who didn't pay full price, and said I'm going
15 to get the best of you. Let everybody in East Park go.
16 If you don't pay me what I ask, it's going to happen to
17 you too. Go home and tell your friends. Officer Perkins
18 used height, weight, and all of that stuff. And again, I
19 am not real worried about the lineup. I am not surprised
20 that Morris Mazyck knows what my client and Ms. Crayton's
21 client looks like. They were there that day. Everybody
22 is in agreement on that. No one is disputing that.
23 Almost, if not all of the officers' testimony and all the
24 stuff that I am not disputing. I don't disagree that my
25 client was there, in or around 111 Sunshine Court. I

CLOSING ARGUMENT BY MR. GROVE

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1 don't disagree that Morris Mazyck knows what my client
2 looks like. I don't disagree that there were shoes there,
3 and that they had a conversation. And that he ought to be
4 able to pick him out of a lineup. I don't disagree on any
5 of that stuff. I don't disagree that he was arrested
6 later on that day. I am in complete agreement with all of
7 that stuff.

8 We also heard from Officer Blair who said that he
9 wasn't sure who made the call to 911, but he had heard
10 something about an armed robbery somewhere over near East
11 Park, on that side of town. I'm going over there, and I
12 am going to try to get it sorted out. Seems funny though
13 that you don't know who called 911. It seems funny that
14 we don't know who the serious person is that could
15 corroborate all of this stuff. Keep in mind ladies and
16 gentlemen, one person says that there was a robbery. One
17 person says there was a gun. One person says that they
18 took money, but not shoes, oh, wait, I forgot, I did have
19 shoes. One person says that. Officers, no gun.
20 Officers, didn't see a robbery. Officers, didn't find any
21 money other than the forty dollars that happened to be at
22 111 Sunshine Court. Morris Mazyck, the only person that
23 even remotely suggests that the robbery took place.
24 Morris Mazyck had plenty to gain in all kinds of different
25 areas. Who else did we hear from? We heard from Officer

CLOSING ARGUMENT BY MR. GROVE

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1 Catoe. Officer Catoe didn't give a whole lot of
2 testimony. He testified that he had spoken with Yolanda
3 Alford, at [REDACTED]. I don't remember exactly
4 what it was that she provided him in the way of
5 information. But he was there. He was talking with her.
6 Did you knock on any doors? No. Did you talk to any
7 other witnesses, people that might have been outside? No.
8 Did you investigate the inside of the car that they found?
9 No. Did you talk to Mr. Mazyck to look inside of his car?
10 No. Did you try to establish that anything he told you
11 was true? No. You are just going to take him on his
12 word?

13 Sergeant Hodge, heard the 911 call. The gun got
14 pulled. [REDACTED]. Everyone seems to be in
15 agreement that a call was made to 911, but no one can seem
16 to find that serious phone call. And I am not saying that
17 it didn't happen. I know full and well that it definitely
18 did. I am sure dispatch wasn't sitting there making out
19 random calls. There is not a doubt in my mind that
20 someone called 911, and said that something had happened.
21 But, who? What did they see? What did they say? Don't
22 we need to know that? Are we willing to base our entire
23 case on the guy who has everything to gain and nothing to
24 loose? Not anymore. He his not charged with anything.
25 He is still out there slinging counterfeit shoes, but I

CLOSING ARGUMENT BY MR. GROVE

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1 bet he is getting full price for them though.

2 Chad McInville, he also testified. Didn't talk to
3 any witnesses. Didn't I.D. any suspects. Didn't search
4 either of the cars. I feel like we had a lot fewer
5 unanswered questions if we would have had more
6 information. I feel like we would have had a lot fewer
7 loose ends if we had talked to more people. If we had
8 established more of Mr. Mazyck's story. It is evidence,
9 ladies and gentlemen. It is evidence that convicts
10 people. Not suggestions, not probabilities, not maybes,
11 not I don't think so, not well what do you think, let's
12 assume; it is evidence. And we don't have it here.

13 Curtis Bryant, he heard from somebody about a
14 description --- No, I apologize. Let me back track.
15 Curtis Bryant established that he made an arrest of my
16 client. He arrested him. Okay. That is why we are here.
17 Of course he got arrested at some point. I don't think he
18 ever explained what he was wearing. Mr. Mazyck was under
19 the impression that somebody was wearing a white hat or a
20 white hoodie, I am not sure how you get those two
21 confused. One goes on your head and one doesn't. But,
22 one of those two things was being worn by somebody. I
23 don't remember which one. But, did we hear any testimony
24 about what Emilio Craig was wearing at the time? I don't
25 think we did. I don't think we know. Are you willing to

CLOSING ARGUMENT BY MR. GROVE

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1 take Mr. Mazyck on his word? Mr. Bryant and them
2 patrolled the area. I don't think he saw anybody in the
3 way of suspects or witnesses other than my client. He
4 said that he saw what he thought was a female in handcuffs
5 right when he got there. And nobody else around other
6 than the officer, so he then patrolled the area and
7 eventually arrested Emilio.

8 Terry Anderson also testified. Terry Anderson, the
9 lead investigator on this case. Long history in law
10 enforcement, a fantastic investigator. Yolanda Alford,
11 was romantically involved, I think he said. Obviously at
12 ██████████, at the scene, talking there, did he
13 knock on any doors? No. Talk to any other witnesses?
14 No. And remember, Mr. Holt, I think he kind of took
15 exception with that, and I wasn't trying to pick on
16 anybody, or be rude by any means, I know that nobody is
17 perfect. I am not perfect either. I can't tie shoes,
18 that is why I wear slip-ons. I can't. I know that nobody
19 is perfect. But don't you need to be a little more
20 perfect, a little closer to perfect than interviewing one
21 person who says that a gun is pulled, and then arresting
22 people and saying, case closed. We've got them. Don't
23 worry guys. Don't worry about witnesses? Don't bother
24 getting in the car, looking around for evidence. We don't
25 need to corroborate the story. We've got a guy saying

CLOSING ARGUMENT BY MR. GROVE

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1 somebody got robbed. And we have already arrested him.
2 We're done. Let's go. Let's let the U.S. Marshall take
3 care of everything else. Is that it? On the word of a
4 guy, who again, has everything to gain over fifty dollars.

5 Don't forget that yesterday, the four week
6 anniversary of getting my armed robbery and the theft of
7 shoes dismissed. What a load off that must be, huh?

8 Now, it is a silver forty caliber. Then, I don't
9 even --- I am giving examples and I can't decide if it
10 matches those examples. You can't even say I don't
11 remember what it looked like, but it didn't look like
12 that. He can't even do that.

13 Now, I am a hundred percent positive. How sure are
14 you? I am a hundred percent. Then, I'm pretty positive.
15 He didn't want to be too convincing, because remember he
16 is not supposed to know who they are. He can't be a
17 hundred percent if he doesn't know who they are. He has
18 never seen them before today. I'm pretty sure that that
19 is him. It is his eyes, it is his beard. I've got eyes
20 and a beard, I'm glad I wasn't in that lineup.

21 Now, I I.D. him right away. Instantly. As soon as I
22 saw them, that's them. Then, Officer Perkins says he
23 spent four maybe five minutes looking through. I
24 understand he kind of fumbles. It is hard for him to turn
25 pages. Five minutes worth? My point is, people remember

CLOSING ARGUMENT BY MR. GROVE

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1 things differently. You know, I caught a fish about six
2 months ago and today it is this big. When I pulled it out
3 of the water, it was this big. Today, it is a hundred
4 percent. Then, yeah, that's probably him. Today, I know
5 it right away. Then, it's going to take me a few
6 minutes. Let me look at these pictures two or three
7 times, to make sure that I found the right guy. Today,
8 yeah, it was a forty caliber, and it was silver, stainless
9 steel. Then, I don't know. I was so scared. I didn't
10 look. He also testified --- And this was something that
11 really bothered me. After he says he got robbed. After
12 he says that a gun was shoved into his side. Give it up
13 or I'm going to make it worse off for you. Man that is a
14 terrible thing to say. After all of that is up, after he
15 was terrified, somebody has been in his car, in his
16 personal space with a gun in his side, and left with all
17 of his money, he goes crazing around like a detective
18 following them all over town. He is following them to the
19 next apartment. He is staking them out. He is not
20 leaning out of the car and saying, you ten people who are
21 behind my car, so many of you that I can't even back out
22 of this parking space. Will one of you call 911, I just
23 got robbed. I understand that he says his cell phone was
24 stolen, and maybe it was, and maybe it wasn't. So, he
25 can't call from his own phone, because his phone got

CLOSING ARGUMENT BY MR. GROVE

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1 stolen. Everybody in the wide world has a cell phone.
2 And they don't, they live at the apartment building, run
3 inside. The door is ten feet away. Will somebody please
4 go in there and call the cops, I just got robbed. All of
5 y'all saw that. Stay around. Tell the cops what you saw.
6 Or, maybe it didn't happen. Maybe he got a hundred
7 dollars instead of the hundred and fifty and said, I'll
8 get you. You are not going to rip me off. He also
9 testified --- He said that somebody approached him, and
10 said that we will give you three thousand dollars to drop
11 the case. That is funny. Because there was also an armed
12 robbery from a couple of years ago that involved
13 counterfeit shoes. To me it smells like he is taking all
14 of the stuff that he has done, and flipping it over onto
15 somebody else. Hey, I'll say that they robbed me based on
16 all of these shoes, and all of this money. And then I'll
17 say that they offered me money to drop the case, when
18 really it was me doing all of that stuff. Who are they
19 going to believe, those two or me in a wheelchair?

20 You heard from Corey Mitchell. Corey Mitchell is my
21 client's cousin. It is no secret. She also dated
22 somebody that Morris Mazyck says that he is related to.
23 She said he called him his nephew, and she is not sure as
24 to whether or not they are actually related. A couple of
25 my parent's friends, and I call them Uncle this or Aunt

CLOSING ARGUMENT BY MR. GROVE

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1 that, even though we are not really related.

2 Mr. Holt is going to get up here in a few minutes,
3 and he is going to tell you what bias she's got. What a
4 reason to lie she has got. As much of a reason as Morris
5 Mazyck? I don't think so. She doesn't have an armed
6 robbery sitting there waiting in the lanes. She doesn't
7 have her reputation on the street as a pushover. Oh, just
8 throw down some money and take whatever you want. He is
9 not going to fight back. She is getting up here, and she
10 is testifying to things that she talked about Morris. Mr.
11 Holt wants to make it look like she is trying to broker
12 some deal, that it was her idea. Was it her idea to press
13 the charges to get them up here? Was it her idea to say
14 that there was a gun? Was it her idea instead of calling
15 the cops to fabricate some entire story? You tell me. We
16 heard from my client, Emilio Craig. John Holt wanted to
17 make a big deal about the truth. The gentlemen who came
18 up here in the defense. Doesn't know Tree's real name.
19 He was flabbergasted that he would not know Tree's full
20 name. Ladies and gentlemen, I have a very embarrassing
21 admission. Some friends of mine from school have a
22 nickname for me. Lunch box. Because I always have food
23 on me. And, yeah, and I am built for the nickname, I
24 guess. I bet I can name you fifteen to twenty people that
25 I have known for almost ten years. If I made it to the

CLOSING ARGUMENT BY MR. GROVE

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1 Supreme Court as a Chief Justice, they would call me,
2 Chief Justice Lunch box, because they have no idea what my
3 name is. I am sure it is no less uncommon out of the East
4 Park Apartments. Wise, nobody seems to know his real
5 name either, not until this week anyway. Do you think it
6 is a big deal to hang out with somebody when you don't
7 know their real name? Is it really that unusual? Some of
8 y'all might know somebody that you can't even think of
9 their real name right now. You are thinking of them right
10 now, oh, what is old ah, what's old what-his-name's real
11 name? Emilio says, I went up there, I talked to him, and
12 he had all of those shoes. Oh, man, you've got some shoes
13 that I like. You've got my size. I like those styles.
14 And he wants to make a deal. All I've got is a hundred
15 dollars. How about three pairs a hundred bucks. No way,
16 man, fifty bucks a piece, no negotiations. Come on, man.
17 I know you negotiate with people. You negotiated with
18 Mardrall right around Christmas time. You knocked fifteen
19 dollars off the price of one of the Air Forces, on one of
20 the Jordans, or whatever it was. I know you'll make me a
21 deal. Come on, cut me some slack. Nah, fifty bucks a
22 piece, no deal. Ah, we'll sort it out later. Here's a
23 hundred bucks, here is my shoes. See you next week.
24 Remember, he comes over every week to see --- let me see
25 if I can remember this. His cousin's child's mother. I

CLOSING ARGUMENT BY MR. GROVE

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1 don't know, whoever that is. John Holt is going to make a
2 big deal about Emilio getting arrested in Alphabet Hill
3 and is going to make a big deal about being in the car,
4 running from the cops. Tree is running from the cops.
5 Emilio is not running from the cops. He is not even
6 charged with failure to stop for a blue light in this
7 case. Why is he going to run if he didn't do anything
8 wrong? I don't know. I'm scared. Some guy is taking off
9 and he is telling me that he thinks that that guy that we
10 bought the shoes from, that I didn't pay full price for,
11 is telling the cops that we robbed him. We might be in
12 some real trouble. I'm scared. I don't know what to do.
13 Stupid decision? You had better believe it was. A
14 decision that you might make under pressure? Maybe.
15 Unusual decision all together? No.

