

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Berkeley County

Honorable R. Markley Dennis, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

RIAS ODELL ISAAC,

APPELLANT.

APPELLATE CASE NO. 2019-000303

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE'S EXHIBIT NOS. 3 (SURVEILLANCE PHOTO) AND 4 (SURVEILLANCE PHOTO); AND COURT'S EXHIBIT NOS. 3-14 (PHOTOGRAPHS), 20 (911 CALL) AND 21 (SURVEILLANCE VIDEO).

1 STATE OF SOUTH CAROLINA) GENERAL SESSIONS COURT
2 COUNTY OF BERKELEY) CASE NO.
3 2015-GS-08-00956-00958

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STATE OF SOUTH
CAROLINA,

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Plaintiff,

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vs.

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RIAS ODELL ISAAC,

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Defendant.

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B E F O R E:

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The Honorable R. Markley Dennis

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VOIR DIRE/JURY SELECTION

1 (The following proceedings were had
2 February 11, 2019, 12:24 p.m., in re State v.
3 Isaac.)

4 THE COURT: The next case is framed by
5 these documents. Again, they're called
6 indictments, but as I stated, they're just pieces
7 of paper, and they contain the accusation against
8 Mr. Isaac, Mr. Rias Odell Isaac. He's seated to
9 the table at my left.

10 Good afternoon, Mr. Isaac.

11 THE DEFENDANT: Afternoon.

12 THE COURT: If you would stand and face
13 the jury panel please, sir.

14 THE DEFENDANT: (Stands)

15 THE COURT: Thank you, sir. You may be
16 seated.

17 Is there any member of the jury panel
18 related by blood or marriage; have any business
19 dealings, socially or casually acquainted with
20 Mr. Isaac, any connection at all? Please stand.

21 Thank you. There appear to be none.

22 Mr. Isaac is represented by
23 Mr. Smaldone.

24 Identify yourself, please.

25 MR. SMALDONE: Good afternoon. My name

BIGGERS HEARING

1 THE COURT: Then that's fine. He would
2 be available. I'm going to do the ones in the
3 Capers first and then that would give you a chance
4 to get them in. We probably won't start that
5 before 1:30 or quarter to 2:00 -- I would think
6 somewhere between 2:30 and 3:00, hopefully, if you
7 can.

8 MR. SMALDONE: Okay.

9 THE COURT: Appreciate it.

10 All right. We'll be at ease.

11 (A recess transpired.)

12 THE COURT: All right. We're now here
13 for the hearing on the identification. Let the
14 record reflect Mr. Isaac is present.

15 You may proceed, Solicitor.

16 MR. STEGALL: State calls Jaclyn
17 Graham.

18 JACLYN GRAHAM,
19 being first duly sworn, testified as follows:

20 THE CLERK: Please be seated. State
21 your full name for the record, and spell your last.

22 THE WITNESS: Jaclyn Graham,
23 G-R-A-H-A-M.

24 THE COURT REPORTER: Would you spell
25 your first name, please?

BIGGERS HEARING

1 THE WITNESS: J-A-C-L-Y-N.

2 DIRECT EXAMINATION

3 BY MR. STEGALL:

4 Q. Ms. Graham, where are you currently
5 employed?

6 A. With Speedway.

7 Q. And where were you employed in December
8 of 2014?

9 A. We were Speedway still branded as Hess.

10 Q. And where was that Hess located?

11 A. On College Park.

12 Q. Berkeley County?

13 A. Yes.

14 Q. Okay. Were you -- were you working the
15 morning of December 31, 2014?

16 A. Yes.

17 Q. What were you doing?

18 A. I'm the manager so I was opening the
19 store and filling the lottery box.

20 Q. Okay. And can you describe the store
21 for the Court?

22 A. It's about 1200 square feet and it's a
23 square, and we have gas pumps on both sides and the
24 store in the middle.

25 Q. Okay. And how was the lighting in the

BIGGERS HEARING

1 store?

2 A. We have the fluorescent lights like
3 you-all do here and -- all throughout the store,
4 outside, we have lights everywhere. It was bright.

5 Q. Bright you said?

6 A. Uh-huh.

7 Q. Do you recall an incident that happened
8 that morning?

9 A. Yes.

10 Q. Can you tell the Court what happened?

11 A. I came in and opened, and when I was
12 filling the lottery box a gentleman came behind me
13 and asked for some cigarettes.

14 When I went around the counter to get
15 the cigarettes, I noticed somebody on my side with
16 a gun and requesting all of my money out of my
17 drawer.

18 Q. Okay. Let me back up a little. You
19 were on the -- I guess, I'll just call it the
20 customer side, right?

21 A. Yes.

22 Q. When he walked in?

23 A. Yes.

24 Q. And what did he ask you when he walked
25 in?

BIGGERS HEARING

1 A. He asked me for two packs of Newports.

2 Q. Okay. And what did you do next?

3 A. I closed the lottery box, and I had to
4 go around the counter to grab the cigarettes. And
5 when I grabbed the cigarettes and went to turn
6 around, I noticed somebody right here.

7 (Indicating) And I turned and there he was with
8 the gun.

9 Q. On the same side of the counter?

10 A. On the employee side.

11 Q. With you?

12 A. With me.

13 Q. Okay. About how far away were you from
14 the defendant?

15 A. Within feet, a couple of feet.

16 Q. Okay. Were you able to get a good look
17 at his -- let me back up. Were you able to get a
18 good look when he walked in the store?

19 A. I got a good look at him once we were
20 behind the counter.

21 Q. Okay. Did you ever come face to face
22 with the defendant?

23 A. Yes.

24 Q. How far away was your face from the
25 defendant's face?

BIGGERS HEARING

1 A. Less than a foot.

2 Q. Was he wearing anything on top of his
3 head?

4 A. He was wearing a baseball cap.

5 Q. You could still see his face?

6 A. Uh-huh.

7 THE COURT: Is that a yes?

8 THE WITNESS: Yes. Yes.

9 BY MR. STEGALL:

10 Q. What did he do once he was behind the
11 counter?

12 A. He asked me to empty the money and give
13 it to him, and he was pointing the gun at me. And
14 I emptied both of the registers, and he asked me to
15 put quarters in his pocket. And he was taking
16 items as we were doing that. And then we proceeded
17 to leave.

18 Q. Did you put quarters in his pocket?

19 A. Yes.

20 Q. How close were you when you did that?

21 A. I was right reaching in his pocket to
22 shove quarters, so right there.

23 Q. So, again, pretty close?

24 A. Yes.

25 Q. All right. After he took the money,

BIGGERS HEARING

1 what happened?

2 A. He asked me to leave the building, and
3 he walked me out the side door.

4 Q. Okay. What did he have you do once you
5 were outside?

6 A. He walked me to the end of the
7 building. And then once we got to the very end of
8 the building, he told me to turn, walk the back
9 length of the building, don't look back, and then
10 re-enter the building.

11 Q. What did you do once you entered the
12 store?

13 A. I hit the panic button.

14 Q. Did you make any phone calls?

15 A. I called 911, I called my boss.

16 Q. Did law enforcement respond that
17 morning?

18 A. Yes.

19 Q. Okay. Did you speak to law enforcement
20 officers?

21 A. Yes.

22 Q. Did you provide a statement describing
23 the defendant to law enforcement officers?

24 A. Yes.

25 Q. Did you meet with law enforcement again

BIGGERS HEARING

1 a week later on January 6th for the purpose of a
2 lineup?

3 A. Yes.

4 Q. Do you remember how many you spoke to?

5 A. The day of the lineup was one.

6 Q. Where did you go to discuss the lineup?

7 A. We went in the back office.

8 Q. Okay. Do you remember the officer
9 going over an instruction page with you?

10 A. Yes.

11 MR. STEGALL: And, Your Honor, for the
12 -- briefly, I've got an original that's got the
13 lineup and instruction page on the same side. I've
14 made copies. I showed it to defense attorney, and
15 I don't believe there is an objection to using the
16 copies.

17 THE COURT: Any objection to using the
18 copies?

19 MR. SMALDONE: There's not.

20 THE COURT: Very well.

21 MR. STEGALL: May I approach, Your
22 Honor?

23 THE COURT: You may.

24 BY MR. STEGALL:

25 Q. I'm going to show you what's been

BIGGERS HEARING

1 marked as State's Exhibit 1 for the purpose of this
2 hearing. See if you recognize that.

3 A. Yes.

4 Q. Okay. And what is that document?

5 A. This was what I signed after the
6 lineup, after we went through everything and I
7 identified the male.

8 Q. Are there two parts to that sheet that
9 you were looking at?

10 A. This is the bottom part.

11 Q. Let me get you to redirect to the top
12 part. What is that top part?

13 A. That was the incident -- how the lineup
14 was going to go; basically, instructions.

15 Q. Okay. The instruction page?

16 A. Yes.

17 Q. Okay. Is your signature at the bottom
18 of the instruction portion of this piece of paper?

19 A. Yes.

20 Q. Okay. Does that signature mean that
21 you understand the instructions that were given for
22 the lineup?

23 A. Yes.

24 MR. STEGALL: Okay. Your Honor, at
25 this time, the State would move to enter State's

BIGGERS HEARING

1 Exhibit 1 into evidence for the purpose of this
2 hearing?

3 THE COURT: Very well. Any objection?

4 MR. SMALDONE: No objection.

5 THE COURT: Without objection, State's
6 Exhibit 1 is admitted for the purpose of these
7 proceedings.

8 MR. STEGALL: Okay.

9 (STATE'S EXH. 1, Lineup instructions,
10 in evidence.)

11 BY MR. STEGALL:

12 Q. After you signed the instruction sheet
13 showing that you understood the instructions, did
14 the officers present you with a photo lineup?

15 A. Yes.

16 Q. Were you able to identify the person
17 that robbed you after looking at the lineup?

18 A. Yes.

19 Q. How long did it take you to identify
20 the person?

21 A. Half a second.

22 Q. How certain were you that was the
23 person that robbed you?

24 A. I was 100 percent sure.

25 MR. STEGALL: May I approach, Your

BIGGERS HEARING

1 Honor?

2 THE COURT: You may.

3 BY MR. STEGALL:

4 Q. I'm going to show you what was marked
5 as State's Exhibit 2. Do you recognize that?

6 A. Yes.

7 Q. What is that?

8 A. This is the lineup that I was given.

9 Q. Is there a choice that's made on that
10 lineup?

11 A. Yes.

12 Q. How was that choice made?

13 A. I circled and signed it.

14 Q. So those are your initials -- or your
15 signature?

16 A. My initials here.

17 Q. Okay. Would that signature indicate
18 that was the person you knew robbed you on
19 December 31st?

20 A. Yes.

21 Q. Was the officer there with you?

22 A. Yes.

23 Q. Did the officer tell you who to select?

24 A. No.

25 MR. STEGALL: Your Honor, State moves

BIGGERS HEARING

1 to enter in the lineup as State's Exhibit 2 for
2 purposes of this hearing.

3 THE COURT: Any objection?

4 MR. SMALDONE: No objection.

5 THE COURT: Without objection, State's
6 Exhibit 2 admitted.

7 (STATE'S EXH. 2, Lineup, in evidence.)

8 BY MR. STEGALL:

9 Q. Prior to selecting the person in the
10 lineup, did the officer give you any information
11 about any of the people in the lineup?

12 A. No.

13 Q. Did he tell you anything about the
14 suspect?

15 A. No.

16 Q. You said it took a half second. How
17 confident were you in that selection?

18 A. I was very confident.

19 Q. Are you still confident that the person
20 you picked on the 6th of January 2015 is that same
21 person that robbed you --

22 A. Yes.

23 Q. -- on the 31st of 2014?

24 MR. STEGALL: Beg the Court's
25 indulgence?

BIGGERS HEARING

1 THE COURT: Yes, sir.

2 BY MR. STEGALL:

3 Q. Do you see him in court today?

4 A. Yes.

5 Q. You need a minute? Can I ask you to
6 point at him in court?

7 A. (Pointing)

8 MR. STEGALL: Okay. Let the record
9 reflect she's -- no further questions, Your Honor.

10 THE COURT: Very well.

11 You may cross-examine, Mr. Smaldone.

12 MR. SMALDONE: Thank you.

13 CROSS-EXAMINATION

14 BY MR. SMALDONE:

15 Q. Afternoon. I don't believe we've met;
16 my name is Grant Smaldone. This is a quick hearing
17 so I just have a few basic questions to make sure
18 we're on the same page. What time of day was it
19 when someone came into the gas station?

20 A. It was a little after 6:00 a.m.

21 Q. And you open up at 6:00 a.m.?

22 A. We open at six.

23 Q. And how long -- about how long did that
24 interaction take total?

25 A. I would say just a few minutes. I

BIGGERS HEARING

1 mean, it felt longer.

2 Q. I understand.

3 A. But, realistically, just a few minutes.

4 Q. I mean, when someone was there, were
5 you looking at the gun or his face, or his outfit,
6 or the register? Where was your attention
7 directed?

8 A. All the way up and then down, every bit
9 of it.

10 Q. Okay. And that happened on -- was that
11 New Year's Eve?

12 A. New Year's Eve.

13 Q. 2015?

14 A. Uh-huh.

15 Q. And you were approached with the
16 identification about a week later, right?

17 A. Yes.

18 Q. All right. And do you know the name of
19 the detective who had that?

20 A. The guy that actually came and did the
21 lineup?

22 Q. Yes.

23 A. I believe it was Williams.

24 Q. Okay. And had you spoken with him
25 before?

BIGGERS HEARING

1 A. The day of everything happened, there
2 was a lot of officers there.

3 Q. Okay. And you had spoken with that
4 same officer?

5 A. Yes.

6 MR. SMALDONE: Okay. Beg the Court's
7 indulgence?

8 THE COURT: Yes, sir.

9 BY MR. SMALDONE:

10 Q. And you said you looked at the page
11 about a half second?

12 A. Yes.

13 Q. And then -- had the officer told you
14 that you didn't have to pick any of them?

15 A. What do you mean?

16 Q. Did the officer read you the directions
17 on the sheet or did you just look at it?

18 A. No. He explained everything to me and
19 then -- everything was with him. And then when the
20 lineup came, it was face down. And then he told me
21 to flip it up. And when I flipped it over, I
22 pointed that that was --

23 Q. And it was on that sheet? There
24 weren't six individual sheets, right?

25 A. No. They were all together.

BIGGERS HEARING

1 MR. SMALDONE: Okay. I don't think I
2 have any more questions for this witness.

3 THE COURT: Redirect?

4 MR. STEGALL: No redirect, Your Honor.

5 THE COURT: All right. Thank you.

6 If someone could pass me the two
7 exhibits, please.

8 I will be happy to hear from you,
9 Mr. Smaldone.

10 MR. SMALDONE: Thank you, Your Honor.

11 MR. STEGALL: We have one more witness.

12 THE COURT: Oh, you do?

13 MR. STEGALL: We have the officer if
14 you would like to --

15 THE COURT: I would be happy -- I mean,
16 I'm looking at this, and you testified -- I assume
17 he's going to testify about this and what he did,
18 but if you want to put it for purposes of the
19 record you can. But this isn't the first time I've
20 seen one of these advisement sheets and want to
21 check and make sure -- it's clearly there may or
22 may not include the lineup -- be included in the
23 lineup. So if you want to bring him in, that's
24 fine.

25 MR. STEGALL: No, I don't have to, Your

BIGGERS HEARING

1 Honor. I was going to get a little more in depth,
2 but --

3 THE COURT: This isn't really that
4 difficult in this particular case because it's -- I
5 haven't heard anything -- I assume -- do you have
6 any witnesses?

7 MR. SMALDONE: I don't, Your Honor.

8 THE COURT: There's no -- there's no
9 evidence of suggestion here that I need to deal
10 with, Solicitor, but I would be happy to hear from
11 you.

12 All right.

13 MR. SMALDONE: Thank you, Your Honor.

14 Certainly, the purposes of this hearing
15 is to challenge an unduly suggestive lineup, Your
16 Honor. We've had the hearing; I've been here;
17 you've been here; the State's been here.

18 I believe my argument and my
19 challenging of the lineup would be best in front of
20 a jury. I don't believe there is a legal argument
21 at this time after hearing the testimony.

22 THE COURT: Yeah. First of all, just
23 in looking at it, clearly, as we know, there are
24 about six factors -- opportunity to observe the
25 person and discrepancies, and I haven't heard any

BIGGERS HEARING

1 of that pretrial, no suggestion that there's been
2 any error in that, how sure she was, the failure to
3 identify the lapse of time. Clearly, we're talking
4 about a week.

5 Clearly, we're talking about the
6 typical explanation that may or may not include
7 and, obviously, the degree of attention that she
8 had in the initial confrontation.

9 We're talking about a manager. We're
10 talking about her opening the store. It's not like
11 the end of day where she is bone tired; she's had a
12 number of things to confront. She had a discussion
13 and needs some cigarettes, and then went around and
14 the person is standing there.

15 And I think what's also remarkable
16 about length of time, she's emptying cash
17 registers. She's putting coins in his pocket, and
18 then she's walking out the door with him and walks
19 to the back.

20 All the time that this person -- and
21 then she comes back and she does exactly what she's
22 trained to do. I assume the panic button is
23 something that was -- I don't know whether it was
24 an actual button to alert the police department,
25 but, clearly, that was a sequence of things and she

BIGGERS HEARING

1 called everybody that she needed to, which shows
2 again her focus and her state of mind and her
3 ability to keep everything in order.

4 She described the person. And then a
5 week later she's brought in and told that it may or
6 may not include -- and looking at the lineup, it's
7 one of the better ones that I have seen as far as
8 similarities. As far as facial features, we have
9 three with facial hair and three without facial
10 hair.

11 The three without facial hair, we have
12 one that has some hair in the back, two that are
13 similar; but, again, we have some with or without
14 hair and not, all similar. And she didn't
15 hesitate; when she flipped it, she circles number
16 two which is clearly the defendant in this case.

17 So I don't find the lineup to be unduly
18 suggestive. I think it probably meets all tests
19 and I think she meets all the tests necessary under
20 Biggers, so I would not suppress the lineup --

21 MR. STEGALL: Thank you.

22 THE COURT: -- for those reasons.

23 Anything else that we need to deal with
24 before we come back tomorrow and start?

25 MR. MCNEELY: Just for scheduling

1 purposes, what time do you have to leave?

2 THE COURT: I have to leave here -- I
3 probably need to leave -- they originally scheduled
4 this for Monday. And I thought, wow, I should have
5 probably taken it, but I have to be there at 4:00.
6 There is no way in the world I can get from here to
7 Charlie Hall Boulevard and Glen McConnell in
8 30 minutes, so I will probably have to leave at
9 2:30.

10 MR. MCNEELY: Okay.

11 THE COURT: Between 2:00 and 3:00.

12 I'm thinking about whether we want to
13 get lunch for the jury and just have it and have
14 them come in and eat, or we just take an hour.
15 Maybe that would be the easiest thing to do, and
16 save the county a little bit and let them take a
17 break as well.

18 So we'll probably take a break, for
19 your planning purposes, maybe somewhere around
20 12:00, and come back and work another hour or so,
21 hour and a half if possible.

22 MR. STEGALL: That sounds good.

23 THE COURT: And at this point, do you
24 anticipate calling all the witnesses we've
25 identified?

1 MR. STEGALL: No. We're looking at
2 between -- depending on certain things, between
3 five and seven. Hopefully, five.

4 THE COURT: That would be good. Maybe
5 we'll get through most of them and then possibly we
6 could go to the jury Wednesday I would think.

7 Do you anticipate any witnesses at this
8 point?

9 MR. SMALDONE: I don't believe so, Your
10 Honor.

11 THE COURT: I'm not holding you to
12 that, of course, and you are free to change that at
13 any point you want.

14 If anything else comes up, if you would
15 just let us know. If there's any afterthoughts
16 about motions, let me know and I will be happy to
17 -- if you will just text -- send it to my very
18 capable assistant who sends me text messages, if
19 necessary, and we will be happy to schedule those.

20 MR. SMALDONE: Judge, just one matter.
21 I know the State is going to abide by the Rules.
22 The issue is that, obviously, Your Honor has heard
23 there was a separate armed robbery that he was
24 alleged to be part of.

25 THE COURT: It's not going to come out.

1 MR. SMALDONE: I just wanted to make
2 sure.

3 THE COURT: And I know it's not because
4 if it does, I will be happy to entertain a motion
5 for a mistrial.

6 Okay. It's not coming out. Thank you.

7 (These proceedings were recessed at
8 3:40 p.m., to be continued at 9:30 a.m.,
9 2/12/2019.)

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COURT'S OPENING

1 person that's not going to serve. And I said,
2 well, if you want to move to excuse her, I'll be
3 happy to grant that request, but I can't figure a
4 reason to excuse her because she's -- her role is
5 totally different.

6 She's going to be the decider of the
7 facts and I'm going to be the law. I said -- and I
8 added this, I said, but if you have some concerns,
9 I'm not so sure she'll follow the instruction that
10 she has to take the law as I give it to her, and
11 that may be something that I would worry about, and
12 I say that in jest because she did do that.

13 But that's something you have to do,
14 and you must do that. And please remember it's
15 very important never to consider anything that I've
16 said to be a factual decision or a suggestion of
17 how you are to resolve the facts.

18 I thank you very much for your
19 attention to my remarks, and I ask you now to give
20 that same attention to the attorneys as they give
21 their opening statements on behalf of their client.

22 You may proceed with your opening.

23 MR. STEGALL: Thank you, Your Honor.

24 THE COURT: Yes, sir.

25 MR. STEGALL: May it please the Court,

STATE'S OPENING

1 Mr. Grant.

2 I apologize, ladies and gentlemen,
3 we've got a little technical -- we'll just go with
4 it like this.

5 Ladies and gentlemen, my name is Bart
6 Stegall. This is Will McNeely. We work for the
7 Ninth Circuit Solicitor's Office. Our job is to
8 prosecute criminal cases on behalf of Berkeley
9 County, and we're here today, as Judge Dennis said,
10 because the defendant, Rias Isaac, sitting over
11 here at that table, has been charged with three
12 crimes.

13 He's been charged with armed robbery,
14 kidnapping, and possession of a weapon during a
15 violent crime.

16 The State intends to show that on
17 December 31st, 2014, Jaclyn Graham, who was an
18 employee of the Hess Gas Station, located on the
19 corner of College Park Road and Crowfield
20 Boulevard, was at work at 6:00 a.m. that morning.
21 She was restocking lottery tickets at the ticket
22 machine. She was on the customer side of the
23 counter.

24 Shortly after that, the Defendant Rias
25 Isaac walks in, approaches her, and asks her to buy

STATE'S OPENING

1 a pack of Newport cigarettes. She walks around the
2 counter to the employee side. The defendant then
3 follows her. She doesn't notice it right away. He
4 follows her behind her, pulls out a gun, points it
5 at her, and asks her for money.

6 She doesn't panic. She goes to the
7 nearest register and opens the register, and she
8 pulls out the cash and hands it to him. He's not
9 satisfied with just cash. Give me the roll of
10 coins, too. But rather than handing him the roll
11 of coins, he makes her put it in his pocket.

12 Register two, same thing. They walk
13 down to register two, open the register, takes the
14 money out, and she gives it to the defendant. He's
15 also looking at cigarettes too. Remember, he
16 wanted cigarettes.

17 That could have been the end of it. He
18 could have took off running out of the store, still
19 an armed robbery, but he didn't. He wasn't done.
20 He puts the gun against her back and made her walk
21 back to the front of the store and out the door.

22 He had her walk around the store. And
23 she's going to testify to what that felt like, how
24 long that felt to her. It was only a few minutes,
25 but she will tell you how long it felt. She didn't

STATE'S OPENING

1 know what was going to happen.

2 She gets around the store, and the
3 defendant flees. She comes back in the store.
4 Because she's a trained manager, she does two
5 things; she hits the panic button and calls 911.

6 Those are the facts. That's it.
7 Straightforward, not complicated. I don't want you
8 to try to overcomplicate it.

9 The Judge brought up a great point
10 during the opening instruction. Common sense; just
11 use your common sense with this one. It's not very
12 hard.

13 So how do we intend to prove it? We're
14 going to have Ms. Graham come testify today. She's
15 in court to tell you the story from her own mouth
16 and her own words. We're also going to have you
17 hear from a few law enforcement officers with Goose
18 Creek, one being Wendy Myers. She was the
19 forensics lady.

20 We'll also have you hear from Sean
21 McWilliams. He was the lead investigator on the
22 case. And they will talk about how they
23 investigated the case and how they came up with the
24 suspect and lots of things.

25 Lastly, you'll hear from Sandra

STATE'S OPENING

1 Hawkins, and I want you to listen to her testimony
2 carefully. She's going to tell you how she knows
3 the defendant. She's going to tell you how they
4 were in a relationship. Not only that, they were
5 engaged to be married.

6 Now, the Judge is going to instruct you
7 on the law. I do want to touch on it briefly
8 because I'd like for you to be thinking about the
9 law as you hear the testimony today.

10 As we said, three crimes, the first one
11 being armed robbery. Under South Carolina Section
12 16-11-330, a person who commits robbery while armed
13 with a pistol, dirk, slingshot, metal knuckles,
14 razor, or other deadly weapon, or while alleging
15 either by actions or words he was armed while using
16 a representation of a deadly weapon, or any object
17 with the person present during the commission of a
18 robbery reasonably believed to be a deadly weapon.
19 That is a mouthful.

20 So what I want you to focus on, as it's
21 being broken down, a person is guilty if they take
22 and carry away the personal property of another
23 with the intent to deprive while armed with a
24 deadly weapon. A pistol is a deadly weapon.

25 Basically, what I want you to think

STATE'S OPENING

1 about, did Rias Isaac use a pistol and take
2 property away from Ms. Graham and from the Hess Gas
3 Station? If you believe he did, he's guilty.

4 Next, kidnapping. A person who
5 unlawfully seizes, confines, inveigles, decoys,
6 kidnaps, abducts, or carries away any other person
7 by any means whatsoever without authority of law,
8 except when a minor is seized or taken by his
9 parents.

10 The main thing about kidnapping that I
11 want you to understand, and I will show it to you,
12 it's broken down here, the unlawful seizure of a
13 person by any means without the authority of law.
14 The main point, the defendant does not have to
15 carry that person away.

16 This statute is very broad. When you
17 think of kidnapping, you think of somebody being
18 tied up and thrown in the trunk and driven away.
19 That's not kidnapping. If that person, that
20 victim, felt like they were not free to leave, the
21 defendant is guilty of kidnapping.

22 Lastly, possession of a weapon during a
23 violent crime. A person is in possession of a
24 firearm when visibly displays what appears to be a
25 firearm, or visibly displays a knife during the

STATE'S OPENING

1 commission of a violent crime and is convicted of
2 committing or attempting to comit a violent crime
3 as defined in Section 16-160.

4 Now, first, a firearm. I know this is
5 basic, but I want to cover it with you. A firearm
6 is any machine gun, automatic rifle, revolver,
7 pistol, or any weapon which will, or is designed
8 to, may readily be converted to expel a projectile.
9 Again, a pistol is a firearm.

10 If you believe that the defendant
11 committed an armed robbery or a kidnapping and used
12 a firearm, then you must find him guilty of this
13 crime as well.

14 The violent crime statute defines armed
15 robbery and kidnapping as violent crimes, so that's
16 something you're not going to have to consider.
17 You just need to determine whether or not he
18 committed those offenses while armed with a deadly
19 weapon.

20 Last, I want to talk about the burden
21 of proof in the case. Your Honor did an
22 outstanding job talking about the State's burden of
23 proof. The State bears the burden in all criminal
24 cases to prove our case beyond a reasonable doubt.
25 All right.