16 You also heard a little bit of testimony about my
17 client that John Holt wants to harp on, and why, why
18 weren't you out there to find out what Tree's real name
19 is? Why aren't you out there bringing him up to court so
20 he can tell his side of the story? Well, Mr. Holt, I
21 apologize, but as y'all now know I've been locked up
22 awaiting my constitutional right to a jury trial. My
23 hands have literally been tied. I can't get out there. I
24 can't shake the bushes. I can't go find this guy. I
25 apologize that that is so inconvenient for you. It has

CLOSING ARGUMENT BY MR. GROVE

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1 been a weekend vacation for me. Sitting out there
2 waiting, wondering what is going to happen. Not being
3 able to help myself.

4 Ms. Crayton touched on it earlier, and I won't keep
5 you much longer, ladies and gentlemen. She touched on, if
6 the judge tells you something different about the law than
7 you hear it from me, without hesitation follow what he
8 tells you. Because, he is the judge of the law. You are
9 the judge of the facts. Mr. Holt touched on checks and
10 balances yesterday morning. That is another one of them.
11 He decides what the law is, but you get to decide what
12 happens. You decide what happens, and you see where it
13 fits in the law that he gives you. That is how it works.
14 He is going to tell you about reasonable doubt, and I am
15 pretty sure that our definitions are different. But, they
16 get to the same point. I have heard a lot of different
17 definitions for reasonable doubt. I always try to break
18 them down into little bite size pieces so that I can
19 understand them better. I have heard people say that
20 reasonable doubt is the kind of doubt that would give you
21 a hesitation to act. Even that is still a little
22 confusing for me. I like to say that reasonable doubt is
23 a well. A well? It is one of those things that makes you
24 go, wait just one second, hang on now. Do you have a
25 reason, Morris Mazyck, to get up here and testify? To say

CLOSING ARGUMENT BY MR. GROVE

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1 that things happened when it didn't happen? Well? Armed
2 robbery charge, can't be getting ripped off out in the
3 street. Three thousand dollars you never paid me. Here I
4 am. Well? We have a reason to be suspect, that there was
5 even a gun present when he couldn't identify it at the
6 time, but now he knows everything there is. I am
7 surprised he didn't give you the serial number. Well, is
8 that what it is? At the time, no I didn't know who these
9 guys are. Now, buying shoes from him every couple of
10 months. Well? Corey Mitchell, who dated this guys
11 nephew, said that she knows both of them. Everybody knows
12 everybody. They are out there at East Park. It is not
13 that big of a place.

14 Morris Mazyck made his living taking things that look
15 real, and selling them to you as fakes. He knows what a
16 real pair of Air Force Ones looks like. But he will sell
17 you a counterfeit. We found out this week that he knows
18 what a real armed robbery looks like. And here he is
19 trying to sell you a fake. Don't let him do it, ladies
20 and gentlemen.

21 John Holt is going to get up here and he is going to
22 tell you that I am nick picking little things. He is
23 going to say that I am trying to make a big deal out of
24 things that are irrelevant. But, guess what? John Holt
25 doesn't get to decide what is important. The twelve of

CLOSING ARGUMENT BY MR. HOLT

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1 you do. You get to decide --- You know what, I do think a
2 911 call is important. I would like to hear what that
3 person had to say. I do think it is important that Morris
4 Mazyck couldn't identify the gun today, but now he can
5 identify it better than most. I do think it is important
6 that now I think he has probably known them for a long
7 time, and then he said he had never known them before that
8 day, January 13. I do think that is important. I think
9 that is real important.

10 Think about it, ladies and gentlemen. Look for the
11 wells. Reasonable doubt is everywhere.

12 Thank you.

13 **THE COURT:** Mr. Holt.

14 **MR. HOLT:** Your Honor, at this time the State would
15 request a bathroom break for the jury. I've got to go.
16 You've got to charge. I feel like ---

17 **THE COURT:** Sir, wait a minute. No, sir. Proceed.

18 **MR. HOLT:** That's fine.

19 **CLOSING ARGUMENT BY MR. HOLT**

20 **MR. HOLT:** Y'all have been sitting for a long time,
21 and there is no doubt that that is going to affect the
22 amount of time you have been sitting here.

23 But I just want to talk about the facts, and what
24 they mean. I have a eight thousand dollars system, and I
25 don't have time to set it up, but we will go without it.

CLOSING ARGUMENT BY MR. HOLT

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1 Okay?

2 On January 13, in the middle of the afternoon, two
3 men walked up with a gun and robbed Mr. Morris Mazyck. I
4 don't care if it was about shoes, or what. I know that he
5 came up here and what he said. He looked at, and the
6 police gave him those I.D. He picked those faces out and
7 said that these are the people that robbed me. He got
8 over here, he looked at their faces, and he said with a
9 hundred percent certainty, they robbed me. That is what
10 he said. We will talk more about that later. But I want
11 somebody to never forget this. Up until yesterday, the
12 whole defense was he say, he say, he say. Then all of a
13 sudden Jackie Catoe dropped what I call a bomb in this
14 case. I asked him if he did look in the car, and I
15 actually saw shoes. Now, all of a sudden we give them
16 another case. And it is another defense. And who did it
17 now? A mysterious third man who was driving around with
18 us that day. You ain't heard nothing about, oh, he is
19 guilty. It is crazy. He was found at the scene.
20 Running, hiding up under a car. And he has the audacity
21 to come up here today and say, some other guy that I know
22 was doing this. I had my girlfriend's car. But I bet
23 some other guy who I don't know his real name drive it.
24 How about the three police that saw Mardrall driving that
25 car, David Young, Chad McInville, I looked in that car, I

CLOSING ARGUMENT BY MR. HOLT

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1 could touch it. He looked at me, realized who I was, then
2 I recognized him, and that is when he took off. Jackie
3 Catoe doesn't know why he took off. Jackie Catoe thinks
4 it has something to do with the license plate. You
5 recognize those two investigators, and they recognized
6 him. Nobody --- Everybody wants to talk about what the
7 police said or didn't say. What about the three officers
8 who got up here and say, I saw Mardrall driving that car.
9 What bout Mardrall saying, I was moving in with
10 girlfriend. He ain't moving in with me. He's just my
11 baby's Daddy. He only watches that baby when there is
12 nobody else can. But now all of a sudden, Ms. Crayton is
13 up here today, they are a family unit. They are people.
14 They were living with each other. They found him in the
15 woods, y'all, running. Still running two weeks later.
16 He had two weeks to find Tree. We could have found Tree -
17 -- don't you think it is funny that we have been working
18 on this months, and months, and months, and I never heard
19 anything about somebody named Tree.

20 Ladies and gentlemen, the judge is going to give you
21 the law. And I've got reasonable doubt to get up here and
22 try to put it up, and I want everybody to know that
23 reasonable doubt --- this is what I'm talking about. All
24 right. We are going to go through the evidence, frame by
25 frame, and I am going to let everybody whose got it --- I

CLOSING ARGUMENT BY MR. HOLT

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1 don't want anybody to forget what happened. A robbery,
2 two people. And I'll tell you a fourth person that I
3 should have testify that didn't come, but couldn't come,
4 was the community. He said, I didn't have my phone that
5 day. These two attorneys over here are talking about
6 where are all these other people who were there for the
7 robbery, who were these witnesses and all? Has anybody
8 here been in a room where a gun was pulled out, because I
9 have. It can go from forth, people to nobody like that.
10 And who is going to come up here and go against people who
11 are known and convicted for assault and battery, drugs,
12 and running from the police. You know if they do it one
13 time, you saw him do it that day. Do you think he is
14 going to come up here and talk about it? It infuriates
15 me. Everything they have said. Throughout the course of
16 this trial, you have learned what everybody knows. Me,
17 the Judge, the Court Reporter. I want you to think about
18 what you will do with what I told you in the beginning of
19 this trial.

20 Every time you hear a lie or a truth in your life.
21 Every time you have evaluated a situation, or made a
22 decision based on your life experiences. You bring that -
23 -- You are going to bring your common sense to this. You
24 are the judge of the facts. I want you to remember what
25 those people said on the stand, and not how those two

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1 attorneys made it sound like what they said when they had
2 their chance to close. My case. Morris Mazyck. Morris
3 sells shoes. He admits that. One day ten years ago
4 Morris Mazyck took everything. His ability to walk, his
5 family, his job, his children like that. Okay? When
6 other people would lay down and die, when other people
7 would give up, move into some home, cry, Morris Mazyck
8 pulled himself back up. He came in here with his new
9 girlfriend. Custody of his child. Getting his life in
10 line. But just like every man who doesn't have a nine to
11 five --- think about the retired men that go to your
12 church or in your community, they piddle with stuff. Mr.
13 Franklin, a deacon in my church, sells dogs out of the
14 back of his car. Okay? It is just his thing. It's
15 stupid. He's got plenty of money. But do you know what
16 he likes to do, he likes to be out in the community.
17 Okay? And if something happened, people in the community
18 will look out for Mr. Franklin. They love him. Do you
19 know who looked out for Morris this day, the community.
20 Do you know how many times? One. Hey, they are robbing
21 people, put the phone down, how in the heck are they going
22 to prove that. The community called. They won't stand up
23 here and talk about it. They wouldn't sit with Morris
24 when it was happening. But they called, because they
25 probably know the reputation of these two. But they

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1 called, and they didn't stop calling because when that car
2 pulled up to the Markette, somebody else called and said,
3 DSF. Remember that, Jackie Catoe went out over the police
4 radio. And the police in here were a cluster. Nobody is
5 going to deny that. The county, the city, argue about
6 what happens, I don't care. But somebody at the Markette
7 called and said, hey the people that robbed him is up here
8 now. And that is what sent the Sheriff's Department over
9 there. Do you see those two separate calls, one from the
10 community in Hartsville, the same community that is a
11 little further than the Markette called it in. How about
12 the third time, y'all. Do y'all remember that. They run
13 to Alphabet Hill, in and around where they live. Okay.
14 Normally, when suspects flee, people who love them will
15 take them in and take care of them or whatnot. Okay?
16 Alphabet Hill couldn't call on Emilio Craig to run under
17 that truck fast enough. Do you think it is everyday that
18 people from Alphabet Hill walk up to the police and tell
19 them where a criminal is? Because it is not. They are
20 not going to stand up here and talk about that, but you
21 do. You have to remember this, and you have to use your
22 common sense. He identified those two people in the photo
23 lineup. And those are the same two people that the police
24 saw driving that car. Well, it is not the same two people
25 they saw driving the car, because they saw Mardrall

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1 driving, and they found Emilio. They found both of those
2 two people, and they put them in a lineup. All right. It
3 is no coincidence that he picks out with a hundred percent
4 positive certainty with six other people to look at, that
5 that is how it is. This is Morris over here. He is not
6 up here for fifty dollars. They want y'all to believe
7 that he has this elaborate scheme. Well, we will talk
8 about everything in due time.

9 Look at Morris, I had to wheel him around. I'll
10 never forget their faces, the way their eyes worked. The
11 way their beards were. And for that he is a hundred
12 percent positive. And he wrote that. And you will look
13 at the evidence. I wasn't afraid to put my evidence in.
14 You notice you won't take those shoes back there with you.
15 They won't be back there with you.

16 All right. Morris, for fifty dollars, he comes up
17 here and risks his life testifying. Does that sound like
18 something that makes sense to y'all? Or do you think he
19 risked his life because the community that loves him
20 enough to have his back, he wants to do everything he can
21 to help. What makes more sense? Which, by the way, even
22 if you believe the fifty dollars, that it was over fifty
23 dollars, that is common law robbery. What kind of person
24 goes, you want a hundred and fifty for that, here's a
25 hundred. I'm taking them. You know what kind of person

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1 does that. The kind of boss in the neighborhood who tells
2 you what to do. And when he gets caught doing something,
3 people in the neighborhood can't recall facts fast enough.
4 Because it ain't safe when they are around.

5 Who else do we've got? Let me see. What do we have
6 going on there? The next person who talked, the officers
7 from Hartsville. Okay? You know, what does it matter
8 what they did? They really didn't do anything. They took
9 the photo lineup, Yeah, Blair, Perkins, and Hodges, they
10 found the money. They don't care where --- they just go
11 out there and investigate facts. What did they find on
12 the ground --- And it is not a big deal, I'm not saying
13 this controls or affects the case in anyway. I am saying
14 that where they say that car drove off from in a hurry,
15 you also find money on the ground.

16 All right. Now, Morris said money was taken from
17 him. Doesn't it make sense that if two people are fleeing
18 when they had just robbed somebody, that they would have
19 dropped some money? It doesn't open and shut the case,
20 I'm just saying that these are the little things that I do
21 have. All right. Young and McInville saw Mardrall ---
22 you've got twenty-five-years of law enforcement right
23 here, and they saw Mardrall driving the car. Why would
24 they make that up? There is no reason for them to. It is
25 not their case. Okay? They don't care. They are not

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1 going to get paid, fired, or done anything to them for
2 them to come up here to court, where none of them want to
3 be and say that. Catoe, he said, new guy on the force.
4 Okay. He gets behind the car. All right. The car comes
5 by him first off. He looks right at the driver. Not only
6 that, don't forget that, when he is chasing him that guy
7 is slowing down trying to get out of the front, he is
8 trying to get out of the front, looking back at Jackie
9 Catoe. Jackie Catoe has all that time in the world.
10 Jackie Catoe is a road deputy. If he didn't remember that
11 guy's face, he would have come up here and said, I don't
12 remember his face. Jackie Catoe don't care. He don't
13 have no stake in this matter. It's funny that all of
14 these people who don't have any say in here, plus the
15 community, are saying they did it. But some guy named
16 Tree, that you just heard about today. We don't know his
17 real name, where he lives, or where he is from. He has
18 been in jail for eight months, and I am facing these kind
19 of charges, I am going to find your name. I don't care if
20 it is, Lunch Box, Billy Joe or whatever. I am going to
21 call somebody that I went to college with, and say what
22 was Lunch Box's name. Okay. If you can have your cousin
23 out talking to him, why can't you have your cousin out
24 hunting this Tree? But, didn't get nothing out of him
25 until today. I didn't hear nothing about him until today.

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1 Catoe, Brian, Emilio Craig, and a member of Alphabet Hill
2 community, came out and directly after speaking with
3 Bryant, found Emilio Craig. The audacity to get caught
4 there and just blame a guy named Tree. It is not
5 reasonable doubt, and we will talk about that later.

6 What is defense counsel's job? What do they get paid
7 to do? I've got the burden of proof. Let's think about
8 what they do. They muddy the water. All right. They
9 come up here and they say things like, you got charges,
10 you did this, piddle things. I'm not denying any of that.
11 All right? I didn't know Morris had charges. Morris told
12 y'all right there, when we got right here, charges in my
13 office get dismissed in blocks. If you don't have a case
14 file somewhere, sooner or later someone walks around and
15 goes dismissed. I could have dismissed that. You know.
16 It is just a coincidence that she did. She didn't know
17 anything about it. Didn't care. Because, let me tell you
18 what reasonable doubt is in the real world. If you look
19 at somebody like Morris who holds his hands like this, and
20 can't talk, and you are accusing him of armed robbery, I
21 think something is wrong. But, what did Morris say?
22 Number one, I know that I was never presented a case file.
23 Number two, he said we're going to do something with
24 perjury on that guy. Those kinds of stuff gets dismissed.
25 What don't get dismissed are convictions. Where the judge

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1 says you get something. Assault and battery, drugs,
2 running from the police, they are convicted of it. Was he
3 innocent that time too? Don't let defense counsel throw
4 up some guy named Tree, and make Morris look bad for all
5 he has suffered, and built himself back up. Don't make
6 him think that they have fooled you.

7 This is it, y'all. This is what the judge is going
8 to tell you. This is his charge. All right. Reasonable
9 doubt is not an imaginary, or a fanciful doubt, or a weak
10 doubt. This is what an imaginary doubt is. An imaginary
11 man named Tree. It is a doubt for which the words imply,
12 a doubt for which you can give or assign a reason based on
13 the testimony and evidence in this case. A reasonable
14 doubt is not any sort of doubt --- it is not a well. He
15 likes to say that. But, that is not what a reasonable
16 doubt is. You are going to be charged with the law. I
17 don't care if Morris Mazyck was the Daddy on the godfather
18 of crime in Hartsville. We look at one set of facts, one
19 set of circumstances, and the law is applied to the facts.
20 And what I am saying is that three officers who were not
21 involved, saw Mardrall in that car. What did Morris say?
22 He said Emilio put that gun in my side, and he said get
23 that shit. And then we found the shoes in the car, after
24 Jackie Catoe chased him. But now all of a sudden, Tree
25 did it. It bewilders me. I cannot explain to you how

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1 frustrated I am, and how offended I am to think about it.
2 I identify with Morris. I understand what the problem is
3 here. The sister never looks after anybody, and he comes
4 up here and as he tries to go with it, and all they are
5 throwing in his face is some kind of punk charge, it was
6 really an allegation that the guy, plead down, and that
7 you never heard anything else about. But these guys who
8 actually did stick a gun in him, these who actually did
9 run from the police. And you can evaluate each and every
10 charge that way you want to. Okay? But, why would three
11 people say they saw Mardrall driving that car, if they
12 didn't? Why all of a sudden are we hearing about Tree? I
13 want everybody to remember the ah-ha moment, that it was
14 when Jackie Catoe said he found those shoes. I found
15 three boxes of shoes. Ah-ha. And that was a turning
16 point in the trial. After that, there was no more let's
17 make fun of Morris. Let's beat Morris down. Then after
18 that, it was Tree. Tree was there. But for eight months
19 we can't find anything about him, or what he did. And
20 also, never forget they have some shoes on this table.
21 There are some shoes here, okay? Whatever. If you
22 believe he put that money down and he took what he wanted,
23 and gave him what he had --- there ain't no joke about
24 that. But, if you believe the truth, what the community
25 said was happening. What the community said four times,

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1 what Morris had the courage to stand up here and say. If
2 you believe that it is armed robbery. That is what I
3 believe. That is what I feel like I have proved. But
4 don't you go back there and say, well, well, well. That
5 ain't the law. This is the law. Not the imaginary or
6 fanciful doubt. Santa Clause could have robbed Morris.
7 That is what I feel like they are saying to y'all. Santa
8 Clause could have robbed Morris. Police know each and
9 every person out there. There ain't a Tree.

10 Thank you very much, ladies and gentlemen.

11 **THE COURT:** Ladies and gentlemen, you have now
12 heard the arguments of counsel in this matter. And the
13 only thing remaining to be done is the instructions on the
14 law by the Court, after which you will be allowed to go to
15 your jury room and reach a verdict. However, that will
16 run us into the lunch hour. And I think it is appropriate
17 that we break at this time for lunch, and I am going to do
18 that. And allow you to come back after lunch, at which
19 time I will give you the instructions on the law.

20 It is about ten minutes 'till one, so I am going to
21 ask that you be back in your jury room please, at two
22 o'clock. Again, a few precautions. Do not discuss the
23 case when you are reassembling in the jury room. It is
24 still premature for you to begin that discussion, because
25 you have not received the instructions on the law from the

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1 court. And do not allow anyone to talk with you about
2 your service on this case, or about this case at all
3 during the lunch recess. And do not discuss it with
4 anyone else. If you see your family or your friends over
5 the lunch recess, do not discuss the case with them,
6 because you have got to decide the case based upon what
7 you hear in this courtroom, and not on the basis of what
8 you might hear from anyone else.

9 So, with those admonitions, I am going to excuse you
10 now, allow you to go and get your lunch, and ask you to be
11 back in your jury room, please at two o'clock, and we will
12 be ready to start at that time. You may go. Thank you.

13 (Whereupon, the jury exits the courtroom
14 for lunch at 12:52 p.m..)

15 THE COURT: All right. Counsel, let's stay in
16 place for a few minutes. I want to give the jury an
17 opportunity to leave.

18 (PAUSE.)

19 THE COURT: All right. We will be in recess then
20 until two o'clock.

21 (Whereupon, a lunch recess was taken from
22 12:54 p.m. until 2:04 p.m..)

23 THE COURT: All right. Come back to order, please.
24 All right. Back on the record with regard to The State
25 versus Addison and The State versus Craig. Let the record

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1 reflect that the defendants are present in the courtroom
2 with their counsel. The State is present and represented
3 by Mr. Holt. The only matter that remains to be done are
4 the charge to the jury. Is there anything before we bring
5 the jury in on behalf of the State, Mr. Holt?

6 **MR. HOLT:** There is not, Your Honor.

7 **THE COURT:** On behalf of defendant, Mr. Grove?

8 **MR. GROVE:** No, Your Honor.

9 **THE COURT:** Ms. Crayton?

10 **MS. CRAYTON:** No, Your Honor. Thank you.

11 **THE COURT:** Bring the jury in, please.

12 (Whereupon, the jury enters the courtroom
13 at 2:06 p.m..)

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14
15 **THE COURT:** Thank you ladies and gentlemen, for
16 your promptness in being back here. We are now ready to
17 move forward with this matter. As I told you before
18 lunch, you have heard all the testimony, and the able
19 arguments of counsel. Mr. Holt on behalf of the State,
20 Mr. Grove on behalf of the Defendant Emilio Craig. And
21 Ms. Crayton on behalf of Mardrall Addison. You have been
22 very attentive, and I thank you for that.

23 It now becomes the duty of the Court to instruct you
24 on the law of South Carolina as it applies to issues in
25 this case. And it is your duty to apply the law to the

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1 facts of this case, as you may find those facts to be, and
2 arrive at a true verdict in this case.

3 It is your duty to evaluate, to weigh the evidence to
4 the end of both the State of South Carolina, and each
5 defendant will receive a fair and impartial trial.

6 Now, there are a number of Indictments in this case,
7 and the Indictments charge each defendant with armed
8 robbery, petit larceny, possession of a weapon during the
9 commission of a violent crime, and pointing and presenting
10 a firearm.

11 In addition the Defendant Addison has been charged
12 with failure to stop for a blue light, and driving under
13 suspension. I will discuss the particulars with you a
14 little bit later in these instructions.

15 But I will remind you that the fact that the
16 defendants were charged and Indictment in this case is not
17 evidence in this matter, and should not be considered by
18 you as evidence of guilt.

19 It does not create any presumption of or inference of
20 guilt, the fact that the defendants were arrested, charged
21 and indicted, and charged is not evidence in this matter,
22 and cannot be considered by you as evidence of guilt. It
23 does not create any presumption, or innocence, or
24 inference of guilt. I mean, the fact that they were
25 indicted and charged does not create any presumption or

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1 inference of guilt. The documents are simply the formal
2 written instruments which contains the charges against the
3 defendant, and they are the formal documents by which the
4 case is brought to trial.