DEFENSE OPENING

1 Rias Isaac walks in this courtroom
2 today a free man, an innocent man. He will remain
3 a free and innocent man throughout the duration of
4 the trial. He doesn't have to prove a thing. The
5 burden is completely on the State. It's a high
6 burden, but it's not an impossible burden.

7 If you are convinced at the end of the
8 trial after hearing all of the evidence -- hearing
9 all the testimony and seeing all the evidence, then
10 you must find him guilty. Remember, he walked in
11 as a free man, but you are going to determine
12 whether or not he walks out as a free man. Thank
13 you.

14 THE COURT: Thank you, Solicitor.

15 Mr. Smaldone.

16 MR. SMALDONE: Thank you, Your Honor.
17 May it please the Court, Solicitor.

18 Ladies and gentlemen of the jury, good
19 morning. As you saw -- I briefly introduced myself
20 during voir dire, which is what we call when we
21 talk to the jury briefly in South Carolina. My
22 name is Grant Smaldone. I represent Mr. Rias
23 Isaac.

24 It's my job to defend his rights and
25 make sure that the State meets their burden. In

DEFENSE OPENING

1 this case, they can't. They can't do it.

2 But, first, I want to talk about what
3 me and the Solicitor's office agree on, right? I
4 don't want to start on a bad note. I agree -- you
5 might be surprised to hear, I agree that an armed
6 robbery happened that day. Right.

7 I'm not arguing that it was a big
8 setup, that there were actors, that it was a
9 frame-up. There was an armed robbery, plain and
10 simple.

11 I agree that the clerk, who you'll hear
12 from shortly, the State's witness, she was there
13 and she was scared. I'm not trying to minimize
14 that. I'm not trying to say she's lying. In a few
15 minutes she'll probably testify, and I'll get to
16 cross-examine her. I won't yell at her and call
17 her a liar. She's giving her best version of the
18 truth, right?

19 So I concede that an armed robbery
20 happened. I concede that someone walked in that
21 store with a gun, probably got the quarters, got
22 the cash, got the cigarettes, and walked out. All
23 of that happened because it's on video. And it
24 happened.

25 But you have to ask yourself, where's

DEFENSE OPENING

1 the link between that store and those actions, and
2 that innocent man sitting right in that corner,
3 right at that desk.

4 When I say, innocent man, I'm very
5 serious about that because as of right now, as the
6 Judge said and even the Solicitor said, he's
7 innocent. He's innocent. I'm not just -- this is
8 not an abstract idea. He's literally an innocent
9 guy.

10 This country is the best country in the
11 world, and it says that if you accuse someone of a
12 criminal act, you better prove it. That's their
13 job. You better come, guns slinging, and prove it.
14 It's not a time to go halfway. It's not a time to
15 say he probably did, you know, might have done it.
16 I think, probably, I don't know who else could have
17 done it. That's not what we're here for today.

18 You have to ask yourself, what links
19 yourself to that horrible armed robbery -- what
20 links that horrible armed robbery to Mr. Isaac? To
21 that innocent guy? And you'll see what they intend
22 to show, and it ain't much. It ain't much.

23 It was an armed robbery. The police
24 barely did an investigation, and just said, ah, it
25 must be him, right? We don't have any evidence,

DEFENSE OPENING

1 but I don't know who else it could have been. It
2 could have been him. And that's why you're here.

3 So your job is pretty simple in this
4 case. Your job is to hold their feet to the fire,
5 and your job is to say you didn't meet your -- you
6 didn't do your job.

7 You won't see any evidence linking
8 Mr. Isaac to that robbery. They're just not going
9 to do it. So at the end of the day because of
10 that, because the State hasn't met their burden,
11 your job is to be a juror, uphold the oath that you
12 took a few minutes ago -- it seems like awhile ago
13 already, but I think it was just a few minutes
14 ago -- uphold that oath and find him not guilty.

15 And he's not guilty because he didn't
16 do it. Someone else did it. I don't know who it
17 was. It's not my job to prove who it was, to say
18 who it was. That ain't what we're here for. We're
19 not here for a who-done-it. It's not a mystery
20 novel. But someone else probably looks like
21 Mr. Isaac -- a lot of people look like him. It's
22 common sense.

23 But it wasn't him, and because it
24 wasn't him, again, I'm asking you to do your job
25 and find him not guilty because he's not guilty,

DEFENSE OPENING

1 plain and simple. Keep it short.

2 I ask that you keep an open mind. I
3 ask that you remember who's on trial today, and
4 remember, really, it's not my client who's on
5 trial. The people sitting at this desk, it's their
6 trial, right? You're weighing their evidence to
7 see if they met their job.

8 I don't have to do anything. I could
9 be asleep at that desk, and they still couldn't
10 have met their job. I promise you that I will not
11 fall asleep because I've got a lot to say, and
12 you're going hear it.

13 Thank you.

14 THE COURT: You may call your first
15 witness.

16 MR. STEGALL: The State calls Jo Diaz.

17 THE COURT: Jo Diaz.

18 JOVANNA DIAZ,

19 being first duly sworn, testified as follows:

20 THE CLERK: Please be seated. State
21 your full name, and spell your last name for the
22 record.

23 THE WITNESS: My name is Jovanna Diaz.
24 Last name is spelled D-I-A-Z.

25 COURT REPORTER: Can you spell your

DIAZ - DIRECT EXAM BY MR. STEGALL

1 first name for me?

2 THE WITNESS: Jovanna, J-O-V-A-N-N-A.

3 DIRECT EXAMINATION

4 BY MR. STEGALL:

5 Q. Officer Diaz, where are you currently
6 employed?

7 A. I'm currently employed with the
8 Charleston County Aviation Authority Police
9 Department.

10 Q. And what's your role with the Aviation
11 Department?

12 A. I am a police officer, a patrol
13 officer.

14 Q. Where were you employed in December of
15 2014?

16 A. City of Goose Creek Police Department.

17 Q. And what was your position with Goose
18 Creek?

19 A. It was a patrol officer.

20 Q. What were your duties as a patrol
21 officer?

22 A. Patrol the city, respond to calls,
23 check alarms. Basic law enforcement duties.

24 Q. Were you on duty in the early morning
25 hours of December 31st, 2014?

DIAZ - DIRECT EXAM BY MR. STEGALL

1 A. Yes, sir.

2 Q. Did you receive a call about the case
3 we're here for today?

4 A. Yes, sir.

5 Q. What was that call in reference to?

6 A. It was in reference to an armed
7 robbery.

8 Q. Where was the incident location you
9 responded to?

10 A. It was Hess at 670 College Park Road.

11 Q. What county is that in?

12 A. It's in Berkeley County.

13 Q. What did you do once you responded to
14 the call?

15 A. I arrived to the scene, checked the
16 area, and made contact with the complaining victim,
17 Jaclyn Graham.

18 Q. Did she provide a statement?

19 A. Yes, sir. She provided a statement
20 with whatever --

21 Q. Did you take her statement?

22 A. I believe I did take her statement.

23 Q. Was anyone else -- any other employee
24 at the store at that time?

25 A. At that time, it was just Ms. Graham.

DIAZ - CROSS EXAM BY MR. SMALDONE

1 Q. Okay. What did you do after you took
2 her statement?

3 A. I actually spoke to somebody else that
4 was outside unloading packets or pallets. I
5 questioned him, and he advised he had just arrived
6 and didn't know of anything that happened. And
7 then after that, I stood by and waited for the
8 investigators.

9 Q. Did they arrive, the investigators?

10 A. I believe they did arrive on the scene.

11 Q. Okay. Did you have any other
12 involvement in the case after that?

13 A. No, sir.

14 Q. Okay.

15 MR. STEGALL: Court's indulgence.

16 THE COURT: Certainly.

17 MR. STEGALL: Nothing further. Please
18 answer anything that Mr. Smaldone has for you.

19 THE COURT: You may cross-examine.

20 CROSS-EXAMINATION

21 BY MR. SMALDONE:

22 Q. Good morning.

23 A. Good morning.

24 Q. All right. So just to be clear, you
25 were the first responding officer?

DIAZ - CROSS EXAM BY MR. SMALDONE

1 A. Aye aye, sir.

2 Q. All right. And what time of day was
3 that?

4 A. That was about 6:22 a.m.

5 Q. All right. So you got there about
6 6:22 a.m., right?

7 A. Yes, sir.

8 Q. Reports of an armed robbery?

9 A. Yes, sir.

10 Q. And talked with some people, right?

11 A. Yes, sir.

12 Q. And waited for other people to arrive?

13 A. Yes.

14 Q. And you didn't -- so you didn't see
15 anyone like running Away or anything like that,
16 right?

17 A. No, sir.

18 Q. All right. So you're -- basically, to
19 sum it up, your job is to get there, assess the
20 scene, and wait for some other folks to arrive and
21 make sure it's safe, right?

22 A. Yes, sir.

23 Q. And that's pretty much it?

24 A. Yes, sir, at that moment.

25 MR. SMALDONE: That's all I got too.

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 Thank you.

2 THE WITNESS: You're welcome.

3 THE COURT: Redirect?

4 MR. STEGALL: No, Your Honor.

5 THE COURT: You may step down. Do you
6 wish the witness to be excused?

7 MR. STEGALL: Yes, Your Honor.

8 THE COURT: Any objection?

9 MR. SMALDONE: No objection.

10 THE COURT: You're also free to leave.

11 THE WITNESS: Thank you.

12 THE COURT: Call your next witness,
13 please.

14 MR. STEGALL: The State calls Jaclyn
15 Graham.

16 JACLYN GRAHAM,

17 being first duly sworn, testified as follows:

18 THE CLERK: Please be seated. State
19 your full name, and spell your last name for the
20 record.

21 THE WITNESS: Jaclyn Graham,
22 G-R-A-H-A-M.

23 DIRECT EXAMINATION

24 BY MR. STEGALL:

25 Q. Ms. Graham, where are you currently

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 employed?

2 A. I'm employed with Speedway, formerly
3 known as Hess.

4 Q. Okay. And where is that?

5 A. I work at a different location now in
6 North Charleston.

7 Q. What are your duties and
8 responsibilities at Hess -- or Speedway, I
9 apologize?

10 A. I am the general manager, so I run the
11 store, handle the employees, do all the paperwork.
12 Pretty much everything at the store I do.

13 Q. Where were you employed on December of
14 2014?

15 A. I was employed at the Speedway Hess on
16 College Park.

17 Q. Okay. Were you on duty, or were you
18 working December 31st, 2014?

19 A. Yes.

20 Q. What time did you get in that morning?

21 A. About 5:30, 5:45.

22 Q. What was your role that morning?

23 A. I had to open the store, do all the
24 paperwork, and get the store ready for opening at
25 six.

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 Q. Was anybody working with you?

2 A. No, I was alone.

3 Q. Do you remember what you were doing
4 around 6:00 a.m. that morning?

5 A. I was stocking the lottery, refilling
6 all of the lottery books.

7 Q. Can you describe your store for the
8 jury as far as the layout, the lighting?

9 A. The store is a huge square; on each
10 side we have entryways. Outside we have tons of
11 light around the property, under the canopies.
12 Inside the store, we have the
13 fluorescent lighting throughout so it's lit up very
14 well, bright.

15 MR. STEGALL: May I approach, Your
16 Honor?

17 THE COURT: You may.

18 BY MR. STEGALL:

19 Q. Ms. Graham, I'm going to hand you some
20 pictures and see if you recognize them.

21 A. This is the store on College Park.

22 Q. Okay. Is that a fair and accurate
23 representation of the store as it was on
24 December 31st, 2014?

25 A. Yes.

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 MR. STEGALL: Your Honor, at this time
2 the State moves to enter Exhibits 15 through 18
3 into evidence.

4 THE COURT: Any objection?

5 MR. SMALDONE: No objection.

6 THE COURT: Without objection, State's
7 15 through 18 are admitted, each being a
8 photograph.

9 (STATE'S EXH. 15 - 18, Photographs, in
10 evidence.)

11 MR. STEGALL: Permission to publish,
12 Your Honor?

13 THE COURT: Yes, sir.

14 BY MR. STEGALL:

15 Q. Can you tell the jury, we're on Exhibit
16 15, what that is?

17 A. This is the front of my store and then
18 one of the entryways.

19 Q. Okay. How about this?

20 THE COURT: Which one is that?

21 MR. STEGALL: Exhibit 16.

22 THE COURT: Thank you. Excuse me.

23 THE WITNESS: This is from the
24 entryway. So this is the checkout counter where
25 the registers and lottery box is.

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 BY MR. STEGALL:

2 Q. Can you point out to the jury or -- I
3 guess, describe for the jury where you were at
4 6:00 a.m. What --

5 A. I was in front of the lottery box,
6 right there. (Indicating)

7 Q. Right here? (Indicating)

8 A. It opens from the front.

9 Q. Okay. I'm going to show you State's
10 Exhibit 17. What is this a picture of?

11 A. This is the other doorway and where we
12 would go to get around the counter.

13 Q. So right here? (Indicating)

14 A. Right there, uh-huh.

15 Q. How about here? (Indicating)

16 A. This is the register area.

17 Q. Is that the same door we're looking at?

18 A. No. The other door would be where, I
19 guess, whoever was taking the picture was standing.

20 Q. Do you remember an incident that
21 occurred that morning?

22 A. Yes.

23 Q. All right. I want you to tell the jury
24 what happened.

25 A. A man entered the store while I was

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 filling the lottery box and asked me for two packs
2 of Newports. I got the lottery tickets that I had,
3 and I went around the counter to the register side,
4 and I went to go grab the Newports.

5 And when I turned to go face the
6 register, I saw somebody out of the corner of my
7 eye. And then when I looked at him, I saw the gun,
8 dropped everything, and he asked me for the money.
9 And I proceeded to give him the money out of the
10 registers.

11 He asked me for quarters -- the
12 quarters out of the first drawer, and I put the
13 quarters in his pocket. And we went to the second
14 register, and he had the gun to my back, and he was
15 reaching for the cigarette waterfall, which is
16 where we store all the cigarettes, and I was
17 getting the rest of the money out of the second
18 register.

19 And then he told me to leave the
20 building and -- open the door and leave the
21 building. And I went outside, and he walked me all
22 the way to the back of the building. And then he
23 told me to walk -- go all the way back inside the
24 building, don't turn around and look at him. And I
25 went back in and called the police.

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 Q. Let's back up just a little bit. So
2 you said a man entered the store. Do you remember
3 about what time that was?

4 A. I want to say about 6:15; shortly after
5 I opened.

6 Q. And where were you again when he
7 entered the store?

8 A. I was filling the lottery box, so I was
9 on this side where the customers would stand
10 because our lottery box opens from the front.

11 Q. Okay. And where did he walk?

12 A. He walked into the door behind me -- or
13 to the right of me.

14 Q. So he asked for cigarettes and you
15 walked around. Where was he when you were walking
16 around to the employee side?

17 A. He was following me around the counter.

18 Q. Prior to that, did you get -- did you
19 look at him?

20 A. I looked at him once we were behind the
21 counter.

22 Q. Okay. All right. So what did you
23 notice when both of you were behind the counter?

24 A. That he was within feet from me and had
25 a gun.

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 Q. How did you know it was a gun?

2 A. Because he was holding it at me.

3 Q. What color?

4 A. Black.

5 Q. Did you get a good look at his face?

6 A. I did.

7 Q. You said you-all went to the first
8 register --

9 A. Yes.

10 Q. -- took the money, the coins. Did he
11 grab anything off the wall at that time?

12 A. At that particular register he did not.
13 It's when we moved to the other register.

14 Q. Okay. What did he grab?

15 A. Some Maverick Menthol.

16 Q. Maverick Menthol. How much money in
17 your estimation did he take that morning?

18 A. \$187.

19 Q. Anything else?

20 A. Just the cigarettes.

21 Q. Cigarettes. Where was his gun while
22 you were going from register to register?

23 A. When we went to the second register, it
24 was at my back, and when we walked out of the
25 store, it was at my back.

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 Q. Were you ever face to face with him?

2 A. Yes.

3 Q. How close were you?

4 A. Two feet, a foot maybe, enough to reach
5 in his pocket to put in the quarters.

6 Q. Were you close enough to get a good
7 look at his face?

8 A. Yes.

9 Q. Is he in the courtroom today?

10 A. Yes.

11 Q. Can you point him out for the jury,
12 please? And I'm going to need you to verbalize
13 where he's at for the court reporter.

14 A. Sitting at the table.

15 Q. Okay. So let's fast forward to where
16 he has the money, he's got the gun at your back.
17 What happens next?

18 A. He asked me to leave the building.

19 Q. Okay. What did you think the reason
20 for that was?

21 A. I guess -- at the time I wasn't sure,
22 there was a hundred things going through my mind --
23 to get me further away from the panic button.

24 Q. Were you scared?

25 A. Yes.

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 Q. Was the gun on you the whole time?

2 A. Yes, sir.

3 Q. At any point during this incident did
4 you feel like you were free to leave?

5 A. No.

6 Q. What happened after you exited the
7 store?

8 A. He had me walk to the back of the
9 building, and then he asked me to turn the corner,
10 walk, don't turn around and look at him, and then
11 reenter the building.

12 Q. Did you do what he said?

13 A. Yes.

14 Q. Why did you do what he said?

15 A. Because I thought he was going to shoot
16 me.

17 Q. Did you make it back into the building?

18 A. Yes.

19 Q. What happened once you got back into
20 the building?

21 A. I hit the panic button, I called the
22 police, and I called my boss.

23 Q. Did you make -- you called the police
24 and you called your boss you said?

25 A. Uh-huh.

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 Q. Is that a yes?

2 A. Yes.

3 MR. STEGALL: May I approach, Your
4 Honor?

5 THE COURT: You may.

6 BY MR. STEGALL:

7 Q. All right. I'm going to hand you
8 what's been marked as State's Exhibit 20. Do you
9 recognize that?

10 A. Yes.

11 Q. And what is that?

12 A. The -- the surveillance or the phone
13 call to the police recording.

14 Q. Have you had a chance to review that
15 phone call?

16 A. Yes.

17 Q. Okay. How do you know you reviewed it?

18 A. Because I listened to it in its
19 entirety, and I signed the CD.

20 Q. You signed it. All right. Is that a
21 fair and accurate depiction of your -- the phone
22 call you made that morning?

23 A. Yes.

24 MR. STEGALL: Your Honor, at this time
25 the State moves to enter Exhibit 20 into evidence.

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 THE COURT: Any objection?

2 MR. SMALDONE: No objection.

3 THE COURT: Without objection, it is
4 admitted.

5 (STATE'S EXH. 20, 911 call, in
6 evidence.)

7 MR. STEGALL: Permission to publish,
8 Your Honor?

9 THE COURT: You may publish.
10 20 in evidence.

11 (Audio played in open court 10:31)

12 BY MR. STEGALL:

13 Q. Ms. Graham, is your store equipped with
14 video recording?

15 A. Yes.

16 Q. Do you know if it was operable that
17 day?

18 A. Yes, it was.

19 Q. Do you have access to the recordings?

20 A. Yes.

21 Q. Okay.

22 MR. STEGALL: May I approach?

23 THE COURT: Yes, you may.

24 BY MR. STEGALL:

25 Q. I'm going to hand you what's been

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 marked as State's Exhibit 21. Do you recognize
2 that?

3 A. Yes.

4 Q. And what is that?

5 A. This is the CD that was burned from my
6 DVR at work.

7 Q. Have you had a chance to review it?

8 A. Yes.

9 Q. And how do you know you reviewed it?

10 A. Because I signed it.

11 Q. Okay. Is that a fair and accurate
12 depiction of the incident that occurred that
13 morning?

14 A. Yes.

15 MR. STEGALL: Your Honor, at this time
16 I move to admit State's Exhibit 21 into evidence.

17 THE COURT: Any objection?

18 MR. SMALDONE: No objection.

19 THE COURT: Without objection, it's
20 admitted.

21 (STATE'S EXH. 21, CD, in evidence.)

22 MR. STEGALL: Permission to publish?

23 THE COURT: You may publish.

24 (Video published in open court, 10:53
25 a.m.)

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 BY MR. STEGALL:

2 Q. And who is that?

3 A. That is me.

4 Q. And what is this a picture of?

5 A. This is from behind the register.

6 (End of video)

7 MR. STEGALL: May I approach, Your
8 Honor?

9 THE COURT: You may.

10 BY MR. STEGALL:

11 Q. Next I'm going to hand you some
12 photographs, and I want you to look through those
13 and see if you recognize them.

14 A. Yes.

15 Q. What are they?

16 A. They are pictures from the surveillance
17 of the robbery.

18 Q. Okay. Are they a fair and accurate
19 representation of the incident?

20 A. Yes.

21 Q. All right.

22 MR. STEGALL: Your Honor, at this time
23 the State moves to enter Exhibits 3 through 14 into
24 evidence.

25 THE COURT: Any objection?

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 MR. SMALDONE: No objection.

2 THE COURT: Without objection, State's
3 Exhibit 3 through 14, inclusive, are admitted, each
4 being a photograph.

5 (STATE'S EXH. 3 - 14, Photographs, in
6 evidence.)

7 MR. STEGALL: Thank you, Your Honor.
8 Permission to publish?

9 THE COURT: You may.

10 BY MR. STEGALL:

11 Q. We're going to run through these, Ms.
12 Graham. I want you to tell the jury -- State's
13 Exhibit 3?

14 A. This is a picture of Mr. Isaac on the
15 customer side of the counter.

16 Q. Okay. State's Exhibit 4?

17 A. This is us walking around the counter
18 to go to the employee side.

19 Q. Can you describe his clothing?

20 A. He was wearing like black Dickie pants,
21 a Carolina Gamecock windbreaker, and a black hat,
22 baseball cap.

23 Q. Any footwear?

24 A. I'd describe them as work boots.

25 Q. Okay. State's Exhibit 5?

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 A. This is after I grabbed the Newports
2 and noticed somebody there with a gun.

3 Q. Okay. Are you looking right at him in
4 that picture?

5 A. Yes.

6 Q. Can you see his face in that picture.

7 A. Yes. Well, not in this picture, but I
8 can see his face. So, you know.

9 Q. State's Exhibit 6?

10 A. This is me emptying the cash, and this
11 was the register that I took the quarters and put
12 them in his pockets.

13 Q. State's Exhibit 7?

14 A. This is -- I was emptying the cash out
15 of the drawer.

16 Q. Okay. State's Exhibit 8?

17 A. Handing him the cash.

18 Q. State's Exhibit 9?

19 A. Him taking the cash.

20 Q. State's Exhibit 10?

21 A. I was putting the quarters in his
22 pockets.

23 Q. State's Exhibit 11?

24 A. Going to the other register. I was
25 walking to the other register to empty it.

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 Q. What's on the wall?

2 A. That's cigarettes.

3 Q. State's Exhibit 12?

4 A. I'm taking the cash out of this drawer
5 for him.

6 Q. State's Exhibit 13?

7 A. Gathering the cash out of this drawer.

8 Q. The gun is still out?

9 A. Yes.

10 Q. State's Exhibit 14?

11 A. When I was asked to leave the building
12 and -- opened the door and leave the building.

13 Q. Where is the gun?

14 A. In my back.

15 Q. Okay. All right. So after you called
16 911, did law enforcement show up?

17 A. Yes.

18 Q. Were you interviewed?

19 A. Yes.

20 Q. Did you provide a statement?

21 A. Yes.

22 Q. Is that statement that you gave law
23 enforcement five years ago the same thing you're
24 telling the jury today?

25 A. Yes.

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 Q. Did you meet with law enforcement on or
2 about January 6th, a week later?

3 A. Yes.

4 Q. What was the purpose of that?

5 A. For a lineup.

6 Q. Do you remember who you met with?

7 A. One of the officers. The lead officer.

8 Q. Did he explain what he was doing there
9 and the purpose of him being there?

10 A. Yes.

11 Q. And what was his explanation?

12 A. He -- he informed me that they had a
13 lineup, a picture lineup, that they wanted me to
14 look at. We went into the office in the back, and
15 he went through a lot of instructions.

16 He told me that there were going to be
17 some pictures that I was going to see and they may
18 or may not be the person who robbed me. And we
19 went through instructions and everything.

20 Q. Did you go through the instructions
21 prior to looking at any pictures?

22 A. Yes.

23 Q. Okay. I'm going to hand you what's
24 been marked as State's Exhibit 1. And see if you
25 recognize that.

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 A. Yes.

2 Q. Okay. Can you tell jury what that is?

3 A. This is the instructions for the
4 picture lineup, the top.

5 Q. Okay. Let's go through those
6 instructions real quick. What -- how many parts to
7 it are there? I guess I should -- are there
8 multiple places for you to sign?

9 A. Right. The top section is prior, and
10 then this bottom, small section is after.

11 Q. Prior to what?

12 A. Prior to seeing the pictures.

13 Q. Okay. And then after what, at the
14 bottom?

15 A. Is after I identified the man.

16 Q. Okay. Did he go over that top part
17 with you?

18 A. Yes.

19 Q. Did you understand what he went over?

20 A. Yes.

21 Q. How did you -- what did he have you do
22 once he knew that you understood?

23 A. He gave me the lineup with the pictures
24 down.

25 Q. I mean, with the instruction sheet, did

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 you have to sign it?

2 A. I had to sign the top portion.

3 Q. Okay. Now, prior to him showing you
4 the lineup, did he give you any information about
5 the suspect that he had?

6 A. No.

7 Q. Did he give you any information about
8 anybody in the lineup?

9 A. No.

10 Q. Did he tell you the suspect was in the
11 lineup?

12 A. No.

13 Q. Did he tell you the suspect was not in
14 the lineup?

15 A. He informed me when it comes to that,
16 that the pictures may or may not be the suspect.

17 Q. Did he try and influence your selection
18 in any way?

19 A. No.

20 Q. Okay. So you signed the instruction
21 sheet, and then what did he hand you?

22 A. He put the other paper with the
23 pictures on it face down on the desk.

24 MR. STEGALL: Permission to approach?

25 THE COURT: Yes.

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 BY MR. STEGALL:

2 Q. All right. I'm going to show you
3 what's been marked as State's Exhibit 2. Do you
4 recognize that?

5 A. Yes.

6 Q. Okay. What is that?

7 A. This is the picture lineup that I was
8 given.

9 Q. Okay. And that's the same lineup that
10 you were given December 31st, 2014?

11 A. This was the week after.

12 Q. Or, excuse me, January 6th, I
13 apologize.

14 A. Uh-huh.

15 Q. 2015?

16 A. Yes.

17 MR. STEGALL: Your Honor, at this time
18 the State moves to enter the -- both the
19 instruction sheet and the lineup into evidence as
20 State's 1 and 2.

21 THE COURT: Any objection?

22 MR. SMALDONE: No objection.

23 THE COURT: State's Exhibit 1 and 2
24 admitted without objection.

25 (STATE'S EXH. 1, Instructions to

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 lineup, in evidence.)

2 (STATE'S EXH. 2, Photo lineup, in
3 evidence.)

4 MR. STEGALL: And permission to publish
5 Exhibit 2 to the jury?

6 THE COURT: Yes, sir.

7 BY MR. STEGALL:

8 Q. So let's go through these pictures.
9 When he flipped the lineup over to you, did you
10 make a selection?

11 A. Yes.

12 Q. How quickly did you make a selection?

13 A. Half a second or less.

14 Q. How certain were you about your
15 selection?

16 A. 100 percent.

17 Q. Again, did Investigator McWilliams
18 influence your selection in any way?

19 A. No.

20 Q. Was that 100 percent your selection?

21 A. Yes.

22 Q. What did you do once you selected the
23 person that robbed you?

24 A. I circled the number under the picture,
25 signed it, and then we went through the bottom of

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 this, and I signed this one.