5 Now, the indictments in this case allege different
6 offenses against the defendants, specifically with regard
7 to the Defendant Addison. The State charges the defendant
8 under Indictment Number 2011-865 with driving under
9 suspension. And it charges that he did on or about
10 January 13, 2011, operate a motor vehicle on the streets
11 and highways of the State, when his licenses were
12 suspended. Indictment Number 2011-866 charges that on
13 that date, Mr. Addison did, while operating a motor
14 vehicle, did fail to stop his motor vehicle when signaled
15 to do so by a law enforcement officer. Indictment Number
16 867 charges that Mr. Addison did on January 13, 2011,
17 along with a co-defendant, and while armed with a deadly
18 weapon, specifically a handgun, take and carry away the
19 personal property of Morris Mazyck from immediate
20 possession of Mr. Mazyck, with intent to deprive him of
21 his property, specifically taking two hundred and thirty
22 dollars, and two cellular telephones, with a combined
23 value of two hundred and fifty dollars from the victim,
24 and that is a charge of armed robbery. The next
25 Indictment against this defendant is that on that date,

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1 January 13, 2011, that Mr. Addison, along with his co-
2 defendant, did possess a firearm, or visibly displayed
3 what appeared to be a firearm during the commission of a
4 violent crime, specifically the crime of armed robbery.
5 Indictment Number 2011-870 charges that Mr. Addison did,
6 along with a co-defendant, on that date, January 13, 2011,
7 point or present a loaded or unloaded firearm,
8 specifically a handgun at Mr. Morris Mazyck. And, then in
9 the final charge against him, in Indictment Number 2011-
10 16-871 charges him with the crime of petit larceny of
11 taking and carrying away the goods of Mr. Mazyck, that is
12 approximately two hundred and thirty dollars in cash and
13 two cell phones, with the permanent intent to deprive him
14 --- with the intent to permanently deprive him of his
15 goods. And that is a charge of petit larceny.

16 Now, the Defendant Mr. Craig, is also charged in
17 Indictment 876 with the crime of armed robbery on January
18 13, 2011. Again, that he along with the co-defendant Mr.
19 Addison, did take and carry away the personal property of
20 Mr. Mazyck, and did take this from him while armed with a
21 handgun, and that is the charge of armed robbery against
22 Mr. Craig. Indictment Number 877 is a charge against Mr.
23 Craig for possession of a firearm during the commission of
24 a violent crime, specifically armed robbery on January 13,
25 2011. Indictment Number 879 charges Mr. Craig on January

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1 13, 2011, with pointing and presenting a loaded firearm,
2 specifically a handgun at Mr. Mazyck. And final charge
3 against Mr. Craig is the petit larceny on that day of
4 taking property valued at two thousand dollars or less,
5 specifically two hundred and thirty dollars in cash and
6 two cell phones, and he is charged with the crime of petit
7 larceny.

8 Now, these are just the charges against the
9 defendants. And as I say, you cannot take them as
10 evidence in this case. And you should not consider them
11 as evidence.

12 Each Indictment charges a separate and distinct
13 offense. You must decide each Indictment separately on
14 the evidence and the law applicable to it, uninfluenced by
15 your decision as to any other Indictment.

16 A defendant may be convicted or acquitted on any or
17 all of the offenses charged, and you will be asked to
18 write a separate verdict of guilty or not guilty on each
19 Indictment.

20 I will also charge you that there are two defendants
21 in this case, each of whom are charged with the crimes
22 that I have just outlined. The case of each of, and the
23 evidence and the law concerning that defendant should be
24 considered separately and individually. Your verdict does
25 not have to be the same for both defendants. The fact

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1 that you may find one defendant guilty or not guilty
2 should not control your verdict as to the other defendant.
3 Where more than one person is charged with a crime, if the
4 evidence warrants it, you may convict one and acquit the
5 other. Or, you may acquit both. Or you may convict both.
6 It will depend upon your view of the testimony and the
7 evidence. You must take each defendant and consider the
8 evidence as to that defendant. And my instructions to you
9 on the law. You will then be required or asked to write a
10 separate verdict of guilty or not guilty for each
11 defendant.

12 Now the defendants have plead not guilty to these
13 charges, and to these Indictments. And that plea places
14 the burden of proof on the State to prove the guilt of the
15 defendants beyond a reasonable doubt. A person charged
16 with committing a criminal offense in South Carolina is
17 never required to prove himself innocent. I charge you
18 that it is an important rule of the law of this state that
19 a defendant in a criminal trial, no matter what the
20 seriousness of the charges may be, will always be presumed
21 to be innocent of the crime for which the Indictments were
22 issued, unless guilt has been proven by evidence
23 satisfying you of the guilt of that defendant beyond a
24 reasonable doubt. This presumption of innocence does not
25 end when you begin your deliberations. But it accompanies

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1 the defendants throughout the trial, until you reach a
2 verdict of guilt based on evidence satisfying you of that
3 guilt beyond a reasonable doubt. The presumption of
4 innocence is like a robe or righteousness placed about the
5 shoulders of each defendant, and remains with him until it
6 has been stripped from the defendant by evidence
7 satisfying you of the defendants guilt beyond a reasonable
8 doubt.

9 The presumption of innocence is not a mere legal
10 theory. It is not just a legal phrase. It is a
11 substantial right to which every defendant is entitled
12 until you the jury, are satisfied from the evidence of the
13 defendants guilt beyond a reasonable doubt.

14 Now, what is a reasonable doubt? A reasonable doubt
15 is the kind of doubt that would cause a reasonable person
16 to hesitate to act. The State has the burden of proving
17 the defendants guilt beyond a reasonable doubt. Some of
18 you may have served as jurors in civil cases where you
19 were told that it was only necessary to prove that fact --
20 - that a fact is more likely true than not true. Such as
21 by the greater weight or the preponderance of the
22 evidence. In criminal cases the State's proof must be
23 more powerful than that. It must be proof beyond a
24 reasonable doubt. Reasonable doubt is not a fanciful
25 doubt, or an imaginary doubt. It is a doubt for which you

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1 can give or assign a reason based on the testimony and the
2 evidence. Proof beyond a reasonable doubt is proof that
3 leaves you firmly convinced of the defendant's guilt.
4 There are very few things in this world that we know with
5 absolute certainty. And in criminal cases the law does
6 not require proof that overcomes every possible doubt, if
7 based upon your consideration of the evidence, you are
8 firmly convinced that the defendant and defendants is
9 guilty of one or more of the crimes charged, you must find
10 the defendant guilty. On the other hand, if you think
11 there is a real possibility that a defendant is not guilty
12 of one or more of the crimes, you must give that defendant
13 the benefit of the doubt as to that crime, and find him
14 not guilty.

15 Now, I would remind you that during this trial you
16 and I have certain duties to perform. As the trial judge
17 it is my responsibility to preside over the trial of this
18 case. And I also have the duty to rule on the
19 admissibility of the evidence presented during the course
20 of this trial. You are to consider only the competent
21 evidence before you. If there was any testimony ordered
22 stricken from the record during the course of this trial,
23 you must disregard that testimony. You are to consider
24 only the testimony which has been presented from the
25 witness stand, as well as any exhibits which may be a part

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1 of the record in this case. And I will tell you that
2 those exhibits will go with you to the jury room, as well
3 as any stipulations of counsel, if there be any.

4 I have the additional duty to charge you the law
5 applicable to this case. As the presiding judge, I am the
6 sole judge of the law in this case. And it is your duty
7 as jurors, to accept and apply the law as I now state it
8 to you. If you already have any idea or any preconceived
9 notion as to what the law is, or what the law ought to be,
10 and it does not agree with what I tell you the law is, you
11 must abandoned this idea, or this preconception on your
12 part, because you are sworn to accept the law and apply it
13 precisely s I state it to you.

14 In every case tried in this court before a jury, the
15 jury becomes the sole and exclusive judge of the facts.
16 You are the judge of the facts in this case. A trial
17 judge cannot intimate, state, comment upon, or make any
18 statement to a trial jury about the facts in the case.
19 Since you are the jury of the sole judge of the facts in
20 this case, you are not to infer from anything that I have
21 said during the progress of this trial in ruling upon the
22 admissibility of evidence or otherwise, or anything that I
23 say to you now during the course of these instructions to
24 you, that I have any opinion about the facts of the case.
25 I do not. The law does not allow me to have an opinion

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1 about the facts of the case. This is a matter solely for
2 you the jury, to determine. As jurors, it is your duty to
3 determine the effect, the value, the weight, and the truth
4 of the evidence presented during the trial.

5 Now there are two types of evidence which are
6 generally presented during a trial. Direct evidence and
7 circumstantial evidence. Direct evidence is the testimony
8 of a person who claims to have actual knowledge of a fact,
9 such as an eye witness. It is evidence which immediately
10 establishes the main fact to be proven. Circumstantial
11 evidence is proof of a chain of circumstances indicating
12 the existence of a fact. It is evidence which immediately
13 establishes collateral facts from which the main fact may
14 be inferred. Circumstantial evidence is based on
15 inference and not on personal knowledge or observation.
16 The law makes absolutely no distinction between the weight
17 or value to be given to either direct or circumstantial
18 evidence, nor is there a greater degree of certainty
19 required of circumstantial evidence than of direct
20 evidence. You should weigh all of the evidence in this
21 case. After weighing all of the evidence, if you are not
22 convinced of the guilt of the defendant beyond a
23 reasonable doubt, you would find the defendant not guilty
24 of that particular charge. On the other hand, after
25 weighing all of the evidence, if you are convinced of the

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1 guilt of the defendant on a particular charge beyond a
2 reasonable doubt, it would be your duty to find the
3 defendant guilty.

4 Necessarily, you must determine the credibility of
5 the witnesses that have testified in this case.
6 Credibility simply means believability. It becomes your
7 duty as jurors to analyze and evaluate the evidence, and
8 determine which evidence convinces you of its truth. In
9 determining the believability of witnesses who have
10 testified in this case, you may believe one witness over
11 several witnesses, or several witnesses over one witness.
12 You may believe a part of the testimony of a witness, and
13 reject the remaining part of the testimony of that same
14 witness. You may believe the testimony of a witness in
15 its entirety, or reject the testimony of a witness in its
16 entirety. You may consider whether any witness has
17 exhibited to you any interest, bias, prejudice, or other
18 motive in this case. And you may also consider the
19 appearance or the manner of a witness on the stand,
20 sometimes referred to as the demeanor of a witness.

21 Now, I want to discuss with you the charges that are
22 pending in this case against the defendants, and keep in
23 mind that if there is an Indictment charging either or
24 both of the defendants with a particular charge, you
25 consider the charge as to that defendant.

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1 First of all, armed robbery. What is armed robbery?
2 The defendants both are charged with armed robbery. In
3 order to prove this offense, the State must first prove
4 beyond a reasonable doubt, that the defendant took
5 personal property from the person or presence of another
6 person. Property is in the presence of a person if it is
7 within that person's reach, inspection, observation, or
8 control so that the person could, if not overcome with
9 violence or prevented by fear, keep possession of the
10 property.

11 The State must also prove beyond a reasonable doubt,
12 that the defendant carried the property away, intending to
13 permanently deprive the owner of the property, and to keep
14 the property for the defendant's own use. The slightest
15 removal of the property, or the complete possession of the
16 property, even for an instant by the defendant, is
17 sufficient to show a taking and carrying away of the
18 property. The taking and carrying away of the property
19 must have been done by violence, or by putting the owner
20 of the property in fear of violence.

21 Finally, the State must prove beyond a reasonable
22 doubt that the defendant was armed with a deadly weapon
23 during the robbery. A deadly is any article, instrument
24 or substance which is likely to cause death or great
25 bodily harm. Whether an instrument has been used as a

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1 deadly weapon depends on the facts and circumstances of
2 each case.

3 Now, the following are examples of instruments which
4 may be deadly weapons. A pistol, a shotgun, rifle, dirk,
5 dagger, knife, slingshot, metal knuckles, razor, or
6 firebomb, or Molotov cocktail, or lighter fluid. A gun
7 maybe a deadly weapon even if it is not operated.