2 Q. What's the bottom of that?

3 A. It's saying that -- that -- what my
4 selection was. I wrote the number from this to
5 this, and signed it and dated it.

6 Q. Did that -- did the bottom of that
7 instruction sheet ask you how certain you were
8 about your selection?

9 A. It asked to describe my confidence in
10 my selection.

11 Q. Did you describe your confidence?

12 A. I did.

13 Q. How did you describe your confidence?

14 A. I put that I was almost certain.

15 Q. Okay. You just testified that you were
16 100 percent certain. What's -- what's the
17 difference between almost certain and 100 percent
18 certain?

19 A. I honestly didn't know what to write.
20 So I wrote that I was almost certain.

21 Q. But, in your mind, how certain were
22 you?

23 A. I was 100 percent.

24 Q. You said you were currently employed
25 with Speedway?

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 A. Yes.

2 Q. Okay. Is that the same company that
3 you worked for during this incident?

4 A. Yes. We were purchased by Speedway
5 October 2014. Our stores just weren't branded
6 Speedway yet.

7 Q. Okay. Why would you work a similar job
8 today than the one from that morning?

9 A. Because it's my job. It's what pays my
10 bills. I requested to move to a store that I could
11 have double coverage at at all times, and I got to
12 move to a larger store.

13 Q. When you say double coverage, so more
14 than one person there at a time?

15 A. Right. My old store didn't have the
16 hours to put two people first thing in the morning
17 or at night. Now I am in a store where I can have
18 two to three people there all day.

19 Q. And why did you request that?

20 A. Because of this incident.

21 Q. I'm going to ask you one final
22 question. Is the person that you selected in that
23 lineup and the person that robbed you that morning
24 in the courtroom today?

25 A. Yes.

GRAHAM - DIRECT EXAM BY MR. STEGALL

1 Q. I'm going to ask you again to please
2 point him out for the jury?

3 A. Sitting at the table.

4 Q. Okay.

5 MR. STEGALL: No further questions,
6 Your Honor.

7 THE COURT: All right. At this point,
8 ladies and gentlemen, we'll take a recess and let
9 you go to the jury room. Do not begin your
10 deliberations, don't discuss the case, and we'll be
11 with you in about 15 minutes.

12 (Jury out, 11:14 a.m.)

13 THE COURT: All right. Anything from
14 the State before we recess?

15 MR. STEGALL: Not from the State, Your
16 Honor.

17 THE COURT: Anything from the
18 defendant?

19 MR. SMALDONE: Nothing, Your Honor.

20 THE COURT: All right. At this point,
21 we'll take a break. I ask you not to -- you may
22 step down if you want to. Don't have any
23 conversation with any of the attorneys, please.

24 Thank you. We'll be at ease for about
25 15 minutes.

GRAHAM - CROSS EXAM BY MR. SMALDONE

1 (A recess transpired.)

2 THE COURT: If we could have the
3 witness come back and take a seat, please.

4 All right. Is the State ready?

5 MR. STEGALL: The State is ready, Your
6 Honor.

7 THE COURT: Defense is ready. Let the
8 record reflect Mr. Isaac is present.

9 Let's bring them in, please.

10 (Jury in, 11:18 a.m.)

11 THE COURT: Thank you, ladies and
12 gentlemen. We are ready to continue. You may
13 examine the witness -- cross-examine the witness.

14 MR. SMALDONE: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. SMALDONE:

17 Q. Ms. Graham, good morning.

18 A. Good morning.

19 Q. All right. I just want to talk about
20 what happened that day and your testimony earlier.

21 A. Okay.

22 Q. So this was New Year's Eve on 2014,
23 right?

24 A. Yes.

25 Q. It's about 6:00 a.m.?

GRAHAM - CROSS EXAM BY MR. SMALDONE

1 A. Yes.

2 Q. Okay. And you were the only one there,
3 right?

4 A. Right.

5 Q. Okay. And you were restocking lottery
6 tickets?

7 A. Yes.

8 Q. So you were outside of the -- you were
9 in the customer area, right?

10 A. I was on the customer side of the
11 register, yes.

12 Q. Okay. And when you were doing that,
13 that's when someone came in, right?

14 A. Yes.

15 Q. And you testified that you didn't pay
16 much attention to the person that came in, right?

17 A. I looked at the person and then went
18 back to stocking the lottery box until they asked
19 for something.

20 Q. Okay. So then they asked for what, two
21 Newports?

22 A. Yes.

23 Q. Okay. And then that's when you walked
24 behind the area?

25 A. Yes.

GRAHAM - CROSS EXAM BY MR. SMALDONE

1 Q. And that's when the person -- you
2 looked and you saw the gun, right?

3 A. Yes.

4 Q. It was a black gun?

5 A. A black gun.

6 Q. A pistol?

7 A. Yes.

8 Q. And I think you described it earlier as
9 the kind of gun that a cop would have?

10 A. Yes; all black.

11 Q. All right. Right. Kind of a black,
12 square gun probably?

13 A. Yes.

14 Q. All right. Now, you started -- so
15 that's when you -- when you saw the gun, you opened
16 the first register?

17 A. Yes.

18 Q. And is that the one -- that's the one
19 on the left-hand side, if we're looking at the
20 video?

21 A. The main register, which we call
22 register one, is by the lottery box.

23 Q. Okay.

24 A. So if you're facing the customer way,
25 it's left and right; if you're on the customer

GRAHAM - CROSS EXAM BY MR. SMALDONE

1 side, it's the opposite way.

2 Q. Right. So away from the customer, you
3 started on the left-hand side?

4 A. Yes.

5 Q. All right. And then you got the money?

6 A. Yes.

7 Q. And then went to the next one and got
8 the money, right?

9 A. Yes.

10 Q. And gave the robber some cigarettes at
11 one point?

12 A. I didn't give him cigarettes. He took
13 the cigarettes.

14 Q. Okay. So he took some -- what was it
15 Newports or Mavericks?

16 A. Mavericks.

17 Q. All right. And did you see how many
18 the robber took?

19 A. No.

20 Q. All right. Now, that interaction, you
21 saw it on the video, right?

22 A. Yes.

23 Q. And you were there, right?

24 A. Yes.

25 Q. It's fair to say it was probably two

GRAHAM - CROSS EXAM BY MR. SMALDONE

1 minutes maybe?

2 A. About, yes.

3 Q. Right. Okay. And that's from the time
4 that the robber walks in and the time you leave?

5 A. Yes.

6 Q. All right. And fair to say most -- a
7 lot of that is your back to him, right?

8 A. Most of it.

9 Q. Okay.

10 A. About half.

11 Q. Okay. About half. But some of it you
12 saw a brief look at him, right?

13 A. Yes.

14 Q. All right. You got a good enough look
15 at him to describe the gun, right?

16 A. Yes.

17 Q. A good enough look at him to describe
18 the outfit, right?

19 A. Yes.

20 Q. So a few days later, I believe it was

21 --

22 MR. SMALDONE: The Court's indulgence?

23 THE COURT: All right.

24 BY MR. SMALDONE:

25 Q. So that same day you talked to Officer

GRAHAM - CROSS EXAM BY MR. SMALDONE

1 Diaz, right?

2 A. Yes.

3 Q. And you saw Officer Diaz here?

4 A. Yes.

5 Q. That was the one that testified right
6 before you, right?

7 A. Yes.

8 Q. And you gave a statement to Officer
9 Diaz about what you saw and what happened, right?

10 A. Yes.

11 Q. And, additionally, you made the 911
12 call that we all heard, right?

13 A. Yes.

14 Q. Okay. And you just heard the 911 call
15 so it's fresh in your mind, right?

16 A. Yes.

17 Q. And you probably examined your
18 statement with Officer Diaz at one point, right?

19 A. During the day -- that particular day,
20 yes.

21 Q. Okay. And do you remember it?

22 A. I don't remember exactly what I wrote,
23 but --

24 Q. Okay. All right. But you remember the
25 911 call because you just heard it, right?

GRAHAM - CROSS EXAM BY MR. SMALDONE

1 A. I remember the whole incident.

2 Q. Okay.

3 A. Yes.

4 Q. I understand. So in the 911 call, you
5 said it was a red hoodie, right?

6 A. Yes.

7 Q. And you saw the video. That wasn't a
8 red hoodie, was it?

9 A. It didn't have a hood on it, but it was
10 a red sweater --

11 Q. Right.

12 A. A windbreaker.

13 Q. Right. I understand. We all saw the
14 same video, right?

15 A. Yes.

16 Q. So it's fair to say a hood is what
17 makes it a hoodie, right?

18 A. That's the best description.

19 Q. Okay. Yeah. And you didn't describe
20 in the 911 video or anything about the Gamecock
21 stuff that was in the video, right?

22 A. No.

23 Q. Okay. And on the 911 call and also in
24 your statement, you said that he had black boots
25 on?

GRAHAM - CROSS EXAM BY MR. SMALDONE

1 A. Work boots.

2 Q. Right. But do you remember saying they
3 were black boots?

4 A. I don't remember saying if they were
5 black. I remember the pants were black.

6 Q. Okay. Would it refresh your memory to
7 see the statement of Officer Diaz that he wrote?

8 A. If you would like me to.

9 Q. Okay.

10 MR. SMALDONE: May I approach?

11 THE COURT: Yes, you may. Mark it for
12 identification, please.

13 MR. SMALDONE: Okay.

14 COURT REPORTER: Number 1.

15 (DFT. EXH. 1, Statement, was marked for
16 identification.)

17 MR. SMALDONE: All right. May I
18 approach, Your Honor?

19 THE COURT: You may.

20 BY MR. SMALDONE:

21 Q. And do you recall writing this?

22 THE COURT: What is that, Defendant's 1
23 for identification?

24 MR. SMALDONE: I'm sorry. Defendant's
25 1 for ID only.

GRAHAM - CROSS EXAM BY MR. SMALDONE

1 THE COURT: Thank you.

2 THE WITNESS: Yes.

3 BY MR. SMALDONE:

4 Q. All right. And is that your signature
5 on it?

6 A. Yes.

7 Q. All right. And do you see towards the
8 bottom where you said black boots?

9 A. Yes.

10 Q. And you see everything else you wrote?

11 A. Yes.

12 Q. Okay. And that is your writing, right?

13 A. Yes, that's my writing.

14 Q. Okay. I just wanted to refresh your
15 recollection. So on that piece of writing you said
16 that he had black boots on, right?

17 A. Yes.

18 Q. You didn't just say work boots; you
19 specified black?

20 A. Yes.

21 Q. Right. And when they're on the video,
22 they weren't black, right?

23 A. Correct.

24 Q. They were tan?

25 A. Yes.

GRAHAM - CROSS EXAM BY MR. SMALDONE

1 Q. Also, you said he was an African
2 American male, right?

3 A. Yes.

4 Q. You said he was about six-one?

5 A. I think I said about six in the 911.

6 Q. All right. In the 911 tape you said
7 six feet. Would it refresh your recollection to
8 see what you wrote here, six, one?

9 A. Yes.

10 Q. It's fair to say you wrote six, one
11 here. And that's okay, right?

12 A. Yes.

13 Q. Discrepancies happen?

14 A. Yes.

15 Q. Okay. And you saw the -- you saw the
16 statement that you made, the writing, and you heard
17 the 911 tape. Fair to say you didn't describe any
18 facial features, right?

19 A. I did not.

20 Q. Okay. You didn't say anything about
21 like a scar or anything like that?

22 A. No.

23 Q. All right. Nothing about his eye
24 color?

25 A. No.

GRAHAM - CROSS EXAM BY MR. SMALDONE

1 Q. Nothing about his teeth?

2 A. No.

3 Q. All right. Nothing about his -- the
4 way he walks or anything like that?

5 A. No.

6 Q. Okay. And you had a brief interaction
7 with him. He talked to you a few times, right?

8 A. Yes.

9 Q. And you don't remember, you know,
10 describing his voice, right?

11 A. No.

12 Q. You didn't say whether it was a high
13 voice or a low voice, right?

14 A. I did not know I needed to, to be
15 honest.

16 Q. Right. That's okay. And nothing about
17 any kind of accent, any particular accent, right?

18 A. No.

19 Q. Okay. All right. I want to talk a
20 little bit about what exactly was taken that day.
21 You said there were rolls -- there was rolls of
22 quarters. And you can't really see it too well,
23 but I'm not -- we believe you.

24 You took rolls of quarters and you put
25 it in the robber's pocket, right?

GRAHAM - CROSS EXAM BY MR. SMALDONE

1 A. It wasn't rolls. It was the loose
2 quarters in the quarter slot.

3 Q. Oh, okay. So it was just a bunch of
4 loose quarters?

5 A. Correct. Yes.

6 Q. All right. They were not rolled?

7 A. No, they weren't rolled.

8 Q. All right. I understand. And he took
9 -- the robber took -- you didn't see how many packs
10 of Mavericks, but he took some Mavericks. And you
11 saw him probably take more than one?

12 A. Yes.

13 Q. Okay. And did he -- did he ever get
14 any Newports? Did you ever give him the Newports,
15 like before the transaction or anything?

16 A. No. I had dropped them on the floor.

17 Q. Okay. All right. So you had gotten
18 the Newports and then dropped them on the floor
19 when you saw the gun?

20 A. Yes.

21 Q. Okay. And you got you said -- how much
22 money was it?

23 A. \$187, I believe.

24 Q. Okay. And how did -- you know that
25 because of the general ledger?

GRAHAM - CROSS EXAM BY MR. SMALDONE

1 A. We had -- I had just opened, and each
2 drawer has a certain amount in it, and I'd only had
3 a couple of transactions, but, yes, we closed the
4 day after the incident.

5 Q. Okay. So \$187?

6 A. Correct, yes.

7 Q. And before -- just a few more
8 questions. Before that -- on one of the videos you
9 see some headlights, I think if you're facing the
10 customer, it's the right-hand side. That was the
11 ice truck, right?

12 A. Yes.

13 Q. Okay. So you never saw how the robber
14 got there or left?

15 A. I -- no.

16 Q. Okay.

17 A. I know he after the fact runs, because
18 you could hear the running, but that was it.

19 Q. Okay. You didn't see where he was
20 running to though, right?

21 A. Just back into the wooded area.

22 Q. Okay. All right. So probably -- so
23 your statement probably -- common sense, he
24 probably didn't drive there, right?

25 A. No, he didn't drive.

GRAHAM - CROSS EXAM BY MR. SMALDONE

1 Q. Right. And he probably didn't ride a
2 bike or anything, right?

3 A. No.

4 Q. Okay.

5 MR. SMALDONE: All right. The Court's
6 indulgence? Let me check my note.

7 THE COURT: If you'll leave the
8 statement with the court reporter, please.

9 MR. SMALDONE: Oh, I'm sorry. Madam
10 Court Reporter. (Indicating)

11 THE COURT: Thank you.

12 COURT REPORTER: Thank you, Judge.

13 MR. SMALDONE: And, I'm sorry, I had
14 notated it, I put a tab on it. I don't know if you
15 want to take it off.

16 THE COURT: No. It's not in evidence
17 at this point. It's just for identification, but
18 it's been referenced in the record.

19 MR. SMALDONE: Okay.

20 And, ma'am, I don't have any more
21 questions for you. Thank you.

22 THE COURT: Redirect, Solicitor?

23 MR. STEGALL: Very briefly, Your Honor.

24 THE COURT: Sure.

25 REDIRECT EXAMINATION

GRAHAM - REDIRECT EXAM BY MR. STEGALL

1 BY MR. STEGALL:

2 Q. Ms. Graham, you testified that he had
3 work boots on.

4 A. Yes.

5 Q. And Mr. Smaldone just pointed out that
6 in your statement you said that they were black.

7 A. Yes.

8 Q. Was your attention -- and I'm going to
9 show you State's Exhibit 5. Is your attention
10 focused on his boots in that picture?

11 A. No.

12 Q. What's your attention focused on?

13 A. His face and the gun.

14 Q. And I'm going to ask you again, did you
15 get a good look at the defendant's face?

16 A. I did, yes.

17 MR. STEGALL: No further questions,
18 Your Honor.

19 THE COURT: Recross?

20 MR. SMALDONE: Nothing, Your Honor.

21 THE COURT: Okay. You may step down.

22 THE WITNESS: Thank you.

23 THE COURT: Call your next witness.

24 MR. STEGALL: Thank you, Your Honor.

25 The State calls Wendy Myers.

MYERS - DIRECT EXAM BY MR. MCNEELY

1 WENDY MYERS,

2 being first duly sworn, testified as follows:

3 THE CLERK: Please be seated. State
4 your full name, and spell your last name for the
5 record.

6 THE WITNESS: It's Wendy Christine
7 Myers, M-Y-E-R-S.

8 DIRECT EXAMINATION

9 BY MR. MCNEELY:

10 Q. Good morning.

11 A. Good morning.

12 Q. Where are you currently employed?

13 A. At the Goose Creek Police Department.

14 Q. What is your position there, and how
15 long have you been employed there?

16 A. I've been there for 14 years and crime
17 scene and evidence technician.

18 Q. Please describe a little bit about your
19 education and training.

20 A. Sure. I graduated the Criminal Justice
21 Academy in 1994. Since then, I've been ten years
22 with the North Charleston Police Department and
23 then 14 at Goose Creek. I got training in general
24 crime scene processing and child fatalities, blood
25 splatter pattern analysis.

MYERS - DIRECT EXAM BY MR. MCNEELY

1 Q. Is crime scene processing one of your
2 regular duties at the Goose Creek Police
3 Department?

4 A. Yes, sir, it is.

5 Q. Were you employed in that capacity
6 during December of 2014?

7 A. I was.

8 Q. And how many years had you been doing
9 that at that time?

10 A. It would have been 12.

11 Q. When we talk about processing a crime
12 scene, what does that entail?

13 A. Latent lifts, processing for
14 fingerprint evidence, DNA evidence that might have
15 been left behind by the suspect, photography and
16 videography.

17 Q. Do you also have occasion in your job
18 to handle various types of evidence or collect
19 evidence?

20 A. Yes, sir, I do.

21 Q. What does that include?

22 A. Collecting DNA evidence, how it's
23 handled, how it's packaged to avoid cross
24 contamination.

25 Q. During the course of your employment,

MYERS - DIRECT EXAM BY MR. MCNEELY

1 did you have occasion on December 31st, 2014, to
2 respond to the Hess station at 670 College Park
3 Road in Goose Creek?

4 A. Yes, sir, I did.

5 Q. Why did you respond to the scene that
6 day?

7 A. My assistance was directed to process
8 the crime scene of an armed robbery.

9 Q. What time did you arrive at that
10 location?

11 A. If I can look at my report. It was,
12 approximately, 7:10 in the morning.

13 Q. So less than an hour after this had
14 occurred?

15 A. Yes, sir.

16 Q. What did you see when you arrived on
17 the scene?

18 A. The scene was secured by crime scene
19 tape and an officer at both entrance doors, one
20 faces Crowfield Boulevard, and both of those
21 entrances were blocked by police officers.

22 Q. What did you do when you arrived?

23 A. I met with the crime -- excuse me --
24 the Criminal Investigations Bureau's lieutenant who
25 gave me a rundown of what had occurred, and then we

MYERS - DIRECT EXAM BY MR. MCNEELY

1 went to THE video and watched the video of the
2 incident.

3 Q. Okay. And did you watch the video of
4 the incident that morning?

5 A. I did.

6 Q. Where did you watch the video?

7 A. In the back room at the rear of the
8 business.

9 Q. Okay. What was the purpose of your
10 watching the video at that time?

11 A. So that I would know what needed to be
12 processed, what had possibly been touched and
13 handled by the suspect.

14 Q. In laymen's terms, you were looking for
15 places the suspect might have touched?

16 A. Right, absolutely.

17 Q. And why were you looking for spots he
18 may have touched?

19 A. That would assist me with in knowing
20 where I needed to process for fingerprint evidence,
21 for DNA evidence.

22 Q. Did you process the scene that morning
23 for fingerprint and/or DNA evidence?

24 A. I did for DNA evidence, yes.

25 Q. And what does that entail, processing

MYERS - DIRECT EXAM BY MR. MCNEELY

1 for DNA evidence?

2 A. It's a touch DNA, which is what I was
3 looking for at the time. It would be where the
4 suspect touched a door going in or handled an item
5 inside the store.

6 And that includes taking sterile swabs
7 from a prepackaged kit, applying deionized water,
8 basically just sterile water. You put it on the
9 swab, and then you aggressively rub that spot to
10 try to pick up skin cells.

11 Q. So in simple terms, you're looking for
12 spots the person of interest may have touched. So
13 you can wet a swab, swab that spot, and then
14 attempt to pick up skin cells or DNA that had been
15 flaked off when the person touched it?

16 A. Correct.

17 Q. In your experience, is that often
18 successful?

19 A. Not as much -- it depends on how long
20 something is handled. So the longer a suspect
21 would touch an item, the more likely it is that we
22 would receive results back.

23 Q. And what spots or locations in the
24 store that morning did you swab for possible touch
25 DNA by the suspect?

MYERS - DIRECT EXAM BY MR. MCNEELY

1 A. I swabbed the exterior door handle, the
2 entrance door that was utilized by the suspect on
3 entry and exit, and then I swabbed the -- there's a
4 plastic -- if you've been in a gas station where
5 the cigarettes are behind the clerk. There are the
6 plastic containers that hold the cigarettes. I
7 swabbed that plastic container.

8 Q. Okay. Once you take the swabs, are
9 they sealed?

10 A. Yes, they are. They're placed into
11 vented swab boxes, which is a box with holes cut
12 out so the air flow can get through and dry the
13 swabs so it doesn't mildew. And then they're
14 sealed inside of envelopes at the station.

15 Q. Why are they sealed?

16 A. So that there is no cross
17 contamination.

18 Q. And did you follow that procedure in
19 this case?

20 A. Yes, I did.

21 Q. I want to show you what's been marked
22 for identification as State's Exhibit 22.

23 MR. MCNEELY: Permission to approach,
24 Your Honor?

25 THE COURT: Yes, sir.

MYERS - DIRECT EXAM BY MR. MCNEELY

1 BY MR. MCNEELY:

2 Q. Please look at State's 22 and tell me
3 if you recognize that item.

4 A. I do.

5 Q. Are the swabs that you just referenced
6 as being lifted from the store via the door handle
7 and the cigarette display contained in that
8 package?

9 A. I'm trying to read it through here.
10 Yes, they are all four in that package.

11 Q. They appear to be in a SLED plastic
12 bag. Just so the jury understands, once you
13 collect DNA swabs, do you perform analysis on them
14 yourself?

15 A. I do not.

16 Q. Okay. What happens with them?

17 A. They are sealed, and then they are
18 taken to the South Carolina Law Enforcement
19 forensic laboratory. And they do all of the
20 analysis there.

21 Q. Okay. And that's statewide?

22 A. Yes, sir.

23 Q. Okay. To your knowledge, was anything
24 able to be derived from the DNA swabs you collected
25 on that day?

MYERS - DIRECT EXAM BY MR. MCNEELY

1 A. It was not.

2 Q. Okay. You mentioned fingerprints. Did
3 you or anyone on your team attempt to fingerprint
4 any items in this case?

5 A. I did collect a -- I believe it was a
6 Maverick cigarette box that was left on the floor.
7 I collected that and took it to the station. It
8 was processed there, and there were negative
9 results on that.

10 Q. So no fingerprints?

11 A. No fingerprints were recovered.

12 Q. Okay. Following that, did you do
13 anything else at the store that morning?

14 A. I attempted to collect the video, but
15 there were issues with the DVR. So I recorded it
16 with my video recorder so that we would have a
17 copy.

18 Q. Okay. And did you submit that to
19 evidence?

20 A. Yes, sir, I did.

21 Q. Likewise with the swabs, you submitted
22 them to evidence?

23 A. Yes.

24 Q. Were they sealed when you submitted
25 them?

MYERS - CROSS EXAM BY MR. SMALDONE

1 A. They were.

2 MR. MCNEELY: I have nothing further
3 for this witness, Your Honor.

4 THE COURT: Cross examine.

5 CROSS-EXAMINATION

6 BY MR. SMALDONE:

7 Q. All right. Just to be clear, you
8 arrived that same day of the robbery?

9 A. Correct.

10 Q. All right. And you were, what? One of
11 the first four or five people there?

12 A. Likely one of the first or five people,
13 yes.

14 Q. Okay.

15 A. I know there were at least three that I
16 spoke to.

17 Q. Okay. So I was correct. Okay. All
18 right. So your job was to swab things that you
19 believe the robber touched, right?

20 A. Correct.

21 Q. All right. So you swabbed the
22 cigarettes, the door handle, and what else?

23 A. The cigarette box and then the door
24 handle.

25 Q. All right. And just so everyone knows,

MYERS - CROSS EXAM BY MR. SMALDONE

1 you didn't find any results?

2 A. We got no results back from SLED,
3 that's correct.

4 Q. Right. So as far -- in your world, in
5 a vacuum, there is nothing that you have to offer
6 today that would tie Mr. Isaac to this robbery?

7 A. No.

8 MR. SMALDONE: Okay. That's all.
9 Thank you.

10 THE COURT: Redirect?

11 MR. MCNEELY: No, Your Honor.

12 THE COURT: Thank you. You may come
13 down.

14 Call your next witness.

15 MR. MCNEELY: The State calls Jennifer
16 Bartman.

17 JENNIFER BARTMAN,

18 being first duly sworn, testified as follows:

19 THE CLERK: Please be seated. State
20 your full name, and spell your last name for the
21 record.

22 THE WITNESS: My name is Jennifer
23 Bartman, B-A-R-T-M-A-N.

24 DIRECT EXAMINATION

25 BY MR. MCNEELY:

BARTMAN - DIRECT EXAM BY MR. MCNEELY

1 Q. Good Morning, Ms. Bartman.

2 A. Good morning.

3 Q. Where are you currently employed?

4 A. I'm currently employed with the South
5 Carolina Law Enforcement Division, commonly known
6 as SLED.

7 Q. What is your position with SLED?

8 A. I am a DNA analyst in the DNA casework
9 department.

10 Q. How long have you been working in that
11 capacity?

12 A. For just over six years.

13 Q. Please, tell the jury a little bit
14 about your education and training.

15 A. I have a bachelor's of science degree
16 in biology from Hope College in Michigan. I also
17 have a master's degree in forensic science with a
18 concentration in forensic biology from the Virginia
19 Commonwealth University. I also received
20 approximately a year of on-the-job training at SLED
21 with a court-qualified analyst in the proper
22 techniques and procedures of the laboratory.

23 Q. What are the duties of your position as
24 a DNA analyst at SLED?

25 A. We receive evidence from crimes that

BARTMAN - DIRECT EXAM BY MR. MCNEELY

1 occur across the state of South Carolina. We
2 perform DNA analysis on those items, make any
3 comparisons that are necessary, and generate
4 reports to our results.

5 Q. Do you participate in any continuing
6 education as a part of your position with SLED?

7 A. Yes, I do. We are required to have at
8 least eight hours of continuing education a year.

9 Q. Have you ever testified in court
10 before?

11 A. Yes, I have.

12 Q. Have you been qualified as an expert in
13 the field of DNA analysis?

14 A. Yes, I have.

15 Q. How many times?

16 A. Twenty-four times.

17 MR. MCNEELY: Your Honor, at this time
18 I would offer Ms. Bartman as an expert in the field
19 of DNA analysis.

20 THE COURT: Do you care to examine her
21 as to qualifications?

22 MR. SMALDONE: No, Your Honor, and I
23 don't object.

24 THE COURT: Very well. She will be
25 able to render opinions in that area.

BARTMAN - DIRECT EXAM BY MR. MCNEELY

1 MR. MCNEELY: Thank you, Your Honor.

2 BY MR. MCNEELY:

3 Q. Ms. Bartman, I want to ask you a few
4 basic questions at first about DNA. What -- what
5 is DNA analysis? What are we looking for?

6 A. DNA is an acronym for deoxynbonucleic
7 acid, the chemical that is found in your body. You
8 get half of your DNA from your mom and half of your
9 DNA from your dad. With the exception of identical
10 twins, DNA is individual or unique to each
11 individual.

12 Q. So stated simply, if you had a sample
13 of my blood or a piece of my hair, could you
14 analyze it and develop a profile unique to myself?

15 A. Yes, that's correct.

16 Q. Assuming I don't have a twin, which I
17 do not.

18 A. That's correct.

19 Q. Are there various types of DNA that you
20 analyze?

21 A. There are a couple of different types
22 of testing. We, typically, do short tandem repeat
23 testing, which looks at specific locations of the
24 DNA. We also have a Y specific or a male specific
25 testing, but we can develop profiles from body

BARTMAN - DIRECT EXAM BY MR. MCNEELY

1 fluids or skin cells or things like that.

2 Q. Okay. What is a known standard in your
3 field?

4 A. A known standard is, typically, a
5 buccal swab. It can also be a blood standard from
6 a known individual that would be used for a
7 comparison.

8 Q. So stated simply, you develop a profile
9 for someone who you know is that person, and then
10 you can compare their known profile to samples that
11 may or may not be that person?

12 A. Yes, that's correct.

13 Q. Okay. And I believe I just touched on
14 it, but what is a sample swab?

15 A. A sample swab, what he's referring to,
16 is evidence that we receive. So we get either
17 cuttings or swabs from crime scenes or from other
18 areas associated with a crime, and we generate DNA
19 profiles for that and attempt to determine a
20 comparable DNA profile.

21 Q. I noticed you emphasized the word
22 attempt. Why did you emphasize the word attempt?

23 A. It's not -- it's not automatic that we
24 get a DNA profile from any surface that is
25 submitted. Typically, with body fluids it is more

BARTMAN - DIRECT EXAM BY MR. MCNEELY

1 likely that we would develop a comparable profile;
2 however, with other types of samples it is not as
3 likely.

4 Q. Since we're narrowing it, what is touch
5 DNA?

6 A. Touch DNA is DNA that was left behind
7 when an object is handled or a surface that is
8 touched.

9 Q. Okay. In your experience with SLED, is
10 it more common for you to be able to get an
11 identifiable sample from a bodily fluid or touch
12 DNA?

13 A. From a body fluid.

14 Q. Okay. And why is that?

15 A. It has a greater amount of DNA. When
16 we're looking at touch DNA, just because an item is
17 touched by an individual doesn't necessarily mean
18 that we would develop a DNA profile from that
19 person.

20 And, typically, touch DNA is collected
21 from surfaces where multiple people have touched
22 and not for very long. So we, typically, get low
23 level partial profiles or complex mixtures from
24 touch DNA samples.

25 Q. For example, this podium, I'm touching

BARTMAN - DIRECT EXAM BY MR. MCNEELY

1 it right now. My co-counsel, Mr. Stegall, has been
2 at the podium this morning and he touched it. If
3 someone came behind me, wet a swab, swabbed it,
4 sealed it, and submitted it to you for testing, is
5 it possible, if not probable, that you would get a
6 mixture in that sample and that you may not be able
7 to identify someone with that sample?

8 A. Yes, it is possible that I would get a
9 mixture or even a partial profile depending on how
10 long or how much pressure was used when the item
11 was touched. There are several factors that go
12 into whether a touch DNA profile can be developed.

13 Q. Can this difficulty be exacerbated by
14 public locations?

15 A. Typically, when an item that is swabbed
16 in a public location, multiple people have touched
17 it and have handled it and, therefore, complex
18 mixtures are typically developed from those types
19 of items.

20 Q. When you take a sample from a public
21 place and analyze it and it comes back as a mixture
22 or an unidentifiable sample, is that surprising to
23 you?

24 A. No, it's not.

25 Q. If nothing else, is it not common?

1 A. It is common, yes.

2 Q. Okay. On that note, did you take any
3 sample swabs in this case to analyze at SLED?

4 A. Yes, I did.

5 MR. MCNEELY: Permission to approach,
6 Your Honor?

7 THE COURT: Yes.

8 BY MR. MCNEELY:

9 Q. I'm going to show you what's been
10 marked for identification as State's 22. You can
11 pull the items out if you need to. Tell me if you
12 recognize the sample swabs in that item.

13 A. Yes, I do recognize the item.

14 Q. In this case, where did you have sample
15 swabs from?

16 A. I received swabs from the exterior
17 handle of the side entrance door, and I also
18 received swabs from the Newport cigarette display.

19 Q. Okay. As to the swabs from the
20 exterior handle entrance door, did you perform
21 analysis on that?

22 A. Yes, I did.

23 Q. What were the results of your analysis?

24 A. The DNA profile that was developed was
25 a mixture of at least four individuals. Due to the

BARTMAN - DIRECT EXAM BY MR. MCNEELY

1 inability to calculate a statistic, no further
2 interpretation will be offered.

3 And for SLED, in order to make any
4 comparison with an item of evidence, we have to be
5 able to perform a statistic or put weight on that
6 inclusion. And in this case, I wasn't able to
7 calculate a statistic and, therefore, a DNA profile
8 was not suitable for a comparison.

9 Q. Okay. Let's simplify that a little if
10 we can. So the DNA profile is a mixture of at
11 least four individuals. So you have at least four
12 mixed DNA profiles in the sample, correct?

13 A. Yes, that's correct.

14 Q. If not more?

15 A. That's correct.

16 Q. Okay. And you weren't able to develop
17 from any of those a sufficient sample to compare to
18 a known standard for a person, correct?

19 A. Yes, the mixture profile was not
20 comparable.

21 Q. Okay. None of the four, or not one of
22 the four, or one, two, three of the four could have
23 been compared. Nobody could be identified from the
24 sample, correct?

25 A. That's correct.

BARTMAN - CROSS EXAM BY MR. SMALDONE

1 Q. Now, as to the swabs from the Newport
2 cigarette display, did you perform analysis on
3 those?

4 A. Yes, I did.

5 Q. And what was the result of that?

6 A. The DNA profile developed from the
7 Newport cigarette display was a mixture of at least
8 two individuals, and due to the inability to
9 calculate a statistic, no further interpretation
10 will be offered.

11 Q. Okay. So, again, multiple people had
12 touched where the swab was lifted from?

13 A. That's correct.

14 Q. And you were not able to compare that
15 sample to any known standard?

16 A. That's correct.

17 Q. Did that conclude your analysis in the
18 case?

19 A. Yes.

20 MR. MCNEELY: No further questions from
21 the State at this time.

22 THE COURT: Cross-examination?

23 CROSS-EXAMINATION

24 BY MR. SMALDONE:

25 Q. Good morning.

BARTMAN - CROSS EXAM BY MR. SMALDONE

1 A. Good morning.

2 Q. All right. So just -- I just want to
3 sum it up and kind of reduce it down. No DNA that
4 you tested was suitable for further testing; is
5 that basically what you're saying?

6 A. Was suitable for a comparison to a
7 known standard, correct.

8 Q. Okay. So the DNA you got, you couldn't
9 examine it against other people's DNA?

10 A. With a comparator, yes.

11 Q. All right. So, in short, nothing that
12 you have to offer today ties my client to this
13 crime at all, correct?

14 A. That is correct.

15 MR. SMALDONE: All right. Thank you.

16 THE COURT: Redirect?

17 MR. MCNEELY: No, Your Honor.

18 THE COURT: Thank you. You may step
19 down.

20 Do you wish the witness to be excused?

21 MR. MCNEELY: She may.

22 THE COURT: Any objection?

23 MR. SMALDONE: No objection, Your
24 Honor.

25 THE COURT: You are also free to leave.

1 THE WITNESS: Thank you.

2 THE COURT: All right. Ladies and
3 gentlemen, given the hour we'll take our lunch
4 recess at this point. Do not begin your
5 deliberations. Don't discuss the case among
6 yourselves, and while you're out, certainly do not
7 allow anybody to talk about this case in your
8 presence or talk to you about the case.

9 I'd ask you to return to your jury room
10 please by 1:30. Thank you. You are free to leave.

11 (Jury out, 12:03 p.m.)

12 THE COURT: All right. Anything from
13 the State before we recess?

14 MR. STEGALL: No, Your Honor.

15 THE COURT: Anything from the
16 defendant?

17 MR. SMALDONE: No, Your Honor.

18 THE COURT: How many more witnesses do
19 you have?

20 MR. STEGALL: Two.

21 THE COURT: What's the length?

22 MR. STEGALL: We've got the leading
23 investigator and then another lay witness.

24 Probably, I think 45 minutes. I think we'll finish
25 before --

1 THE COURT: Okay. All right. At this
2 point, do you anticipate calling any witnesses?

3 MR. SMALDONE: I don't anticipate it,
4 Your Honor.

5 THE COURT: Okay. That's fine.

6 MR. SMALDONE: It's still in the works.

7 THE COURT: All right. Well, you-all
8 be thinking about it. We'll probably go to the
9 jury this afternoon. Thank you.

10 MR. STEGALL: Oh, today?

11 THE COURT: Yes, sir.

12 MR. STEGALL: Okay.

13 THE COURT: If you finish in
14 45 minutes, yes, sir. All right. Thank you.

15 (A luncheon recess transpired, 12:04
16 p.m. - 1:36 p.m.)

17 THE COURT: Is the State ready?

18 MR. STEGALL: Yes, sir.

19 THE COURT: Is the defense ready?

20 MR. SMALDONE: Yes, sir.

21 THE COURT: Let the record reflect Mr.
22 Isaac is present.

23 Thank you, Mr. Stegall. I appreciate
24 you subtly telling me, you know, you've got to go
25 somewhere today. You were very kind and very

HAWKINS - DIRECT EXAM BY MR. STEGALL

1 considerate.

2 MR. STEGALL: Thank you, Your Honor.

3 THE COURT: I appreciate it. All
4 right. Let's bring in the jury please.

5 (Jury in, 1:26 p.m.)

6 THE COURT: Thank you, ladies and
7 gentlemen. I hope you had a good lunch. We're
8 ready to continue.

9 Solicitor, thank you. You may call
10 your next witness.

11 MR. STEGALL: Thank you, Your Honor.
12 The State calls Sandra Hawkins.

13 SANDRA HAWKINS,
14 being first duly sworn, testified as follows:

15 THE CLERK: Please be seated. State
16 your full name, and spell your last name for the
17 record.

18 THE WITNESS: Sandra Hawkins,
19 H-A-W-K-I-N-S.

20 DIRECT EXAMINATION

21 BY MR. STEGALL:

22 Q. Ms. Hawkins, where are you currently
23 employed?

24 A. U-Haul.

25 Q. What's your position with U-Haul?

HAWKINS - DIRECT EXAM BY MR. STEGALL

1 A. I'm -- I just basically do storage and,
2 like, a cleaning person.

3 Q. How long have you worked there?

4 A. Four years.

5 Q. Do you know if they do background
6 checks there?

7 A. Yes.

8 Q. Did they do a background check on you?

9 A. Yes.

10 Q. And you were still hired?

11 A. Yes.

12 Q. Have you ever been convicted of a
13 crime?

14 A. Yes.

15 Q. What was that?

16 A. Shoplifting.

17 Q. When was that?

18 A. The last one was 2013.

19 Q. What did you take?

20 A. Clothes.

21 Q. For yourself?

22 A. No, for a friend.

23 Q. No trouble since then?

24 A. No trouble since then.

25 Q. Okay. A steady job for four years?

HAWKINS - DIRECT EXAM BY MR. STEGALL

1 A. Yes, sir.

2 Q. Do you know the defendant in the
3 courtroom today?

4 A. Yes, I do.

5 Q. How did you meet the defendant?

6 A. We met at a store that a good friend of
7 mine opened up by his house.

8 Q. How long have you known the defendant?

9 A. I want to say since maybe 2011, '12,
10 somewhere along in there.

11 Q. Okay. What was your relationship?

12 A. We were engaged.

13 Q. You were engaged. And what's his name
14 for the record?

15 A. Rias Isaac.

16 Q. Do you have another name that you call
17 him?

18 A. Iris.

19 Q. Iris. So how long were you engaged?

20 A. I'm going to say less than a year.

21 Q. Okay. How long were you romantically
22 involved with Mr. Isaac?

23 A. Since 2012.

24 Q. Okay. So you were romantically
25 involved since 2012, but became engaged at a later

HAWKINS - DIRECT EXAM BY MR. STEGALL

1 time?

2 A. Uh-huh.

3 THE COURT: Is that a yes?

4 THE WITNESS: Yes.

5 BY MR. STEGALL:

6 Q. During that relationship since 2012,
7 did you ever spend the night together?

8 A. No.

9 Q. Did you ever go to his house?

10 A. I've been to his mother's house quite a
11 few times.

12 Q. Where is that?

13 A. Bellwright Road.

14 Q. Do you know what city that's in?

15 A. Summerville.

16 Q. Okay. Are you still a couple?

17 A. No.

18 Q. When did you break up?

19 A. I broke up with him in 2013.

20 Q. Why did you-all break up?

21 A. Because I just couldn't stand the drugs
22 no more.

23 MR. SMALDONE: Object -- objection.

24 THE COURT: All right. Move on to
25 something else, Mr. Solicitor.

HAWKINS - DIRECT EXAM BY MR. STEGALL

1 BY MR. STEGALL:

2 Q. Do you still keep in touch?

3 A. No.

4 Q. You don't. Have you spoken to him
5 since the arrest?

6 A. Yes.

7 Q. How did you communicate since the
8 arrest? Means of communication?

9 A. We wrote several letters and I've been
10 to visit him.

11 Q. All right. So is it safe to say that
12 you are very familiar with Rias Isaac?

13 A. Yes.

14 Q. Do you know which college team he
15 preferred?

16 A. Gamecocks.

17 Q. And is that the Carolina Gamecocks?

18 A. Yes, sir.

19 Q. Do you know what type of clothing he
20 typically wore?

21 A. He usually wore black pants, Gamecock
22 equipment, T-shirts, sometimes he would wear jeans.

23 Q. What about hats?

24 A. He had plenty of those.

25 Q. Okay. What about footwear?

HAWKINS - DIRECT EXAM BY MR. STEGALL

1 A. He had boots, he had sneakers.

2 Q. Okay. All right. Do you know if he
3 smoked?

4 A. Yes.

5 Q. What type of cigarettes did he smoke?

6 A. Newport.

7 Q. Did he smoke any other kind?

8 A. Maverick.

9 Q. All right. I want to ask you about
10 January of 2015. Did you come across any
11 information about this defendant during that time?

12 A. Yes.

13 Q. How did you learn about this
14 information?

15 A. I seen a picture of it in the press.

16 Q. Okay. What stood out to you in that
17 picture?

18 A. Just him, himself and the clothes he
19 had.

20 Q. Okay. I'm going to show you what's
21 been marked as State's Exhibit 4. All right. If
22 you could direct your attention behind you, this is
23 one of the photos taken from the surveillance
24 video. Do you recognize that individual?

25 A. Iris -- Rias.

HAWKINS - DIRECT EXAM BY MR. STEGALL

1 Q. Do you recognize the clothing that he's
2 wearing?

3 A. It looks like he has a Burberry hat on
4 and a shirt.

5 Q. And let me -- would it be easier if I
6 show you a photograph so you wouldn't have to turn
7 around?

8 A. Yes.

9 Q. I apologize. Let me --

10 MR. STEGALL: And may I approach, Your
11 Honor?

12 THE COURT: Yes, you may.

13 BY MR. STEGALL:

14 Q. Make it a little easier. Okay.
15 Burberry hat. What is that? Is that a --

16 A. It's like a checked looking hat.

17 Q. How are you familiar with that hat?

18 A. Because I know just about all the hats
19 he had. I mean, it might not be his Burberry hat,
20 but that's -- from this picture, that's what it
21 kind of looks like. If it's not, it's got to be a
22 Gamecock hat.

23 Q. Were you able to identify him through
24 his clothing alone?

25 A. The picture that I seen, the front of

HAWKINS - DIRECT EXAM BY MR. STEGALL

1 his jacket was a Gamecock jacket, and it looked
2 like he either had a Burberry hat or a Gamecock
3 hat. Just his face, I just -- I know his face.

4 Q. So you did see his face --

5 A. Yes.

6 Q. -- in the photograph?

7 A. Yes.

8 Q. And you recognized his face?

9 A. Yes.

10 Q. The person in that photograph that you
11 recognized, who was that individual?

12 A. Rias Isaac.

13 Q. How certain were you?

14 A. 100 percent.

15 Q. What did you do next?

16 A. I called the Goose Creek Police
17 Department.

18 Q. What was your purpose for contacting
19 the Goose Creek Police Department?

20 A. Because what I seen in the picture, it
21 looked like he had a gun to the girl's side. And
22 all I could think about, that's somebody's child.
23 It could have been my child.

24 Q. Did you go to Goose Creek Police
25 Department and provide a statement?

HAWKINS - DIRECT EXAM BY MR. STEGALL

1 A. Yes.

2 Q. Willingly?

3 A. Yes.

4 Q. Is everything that you told them that
5 day the same thing that you're telling us today?

6 A. Yes.

7 Q. You said you don't have a relationship
8 with the defendant any longer. Do you still care
9 about the defendant or have any feelings at all
10 towards the defendant?

11 A. I care about him. I don't love him,
12 but I care about him.

13 Q. And what's your reason for coming in
14 today and testifying?

15 A. Just to get the truth to be told. You
16 know, I was subpoenaed to come here, and I was not
17 going to not come because I was subpoenaed. But,
18 you know, I just -- I just want the truth to come
19 out.

20 MR. STEGALL: The Court's indulgence?

21 BY MR. STEGALL:

22 Q. I'm going to ask you to point out the
23 person that was in that photograph and the person
24 that you told Goose Creek -- I'm going to ask you,
25 is he in the courtroom today?

HAWKINS - CROSS EXAM BY MR. SMALDONE

1 A. Yes.

2 Q. Can you point him out for the Court?

3 A. (Pointing)

4 Q. And say where he is sitting for the
5 Court Reporter.

6 A. He's sitting beside that lawyer.

7 Q. Okay.

8 MR. STEGALL: No further questions,
9 Your Honor.

10 THE COURT: Very well. You may cross
11 examine..

12 CROSS-EXAMINATION

13 BY MR. SMALDONE:

14 Q. All right. Good afternoon.

15 A. Hi.

16 Q. All right. Let's be honest, you've
17 been convicted of a bunch of shopliftings, right?

18 A. Yes, I have.

19 Q. So you've been convicted of shoplifting
20 in 1985?

21 A. Yes.

22 Q. You've been convicted of shoplifting in
23 1990?

24 A. Yes.

25 Q. You've been convicted of shoplifting,

HAWKINS - CROSS EXAM BY MR. SMALDONE

1 sixth offense, and three shopliftings in 1993?

2 A. I don't remember the year, but, yeah.

3 Q. Okay. And then shoplifting in '97,
4 right?

5 A. Yes.

6 Q. Shoplifting between one and \$5,000 in
7 1998?

8 A. Yes.

9 Q. Shoplifting in 2003, right? Do you
10 remember that?

11 A. Yes.

12 Q. Okay. Another property crime in 2006.
13 Do you remember that?

14 A. Yes.

15 Q. And then in 2003, shoplifting, a felony
16 shoplifting. You've been convicted of that?

17 A. Yes.

18 Q. Okay. So it's more than just one,
19 right?

20 A. Of course, yes, sir.

21 Q. Okay. Now, you say that you saw the --
22 was it the video or the image, a photograph?

23 A. A photograph.

24 Q. You saw the photograph on the news?

25 A. I seen it in the Mugshot Magazine.

HAWKINS - CROSS EXAM BY MR. SMALDONE

1 Q. Mugshot Magazine. All right. So you
2 saw that picture, and you said you recognized him
3 from that picture?

4 A. Yes.

5 Q. All right. So you recognized him by
6 his face in that picture?

7 A. Yes.

8 Q. All right. So you've seen those
9 pictures today, right?

10 A. Yes. This doesn't look like him in the
11 face, no.

12 Q. Okay. So the guy in that picture
13 doesn't look like him?

14 A. Not -- no. To me it don't, no.

15 Q. Okay. Now, you know him relatively
16 well?

17 A. Yes.

18 Q. You can say that, right? You said you
19 dated him in 2012?

20 A. Yes.

21 Q. And you got engaged in -- you got
22 engaged in 2013?

23 A. I think it was that time. I don't
24 remember. I mean, that's been a long time ago.

25 Q. It was, yeah. I understand.

HAWKINS - CROSS EXAM BY MR. SMALDONE

1 A. And I really don't remember the dates
2 and the year or nothing like that, but I know I've
3 been with him and we got engaged.

4 Q. All right. So you know him pretty
5 well?

6 A. Yes.

7 Q. All right. And you said that he likes
8 to wear Gamecock stuff?

9 A. Yes.

10 Q. All right. And we're in South
11 Carolina, right?

12 A. Yes.

13 Q. It's pretty popular, right?

14 A. Yes.

15 Q. Probably, either the one or two most
16 popular teams, isn't it?

17 A. Yes.

18 Q. And you said you recognized the hat?

19 A. Yes.

20 Q. All right. But you don't even know if
21 it's a Burberry hat or a Gamecock hat, right?

22 A. No, not in this picture I don't.

23 Q. Okay. And you don't recognize that hat
24 -- you don't recognize that as being his hat?

25 A. Not from the side, no.

HAWKINS - CROSS EXAM BY MR. SMALDONE

1 Q. Okay. So you don't recognize the hat?

2 A. No.

3 Q. All right. And you said you'd never
4 seen the jacket before?

5 A. The jacket, I -- I know he had a
6 Gamecock jacket, yes.

7 Q. Right. Right.

8 A. And the jacket that was in the
9 photograph, I have seen it on him, but where he got
10 it from, I don't know.

11 Q. All right.

12 MR. SMALDONE: The Court's indulgence?

13 THE COURT: All right.

14 BY MR. SMALDONE:

15 Q. Did you make a statement to -- with law
16 enforcement after this?

17 A. Yes.

18 Q. All right. And you talked to them -- I
19 think you met somewhere, right? And you talked to
20 them?

21 A. Yes.

22 Q. All right. Do you remember --

23 MR. SMALDONE: I have to premark this,
24 Judge, so I ask the Court's indulgence?

25 THE COURT: Sure.

HAWKINS - CROSS EXAM BY MR. SMALDONE

1 BY MR. SMALDONE:

2 Q. Do you remember telling the officer
3 that you had never seen that jacket?

4 A. No.

5 Q. Okay.

6 MR. SMALDONE: I'm going to ask the
7 Court Reporter to premark this as Defense 2 for ID.

8 THE COURT: Okay.

9 (DFT. EXH. 2, Statement, was marked for
10 identification.)

11 COURT REPORTER: Number 2.

12 BY MR. SMALDONE:

13 Q. All right. So you talked to law
14 enforcement and gave them your version of events of
15 what you saw in the picture, right?

16 A. Yes.

17 Q. All right. So I'm going to show this
18 to you and ask if this looks like a transcription
19 of what you said, meaning the words. And this is
20 just one page, but --

21 A. Okay.

22 Q. Does that -- is that what -- does that
23 refresh your recollection as to what you told him?

24 A. Yes.

25 Q. Okay. Do you remember telling the

HAWKINS - CROSS EXAM BY MR. SMALDONE

1 officer, I've never seen that jacket?

2 A. Honestly, no, I don't remember. I
3 don't remember saying that.

4 Q. Okay.

5 A. I'm not going to sit here and lie and
6 say, yes, I do remember because I don't.

7 Q. It was a long time ago, right?

8 A. Yes.

9 Q. All right. Okay. All right. Now, you
10 said you saw the photograph and you got concerned,
11 right?

12 A. Yes.

13 Q. Okay. So you wanted to do the right
14 thing, right?

15 A. Yes.

16 Q. So you called Goose Creek?

17 A. Yes.

18 Q. All right. But you didn't call them
19 first, did you? You called the Crime Stoppers,
20 right?

21 A. No, I called Goose Creek first.

22 Q. Okay. And you called Crime Stoppers at
23 one point, right?

24 A. Yes, I did.

25 Q. Right. And you got \$200 for that,

1 right?

2 A. Yes, I did.

3 Q. Okay. All right. And you know that
4 once you told them that, you couldn't change your
5 story, right?

6 A. Right.

7 Q. Right. Because that's a crime -- then
8 you'd be committing another crime?

9 A. Right.

10 Q. You don't need any more of those,
11 right?

12 A. No.

13 Q. Okay. Now, I want to talk about how
14 well you knew him and what he looks like and all
15 that stuff. You've been around him enough to know
16 what he looks like, right?

17 A. Yes.

18 Q. He doesn't look like the guy in that
19 picture, right?

20 A. No, not really. Not in that picture he
21 don't.

22 Q. Okay. You've spent time with him. You
23 know that -- you know what his teeth look like,
24 right?

25 A. Yeah.

HAWKINS - CROSS EXAM BY MR. SMALDONE

1 Q. All right. So you know he's missing
2 the bottom two teeth, right?

3 A. Not as I know of. When I was with him,
4 he had all of his teeth.

5 Q. Okay.

6 A. Okay.

7 Q. All right. So he had all of his teeth
8 when he was with you. He had a scar on the side of
9 his face then, right?

10 A. Yes.

11 Q. Okay. And he's had that for awhile,
12 right?

13 A. Ever since I've known him.

14 Q. All right. It's pretty distinctive,
15 isn't it?

16 A. You can tell he's got a scar there,
17 yeah.

18 Q. Okay. Where is he from originally?

19 A. New York.

20 Q. New York. What part of New York?

21 A. Brooklyn.

22 Q. Brooklyn. You've talked with him,
23 right?

24 A. Yes.

25 Q. Obviously. Fair to say he's got a

HAWKINS - CROSS EXAM BY MR. SMALDONE

1 pretty distinctive Brooklyn accent, doesn't he?

2 A. Yes.

3 Q. Does he talk like he's from Moncks
4 Corner?

5 A. I don't know. How does Moncks Corner
6 talk?

7 Q. Sort of like me or you. I ain't making
8 fun of Moncks Corner. But he doesn't talk like
9 he's from the south, does he?

10 A. No, not really. No.

11 Q. All right. He's got a pretty thick New
12 York accent, doesn't he?

13 A. Yes.

14 MR. SMALDONE: The Court's indulgence?

15 THE COURT: Okay.

16 BY MR. SMALDONE:

17 Q. All right. So, basically -- so is it
18 your testimony today that you do remember that
19 jacket or you don't remember that jacket or you're
20 not sure? It's okay to be not sure.