8 Now, even if you find that the State has failed to
9 prove that the defendant or a defendant was armed with a
10 deadly weapon, you may then consider whether the State has
11 proven beyond a reasonable doubt, that a defendant
12 committed a robbery. Also included within the offense of
13 armed robbery as a lesser included offense is the offense
14 known as robbery, or strong-armed robbery, or common law
15 robbery. In order to prove robbery, the State must prove
16 beyond a reasonable doubt all the elements that I have
17 just explained, except that the defendant was armed with a
18 deadly weapon. In other words, in order to prove robbery,
19 the State must prove beyond a reasonable doubt, that the
20 defendant took the personal property from the person or
21 presence of the defendant, without that person's consent
22 and carried it away. The only element that is not present
23 in strong armed robbery or common law robbery that is
24 present in armed robbery, is the presence of a weapon.

25 Now, I would tell you this too, ladies and gentlemen,

1 that a person who was present at the scene of the crime,
2 and intentionally or through a common plan added, abetted,
3 or assisted in the commission of that crime through some
4 overt act, is guilty as an accomplice. To be liable as an
5 accomplice, the defendant must have knowledge of the
6 principal's criminal conduct. Mere presence at the scene
7 of the crime is not sufficient to establish guilt as an
8 accomplice. So if a crime is committed by two or more
9 persons, who are acting together in committing the crime,
10 the act of one is the act of all. A person who joins with
11 another to commit an unlawful act, is criminally
12 responsible for everything done by the other person which
13 happens as a probable or natural consequence of the acts
14 done in carrying out the common plan and purpose.

15 For example. Two persons can be guilty of killing
16 another when only one of the two had a gun. There was
17 only one bullet, and only one of the two fired the shot
18 that cause the death. If two or more people are together,
19 acting together, assisting each other in committing the
20 offense, the act of one is the act of all, or as is
21 sometimes said, the hand of one is the hand of all.

22 A principal in a crime is one who actually commits a
23 crime, or who is present, aiding, abetting, or assisting
24 in the committing of the crime. When a person does an act
25 in the presence of and with the assistance of another, the

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1 act is done by both. Where two or more persons acting
2 with a common plan or intent, or present in the commission
3 of a crime, it does not matter who actually commits the
4 crime, all are guilty. Than hand of one is the hand of
5 all. Present at the commission of a crime means to be
6 sufficiently near to, to aid, and abet, and assist in the
7 commission of the crime. However, as I have said, mere
8 presence at the scene of the crime is not sufficient to
9 convict one as a principal on the theory of aiding and
10 abetting.

11 Intent is also a necessary element. For there must
12 have been a common design or an intent to commit the
13 crime, and the crime must have been committed thereto with
14 the person aiding and abetting by some overt act. Intent
15 means intending the result which actually occurs. Not
16 accidentally or involuntarily. Intent may be shown by
17 acts and conduct of the defendant, and other circumstances
18 which you may naturally and reasonably infer intent. The
19 State must prove all of these elements beyond a reasonable
20 doubt.

21 Now, an issue in this case is the identification of
22 the defendant, or defendants, as the person or persons who
23 committed the crime charged. The State has the burden of
24 proving identity beyond a reasonable doubt. You must be
25 satisfied beyond a reasonable doubt of the accuracy of the

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1 identification of the defendant before you may convict the
2 defendant, or either of the defendants.

3 Identification testimony is an expression of belief
4 or impression by the witness. You must determine the
5 accuracy of the identification of the defendant. You must
6 consider the believability of each identification witness
7 in the same manner as any other witness. You may consider
8 whether the witness had an adequate opportunity to observe
9 the offender at the time of the offense. This would be
10 affected by things like, how long or how short a time was
11 available. How far or how close the witness was. The
12 lighting conditions. And whether the witness had the
13 chance to see or know of the person in the past. Once
14 again, I instruct you that the burden of proof is on the
15 State, and this extends to every element of the crime
16 charged, and this specifically includes, the burden of
17 proving beyond a reasonable doubt the identity of the
18 defendant as the person who committed the crime. If,
19 after examining the testimony you have a reasonable doubt
20 as to the accuracy of the defendant, the defendants are
21 entitled to that reasonable doubt.

22 Now, another of the crimes charged in this case
23 against both defendants, is the crime of pointing or
24 presenting a firearm. But let me go back and let's go
25 forward a little bit and say another of the offenses that

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1 is charged against the defendants --- in both defendants
2 in this case is the possession of a weapon during the
3 commission of a violent crime. And the reason I want to
4 go over that offense with you now is that you are not to
5 even consider this charge unless you find the defendant
6 guilty of armed robbery. Because the crime of armed
7 robbery is under our statute considered a violent crime,
8 and obviously, unless you find that one or both of the
9 defendants are entitled, or are guilty of the crime of
10 armed robbery, it does not follow that --- it follows that
11 they could not be convicted of the crime of possession of
12 a weapon during the commission of a violent crime, unless
13 they are first found guilty of the armed robbery. So,
14 unless you find the defendant, or either one of them
15 guilty of the crime of armed robbery, you would skip over
16 the possession of a weapon during the commission of a
17 violent crime. Now, what our law provides is that the
18 defendant or someone, or more of them is charged with the
19 possession of a weapon during the commission or attempt to
20 commit a violent crime. The State must prove beyond a
21 reasonable doubt, that the defendant was in possession of
22 a firearm, or visibly displayed what appeared to be a
23 firearm, during the commission of a violent crime. A
24 firearm means any machine gun, automatic rifle, pistol,
25 revolver, or any weapon which is designed to or may

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1 readily be converted to expel a projectile. In order to
2 find the defendant guilty of possession of a weapon during
3 the commission of a violent crime, you must first find the
4 defendant guilty of either committing a violent crime, or
5 attempting to commit a violent crime. And I would charge
6 you that under our statute, Section 16-1-60, armed robbery
7 is a violent crime. So, again I would emphasize to you
8 that before you can consider whether either defendant is
9 guilty of this crime, you would first find that he is
10 guilty of the violent crime, or attempting to commit the
11 violent crime of armed robbery.

12 Now, in addition to that, both defendants are also
13 charged with the offense of pointing or presenting a
14 firearm. The defendant is charged with pointing or
15 presenting a firearm, and the State must prove beyond a
16 reasonable doubt, that the defendant presented or loaded,
17 or pointed at another person a loaded or unloaded firearm.
18 Again, I would remind you that with regard to all of these
19 charges, that is the pointing and presenting, the
20 possession of a weapon during the commission of a violent
21 crime, and the armed robbery --- the instructions I gave
22 you on accomplice liability are applicable. That is, I
23 won't read the accomplice liability or the aiding and
24 abetting again, but they would apply to those charges.

25 Now, in addition to that, the defendant Mr. Addison,

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1 is charged with the offense of driving under suspension.
2 The State must prove beyond a reasonable doubt, that the
3 defendant drove a motor vehicle on the public highways of
4 this state, during a time when his driver's licenses was
5 cancelled, suspended, or revoked. To be guilty of driving
6 under suspension, the defendant must have been notified by
7 the Department of Public Safety that his driver's licenses
8 had been cancelled, suspended, or revoked.

9 Mr. Addison is also charged with the offense known in
10 the law as failure to stop for a blue light. In order to
11 prove this crime, the State must prove beyond a reasonable
12 doubt, that the defendant was driving a motor vehicle.
13 That the defendant was driving the motor vehicle on the
14 road, or street, or highways of this state. That the
15 defendant was signaled to stop by law enforcement officer
16 by means of a flashing light or a siren, and that the
17 defendant did not stop. In determining whether or not
18 there are mitigating circumstances which would justify the
19 defendant's failure to stop for the blue light, you may
20 consider actual road conditions, actual road side
21 conditions, other conditions such as lighting and weather,
22 and any other circumstances you believe to reasonably
23 mitigate the alleged violation. An official signal
24 requiring a motorist to stop may be a siren, or flashing
25 light. But both are not required. An attempt to increase

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1 the speed of a vehicle, or in some other matter avoid the
2 pursuing law enforcement vehicle when signaled by a siren
3 or flashing light may be considered as evidence of failure
4 to stop for a blue light. However, it is merely an
5 evidentiary fact to be taken into consideration by you,
6 along with all the other evidence in this case, and to be
7 given such weight that you should decide it should have.

8 Now let me make sure that I have covered everything
9 that I wanted to cover with you. I have about finished
10 my instructions to you, but I will tell you ladies and
11 gentlemen that you do not serve on the jury to reward your
12 friends, or to punish your enemies. Obviously, such a
13 perverted system of justice would be intolerable. You
14 have been selected by both The State of South Carolina and
15 these two defendants as fair and impartial jurors. It is
16 your duty then by the oath which you took, to weigh the
17 evidence, and to decide which facts convince you of the
18 truth in this matter, because your objective is to reach
19 the truth, whether it comes from a witness or witnesses
20 for The State of South Carolina, or whether it comes from
21 a witness or witnesses for the defendant.

22 The word verdict has a Latin derivative. It comes
23 from the Latin phrase veridicto, meaning to speak the
24 truth. And when you have done that, you will have
25 performed your duties under the oath that you took at the

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1 beginning of this case, and you will have discharged your
2 duties to this court.

3 Now, I want to instruct you on the forms of verdict
4 in this case. And I will tell you that I have prepared,
5 Madame Forelady, some verdict forms for your use when you
6 go to the jury room. And I want to say this to start
7 with. That the order in which I have put the possible
8 verdicts on these verdict forms has no significance
9 whatsoever. You should not infer from what I have --- the
10 order in which I have put them on these pieces of paper
11 that I have any opinion as to what your verdict should be.
12 I do not. The law does not allow me to have an opinion.
13 That is a matter solely up to you. But I had to put
14 something first, and I had to put something second. But,
15 you should not infer that I have any opinion as to what
16 your verdict should be in any of these cases.

17 But I have prepared on these separate pieces of paper
18 a verdict form for each one of the Indictments in this
19 case, and you should consider each one separately.

20 First, let's look at the possible verdict forms with
21 regard to the Defendant Mardrall Addison. Across the top
22 up here it is The State of South Carolina, County of
23 Darlington, the case number and the verdict form.

24 We the jury, by unanimous consent, and I will tell
25 you that your verdict must be unanimous. It must be

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1 agreed to by all twelve of you whatever you authorize your
2 Forelady to write.

3 We the jury, by unanimous decision, on the charge of
4 driving under suspension, license not suspended for DUI,
5 find the Defendant Mardrall Addison either guilty or not
6 guilty. You would put an "X" or a check in either one of
7 those. Sign here. And date it. And that will take care
8 of that matter.

9 The second one is Indictment Number 2011-866, and
10 that is: We the jury, by unanimous, decision on the
11 charge of failure to stop for a blue light, find the
12 Defendant Mardrall Addison, guilty or not guilty, again
13 check or make an "X" in the appropriate box. Whatever is,
14 the unanimous verdict of the jury, and sign your name, and
15 date it, and we will return you to the courtroom.

16 The third is the charge of robbery, and there are
17 three possible verdicts in that case. And that is: We,
18 and again the name of the case, the county and the Court.
19 We the jury, by unanimous consent, find the Defendant
20 Mardrall Addison, guilty of armed robbery, or guilty of
21 strong armed robbery, or guilty --- or not guilty. So you
22 would make one choice there. It would be either guilty of
23 armed robbery, or guilty of strong armed robbery, or not
24 guilty. Depending on your version of the facts. And you
25 would sign your name again on that one.

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1 If you find the defendant guilty of armed robbery,
2 and only if you found him guilty of armed robbery, would
3 you make a decision with regard to possession of a weapon
4 during the commission of a violent crime. And if you do
5 find him guilty of armed robbery, you would find him
6 either guilty or not guilty of possession of a weapon
7 during the commission of a violent crime. If you find him
8 not guilty of armed robbery, or either or both of them ---
9 this is Mr. Addison, we will talk about Mr. Craig in just
10 a minute. If you find him not guilty of armed robbery,
11 you would skip this and not even make a decision with
12 regard to the possession of a weapon during the commission
13 of a violent crime.

14 Then on the next charge which is, Indictment Number
15 870, is the charge of pointing and presenting a firearm.
16 Again, guilty or not guilty, "X" or check, sign your name,
17 and date it, and we will return you to the courtroom.