21 A. I'm not sure of that jacket.

22 Q. Okay. So you're not sure of the
23 jacket, right?

24 A. No.

25 Q. Not sure of the hat, right?

HAWKINS - CROSS EXAM BY MR. SMALDONE

1 A. No.

2 Q. The pants aren't very distinctive,
3 right? They're just the black pants in the
4 picture, right?

5 A. He always wore black pants.

6 Q. Okay.

7 A. Or jeans.

8 Q. Yeah, or jeans. And then the guy in
9 the picture doesn't really look like him, right.

10 A. To me he don't, no. Not in this
11 picture, not here, no.

12 Q. Okay. All right. And he's, what?
13 About five ten, five nine?

14 A. Five, eight, somewhere around in there.

15 Q. Five, eight?

16 A. Yeah, five eight, five nine.

17 Q. All right. How -- and you know that
18 pretty well. How tall are you?

19 A. I'm five two and a half.

20 Q. Okay. So you know that he's five
21 eight?

22 A. Not exactly, but I know he's up there.

23 Q. Right. Right. Okay.

24 MR. SMALDONE: The Court's indulgence?

25 All right.

HAWKINS - REDIRECT EXAM BY MR. STEGALL

1 I don't have anymore questions for you
2 at this time.

3 THE COURT: Redirect?

4 MR. STEGALL: Briefly, Your Honor.

5 THE COURT: Sure.

6 REDIRECT EXAMINATION

7 BY MR. STEGALL:

8 Q. All right. Do you still have that
9 picture in front of you?

10 A. Uh-huh.

11 Q. All right. I want to clear something
12 up. The press release that you saw was not this
13 picture, correct?

14 A. No. He's standing behind the counter
15 with the lady.

16 Q. The press release that you saw was of
17 this incident, correct?

18 A. Yes.

19 Q. This picture is a still of a video; is
20 it not?

21 A. Yes.

22 Q. It's a side shot of the defendant; is
23 it not?

24 A. Yes.

25 Q. Can you see what's on the front of his

HAWKINS - REDIRECT EXAM BY MR. STEGALL

1 jacket?

2 A. I can tell it's a Gamecock --

3 Q. I mean --

4 A. Can I turn around and look?

5 Q. Well, you've got the picture in front
6 of you.

7 A. On this one? I can tell it's a
8 Gamecock emblem. The picture that I seen, it had
9 the Gamecock emblem.

10 Q. Is it harder to see his appearance in
11 this picture?

12 A. In this one, yes.

13 Q. Than the one --

14 A. Yes.

15 Q. -- from the press release? And the
16 press release, I just want to -- it was a different
17 picture and you could see his --

18 MR. SMALDONE: Your Honor, I've got to
19 object at this point.

20 THE COURT: What's the objection?

21 MR. SMALDONE: Best evidence.

22 THE COURT: Well, first of all, I'm
23 overruling best evidence. He's asking the question
24 about what she saw. You'll have the opportunity to
25 -- recross examination. Overruled.

HAWKINS - REDIRECT EXAM BY MR. STEGALL

1 MR. SMALDONE: Okay.

2 MR. STEGALL: The Court's indulgence?

3 THE COURT: Yes, sir.

4 BY MR. STEGALL:

5 Q. I'm going to show you what's marked as
6 State's Exhibit 3.

7 THE COURT: Hand her the picture,
8 Solicitor.

9 MR. STEGALL: May I approach?

10 THE COURT: Yes, sir.

11 BY MR. STEGALL:

12 Q. That's a head-on shot of the defendant,
13 a video still --

14 A. Uh-huh, yes.

15 Q. -- from the video? It's pretty hard to
16 make out his face there, too, isn't it?

17 A. Yes.

18 Q. Is it fair to say that a snapshot of a
19 video might not necessarily depict the person as a
20 professional photograph for a press release would?

21 A. That's --

22 Q. I guess what I'm getting at, was the
23 photo -- the press release, was it more detailed
24 than what I'm showing you?

25 A. It was a lot clearer. These are very

HAWKINS - REDIRECT EXAM BY MR. STEGALL

1 blurry.

2 Q. Okay. And is the fact that it's so
3 blurry the reason why you said it doesn't look like
4 the defendant? When you just testified on
5 cross-examination --

6 A. Uh-huh.

7 Q. -- you said this picture doesn't look
8 like the defendant. Why is that?

9 A. Because this right here, this person
10 don't -- I couldn't even see his face. All I see
11 is a side view.

12 Q. And why can't you see his face?

13 A. Because it's so dark.

14 Q. Could you see the person's face on the
15 press release?

16 A. Yes.

17 Q. And were you able to 100 percent
18 identify him?

19 A. Yes, I could.

20 Q. And who was he?

21 A. Rias Isaac.

22 MR. STEGALL: The Court's indulgence?

23 No further questions, Your Honor.

24 THE COURT: Recross?

25 RECROSS-EXAMINATION

HAWKINS - RECROSS EXAM BY MR. SMALDONE

1 BY MR. SMALDONE:

2 Q. Have you seen that press release at all
3 today?

4 A. No.

5 Q. All right. You haven't seen it in this
6 courtroom?

7 A. Not the one that I seen, no.

8 MR. SMALDONE: No further questions.

9 THE COURT: All right. You may come
10 down. Thank you.

11 THE WITNESS: Thank you.

12 THE COURT: Call your next witness.

13 MR. STEGALL: The State calls Sean
14 McWilliams.

15 SEAN MCWILLIAMS,

16 being first duly sworn, testified as follows:

17 THE CLERK: Please be seated. State
18 your full name, and spell your last name for the
19 record.

20 THE WITNESS: Sean Michael McWilliams,
21 M-C-W-I-L-L-I-A-M-S.

22 COURT REPORTER: Spell the first name.

23 THE WITNESS: S-E-A-N.

24 DIRECT EXAMINATION

25 BY MR. STEGALL:

MCWILLIAMS - DIRECT EXAM BY MR. STEGALL

1 Q. Mr. McWilliams, where are you currently
2 employed?

3 A. I'm currently employed with Lighthouse
4 Cigars in Summerville.

5 Q. And where were you employed in December
6 of 2014, January, 2015?

7 A. I worked at the Goose Creek Police
8 Department, Criminal Investigations Division.

9 Q. And what was your position?

10 A. I was an investigator two.

11 Q. Okay. How long were you with Goose
12 Creek?

13 A. From February 2006 until February 2017.

14 Q. Okay. Any prior law enforcement?

15 A. I worked for the Moncks Corner Police
16 Department.

17 Q. About how long?

18 A. About four years.

19 Q. Four years prior to that. Okay. Now,
20 as an investigator what sort of crimes would you
21 investigate?

22 A. I was a general investigator. I
23 investigated anything that was assigned to me. I
24 specialized in property crimes.

25 Q. Property crimes. Is armed robbery a

MCWILLIAMS - DIRECT EXAM BY MR. STEGALL

1 property crime?

2 A. We considered it as such. We were able
3 to consider it a person's crime.

4 Q. So would you investigate armed
5 robberies?

6 A. Yes.

7 Q. Okay. During the course of your law
8 enforcement career, about how many armed robberies
9 did you investigate?

10 A. I'm at a complete loss to answer that.
11 It was somewhere more than 20 -- but I couldn't
12 tell what the maximum amount was.

13 Q. Are you familiar with the case that
14 we're here for today?

15 A. Yes.

16 Q. How did you become involved with the
17 case that we're here for today?

18 A. The case was assigned to me on
19 January 5th.

20 Q. Of 2015?

21 A. 2015.

22 Q. When was the incident?

23 A. December 31st, 2014.

24 Q. Okay. What did you do once you were
25 assigned the case?

MCWILLIAMS - DIRECT EXAM BY MR. STEGALL

1 A. I believe I made a plan on what I
2 needed to do. I was going to go meet with the
3 victim and try and obtain -- I know that we didn't
4 have the actual hard copy video from the incident
5 location.

6 I knew that the CSI was able to shoot
7 it with a video camera, but I wanted to get clear
8 video. And I was going to meet with the victim and
9 go from there.

10 Q. Okay. Did you get a chance to do any
11 of that?

12 A. No.

13 Q. Why not?

14 A. I was contacted by Sandra Hawkins on
15 the 5th.

16 Q. And what was the reason that she was
17 contacting you?

18 A. She said that she knew who -- she had
19 seen the press release and that she knew who it
20 was.

21 Q. All right. When she told you that,
22 what did you do?

23 A. I brought her in for an interview.

24 Q. Did she come?

25 A. Yes.

MCWILLIAMS - DIRECT EXAM BY MR. STEGALL

1 Q. Did you conduct an interview?

2 A. I did.

3 Q. Okay. Based on that interview, were
4 you able to determine a person of interest in this
5 case?

6 A. Yes; it was Rias Isaac.

7 Q. So you spoke with Sandra Hawkins?

8 A. Yes.

9 Q. She gave you information. How -- in
10 your opinion, how certain was she?

11 MR. SMALDONE: Objection.

12 THE COURT: Sustained. Under 602 you
13 can't answer that question.

14 BY MR. STEGALL:

15 Q. So you were able to develop a suspect
16 based on your conversation?

17 A. Yes.

18 Q. And what did you do with that
19 information?

20 A. After she had identified him, I wanted
21 to make certain that she was certain. And I
22 requested a photo lineup from South Carolina Law
23 Enforcement Division.

24 Q. So you didn't just go and arrest him
25 right then?

MCWILLIAMS - DIRECT EXAM BY MR. STEGALL

1 A. No.

2 Q. Why not?

3 A. In my opinion, there wasn't enough
4 evidence to do so.

5 Q. All right. So you requested a lineup.
6 Walk us through that. You requested it from SLED.
7 Explain that to the jury, how they come up with --

8 A. SLED has an ID division that you
9 contact via e-mail. They make it really easy. You
10 fill out a form that they have, and it identifies
11 if the person has a South Carolina driver's
12 license.

13 You identify that person, and they pull
14 that person's current license photo. And then they
15 have a group of people, five usually, who they try
16 to make look as similar as they can to that person.
17 It usually -- it can take anywhere from three days
18 -- it can take anywhere from a day to three days to
19 get those back.

20 Q. What's the reason that the -- sorry to
21 ask this obvious question. But what's the reason
22 that all six individuals are so similar in their
23 physical features?

24 A. It's to ensure that the witness is sure
25 of whom they pick. And they make them very

MCWILLIAMS - DIRECT EXAM BY MR. STEGALL

1 similar.

2 Q. All right. So when did you receive
3 this lineup from SLED?

4 A. I believe on the 6th.

5 Q. On the 6th. What did you do once you
6 received that?

7 A. I printed it out and went to the
8 victim, who was at work, and showed it to her.

9 Q. And the victim being?

10 A. Jaclyn Graham.

11 Q. Now, walk me through how you would
12 typically go through a lineup with a victim
13 starting with what you do first.

14 A. Uh, excuse me, I'm sorry, my voice is
15 breaking. Goose Creek has a form on the back. You
16 print it on the back of the photo lineup. The form
17 has an advisement that you read to them to make
18 sure that they understand the process, and that
19 they understand the suspect may or may not be in
20 the photo. And you make sure that you explain
21 that.

22 I read the form verbatim, and I don't
23 provide any other information.

24 Q. So after reading the instructions to
25 her, did you provide any other information about

MCWILLIAMS - DIRECT EXAM BY MR. STEGALL

1 the defendant? Or did you provide any information
2 about the defendant?

3 A. No.

4 Q. Did you suggest in any way that he may
5 be in this lineup?

6 A. Absolutely not.

7 Q. Did she sign the instruction sheet?

8 A. Yes.

9 Q. What did you do once she signed the
10 instruction sheet?

11 A. I flipped the lineup over, and I gave
12 it to her.

13 Q. So you presented her the lineup?

14 A. I did.

15 Q. At that point was she free to select
16 someone?

17 A. She was.

18 Q. Did she select someone?

19 A. She selected the defendant.

20 Q. How long did it take for her to select
21 the defendant?

22 A. It wasn't long.

23 Q. Can you give an estimation?

24 A. At this time, no. I don't --

25 Q. I mean, was it five minutes?

MCWILLIAMS - DIRECT EXAM BY MR. STEGALL

1 A. No, it was less than a minute.

2 Q. Less than a minute?

3 A. Yes. Yes.

4 Q. And did you influence her decision in
5 any way?

6 A. Absolutely not.

7 Q. Okay.

8 A. I -- I -- when that form first came
9 out, I understood why we did it. It was to have a
10 uniform way of showing those. And what I started
11 doing when that form first came out, when I would
12 hand it to them, I would put my hands in my pockets
13 and I would turn away from them so that they
14 weren't looking at me or I wasn't looking at them
15 when they made their decision.

16 MR. STEGALL: The Court's indulgence?

17 THE COURT: Yes, sir.

18 BY MR. STEGALL:

19 Q. I want to show you what's been marked
20 as State's Exhibit 1. I'm going to hand you a copy
21 so you can speak into the mic.

22 A. Thank you.

23 Q. Do you recognize that?

24 A. I do.

25 Q. Okay. Is that what you went over with

MCWILLIAMS - DIRECT EXAM BY MR. STEGALL

1 her that day?

2 A. Yes, that's my handwriting.

3 Q. Okay. And I see there's two signatures
4 at the bottom. One is hers and one is yours; is
5 that correct?

6 A. Yes, at the very bottom. There's a
7 total of four signatures.

8 Q. Four signatures. Okay. All right.
9 I'm going to show you what's been marked as State's
10 Exhibit 2. What is that?

11 A. That is the photo lineup that I showed
12 to the victim.

13 Q. Okay. And it looks like she made a
14 selection?

15 A. Yes, number two.

16 Q. And who was number two?

17 A. Number two is the defendant, Rias
18 Isaac.

19 Q. Okay. All right. So once she made a
20 selection, what did you do next?

21 A. Once she made a selection, I had two
22 independent people telling me that he was the one
23 that robbed the Hess. I obtained a -- arrest
24 warrants for the defendant, as well as search
25 warrants for his residence.

MCWILLIAMS - DIRECT EXAM BY MR. STEGALL

1 Q. Do you remember what location that
2 residence --

3 A. It's on Bellwright Road. I don't
4 remember the actual number. 101 something,
5 perhaps.

6 Q. Who lived at that residence?

7 A. The defendant and his mother.

8 Q. Did you execute the search warrant?

9 A. I and other members of the Goose Creek
10 Police Department did.

11 Q. And did you collect any items during
12 the search of that residence?

13 A. We did. We collected some clothing.

14 Q. Okay. I'm going to hand you what's
15 been marked as -- premarked as State's Exhibit 19.
16 Take a look at that.

17 A. Okay.

18 Q. You can open it up? Do you recognize
19 what that is?

20 A. Well, the tag on the front is an
21 evidence tag from the Goose Creek Police
22 Department. These appear to be the boots that we
23 recovered from the defendant's home.

24 Q. Okay.

25 MR. STEGALL: Your Honor, at this time

MCWILLIAMS - DIRECT EXAM BY MR. STEGALL

1 we move to enter the boots in as State's Exhibit 19
2 into evidence.

3 THE COURT: Any objection?

4 MR. SMALDONE: No objection.

5 THE COURT: Without objection, State's
6 Exhibit 19 is a bag containing two boots.

7 (STATE'S EXH. 19, Bag of boots, in
8 evidence.)

9 BY MR. STEGALL:

10 Q. And I want to -- okay. I want to make
11 sure that I've got my sequence of events right.
12 You were assigned the case six days later on
13 January 5th --

14 A. Yes.

15 Q. -- of 2015. You received a call on
16 January 5th --

17 A. Yes.

18 Q. -- from Sandra Hawkins?

19 A. Yes.

20 Q. You came up with a suspect based on
21 that interview?

22 A. Yes.

23 Q. You obtained a lineup based on that
24 interview?

25 A. Yes.

MCWILLIAMS - CROSS EXAM BY MR. SMALDONE

1 Q. On January 6th, you presented that
2 lineup to a different person, Jaclyn Graham?

3 A. Yes, the victim.

4 Q. And she identified --

5 A. The defendant.

6 Q. -- the defendant.

7 MR. STEGALL: Nothing further, Your
8 Honor.

9 THE COURT: Very well. You may cross
10 examine.

11 CROSS-EXAMINATION

12 BY MR. SMALDONE:

13 Q. All right. Good afternoon.

14 A. Good afternoon.

15 Q. All right. So you spoke with Sandra,
16 right?

17 A. Yes.

18 Q. And was that the first person you made
19 contact with in this case?

20 A. To my recollection, yes.

21 Q. Okay. Is she calling you directly, or
22 you were referred out to her?

23 A. I don't remember how I got the phone
24 call.

25 Q. Okay. So you spoke with her. She gave

MCWILLIAMS - CROSS EXAM BY MR. SMALDONE

1 you -- like we already talked about, talked to you
2 about the clothes and all that stuff, right?

3 A. Right.

4 Q. All right. After speaking with her,
5 you had a suspect, right?

6 A. Yes.

7 Q. Okay. And then you contacted SLED?

8 A. I sent an e-mail to SLED requesting a
9 photo lineup.

10 Q. All right. And you're the one that did
11 that, and you had -- you had -- had you seen other
12 pictures of Mr. Isaac before?

13 A. No.

14 Q. Okay. All right. After the lineup,
15 how long -- well, after that, when -- I'm sorry.
16 When did you execute the search warrant?

17 A. On the 7th.

18 Q. All right. The 7th of January?

19 A. Uh-huh, yes.

20 Q. All right. Okay. So pretty much
21 within a week, right?

22 A. Yes.

23 Q. And there was a search warrant, and
24 that was his house?

25 A. Yes. I believe I obtained a search

MCWILLIAMS - CROSS EXAM BY MR. SMALDONE

1 warrant for his DNA as well.

2 Q. Okay. A search warrant for his house,
3 a search warrant for his DNA, and you got a search
4 warrant for a car too, right?

5 A. Yes.

6 Q. All right. It was a car, but it wasn't
7 -- it was like a broken down car, right?

8 A. I don't know if it was broken down. It
9 was -- it was well-worn.

10 Q. Do you recall if it was missing a
11 battery at the time of the execution of the search
12 warrant?

13 A. No. I wasn't the one that executed the
14 search warrant on the car.

15 Q. Okay. I follow you. So your job --
16 you executed just the house and also DNA.

17 A. I executed the house. I believe a
18 patrol officer actually did the DNA.

19 Q. Okay. But you swore out an affidavit
20 for the DNA?

21 A. Yes.

22 Q. All right. So the house was searched.
23 And how many -- was there just you searching the
24 house or a SWAT team? How many folks showed up?

25 A. The SWAT team was utilized.

MCWILLIAMS - CROSS EXAM BY MR. SMALDONE

1 Q. Okay.

2 A. And several members of the
3 Investigation Division.

4 Q. Okay. And when SWAT team is utilized,
5 that's just standard procedure for a crime like
6 this, right?

7 A. No. We --

8 MR. STEGALL: Your Honor, objection.
9 Can we approach?

10 THE COURT: What's the basis of the
11 objection? You have to state it for me.

12 (Bench conference)

13 THE COURT: All right. Let's move on,
14 please.

15 MR. SMALDONE: All right.

16 BY MR. SMALDONE:

17 Q. So in executing the warrant of the
18 house, you didn't find the exact jacket that was in
19 that photo, right?

20 A. No.

21 Q. Okay. And you didn't find a gun,
22 right?

23 A. No.

24 Q. Didn't find a large amount of change or
25 anything, right?

MCWILLIAMS - CROSS EXAM BY MR. SMALDONE

1 A. No.

2 Q. All right. Didn't find a large sum of
3 cash?

4 A. No.

5 Q. Didn't recover -- I don't think you
6 recovered any cash, right?

7 A. No.

8 Q. Okay. I can't remember -- I'm sorry if
9 I already asked this. No gun, right?

10 A. No.

11 Q. Okay. I might have already asked that,
12 but I don't want to forget that one. No gun, no
13 cash, or no amount of change. You didn't recover
14 any cigarettes either, right?

15 A. No.

16 Q. Okay. No Newports, right?

17 A. No.

18 Q. And no Mavericks?

19 A. No.

20 Q. Okay.

21 MR. SMALDONE: The Court's indulgence?

22 THE COURT: Certainly.

23 BY MR. SMALDONE:

24 Q. And you would -- did you make the
25 arrest of Mr. Isaac?

MCWILLIAMS - CROSS EXAM BY MR. SMALDONE

1 A. I don't know if I put handcuffs on him,
2 but I was present.

3 Q. Okay. Right. You had been present
4 around him shortly after this, right?

5 A. Yes.

6 Q. All right. And you recall him missing
7 his bottom two teeth?

8 A. No, I don't recall that.

9 Q. Okay. All right. And do you recall --
10 do you remember seeing a scar on his face?

11 A. No, I don't recall that either.

12 Q. Okay. All right. It's been almost,
13 what? Four years?

14 A. It has.

15 Q. So that's okay if you don't remember.

16 All right. In the house was -- that was located in
17 Summerville?

18 A. It was located in Ladson.

19 Q. Ladson. Okay.

20 A. Unincorporated Berkeley County.

21 Q. Unincorporated Berkeley County. All
22 right. And that was, what? At least five or
23 six miles from the gas station in question? At
24 least?

25 A. Maybe as many as five.

MCWILLIAMS - CROSS EXAM BY MR. SMALDONE

1 Q. Okay.

2 A. Probably on the outside.

3 Q. But not within walking distance, right?

4 A. It depends on what your definition of
5 walking is.

6 Q. Not within walking distance for me at
7 least. I don't know about you. But not a smooth
8 jog, right?

9 A. No. But, again, five miles, you know,
10 I know people that run 26.

11 Q. Oh, right. Right. Me. Too. Me.
12 Too. I don't. And I think you have to cross 26,
13 too, to get from the house to the gas station; is
14 that right?

15 A. If one were to go that way.

16 Q. Okay. So across the interstate is --
17 the gas station to one side, about five-ish miles,
18 the house on the other, 26 bisects?

19 A. If one were to go directly there, yes.

20 Q. Okay. All right.

21 MR. SMALDONE: The Court's indulgence?

22 THE COURT: Yes, sir.

23 MR. SMALDONE: All right.

24 Investigator, I don't think I have any more
25 questions for you. Thank you.

1 THE COURT: Redirect?

2 MR. STEGALL: Nothing, Your Honor.

3 THE COURT: Thank you, sir. You may
4 come down. All right. Any additional witnesses?

5 MR. STEGALL: No additional witnesses,
6 Your Honor.

7 THE COURT: All right. Ladies and
8 gentlemen, I'm going to let you go to your jury
9 room for just a moment. There are some matters of
10 law that I need to take up out of your presence.

11 Do not begin your deliberations. Don't
12 discuss the case. We'll be with you as quick as we
13 can. Thank you. You may retire.

14 (Jury out, 2:23 p.m.)

15 THE COURT: All right. Any motions
16 from the State at this point?

17 MR. STEGALL: None from the state, Your
18 Honor.

19 THE COURT: Mr. Smaldone, I'll be happy
20 to hear from you.

21 MR. SMALDONE: Your Honor, at this
22 time, the defense moves for a directed verdict on
23 all counts. Your Honor, I don't believe the State
24 has met any burden -- any sort of burden of proof
25 on any of these charges.

1 Judge, I just don't believe they've met
2 it. We have some inconsistent statements. We
3 have, you know, a search warrant with no return
4 that is of value. We have, you know, shoes that
5 were recovered which seem to be pretty common
6 shoes. Really nothing tying my client to any sort
7 of crime in Berkeley County.

8 So, Your Honor, I ask for a directed
9 verdict. Additionally, I renew all previous
10 objections and motions and all that.

11 THE COURT: Very well. Well,
12 obviously, in the light most favorable to the
13 State, and I won't quarrel with you, there may be
14 some inconsistencies that deal with weight issues,
15 not whether or not they are evidence, but at this
16 point I have a person who was present, who
17 categorically and unequivocally identified him as
18 the perpetrator of the crime.

19 Now, that, in and of itself without
20 anything more, is sufficient to carry the day in my
21 opinion for the State. Now, what a jury does is a
22 different story; but from the standpoint of my
23 ruling, I think the State has met its burden thus
24 far, at least to allow it to go to the jury.

25 But, thank you, your motion is denied.

1 Now, does Mr. Isaac plan to testify?

2 MR. SMALDONE: We're still in the midst
3 of discussions.

4 THE COURT: Well, let's get some
5 discussion right now. I'll give you about 10
6 minutes.

7 MR. SMALDONE: All right. Your Honor,
8 I ask that we settle his record before --

9 THE COURT: Settle what record? I just
10 settled it.

11 MR. SMALDONE: No, I'm sorry. His
12 criminal record and make sure and see what
13 impeachable --

14 THE COURT: All right. Well, you-all
15 talk, you-all decide. If you have something you
16 need me to settle, I'll settle it, but most of the
17 time you-all decide that.

18 MR. SMALDONE: Right.

19 (Off-the-record conference.)

20 MR. SMALDONE: Your Honor, in
21 discussing with the State, I believe that they
22 don't intend to use anything in their -- as part of
23 cross-examination unless, of course, the door is
24 opened. And at that point, I think there's some --
25 obviously, Your Honor is aware it's an LWOP case.

1 So, obviously, there are some serious priors.

2 THE COURT: Absolutely. But they have
3 to be within the time limit.

4 MR. SMALDONE: Right. I don't believe
5 they are --

6 THE COURT: Okay.

7 MR. SMALDONE: -- but if he opened the
8 door, I understand --

9 THE COURT: Well, I understand that.
10 So does he plan to testify?

11 MR. SMALDONE: I don't believe so, but
12 we're going to have --

13 THE COURT: Discuss that with him, and
14 I'll be happy to talk with him.

15 (Pause)

16 MR. SMALDONE: All right. Your Honor,
17 I've spoken with my client. For the record, I've
18 spoken with him at length about this, not just in
19 the minute prior to me talking right now, but we
20 have decided to go with our instincts and decline
21 to testify.

22 THE COURT: I understand. I understand
23 that perfectly. As he heard me tell the jury, he
24 doesn't have to prove a thing; he doesn't have to
25 say anything; and, of course, I'll reiterate that

EXAM BY THE COURT

1 in my charge.

2

EXAMINATION

3 BY THE COURT:

4 Q. Mr. Isaac, you may remain seated if you
5 feel so inclined. You have had the opportunity,
6 obviously just then, but prior to today to talk
7 about and discuss your decision -- your right to
8 testify and not to testify; is that correct?

9 A. Yes, sir.

10 Q. And, obviously, there are various
11 strategies that you've talked with your lawyer
12 about as well which are tied to that; is that
13 correct?

14 A. Yes, sir.

15 Q. And after fully discussing it with your
16 lawyer, you have made a decision that you do not
17 wish to testify; is that correct?

18 A. That's correct, sir.

19 Q. And you understand that, obviously, you
20 have the right, but, as I stated, I will charge the
21 jury they cannot even talk about that in the jury
22 room. But you do have the right to testify if you
23 wanted to you. You realize that?

24 A. Yes, sir.

25 Q. And, of course, if you did, you would

EXAM BY THE COURT

1 be subject to cross-examination.

2 A. Yes, sir.

3 Q. Are you under the influence of any type
4 of medication here today, sir?

5 A. No, sir.

6 Q. Have you consumed any alcohol or taken
7 any type of medication in the last 24 hours?

8 A. No, sir.

9 Q. And have you had sufficient time to
10 reflect on this decision, sir?

11 A. Yes, sir.

12 Q. And you're comfortable with your
13 decision?

14 A. Yes, sir.

15 THE COURT: Okay. I find that
16 Mr. Isaac has demonstrated and expressed very
17 clearly that he has made a conscious decision for
18 himself, and I find that he makes that decision
19 freely and voluntarily, knowingly and intelligently
20 after the benefit of competent counsel.

21 BY THE COURT:

22 Q. Are you satisfied with the manner in
23 which your lawyer has advised you, sir?

24 A. Yes, sir.

25 THE COURT: And he's fully satisfied

EXAM BY THE COURT

1 with it, and I, therefore, find that decision to be
2 one that he is comfortable with and consistent with
3 all of the requirements.

4 If between now and when I bring the
5 jury back in, and I ask whether or not -- what I
6 typically do now is, I'll remind them of my earlier
7 conversation, that Mr. Isaac has nothing to prove
8 or disprove, but as I told you, if he wants to
9 present any additional testimony he has the right
10 to do so.

11 And then I will turn and ask
12 Mr. Smaldone if you have any additional witnesses
13 for the jury's consideration. And I -- consistent
14 with our discussion, he's going to say, no, the
15 defense rests.

16 If you change your mind between now and
17 that point, just let him know, I'll excuse the
18 jury, and we'll renew this conversation.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: If I don't hear from you
21 otherwise, I assume that you stand by that
22 decision; is that fair?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Very well. Okay. Thank
25 you. Thank you very much. Let's bring in our

1 jury. For your information, Ms. Newman, Juror No.
2 131 is the presiding juror or foreperson.

3 (Jury in, 2:22 p.m.)

4 THE COURT: Thank you, ladies and
5 gentlemen. Appreciate that.

6 And, Ms. Newman, as I understand,
7 you've been selected as the presiding juror.

8 FOREPERSON: Yes, sir.

9 THE COURT: Thank you. And, thank you,
10 ladies and gentlemen, for taking care of that.
11 That, of course, will be your seat for the balance
12 of the trial.

13 If you recall, the State has now
14 rested. And as I told you when we started, only
15 the State had the burden of proof in this matter,
16 and the defendant had nothing to prove or disprove,
17 but the defendant, if he chose to, could present
18 any additional testimony the defendant wished you
19 to hear. We've reached that point.

20 Mr. Smaldone, does Mr. Isaac wish to
21 present any additional witnesses for the jury's
22 consideration?

23 MR. SMALDONE: No additional witnesses.
24 The defense rests.

25 THE COURT: The defense rests. Ladies

1 and gentlemen, that would, therefore, conclude the
2 evidentiary portion of this process; however, there
3 still remains two very important parts. One, of
4 course, the closing arguments on behalf of each
5 client given by the attorneys, and then, of course,
6 the charge on the law, which obviously is critical
7 to your decision.

8 Please know that you are still -- while
9 there won't be any additional evidence, you still
10 are not at a point to begin your deliberations. In
11 other words, you have to do whatever is necessary
12 to keep that open mind that we talked about when we
13 started. Don't prematurely decide anything at all.

14 At this point, there's some matters of
15 law that I need to take up, and as I mentioned, I
16 have an appointment that has been scheduled for
17 4:00.

18 So it probably will work out fine,
19 because you probably wouldn't be able to get to
20 this case before 4:00 or 4:15, and we don't know
21 how long it's going to take to deliberate. So it's
22 probably a good point to take a break.

23 When you go home tonight, if there is
24 someone there, please remember that you are not at
25 liberty to discuss the case with them. I would

1 imagine the first question is going to be, what you
2 doing? What's the case about? And there's a great
3 temptation to talk about it. If you do, you will
4 have commenced your deliberations at that point.

5 You'll be able to talk about it
6 tomorrow if you want to, and that's up to you. But
7 just talk about something else and have a good
8 evening.

9 I'd ask you to return, please, by 9:30
10 in the morning, and we'll bring you out and we'll
11 start the final two portions of this process.
12 Thank you so much for your attention. You are free
13 to leave.

14 And, again, no independent
15 investigations. Thank you.

16 (Jury out, 2:38 p.m.)

17 THE COURT: All right. Anything from
18 the State at this point?

19 MR. STEGALL: Nothing from the State,
20 Your Honor.

21 THE COURT: Mr. Smaldone, other than
22 renewed your -- the motions and based on -- for the
23 same reasons previously stated, sir?

24 MR. SMALDONE: That is my wish to renew
25 directed verdict motions and all objections.

1 THE COURT: Very well, and my ruling
2 will be consistent; I will respectfully deny the
3 motions.

4 I'm going to charge -- I'm going to
5 charge armed robbery. There's no need to charge
6 any lesser included because there's no question
7 that you stated in your opening -- no question
8 there was an armed robbery.

9 Kidnapping, I'm going to charge that,
10 and charge possession of a firearm during the
11 commission of a violent crime. Any other -- I'm
12 going to charge identification obviously.

13 But anything else that you-all can
14 think of? If you do, just let me know, and I'll
15 look at it in the morning. Let's plan to get
16 together about 9:15 with the Court Reporter. Okay.

17 Thank you all.

18 (These proceedings were recessed at
19 2:39 p.m., to be continued 2/13/29 at 9:30 a.m.)

20

21

22

23

24

25

1 (The following proceedings were had
2 2/13/2019, in re State v. Isaac, Berkeley County
3 General Sessions.)

4 THE COURT: Before we bring out the
5 jury and start closing arguments, anything?

6 MR. STEGALL: Nothing, Your Honor.

7 THE COURT: Anything from the
8 defendant?

9 MR. SMALDONE: No, Your Honor.

10 THE COURT: Okay. Good. Thank you
11 all. As soon as we get the jury, we'll get started
12 then. Appreciate it.

13 (Jury in, 9:34 a.m.)

14 THE COURT: Good morning, ladies and
15 gentlemen. I hope you had a good what was left of
16 the afternoon, and we are ready now to resume. As
17 you recall yesterday, when we took our recess, we
18 had completed the evidentiary portion.

19 Now, the first thing that will happen
20 is you'll have the opportunity to hear from both
21 sides concerning their view and their arguments and
22 statements concerning the facts and any reasonable
23 inferences that you may draw from the facts.

24 Their remarks, I'm confident, you will
25 find very helpful when you do commence the process

CLOSING ARGUMENT BY MR. STEGALL

1 of deciding this case in your deliberations. So
2 please give them your attention.

3 But while they are very important,
4 please remember that their remarks are not
5 evidence. And then when they have completed
6 theirs, I will give you the charges which,
7 likewise, should not be considered as evidence.

8 Solicitor, you may proceed and make
9 your argument.

10 MR. STEGALL: Thank you, Your Honor.

11 Good morning. I want to thank you-all
12 for your attention and your service these past
13 couple of days. As the Judge said, you've heard
14 all of the evidence up to this point. So now it's
15 the State's chance, my chance, to talk to you about
16 the case.

17 As I said from the beginning, it's very
18 straightforward. The facts are cut and dry, in my
19 opinion. Mr. Issac is charged with three crimes:
20 Armed robbery, kidnapping, and possession of a
21 weapon during a violent crime.

22 I'll briefly touch on the statutes.
23 16-11-330; a person who commits robbery while armed
24 with a pistol, dirk, slingshot, metal knuckles,
25 razor, other deadly weapon; or while alleging,

CLOSING ARGUMENT BY MR. STEGALL

1 either by actions or words, he was armed while
2 using a representation of a deadly weapon, or any
3 object with the person present during the
4 commission of a robbery reasonably believed to be a
5 deadly weapon.

6 Kidnapping, 16-3-910; a person who
7 unlawfully seizes, confines, inveigles, decoys,
8 kidnaps, abducts, or carries away any other person
9 by any means whatsoever without the authority of
10 law, except when a minor is received or taken by
11 his parent.

12 Lastly, 16-23-490, possession of a
13 weapon during a violent crime; a person is in
14 possession of a firearm when visibly displays what
15 appears to be a firearm or visibly displays a knife
16 during the commission of a violent crime, and is
17 convicted of committing or attempting to commit a
18 violent crime as defined in 16-160.

19 Before I get into the case, I want to
20 touch on reasonable doubt again. The Judge will go
21 over it with you during his charge, but I want you
22 to know that reasonable doubt doesn't mean beyond
23 all doubt. There are very few things in life that
24 are absolutely certain. That's not what we have to
25 prove.

CLOSING ARGUMENT BY MR. STEGALL

1 We have to prove our case beyond a
2 reasonable doubt. And what that means is a doubt
3 that would cause a reasonable person to hesitate to
4 act. Remember, if the evidence that you heard
5 today and yesterday leaves you firmly convinced
6 that the defendant is guilty, then you must find
7 him guilty.

8 Also, I want to touch on what I call
9 red herrings. Now, those are things that are
10 defined as they're facts, or that are meant to
11 distract you away from what we're really talking
12 about. So let's go over a couple.

13 You heard about the distance that he
14 lived from the crime scene. That doesn't matter.
15 It doesn't matter if he lived a half mile or
16 30 miles away. It's not important. All right.

17 It doesn't matter whether or not he
18 drove to the crime scene. You heard Ms. Graham
19 testify that was a busy area, it was well-lit,
20 there were businesses around the area. All right.
21 He didn't have to park at the gas station to rob
22 it.

23 He could have parked at the Sonic or he
24 could have gotten dropped off by a taxi or by Uber.
25 It doesn't matter.

CLOSING ARGUMENT BY MR. STEGALL

1 Why would somebody park right next to
2 the gas station and force the person to do a lap
3 around the gas station? It doesn't make sense.
4 It's not important.

5 The next thing is height. We heard a
6 couple of different sizes. We heard -- we heard
7 five nine, five ten, six foot, six one. Those are
8 all within a few inches of one another.

9 The defendant wore a hat while he
10 robbed the place. All right. Hat maybe added an
11 inch, whatever. Again, it's not that important.

12 The shoe color. This was a -- one that
13 was interesting. You saw the photos throughout the
14 trial. He had tan boots on in the robbery, yet
15 Ms. Graham in her statement said that he had black
16 boots on.

17 In every picture that you saw with
18 Ms. Graham, she wasn't looking at his feet, right?
19 She was looking at his face. She was looking at
20 the gun. Now, he had black pants on. Maybe she
21 glanced down, saw the pants, and assumed the boots
22 were black, too. That's not a big detail to focus
23 on.

24 Lastly, the money, the cigarettes, the
25 clothes, and the gun not being located. All right.

CLOSING ARGUMENT BY MR. STEGALL

1 They executed a search warrant a week after this
2 crime. I don't know about you-all, but I would
3 assume somebody can reasonably smoke a pack or two
4 of cigarettes within a week. Somebody can
5 reasonably spend \$187 in the course of a week.

6 As far as the clothes and the gun, he
7 had a week to get rid of them. He had a whole week
8 to figure out what to do with those items.

9 Armed robbery. The taking and carrying
10 away of the personal property of another with the
11 intent to deprive the person of possession while
12 armed with a deadly weapon. A pistol is a deadly
13 weapon.

14 These are the facts. On December 31st,
15 2014, Jaclyn Graham was restocking the lottery box
16 around 6:00 a.m. at the Hess located on -- it's on
17 the corner of College Park and Crowfield. Again, a
18 busy intersection, which is located in Berkeley
19 County.

20 She testified that she was the only one
21 in the store at that time. A few minutes later,
22 the defendant walked in and asked for a specific
23 type of cigarette, Newport cigarettes.

24 Also -- or not also. I apologize.
25 Ms. Graham walked behind the counter to get those

CLOSING ARGUMENT BY MR. STEGALL

1 cigarettes. So she went from the customer's side,
2 turned her back to Mr. Issac, and walked around to
3 the employee side.

4 The defendant then followed her, pulled
5 a gun out, and demanded money. She turned around
6 and saw the defendant looking at her.

7 That's as good of a picture as I could
8 find. (Indicating) And she's face to face with
9 him right there; sees the gun, sees the face. She
10 goes to the first register, takes out cash, and
11 hands it to the defendant. She also takes some
12 change from the register. He makes her put it in
13 his pocket.

14 She then goes to the next register and
15 does the same. And while she's doing that, he
16 grabs another type of cigarette, Maverick
17 cigarettes. Asks for Newport and grabs the
18 Mavericks.

19 After he has the money, rather than
20 fleeing, he forces her at gunpoint back to the
21 front of the store. He could have been done, he
22 could have fled, but he didn't. He orders her,
23 with the gun still pointed at her, to exit the
24 store. He's forcing her movements with the gun.
25 And then he forces her to walk around the store.

CLOSING ARGUMENT BY MR. STEGALL

1 So first two elements, I'm going to
2 take them together, the taking away or taking and
3 carrying away of personal property. There you go.

4 There is money that did not belong to
5 the defendant; it belonged to the Hess Gas Station.
6 And she is -- you can literally see her handing it
7 over to him while being held at gunpoint.

8 Loose change. That's her putting the
9 change in his pocket, holding the gun in the other
10 hand. Other register, same thing. You see her
11 left hand pulling the money out of the drawer.

12 With the intent to deprive the person
13 of possession. He wasn't going to give it back.
14 He wasn't going to say, give me all your money.
15 I'm kidding, here, have it back. He kept it.

16 While armed with a deadly weapon.
17 While armed with a pistol. There is your pistol.
18 There is the pistol. (Indicating)

19 Kidnapping. The unlawful seizure of a
20 person by means without the authority of law. Now,
21 if you remember the kidnapping statute, it gave you
22 several examples. It gave you a seizure,
23 confinement, inveigles. I'm not even sure what I
24 know what inveigles means; carrying away.

25 And it gave you all of those examples

CLOSING ARGUMENT BY MR. STEGALL

1 because the intent of the statute was to be broad.
2 All right. You do not have to carry the person
3 away. You can seize the person, you can confine
4 the person.

5 That's what we have here. We have a
6 seizure, we have a confinement. She's not allowed
7 to go anywhere. He didn't say, I'm coming in to
8 rob the store, you're free to go. He said, here's
9 my gun, now do what I tell you to do until I'm
10 done.

11 She was held at gunpoint the entire
12 time. And he moved her where he wanted her to go
13 and told her every move to make while pointing a
14 gun at her. And she specifically testified that
15 she didn't feel like she was free to leave at any
16 point during the robbery.

17 It's blurry, and I apologize, but
18 that's her being forced at gunpoint, gun in her
19 back, where he's making her walk outside and do the
20 lap around the store. (Indicating)

21 Possession of a weapon during a violent
22 crime. A person who is in possession of a firearm
23 or visibly displays what appears to be a firearm,
24 or visibly displays a knife during the commission
25 of a violent crime and is convicted of that violent

CLOSING ARGUMENT BY MR. STEGALL

1 crime.

2 Now, the important thing here is --
3 well, let's define firearm. Even though we all
4 know a pistol is a firearm. It's something that
5 may be converted to expel a projectile.

6 Violent crimes are defined under our
7 South Carolina law. All you need to know is that
8 armed robbery and kidnapping are both violent
9 crimes.

10 If he is convicted of both armed
11 robbery and kidnapping and you believe he had a
12 gun, then you must find him guilty of possession of
13 a weapon during a violent crime.

14 If he is convicted of armed robbery and
15 not kidnapping, but has a gun, he must be convicted
16 of this statute.

17 If he is convicted of kidnapping, but
18 not armed robbery, and you believe he had a gun, he
19 must be convicted of this statute.

20 Let's talk about this for a second. I
21 know we had Wendy Myers come testify. She was with
22 Goose Creek forensics. We also had Jennifer
23 Bartman from SLED testify about the DNA evidence,
24 or lack thereof in this case.

25 Our job is to present all the evidence

CLOSING ARGUMENT BY MR. STEGALL

1 to you. And we're not presenting just the good
2 stuff and hiding the bad stuff. We want you to see
3 everything to make your decision.

4 Here, the DNA evidence was
5 inconclusive. All right. Swabs were collected
6 from the cigarette display and the door handle of
7 the door. Think about how many people touch the
8 cigarette display and door handle of the door. All
9 right. As she said, it's rare to get a suitable
10 sample for identification from a public location.

11 Jennifer Bartman also testified that
12 there was a mix of multiple individuals in both of
13 the samples, and the profiles are not sufficient to
14 compare to any known standards. That was to be
15 expected.

16 So the point here is that the DNA
17 analysis was inconclusive. It did not include the
18 defendant, but it also did not exclude the
19 defendant. There were just too many pieces of DNA
20 on the door handle and on the cigarette display for
21 her to compare.

22 Opposing counsel brought up a statement
23 during his opening remarks, and I jotted it down
24 because I thought it was important. I thought he
25 made a good point. He asked you what the link was

CLOSING ARGUMENT BY MR. STEGALL

1 between the crime and defendant.

2 Well, let's talk about the link. Let's
3 start with Sandra Hawkins. Before we got into her
4 testimony, you heard that she had been convicted of
5 shoplifting several times. Starting from the
6 1980s, a few in the '90s, and I think one was in
7 2012, she said.

8 She's not a saint. She openly admitted
9 she shoplifted. You don't have to like Sandra
10 Hawkins. You just have to listen to her testimony
11 and decide whether or not she's credible.

12 So what do we know about her? We know
13 that she had a close personal relationship with the
14 defendant. We know that they were engaged to be
15 married.

16 We also know that she saw a press
17 release with a clear photo of the defendant. She
18 testified, when I said, are you sure that's him,
19 100 percent. Those were her words, 100 percent.

20 What did she do? The first call she
21 made, the Goose Creek PD, Investigator McWilliams.
22 She said, I've got some information for you, I
23 would like to come meet you. She initiated that.

24 She gave Sean McWilliams the name, and
25 that name was Rias Isaac.

CLOSING ARGUMENT BY MR. STEGALL

1 She knew it was him. She recognized
2 the clothing, she knew his face from the photo.
3 She also pointed him out in court yesterday as the
4 same person she saw in that photo.

5 Let's talk about this picture. All
6 right. This picture, along with all the others
7 that you've seen this week, are still photos that I
8 cut from the video. The video is grainy. It's
9 hard to see clearly. It's not the best quality
10 video.

11 So if you take a video that's not high
12 quality and you cut stills of it, it's going to be
13 even lower quality. It's fuzzy.

14 I did that to walk through the elements
15 of each crime with you step by step. Okay. I
16 didn't put these pictures up into evidence so you
17 would be forced to have to look at them and say
18 whether or not that was the defendant.

19 That was not the intention of these
20 photos. I can't tell if that's his face. It's
21 blurry. Nobody can tell.

22 So when Sandra Hawkins said that she
23 didn't recognize that to be the defendant, she
24 didn't mean that that wasn't the defendant. She
25 just said, I can't see his face. Nobody can. It's

CLOSING ARGUMENT BY MR. STEGALL

1 blurry. It's hard. It's hard to see.

2 So I just want you to when you're in
3 your deliberations remember that these photos are
4 an illustration of the elements of the crime.
5 Someone did see his face clearly, and I'm going to
6 get to that in a minute.

7 Sean McWilliams. As I stated, he
8 interviewed Sandra Hawkins, and as a result he
9 identified Rias Isaac as the perpetrator. Did he
10 arrest him? No. Why not? He didn't have enough.
11 He didn't want to arrest him just on one person's
12 interview. He said he wanted to confirm the
13 perpetrator's identity with the victim.

14 He wanted a second person unrelated to
15 Sandra Hawkins to also confirm whether or not that
16 was Rias Isaac.

17 So what did he do? He had SLED
18 generate a six-person lineup with extremely similar
19 characteristics, and he wanted to show it to the
20 victim to see if she could pick him out.

21 Jaclyn Graham. All right. She doesn't
22 have ties to the defendant. She doesn't have ties
23 to anybody in this case. She went to work at 6:00
24 in the morning to do her job. She wasn't expecting
25 to get robbed at gunpoint.

CLOSING ARGUMENT BY MR. STEGALL

1 But what do we know? She clearly saw
2 his face throughout the entirety of the event. She
3 told us that. I said, what did you focus on when,
4 you know, you were face to face with him? His face
5 and the gun.

6 What else do we know? She was shown
7 this lineup of six similar individuals a week
8 later. Not a minute later, not an hour later, not
9 three hours later. A week later.

10 Memories can fade over time; it's
11 habit, it's natural. Hers didn't. And how do we
12 know this? Because she picks him out within
13 seconds. Seconds.

14 Imagine that. Looking at six similar
15 individuals on a piece of paper, and it gets
16 flipped over to you and you say, that's him. Right
17 there. Number two. That's him.

18 I said, how certain were you?
19 Absolutely certain. Absolutely. I asked her in
20 court yesterday, how certain are you today that it
21 was the defendant? I am still 100 percent certain.

22 That's what you need to focus on. It's
23 not whether or not we can see the faces in the
24 photos, but whether she can see his face. And she
25 said -- she testified that she was a few feet apart

CLOSING ARGUMENT BY MR. SMALDONE

1 from him.

2 She was this far away. (Indicating)
3 This far away. And she could see his face. It's
4 not very far. All right. She stared at him for
5 those few minutes and got a good look at him.

6 So what's the link linking Rias Isaac
7 to these crimes? There's your link, the fact that
8 she picked him out in a matter of seconds.

9 In closing, Rias Isaac committed these
10 crimes, ladies and gentlemen. There's no doubt
11 about it. And because Rias Isaac committed these
12 crimes, you must find him guilty of armed robbery,
13 kidnapping, and possession of a weapon during a
14 violent crime. Thank you.

15 THE COURT: Mr. Smaldone.

16 MR. SMALDONE: Thank you. May it
17 please the Court.

18 THE COURT: Yes, sir.

19 MR. SMALDONE: Ladies and gentlemen of
20 the jury, at the beginning of this case I was
21 pretty honest with you, I think. I like to think
22 that. I said, listen, there was an armed robbery,
23 right?

24 No one is hiding from that. It's on
25 video. It happened. No one -- you know, no one is

CLOSING ARGUMENT BY MR. SMALDONE

1 lying. She's not lying. There was an armed
2 robbery. And it's scary to be armed robbed, to be
3 robbed while armed. That's scary, right? I'm not
4 hiding that.

5 Because at the very beginning what else
6 did I say? They talked about it. What linked that
7 armed robbery to Rias? Where is the link?

8 Okay. What came from that witness
9 stand and the evidence, testimony, evidence, all of
10 that stuff? What ties that video, that armed
11 robbery, that gun, that act to Rias? Nothing.
12 Nothing.

13 I was waiting. I was anxious. I was
14 thinking in the beginning like maybe I missed
15 something. All right? Maybe I didn't study the
16 file enough. Maybe there's some smoking gun that
17 is waiting for me.

18 I waited for it for these few days. I
19 got nothing. You got nothing to work with. They
20 gave you nothing to work with.

21 And remember, that's their job, right?
22 I don't do anything. I don't have to do anything.
23 I don't have to present evidence. All I do is hold
24 the State accountable, because they have to meet
25 the burden.

CLOSING ARGUMENT BY MR. SMALDONE

1 They have to prove beyond a reasonable
2 doubt that an armed robbery happened. They did
3 that. I'll give them that.

4 They have to prove beyond a reasonable
5 doubt that he did it. They didn't do that.
6 Absolutely not. How do we know? How do we know
7 that they didn't do it. All right. Well, let's
8 talk. Let's talk about what we heard from that
9 witness stand.

10 All right. You heard the clerk who was
11 a very nice lady. She was robbed. I'm not going
12 to, you know, yell at her. I didn't, you know,
13 mess with her too much. But you heard what she
14 said. You heard her story.

15 You heard that 911 call, and you heard
16 what she told the officer right afterwards that
17 same day. Remember Officer Diaz was the first
18 officer, the first responding officer.

19 You heard what she said to her -- him.
20 No, her. Yeah. What did she say? Black boots,
21 red pullover. Didn't describe his face at all.
22 Just a black male. Didn't say anything about his
23 voice or anything like that.

24 Just, basically, described what
25 happened. She gave a pretty decent description of

CLOSING ARGUMENT BY MR. SMALDONE

1 the gun though. Right? Black gun, pistol, the
2 kind of gun a cop would have. A lot more
3 description of the gun than the person. Why?
4 Because she's human. I'm human. We're human.

5 I submit to you when you get robbed,
6 you're looking at that gun. When that gun is in
7 your face, you're looking at the gun because it's
8 scary. And she was scared, and that's normal. She
9 was looking at that gun to see what it looked like.
10 Was that finger moving? Was she about to lose her
11 life? I'm glad she didn't. That's what she was
12 looking at.

13 The State said, well, you know, the
14 boot color was wrong, but she wasn't looking at the
15 boots. Right? That's what they said. Why did she
16 describe them then? Right? She wasn't looking at
17 the boots, but she knows what they are, what color
18 they are, even though it was wrong.

19 Well, if she didn't look at the boots,
20 she wouldn't have said anything about the boots.
21 Those weren't the only thing she said. She
22 described a gun. She didn't describe the face.
23 She described the race and the gender. She
24 described a gun.

25 She described that there was a red

CLOSING ARGUMENT BY MR. SMALDONE

1 pullover. It wasn't a red pullover. I'm sorry,
2 she said it was a red hoodie. It was a red and
3 black, striped, distinctive pullover with no hood.
4 Right? Wrong color boots.

5 And she did that, not because she's
6 lying or she's a bad person. Obviously, not. I'm
7 sure she's very nice, but she's human. She saw it
8 for a split second and gave the best description
9 she could give from her memory.

10 Memory ain't permanent. Memory is not
11 a photograph. Memory is human. We're all human.
12 Remember, that was seconds or minutes, or the same
13 day later, right? That wasn't nothing faded.
14 Nothing faded over time.

15 So I'm not saying she's lying. I'm
16 saying that if she can't get that right -- she
17 can't get the outfit and the boots and all that
18 stuff, if she can't get that right, how are we to
19 trust her not the same day, not minutes later, but
20 a week later with that? One out of six lineup.

21 Ladies and gentlemen, this is serious.
22 You-all know what happens when you get convicted of
23 armed robbery. We don't need to talk about that,
24 but this is serious stuff. This is -- right?
25 Guilt or innocence. One out of six lineup, six

CLOSING ARGUMENT BY MR. SMALDONE

1 people, playing Russian roulette with Rias' life.

2 And, ladies and gentlemen, that's not
3 enough. That's not enough.

4 And you heard earlier -- I like the
5 Solicitor's Office here. They're nice people, but
6 I very much have a difference of opinion of what
7 the evidence says, and you'll have the evidence
8 back there.

9 Remember, you heard in closing she said
10 with absolute certainty that it was him on that
11 lineup. Seems like a minor difference, but,
12 remember, on that lineup she wrote almost certain.

13 I'm not a dictionary, but I submit to
14 you that almost and absolute are like almost
15 opposites. Almost certain. That was the week
16 after. Four years later, now she's absolutely
17 certain.

18 Four years later -- oh, no, a week
19 later, I was almost certain, but now that I thought
20 about it, those four years, I remember it better,
21 right? That's basically what she's saying.

22 Again, she's a nice person. I'm not
23 saying anything bad about her. She's human. We're
24 all human. So it becomes like this fish story,
25 right? Where you catch a fish, and then usually

CLOSING ARGUMENT BY MR. SMALDONE

1 every time you tell the story the fish get's
2 bigger.

3 It's like every time she talks, it's
4 more and more certain it's Rias. Right? Because
5 that's what we do. Confirmation bias, we're human.

6 The Solicitor also talked to you a
7 little bit about red herrings. Red herrings. I
8 don't -- I don't call them red herrings. I call
9 them evidence of innocence or really big problems
10 with their case.

11 But you-all call them whatever you
12 want, that's up to you. That's why you're the
13 jury. Red herrings, right?

14 So let's talk about the red herrings.
15 Okay. The clerk said she thinks he ran off in the
16 woods, right? We found out he lives about, I don't
17 know, six miles away, and you have to cross 26.

18 Okay. So I don't think that's a red
19 herring. I think that's kind of a big deal. No
20 getaway car. So I submit to you that someone
21 within walking distance or biking distance probably
22 robbed that store. Again, not him. Okay.

23 And, again, we're not here to figure
24 that out. We're not here to -- you know, this
25 isn't a crime novel. We're not figuring out who

CLOSING ARGUMENT BY MR. SMALDONE

1 really did it. We're here to figure out whether or
2 not the State has met their burden. Okay.

3 So the walking distance thing, I submit
4 to you that's not a red herring. They said he
5 could have got an Uber or a taxi. Okay. I don't
6 even need to -- know if I need to comment on that.
7 That would be strange, but whatever.

8 Another red herring they talked about
9 supposedly is the search warrant return. It didn't
10 really yield anything of value. All right. It
11 yielded boots that are the same color that is the
12 guy in the robbery, which, okay.

13 I submit to you that -- see if those
14 boots look familiar. See if those are an extremely
15 common boot type. Maybe they are. That's up to
16 you-all, you're the jury.