18 And finally, the last one is for petit larceny, or
19 simple larceny, guilty or not guilty, sign your name, and
20 we will return you to the courtroom. So those are the
21 charges that you would consider against Mr. Mardrall
22 Addison. There are six charges against him.

23 There are similar charges against Mr. Craig. The
24 ones that are against Mr. Craig do not include the traffic
25 offenses, that is the driving under suspension and failure

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1 to stop for a blue light. Those charges are not against
2 him. But otherwise, the same charges are pending against
3 Mr. Craig. And again, on the armed robbery, we find the
4 Defendant Mr. Emilio Burton Craig, either guilty of armed
5 robbery, or guilty of strong armed robbery, or not guilty.
6 Select one. Sign your name, and date it. And again going
7 into the next case for him is one about possession of a
8 weapon during a violent crime. You would not even
9 consider this unless you found him guilty of armed
10 robbery. It would have to be armed robbery. Not the
11 strong armed robbery. Even if you found him guilty of the
12 strong armed robbery, you would not make any decision with
13 regard to possession of a weapon during the commission of
14 a violent crime. Only the violent crime that is involved
15 here is armed robbery.

16 And then the other verdict forms for him are the
17 defendant pointing and presenting a firearm, guilty or not
18 guilty. And, the petit larceny, guilty or not guilty.

19 Again, I would emphases to you that your verdict must
20 be unanimous. It must be the verdict of each and every
21 one of you. Whatever you authorize your Foreperson to
22 write for you.

23 I would also tell you that I am going to send you to
24 your jury room in just a minute. I am going to ask that
25 you not begin your deliberations just yet. The law does

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1 require that I take up certain matters of law with the
2 attorneys involved. If it is not necessary for me to
3 bring you back into the courtroom for additional
4 instructions, the bailiffs will bring you these verdict
5 forms, they will bring you the evidence that has been
6 introduced into evidence, and tell you to begin your
7 deliberations. When you have reached a verdict in this
8 case, simply knock on the door, and we will return you to
9 the courtroom just as quickly as we can. With that then,
10 I am going to excuse you, and allow you to go to your jury
11 room with the exception of the alternates. I am going to
12 ask that they stay with me. But the rest of you please go
13 to your jury room, but please do not begin your
14 deliberations just yet.

15 (Whereupon, the jury exits the courtroom at
16 2:45 p.m..)

17 **THE COURT:** Additions or exceptions, Mr. Holt?

18 **MR. HOLT:** None, Judge. It's fine.

19 **THE COURT:** All right. Mr. Grove?

20 **MR. GROVE:** Perhaps, Judge, and only because I may
21 have missed something during your charge on strong armed
22 robbery. In reviewing Ralph King Anderson's South
23 Carolina Instruction to Jury, strong armed robbery is
24 identical as you said during your charge to armed robbery
25 with the exception of lack of a weapon. I didn't hear it,

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1 and it may have been because I was making notes. The
2 inclusion of the threat or actual violence in a strong
3 armed robbery to distinguish it from a larcen -

4 THE COURT: -- Your exception is noted. I am not
5 sure if I said it in that many words. I used the language
6 directly out of the Bench Book that is furnished to us.

7 MR. GROVE: Yes, sir.

8 THE COURT: So I will note that, but I am not going
9 to call them back in. I think it would really just cause
10 more attention to it than anything else. So your
11 exception is noted.

12 All right. And, Ms. Crayton?

13 MS. CRAYTON: I would just like to join in Mr.
14 Grove's exception, Your Honor. That's all, for the
15 record.

16 THE COURT: Plus you take an exception to the
17 accomplice liability, I believe you have already said
18 that.

19 MS. CRAYTON: Very much so, sir.

20 THE COURT: All right. That is noted as well.

21 MS. CRAYTON: Thank you, Your Honor.

22 THE COURT: Counsel, check the exhibits, and make
23 sure --- I think there are five exhibits. Make sure we
24 have got them. And let me talk just a minute to the two
25 alternates.

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1 The law does not allow me to have but twelve jurors.
2 The purpose of drawing alternates is in the even that
3 somebody becomes ill and is unable to complete their
4 service. But, once the case goes to the jury, and
5 fortunately everybody in this case has stayed healthy.
6 And even though you have heard all of the testimony in
7 this case, you are not going to participate in the
8 decision. I am going to be able to excuse you from any
9 further participation in this matter.

10 Has the panel been excused, Mr. Clerk?

11 **CLERK OF COURT:** Yes, sir.

12 **THE COURT:** Even though you have heard all the
13 testimony, as I say, you will not participate in the
14 decision in this matter. And I will tell you that once
15 you have been discharged, there is nothing illegal about
16 you talking with anybody about your service on the jury.
17 There is nothing illegal about anybody talking to you
18 about it. It is a practice of which I strongly
19 disapprove, and I strongly discourage, but it is not
20 illegal. You have the right to talk with anybody, but you
21 also have the right not to talk with anybody. And if
22 anybody wants to talk with you about your service on this
23 case, and you don't want to talk about it, and they
24 continue to bother or harass you, you let the Court
25 personnel know, and we will deal with them. But I would

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1 ask that you not talk with anybody about this case until
2 after this jury returns a verdict, which will be sometime
3 this evening. So, I would say anytime after tomorrow, it
4 is your call as to whether you want to talk with anybody
5 about it.

6 I am going to excuse you at this time. Mr. Suggs do
7 you already have their paychecks.

8 **CLERK OF COURT:** Yes, Your Honor.

9 **THE COURT:** You see Mr. Suggs on your way out, and
10 he will pay you for your service this week. It will in no
11 way compensate you for the time that you have been up here
12 this week. But it is a small token of appreciation on
13 behalf of the county for your services this week. And,
14 you are free to go. Thank you very much for your
15 services. And you don't need to come back. This will be
16 it for the week.

17 All right. Here are the verdict forms. And Mr.
18 Bailiff, and Mr. Clerk, do you want to take these to the
19 jury.

20 **MR. GROVE:** Your Honor, it still looks like you can
21 still see the numbers. And I know we talked about this,
22 and it is not an enormous deal. I'm not even sure if they
23 will know what they mean.

24 **THE COURT:** Let me see it.

25 **MR. GROVE:** I don't have an enormous problem with

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1 it, I just don't wanting them making assumptions about
2 what is contained there.

3 **THE COURT:** Well, I am telling you, you can see it
4 better than I can. I think it is all right.

5 **MR. GROVE:** Fine, judge.

6 **THE COURT:** I think it is redacted.

7 **MR. GROVE:** As long as the objection is noted.

8 **THE COURT:** All right. Also, you can tell the jury
9 to begin their deliberations.

10 All right. Counsel, we will be at ease on this
11 matter until we hear from the jury. And we are going to
12 take a short recess. And Mr. Holt if you will check with
13 the Solicitor's Office to see what we've got. Ms.
14 McKenzie, we will go forward with pleas or whatever we
15 need to do. We will take about ten minutes and we will be
16 ready to go.

17 (Whereupon, the jury begins deliberations
18 at 2:49 p.m.)

19 (Whereupon, the Court stands down awaiting
20 a verdict from 2:49 p.m. until 4:15 p.m..)

21 (Whereupon, the Court returns in session at
22 4:15 p.m. with a note.)

23 **THE COURT:** We have a note from the jury in
24 connection with the Addison and Craig cases. And if you
25 will bring the defendants into the courtroom.

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1 We are back on the record with regard to The State
2 versus Addison, and The State versus Craig. Both
3 defendants are present in the courtroom with their
4 counsel. The State is present and is represented by Mr.
5 Holt.

6 We have a note from the jury, which has been marked
7 as Court's Exhibit Number 1, and will be made a part of
8 the record. Could the Judge please clarify the law on
9 when one is guilty, the other is also. One hand effects
10 the other? By association. And it is signed by Ms.
11 Camus, the Forelady of the jury.

12 So, I plan to recharge on aiding and abetting, and
13 accomplice liability, subject to the objections previously
14 made by Ms. Crayton.

15 WHEREUPON, COURT'S EXHIBIT

16 NUMBER 1 IS MARKED AND

17 ADMITTED INTO EVIDENCE

18 WITHOUT OBJECTION.

19 MS. CRAYTON: Your Honor, may I be heard briefly,
20 just very briefly?

21 THE COURT: Yes.

22 MS. CRAYTON: Of course as you said, I will re-
23 object to the reading of that charge. But the other thing
24 that I would like to ask is, if you are planning to re-
25 read the accomplice liability, we would ask that the

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1 entire charge, and everything in its entirety be read.

2 **THE COURT:** Well, they haven't requested that. And
3 apparently they don't have any problem with the law. So
4 what they are asking for is the requesting charge on
5 aiding and abetting, and accomplice liability. So I am
6 going to give them what they are asking for.

7 **MS. CRAYTON:** Thank you, Your Honor.

8 **THE COURT:** Your position is noted. All right.
9 Bring the jury in.

10 **BAILIFF:** All right, sir.

11 (Whereupon, the jury enters the courtroom
12 at 4:17 p.m..)

13 **WHEREUPON, COURT'S EXHIBIT**
14 **NUMBER 2 WAS MARKED FOR THE**
15 **RECORD.**

16 **THE COURT:** All right. Thank you, ladies and
17 gentlemen. And we appreciate your diligent work on this
18 matter. And I have received your inquiry, and I will
19 instruct you again, and try to give you some clarifying
20 instructions, and additional instructions with regard to
21 your question about aiding and abetting, and accomplice
22 liability.

23 I would tell you that a person who was present at the
24 scene of the crime, and intentionally or through a common
25 plan aided, abetted, or assisted in the commission of that

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1 crime, through some overt act, is guilty as an accomplice.
2 To be liable as an accomplice, the defendant must have
3 knowledge of the principal's criminal conduct. Mere
4 presence at the scene of the crime is not sufficient to
5 establish guilt as an accomplice. So if a crime is
6 committed by two or more persons, who are acting together
7 in committing the crime, the act of one is the act of all.
8 A person who joins with another to commit an unlawful act,
9 is criminally responsible for everything done by the other
10 person, which happens as a probable or natural consequence
11 of the acts done in carrying out the common plan and
12 purpose.

13 For example. Two persons can be guilty of killing
14 another when only one of the two had a gun. There was
15 only one bullet, and only one of the two fired the shot
16 that cause the death. If two or more people are together,
17 acting together, assisting each other in committing the
18 offense, the act of one is the act of all, or as is
19 sometimes said, the hand of one is the hand of all.

20 Prior knowledge that a crime is going to be committed
21 without more --- is not sufficient to make a person guilty
22 of that crime. Mere knowledge that another person is
23 going to commit a crime, even if the defendant is present
24 when the crime is committed, is not sufficient to convict
25 the defendant as a principle. Guilt of the principle is

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1 shown by actual or constructive presence at the scene of
2 the crime as a result of prior arrangement. Therefore, a
3 finding of a prior arranged plan, or common scene is
4 necessary for finding of guilt as a criminal. The State
5 must prove beyond a reasonable doubt by competent
6 evidence, that the theory of the hand of one is the hand
7 of all. A principal in a crime is one who either actually
8 commits the crime, or who is present, aiding, abetting, or
9 assisting in the committing of the crime. When a person
10 does an act in the presence of and with the assistance of
11 another, the act is done by both. Where two or more
12 persons acting with a common plan or intent, or present in
13 the commission of a crime, it does not matter who actually
14 commits the crime, all are guilty. Than hand of one is
15 the hand of all. Present at the commission of a crime
16 means to be sufficiently near to, to aid, and abet, and
17 assist in the commission of the crime. However, mere
18 presence at the scene of a crime is not sufficient to
19 convict one as a principal on the theory of aiding and
20 abetting.

21 Intent is also a necessary element. For there must
22 have been a common design or an intent to commit the
23 crime, and the crime must have been committed thereto with
24 the person aiding and abetting by some overt act. Intent
25 means intending the result which actually occurs. Not

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1 accidentally or involuntarily. Intent may be shown by
2 acts and conduct of the defendant, and other circumstances
3 which you may naturally and reasonably infer intent. The
4 State must prove all of these elements beyond a reasonable
5 doubt. I believe that is about the best definition that I
6 can give you of that, and I hope that that will help you.