17 I think they're tan Timberlands. Maybe
18 you've seen those before. I don't know. But
19 that's literally all they found, right? They
20 didn't find a gun.

21 I submit to you that this robbery was
22 \$175 robbery. Ask yourself if you know how much
23 guns cost. Ask yourself if they're more or less
24 than \$175. No one robs a gas station at a loss.
25 All right. It's not a -- you know, that's not a

CLOSING ARGUMENT BY MR. SMALDONE

1 very good business decision.

2 He didn't have the gun at his house,
3 because he didn't use a gun, because he didn't rob
4 a store. That's what I'm saying. They're saying
5 it just ran off in the week afterwards. They said
6 he had plenty of time to get rid of it because it
7 was a week later.

8 Interesting, that's the same amount of
9 time that they waited to get the lineup for the
10 identification, the six pack. Plenty of time to
11 get rid of everything, but not to, you know, have
12 the memory, or whatever.

13 Also, cigarettes found at his house.
14 No cigarettes. And they said he had time to smoke
15 one or two packs. Remember that? Well, do people
16 just -- are cigarettes a thing you kind of always
17 have if you're a smoker. It's not like cheesecake,
18 where you get a slice of cheesecake, and maybe few
19 months later you get more cheesecake.

20 Cigarettes, right? They're cigarettes.
21 You either have cigarette or you don't. You're
22 either a smoker or you're not. Okay.

23 I think lovely Sandra Hawkins said he
24 was a smoker, but we'll talk about her in a minute.

25 So no cigarettes were even found. No

CLOSING ARGUMENT BY MR. SMALDONE

1 cigarette butts were found either that we heard.
2 So no evidence of smoking.

3 I submit to you that smokers either
4 have cigarettes or they sure as heck have
5 cigarettes butts, either in their yard or their
6 house or their ashtray. I don't know. I don't
7 smoke, so I'm not like well-versed in that.

8 So, not even cigarette butts of any
9 brand, Maverick, Marlboro, Newport, Parliament,
10 nothing. Right. So no cigarettes. No gun. I
11 can't remember what else.

12 Oh, no clothing. All right. No
13 clothing that matched anything in the video other
14 than tan Timberlands.

15 So no clothing, no gun, no cigarettes,
16 no cash. Where are those links? Where are the
17 links between that incident and this guy standing
18 right here on trial in Berkeley County? None.

19 This was at his house, like a search
20 warrant. They didn't, you know -- it's a search
21 warrant. It's a surprise thing. They got him,
22 like, right? It's a search warrant, nothing.
23 Nothing.

24 All right. So let's talk a little bit
25 about, again, lovely Sandra, who's been -- you

CLOSING ARGUMENT BY MR. SMALDONE

1 know, I submit to you she might not be the most
2 important honest person around. That's not really
3 my opinion. That's -- in her dozen or so
4 shoplifting convictions since before I was born. I
5 think you heard evidence of that, right?

6 So she does whatever. Says, oh, I
7 recognize him. How does she recognize him? Well,
8 that picture. What picture? I haven't seen a
9 picture that looked like him. Have you-all? There
10 is no picture.

11 Did you get that? Like she talks about
12 this mythical picture, and it doesn't exist.

13 I'm sorry if I'm laughing. It's just
14 ludicrous. This guy is on trial, and one of the
15 main witnesses sees a picture that the State hasn't
16 produced and probably doesn't exist. So excuse me
17 for laughing.

18 It's serious business. I laugh just
19 because of the seriousness of it, if that makes
20 sense. It's just this nothing into this huge
21 thing, right? This picture that doesn't exist.

22 Says she recognized him. Then she sees
23 the actual pictures, the actual, real life stuff
24 that you-all are to consider. She says -- no, she
25 doesn't say -- you know, she doesn't say I'm not

CLOSING ARGUMENT BY MR. SMALDONE

1 sure that's him. She says that dude -- or that man
2 does not look like Rias.

3 But she needs the \$200, obviously, to
4 shoplift so much that she needs some, you know,
5 some spare change here and there. So she's willing
6 to turn in her ex-boyfriend to get that change to
7 get that 200; pass go, collect \$200. That's why
8 she did it, obviously.

9 So she says that -- she says she either
10 does or doesn't recognize the jacket. She doesn't
11 remember. Says she doesn't remember, you know.
12 Doesn't remember the hat, but he likes hats.
13 Really? That's it. Right.

14 So, you know, you're sort of -- the
15 Judge will charge that you are to consider the
16 demeanor, the truthfulness. You know, you can
17 either believe some of what a witness says, all of
18 what the witness says, or absolutely nothing of
19 what a witness says.

20 And I'm not here to tell you-all that.
21 That's why I'm not on a jury. I'd probably never
22 get picked for a jury. That's why you're here, the
23 citizens of Berkeley County. You're to consider
24 that, each of you independently and together.

25 Consider whether or not she's

CLOSING ARGUMENT BY MR. SMALDONE

1 believable. And even if she is, what does she
2 really have to say? What of substance did she
3 offer?

4 One thing that she offered was that
5 Rias was -- I think I said five nine. If I'm --
6 and you all were there. In my mind, you know, I
7 was busy trying a case. I think I said five nine,
8 and she corrected me and said five eight, if I
9 recall correctly. Right.

10 And if you remember, the clerk
11 described him as six feet tall. And then later on
12 a statement -- I'm sorry, the written statement
13 says six one, which is about the same. I'm not
14 saying she's -- again, I'm not saying she's lying.

15 But the difference between five eight
16 and six feet or six one, that's pretty significant.
17 That's four or five inches. That's not one or two;
18 Four or five. That's -- is that a reasonable
19 doubt? I submit to you a lot of things are. Is
20 that?

21 There's nothing. Nothing here. I like
22 to talk sometimes. That's why I went to law school
23 instead of med school or science school or
24 something like that. I like to talk.

25 I wish I could tell you-all more about

CLOSING ARGUMENT BY MR. SMALDONE

1 the evidence portion of the case. I wish I could
2 discuss everything, but there ain't nothing to
3 discuss. There's really nothing.

4 I wanted to get up here, and, you know,
5 talk to you-all and do my thing and talk about each
6 thing and all that stuff, but there's really
7 nothing for me to address with you-all about the
8 evidence portion of this case.

9 There's no DNA; they tried. There's no
10 fingerprints. There's a video. Ask yourself if
11 that video is conclusive of who robbed the store?
12 Or the still images, ask yourself if you can tell
13 who it was? No one can. But that's up to you-all.

14 There's nothing. There's not a gun.
15 There's not a gun to analyze to see if it's really
16 his, he's stolen it, or where it's stolen from.
17 None of that. There are no cell phone records to
18 see where he's at. None of that. There's nothing
19 to talk about. Okay.

20 So you ask yourselves, ladies and
21 gentlemen of the jury, has the State done their job
22 and met their burden? This isn't about what you
23 think happened. This isn't about, could he have
24 done it? This is not about if he probably did it.
25 I submit to you that he didn't probably do it.

CLOSING ARGUMENT BY MR. SMALDONE

1 But this isn't about that. That's not
2 what the State is here to prove, if that makes
3 sense. They're not here to say, well, there's a
4 good chance. Again, this is Rias's life. This is
5 a big deal.

6 That's why in criminal cases you have
7 the highest standard in the American legal system,
8 the highest standard of proof. They have to
9 overcome beyond a reasonable doubt, the highest
10 standard. It's a high standard for a reason. We
11 do not convict innocent people in this country.

12 So when you get back there in the jury
13 room and ask yourself, did the State meet that high
14 burden in this case? I submit to you that they
15 haven't. All right. Sorry, didn't do it.

16 So, ladies and gentlemen of the jury,
17 it's almost the time where I stop talking to
18 you-all. And it is -- honestly, as a lawyer, this
19 is the hardest time for me. Like, this is the most
20 stressful time because I'm going to sit down, and
21 I'm not going to be able to address you-all
22 anymore.

23 I'm not going to be able to talk to
24 you-all. If you-all have a question, I'm not going
25 to be able to come up here and say, well, here's

JURY CHARGE

1 the -- you know, here's the real deal or here's
2 what I think or anything like that.

3 I sit down and I shut up, finally. And
4 it's tough for me. It's tough for me because for
5 the last while now that I've represented Rias in
6 this case, I've been his attorney, I've advised
7 him, I've looked out for him. Right.

8 I'm what he's got. He's been in my
9 hands. I was like his protector, you know. That's
10 what a lawyer does, protects people.

11 But in a few minutes it's going to
12 change. The Judge is going to charge you on the
13 law, and my job is going to be done. And at that
14 point, Rias Isaac is going to be in your hands, not
15 mine.

16 So, ladies and gentlemen, at that point
17 consider the evidence, consider the standard the
18 State has to meet. And I'm asking you in my final
19 act of Rias being in my hands to find Rias Isaac
20 not guilty of each and every one of these offenses;
21 not guilty because he's not guilty. Thank you.

22 THE COURT: All right. Thank you very
23 much. Ladies and gentlemen, now, if I could have
24 your attention. It becomes my responsibility as
25 the judge of the law to give you the law which you,

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1 of course, have promised that you will accept and
2 apply it fairly and impartially to the facts that
3 you will determine.

4 And I say fairly and impartially
5 because one thing is for sure, neither you nor I
6 have any friends in this process. We aren't here
7 to reward anyone. You aren't here to punish
8 anyone. You have nothing to do with that.

9 And as I told you, that's not -- that's
10 not why you are here. You are the judge of the
11 facts. You are not to be influenced by any human
12 emotion whatsoever. Why? Because you are to be an
13 impartial judge to evaluate all of the evidence in
14 this case and decide what you find to be credible
15 and believable.

16 In so doing, you should consider all
17 the evidence. And once you've done that, you take
18 the law and apply that evidence to the facts -- to
19 those facts and report that decision.

20 Again, that's your task. Whatever the
21 result is, that's -- that is the result. And as we
22 know, when we use -- when we do everything to the
23 best of our ability -- we're human. But when we do
24 it to the best of our ability, what do I mean?

25 Apply your common sense, your sense of

JURY CHARGE

1 logic and reason in analyzing the evidence. Decide
2 what you believe to be the true facts. Take the
3 law and apply it to those facts. Whatever the
4 result is is the result, and that you don't --
5 again, you aren't here to achieve any particular
6 result, other than what is the result as supported
7 by the evidence and the law.

8 Now, during this instruction, when I
9 give you an instruction on -- throughout this
10 instruction you may hear me use the word,
11 defendant. And that word is simply a way --
12 another means of referencing Mr. Isaac. It means
13 nothing.

14 That's what -- as I say, when a charge
15 is made against someone, that's what applies in the
16 legal sense, a defendant. So it's just another way
17 of identifying him. And you are not to infer
18 anything from that.

19 As I told you when we started,
20 Mr. Isaac is charged in these indictments that I
21 hold in my hand and they are what they appear to
22 be, pieces of paper. They're not evidence. They
23 will not accompany you to your jury room. They
24 just merely contain the accusations.

25 And to these accusations he has

JURY CHARGE

1 rendered a plea of not guilty, which places again,
2 as we stated when we started, the burden solely
3 upon the State of South Carolina to prove his guilt
4 beyond a reasonable doubt. And that means to prove
5 each element of each of the crimes to that
6 requisite standard.

7 As I told you, the defendant is
8 presumed to be innocent of this, and that
9 presumption of innocence is sufficient to carry
10 this case the entire way -- entirely through the
11 case and only can it be set aside when you, in your
12 -- through the deliberative process decide that the
13 State has met its burden of proof as to each
14 element of a specific crime and convinced you of
15 that standard.

16 And if so, then you may set that
17 presumption of innocence aside and do what you have
18 been instructed and will be instructed to do, and
19 that's return a verdict of guilty as to that
20 particular crime.

21 But if you are not satisfied beyond a
22 reasonable doubt of each of the elements, then that
23 presumption of innocence is what will cause you to
24 reply, not guilty, because the State has met its
25 burden -- has not met its burden of proof.

JURY CHARGE

1 As I told you when we started, the
2 defendant, Mr. Isaac, has nothing to prove or
3 disprove. And that's true of every single person
4 who is accused of a crime in this country. They
5 don't have to prove anything at all. They
6 certainly don't have to prove their innocence.
7 They don't have to explain anything. They don't
8 have to present any evidence.

9 And I will tell you further if the
10 person accused of a crime doesn't testify, they
11 have the constitutional right not to do that. And
12 a jury considering that case cannot, and they're
13 instructed not to, consider that in any fashion.

14 In that regard, I would instruct you
15 that when you retire, you may not discuss the fact
16 that Mr. Isaac didn't testify. If you do, you will
17 have violated your oath; because as I stated, he
18 has the absolute right. His failure to testify
19 should not enter into your deliberations at all.

20 The burden rests solely upon the State,
21 and they have to prove their case beyond a
22 reasonable doubt. What is a reasonable doubt?

23 A reasonable doubt, as I mentioned when
24 we started, is that doubt that would make an
25 honest, conscientious juror who's searching for the

JURY CHARGE

1 truth in a case to hesitate or take some action.
2 Proof beyond a reasonable doubt is proof that
3 leaves you firmly convinced of his guilt.

4 Now, I will tell you there are very few
5 things in this life and in this world that we know
6 with absolute certainty, and our law doesn't
7 require in criminal cases that the State overcome
8 every possible doubt.

9 If, based on your consideration of the
10 evidence, you are firmly convinced that Mr. Isaac
11 is guilty of one or more of these charges, then you
12 must return a verdict of guilty. If, on the other
13 hand, you think there's a real possibility that
14 he's not guilty, then you must give him the benefit
15 of that doubt and return a verdict of not guilty.

16 I would instruct you that reasonable
17 doubt may arise from the evidence in the case or
18 the lack or absence in the evidence -- evidence in
19 the case. And it's up to you to determine whether
20 or not a reasonable doubt exists in this case. And
21 in that connection I would charge you that he's
22 entitled to every reasonable doubt arising in the
23 whole case.

24 Well, what do I mean by the whole case?
25 Simply this: If upon any issue of fact which would

JURY CHARGE

1 be essential for you returning a verdict of guilty
2 you should have a reasonable doubt as to how that
3 issue is to be resolved, I would instruct you to
4 resolve it in his favor.

5 Now, the evidence which you are to
6 consider consists of the testimony of the witnesses
7 and exhibits that have been introduced through
8 their testimony during the trial. Please remember,
9 the attorney's remarks and my remarks should never
10 be considered evidence.

11 You shouldn't consider, for instance,
12 if during the trial there was an objection made to
13 any testimony, that was proper. They were supposed
14 to raise those objections. That's for my
15 consideration, not yours. And my rulings shouldn't
16 be considered by you at all because that's my job.

17 And you are not to accept anything or
18 take anything that I have said to you as to how you
19 are to resolve any factual issues, because one of
20 the things that we know is if you do that, then
21 you've let me invade your area of responsibility.

22 Frankly, that's probably the greatest
23 example I can give to you and it happens in many
24 cases, most cases, really, in my career. An
25 objection may be made and the judge, or I, have

JURY CHARGE

1 sustained that objection. And that simply means
2 that that testimony is not going to be permitted
3 because we have ruled on it as part of our rules of
4 evidence.

5 If a jury considers that evidence or
6 says, I wonder why the judge made that decision, or
7 I made that decision, then you've kind of stepped
8 into my area of responsibility.

9 But, likewise, if you say, well, you
10 know, the judge allowed this, and I guess I have to
11 accept that as a fact, if you think of it in that
12 light, then you've let me step into your area of
13 responsibility. As I said, we work together.

14 It's -- probably, that's the greatest
15 example I could give to you. I've made a decision
16 as a matter of law under the rules of evidence I
17 was going to permit the testimony, but now it
18 shifts to you. You have to decide whether you
19 believe it or not, and if so, how strongly you
20 believe it.

21 And that's how we work. You take the
22 law and apply it to those facts that you determine
23 to be credible and believable.

24 I would also instruct you that any
25 statement by the attorney concerning any law that I

JURY CHARGE

1 give you, if it differs from what I give you, you
2 are to disregard their remark and take the law as I
3 give it to you, because for purposes of this
4 proceeding today I'm the sole judge of the law.

5 And if they made a statement as to what
6 a witness said or didn't say during the trial, and
7 that differs from your collective recollection of
8 what that witness said or didn't say, then you are
9 instructed to disregard their remarks because you
10 are the sole judge of the facts in this dispute.

11 In presenting a case -- in presenting
12 their case, the State has the right to present the
13 case, and they use quite frequently both types of
14 evidence, direct and indirect -- another name for
15 indirect is circumstantial evidence -- and that's
16 not uncommon.

17 Direct evidence would be generally
18 something that's sensory perception. I saw
19 something, I heard something, I felt something, or
20 the like. And if you are conclusive -- if you're
21 firmly convinced as to the reliability and
22 credibility of that evidence, then that establishes
23 that particular fact.

24 Circumstantial evidence is when they
25 present a number of circumstances, and if you're

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1 firmly convinced as to each one of those, and then
2 through either inductive or deductive reasoning it
3 leads you to a logical conclusion about which you
4 are firmly convinced, then it establishes that
5 through circumstantial evidence and it would
6 establish that circumstantial evidence.

7 I would tell you that both evidence --
8 both types, direct and circumstantial, are proper.
9 The law makes absolutely no distinction between the
10 weight or the value to be given to either. You're
11 entitled to rely on all of the evidence that is
12 presented, and there is no greater degree of
13 certainty required of circumstantial evidence than
14 direct evidence.

15 The law does make one distinction,
16 however, to circumstantial evidence. It has to
17 meet a certain test. First, as to each one of the
18 -- those events or circumstances upon which the
19 State is relying, they have to prove each one of
20 those beyond a reasonable doubt.

21 Further, the facts must point
22 conclusively to the guilt of the defendant and must
23 be wholly, perfectly consistent with each other in
24 every particular respect.

25 I instruct you in that regard, however,

JURY CHARGE

1 that the mere fact that the circumstances in a case
2 are strongly suspicious of guilt or that the
3 defendant's guilt is probable, as I stated earlier,
4 that's not sufficient because it has to be more
5 than somebody being suspicious of guilt or probably
6 guilty. It has to be proof that convinces you
7 beyond a reasonable doubt.

8 Now, as in many cases, and in this
9 case, the identification of the defendant as the
10 person who committed the crime charged is an
11 element which the State must prove beyond a
12 reasonable doubt. You must be satisfied beyond a
13 reasonable doubt of the accuracy of the
14 identification of the defendant before you may
15 convict him.

16 Identification testimony is an
17 expression or belief or impression by a witness.
18 You must determine the accuracy of the
19 identification of that defendant. You must
20 consider -- you may consider in doing so the
21 believability of the witness. You may consider
22 whether the witness had an adequate opportunity to
23 observe the offender at the time of the offense.

24 This will be affected by things like
25 how long or short a period of time was available;

JURY CHARGE

1 how close or far away was the witness; what were
2 the lighting conditions; whether the witness had a
3 chance to see or know the person in the past.

4 Once again, the -- I instruct you that
5 this must be established beyond a reasonable doubt
6 before you may return a verdict of guilty. If,
7 after examining the testimony, you have a
8 reasonable doubt as to the accuracy of the
9 identification, then you must return a verdict of
10 not guilty.

11 Now, how do you decide these facts and
12 what you find to be credible and believable? As I
13 stated to you, it's a common sense exercise.
14 You've done it throughout your entire life. And
15 I'm going to discuss some of the factors that you
16 may consider, but if I don't mention a method or
17 factor that you've found reliable in your life when
18 you begin your deliberations, please use it as you
19 analyze the evidence in this case.

20 But some of the factors that you may
21 want to consider would be the appearance of the
22 witness. How did they appear to you,
23 straightforward or hesitant in answering the
24 question? Was the testimony of a witness
25 consistent or inconsistent? Was it strengthened or

JURY CHARGE

1 weakened by other evidence in the case?

2 How did the witness come to know the
3 facts that he or she testified to? And what was
4 the ability of that witness to know those
5 particular factors -- facts or circumstances?

6 Is there a reason for a witness which
7 -- to give testimony which may be helpful or
8 detrimental to one side or the other? In other
9 words, was the witness biased or prejudiced in any
10 fashion?

11 In determining -- in the testimony of
12 this case we've had testimony about one witness's
13 involvement in some criminal activity. I would
14 tell you that that's offered only for the purpose
15 of evaluating the credibility of that witness. And
16 it does not mean that you have to disbelieve that
17 witness. It's just one of the factors that you are
18 to consider in assessing and evaluating the
19 credibility of that witness.

20 In believing and making these
21 determinations our law gives you very broad
22 discretion, wide latitude, and you have the right
23 to believe many witnesses against one, one witness
24 against many. You have the right to believe all of
25 a witness's testimony, parts of a witness's

JURY CHARGE

1 testimony, or none of the witness's testimony.

2 Now, of course, you don't make these
3 decisions arbitrarily, but if you come to that
4 conclusion in evaluating the evidence in this case,
5 you have that prerogative; because you are to make
6 this decision in evaluating and to comply with the
7 objective is to evaluate the evidence not -- not
8 arbitrarily or capriciously, but determining what
9 you find to be credible and believable.

10 And once determining that, then take
11 the law as I give it to you.

12 Now, I say as I give it to you because
13 while you have very broad discretions when it comes
14 to determining the facts, you don't enjoy the same
15 as the law. As we talked about, I respect every
16 one of you's right to feel that law should be -- is
17 something or should be something. We all deal with
18 that every day probably from time to time.

19 And you have a right as a citizen of
20 this country to even effect a law or take an active
21 role in changing it, and that's fine.

22 But for the purpose of this proceeding
23 today you have committed to the Court, to the
24 State, and to Mr. Isaac that you will set aside any
25 beliefs or feelings you have and take the law as I

JURY CHARGE

1 give it to you and apply it fairly and impartially
2 to the facts. And I'm confident that you will do
3 exactly that.

4 Please do not put any greater emphasis
5 on any one aspect of the charge, but consider the
6 charges as a whole. The order of my instructions,
7 that doesn't mean anything. I had to put it in
8 some order, again -- and again, I reiterate,
9 nothing that I say should be considered by you as a
10 factual issue or how you are to resolve a factual
11 issue.

12 Now, let's look at the charges. As I
13 mentioned to you, the defendant is charged in three
14 separate indictments. One, with the crime of armed
15 robbery; one, with the crime of kidnapping; and the
16 other, possession of a weapon during the commission
17 a violent crime.

18 Armed robbery, let's look at that
19 first. In order for the State to be entitled to a
20 verdict of guilty in the charge of armed robbery,
21 the State must first prove beyond a reasonable
22 doubt that Mr. Isaac took personal property from
23 the person or presence of another person.

24 Property is in the presence of a person
25 if it's within that person's reach, inspection,

JURY CHARGE

1 observation, or control. So that the person could,
2 if not overcome with violence or prevented by fear,
3 keep possession of that property.

4 The State must also prove beyond a
5 reasonable doubt that the defendant carried away
6 the property with the intent to permanently deprive
7 the owner of that property and to keep the property
8 for the defendant's own use.

9 The slightest removal of the property
10 or the complete possession of the property, even
11 for an instant, by the defendant would be
12 sufficient to show the taking and carrying away of
13 that property.

14 Further, the taking and carrying away
15 of the property must have been accomplished by and
16 done with violence or putting the owner or person
17 in possession of the property in fear of that
18 violence.

19 Finally, the State must prove beyond a
20 reasonable doubt that the defendant was armed with
21 a deadly weapon during the robbery. A deadly
22 weapon is any article, instrument, or substance
23 which is likely to cause death or bodily harm.

24 Whether an instrument has been used as
25 a deadly weapon depends on the facts and

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1 circumstances in each case. The following are
2 examples of instruments which may be considered
3 deadly weapons: A pistol, a shotgun, a rifle, a
4 dirk, a dagger, a knife, a slingshot, metal
5 knuckles, razors, and similar objects. Anything
6 that's likely to produce, again, death or bodily
7 harm.

8 Now, let's look at the charge of
9 kidnapping. In order to obtain a conviction on the
10 charge of kidnapping, the State must prove beyond a
11 reasonable doubt that Mr. Isaac knowingly and
12 unlawfully seized, confined, inveigled, decoyed,
13 kidnapped, abducted, or carried away another person
14 without authority of the law.

15 To do a thing unlawfully is to do it
16 willfully against the law. Knowingly means with
17 knowledge, conscientious, not accidentally.

18 Seized means to take hold of suddenly
19 or forcibly. Confined means to limit, restrict, or
20 enclose within bounds, imprison, shut or keep in.

21 Inveigle means to lure, entice, or lead
22 away by false representation, promises or other
23 deceitful means.

24 Decoy means to lure by, or as if by
25 decoy, decoy is something to entice a person into a

JURY CHARGE

1 trap.

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

4 Abduct means to carry off secretly or
5 by force for an illegal purpose. Carry away means
6 to remove.

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

12 Something done without authority of law
13 is something which the law does not sanction,
14 permit, allow, condone, or provide justification
15 for.

16 The kidnapping does not have to be for
17 any personal or monetary gain or for any illegal
18 purposes, but may be for any reason whatsoever.

19 The gravamen of the offense, the
20 essential element of the offense of kidnapping is
21 some form of compulsion by laws -- but the law says
22 that the requisite force or compulsion need not
23 consist of the use of actual physical force or
24 violence or expressed threats.

25 The offense of kidnapping commences

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1 when one wrongfully and unlawfully deprives another
2 of his or her freedom and continues until that
3 person's freedom is restored.

4 Now, let's look at the last offense,
5 which is possession of a weapon during the
6 commission of a violent crime.

7 If a person -- and our law prescribes
8 if a person is in possession of a firearm or
9 visibly displays what appears to be a firearm
10 during the commission of a violent crime and is
11 convicted of committing or attempting to commit a
12 violent crime as defined by our Code of Laws, which
13 defines armed robbery and kidnapping as a violent
14 crime, then the person would be guilty of that
15 offense if those elements are proved.

16 The term firearm is defined in this
17 section as a machine gun, automatic rifle,
18 revolver, pistol, or any weapon which will or is
19 designed to or may readily be converted to expel a
20 projectile.

21 Now, criminal intent is also a
22 necessary element of each of the crimes and that
23 has to be established beyond a reasonable doubt.

24 Criminal intent, ladies and gentlemen,
25 is an element that must be determined by you by

JURY CHARGE

1 considering the circumstances surrounding the
2 situation.

3 The law says a criminal intent may be
4 inferred from the circumstances which is shown to
5 have existed. Criminal intent is the state of mind
6 that operates jointly with the commission of a
7 crime.

8 Intent would include those consequences
9 which represent the very purpose for which an act
10 is done or known to be substantially certain to
11 result regardless of one's desire.

12 Criminal intent is a mental state, a
13 conscious wrongdoing. It's up to you to determine
14 what the defendant intended to do based on the
15 circumstances shown to have existed, assuming, of
16 course, that you are convinced beyond a reasonable
17 doubt that the defendant was the perpetrator of one
18 or more of these crimes.

19 I tell you that the State has to prove
20 criminal intent beyond a reasonable doubt.

21 Throughout this entire process, ladies
22 and gentlemen, you, just as I, are not advocates
23 for either side. We don't have any friends to
24 reward, nor do we have any enemies to punish. We
25 have been selected and chosen to be those judges

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1 that are fair-minded and do what we have been
2 assigned to do without any human emotion.

3 And, folks, I will -- I will confess to
4 you, and I've had a little more experience in it
5 than you have, that performing this task is not
6 always easy; we're human and it requires a
7 conscious effort, I can promise you that.