7 I will ask you to go back to your jury room and
8 resume your deliberations. Thank you.

9 (Whereupon, the jury exits the courtroom to
10 resume deliberations at 4:24 p.m..)

11 THE COURT: Any exceptions or objections, Mr. Holt?

12 MR. HOLT: None, Your Honor.

13 THE COURT: Mr. Grove?

14 MR. GROVE: None, Your Honor.

15 THE COURT: Any other than already noted, Ms.
16 Crayton?

17 MS. CRAYTON: Just the ones already noted, Your
18 Honor.

19 THE COURT: All right. The record is protected
20 with Ms. Crayton's objections.

21 All right. We will stand at ease until we hear from
22 the jury. Thank you.

23 (Whereupon, the Court stands down awaiting
24 the decision of the jury at 4:25 p.m..)

25 THE COURT: All right. We have a verdict. If we

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1 will bring the defendants in on the other case.

2 (PAUSE.)

3 THE COURT: All right. We are back on the record
4 with regard to the matters of The State versus Mardrall
5 Addison and Emilio Craig. The defendants are present in
6 the courtroom with their counsel. The State is present
7 and represented by Mr. Holt. I have been advised that the
8 jury has reached a verdict. Before I bring the jury in, I
9 want to caution everyone in the courtroom that the order
10 and decorum in the courtroom must be maintained. I do not
11 know, of course, what the verdict is. No one here knows
12 what the verdict is going to be. But, I am going to
13 require that regardless of what the verdict is, that the
14 order and decorum in the courtroom be maintained. That
15 there be no expressions of emotion in anyway. No
16 clapping. No shouting. No emotion shown whatsoever. If
17 there is anyone in the courtroom who thinks they cannot
18 sit quietly when the jury verdict is published, I would
19 ask that you leave now, because if there is a disturbance
20 in the courtroom, the Court will deal with it accordingly.
21 If anyone feels like they can not sit quietly during the
22 publication of the verdict, please leave now.

23 (PAUSE.)

24 THE COURT: All right. Bring the jury in, please.

25 (Whereupon, the jury enters the courtroom)

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1 at 4:50 p.m..)

2 THE COURT: All right. Madame Forelady, have you
3 reached a verdict?

4 MADAME FORELADY: Yes, sir. We have.

5 THE COURT: Is it unanimous?

6 MADAME FORELADY: Yes, sir.

7 THE COURT: Would you hand it up to the clerk
8 please?

9 (PAUSE.)

10 THE COURT: All right. From the standpoint of
11 form, the verdicts appear to be correct. Mr. Clerk, you
12 may publish the verdict. Mr. Grove and Ms. Crayton would
13 you and your client rise, please.

14 CLERK OF COURT: Your Honor, this is Case Number
15 2011-GS-16-876, The State of South Carolina versus Emilio
16 Burton Craig. We the jury by unanimous decision, find the
17 Defendant Emilio Burton Craig, guilty of strong armed
18 common law robbery. Signed Foreperson Diane Camus, August
19 31, 2011. If this is your verdict, would you so signify
20 by raising your right hand, please?

21 THE COURT: All right.

22 CLERK OF COURT: Your Honor, this is Case Number
23 2011-GS-16-880, The State of South Carolina versus Emilio
24 Burton Craig. We the jury by unanimous decision, on the
25 charge of petit or simply larceny two thousand or less,

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1 find the Defendant Emilio Burton Craig, guilty. Signed
2 Foreperson Diane Camus, August 31, 2011. If this is your
3 verdict, would you so signify by raising your right hand,
4 please? All the jurors have.

5 Your Honor, this is Case Number 2011-GS-16-879, The
6 State of South Carolina versus Emilio Burton Craig. We
7 the jury by unanimous decision, on the charge of pointing
8 and presenting firearms at a person, find the Defendant
9 Emilio Burton Craig, not guilty. Signed Foreperson, Diane
10 Camus, August 31, 2011. If this is your verdict, would
11 you so signify by raising your hand, please? All twelve
12 have.

13 Case Number 2011-GS-16-877, The State of South
14 Carolina versus Emilio Burton Craig. We the jury by
15 unanimous decision, on the charge of possession of a
16 weapon during the commission of a violent crime, find the
17 Defendant Emilio Burton Craig, not guilty. Signed
18 Foreperson Diane Camus, August 31, 2011. If this is your
19 verdict, would you so signify by raising your right hand,
20 please? All twelve have.

21 Your Honor, this is Case Number 2011-GS-16-866, The
22 State of South Carolina versus Mardrall Addison. We the
23 jury by unanimous decision, on the charge of failure to
24 stop for a blue light, no injury or death, find the
25 Defendant Mardrall Addison, guilty. Signed Foreperson,

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1 Diane Camus, August 31, 2011. If this is your verdict,
2 would you so signify by raising your right hand, please?
3 And all twelve have.

4 Your Honor, this is Case Number 2011-GS-16-865, The
5 State of South Carolina versus Mardrall Addison. We the
6 jury by unanimous decision, on the charge of driving under
7 suspension, license not suspended for DUI, find the
8 Defendant Mardrall Addison, guilty. Signed Foreperson
9 Diane Camus, August 31, 2011. If this is your verdict,
10 would you so signify by raising your right hand, please?
11 All twelve have.

12 Your Honor, Case Number 2011-GS-16-868, The State of
13 South Carolina versus Mardrall Addison. We the jury, by
14 unanimous decision, on the charge of possession of a
15 weapon during the commission of a violent crime, find the
16 Defendant Mardrall Addison, not guilty. Signed Foreperson
17 Diane Camus, August 31, 2011. If this is your verdict,
18 would you so signify by raising your right hand, please?
19 All twelve have.

20 Case Number 2011-GS-16-867, The State of South
21 Carolina versus Mardrall Addison. We the jury by
22 unanimous decision, find the Defendant Mardrall Addison,
23 not guilty of strong armed robbery, or armed robbery.
24 Signed foreperson Diane Camus, August 31, 2011. If this
25 is your verdict, would you so signify by raising your

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1 right hand, please? All twelve have.

2 Your Honor, on Case Number 2011-GS-16-871, The State
3 of South Carolina versus Mardrall Addison. We the jury by
4 unanimous decision, on the charge of petit or simple
5 larceny, two thousand or less, find the Defendant Mardrall
6 Addison, not guilty. Signed Foreperson, Diane Camus,
7 August 31, 2011. If this is your verdict, would you so
8 signify by raising your right hand, please? All twelve
9 have.

10 Your Honor, Case Number 2011-GS-16-870, The State of
11 South Carolina versus Mardrall Addison. We the jury by
12 unanimous decision, on the charge of pointing and
13 presenting a firearm at a person, find the Defendant
14 Mardrall Addison, not guilty. Signed Foreperson Diane
15 Camus, August 31, 2011. If this is your verdict, would
16 you so signify by raising your right hand, please? All
17 twelve have.

18 **THE COURT:** Thank you. You may be seated.
19 Anything before the jury is excused, Mr. Grove?

20 **MR. GROVE:** Yes, Your Honor. In relation to the
21 Indictment for armed robbery and the subsequent lesser
22 included offense of strong armed robbery we request a poll
23 of the jury.

24 **THE COURT:** All right. That would be then just
25 with regard to Indictment Number 2011-GS-16-876. All.

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1 right. Ms. Crayton, anything in regard to Mr. Addison
2 before the jury is excused?

3 MS. CRAYTON: No, Your Honor. Thank you.

4 THE COURT: All right. This is the one we want to
5 poll the jury on.

6 CLERK OF COURT: Madame Forelady, and the members
7 of the jury, when I call your name if you would please
8 stand. I am going to ask you two questions. It will be
9 one, is this your verdict in the jury room, and is this
10 your verdict now.

11 THE COURT: And this is just with regard to the
12 charge of strong armed robbery against Mr. Craig. It is
13 the only one the question applies to.

14 CLERK OF COURT: Madame Foreperson Diane Camus.
15 Was it your verdict then?

16 FOREPERSON CAMUS: Yes.

17 CLERK OF COURT: Is it your verdict now?

18 FOREPERSON CAMUS: Yes.

19 CLERK OF COURT: Daniel Boone, was it your verdict
20 then?

21 MR. BOONE: Yes, sir.

22 CLERK OF COURT: And is it your verdict now?

23 MR. BOONE: Yes, sir.

24 CLERK OF COURT: Thank you. Diane Camus, was it
25 your verdict then?

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1 MS. CAMUS: Yes, sir.

2 CLERK OF COURT: And is it your verdict now?

3 MS. CAMUS: Yes, sir.

4 CLERK OF COURT: Antonio Hall, was it your verdict
5 then?

6 MR. HALL: Yes, sir.

7 CLERK OF COURT: And is your verdict now?

8 MR. HALL: Yes, sir.

9 CLERK OF COURT: Marice Cuasac, was it your verdict
10 then?

11 MS. CUASAC: Yes.

12 CLERK OF COURT: And is it your verdict now?

13 MS. CUASAC: Yes.

14 CLERK OF COURT: Thank you. John Anderson, was it
15 your verdict then?

16 MR. ANDERSON: Yes, sir.

17 CLERK OF COURT: And is it your verdict now?

18 MR. ANDERSON: Yes, sir.

19 CLERK OF COURT: Edna Terry, was it your verdict
20 then?

21 MS. TERRY: Yes, sir.

22 CLERK OF COURT: Is it your verdict now?

23 MS. TERRY: Yes, sir.

24 CLERK OF COURT: Cory Jordan, was it your verdict
25 then?

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1 MR. JORDAN: Yes.

2 CLERK OF COURT: And is your verdict now?

3 MR. JORDAN: Yes.

4 CLERK OF COURT: Edell Gamble, was it your verdict
5 then?

6 MS. GAMBLE: Yes, sir.

7 CLERK OF COURT: And is it your verdict now?

8 MS. GAMBLE: Yes.

9 CLERK OF COURT: Lori Deas, was it your verdict
10 then?

11 MS. DEAS: Yes, sir.

12 CLERK OF COURT: Is it your verdict now?

13 MS. DEAS: Yes, sir.

14 CLERK OF COURT: Crystal Belin, was it your verdict
15 then?

16 MS. BELIN: Yes, sir.

17 CLERK OF COURT: Is it your verdict now?

18 MS. BELIN: Yes, sir.

19 CLERK OF COURT: Jonafaye Belin, was it your
20 verdict then?

21 MR. BELIN: Yes, sir.

22 CLERK OF COURT: Is it your verdict now?

23 MR. BELIN: Yes, sir.

24 CLERK OF COURT: My records show all twelve jurors.
25 Is there any juror whose name was not polled just now.

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1 Okay. Thank you.

2 THE COURT: All right. Mr. Grove, is there
3 anything before the jury is discharged?

4 MR. GROVE: No, Your Honor. Thank you.

5 THE COURT: Ms. Crayton?

6 MS. CRAYTON: No, Your Honor, Thank you.

7 THE COURT: All right. Ladies and gentlemen, this
8 will conclude your services in connection with this
9 matter, and I am going to discharge you from any further
10 service in connection with this matter. I will tell you
11 that in my view the jury's role in the fact finding
12 process is so important that the trial judge should not
13 make any comment on the verdict of a jury, even after a
14 jury has returned a verdict. And I make it a practice and
15 a policy never to comment on the verdict of the jury. I
16 will say that there is evidence in the record by which you
17 could have reached the decision that you did.

18 I will also tell you that once you have been
19 discharged by me, there is nothing illegal about your
20 talking with anyone about your service on this case.
21 There is nothing illegal about anybody talking to you
22 about your service on this case. It is a practice of
23 which I strongly disapprove, and I strongly discourage,
24 but it is not illegal. You have a right to talk with
25 anyone, but you also have the right not to talk with

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1 anyone. And if anyone should approach you and want to
2 talk to you about your service on this case, and you do
3 not wish to discuss with them, and they continue to harass
4 you or bother you about it, you let the Court personnel
5 know, and I will deal with them. But it is your call as
6 whether you do or do not wish to talk with anybody about
7 this matter.

8 So, I do appreciate your service on this case. I
9 never thank a jury for their verdict. I think of that as
10 the jury's role. But what I do is thank you for your
11 service. You have been very diligent in your duties, and
12 I appreciate your attention that you have shown to your
13 duties. And I am going to discharge you in just a moment
14 from any further service on this case.

15 Further from that, I am going to discharge you from
16 any further service this week. You will not have to come
17 back tomorrow or Friday. This will terminate your service
18 on the jury for this term of court. And I will tell you
19 that by having served on the jury this week, you have met
20 your citizenship responsibilities for jury service in the
21 Circuit Court, that is up here in this courtroom, either
22 the Court of Common Pleas, or the Court of General Session
23 for the next three years. If you were to get a summons
24 from the clerk in the next year, we couldn't take you even
25 if you wanted to serve. You are actually disqualified.

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1 And the second and third years you have an exemption. You
2 could serve if you wanted to, but you could not be
3 required to serve, and if you got a summons from the
4 clerk, and did not wish to serve, you could be excused. I
5 cannot help you with Magistrate's Court or Federal Court,
6 if you got a summons from either of those courts, you
7 would just have to take that up with the judge that is
8 involved in those courts. But as far as the Circuit Court
9 is concerned, you have meet your citizenship
10 responsibilities for service in the Circuit Court for the
11 next three years.

12 Also, the Clerk will meet you outside when I excuse
13 you, out here in the back, and will give you a small check
14 for the services this week. It will in no way compensate
15 you for the time and diligence which you have shown to
16 these duties, but it is a small token of appreciation on
17 behalf of the county for your service this week. He will
18 also have a certificate to show that you were serving on
19 the jury this week, so if you need to take that to your
20 employer, you will have that and will show that you were
21 serving on the jury this week.

22 I hope that you have enjoyed your service this week,
23 and have a better appreciation of our criminal justice
24 system as a result of having served on the jury this week.
25 I told jurist this all the time, that I think it is a

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1 great deal different than it is on television. It never
2 ceases to amaze me that on television they can have crimes
3 committed, an investigation, an arrest, trial, and verdict
4 all in sixty minutes less commercials. It doesn't work
5 that way in real life. But we do appreciate your service
6 this week. And you are free to go. If you will meet the
7 clerk in the hall, he will give you these documents.
8 Thank you very much for your service.

9 (Whereupon, the jury is dismissed from the
10 trial of this case at 4:47 p.m..)

11 **THE COURT:** All right. I am aware of course of the
12 criminal records of both of these individuals. I believe
13 my recollection is that Mr. Addison had a criminal record
14 all of which was one year or less on three offenses, which
15 I kept out of the presence of the jury. But, I am aware
16 of what his record was.

17 I am also aware of Mr. Craig's record, which was put
18 before the jury. Is there anything that you would like to
19 add on behalf of the State at this time, Mr. Holt?

STATEMENT ON BEHALF OF THE STATE

21 **MR. HOLT:** Quite a bit, Judge. Law enforcement is
22 very concerned with both of these two individuals. They
23 are the last of the two of Alphabet Hill crew that we
24 wanted to bring to trial here. I think that Emilio's
25 record for violence and disregard for the law speaks for

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1 itself. My victim is not here today because he is still
2 very afraid. It was all that we could do to get him to
3 come for that one day. I think Emilio put that gun in
4 him, and said you are already in a wheelchair, and you
5 don't want to get more messed up.

6 Judge, the State would ask for the max. He has
7 already had prison time.

8 **THE COURT:** There wasn't any testimony about that.
9 But, I'll --- You could have asked him that on trial, but
10 he didn't say that. But, go ahead.

11 **MR. HOLT:** I think he did say that Judge. I think
12 he pretty much did say that.

13 **THE COURT:** Did he? I didn't remember.

14 **MR. HOLT:** He said you are already in a wheelchair,
15 don't make me mess you up.

16 **THE COURT:** Oh, okay. All right.

17 **MR. HOLT:** Is what Mr. Mazyck testified too. I
18 think --

19 **THE COURT:** All right. Go ahead.

20 **MR. HOLT:** I think the State would very much want
21 the max, and I think we would ask for the max against
22 Madrall also. Really what they have is a little cottage
23 industry in Hartsville where they rob drug dealers, and
24 people who they feel who are on the fringes of society. I
25 think they have so much admitted to other officers. I

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1 feel like their records speak for themselves. The State
2 respectfully would ask for the max on all charges.

3 THE COURT: Okay. All right. I would imagine that
4 Mr. Grove is going to have more to say than you are Ms.
5 Crayton, so I will call on you first.

6 STATEMENT ON BEHALF OF MARDRALL ADDISON BY MS. CRAYTON

7 MS. CRAYTON: Of me first, okay. Yes, Your Honor.
8 That will be fine. I will make this pretty short. I
9 think you have heard about Mr. Addison. He is twenty-six-
10 years old. He was born and raised in Hartsville, South
11 Carolina. He received his GED in 2006. He said on the
12 stand that he works part time for a friend's uncle doing
13 minor mechanic work.

14 He has several family members today. His
15 grandmother, his cousin, his girlfriend, and friends all
16 here to support him. I think you heard his very minor
17 record in the process of the trial. And you also heard
18 about his four-year-old daughter. I think he had lack of
19 evidence in this case. He had a lack of involvement. All
20 the jury found him guilty was for the traffic offenses.

21 He has been in jail for two hundred and seventeen
22 days awaiting a trial, and thankfully we had filed a
23 speedy trial motion to get this heard as soon as possible.
24 And, we of course would be asking for a time served
25 sentence given how many days he has spent in jail, Your

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1 Honor.

2 THE COURT: Okay. All right. I will be glad to
3 hear from Mr. Addison, if there is anything he would like
4 to say. But keep in mind that anything he has to say is
5 on the record, and I'm not going to hold it against him if
6 he doesn't wish to say anything.

7 MS. CRAYTON: No, Your Honor.

8 THE COURT: All right. Mr. Groves.

9 STATEMENT ON BEHALF OF EMILIO CRAIG BY MR. GROVE

10 MR. GROVE: Thank you, Judge. Respectfully, I
11 would disagree with John Holt's position. I don't dispute
12 the testimony that he says was offered by Mr. Mazyck.
13 However, that testimony in and of itself disputes Mr.
14 Mazyck's other testimony that he said something about my
15 client saying he was in a wheelchair, but also said that
16 they didn't know each other. You know, I think that the
17 jury resounded their mistrust in Mr. Mazyck's testimony as
18 I still do. I don't think that there was a weapon
19 involved. I don't think that there is any evidence
20 outside of Mr. Mazyck suggesting that there is one to
21 substantiate that. Mr. Holt suggests that my client has a
22 violent record. He served thirty-nine days for an assault
23 and battery of a high and aggravated nature. Clearly, I
24 don't think that the violence rose to the level of
25 anything serious, if he was given less than half of the

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1 maximum county time for that charge. And that again was
2 six-years ago, I believe, Judge.

3 I hear that Mr. Holt is asking for the maximum, we
4 would ask for much less than that. Ms. Crayton says that
5 her client has been incarcerated for two hundred and
6 seventeen days. By my math my client was arrested two
7 weeks prior to that, and I believe that makes two hundred
8 and thirty one days for my client.

9 **THE COURT:** I was given the print out from the
10 Detention Center by the Detention Center Director a little
11 while ago, but I left it on my desk.

12 **MR. GROVE:** At any rate Judge, it dates back to
13 January 13th of this year, the date of the incident he was
14 in fact arrested, and hasn't been released since.

15 He is thirty-nine-years-old. He got a GED in 1992.
16 He has done carpentry work recently in the past. He moved
17 from Pennsylvania, I think you heard during the trial that
18 his nickname is P.A. That is where that comes from. In
19 2003 he moved here to Hartsville, in Darlington County, to
20 be closer to his mother who is now seventy-three years
21 old. He has a seven-year-old daughter that lives with her
22 mother in Hartsville. And he tries to see her as often as
23 possible. He has had custody of his son who is now
24 nineteen, since he was nine years old. His son lives
25 outside of the home now in Columbia, I believe, and is

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1 going to school there.

2 Your Honor, quite frankly, I do think that the jury
3 got it wrong. I know that that is not relevant to his
4 sentencing. But, I do think that is worthy of
5 consideration. Very few convictions. We would ask for --
6 - there is no minimum on this Judge, and he has served in
7 the realm of seven or eight months. I would ask that you
8 consider some type of a split sentence. Short time of
9 incarcerations, and maybe some probation. Mr. Holt seems
10 to think that my client is a very bad guy. Maybe hanging
11 a significant amount of time over his head and releasing
12 him to the community would give him an opportunity to
13 prove Mr. Holt wrong. I think that the jury disputed Mr.
14 Holt's stance in this case. And I think my client
15 deserves the opportunity to do that as well.

16 **THE COURT:** All right. Thank you, sir. Again is
17 there anything Mr. Craig wants to tell me, keeping in mind
18 that whatever he tells me is on the record. He may not
19 want to, and I won't hold it against him, if there is not
20 anything he wishes to say?

21 (Whereupon, Mr. Craig and his attorney Mr.
22 Grove, have a private conversation off the record.)

23 **(PAUSE.)**

24 **MR. GROVE:** He does wish to address your briefly,
25 Your Honor.

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1 THE COURT: All right. Let me just make one note
2 here.

3 (PAUSE.)

4 THE COURT: All right. I'll come back to that.
5 All right. Yes, sir, Mr. Craig.

6 STATEMENT BY MR. EMILIO CRAIG

7 MR. CRAIG: Yes, sir. I just want to say that it
8 was a great misconception because I am really not a
9 violent guy. I don't have any really violent history at
10 all. So, I just want to let you know that I would never
11 try to harm another person, that I just want to get back
12 to my family, you know, and be the man I know I can be out
13 there.

14 THE COURT: All right. Thank you, sir.

15 MR. CRAIG: You are welcome.

16 THE COURT: All right. Having looked at the
17 Detention Center records, it does show Ms. Crayton, that
18 you are correct. Your client's time in jail is two
19 hundred and seventeen days. And, Mr. Grove, your client's
20 time incarcerated is two hundred and thirty-one days.

21 (PAUSE.)

22 SENTENCING BY THE COURT

23 THE COURT: All right. With regard to Mr. Addison
24 on the charge of driving under suspension, the sentence of
25 the Court is the defendant is committed to the County

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499

1 Detention Center for a term of ninety days, given credit
2 for time already served, two hundred and seventeen days.
3 And it is concurrent with the charge for failure to stop
4 for the blue light. The sentence for failure to stop for
5 a blue light is two years, and given credit for two
6 hundred and seventeen days. It is not an egregious
7 failure to stop. It wasn't a long chase involved, or a
8 high speed. I don't think the maximum is appropriate, but
9 I do think a two-year sentence with credit for time served
10 with two hundred and seventeen days, that will send him to
11 R&E for a short period of time, and then he will be out
12 after he serves whatever time is appropriately calculated
13 by R&E.

14 With regard to Mr. Craig on the larceny, the sentence
15 is thirty days, given credit for the two hundred and
16 thirty-one days that he has served to run concurrent with
17 the robbery.

18 However, I do think that the robbery merits some
19 prison time in connection with --- and especially with Mr.
20 Craig's record, he does have --- regardless of what the
21 punishment was, he does have an assault and battery on his
22 record. He does have a failure to stop for a blue light
23 on his record. And he does have a distribution of crack
24 on his record. At least one other felony conviction, and
25 that would be the distribution of crack.

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500.

1 The sentence of the Court is that the Defendant is
2 committed to the State Department of Corrections for a
3 term of fifteen-years, provided upon the service of eight
4 years, the balance is suspended and placed on probation
5 for three years. Credit for two hundred and thirty-one
6 days served. Probation begins upon release from
7 incarceration.

8 Good luck to you, gentlemen.

9 **MS. CRAYTON:** Thank you, Judge.

10 **MR. HOLT:** Thank you very much, Judge.

11 **THE COURT:** All right. Counsel, we will be in
12 recess until Friday morning at 9:30.

13 (Whereupon, this case was concluded at 5:14
14 p.m. on Wednesday, August 31, 2011.)

15 -- END OF TRANSCRIPT --