8 I'm asking each one of you to employ
9 that conscious effort to set aside all human
10 emotion when you retire and deliberate and decide
11 what you believe to be the true facts, and then
12 take the law as I have given it to you and apply it
13 fairly to those facts.

14 When you have done that, you will have
15 honored in every respect the oath that you took
16 when you started this process.

17 Ms. Newman, to assist you in reporting
18 the jury's decision, I'll be sending back three
19 verdict forms. They're similar, and I'm going to
20 discuss -- discuss them with you just in general.
21 I'll just show you one. This one just happens to
22 be the kidnapping.

23 Each one says -- this one says: We,
24 the jury, by unanimous consent, find the Defendant
25 Rias Odel Isaac on the charge of kidnapping.

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1 And then there's one about the
2 commission of a violent crime and one on the charge
3 of armed robbery. They have two choices, the order
4 of the choices means nothing. I had to put it in
5 some order.

6 The first is guilty, the second is not
7 guilty. And then there's a place for you -- where
8 it says presiding juror, if you'll sign that.

9 What will you be saying if the choice
10 is guilty? If that be your decision, you will be
11 saying and confirming that all 12 jurors agree that
12 the State had met its burden of proof and
13 established each element of that particular crime
14 beyond a reasonable doubt.

15 And if that is your choice, I would ask
16 you to check it and circle it and sign it, and you
17 will then have completed that verdict form.

18 If it's not guilty, you'll be saying
19 that 12 jurors agree that the State failed to meet
20 its burden of proof on one or more elements of that
21 particular crime and you are, therefore, returning
22 a verdict of not guilty because, as I've stated,
23 the State has to prove each element beyond a
24 reasonable doubt. Again, sign it and you'll have
25 completed the form.

JURY CHARGE

1 The only one that has some catches to
2 it is the possession of a weapon during the
3 commission of a violent crime. In order to
4 consider that, you will have to already determined
5 that the State had met its burden of proof on at
6 least one of the other charges.

7 If the verdict is not guilty on both of
8 those, you may not consider that at all. It has to
9 be not guilty. Why? Because the State didn't
10 prove the conviction of a violent crime. So that's
11 the only distinction between that one.

12 And, obviously, if you have found, then
13 you have to find that the State proved that they
14 had a weapon; and, obviously, you've already found
15 him guilty of the violent crime, so it would be to
16 determine whether he had a weapon or displayed what
17 appeared to be a weapon.

18 And then if that be the case and
19 established beyond a reasonable doubt, then, of
20 course, you can return a verdict of guilty on that.
21 If it fails, however, of the weapon, then you must
22 return a verdict of not guilty on that particular
23 crime notwithstanding the conviction of a violent
24 crime.

25 I know that you're anxious to get

JURY CHARGE

1 started, and I told you the last thing I would tell
2 you is when you may commence; but, first, I need to
3 ask, is there any juror that feels that they would
4 be unable to continue? If so, raise your hand.

5 Mr. Alternate, at this point it appears
6 the first 12 will be able to continue. So when I
7 excuse the jury in just a moment, I'm going to ask
8 that you not return to the jury room. They'll take
9 you to another room, and I'll be in very shortly to
10 discuss with you how much longer you need to
11 remain.

12 But it might be necessary to return you
13 to the courtroom because I need to talk with the
14 lawyers and see if there's some question or change
15 or correction that I need to give you concerning
16 the charge.

17 And if there are, then we'll return all
18 of you to the courtroom, and I'll make that
19 correction or addition. But, if there aren't any
20 exceptions or additions that need to be given, then
21 we will gather the exhibits and the verdict form to
22 deliver them to you. When you receive your
23 exhibits and verdict forms, then you may commence
24 your deliberations.

25 The only restrictions that I place on

JURY CHARGE

1 the deliberations is this: If any juror has to
2 leave the table for any reason, you must stop
3 deliberating until all 12 of you are together.
4 Other than that, ladies and gentlemen, you proceed
5 as you deem fit and proper.

6 Thank you very much for your attention
7 throughout this trial. Please retire to your jury
8 room and await your exhibits before commencing the
9 deliberations. Thank you.

10 You can go with them also. They'll
11 show you where you need to go.

12 (Jury out, 10:37 a.m.)

13 THE COURT: Any exceptions or additions
14 from the State?

15 MR. STEGALL: Your Honor, we had an
16 expert testify even though she didn't really -- I
17 just wanted to bring it up. I didn't --

18 THE COURT: Well, I appreciate it. I
19 had an expert -- your exception is noted. I'm not
20 going to bring them back in because the whole
21 expert charge is that you consider it the same as
22 you do any other witness.

23 I put it in there with dueling experts,
24 but there's no need to have it when there aren't
25 any dueling experts.

1 MR. STEGALL: Yeah. I --

2 THE COURT: I don't charge it. I used
3 to charge it, and every time I saw it then I
4 thought, this is silly, it's redundant, in my
5 opinion. But it's noted. If you want me to do it,
6 I'll just note that exception, but I'm not inclined
7 to do it.

8 Anything else -- and that's my
9 rationale for that.

10 Anything from the State -- I mean, from
11 the defendant?

12 MR. SMALDONE: No, Your Honor.

13 THE COURT: Thank you very much. I
14 appreciate it. It's a pleasure working with you.

15 MR. SMALDONE: Thank you, Your Honor.

16 THE COURT: Alrighty. Let me go tell
17 my alternate they're free to go.

18 (Exhibits and jury form back to the
19 jury. Deliberations began 10:40 a.m.)

20 (COURT'S EXH. 1, Jury note, was marked
21 for identification.)

22 THE COURT: All right. All right.
23 We've got -- they want to listen to the 911 call
24 again. It's my understanding that you have
25 something you can send back there that only has

1 that capability? You have that?

2 THE BAILIFF: Yes, sir. We've got a
3 laptop.

4 THE COURT: All right. Any objection
5 to the laptop going back with the video with the
6 911 call?

7 MR. STEGALL: None from the State, Your
8 Honor.

9 THE COURT: And they want to see the
10 video, I'm sure.

11 MR. STEGALL: None.

12 THE COURT: So any objection?

13 MR. SMALDONE: No, Your Honor.

14 THE COURT: Okay. If you'll take
15 those -- take them, we'll send back the --

16 And, Dan, you all -- there is nothing
17 on that laptop.

18 THE BAILIFF: It's clean.

19 THE COURT: You got it for that
20 purpose?

21 THE BAILIFF: We got it for that
22 purpose.

23 THE COURT: Does anybody want to see it
24 and check it before I send it back? I mean, the
25 clerk has -- I think they purchased it with that

VERDICT

1 same problem and proviso that we don't have to
2 bring them out, and they can have it, which makes a
3 lot of sense to me.

4 MR. SMALDONE: I don't need to see it.

5 THE COURT: Does the State have any
6 objection?

7 MR. STEGALL: No, Your Honor.

8 THE COURT: Okay. Very well. We'll do
9 that then. Thank you very much.

10 That's Court's Exhibit No. 1 that we've
11 been talking about.

12 (Deliberations continued.)

13 THE COURT: All right. I'm advised the
14 jury has reached a verdict.

15 Is the State ready to receive the
16 verdict?

17 MR. STEGALL: We are, Your Honor.

18 THE COURT: Is the defendant ready?

19 MR. SMALDONE: The defendant is ready.

20 THE COURT: Very well. Let's bring in
21 the jury, please.

22 (Jury in, 12:35 p.m.)

23 THE COURT: Thank you, ladies and
24 gentlemen, I appreciate that. I've been advised
25 the jury has reached a verdict; is that correct?

VERDICT

1 THE FOREPERSON: Yes, Your Honor.

2 THE COURT: If you would pass the
3 verdict form please to the clerk.

4 The verdict forms have been properly
5 completed. I'll ask the defendant to please rise.

6 The State of South Carolina versus Rias

7 Isaac, Case No. 2015-GS-08956; we, the jury, by
8 unanimous consent, find the Defendant Rias Odel
9 Isaac on the charge of armed robbery guilty.

10 Signed by Ms. Newman; dated February the 13th,
11 2019.

12 2015-GS-08957, same caption; we, the
13 jury, by unanimous consent, find the Defendant Rias
14 Odel Isaac on the charge of possession of a weapon
15 during the commission of a violent crime guilty.
16 Signed by Ms. Newman.

17 And next, the last one 2015-GS-08958;
18 we, the jury, by unanimous consent, find the
19 Defendant Rias Odel Isaac on the charge of
20 kidnapping guilty. And signed again by Ms. Newman,
21 dated February the 13th, 2019.

22 Ladies and gentlemen, if I have
23 accurately published your verdict, please indicate
24 that by raising your right hand.

25 THE JURY: (Raised hands)

VERDICT

1 THE COURT: Thank you. Let the record
2 reflect that each juror raised his or her right
3 hand in response to the Court's inquiry. Anything
4 further from the State of the jury?

5 You may be seated.

6 MR. STEGALL: No, Your Honor.

7 THE COURT: Anything further from
8 Mr. Isaac?

9 MR. SMALDONE: Your Honor, we ask that
10 the jury be polled at this time.

11 THE COURT: All right. Ladies and
12 gentlemen -- you may be seated -- what's going to
13 happen now is the clerk is going to call your name
14 and we're going to ask you two questions, was that
15 your verdict and is it still your verdict. And we
16 will go down the list, and I'll ask you to assist
17 us in that, if you would, please.

18 THE CLERK: Juror 131, is this your
19 verdict?

20 JUROR 131: Yes.

21 THE CLERK: Is it still your verdict?

22 JUROR 131: Yes, ma'am.

23 THE CLERK: Juror 45, is this your
24 verdict?

25 JUROR 45: Yes.

VERDICT

1 THE CLERK: Is it still your verdict?

2 JUROR 45: Yes.

3 THE CLERK: Juror 93, is this your
4 verdict?

5 JUROR 93: Yes.

6 THE CLERK: Is it still your verdict?

7 JUROR 93: Yes.

8 THE CLERK: Juror 177, is this your
9 verdict?

10 JUROR 177: Yes.

11 THE CLERK: Is it still your verdict?

12 JUROR 177: Yes.

13 THE CLERK: Juror 134, is this your
14 verdict?

15 JUROR 134: Yes.

16 THE CLERK: Is it still your verdict?

17 JUROR 134: Yes.

18 THE CLERK: Juror 16, is this your
19 verdict?

20 JUROR 16: Yes.

21 THE CLERK: Is it still your verdict?

22 JUROR 16: Yes.

23 THE CLERK: Juror 20, is this your
24 verdict?

25 JUROR 20: Yes.

VERDICT

1 THE CLERK: Is it still your verdict?

2 JUROR 20: Yes.

3 THE CLERK: Juror 92, is this your
4 verdict?

5 JUROR 92: Yes.

6 THE CLERK: Is it still your verdict?

7 JUROR 92: Yes.

8 THE CLERK: Juror 127, is this your
9 verdict?

10 JUROR 127: Yes.

11 THE CLERK: Is it still your verdict?

12 JUROR 127: Yes.

13 THE CLERK: Juror 105, is this your
14 verdict?

15 JUROR 105: Yes, ma'am.

16 THE CLERK: Is it still your verdict?

17 JUROR 105: Yes, ma'am.

18 THE CLERK: Juror 119, is this your
19 verdict?

20 JUROR 119: Yes.

21 THE CLERK: Is it still your verdict?

22 JUROR 119: Yes.

23 THE CLERK: Juror 138, is this your
24 verdict?

25 JUROR 138: Yes.

SENTENCING

1 THE CLERK: Is it still your verdict?

2 JUROR 138: Yes.

3 THE CLERK: Your Honor, I polled the
4 jury and the verdict stands.

5 THE COURT: It does stand. And thank
6 you very much, ladies and gentlemen. I appreciate
7 it very much. I'm going to ask you to retire to
8 your jury room. I'll be in there in just a few
9 moments to talk with you.

10 (Jury out)

11 THE COURT: We'll be at ease, and then
12 I'm going to speak to the jury. We'll be at ease
13 for a moment.

14 (A recess transpired.)

15 THE COURT: State ready?

16 MR. STEGALL: Yes, sir. I've got the
17 sentencing sheets and LWOP packet, where, as I
18 mentioned earlier, the defendant was convicted of a
19 prior violent, most serious crimes out of New York,
20 he used an alias; however, his fingerprints match
21 -- I'm prepared to have a hearing --

22 THE COURT: Well, as I understood it
23 from Mr. Smaldone, that there is no question that's
24 one and the same person.

25 MR. SMALDONE: Yeah. I'm not objecting

SENTENCING

1 to that.

2 THE COURT: Okay. That's fine. Just
3 the sentencing sheet. That's all I need is the
4 sentencing sheet, but the record speaks for itself.

5 Are you going to challenge any of the
6 record?

7 MR. SMALDONE: The LWOP record?

8 THE COURT: Yeah.

9 MR. SMALDONE: No, Your Honor.

10 THE COURT: All right. That's fine.

11 MR. STEGALL: May I approach?

12 THE COURT: Yes, sir, you surely may.

13 MR. STEGALL: Thank you, Your Honor.

14 THE COURT: All right. Obviously,
15 based on the LWOP notice, with the exception of the
16 possession of a weapon during the commission of a
17 violent crime, all the rest of them are life
18 without parole as I understand it, correct?

19 MR. SMALDONE: That is my
20 understanding.

21 THE COURT: Concurrent life, that would
22 be the sentence. How much time has he served
23 already?

24 MR. SMALDONE: I think --

25 THE COURT: How long have you been in

SENTENCING

1 jail?

2 THE DEFENDANT: A little over four
3 years, Judge.

4 THE COURT: Four years.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Okay. Well, I don't think
7 the life applies to the possession of a weapon, so
8 I'm going to sentence him on the possession of the
9 weapon to four years and give him credit for four
10 years so that that sentence will be now resolved.
11 Because I don't think he has to get five; it's 0 to
12 5, and I'll give him credit for four years so they
13 don't have to keep track of that.

14 Anything you want to tell me,
15 Mr. Smaldone, concerning the sentence?

16 MR SMALDONE: Your Honor, I realize
17 your options are limited, so I feel that spinning
18 my wheels is, you know, unnecessary. But as a
19 legal matter, I'd certainly ask that the
20 kidnapping -- I would ask for a notation that's
21 it's nonsexual in nature just for classification
22 purposes.

23 THE COURT: I'll do that. Do you want
24 to make any motions concerning the verdict before
25 we -- before I -- and the sentence, I was just

SENTENCING

1 merely telling you what I was going to do. Do you
2 want to make a motion on the verdict?

3 MR SMALDONE: Yes, certainly, Your
4 Honor. We ask for a judgment notwithstanding the
5 verdict.

6 THE COURT: Okay. I think that -- I
7 understand your motion, but I think the only thing
8 I can give you is a new trial. So --

9 MR SMALDONE: Your Honor, we would ask
10 for a new trial.

11 THE COURT: -- based on errors -- or
12 based on your previous motions.

13 MR SMALDONE: That's correct.

14 THE COURT: Anything else you want to
15 add in that respect? I stand by my rulings on the
16 directed verdict. I think the jury's verdict is
17 consistent with the facts. I think certainly it
18 was a jury issue because of the issue raised, and
19 very strongly raised, as to whether or not he was
20 the person there.

21 There were certainly issues pointed out
22 with the witness who claimed to be this person that
23 he was engaged to him, but certainly she did
24 equivocate concerning whether -- well, first, she
25 said it's him, Rias, but then she said, no, I can't

SENTENCING

1 tell you who it is. And so there was certainly an
2 equivocation there.

3 And there were certainly discrepancies
4 in the victim's statement, obviously, but the jury
5 waived that, and I think it was a jury issue. So I
6 appreciate your motions, but I respectfully deny
7 them.

8 Now, concerning the life without
9 parole. One of the reasons I have a conversation
10 with the defendant before and to make sure that we
11 put it on the record about the offer being made
12 because it's not something I derive any pleasure
13 from.

14 This -- neither one of these would have
15 carried a life. The maximum sentences would have
16 been 30, but that being said, the State had the
17 option and had the right to do what they did based
18 on his record. So it is the law, whether I like it
19 or not.

20 But I'll be happy to hear anything
21 further from Mr. Smaldone or Mr. Isaac. He's been
22 very -- I would just commend him for his respect
23 for this process, and certainly he responded to me
24 very respectfully, and I wish him well.

25 THE DEFENDANT: Thank you, Your

SENTENCING

1 Honor.

2 THE COURT: Is there anything else that
3 you want to tell me, sir?

4 THE DEFENDANT: At this point there's
5 really nothing that I can say. We can just file
6 appeals. I mean, there's nothing I can say to
7 change --

8 THE COURT: I understand that, and I
9 appreciate and respect your absolute right to have
10 this matter appealed, and your lawyer will talk to
11 you about that as well.

12 THE DEFENDANT: Thank you. Judge.

13 THE COURT: Okay. Anything else from
14 the State?

15 MR. STEGALL: Nothing.

16 THE COURT: The sentence of the court
17 on the armed robbery, 2015-956, is life without
18 parole.

19 The sentence of the court on the
20 2015-958 is life without parole. They are
21 concurrent. Good luck.

22 And to the victim in this case, good
23 luck to you, ma'am. I admire your courage of
24 continuing to work and I hope you never have to
25 experience that again.

SENTENCING

1 THE WITNESS: Thank you.

2 (These proceedings were concluded at

3 1:09 p.m.)

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DBP/0243059/2015-01-00050

WITNESSES

S. McWilliams

Goose Creek Police Department

AGENCY CASE NUMBER

2014-5667

ARREST WARRANT NUMBER

2015A0820200005

DATE OF ARREST

01/07/2015

ACTION OF GRAND JURY

True Bill

Samantha D... *6/23/15*
Foreperson of Grand Jury Date

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-08-00956

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

JUNE TERM 2015

THE STATE

VS.

RIAS ODELL ISAAC
B/M DOB: [REDACTED]

Indictment for

ARMED ROBBERY

SC Code: § 16-11-0330(A)
CDR Code: 0139

CASE NO.
MARY P. BROWN, CLERK OF COURT
BERKELEY COUNTY, SC

JUN 23 2015

FILED

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228
2015

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

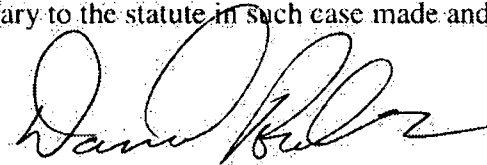
INDICTMENT

At a Court of General Sessions, convened on June 23, 2015, the Grand Jurors of Berkeley County present upon their oath:

ARMED ROBBERY

That on or about December 31, 2014, in Berkeley County, South Carolina, the Defendant, Rias Odell Isaac, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of Jaclyn Rae Graham with the intent to permanently deprive the victim of possession thereof, in violation of §16-11-330(A) of the South Carolina Code of Laws (1976) as amended.

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



DANIEL B. POULOS
ASSISTANT SOLICITOR

DBP/0243059/2015-01-00050

WITNESSES

S. McWilliam

Goose Creek Police Department

AGENCY CASE NUMBER

2014-5667

ARREST WARRANT NUMBER

2015A0820200006

DATE OF ARREST

01/07/2015

ACTION OF GRAND JURY

True Bill

Sarah Dury
Foreperson of Grand Jury

6-23-15
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-08-00957

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

JUNE TERM 2015

THE STATE

VS.

RIAS ODELL ISAAC
B/M DOB [REDACTED]

Indictment for

POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT
CRIME

SC Code: § 16-23-0490
CDR Code: 0549

CASE NO.
MARY P. BROWN CLERK OF COURT
BERKELEY COUNTY, SC

JUN 23 2015

FILED

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234
20

STATE OF SOUTH CAROLINA

INDICTMENT

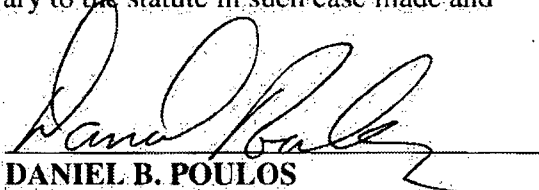
COUNTY OF BERKELEY

At a Court of General Sessions, convened on June 23, 2015, the Grand Jurors of Berkeley County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That in Berkeley County, South Carolina, on or about December 31, 2014, the Defendant, Rias Odell Isaac, did possess a firearm or did visibly display what appeared to be a firearm or did visibly display a knife during the commission of or attempted commission of a violent crime, to wit: armed robbery and/or kidnapping; in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

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


DANIEL B. POULOS
ASSISTANT SOLICITOR

DBP/0243059/2015-01-00050

WITNESSES

S. McWILLIAMS *S*

Goose Creek Police Department

AGENCY CASE NUMBER

2014-5667

ARREST WARRANT NUMBER

2015A0820200007

DATE OF ARREST

01/07/2015

ACTION OF GRAND JURY

True Bill

Sarah Duran *6/23/15*
Foreperson of Grand Jury Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-08-00958

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

JUNE TERM 2015

THE STATE

VS.

RIAS ODELL ISAAC

B/M DOB: [REDACTED]

Indictment for

KIDNAPPING

SC Code: § 16-03-0910

CDR Code: 0095

CASE NO.
MARY P. BROWN CLERK OF COURT
BERKELEY COUNTY, SC

JUN 23 2015

FILED

233
2015

STATE OF SOUTH CAROLINA

INDICTMENT

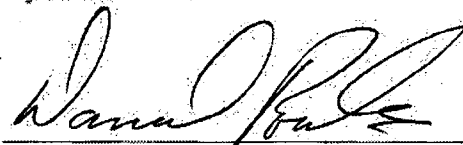
COUNTY OF BERKELEY

At a Court of General Sessions, convened on June 23, 2015, the Grand Jurors of Berkeley County present upon their oath:

KIDNAPPING

That in Berkeley County, South Carolina on or about December 31, 2014, the Defendant, Rias Odell Isaac, unlawfully did seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Jaclyn Rae Graham, without authority of law; all in violation of Section 16-3-910 of the South Carolina Code of Laws (1976) as amended.

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



DANIEL B. POULOS
ASSISTANT SOLICITOR



Goose Creek Police Department Photographic Lineup Advisement & Selection

Case # <u>2014-5667</u>	Date <u>1-6-15</u>	Time <u>1600</u>	Location <u>971 CRAWFIELD BLVD (HESS)</u>
Witness Name <u>JACLYN GRAHAM</u>		Witness Date of Birth 	Misc.
Presenting Officer <u>INV. MCWILLIAMS</u>		Rank <u>INV./PR</u>	Badge <u>604</u>
		Division <u>CID</u>	

ADVISEMENT

In a moment, I am going to show you a series of photographs referred to as a photographic lineup. The person who:

ROBBED THE HESS AT GUNPOINT ON 12/31/14
Describe offense or reason for identification

may or may not be included in the lineup.

You should bear in mind that features such as hairstyles, beards, and mustaches can be easily changed and that complexion colors may look slightly different in photographs.

You should not feel like you have to make an identification. This procedure is important to the investigation whether or not you identify someone.

You should take as much time as you need to look at the photographic lineup and then tell me whether you see the person who:

ROBBED THE HESS AT GUNPOINT ON 12/31/14
Describe offense or reason for identification

If you identify anyone in the lineup, you will be asked to indicate the number of the photograph below and indicate in your own words how sure you are of the selection.

This is an ongoing investigation. To avoid causing damage to the investigation, you must not discuss this identification procedure, specifically your selection (if any) with anyone else.

I will be happy to explain any portion of this form or the procedure to you if you desire; however, it is not my intention nor is it permissible for me to assist you with selection. If you have interpreted any action or statement I have made to indicate otherwise, you must dismiss it as irrelevant to your selection.

Jaclyn Graham
Witness Signature

[Signature]
Presenting Officer Signature

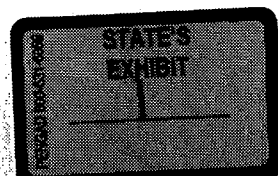
SELECTION

After viewing the photographic lineup presented to me and in consideration of the advisement above, I
☐ cannot make an identification) ☒ select # 2.

I am almost certain
(Only if an identification is made) Describe your confidence level for selecting this photograph

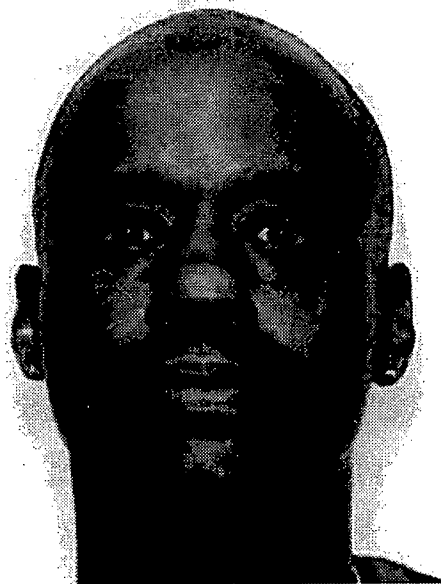
Jaclyn Graham
Witness Signature

[Signature]
Presenting Officer Signature

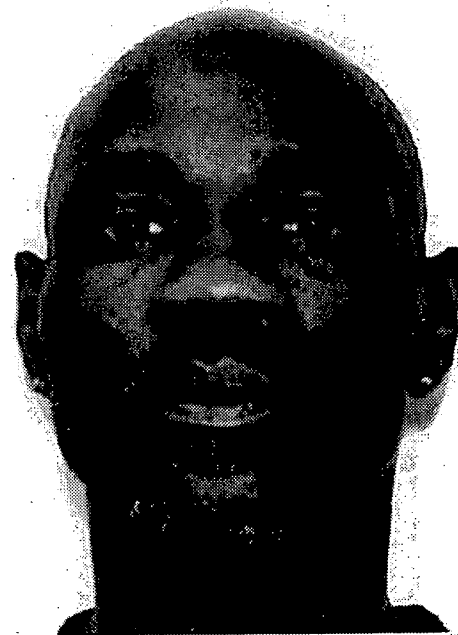




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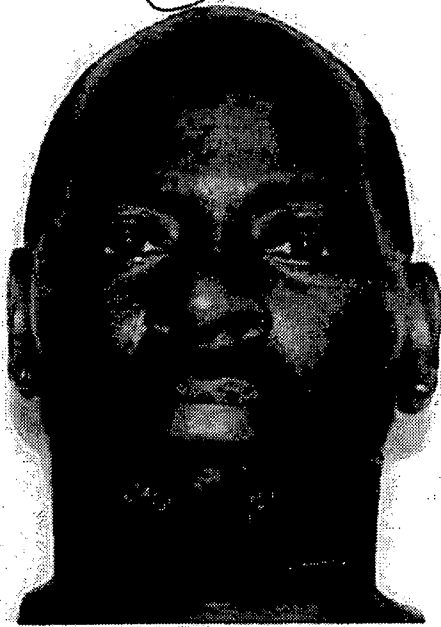
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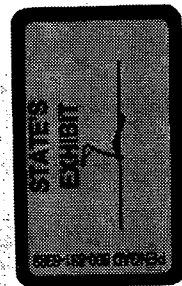
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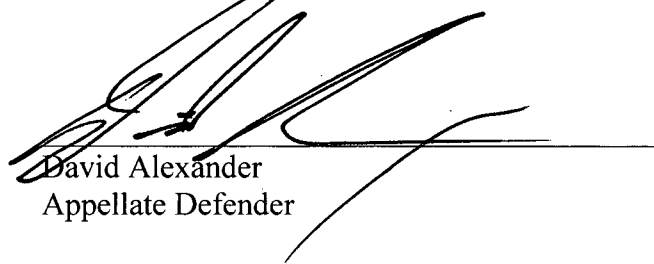
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CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "David Alexander", is written over a horizontal line. The signature is stylized with long, sweeping strokes.

This 13th day of March, 2020.

David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT