

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Allendale County

Honorable R. Lawton McIntosh, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

GABRIEL JOYNER,

APPELLANT

APPELLATE CASE NO 2019-000622

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SC Court of Appeals

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STATE OF SOUTH CAROLINA
FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF ALLENDALE
COURT OF GENERAL SESSIONS
CASE NUMBERS 2014-GS-03-00156
2016-GS-03-00149 & 2016-GS-03-000150

STATE OF SOUTH CAROLINA

PLAINTIFF

VERSUS

GABRIEL JOYNER

DEFENDANT

JANUARY 9, 10, 11, 2017
TRANSCRIPT OF HEARING AND TRIAL
BEAUFORT COUNTY, SOUTH CAROLINA
BEFORE HON. R. LAWTON MCINTOSH, JUDGE

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1-9-17 STATE V JOYNER

JACKSON V. DENNO

1 BEGINNING 11:26 A.M.

2 BY THE COURT:

3 THE COURT: All right, this is a *Jackson v. Denno*
4 hearing?

5 SOLICITOR THORNTON: It is, your Honor. And we are here.
6 It's the State of South Carolina versus Gabriel Joyner, 2014-
7 GS-03-00156, which is the charge for the offense of murder;
8 2016-GS-03-00149, burglary first; and 150, strong-arm robbery.
9 Mr. Joyner's here, present in the courtroom, represented by Mr.
10 Bob Hughes of the Public Defender's Office, your Honor.

11 This will be the *Jackson v. Denno* hearing. He did give a
12 statement to law enforcement.

13 Your Honor, if I could, just for the record, I will be
14 introducing -- I've already shown these documents to Mr.
15 Hughes, two things that are already marked as court's exhibits.
16 One being a *Miranda* rights form; the other being a statement
17 written by Agent Merrell, with the South Carolina Law
18 Enforcement Division, and signed by the defendant in this case.
19 Those are here and ready. I have copies of them, which I'll
20 introduce.

21 In addition, at pretrial conference, if you'll recall,
22 Judge, there is an audio recording of this interview. And your
23 Honor was the trial judge in Mr. Joyner's co-defendant, Robert
24 Miller III, who was convicted in July of this year. As you
25 will recall, that iPhone S recording is not the greatest. I

1-9-17 STATE V JOYNER

JACKSON V. DENNO

1 probably will not even play it for the jury, but I do plan on
2 introducing it as evidence and letting them have it for
3 whatever use they wish to put it to.

4 There is a section, however, your Honor, where the
5 defendant references smoking marijuana. I believe that is
6 inappropriate to send back to the jury, because it has nothing
7 to do with the charge -- charges that we're trying him on.
8 That is right now being redacted, and I should have that to the
9 Court as -- which would probably be Court's Exhibit Number 3,
10 before the end of the day. I just don't have it right now, but
11 I didn't see any point in playing that for forty-something
12 minutes to your Honor when I'm going to be redacting it anyway.
13 So I will just note that for the Court, and I will make sure
14 both the Court and Mr. Hughes have a copy of the redacted
15 version by the end of today.

16 THE COURT: Very good. Mr. Hughes, anything from the
17 Defense?

18 MR. HUGHES: I'm sorry, your Honor?

19 THE COURT: Anything from the Defense?

20 MR. HUGHES: All right. Just one thing, your Honor. I
21 discussed this with Mr. Thornton before you came in. I am
22 moving to have the witnesses sequestered. He has already
23 agreed that to do so, and would be sequestering for the *Jackson*
24 *v. Denno* hearing also.

25 THE COURT: All right, that'll be fine, Mr. Hughes. And

1-9-17 STATE V JOYNER - PRETRIAL

RICHARD JOHNSON - DX - THORNTON

1 I assume without objection.

2 SOLICITOR THORNTON: Without objection, your Honor. I've
3 already -- the only two witnesses I would have today for this
4 Denno hearing are Agent Merrell and Agent Johnson. I would ask
5 Agent Johnson to step outside. I checked the courtroom. I
6 have no other witnesses in court, but obviously, I will
7 continue to tell all the witnesses that throughout the trial.

8 THE COURT: All right. Thank you, sir. Would you call
9 your first witness?

10 SOLICITOR THORNTON: I will, your Honor. At this time,
11 the State would call Agent Johnson, Richard Johnson, from SLED,
12 to the stand, please.

13 MADAM CLERK: Raise your right hand. Do you swear or
14 affirm to tell the truth, the whole truth, and nothing but the
15 truth, so help you God?

16 SLED AGENT RICHARD JOHNSON: I do.

17 SLED AGENT RICHARD JOHNSON

18 DIRECT EXAMINATION BY SOLICITOR THORNTON:

19 Q. Agent Johnson, who do you work for, sir?

20 A. South Carolina Law Enforcement Division.

21 Q. And how long have you been working for them?

22 A. Probably twelve, thirteen years.

23 Q. And in your capacity as a -- is it okay to say SLED
24 agent? Would that be proper?

25 A. That's proper.

1-9-17 STATE V JOYNER - PRETRIAL

RICHARD JOHNSON - DX - THORNTON

1 Q. In your capacity as a SLED agent, what -- what is it
2 that you do for SLED?

3 A. I conduct investigation of various type crime out of
4 the Lowcountry region.

5 Q. And we went through this, I believe, the last time in
6 Robert Miller III's trial. Were you at some point assigned to
7 assist Agent Merrell with the case involving the death of Mr.
8 Johnson here in Allendale?

9 A. Yes, I was.

10 Q. And as a result of your participation in
11 investigating this case, did you have occasion to talk with
12 Gabriel Joyner, the defendant to my left, your right?

13 A. Yes, I did.

14 Q. And did you talk with him on or about Janu -- or,
15 excuse me -- June 24th of 2014?

16 A. Yes, sir.

17 ITEM IDENTIFIED AS COPY OF *MIRANDA*

18 RIGHTS FORM/WAIVER OF RIGHTS FORM

19 DATED JUNE 24, 2019

20 MARKED STATE'S EXHIBIT 1 FOR IDENTIFICATION.

21 Q. This has been marked for identification only as
22 Court's 1. Do you recognize that document?

23 A. Yes, I do.

24 Q. And what is it?

25 A. It's a *Miranda* rights form.

1-9-17 STATE V JOYNER - PRETRIAL

RICHARD JOHNSON - DX - THORNTON

1 Q. And was that *Miranda* rights form used on any
2 particular day for any particular individual?

3 A. Yes, it was used on June 24th, with the defendant.

4 Q. And can you go through each of the rights that are
5 listed on that form?

6 A. It says:

7 *You have the right to remain silent.*
8 *Anything you say can be used in court as evidence*
9 *against you. You are entitled to talk to a lawyer*
10 *now and have him present now, or at any time during*
11 *questioning. If you cannot afford an attorney, one*
12 *will be appointed to you without costs.*

13 *If you decide to answer questions now without*
14 *a lawyer present, you will still have the right to*
15 *stop answering at any time. You also have the right*
16 *to stop answering at any time until you talk to a*
17 *lawyer.*

18 *Do you understand these rights?*

19 *Do you wish to talk to us at this time?*

20 *Do you waive your rights as is read?*

21 *I have read the statement of my rights, and*
22 *I understand what my rights are. I am willing to*
23 *talk now without a lawyer present. I understand*
24 *and know what I am doing. No promises or threats*
25 *have been made to me, and no pressure or coercion*

1-9-17 STATE V JOYNER - PRETRIAL

RICHARD JOHNSON - DX - THORNTON

1 *of any kind has been used against me.*

2 Q. And were you present when all of those rights were
3 read to the defendant in this case, Gabriel Joyner?

4 A. Yes, sir.

5 Q. And did he indicate to you or indicate in your
6 presence that he understood all those rights?

7 A. Yes, he understood them.

8 Q. Did he appear to be under the influence of either
9 alcohol or drugs to the extent that he didn't know what was
10 going on?

11 A. No, sir.

12 Q. Now, do you recall, Agent Johnson, who all was in the
13 room on June 24th of 2014 when you were talking to Mr. Joyner?

14 A. Yes.

15 Q. At least when you started talking to him.

16 A. Yes, sir. Yes, sir.

17 Q. Who was in the room?

18 A. It was myself, Mr. Joyner, Agent Merrell, and Mr.
19 Joyner's mother. I don't recall her name.

20 Q. All right. So Mr. Joyner's mother was in the room,
21 you said?

22 A. That's correct.

23 Q. And at some point, did she get up and leave the room?

24 A. Yes, sir.

25 Q. And was that after some of the details started to be

1-9-17 STATE V JOYNER - PRETRIAL

RICHARD JOHNSON - DX - THORNTON

1 discussed of the crime?

2 A. Yes, sir.

3 Q. All right. And although you were not in the
4 courtroom when I made reference to this, was there an audio
5 recording, such as it is, of this interview?

6 A. Yes, it is.

7 Q. And what -- do you recall what it was recorded on, at
8 least in general terms?

9 A. Agent Merrell's cell phone, if I'm not mistaken.

10 Q. And in the last trial, and in this trial, did we
11 learn -- obviously, before the trial occurred, but did we learn
12 there was an issue with the quality of that recording?

13 A. Yes, sir.

14 Q. All right. Would it be fair to say that it's kind of
15 hard to hear?

16 A. Oh, yes.

17 Q. Other than that recording, though, there was no other
18 recording. Is that correct?

19 A. No -- no other recordings.

20 Q. Let me back up for just a second. Was this the first
21 time that you had talked to Gabriel Joyner?

22 A. Yes, I think it was the first time I that was
23 involved in the interview with him.

24 Q. Okay. But to your knowledge, had someone else spoken
25 briefly with him?

1-9-17 STATE V JOYNER - PRETRIAL

RICHARD JOHNSON - DX - THORNTON

1 A. I think so, yes, sir.

2 Q. All right. Let me ask you this. You've indicated --
3 I see a -- a -- what looks like a *G.J.* or initials next to each
4 one of these. Did Mr. Joyner initial each one of these rights
5 that you read off to the Court, in your presence?

6 A. Yes, sir.

7 Q. Did he sign this rights form, indicating he wished to
8 waive his rights and speak with -- with you and -- and I'm
9 going to say Merrell, and it's Merrell, Agent Merrell, during
10 this interview?

11 A. Yes, sir.

12 Q. When you were present, did yourself or anyone else
13 threaten the defendant in any way with either physical force or
14 anything like that?

15 A. No, sir.

16 Q. And you testified earlier that his mother was in the
17 room, at least for the initial part of the interview?

18 A. Yes, sir.

19 Q. And it's pretty clear, based on -- based on what we
20 can hear from the audio that you did make statements like you
21 can talk to the prosecutors, you need to make it easy on
22 yourself, things like that. Is that true?

23 A. Yes, sir.

24 Q. Did you made any specific promises, though, of
25 leniency or you'll get away with this or we'll get you off or

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RICHARD JOHNSON - DX - THORNTON

1 the judge will give you any specific time or anything like
2 that?

3 A. No, sir.

4 Q. Did anyone else do that while you in the room?

5 A. No, sir.

6 Q. When you first started talking -- well, let me pause
7 for just a second.

8 SOLICITOR THORNTON: Your Honor, I'd ask at this time --

9 BY SOLICITOR THORNTON:

10 Q. As to this Court's Exhibit Number 1, is this a fair
11 and accurate depiction of -- of the copy of the rights form
12 that you administered, or you and Agent Merrell administered on
13 June the 14th of 2014?

14 A. Yes, sir.

15 Q. Has it been altered or changed in any way, other than
16 you put a sticker on it?

17 A. No, sir.

18 Q. All right.

19 SOLICITOR THORNTON: Your Honor, I'd ask at this time
20 that this be entered as Court's Exhibit Number 1, for purposes
21 of this -- purposes of this hearing.

22 MR. HUGHES: Without objection.

23 THE COURT: Admitted.

24 ITEM IDENTIFIED AS COPY OF *MIRANDA*

25 RIGHTS FORM/WAIVER OF RIGHTS FORM,

1-9-17 STATE V JOYNER - PRETRIAL

RICHARD JOHNSON - DX - THORNTON

1 DATED JUNE 24, 2014

2 MARKED COURT'S EXHIBIT 1.

3 BY SOLICITOR THORNTON:

4 Q. Once you started talking to him and once he'd signed
5 the rights form, when you started talking with him, did he
6 immediately tell you his involvement or admit his involvement?

7 A. No, sir. He started with some comment or statement
8 he made previously.

9 Q. All right, which -- and was that statement more or
10 less, he didn't know anything about it, had never been in the
11 defendant -- excuse me -- in the victim's house?

12 A. Yes, sir.

13 Q. All right.

14 A. That's correct.

15 Q. And did you tell him something to the effect of that
16 statement was not accurate?

17 A. Yes, sir, that's correct.

18 Q. And in discussing this case with him, did he
19 eventually admit at least some responsibility in this case?

20 A. Yes, he did.

21 Q. Do you recall what he told you?

22 A. Not in -- in explicit detail, but he gave us
23 information concerning about a safe and about being -- standing
24 near the air condition unit when the other two individual went
25 in the house first, and that they took the safe out and drug it

1-9-17 STATE V JOYNER - PRETRIAL

RICHARD JOHNSON - DX - THORNTON

1 behind some woods somewhere behind the house.

2 Q. And let me just go kind of a small pieces at a time.
3 You said something about standing next to the air conditioner
4 fan while the other two went in. Did he identify the other two
5 people that -- that went in the house along with him?

6 A. Yes, he did.

7 Q. And who did he identify?

8 A. He identified Robert Miller. I can't recall the
9 other guy's name.

10 Q. Would it be Kashon Bynum?

11 A. Kashon Bynum, yes.

12 Q. And did you make some reference to the fact that
13 those two were related?

14 A. Yes.

15 Q. In other words, you might want to talk, because I
16 think the phrase you use was blood is thicker or something like
17 that?

18 A. Blood related. That's correct.

19 Q. All right. Did he indicate whose idea it was to go
20 do the robbery? Was it his, or was it the other two's?
21 According to his statement.

22 A. It was the other two, definitely Robert Miller.

23 Q. And did he indicate whether or not any of them beat
24 the victim in the case, Mr. Johnson?

25 A. Yes, he did.

1-9-17 STATE V JOYNER - PRETRIAL

RICHARD JOHNSON - DX - THORNTON

1 Q. And did he admit to ever striking a blow or hitting
2 him?

3 A. I don't recall. I don't think he admitted to
4 actually striking the individual.

5 Q. Would it be fair to say that he denied doing any of
6 the physical contact to the victim?

7 A. That's correct.

8 Q. But did he indicate that someone else had?

9 A. Yes.

10 Q. And do you recall who that was?

11 A. Robert Miller.

12 Q. And did he indicate whether or not the victim had
13 been -- any other details about how the victim was treated or
14 what was done to the victim?

15 A. Yes, he did. A bag was placed over his head. He'd
16 been punched, kicked.

17 Q. And did he indicate who he saw put the bag over the
18 victim's head?

19 A. Yes, he did.

20 Q. And who was that?

21 A. Robert Miller.

22 Q. I asked you, was there anything else specific about
23 the victim or how he was found that -- as to the other
24 defendant, Kashon Bynum?

25 A. Repeat that again, please.

1-9-17 STATE V JOYNER - PRETRIAL

RICHARD JOHNSON - DX - THORNTON

1 Q. I'm sorry. That was a very poorly asked question.
2 Other than the victim was found with a bag over his head, which
3 he indicates Robert Miller did, was there something else
4 specific about how the victim was found that Kashon -- he said
5 Kashon did? He being the defendant in this case, Gabriel
6 Joyner.

7 A. I think where the bag came from.

8 Q. All right. Well, let me ask you this. Let me put it
9 another way. Do you recall in this case -- I realize you're
10 not the case officer.

11 A. Um-hmm.

12 Q. I'll have Agent Merrell testify in a minute. Do you
13 recall how the victim was found?

14 A. Yes, he --

15 Q. His physical condition.

16 A. If memory serves me correct, he was sort of in the
17 doorway of the front door with a bag over his head, lying in
18 what looks to be, you know, blood.

19 Q. Right. Anything else that you recall? And if not,
20 that's fine, Agent.

21 A. No.

22 Q. All right. But he -- he being Gabriel Joyner, denied
23 ever striking him.

24 A. Yes.

25 Q. All right. Did he admit to going in the house?

1-9-17 STATE V JOYNER - PRETRIAL

RICHARD JOHNSON - DX - THORNTON

1 A. Yes.

2 Q. And did he admit that it was to do a lick or
3 robbery?

4 A. Yes, sir.

5 Q. And you indicated, I think earlier, that it was the
6 other two's idea; they came over to him.

7 A. That's correct.

8 Q. Is -- does the defendant, based on your talking with
9 Gabriel Joyner and what he admitted to you, does he live in
10 close proximity to the victim?

11 A. I think he was the one that lived across the street,
12 if I'm not mistaken.

13 Q. All right. Once the defendant in this case had given
14 this information -- and you mentioned, also, the safe. Let me
15 stop for a second and ask you about that. Did -- when -- did
16 the defendant in this case, Gabriel Joyner, mention to you
17 something about a safe?

18 A. Yes, sir.

19 Q. All right. And what about the safe, just in general
20 terms?

21 A. That they'd removed a safe from the house, and they'd
22 taken it -- when ask where -- what'd they do with it, said
23 they'd taken it back in some woods behind the house.

24 Q. All right. And at the time Gabriel Joyner told you
25 all that, did you know anything about a safe?

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RICHARD JOHNSON - DX - THORNTON

1 A. No, sir.

2 Q. All right. To your knowledge, was there a safe
3 subsequently found in the woods behind the victim's house?

4 A. Yes, there was.

5 Q. So just to recap, he admits to you that he's
6 participated in the robbery and the burglary; he admits that
7 during that robbery/burglary, Robert Miller is beating on the
8 victim; and you know that the victim --

9 A. Yes.

10 Q. -- is found with a bag over his head. Do you recall
11 what the -- do you recall whether or not the cause of death was
12 blunt-force trauma and asphyxiation in this case?

13 A. I don't recall. I didn't review the autopsy report.

14 Q. I'll ask Agent Merrell that in a second. Other than
15 once you had discussed this, once you had talked and asked all
16 these questions about the victim, you'd said other than just
17 some general things about you need to come clean, you know,
18 we'll talk to the prosecutor, which is kind of standard that
19 everybody says, did you make any promises or any threats?

20 A. No, sir.

21 Q. Did, at some point after you stopped talking with
22 him, did you ask or did Agent Merrell ask that the defendant in
23 this case, Gabriel Joyner, do a written statement?

24 A. Yes, sir.

25 Q. All right. Now, did he actually write his own

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1 statement out, or did Agent Merrell write it and he signed it,
2 to your recollection?

3 A. I -- I can't remember.

4 ITEM IDENTIFIED AS STATEMENT OF
5 DEFENDANT, GABRIEL JOYNER, DATED
6 JUNE 24, 2014
7 MARKED COURT'S EXHIBIT 2 FOR
8 IDENTIFICATION.

9 Q. All right. I'll show you what's been marked as
10 Court's Exhibit Number 2, and ask if you can identify that.
11 And if you can't, that's fine. We'll bring it up to Ms.
12 Merrell in just a second.

13 A. Yes, I can identify it.

14 Q. All right. And is that the statement written by
15 Agent Merrell for Gabriel Joyner?

16 A. Yes, Agent Merrell wrote it.

17 Q. And is that something that's relatively commonly
18 done?

19 A. Yes, sir.

20 Q. Again, was any force or threats or intimidation used?

21 A. No, sir.

22 Q. And were you present in the room with him while he
23 was being questioned?

24 A. Yes, sir.

25 Q. And were you one of the primaries doing the

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RICHARD JOHNSON - CX - HUGHES

1 questioning?

2 A. Yes, sir.

3 Q. And I should ask this -- although, it's already in
4 evidence. On Court's Exhibit Number 1, is that your signature
5 as one of the two witnesses?

6 A. Yes, it should be. Let me look at it again. Yes,
7 sir.

8 SOLICITOR THORNTON: Your Honor, I don't have any further
9 questions for this witness. I'll introduce the actual
10 statement from the agent who wrote it for the defendant
11 momentarily.

12 THE COURT: Cross-examination.

13 MR. HUGHES: Thank you.

14 SLED AGENT RICHARD JOHNSON

15 CROSS-EXAMINATION BY MR. HUGHES:

16 Q. What time of day was this?

17 A. Oh, Lord. What time of day was it?

18 Q. Yes.

19 A. It would have been definitely in the afternoon.

20 Q. Okay. Are we talking about before dark or after
21 dark?

22 A. I need to look at that *Miranda* statement and look at
23 the time we did it, again.

24 MR. HUGHES: May I approach?

25 SOLICITOR THORNTON: If it'll help, the State will

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RICHARD JOHNSON - CX - HUGHES

1 stipulate it started about 11:40 p.m., and I believe the
2 interview ended about 12:23 a.m., if memory serves, unless Mr.
3 Hughes gives it more specific than that.

4 MR. HUGHES: That's fine.

5 THE COURT: Is that stipulated to your satisfaction?

6 MR. HUGHES: Yes, sir.

7 THE COURT: 11:40 p.m., and what time?

8 SOLICITOR THORNTON: By 12:23 a.m., I believe, is when it
9 wrapped up, your Honor. It was slightly less than an hour. It
10 was later in the evening, about 11:40 in the evening.

11 BY MR. HUGHES:

12 Q. Where did this take place?

13 A. At the Allen -- I meant -- sorry -- at the Fairfax
14 Police Department.

15 Q. And do you know how long Mr. Joyner had been there?

16 A. I can't say for certain, because there were -- we
17 would have been interviewing others, too, so I can't say.

18 Q. Was his mother present when he filled out the rights
19 form?

20 A. Yes, sir.

21 Q. Did he talk to her at any time?

22 A. Yes, sir. I know at one point I was out of the room,
23 and they were in there, and she told him cooperate.

24 Q. Did he ever ask for anything like water or food or to
25 go to the bathroom?

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NATASHA MERRELL - DX - THORNTON

1 A. I -- I don't recall.

2 Q. Do you know if he had been under any medication or
3 any drugs?

4 A. I don't know.

5 MR. HUGHES: No further questions, your Honor.

6 THE COURT: Re-direct.

7 SOLICITOR THORNTON: None, your Honor. I'd call for
8 Agent Merrell. And ask him to be -- ask to step down and
9 released until -- I probably won't need him back unless the
10 Court does, until tomorrow.

11 THE COURT: Any objection to that?

12 MR. HUGHES: None, your Honor.

13 THE COURT: Thank you, sir. You may step down.

14 SOLICITOR THORNTON: Thank you, your Honor. Thank you,
15 Agent Johnson.

16 Natasha Merrell, please.

17 MADAM CLERK: MADAM CLERK: Raise your right hand. Do
18 you swear or affirm to tell the truth, the whole truth, and
19 nothing but the truth, so help you God?

20 SLED AGENT NATASHA MERRELL: I do.

21 SLED AGENT NATASHA MERRELL

22 DIRECT EXAMINATION BY SOLICITOR THORNTON:

23 Q. Agent Merrell, I'm going to ask you not to fuss at me
24 until after the trial is over, because I know I'm going to say
25 Merrell instead of Merrell several times, but I will do my

1 best.

2 Who do you work for currently?

3 A. The South Carolina Law Enforcement Division, also
4 known as SLED.

5 Q. And did you work for SLED back in June of 2014?

6 A. Yes, I did.

7 Q. And did you participate or were you the case officer
8 involving the murder of Mr. Johnson we're here about today?

9 A. Yes.

10 Q. And I assume you were the case officer, also, for
11 Robert Miller III, who is the first case we tried?

12 A. Yes.

13 Q. Did you at some point as a result of your
14 investigation develop suspects in the case of murder of Mr.
15 Johnson?

16 A. Yes.

17 Q. And could you tell me -- could you pull that
18 microphone over to you so you don't have to lean over every
19 time. There you go.

20 Who were the three suspects?

21 A. Robert Lee Miller III, Gabriel Joyner, and Kashon
22 Bynum.

23 Q. All right. And Gabriel Joyner, is that the same
24 person that's seated here at Defense table?

25 A. Yes.

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NATASHA MERRELL - DX - THORNTON

1 Q. Did you -- you heard the testimony, obviously, of
2 Agent Johnson about a very formal meeting you had where rights
3 forms were read and things of that nature. Is that correct?

4 A. Correct.

5 Q. Prior to that, did you have some, albeit brief,
6 conversation with Mr. Joyner, or was he interviewed by you
7 previously?

8 A. Yes, he was.

9 Q. And was he in custody at that time, or was he under
10 arrest at that time?

11 A. No, he was not.

12 Q. And did he talk to you at that time, freely and
13 voluntarily?

14 A. Yes.

15 Q. And I'm sorry, I'm using the pronouns. That time,
16 being prior to this June the 24th statement. What was the --
17 the gist of what he said the first time he talked to you?

18 A. He went through his day. I believe it was a June
19 19th day. I -- myself and another agent spoke to him at his
20 residence, and he talked about it. He was with his uncle, and
21 they were on their way back late that night. And I asked him
22 did he notice anything different across the street. He said he
23 noticed --

24 Q. And let me pause you right there, because I don't
25 know that Agent Johnson was sure about that. And again, you're

1 the case officer. Is that right?

2 A. Yes.

3 Q. All right. So where did Mr. -- as a result of your
4 investigation, where did you learn that Mr. Joyner lived, as
5 opposed to the victim in this case?

6 A. The -- the same day that we were there, called for
7 service, we did a canvas of the area. And a small crowd had
8 started to gather, and --

9 Q. Let me ask this question a different way. Does Mr.
10 Joyner live close to the victim or far away?

11 A. He lives directly across the street.

12 Q. That's what I was asking you. All right. So, please
13 go ahead. So you asked him about what had happened across the
14 street.

15 A. Right.

16 Q. What did he tell you?

17 A. He said that he noticed that Mr. Johnson's lights
18 were on one night when he was walking home, but he had never
19 been in his home.

20 Q. Do you -- so was that the gist of the conversation?

21 A. Yes.

22 Q. So you asked him if he knew anything about it, and
23 his response was he didn't know anything.

24 A. Correct.

25 Q. And you've indicated he was -- did you take him into

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1 custody at that point?

2 A. No.

3 Q. So he was not under arrest and he was free to leave.
4 Do you remember if anybody else was in -- was there with him
5 when that happened?

6 A. His mother.

7 Q. And did you do any rights forms or anything during
8 that conversation?

9 A. No.

10 Q. All right. And again, was he in custody or was he
11 free to leave?

12 A. He was free to leave.

13 Q. At that point, did you have enough evidence to really
14 charge anybody?

15 A. No.

16 Q. So you were just in the beginning stages?

17 A. Correct.

18 Q. Did Gabriel Joyner's name -- as a result of your
19 investigation, was he still a person of interest for you after
20 that?

21 A. Yes.

22 Q. And did you -- is that what brought about talking to
23 him again on June 24th of 2014?

24 A. That's correct.

25 Q. And I've already introduced into evidence as a

1 court's exhibit this *Miranda* rights form, which is Court's
2 Exhibit Number 1. Is that the *Miranda* rights form that you did
3 read to him on the -- during your June the 24th of 2014
4 conversation?

5 A. Yes.

6 Q. Did he appear to be under the influence of any
7 alcohol or drugs to the extent that he didn't know what was
8 going on?

9 A. No.

10 Q. I know Mr. Hughes had asked earlier. As his case
11 officer, you're allowed to be in here. But he asked Agent
12 Johnson whether or not he had taken any medication that day.
13 You were not with him all day. You wouldn't know that, would
14 you?

15 A. No, I would not.

16 Q. But was he under the influence of anything,
17 medication or illicit or alcohol or anything else, to the
18 extent that he appeared that he didn't know what was going on
19 or he wasn't able to talk to you?

20 A. No.

21 Q. Did you go through -- are you the one that actually
22 went through each of his rights with him?

23 A. I did.

24 Q. And that may be the only thing we can hear on the
25 audio clearly, but is that also recorded on the audio of that

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1 that you recorded on your iPhone according to Agent Johnson?

2 A. Yes, it is.

3 Q. Interestingly enough, it says do you understand all
4 of your rights, and do you remember his response to that when
5 he initialed it?

6 A. Yes. His response was yes.

7 Q. All right. Now, was he speaking very clearly the
8 entire time, or did he sometimes he mumble?

9 A. He mumbled a lot.

10 Q. And did you have to ask him sometimes what he had
11 said to make sure you got it correct?

12 A. Yes.

13 Q. Now, the next question on that rights form, could you
14 please read it.

15 A. *Do you wish to talk to us at this time?*

16 Q. All right. And when you listen to the audio, it's
17 mumbled and it sounds almost like he said no. Would that be
18 fair to say?

19 A. Yes.

20 Q. And did you then follow that up immediately with
21 something?

22 A. I did. For clarification, I said, *no*, as in a
23 question. And he shook his head yes, and then we continued on.

24 Q. And then the very next section of that form is the
25 bottom part. Would you read that for me, please. In other

1 words, after that back and forth occurred, what did he sign, if
2 anything?

3 A. The waiver of rights:

4 *I've read this statement of my rights and I*
5 *understand what my rights are. I am willing to*
6 *talk now without a lawyer present. I understand*
7 *and know what I am doing. No promises or threats*
8 *have been made to me, and no pressure or coercion*
9 *of any kind has been used against me.*

10 Q. And did -- did he sign that?

11 A. Yes, he did.

12 Q. And was he -- was his mother in the room at this
13 time?

14 A. Yes, she was.

15 Q. Now, we've already heard that. I'm going to re-do
16 all of the testimony, but there is a -- there are a couple
17 things that you may know better as case officer that Agent
18 Johnson did not recall. One of the things is, do you remember
19 the specifics of how the victim, Mr. Johnson, was found in this
20 case?

21 A. Yes.

22 Q. And when I say the specifics, I mean in what
23 condition he was. Agent Johnson talked about the bag that was
24 over his head. Obviously, all this came up during the last
25 trial. What else, if anything, was significant about the

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1 victim in the case, how he was found?

2 A. His hands were tied behind his back.

3 Q. And did Gabriel Joyner also indicate to you that the
4 victim's hands had been tied?

5 A. Yes.

6 Q. And did he -- do you recall whether or not he
7 identified who tied his hands?

8 A. Yes.

9 Q. And who did he say?

10 A. Kashon Bynum.

11 Q. And if you could, cause you might have a little bit
12 better recall as case officer, would you just kind of go
13 through the very, in general terms, the basics of what the
14 defendant told you?

15 A. Sure.

16 Q. I believe what Agent Johnson testified to was that he
17 started off by saying I've already talked to you guys, given
18 you a statement, referencing the one you just testified about
19 at the earlier, where he said he didn't know anything and
20 hadn't seen anything. Is that right?

21 A. That's correct.

22 Q. All right. Did he -- at some point is it fair to say
23 he changes his story?

24 A. Yes.

25 Q. And what, in general terms, does he tell you?

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NATASHA MERRELL - DX - THORNTON

1 A. He tells us that Kashon and Rob came to his house
2 asking him if he wanted to do in on a lick. And he asked them
3 where.

4 Q. I noted -- just for record purposes, I know -- I've
5 been in front of his Honor long enough that he knows what that
6 means, but for the record, what does a lick mean?

7 A. A robbery.

8 Q. Okay. Go ahead.

9 A. And he asked them where, and he told them about the
10 old man across the street. They heard he had money. And he
11 told them no, because --

12 Q. And now you say he told them no, meaning Gabriel
13 Joyner first said no.

14 A. Right. He said it was --

15 Q. According to him.

16 A. Right. He said it was hot on that side of town.

17 Q. All right. It was hot on that side of town. And
18 what did you take that to mean?

19 A. That the police had been over there quite a bit. I
20 guess previous robberies, so more patrol in that area.

21 Q. So he said no because it was hot.

22 A. Yes.

23 Q. There was too much heat, in other words.

24 A. Right.

25 Q. All right. What else?

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NATASHA MERRELL - DX - THORNTON

1 A. He said that Kashon somehow talked him into it, so he
2 said yeah. And they went across the street, and Kashon and Rob
3 approached the front door, and he stood on the other side of
4 the fence by the air conditioning unit.

5 Q. And is there an air conditioning unit by the fence?

6 A. Yes.

7 Q. All right. And was -- go ahead.

8 A. They knocked on the door, meaning Rob and Kashon, and
9 when the old man came in, they bum-rushed him. And he came in
10 behind them.

11 Q. He meaning?

12 A. Gabriel.

13 Q. Came in behind?

14 A. Rob and Kashon.

15 Q. All right. And you've probably already done this,
16 but for the record, would you identify both defendants with
17 their full names.

18 A. I will.

19 Q. Go ahead. You don't have to every time, just for --
20 you said Robert and Kashon. Robert who and Kashon who?

21 A. Robert Miller III, Kashon Bynum.

22 Q. And are they related?

23 A. They are brothers.

24 Q. Go ahead.

25 A. He said that Kashon Bynum was having problems tying

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1 up Mr. Johnson. Then Rob put the bag over his head. And he
2 found the safe in the dining room, which is adjacent to the
3 living room.

4 Q. He being who found the safe?

5 A. Gabriel.

6 Q. All right. So, while they -- while the victim in the
7 case is being beaten and tied up and asphyxiated with the bag,
8 he's searching the house for the loot, as it were?

9 A. Right.

10 Q. What happens with the safe?

11 A. He said he rolled it from the dining room into the
12 living room, and they --

13 Q. Forgive me for interrupting. There was a pretty big
14 discussion about whether it was on wheels or not wheels. So,
15 when you say rolling, you mean on wheels or you mean flipping
16 it over to get it in there?

17 A. Flipping it over. There was no wheels on -- on the
18 safe.

19 Q. And let me stop you real quick. At that time -- I
20 already asked Agent Johnson this, I know, but did you all know
21 anything about a safe at that point?

22 A. No.

23 Q. So you did not know that there had been one removed
24 from the residence?

25 A. No.

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NATASHA MERRELL - DX - THORNTON

1 Q. All right. After Gabriel told you that, did you and
2 other people from SLED go out and look for a safe?

3 A. Yes, we did.

4 Q. Did you find one?

5 A. Yes, we did.

6 Q. And was it in the woods behind the house?

7 A. Yes, I was.

8 Q. Go ahead.

9 Q. And they left with the safe, and he also took a what
10 he called a pellet gun.

11 Q. All right. And did you locate a pellet gun, or did
12 you locate a pellet gun as part of your investigation?

13 A. No.

14 Q. What about a pellet -- or a pistol, BB Crossman
15 pistol, was there one found?

16 A. Yes.

17 Q. All right. So, I'm sorry. I should have been more
18 specific. So he indicated he took a pellet gun, and you found
19 a pellet pistol.

20 A. Yes.

21 Q. As part of your investigation. Is that correct?

22 A. Correct.

23 Q. All right. I'm sorry. I should -- I know gun
24 usually means firearm, to be more specific. A firearm
25 involving pellets, was there one found?

1 A. Yes, there was.

2 Q. I'm going to hand you what's been marked for
3 identification as Court's Exhibit Number 2, and ask you if you
4 can identify that for me.

5 A. This is a statement that I wrote at the request of
6 Gabriel.

7 Q. All right. And did you -- when you say you wrote it
8 at his request, is that a reflection of -- of at least the
9 basic terms of your discussion?

10 A. Yes.

11 Q. And on the second page of that document, are there
12 questions and answers?

13 A. Yes, there is.

14 Q. And were they your questions?

15 A. Yes.

16 Q. And whose answers were they?

17 A. They were his answers.

18 Q. Did you give him the opportunity to go over that
19 statement prior to you -- or prior to it being formalized and
20 turned in?

21 A. Yes.

22 Q. And did he print his name or sign his name, however
23 you want to say that, on the blank for it being his statement?

24 A. Yes, and he also initialed after every answer.

25 Q. All right. And was he able to go through the

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1 statement with you to make sure that it was a correct
2 reflection of what he had told you?

3 A. That's correct.

4 Q. Now, at any time, agent Merrell, did you threaten him
5 or try to intimidate him to get him to talk to you?

6 A. No.

7 Q. I did want to ask this. At one point, you -- both
8 you and Agent Johnson had testified that his mother started out
9 in the room. Did she stay in the room, or did she leave at
10 some point?

11 A. She left after he started to get into detail about
12 what happened.

13 Q. All right. And she -- did she say something to the
14 effect of I don't want to hear this or I don't want to listen
15 to this?

16 A. That's correct.

17 Q. Did you try to force her to leave or get her to leave
18 the room in any way?

19 A. No.

20 Q. Had she indicated whether Gabriel should talk to you
21 or not?

22 A. She told him that if he knew something about what was
23 going on, he needed to tell it.

24 SOLICITOR THORNTON: Your Honor, Court's indulgence,
25 please. One moment.

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1 BY SOLICITOR THORNTON:

2 Q. Is that a correct copy -- I realize it's a photocopy,
3 but is that a correct copy of the statement that you wrote at
4 his request and signed? Being Court's Exhibit Number 2?

5 A. Yes.

6 Q. Has it been --

7 SOLICITOR THORNTON: Excuse me, your Honor.

8 BY SOLICITOR THORNTON:

9 Q. Has it been altered or changed in any way?

10 A. No.

11 SOLICITOR THORNTON: Your Honor, I'd ask at this time
12 that for the purposes of this hearing, that Court's Exhibit 2
13 be entered into evidence.

14 MR. HUGHES: No objection.

15 THE COURT: Admitted.

16 ITEM IDENTIFIED AS COPY OF STATEMENT

17 OF DEFENDANT GABRIEL JOYNER, DATED

18 JUNE 24, 2014

19 MARKED COURT'S EXHIBIT 2.

20 BY SOLICITOR THORNTON:

21 Q. One of the things I ask earlier Agent Johnson was
22 about whether Mr. Joyner told you about the victim being
23 beaten. Did he indicate that -- that someone did -- did beat
24 the victim in this case, Mr. Johnson?

25 A. Yes.

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NATASHA MERRELL - DX - THORNTON

1 Q. And did he ever admit to you that he had thrown any
2 blows?

3 A. No. He said that was a lie; that he did not touch
4 Mr. Johnson.

5 Q. All right. So he did correct you on anything that
6 you said that he didn't feel was accurate. Is that true?

7 A. That's correct.

8 Q. Did he indicate to you whether or not he saw who did
9 beat on Mr. Johnson?

10 A. Yes.

11 Q. And who was that?

12 A. Robert Lee Miller III.

13 Q. And he basically, based on your testimony earlier,
14 said that he was busy trying to rob the place while they were
15 doing this. Is that right?

16 A. That's correct.

17 Q. I don't have any other questions at this time. Agent
18 Merrell, please answer any questions Mr. Hughes may have.

19 Oh, your Honor, just for purposes of the record, we've
20 talked about it before, I would -- I've already talked about
21 the audio. Once it's redacted, I would seek, unless there's an
22 objection, so we don't have to listen to the entire thing right
23 now, I do plan on introducing it to the jury. Probably will
24 not play it for them or publish it to them, but I've still got
25 to redact a piece out of it. I would ask, unless there's going

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1 to be an objection, I would introduce that through Agent
2 Merrell; that it be Court's Exhibit Number 3, for her, for this
3 hearing. Other than that, I don't have anything else.

4 MR. HUGHES: No objection.

5 THE COURT: All right. Let it be admitted.

6 SOLICITOR THORNTON: Thank you, your Honor.

7 ITEM IDENTIFIED AS C.D. OF INTERVIEW

8 OF GABRIEL JOYNER, DATED JUNE 24, 2014

9 MARKED COURT'S EXHIBIT 3.

10 SLED AGENT NATASHA MERRELL

11 CROSS-EXAMINATION BY MR. HUGHES:

12 Q. Okay. Agent, what question did you not understand
13 and ask for clarification as far as the rights go?

14 A. It was the -- the second part: Do you wish to talk
15 to us at this time.

16 Q. And he said no.

17 A. No, he mumbled um-hmm.

18 Q. He mumbled, and then you said no?

19 A. Right.

20 Q. And then what did he do?

21 A. He shook his head yes.

22 Q. Okay. So, in answer to your question *no*, he said
23 yes. You asked the question *no*, like you said you asked it in
24 question form?

25 A. Yes, I did.

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NATASHA MERRELL - CX - HUGHES

1 Q. Okay. So he indicated to you that the answer that he
2 wanted to give was no, or he responded to your question of no
3 affirmatively?

4 A. The way that the -- the question was asked, he
5 responded yes with his head shaking yes, like he had before on
6 the previous questions.

7 Q. Okay. You asked him the question no.

8 A. Correct.

9 Q. And he responded affirmatively.

10 A. Yes.

11 Q. And then you proceeded to go ahead with questioning
12 anyway?

13 A. Yes.

14 Q. Okay. How old was he?

15 A. I'm sorry?

16 Q. How old was he at this time?

17 A. He was sixteen.

18 Q. And this was at 11:00 o'clock at night?

19 A. Yes.

20 Q. And how long had he been at the Fairfax Police
21 Department?

22 A. I'm not sure what time he was picked up from his
23 grandmother's house and brought to the police department.

24 Q. Okay. His grandmother lives in Denmark, right?

25 A. Correct.

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AGENT MERRELL - RDX - THORNTON

1 Q. Matter of fact, that's where he grew up, correct?

2 A. I'm not sure where he grew up.

3 Q. When you asked him for clarification and you said no,
4 is there any response he would have given that would have
5 stopped you from questioning him?

6 A. No.

7 Q. Okay. So, even when he said he didn't want to talk
8 to you, there was nothing you were going to stop him from
9 talking to you?

10 A. He never did say he didn't want to talk to us.

11 Q. You asked for clarification by saying no on a
12 question, correct?

13 A. Correct.

14 Q. And he responded affirmatively to your question,
15 correct?

16 A. Yes.

17 Q. And this was 11:40 plus at night at the Fairfax
18 Police Department. He had been taken from Denmark and brought
19 to Fairfax, correct?

20 A. Correct.

21 MR. HUGHES: No further questions, your Honor.

22 THE COURT: Re-direct.

23 SLED AGENT NATASHA MERRELL

24 RE-DIRECT EXAMINATION BY SOLICITOR THORNTON:

25 Q. Just to make sure you understood Mr. Hughes'

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AGENT MERRELL - RDX - THORNTON

1 question, one of the things he asked you, so there's nothing he
2 could have said that would have caused you to stop the
3 interview. In other words, I think what he's asking you is,
4 had he said I don't want to talk to you guys anymore, I'm -- I
5 want to remain silent, or had he said I want a lawyer, or he
6 said anything like that, would you have continued to question
7 him?

8 A. No.

9 Q. Would you have stopped?

10 A. We would have stopped.

11 Q. I think that's what Mr. Hughes' is getting at when he
12 said, is there anything he could have said. So had he said --
13 made it clear to you he didn't want to answer any questions,
14 what would you have said?

15 A. Okay, and we would not have interviewed him.

16 Q. Now, was his mother still in the room at this time?

17 A. Yes, she was.

18 Q. And did she continue to talk to you all?

19 A. Yes, she did.

20 Q. Did he continue to talk to you all?

21 A. Yes, he did.

22 Q. I understand Mr. Hughes' point in his question, so I
23 think he -- he is correct. That you asked the question of do
24 you want to talk to us, and he mumbles, but it does sound, even
25 on the audio, like he said something no, and you wanted to

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AGENT MERRELL - RDX - THORNTON

1 clarify it, and said no, and he shook his head. When he shook
2 his head, what did you take that to mean?

3 A. That he would continue to speak with us.

4 Q. Did he at any time not speak to you or refuse to talk
5 to you?

6 A. No.

7 Q. And was his mother still in the room at this point?

8 A. Yes.

9 Q. And immediately after that, what was the -- what was
10 the little statement on the rights form --

11 A. The waiver --

12 Q. -- immediately following that.

13 A. It's the waiver of rights.

14 Q. And what does it say?

15 A. That they wish to speak with us at this time without
16 the presence of an attorney.

17 Q. And did you show him that and did he sign it?

18 A. Yes, he did.

19 Q. I don't have even further questions. Thank you.

20 THE COURT: Anything further?

21 MR. HUGHES: Beg your pardon?

22 THE COURT: I say, any further questions?

23 MR. HUGHES: Just to clarify what Mr. Thornton tried to
24 clarify.

25 SLED AGENT NATASHA MERRELL

1-9-17 STATE V JOYNER

AGENT MERRELL - RCX - HUGHES

1 RE-CROSS-EXAMINATION BY MR. HUGHES:

2 Q. And when you asked him for clarification and he said
3 no, and he nodded yes, you took that to mean no problem, right?
4 Correct?

5 A. That's correct.

6 Q. If he'd shook his head no, what would you have taken
7 that to mean?

8 A. That he meant no, that he did not wish to speak with
9 us at that time.

10 Q. Or would that -- or would it have been no to your
11 question of no?

12 A. It would have meant no, that he did not wish to speak
13 with us at that time.

14 MR. HUGHES: No further questions, your Honor.

15 SOLICITOR THORNTON: I don't have any further witnesses,
16 Judge. And other than the audio, obviously, that I will
17 introduce -- or give the Court a copy beforehand and Mr. Hughes
18 and a copy for the court's exhibit, I don't have any other
19 evidence.

20 THE COURT: Thank you, Mr. Thornton.

21 MR. HUGHES: The Defense would call Gabriel Joyner.

22 THE COURT: Call?

23 MR. HUGHES: Gabriel Joyner.

24 THE COURT: Okay, sir. The State agree that the only use
25 of his own testimony will be for purposes of this hearing?

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GABRIEL JOYNER - DX - HUGHES

1 SOLICITOR THORNTON: Yes, sir.

2 THE COURT: So the State agrees that is not necessary in
3 this case?

4 SOLICITOR THORNTON: No, sir. I absolutely agree. We
5 would not seek to use this in anything, except this hearing.

6 MADAM CLERK: MADAM CLERK: Do you swear or affirm to
7 tell the truth, the whole truth, and nothing but the truth, so
8 help you God?

9 GABRIEL JOYNER: Yes, ma'am. Yes, ma'am.

10 COURT REPORTER: I'm sorry, what did you say?

11 GABRIEL JOYNER: I say, yes, ma'am.

12 GABRIEL JOYNER

13 DIRECT EXAMINATION BY MR. HUGHES:

14 Q. Gabriel, how old are you?

15 A. Now, I'm eighteen.

16 Q. How old were you when -- the night they questioned
17 you?

18 A. Sixteen.

19 Q. And what time did you get up that day?

20 A. I can't recall.

21 Q. Where were you staying?

22 A. Where was I staying during the time of the crime?

23 Q. At the time that they came and got you, where were
24 you staying?

25 A. I was with my grandma in Denmark.

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GABRIEL JOYNER - DX - HUGHES

1 Q. Okay. Is that where you live, or do you live in
2 Allendale?

3 A. I live in Denmark.

4 Q. And who raised you?

5 A. My grandmother.

6 Q. Did the grandma go with you from Denmark to Fairfax?

7 A. To Allendale, no, sir.

8 Q. This was in Allendale or Fairfax that you talked?

9 A. That which it happened?

10 Q. No. When they were questioning you, where was that
11 at?

12 A. Oh, at Fairfax, in Fairfax.

13 Q. And how long had you been there?

14 A. I can't remember.

15 Q. When you got there, was it day time or night time?

16 A. Night.

17 Q. And do you about what time they picked you up?

18 A. Well, from what he was saying, around 11:00
19 something. But not -- I don't remember, just from what he was
20 saying.

21 Q. Had you had anything to drink that day?

22 A. Yes, sir. I was smoking and drinking at the time
23 before they came.

24 Q. What were you smoking?

25 A. Marijuana.

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GABRIEL JOYNER - DX - HUGHES

1 Q. What were you drinking?

2 A. Forty.

3 Q. Pardon?

4 A. Forty O.E.

5 Q. Okay. How many had you had?

6 A. I can't remember.

7 Q. How much marijuana did you have?

8 A. Two or three blunts.

9 Q. Do you remember talking to that young lady?

10 A. Yes, sir, I do.

11 Q. Did you understand everything she was asking?

12 A. Well, sir, I -- I -- I came with the statement
13 because it was my first time in a -- in a situation that way.

14 Q. So did you want to talk to law enforcement?

15 A. No, sir, I didn't.

16 Q. Did you tell them you didn't want to talk to them?

17 A. Yes, sir, I did.

18 Q. Did you sign the rights form?

19 A. Yes, sir, I did.

20 Q. Did you understand that you could stop talking at any
21 time?

22 A. Well, it's like when she was asking me questions just
23 like it was -- things was just happening so fast, I couldn't
24 really think. So I could say I did and I could say I didn't.
25 I'm -- I mean, I can't really say that.

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GABRIEL JOYNER - CX - THORNTON

1 Q. Did you ever try to tell her that?

2 A. No, sir.

3 Q. Why not?

4 A. I guess I was just listen to my mother.

5 Q. Did you write out a statement?

6 A. No, sir, I didn't write anything. She wrote it for
7 me.

8 Q. Did you have a chance to read over what she wrote?

9 A. I can't recall.

10 Q. Have you had a chance to read over the statement that
11 the State offered as Exhibit 2?

12 A. Since you give me my motion, yes, sir.

13 Q. Is that what you told them?

14 A. Yes, sir.

15 MR. HUGHES: No further questions.

16 SOLICITOR THORNTON: Your Honor, Court's indulgence for
17 just a second.

18 GABRIEL JOYNER

19 CROSS-EXAMINATION BY SOLICITOR THORNTON:

20 Q. Just a couple things, Mr. Joyner. One of the things
21 you said is that was your first time. You were arrested back
22 in 2013 for a strong-arm robbery in Bamberg County, weren't
23 you? I mean, I know the charge was dismissed, but weren't you
24 arrested already for that?

25 A. A strong-arm robbery?

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GABRIEL JOYNER - CX - THORNTON

1 Q. Back in Bamberg County back in 2013, that's not you?

2 A. No, sir, that ain't me.

3 Q. Had you been arrested for anything in the past?

4 A. No, sir.

5 Q. Okay. You said everything was happening real fast,
6 but it took place -- they talked to you for about an hour. Is
7 that -- that fair? Somewhere around an hour?

8 A. You -- you could say that.

9 Q. And your mom was there with you, at least for the
10 first part.

11 A. Right, yes, sir.

12 Q. And you said sentence -- I know you don't remember at
13 the time, but sentence then, you've read over your statement,
14 and -- and that is what you told them

15 A. What I said, right, right, right.

16 COURT REPORTER: I'm sorry, let him finish his question,
17 please.

18 A. Oh, okay.

19 Q. I'm sorry, Mr. Joyner, I'll try to do better with
20 that. It's partially my fault.

21 You just testified that what's in that statement that I
22 put up -- and I can show it to you if you need me to.

23 A. No.

24 Q. But the statement that you gave, verbally gave, to
25 Agent Merrell --

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BY THE COURT

1 A. Um-hmm.

2 Q. -- that that's accurate; that she correctly wrote
3 down what you told her?

4 A. Yes, sir.

5 Q. And you said your mom was there.

6 A. Yes, sir.

7 Q. And they did go through all your rights with you?

8 A. Yes, sir.

9 Q. And I think you said you don't remember some of it,
10 but you did understand what they were saying, and you answered
11 back, and you initialed and then signed the rights form,
12 correct?

13 A. As far as understanding what they was telling me
14 about the rights?

15 Q. Yes.

16 A. Like I said, it was happening so fast.

17 Q. All right. Over the course of -- the total was 45
18 minutes, an hour.

19 A. Right, right, right. Right.

20 Q. I don't have any further questions. Thank you, sir.

21 SOLICITOR THORNTON: No further questions, Judge.

22 MR. HUGHES: No re-direct.

23 BY THE COURT:

24 THE COURT: All right, thank you, sir. You may step
25 down.

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BY THE COURT

1 Anything further, Mr. Hughes?

2 MR. HUGHES: No, your Honor.

3 THE COURT: Anything in response? s

4 SOLICITOR THORNTON: No evidence, your Honor, no, sir.

5 THE COURT: All right. Mr. Hughes, let me ask you this.
6 Have you had the opportunity to listen to this audio tape?

7 MR. HUGHES: Yes, sir, I have tried ad nauseam to listen
8 to that tape.

9 SOLICITOR THORNTON: As far as we could hear it.

10 MR. HUGHES: Yes, some parts you can understand, some
11 parts you --

12 THE COURT: Cannot?

13 MR. HUGHES: -- have to repeat and repeat and repeat, and
14 still can't understand.

15 THE COURT: Would you rather that I -- do you think if I
16 listen to or try to listen to this tape, it will materially
17 change one way or the other as to the outcome of this hearing?

18 MR. HUGHES: No.

19 THE COURT: And do you have any objection with me making
20 a ruling without having --

21 MR. HUGHES: None whatsoever, your Honor. That tape
22 could be played for a jury, and I could interpret it and Mr.
23 Thornton could interpret it and they could interpret it, but no
24 one is going to say exactly what was said.

25 THE COURT: Okay. Does the State have an objection to me

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BY THE COURT

1 ruling without it?

2 SOLICITOR THORNTON: The State does not, your Honor. And
3 I would also point out that I think Mr. Hughes and I both
4 covered as far as knowing what he said, and he's indicated
5 knowledge that what she wrote down was accurate. So, I don't
6 think there's any need to do that. And obviously, the Court
7 could always reverse that judgment, because you'll have the
8 ability to listen to that audio by the end of today. I
9 wouldn't even introduce it probably until either late Tuesday
10 afternoon or early Wednesday morning. So you would still --
11 you know, I wouldn't even bring up or introduce his confession
12 in total until that time. Now, obviously, I probably will
13 bring it up in opening, but.

14 THE COURT: All right. And if your idea changes, then I
15 will listen to it, so my ruling will be subject to any change
16 as far as from either side of this case. However, as both the
17 State knows, in *State versus Miller*, there's a number of
18 factors that I have to consider, which included coercion from
19 the -- from the State for police coercion from the standpoint
20 of the defendant, the length of the interrogation, the location
21 of the interrogation, maturity of the defendant, his education,
22 his physical and mental health condition, his experience, any
23 misrepresentations by the police department, threats of
24 violence, leniency, and isolation from the parents. I have to
25 look at this from a preponderance of the evidence standard,

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BY THE COURT

1 from the totality of the circumstances, vantage point under the
2 case. Clearly, the defendant waived his *Miranda* rights. I
3 know that there's some dispute as to whether or not he said he
4 would speak with them or not, but under the circumstances,
5 especially in light of the fact that he was with his mother at
6 the time and he signed the form, I find that he did make a
7 knowing, intelligent, and voluntary waiver of his *Miranda*
8 rights, and clearly was in custody and gave a statement.

9 There's no coercion that took place. The length of the
10 interrogation was relatively short. It was an hour or so.
11 Location was just the police department. Nothing about it
12 suggests anything, other than being at the police department,
13 which, for most of us, would be somewhat nerve-racking. The
14 defendant was not of a very mature state, being only sixteen at
15 the time. I don't have any information about his education or
16 lack thereof. Although the defendant said that he had had --
17 and I'm not quite sure, Mr. Hughes, I know he said he had
18 smoked two or three blunts, and he said something about an O.E.
19 Is that Old English or?

20 MR. HUGHES: I'm not exactly sure, your Honor. I think
21 it was some forty-ounce beers.

22 THE COURT: Okay. Law enforcement, who's, you know,
23 trained to detect that, didn't pick up on the fact that he was
24 under the influence of any medications or drugs at the time of
25 his interrogation, so that's not a factor to me. He is

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BY THE COURT

1 somewhat vague in his recall of what happened. Defendant does
2 not have any real experience in law enforcement. I think a
3 person identified with this person who's been charged with
4 armed robbery and nothing but strong-armed robbery at the point
5 in time appears not to be him, and I'm going to treat it as
6 such. But there was no threats of violence or leniency.

7 There's no isolation from his mother, although she did
8 leave, that was voluntary, but the law enforcement had nothing
9 to do with it. That was her own free will. So, from a
10 preponderance of the evidence standpoint and from the totality
11 evidence presented, I'm going to find that his statement will
12 be admissible. That's subject to me being requested to listen
13 to the audio and changing my mind after listening to that, if
14 that's what's requested.

15 All right. Anything further from the State?

16 SOLICITOR THORNTON: Nothing from the State, your Honor.
17 Thank you.

18 THE COURT: From the Defense?

19 MR. HUGHES: Nothing from the Defense, your Honor.

20 THE COURT: All right. Thank you, gentlemen. Start back
21 at 2:00?

22 SOLICITOR THORNTON: Yes, sir. Jury comes in at 2:00
23 o'clock, Judge.

24 THE COURT: Very good.

25 SOLICITOR THORNTON: Thank you, your Honor.

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JUROR ROLL CALL

1 THE COURT: Thank you.

2 OFF THE RECORD 12:20 P.M.

3 BACK ON THE RECORD AT 2:12 P.M.

4 JUROR ROLL CALL:

5 THE COURT: Good afternoon, ladies and gentlemen. Can
6 you hear me okay?

7 RESPONSES FROM JURORS.

8 THE COURT: I'm from the upstate. Can you understand me?
9 Why, I have to say, I've been here for a day or two. Sometimes
10 I have to ask, what did you say, because the brogue is a little
11 bit different than what we're used to in the upstate, but it
12 sure is a beautiful part of the state.

13 My name is Lawton McIntosh. It's my pleasure to be here
14 for this term of court. It is what we call General Sessions
15 Court, which is our criminal side of the court. My purpose
16 this afternoon is, number one, to qualify you as a jury panel;
17 next, to ask you questions as to whether or not you are
18 eligible to exercise an exemption from jury service; and then,
19 following that, we are going to begin the jury selection for
20 the first trial of this week.

21 If, at any time, any of you don't hear me or you do not
22 understand what I'm saying or asking, raise your hand. It's
23 very important that we get accurate information, truthful
24 information, and complete information.

25 That being said, ladies and gentlemen, let me first also

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JUROR ROLL CALL

1 thank you for being here. I think it was Winston Churchill who
2 said that there's no higher service that a citizen can perform
3 for his community or state during peacetime than to sit on a
4 jury. So we want to thank you and commend you for being here.
5 Without people such as yourselves who are willing to do their
6 civic duty, we have no way of disposing of cases in a civilized
7 manner, whether they be civil cases or criminal cases like
8 we'll be doing this week. And all you have to do is turn on
9 the T.V. to see examples of folks who don't have the system we
10 do. It's not perfect, but I challenge anyone to find a better
11 system than what we have here in this state and in this
12 country.

13 Ladies and gentlemen --

14 Where are our bailiffs? You mind standing up, please,
15 sir, or just waiving your hands so they can see you.

16 Ladies and gentlemen, if, at any time, during this
17 qualification procedure today or anytime during the week you
18 have a problem, grab one of these bailiffs. They will direct
19 you to our clerk or direct you to myself, and we'll resolve any
20 problems you may have, if that occurs. Thank you very much.

21 And Madam Clerk, have you administered the oath?

22 MADAM CLERK: No, sir.

23 THE COURT: Would everyone please stand and raise your
24 right hand. Do you swear or affirm that you will provide
25 truthful and complete responses and answers during this jury

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JUROR ROLL CALL

1 qualification process? If you accept this oath, please
2 indicate by saying I do at this time.

3 RESPONSES FROM JURORS.

4 MADAM CLERK: Thank you. You may be seated. When I call
5 your name, could you please stand and tell me where you work,
6 and if you're married, where your spouse works?

7 Mrs. Izella Barbani.

8 JUROR BARBANI: My name's Izella Barbani. I'm retired.
9 My husband's disabled.

10 MADAM CLERK: Okay. You are retired from your -- your
11 last employment. What type of work are you retired from?

12 JUROR BARBANI: I was a machine operator.

13 MADAM CLERK: Okay.

14 THE COURT: Her husband?

15 MADAM CLERK: What about your husband, Ms. Barbani?

16 JUROR BARBANI: Joseph Barbani, farmer.

17 MADAM CLERK: Okay. James Badger.

18 JUROR NUMBER 8: College officiate, and divorced.

19 COURT REPORTER: What?

20 JUROR NUMBER 8: College state basketball official, and
21 divorced.

22 MADAM CLERK: Laporche Banks.

23 THE COURT: Who?

24 MADAM CLERK: Laporche Banks.

25 JUROR NUMBER 12: I'm Laporche. I'm a senior.

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JUROR ROLL CALL

1 MADAM CLERK: A senior in high school?

2 JUROR NUMBER 12: Yes, ma'am.

3 THE COURT: What was that, Madam Clerk?

4 MADAM CLERK: She's a senior in high school.

5 Evon Berry?

6 JUROR NUMBER 15: I work at -- I worked at Allendale
7 Kinney office of an agency. I'm a driver on a route. My wife,
8 Annie Berry, works at One Step.

9 THE COURT: Thank you, sir.

10 MADAM CLERK: Edwina Bing.

11 JUROR NUMBER 17: My name is Edwina Bing. I work with
12 Allendale County Communications. I'm a address tech. And
13 alongside Allendale County Detention Center, admin assistant.

14 MADAM CLERK: And are you married, Ms. Bing?

15 JUROR NUMBER 17: No, I'm single.

16 MADAM CLERK: Annie Bane.

17 JUROR BANE: Annie Bane, and I work on the Disability
18 Board with Allendale Home Disability Board.

19 MADAM CLERK: John Brand.

20 JUROR BRAND: I work for Edward G. O'Neil and Company,
21 machine operator. Married, wife's a loan officer.

22 MADAM CLERK: Deborah Breland.

23 JUROR NUMBER 28: My name's Deborah Breland. I'm
24 disabled. My husband, Denzil Breland, drives.

25 MADAM CLERK: Earnest Burke.

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JUROR ROLL CALL

1 JUROR BURKES: Yes. My name is Earnest Burkes III. I'm
2 a disabled veteran, I'm divorced, and I have no children. And
3 I live in Fairfax.

4 MADAM CLERK: Kendell Cantfield.

5 JUROR CANTFIELD: My name's Kendall Cantfield, and I work
6 at Scottsman in Fairfax.

7 MADAM CLERK: And are you married, Mr. Cantfield?

8 JUROR CANTFIELD: Single.

9 MADAM CLERK: Bridget Carter.

10 JUROR CARTER: My name is Bridget Carter. I work at
11 Hampton Regional Medical Center. I'm a cardiac monitor tech.
12 My husband name is Craig Carter, and he's a truck driver.

13 MADAM CLERK: Brenda Chisolm.

14 JUROR CHISOLM: My name is Brenda Chisolm, I work for
15 Allendale County, and I'm single.

16 MADAM CLERK: Matthew Conley.

17 JUROR CONLEY: I'm Matthew Conley. I'm employed by
18 Conley Farms. My wife a cosmetologist.

19 MADAM CLERK: Deborah Crumley.

20 JUROR NUMBER 62: My name is Deborah Crumley. I'm a
21 homemaker. My husband is employed as a supervisor by the town
22 of Fairfax.

23 MADAM CLERK: Vanessa Cunningham.

24 JUROR NUMBER 63: I work for American Income Life. My
25 husband works for the town of Brunson.

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JUROR ROLL CALL

1 MADAM CLERK: Melissa Davis.

2 JUROR NUMBER 64: I work at Cook Out, and I'm single.

3 MADAM CLERK: Lashonda Dunbar.

4 JUROR NUMBER 73: I work at Husqvarna, and I'm single.

5 MADAM CLERK: Shaquanna Dunbar.

6 JUROR NUMBER 74: I work at Allendale County, and I'm

7 single.

8 MADAM CLERK: Lisa Elmore.

9 JUROR NUMBER 80: I work at Masonite, and I'm single.

10 MADAM CLERK: James Everett.

11 JUROR EVERETT: James Everett, I work for the Town of

12 Allendale. I'm divorced.

13 MADAM CLERK: Patron Flowers.

14 JUROR FLOWERS: I work at Amazon in a warehouse, and I'm

15 single.

16 MADAM CLERK: Melanie Ford.

17 JUROR FORD: I work at Pierce Law Firm, and I'm divorced.

18 MADAM CLERK: Sharmaine Gadsen.

19 JUROR NUMBER 93: I'm a substitute teacher for Hampton

20 District One and Two, and I'm also a college student, and I'm

21 divorced.

22 MADAM CLERK: Earnestine Graham.

23 JUROR GRAHAM: I'm Earnestine Graham. I'm a housewife.

24 My husband is Earnest Graham, Jr. He's retired, a long time.

25 MADAM CLERK: Shameka Harden.

1-9-17 STATE V JOYNER

JUROR ROLL CALL

1 COURT REPORTER: I'm sorry, I didn't hear that.

2 JUROR NUMBER 110: I work at Grand Ocean, and I'm single.

3 THE COURT: What was that, Madam Court Reporter?

4 COURT REPORTER: The name of the --

5 MADAM CLERK: The one I just called?

6 THE COURT: Shameka Harden.

7 JUROR NUMBER 110: I work at Grand Ocean, and I'm single.

8 MADAM CLERK: Shanavia Haynes.

9 JUROR NUMBER 122: It's Shaniva.

10 MADAM CLERK: Okay. I'm sorry. Shaniva Haynes.

11 JUROR NUMBER 122: I'm a college student at Kaplan

12 University, and I'm single.

13 MADAM CLERK: Joanne Hicks.

14 JUROR HICKS: I'm disabled now, but I used to work for

15 Allendale on the disability board, and I'm divorced.

16 MADAM CLERK: Georgia Holmes.

17 JUROR HOLMES: My name is Georgia Holmes. I'm retired

18 and I'm a widow.

19 MADAM CLERK: Shirley Holmes.

20 JUROR NUMBER 127: I work at Arbys's, and I'm divorced.

21 MADAM CLERK: Brandon Iman.

22 JUROR NUMBER 128: I'm single, and unemployed.

23 MADAM CLERK: Theodore Irvine.

24 JUROR IRVINE: My name is Theodore Irvine. I work for

25 Collum's Lumber Mill, and I'm a widower.

1-9-17 STATE V JOYNER

JUROR ROLL CALL

1 MADAM CLERK: Eddie Isham.

2 JUROR ISHAM: I work for A.J., and my wife works for
3 Allendale County Courthouse.

4 MADAM CLERK: Willie Joe.

5 JUROR NUMBER 135: Willie Joe. Bartender, truck driver.
6 Wife unemployed.

7 MADAM CLERK: Lakia Kelly.

8 JUROR NUMBER 141: Lakia Kelly, teacher, Denmark Head
9 Start, and also a cashier at Allendale IGA.

10 MADAM CLERK: Are you married, Ms. Kelly? Are you
11 married?

12 JUROR NUMBER 141: Single.

13 MADAM CLERK: Kennedy Lee.

14 JUROR LEE: I'm Kennedy Lee. I work at Acord, single.

15 MADAM CLERK: Dorothy Lingard.

16 JUROR NUMBER 148: I am Dorothy Lingard. I am a retired
17 employee from the former Clarion Corporation in Norton, South
18 Carolina. I am also a fourth-year student with Boulder
19 University. I am divorced.

20 MADAM CLERK: Rashad Manuel.

21 JUROR NUMBER 155: I work at Masonite, and I'm single.

22 MADAM CLERK: Lee McMillan.

23 JUROR NUMBER 159: I work for Spartina 449, H.R. manager,
24 and I'm single.

25 MADAM CLERK: Lisa Metzger.

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JUROR ROLL CALL

1 JUROR METZER: I'm Lisa Metzger. I'm the pharmacy manager
2 at Fred's in Varnville, and my husband is Ted Metzger, and he's
3 not employed.

4 MADAM CLERK: Mary Miller.

5 JUROR MILLER: I'm retired captain of security for the
6 Department of Corrections, and I'm single.

7 MADAM CLERK: John Audi.

8 JUROR AUDI: I don't work, and I'm single.

9 MADAM CLERK: Travis Owens.

10 JUROR OWENS: Landmark Properties, and I'm single.

11 MADAM CLERK: Linez Pinckney.

12 JUROR NUMBER 184: Linez Pinckney.

13 MADAM CLERK: Okay.

14 JUROR NUMBER 184: Retired, West Palm Beach, single.

15 MADAM CLERK: Renette Priester.

16 JUROR NUMBER 191: Renette Priester, Allendale High
17 School, Dollar General, Rite-Aid. My husband drives -- is a
18 truck driver for a trucking company.

19 MADAM CLERK: Shaquetta Roberts. Shaquetta Roberts.

20 JUROR ROBERTS: Shaniqua Roberts?

21 MADAM CLERK: Shaniqua Roberts.

22 JUROR ROBERTS: I'm a college student at O.C. Tech, and
23 I'm single.

24 MADAM CLERK: Marie Ruth.

25 JUROR NUMBER 200: Kroger at Hilton Head Island, and I'm

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JUROR ROLL CALL

1 single.

2 MADAM CLERK: Emma Smalls.

3 JUROR NUMBER 210: Retired school teacher, Hampton County
4 District One, and I'm a widow.

5 MADAM CLERK: Angela Smith.

6 JUROR SMITH: I'm a driver for Auto Transport, and my
7 husband is deceased.

8 MADAM CLERK: Chris Smith.

9 JUROR SMITH: Brake mechanic. Wife works at Rite Aid.

10 MADAM CLERK: Carl Smoak.

11 JUROR SMOAKS: My name's Carl Smoak, forty years old. I
12 live -- I work at Georgia Pacific, Allendale. Been employed
13 there for ten years. My wife, she's a nurse, and she works at
14 the nursing home in Fairfax.

15 MADAM CLERK: Eva Smoaks.

16 JUROR SMOAKS: Eva Smoaks. I work at Steel Toe in
17 Columbia, South Carolina, and I'm divorced.

18 MADAM CLERK: Rosella Smoaks.

19 JUROR NUMBER 221: My name is Rosella Smoaks. I'm a
20 teacher at Estill County, and I'm a widow.

21 MADAM CLERK: Allen Tole.

22 JUROR NUMBER 227: Allen Tole. I am unemployed, take
23 care of my disabled wife and my two twins.

24 MADAM CLERK: Sascha Walker.

25 JUROR WALKER: I work for Allendale County Schools. My

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JUROR ROLL CALL

1 husband worked for SCDOT as a supervisor.

2 MADAM CLERK: Mary Washington.

3 JUROR NUMBER 234: I'm a former employee at Allendale
4 County Schools. My husband retired, and so am I.

5 MADAM CLERK: Lenovia Williams.

6 JUROR LENOVA WILLIAMS: I work at the nursing home in
7 Estill, and I'm single.

8 MADAM CLERK: Joyce Williams.

9 JUROR JOYCE WILLIAMS: I work at the Scottsman in
10 Fairfax, and my husband is self-employed at Sonny's Barber
11 Shop.

12 MADAM CLERK: Moses Ewens.

13 JUROR EWENS: Marriott, single.

14 MADAM CLERK: Jaquetta Smalls.

15 JUROR NUMBER 211: Sales associate at Walmart, and I'm
16 single.

17 MADAM CLERK: Are there anyone in the courtroom as a
18 juror whose name I have not called?

19 JUROR BROOKER: Me.

20 MADAM CLERK: Could you stand and give me your name,
21 please.

22 JUROR BROOKER: Jerome Brooker.

23 MADAM CLERK: Sir?

24 COURT REPORTER: Jerome something.

25 THE COURT: Brooks.

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JUROR QUALIFICATION

1 JUROR BROOKER: Jerome Brooker.

2 THE COURT: Jerome Brooker.

3 MADAM CLERK: Okay. And how many miles do you live from
4 the courthouse, Mr. Brooker?

5 JUROR BROOKER: Ma'am?

6 MADAM CLERK: How many miles do you live from the
7 courthouse?

8 JUROR BROOKER: Nine.

9 THE COURT: Are you employed?

10 JUROR BROOKER: No.

11 THE COURT: Are you married?

12 JUROR BROOKER: No, divorced.

13 THE COURT: Okay. Thank you. That's Brooker, Madam
14 Court Reporter.

15 All right. Anyone else?

16 JUROR QUALIFICATION:

17 THE COURT: All right. Ladies and gentlemen, I need to
18 ask you a set of questions that have to do with whether or not
19 you're qualified to serve. Not necessarily whether you want to
20 be here, but whether or not you are qualified under the State
21 statutes. And also, questions about whether or not you can
22 claim an exemption. Quite frankly, the law requires that I ask
23 this of all jury panels. Some of these questions are very
24 personal, and you may not want to stand up in front of your
25 peers and give the information out in open court, and that's

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JUROR QUALIFICATION

1 okay. If a question is asked to you, or that is asked that you
2 need to respond to, then, if you don't want to do so, I'll give
3 you a chance at the end of this process to come forward and
4 speak to me on a more personal basis. Make a mental note,
5 however, that you do need to come forward when I ask that you
6 to.

7 Remember, we need to get accurate, truthful, and the full
8 information as to the question being asked. Again, if somebody
9 does not understand the question, please stand up, let me know,
10 and I'll repeat it such that you do, or at least attempt to.
11 After that, I'm going to go to the qualifications.

12 The first question that has to do with your
13 qualifications is this. Is any member of the jury panel not a
14 citizen of the United States? If so, would you please stand.

15 Is any member of the jury panel not a resident and
16 citizen of Allendale County? If so, would you please stand.

17 Okay, sir. What is your jury number, if you know?

18 JUROR NUMBER 178: 179 [sic].

19 THE COURT: 179. You note what -- what's your name?

20 JUROR NUMBER 178: Owens.

21 THE COURT: Dubois?

22 JUROR NUMBER 178: Owens.

23 THE COURT: What number is that, Ms. Madam Clerk?

24 MADAM CLERK: 178.

25 THE COURT: 178. Okay. All right, sir. And where do

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JUROR QUALIFICATION

1 you live?

2 JUROR NUMBER 178: Columbia, South Carolina.

3 THE COURT: And how long have you lived there?

4 JUROR NUMBER 178: Been there for eight years.

5 THE COURT: Eight years? So, you obviously never changed
6 your driver's license over?

7 JUROR NUMBER 178: No.

8 THE COURT: See what happens when you don't do something
9 you need to do?

10 JUROR NUMBER 178: Yeah. Get called and everything, and
11 I never changed it. You're right.

12 THE COURT: I imagine you're going to do it now, aren't
13 you, though?

14 JUROR NUMBER 178: Yes, sir.

15 THE COURT: All right. Well, Mr. Dubois [sic], as you
16 would know, that you won't be qualified to serve. Thank you
17 for being here. You will still receive a check from my clerk
18 regardless. Don't spend it all in one place. Okay?

19 JUROR NUMBER 178: Thank you.

20 THE COURT: Thank you, buddy. Take care. Change that
21 license over.

22 JUROR NUMBER 178: Yes, sir, I will.

23 THE COURT: All right, buddy.

24 Anyone else? All right.

25 Ladies and gentlemen, is there any member of the jury

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JUROR QUALIFICATION

1 panel who is unable to read, write, speak, or understand the
2 English language? If so, would you please stand.

3 All right. Does any member of the jury panel have less
4 than a sixth grade education or its equivalent? If so, would
5 you please stand.

6 Is there a member of the jury panel that is unable
7 because of an intellectual or physical infirmity to render
8 efficient jury service if you are selected to serve this week?
9 I'll tell you that I typically run court segments of an hour or
10 two at a time. All right? It may be more, it may be less.
11 But you'll need to sit, stand, or with some other reasonable
12 accommodation, listen to the statements by the attorneys,
13 listen to the testimony and the evidence as presented on the
14 witness stand and the law as I give it to you, engage in
15 meaningful deliberations at the end of the case.

16 But if there is anyone who is incapable of rendering
17 efficient jury service because of intellectual or physical
18 infirmity and you don't mind doing so, would you please stand.

19 Has any member of the jury panel ever been convicted by a
20 guilty plea or a trial in state or federal court of record of a
21 crime punishable by more than -- more than one year, and your
22 civil rights have not been restored by a pardon or amnesty?
23 Now, by more than one year, I mean that you could have received
24 a sentence in excess of a year, regardless of whatever sentence
25 you may have actually received. But if that applies to you and

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JUROR QUALIFICATION

1 you don't mind standing, would you please do so.

2 Is there any member of the jury panel that is a clerk or
3 a deputy clerk of court, a constable, sheriff, or other
4 commissioned law enforcement officer, such as DNR, probate
5 judge, county commissioner, magistrate, or other county
6 officer, or employed within the walls of any courthouse? If
7 so, would you please stand.

8 Okay, ma'am, what is your name and jury number, if you
9 have it?

10 JUROR NUMBER 48: 048.

11 THE COURT: You'll have to help me, Madam Clerk. Which
12 one is that?

13 JUROR NUMBER 48: I said 048, Ms. Chisolm.

14 MADAM CLERK: 48.

15 THE COURT: 48?

16 JUROR NUMBER 48: Yes, sir.

17 THE COURT: Okay. You are Ms. Chisolm?

18 JUROR NUMBER 48: Yes, sir.

19 THE COURT: And where do you work?

20 JUROR NUMBER 48: Right here at the courthouse.

21 THE COURT: Here in the courthouse?

22 JUROR NUMBER 48: Yes, sir.

23 THE COURT: I guess that would disqualify you, wouldn't
24 it?

25 JUROR NUMBER 48: Yes, sir.

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JUROR QUALIFICATION

1 THE COURT: Okay. Well, thank you, Ms. Chisolm, for
2 being here.

3 JUROR NUMBER 48: All right.

4 THE COURT: You can get on back to work now. And we'll
5 send you a check in the mail, as well. Okay?

6 JUROR NUMBER 48: All right.

7 THE COURT: Thank you so much. Anyone else?

8 Is there any member of the jury panel who has previously
9 served in circuit court this calendar year, i.e., 2017, as
10 opposed to serving in city, magistrate's court, or federal
11 court? If you've served in circuit court 2017, you certainly
12 can't do it again in 2017. But since we've not held court yet,
13 I don't think any of you have. If anybody thinks they have,
14 would you please stand. Okay.

15 And finally, as to qualifications, has any member of the
16 jury panel served as a member of the Allendale Grand Jury
17 during the past several years? If so, would you please stand.
18 Very good.

19 All right, ladies and gentlemen. That concludes the
20 questions that have to do with your qualifications to serve.
21 Remember that if you needed to respond but didn't, line up at
22 the Bar and speak with me more confidentially at the end of
23 this process. Is there anybody -- am I missing something?

24 SOLICITOR THORNTON: No, sir.

25 THE COURT: Okay. All right.

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JUROR QUALIFICATION

1 Ladies and gentlemen, the next questions have to do with
2 exceptions. And that simply means this: that you're qualified
3 to serve, but an exemption applies to you, and you have a right
4 to say I choose not to serve.

5 The first of those are for those of you that have reached
6 the age of 65 years or older. If you have gotten to that age
7 of 65 years or older, you have a right to say, I do not choose
8 to serve as a juror this term of court. Now, before any of you
9 who may fit that description exercise your exemption, let me
10 urge you to stay with us. If you've been around in this world
11 for 65 or more years, you'd be a value to any jury that you sit
12 on. But with that being said, if you're 65 years or older, you
13 have the absolute right not to serve if you choose not to. If
14 that exemption applies to you and you wish to be exempted,
15 would you please stand. Very good.

16 All right, ladies and gentlemen, if you recall a
17 qualification question about whether or not you had served in
18 2017 in circuit court, this question wants to know about prior
19 jury service in circuit court, as opposed to city court,
20 magistrate's court, or federal court during the last three
21 calendar years, i.e., during 2016 or 2015. State law says that
22 no citizen can be required to serve in circuit court more often
23 than once every three calendar years. So, if you served in
24 state court, as opposed to city court or magistrate's court or
25 federal court in 2015 or 2016, you cannot be required to serve

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JUROR QUALIFICATION

1 again in state court in 2017 unless you want to. But if
2 anybody has served in state court in either 2015 or '16 and
3 they wish to be exempted from service this week, would you
4 please stand.

5 Also, anyone who's served as a grand juror anywhere in
6 the state of South Carolina within the last five calendar years
7 has a right to not serve this week. If anyone served at a
8 grand jury anywhere in South Carolina within the last five
9 calendar years who wishes to be exempt this week, would you
10 please stand.

11 Okay. Ma'am, what's your name?

12 JUROR NUMBER 63: Vanessa Cunningham.

13 THE COURT: Vanessa?

14 JUROR NUMBER 63: Cunningham.

15 THE COURT: Cunningham. Number 63?

16 JUROR NUMBER 63: Yes, sir.

17 THE COURT: Okay. And where did you serve as a grand
18 juror?

19 JUROR NUMBER 63: In Columbia.

20 THE COURT: In Columbia?

21 JUROR NUMBER 63: Yes, sir.

22 THE COURT: And when did you do that, ma'am?

23 JUROR NUMBER 63: Excuse me?

24 THE COURT: When?

25 JUROR NUMBER 63: In February of last year.

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JUROR QUALIFICATION

1 THE COURT: February of last year?

2 JUROR NUMBER 63: Yes, sir.

3 THE COURT: And how long did you serve?

4 JUROR NUMBER 63: For three days. Three days.

5 THE COURT: Three days? I tell you what, I don't think
6 that you served on a grand jury. Come on up here at the end of
7 the process, not now, but at the end. Let me get some more
8 information from you, because I think that you might be
9 mistaken on that.

10 JUROR NUMBER 63: Okay.

11 THE COURT: Because jury service on a grand jury
12 generally lasts a year. Okay?

13 JUROR NUMBER 63: Okay.

14 THE COURT: Anyone else? All right.

15 Ladies and gentlemen, the next exemption has to do with
16 those of you who have small children. There are four parts,
17 all of which must apply before you can exercise your exemption.
18 But number one, if you have a small child or children under
19 seven, under the age of seven; number two, you have custody of
20 your child or children; number three, you are the primary
21 caretaker of your child or children; and number four, you've
22 been unable to make suitable arrangements for the care of your
23 child or children if you are required to serve as a juror this
24 week. If all four of those sub-parts applies to you and you
25 wish to be exempted, would you please stand.

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JUROR QUALIFICATION

1 Okay. Ma'am, right here in the front row, what is your
2 name?

3 JUROR NUMBER 110: Shameka Harden. Shameka Harden.

4 MADAM CLERK: 110.

5 THE COURT: You're number 110?

6 JUROR NUMBER 110: I'm not sure.

7 THE COURT: Okay. You are Number 110, how about that?
8 How old is your child, Ms. Harden, or children?

9 JUROR NUMBER 110: Five.

10 THE COURT: Five?

11 JUROR NUMBER 110: Um-hmm.

12 THE COURT: And you have custody of those children --
13 that child?

14 JUROR NUMBER 110: Yes.

15 THE COURT: And you are the primary caretaker?

16 JUROR NUMBER 110: Yes.

17 THE COURT: And you can't make suitable arrangements?

18 JUROR NUMBER 110: No.

19 THE COURT: And you wish to be excused?

20 JUROR NUMBER 110: Yes.

21 THE COURT: Okay, Ms. Harden, thank you for coming. I'm
22 going to excuse you.

23 All right, sir. What is your name?

24 JUROR NUMBER 227: Allen Tole.

25 THE COURT: Hall?

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JUROR QUALIFICATION

1 JUROR NUMBER 227: 227.

2 THE COURT: Which one is he, Madam Clerk?

3 MADAM CLERK: 227. 227.

4 THE COURT: Okay. Mr. Tole, you got a child or children
5 that are seven -- or under seven years of age?

6 JUROR NUMBER 227: Yes. I have twins that are five, and
7 my wife has a form of skin cancer. She --

8 THE COURT: She -- your wife had what, sir?

9 JUROR NUMBER 227: A form of skin cancer. And all her
10 doctors are in Charleston, and I have to take her to all her
11 doctors' appointments, and I have to make sure my kids are in
12 school, and I have to be there.

13 THE COURT: Okay. I tell you what, I'm probably going to
14 let you go, but I want you to come up to me further. I want to
15 get some more information. At the end of this process when I
16 ask you to come forward, would you come and talk to me, please,
17 Mr. Tole?

18 JUROR NUMBER 227: Yes, sir.

19 THE COURT: Okay. And what is your name, please, ma'am?

20 JUROR NUMBER 73: Lashonda Dunbar.

21 MADAM CLERK: 73.

22 THE COURT: 73. Okay. Ms. Dunbar, is that right?

23 JUROR NUMBER 73: I have a small child the age of six.

24 THE COURT: I'm not --

25 JUROR NUMBER 73: I have a child the age of six, and I

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JUROR QUALIFICATION

1 don't have no one to care for him while I'm here.

2 THE COURT: And how old is your child?

3 JUROR NUMBER 73: Six.

4 THE COURT: Six. I'm sorry. I'm trying to pick up down
5 here and so --

6 JUROR NUMBER 73: Six.

7 THE COURT: Okay. And you're the primary caretaker?

8 JUROR NUMBER 73: Yes, sir.

9 THE COURT: And you wish to be excused?

10 JUROR NUMBER 73: Yes, sir.

11 THE COURT: Okay. Thank you, ma'am. I'm going to excuse
12 you now.

13 Anyone else? All right.

14 Ladies and gentlemen, the next exemption has to do with
15 those of you who may be attending school on a full-time basis
16 --

17 JUROR NUMBER 80: I'm sorry.

18 THE COURT: Stop one second. What's your name?

19 JUROR NUMBER 80: My name is Lisa Elmore, and I do have a
20 kids ages three and four, but I do have someone to care for
21 them while I'm here.

22 THE COURT: Hand on. Hang on. What is your name again?

23 MADAM CLERK: Number 80.

24 THE COURT: Number 80? You're Ms. Elmore?

25 JUROR NUMBER 80: Yes, sir.

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JUROR QUALIFICATION

1 THE COURT: And you said you had two children?

2 JUROR NUMBER 80: Um-hmm.

3 THE COURT: How old are they?

4 JUROR NUMBER 80: They four and five.

5 THE COURT: Four and five?

6 JUROR NUMBER 80: Um-hmm.

7 THE COURT: And do you have -- do you have custody of
8 them?

9 JUROR NUMBER 80: Yes, sir.

10 THE COURT: And you're the primary caretaker?

11 JUROR NUMBER 80: Yes, sir.

12 THE COURT: Now, Ms. Elmore, do you work?

13 JUROR NUMBER 80: Yes, sir.

14 THE COURT: Where do you work?

15 JUROR NUMBER 80: Masonite.

16 THE COURT: Ma'am?

17 JUROR NUMBER 80: Masonite.

18 THE COURT: When did you -- what shift do you work?

19 JUROR NUMBER 80: First. First.

20 THE COURT: So, what do you do with your children while
21 you're at work?

22 JUROR NUMBER 80: Somebody take care of them. One of
23 them still going to day care.

24 THE COURT: Ma'am?

25 JUROR NUMBER 80: One of them's still going to day care.

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JUROR QUALIFICATION

1 THE COURT: Do you have somebody to take care of them
2 while you're at work, as well?

3 JUROR NUMBER 80: Yes, sir.

4 THE COURT: Okay. That gets you almost there, but not
5 quite. Okay? So I'm going to let you stay with us. But thank
6 you for letting us know. Good try. All right.

7 Ladies and gentlemen, the next exemption has to do with
8 those of you who either go to school on a full-time basis or
9 work in an educational institution. It applies whether or not
10 it's a public school, a private school, or a technical school.
11 Now, under this exemption you will not be excused from service.
12 You will be simply transferred to another term of court that
13 does not interfere with your studies at an educational
14 institution or your work at an educational institution. So, if
15 there's anyone out there that is a full-time student or is a
16 teacher, a crossing guard, a bus driver, a cook, who works in a
17 public, private, or technical school in some other capacity who
18 wishes to be transferred to another term of court, would you
19 please stand.

20 Okay. I knew we had several students along the way.

21 What is your juror -- what is your name?

22 JUROR WALKER: Sascha Walker.

23 THE COURT: Walker?

24 JUROR WALKER: Yes.

25 THE COURT: And Ms. Walker, are you -- do you work or do

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JUROR QUALIFICATION

1 you go to school?

2 JUROR WALKER: Work.

3 THE COURT: And where do you work?

4 JUROR WALKER: Allendale County Schools at the high
5 school, as the IS teacher.

6 THE COURT: Okay. And do you want to be transferred to
7 another term?

8 JUROR WALKER: Yes, sir.

9 THE COURT: When is the next term of court for us?

10 JUROR WALKER: February 13th.

11 THE COURT: So February. You want to go to the summer
12 months, don't you?

13 JUROR WALKER: Pardon me, sir?

14 THE COURT: You want to go to the summer months, don't
15 you?

16 JUROR WALKER: Yes, sir.

17 THE COURT: Now, remember, when you're wanting to go on
18 vacation, you might be sitting up here at the courthouse. Do
19 you still want me to transfer you to a summertime term?

20 JUROR WALKER: Yes, sir.

21 THE COURT: Okay. I'm going to transfer her to summer.
22 June 5th.

23 JUROR WALKER: Okay.

24 THE COURT: Will you be finished with school then?

25 JUROR WALKER: No, I'll be finished June 6th, I think.

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JUROR QUALIFICATION

1 THE COURT: 6th? Okay. Well, I'm going to let our clerk
2 start you somewhere in that neighborhood or after that time.
3 Okay?

4 JUROR WALKER: Okay.

5 THE COURT: Thank you for coming.

6 Okay, ma'am, what is your name?

7 JUROR NUMBER 122: Shaniva Haynes.

8 THE COURT: Haynes?

9 JUROR NUMBER 122: Um-hmm.

10 THE COURT: You're 122. Okay. And are you student or a
11 teacher?

12 JUROR NUMBER 122: I'm a student at Kaplan University.

13 THE COURT: Kaplan?

14 JUROR NUMBER 122: Yes, sir.

15 THE COURT: And are you going full-time?

16 JUROR NUMBER 122: Full-time.

17 THE COURT: And you want to be transferred to the summer?

18 JUROR NUMBER 122: That's fine.

19 THE COURT: You know, when you want to go out and go run
20 down to the beach and stuff like that this summer, you'll be
21 sitting down here with us.

22 JUROR NUMBER 122: That's fine.

23 THE COURT: Okay. I'm going to transfer you to summer
24 months. Good luck. Study hard. I have a daughter, as well,
25 so you study hard. Okay?

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JUROR QUALIFICATION

1 JUROR NUMBER 122: All right. Thank you.

2 THE COURT: Thank you, ma'am.

3 JUROR NUMBER 93: Sharmaine Gadsen. I'm an online
4 student with South Carolina State University in Orangeburg.

5 THE COURT: Okay. Hang on for -- you're Gaston?

6 JUROR NUMBER 93: G/a/d/s/o/n.

7 THE COURT: Number -- Juror Number 93. You're going
8 full-time, online at S.E. State.

9 JUROR NUMBER 93: Yes. Yes, but that's not the problem.
10 I'm just a every-day substitute at Hampton School District Two
11 and One.

12 THE COURT: Say that again, please.

13 JUROR NUMBER 93: I sub every day at Hampton School
14 District Two in Estill, and I also sub at Hampton School
15 District One in Hampton.

16 THE COURT: So you want to be transferred to the summer
17 month?

18 JUROR NUMBER 93: Yes, sir.

19 THE COURT: All right. I'll transfer you to summer.

20 JUROR NUMBER 93: Okay. Thank you.

21 THE COURT: Thank you, ma'am.

22 JUROR NUMBER 221: I'm Rosella Smoaks, and I'm a teacher
23 at Estill's Head Start.

24 THE COURT: Okay. Just one second, Ms. Smoaks. You're
25 Eva or Rosella?

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JUROR QUALIFICATION

1 JUROR NUMBER 221: Rosella.
2 THE COURT: Rosella.
3 JUROR NUMBER 221: Yes.
4 THE COURT: Number 221?
5 JUROR NUMBER 221: Yes, sir.
6 THE COURT: Okay. Now, you work where, please?
7 JUROR NUMBER 221: Estill Head Start.
8 THE COURT: Okay. I'm not sure what that is.
9 JUROR NUMBER 221: It's a school. It's a school.
10 THE COURT: Okay. And you're working full-time there?
11 JUROR NUMBER 221: Yes, sir, I am.
12 THE COURT: And you want to be transferred to summer?
13 JUROR NUMBER 221: Yes, sir.
14 THE COURT: Okay. I'll transfer you to the summer.
15 Thank you for coming.
16 JUROR NUMBER 221: Thank you.
17 THE COURT: Yes, ma'am. All right. Anyone else?
18 JUROR NUMBER 8: James E. Badger.
19 THE COURT: Hang on. What is it?
20 JUROR NUMBER 8: James E. Badger.
21 THE COURT: Badger?
22 JUROR NUMBER 8: Yes, sir.
23 THE COURT: I don't -- do you see which one it is?
24 MADAM CLERK: Number 8.
25 THE COURT: Number 8. Oh. I can see better. Okay. Mr.

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JUROR QUALIFICATION

1 Badger, where do you work or go to school?

2 JUROR NUMBER 8: I'm a high school and college basket
3 ball official, and I already received my assignments for this
4 -- the next couple weeks. I'll have to be forward to the June
5 or something.

6 THE COURT: You're a high school basket ball referee?

7 JUROR NUMBER 8: Yes, sir, and college.

8 THE COURT: And college?

9 JUROR NUMBER 8: Yes, sir.

10 THE COURT: That ain't going to get you there, buddy, but
11 I'll tell you what -- I played football in college. I
12 understand, but I tell you what, you come and talk to me at the
13 end of this process, we'll talk about it further. How about
14 that?

15 JUROR NUMBER 8: All right. Thank you.

16 THE COURT: Yes, sir. All right. Anyone else?

17 All right. Is there any member of the jury panel who was
18 employed with the Department of Corrections at a penitentiary
19 who wishes to excused from services this week? If so, would
20 you please stand. All right.

21 Is there any juror who performs services for a business,
22 agricultural, or commercial enterprise which is so essential to
23 the operation of that business that if you were selected to
24 serve this week and have to perform jury service, that business
25 would shut its doors and not operate while you were performing

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JUROR QUALIFICATION

1 your services for jury duty? If that applies to you and you
2 wish to be excused, would you please stand. All right.

3 Finally, ladies and gentlemen, is there anyone who is a
4 primary caretaker of a severely disabled person who cannot be
5 left by him or herself, or is the primary caretaker of a person
6 65 years or older who can't be left alone? If that applies to
7 you and you wish to be excused, please stand. All right.

8 Ladies and gentlemen, that completes the exemption
9 questions. It may be that you're qualified and that an
10 exemption does not apply to you. However, if having to serve
11 this week would cause you an undue hardship for a particular
12 reason that is particularized to you, I'm not allowed by law to
13 excused qualified people who are not, you know, meet an
14 exemption. However, under compelling circumstances, I can
15 transfer you to another term of court that would be not such a
16 hardship on you, based on your circumstances. I'll point out
17 that generally inconvenience is not a hardship that would
18 warrant transfer. But if anybody would want me to hear a
19 request of transfer to another term of court because of your
20 particular circumstances and you don't mind standing now and
21 give me your reasons, would you please do so. All right.

22 Ladies and gentlemen, as I told you at the beginning,
23 those of you that I've asked to come forward, those who have
24 any questions about whether or not they are eligible, whether
25 or not they're qualified, whether or not an exemption applies

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JUROR QUALIFICATION

1 to you, or if you have a question about a transfer request, if
2 you'll line up at the Bar, and I'll speak to you on a more
3 individualized basis, please.

4 ON-THE-RECORD, OUT OF HEARING OF JURORS,
5 JUROR QUALIFICATION DISCUSSIONS.

6 THE COURT: What is your jury number?

7 JUROR NUMBER 63: 63.

8 THE COURT: 63. You're Ms. Cunningham.

9 JUROR NUMBER 63: Yes.

10 THE COURT: Now, I don't remember when I got through two
11 seconds ago, so tell me what your problem is.

12 JUROR NUMBER 63: I thought that I served last year, but
13 I think it was a confusion about whether it being grand jury.

14 THE COURT: Yeah.

15 JUROR NUMBER 63: I think it might have been where the
16 case involved like some tort liability.

17 THE COURT: Oh, okay. That's just -- that would have
18 been circuit court.

19 JUROR NUMBER 63: Okay.

20 THE COURT: That won't get you out of this. Thank you.
21 That's all right for telling me.

22 JUROR NUMBER 63: All right. Thank you.

23 THE COURT: Thank you.

24 All right. When does your schedule start?

25 JUROR UNKNOWN: Tomorrow.

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JUROR QUALIFICATION

1 THE COURT: You probably are going to be doing Wednesday
2 over here. We pick a jury today, we start tomorrow. Probably
3 finish up on Wednesday.

4 JUROR UNKNOWN: Okay.

5 THE COURT: Don't you rather get out -- it's going to be
6 a short week.

7 JUROR UNKNOWN: No. I mean, I can -- you know, if I can
8 get out of here like, say, by 4:00 o'clock, I'll be good.

9 THE COURT: Well, I can't promise you that. Like today,
10 we'll probably stop early, come back and do opening statements
11 in the morning. But you may not get that.

12 JUROR UNKNOWN: Okay.

13 THE COURT: But now, here's the thing. You take a
14 chance, if I transfer you, you might get stuck with a Monday
15 through Friday, every day, and you're not going to get anymore
16 excuses.

17 JUROR UNKNOWN: Okay.

18 THE COURT: Now, I think -- the only trial we have this
19 week and -- as soon as I tell you, you won't get selected, you
20 will be. But there's no guarantee you'll get selected or not.
21 But when you look at the odds of things, it might be smarter to
22 stick around.

23 JUROR UNKNOWN: All right. All right. Okay.

24 THE COURT: Thank you, brother.

25 JUROR UNKNOWN: Thank you.

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JUROR QUALIFICATION

1 THE COURT: Appreciate it.
2 Hey, how are you doing? What --
3 JUROR NUMBER 234: Washington.
4 THE COURT: Washington.
5 JUROR 234: 134, I think.
6 THE COURT: 234.
7 JUROR 234: 234.
8 THE COURT: 234. You sure are dressed up nice today.
9 JUROR 234: Well, Thank you.
10 THE COURT: And Ms. Washington, what are your issues you
11 have?
12 JUROR 234: My husband's having surgery Thursday morning,
13 a procedure he having done in Columbia.
14 THE COURT: Okay.
15 JUROR 234: And I don't know whether it's going to last
16 that long.
17 THE COURT: We're going to be -- I'll tell you what,
18 we're going to be finished by Wednesday. I'll tell you I'm not
19 going to let you miss your husband's surgery. Ain't no way in
20 the world I'm going to do that.
21 JUROR 234: He has to be in Columbia by 9:45, Thursday
22 morning, so.
23 THE COURT: I'm going to transfer you to -- when do you
24 want to -- do you want to come back next February?
25 JUROR 234: Don't make no difference. That's fine.

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JUROR QUALIFICATION

1 THE COURT: Would you transfer her to feb.
2 MADAM CLERK: Yes, sir.
3 JUROR 234: Okay.
4 THE COURT: I hope he's going to be okay.
5 JUROR 234: Thank you.
6 THE COURT: Yes, ma'am.
7 Hey. What is your name?
8 JUROR 12: LaPorsche Banks.
9 THE COURT: What's your last name?
10 JUROR 12: Banks.
11 THE COURT: Banks?
12 JUROR 12: Yes, ma'am -- yes, sir.
13 THE COURT: Okay. You're Number 12.
14 JUROR 12: Yes, sir.
15 THE COURT: Okay. Now, are you the one that's a high
16 school student?
17 JUROR 12: Yes, sir.
18 THE COURT: Okay. And you want to get out because of
19 that?
20 JUROR 12: Yeah.
21 THE COURT: You want to come back in the summer time?
22 JUROR 12: Yes, sir.
23 THE COURT: Okay. I'm going to let her go transfer to
24 summer time. You're a full-time high school -- what do you go?
25 What grade are you in? Senior?

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JUROR QUALIFICATION

1 JUROR 12: Twelfth. I only have one class.

2 THE COURT: You only have one class?

3 JUROR 12: Yes, sir.

4 THE COURT: Are you going to go to college when you get
5 through?

6 JUROR 12: I'm planning on it.

7 THE COURT: Good. Work and study hard. Okay?

8 All right. Now, tell me what you were trying to tell me.
9 Now, how old are you?

10 JUROR NUMBER 227: Fifty-four.

11 THE COURT: How old are your children?

12 JUROR NUMBER 227: They're five.

13 THE COURT: Five.

14 JUROR NUMBER 227: Yeah.

15 THE COURT: Man, you got a late start, didn't you?

16 JUROR NUMBER 227: Yeah.

17 THE COURT: All right. Well, tell me --

18 JUROR NUMBER 227: My wife has a disease called
19 hidradenitis. It's a form of skin cancer, and she has to have
20 a specialist from Charleston. They have to go deep in her skin
21 and take out these cancer cells. And she also has --

22 THE COURT: Tell me your name again.

23 JUROR NUMBER 227: Allen Tole.

24 CHECK JUROR NUMBER NOT JUST JUROR

25 THE COURT: Tole? Okay. They just told me -- that will

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JUROR QUALIFICATION

1 disqualify you. So I'm going to go ahead and excuse you
2 regardless.

3 JUROR NUMBER 27: All right. I mean, I wasn't making up
4 an excuse. I have to take care of my twins while she's in the
5 hospital and stuff.

6 THE COURT: Oh, I understand. I gotcha.

7 JUROR NUMBER 227: All right. Thank you.

8 THE COURT: Okay. Thank you for letting us know.

9 JUROR NUMBER 227: All right.

10 JUROR NUMBER 17: Hello. How are you doing?

11 THE COURT: Good. How are you.

12 JUROR NUMBER 17: All right. My name is Edwina Bing. I
13 work with --

14 THE COURT: Hang on. Hang on. Hang on. Hang on.

15 JUROR NUMBER 17: Okay.

16 THE COURT: See, this lady's taking everything you say.

17 JUROR NUMBER 17: Okay.

18 THE COURT: She's got a hard job. You're Edwina Daniel?

19 JUROR NUMBER 17: Huh-uh. Bing, B/i/n/g.

20 THE COURT: Oh, Edwina Bing, B/i/n/g.

21 JUROR NUMBER 17: Yes, sir.

22 THE COURT: Number 17.

23 JUROR NUMBER 17: Yeah.

24 THE COURT: Okay.

25 JUROR NUMBER 17: I work with Allendale County

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JUROR QUALIFICATION

1 Communications.

2 THE COURT: Okay.

3 JUROR NUMBER 17: And I work partly with the jail, and I
4 didn't know whether or not --

5 THE COURT: That's not -- now, when we get into
6 particularized questions about the case --

7 JUROR NUMBER 17: Uh-huh.

8 THE COURT: -- not qualification and exemption questions
9 --

10 JUROR NUMBER 17: Okay.

11 THE COURT: -- you might want to stand up and point that
12 out so the Defense understands that you have communications
13 with the jail and stuff like that.

14 JUROR NUMBER 17: Okay.

15 THE COURT: Now, if you have gained any personal
16 information --

17 JUROR NUMBER 17: Okay.

18 THE COURT: -- about this particular person, when you
19 hear your name called and the case called --

20 JUROR NUMBER 17: Um-hmm.

21 THE COURT: -- then, when I go over the questions, you
22 need to stand up.

23 JUROR NUMBER 17: Um-hmm. Okay.

24 THE COURT: Otherwise, you know, if it's just that's all
25 that's stopping you.

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JUROR QUALIFICATION

1 JUROR NUMBER 17: Oh, okay, then.

2 THE COURT: Thank you so much.

3 JUROR NUMBER 17: All right. You're welcome.

4 THE COURT: Yes, ma'am.

5 All right. Anyone else? Okay.

6 SOLICITOR THORNTON: The one circled on the next page is

7 Willie Joe. He's the first one.

8 THE COURT: Oh, excuse me. His name's Joe?

9 SOLICITOR THORNTON: Willie Joe. I believe he's Juror

10 135.

11 THE COURT: Okay.

12 Will Mr. Joe come forward. Willie Joe?

13 Okay. What has he got on there?

14 SOLICITOR THORNTON: That's yours, Judge.

15 THE COURT: Oh.

16 SOLICITOR THORNTON: Judge, right there.

17 THE COURT: Okay.

18 SOLICITOR THORNTON: Robbery, felony, guilty.

19 THE COURT: All right. They've run a background search.

20 Is that you?

21 JUROR NUMBER 135: Yes.

22 THE COURT: Okay. Have you had your rights restored by

23 pardon or amnesty?

24 JUROR NUMBER 135: Yes.

25 THE COURT: You do have them restored?

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JUROR QUALIFICATION

1 JUROR NUMBER 135: Yes. I -- once that was in -- in '90.
2 It was '99 they told them I was eligible to serve on jury and
3 everything else, but if I could get exempted, I will.

4 THE COURT: He seems to think he's had them restored.
5 That should be somewhere.

6 SOLICITOR THORNTON: Should be in -- right.

7 THE COURT: All right. I'm going to go ahead and exempt
8 you out of an abundance of caution. Okay?

9 JUROR 135: Okay.

10 THE COURT: Thank you for coming.

11 JUROR NUMBER 135: Thank you.

12 THE COURT: Yes, sir.

13 SOLICITOR THORNTON: Judge, the next one is Linez
14 Pinkney. And Ms. Pinckney is Juror Number 184.

15 THE COURT: Ms. Pinckney? Linez Pinckney, would you
16 please come forward, Number 184.

17 MR. HUGHES: Oh, this one can't be right.

18 SOLICITOR THORNTON: The birth date matches and the
19 Social matches. It's a welfare fraud.

20 THE COURT: Oh.

21 SOLICITOR THORNTON: Assistance felony, back in 1981.

22 THE COURT: Okay.

23 Ms. Pinckney, come over here. The records indicate that
24 back in 1981, that you were convicted or pled guilty to welfare
25 fraud. Is that correct?

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JUROR QUALIFICATION

1 JUROR NUMBER 184: Um-hmm.

2 THE COURT: And have your rights been restored by pardon
3 or amnesty?

4 JUROR NUMBER 184: I didn't understand.

5 THE COURT: Have you had anything done to have this
6 pardoned or excused by the governor, this charge?

7 JUROR NUMBER 184: Yes, everything was right then.

8 THE COURT: Do what, now?

9 JUROR NUMBER 184: Everything was okay. They cleared me
10 on that.

11 THE COURT: Okay. Now, you were found guilty or did you
12 plead guilty. Is that right?

13 JUROR NUMBER 184: Where that happen at?

14 THE COURT: This is Palm Beach.

15 JUROR NUMBER 184: Yes, I did my time and everything.

16 THE COURT: Okay. All right. I'm going to excuse you
17 this week. Okay? But thank you. All right.

18 JUROR NUMBER 184: Thank you.

19 THE COURT: Thank you, ma'am.

20 JUROR NUMBER 184: Um-hmm.

21 THE COURT: Anyone else?

22 END ON-THE-RECORD JUROR QUALIFICATION

23 DISCUSSIONS.

24 THE COURT: All right. Madam Clerk, I'm going to find
25 the remaining members of our jury panel are qualified to serve.

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VOIR DIRE

1 Ladies and gentlemen, we're going to begin jury selection
2 in the case that is about to be called by the State. I
3 anticipate that will take a few minutes, so let's take about a
4 ten- or fifteen-minute break. We've been going about an hour.
5 That way, we can take some personal time and come back here at
6 1:10, please. It's about five till. Just come back here -- or
7 3:10, excuse me. My eyes are bad. All right. Come back.
8 We're in recess.

9 Ma'am?

10 We're going to be in recess until ten minutes after 3:00.
11 We'll come back in and begin jury selection in the first trial
12 of the trial this week. Okay? If you'll come back in the jury
13 room at ten minutes after 3:00, and that's based on the clock
14 back there. It shows it being five minutes until 3:00.

15 OFF THE RECORD 2:55 P.M.

16 BACK ON THE RECORD 3:17 P.M.

17 VOIR DIRE:

18 THE COURT: Please be seated. All right. I have here a
19 witness list for voir dire. Is that correct?

20 SOLICITOR THORNTON: You do, your Honor.

21 THE COURT: Okay. Will you call your first case, Mr.
22 Thornton?

23 SOLICITOR THORNTON: Thank you, your Honor. The State of
24 South Carolina is prepared to go forward in the State of South
25 Carolina versus Gabriel Joyner, your Honor. He's charged in

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VOIR DIRE

1 three indictments: 2014-GS-03-00156, charging him with the
2 offense of murder; 2016-GS-03-00149, charging him with burglary
3 in the first degree; 2016-GS-03-00150, charging him with
4 strong-armed robbery.

5 Your Honor, if I could pass the indictments forward.

6 THE COURT: If you would, please, sir.

7 Mr. Hughes, I'm sorry. I do have all of your
8 information, correct?

9 MR. HUGHES: Yes, your Honor.

10 THE COURT: Thank you.

11 All right, ladies and gentlemen, we're about to begin
12 jury selection in the case of the State of South Carolina
13 versus Gabriel Joyner. You heard the charges outlined on the
14 record by the Solicitor's Office, and I'll not go over them
15 again. Let me point out something to you, that the fact that
16 this gentleman has been arrested, charged, and indicted is not
17 evidence of his guilt. It does not raise the presumption or an
18 inference of his guilt. An indictment is simply the mechanism
19 by which a person such as this defendant is brought before the
20 Court, and a trial of the case and determination of their guilt
21 or innocence based on the evidence presented.

22 With that being said, I have several questions that I
23 need to ask. I'll remind each of you, you're still under oath.
24 If you do not hear me, raise your hand. If you do not
25 understand me, raise your hand.

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VOIR DIRE

1 Let me see the attorneys here for one quick second,
2 please.

3 OFF-THE-RECORD BENCH CONFERENCE, OUT OF
4 HEARING OF JURORS. PRESENT: THE COURT,
5 SOLICITOR THORNTON, MR. HUGHES.
6 END BENCH CONFERENCE.

7 THE COURT: All right, ladies and gentlemen, has any
8 member of the jury panel ever been related by blood or marriage
9 to either Gabriel Joyner, the defendant, please stand up, Mr.
10 Joyner, or Willie Johnson? Did everybody get those two?

11 Okay, ma'am, what is your name?

12 JUROR NUMBER 191: Renetta Priester.

13 THE COURT: And do you know what your juror number is?

14 JUROR NUMBER 191: 191.

15 THE COURT: 191. You're Ms. Priester?

16 JUROR NUMBER 191: Uh-huh.

17 THE COURT: And you're related to Mr. Joyner or to the
18 person in this matter.

19 JUROR NUMBER 191: Mr. Joyner by marriage.

20 THE COURT: By marriage?

21 JUROR NUMBER 191: Yes. My husband is his uncle.

22 THE COURT: Your husband is his uncle. Okay. Well, do
23 you socialize with Mr. Joyner often? Ma'am?

24 JUROR NUMBER 191: Huh?

25 THE COURT: I need you to give me verbal responses.

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VOIR DIRE

1 That's why I asked you again. Do you socialize with Mr. Joyner
2 often?

3 JUROR NUMBER 191: Huh-uh.

4 THE COURT: Okay. That is a no?

5 JUROR NUMBER 191: Yes, sir

6 THE COURT: Okay. And do you see Mr. Joyner often?

7 JUROR NUMBER 191: No, sir.

8 THE COURT: Now, would this relationship cause you to be
9 unable to give Mr. Joyner a fair and impartial trial?

10 JUROR NUMBER 191: I would like to be excused from this
11 trial.

12 THE COURT: Because of the familial relationship?

13 JUROR NUMBER 191: Yes, sir.

14 THE COURT: I think that's a fair request. Any
15 opposition from the State?

16 SOLICITOR THORNTON: None, your Honor.

17 THE COURT: From the Defense?

18 MR. HUGHES: No, your Honor.

19 THE COURT: Ma'am, I'm going to excuse you from the trial
20 of this matter.

21 Madam Clerk --

22 I'm going to ask you to stick around, though, Ms.
23 Priester.

24 JUROR NUMBER 191: Okay.

25 THE COURT: And we'll give you some further instructions.

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VOIR DIRE

1 Okay, sir? What is your name?

2 JUROR NUMBER 189: General Priester.

3 THE COURT: What's his juror number? 21?

4 MADAM CLERK: 189.

5 THE COURT: 189. Mr. Priester, General Priester.

6 JUROR NUMBER 189: Yes, sir.

7 THE COURT: All right, sir. And are you related to
8 either one of these people by blood or marriage?

9 JUROR NUMBER 189: I'm related to Gabriel Joyner. He's
10 my first cousin.

11 THE COURT: Mr. Joyner is your first cousin?

12 JUROR NUMBER 189: Yes, sir.

13 THE COURT: All right. Any reason why I shouldn't excuse
14 him for cause from the Defense or the State?

15 SOLICITOR THORNTON: No reason.

16 THE COURT: Okay.

17 MR. HUGHES: None, your Honor.

18 THE COURT: All right, I'll excuse you. Ask you stick
19 around, sir.

20 All right. Anyone else?

21 Has any member of the jury panel ever had a close
22 personal or a social relationship with either Gabriel Joyner or
23 Willie Johnson? And Mr. Johnson lived over on Pickrum Street.
24 Anybody ever had a close personal or social relationship with
25 the defendant, Mr. Joyner, or Mr. Johnson?

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VOIR DIRE

1 JUROR NUMBER 148: My jury number is 148, Dorothy
2 Lingard.

3 THE COURT: Okay.

4 JUROR NUMBER 148: Mr. Johnson and I were close neighbors
5 for a couple of years while I was growing up, because I grew up
6 on Pickrum Street. And I knew him very well.

7 THE COURT: Okay. Well, this case involves him as an
8 alleged victim in this case. Would that prevent you from being
9 fair and impartial to both sides in this matter?

10 JUROR NUMBER 148: I can't honestly say that it will not.

11 THE COURT: Okay. Well, let me ask you another way. Are
12 you able to listen to the State's evidence against this
13 defendant and determine whether or not the State has met its
14 burden of proving each and every element of the charges against
15 him by proof beyond a reasonable doubt?

16 JUROR NUMBER 148: I think that I can.

17 THE COURT: Well, let me tell you, you heard what the
18 charges were in this case.

19 JUROR NUMBER 148: Yes.

20 THE COURT: They are about as serious as they can get.

21 JUROR NUMBER 148: And I am emotional about it.

22 THE COURT: Well, I understand that. And we all get that
23 way at times. But the question is, because the State is no
24 less deserving than this defendant, and he's no less deserving
25 than the State of having twelve people make a decision based on

1-9-17 STATE V JOYNER

VOIR DIRE

1 the testimony and the evidence and according to the law as I
2 give it to you. In other words, a fair and impartial jury.

3 JUROR NUMBER 148: Yes. I think I can be impartial.

4 THE COURT: Okay. Now, you got to be more certain. Can
5 you or can't you. You can't think. You got to know.

6 JUROR NUMBER 148: I can.

7 THE COURT: Okay. Any voir dire of this witness from the
8 State?

9 SOLICITOR THORNTON: None, your Honor.

10 THE COURT: From the Defense?

11 MR. HUGHES: No, your Honor.

12 THE COURT: Thank you so much for your candor.

13 Yes, ma'am, what is your juror number?

14 JUROR NUMBER 17: Yes, my name is Edwina Bing. I live on

15 --

16 THE COURT: What was your -- I'm sorry.

17 JUROR NUMBER 17: Edwina Bing.

18 MADAM CLERK: 17.

19 THE COURT: 17. Okay, Ms. Bing.

20 JUROR NUMBER 17: I lived on Pickrum Street for 42 years.
21 I just moved from there to Martin, South Carolina two years
22 ago.

23 THE COURT: Okay.

24 JUROR NUMBER 17: I've known -- I knew Mr. Johnson, but I
25 never interact with him.

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VOIR DIRE

1 THE COURT: Okay. And that's fine. And let me tell you,
2 I'm from a small town, too, and the chances are when I go --
3 when I used to go try cases or when I select the juries now,
4 generally see somebody you know, and that's not really the
5 issue. The issue, as I told the lady before you, is we have to
6 make sure that we have twelve men and women and our alternates
7 who can be fair and impartial to both the State and to the
8 Defense in this matter. And so, you don't have any bias or
9 prejudice for or against either side?

10 JUROR NUMBER 17: No.

11 THE COURT: Can you do that?

12 JUROR NUMBER 17: Yes.

13 THE COURT: Thank you so much.

14 JUROR NUMBER 17: You're welcome.

15 THE COURT: And again, from the State and Defense, if you
16 all request any additional voir dire, just let me know.

17 SOLICITOR THORNTON: Thank you, your Honor.

18 MR. HUGHES: Thank you, your Honor.

19 THE COURT: All right, ladies and gentlemen, I'm going to
20 read you a list of potential witnesses, potential witnesses who
21 may appear in this case. There's 24 of them. I'm going to go
22 through the entire list before I ask you any questions about
23 them. If you do not get any of the witnesses, raise your hand.
24 My law clerk will stop me, and she'll pay attention, and we'll
25 come back and go over those witnesses so that you do. Okay?

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VOIR DIRE

1 These are the potential witnesses. Pay attention to
2 them, please:

3 Chastity Robinson, 911 Dispatch. Robert Miller II,
4 Allendale, South Carolina. Mary Bowman, Allendale, South
5 Carolina. Deacon Raymond Simmons, Allendale, South Carolina.
6 Marquita Barron, Allendale, South Carolina. Jannette Bennett,
7 Allendale, South Carolina. Kiawah Cave, Allendale, South
8 Carolina.

9 William *Teddy* Johnson, Augusta, Georgia. Tiffany Sabb,
10 Fairfax, South Carolina. Jonathan Capers, Fairfax, South
11 Carolina. Melvin Johnson, Allendale, South Carolina.

12 Tiffany Hezel or Hezel.

13 SOLICITOR THORNTON: Your Honor, I apologize. It is now
14 -- she has recently married. It is now Edwards.

15 THE COURT: It is now what?

16 SOLICITOR THORNTON: Edwards, your Honor. Tiffany
17 Edwards.

18 THE COURT: Edwards? That's Tiffany Edwards. Tiffany H.
19 or Hezel Edwards, who works with SLED, South Carolina Law
20 Enforcement Division. Todd Schenk of SLED. Ashley Bell of
21 SLED. Jennifer Barton, SLED. Richard Johnson, SLED. Kimberly
22 Mears, SLED. Natasha Merrell, SLED.

23 Chief Marvin Williams, Fairfax Police Department.
24 Corporal Singleton. What's his first name? Do you know?

25 SOLICITOR THORNTON: I believe it's John, your Honor.

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VOIR DIRE

1 But it is unlikely he would testify.

2 THE COURT: Okay. Well, Corporation John Singleton,
3 Fairfax Police Department. Sergeant William Tison, Allendale
4 Police Department. Detective Q. Manor, Allendale Police
5 Department. John Johnson, EMT. Dr. Janice Ross, Newberry
6 Pathology Associates.

7 Did everyone get those names? Let me ask it this way.
8 Did anyone not get a name? Very good.

9 First question with regard to the potential witness list:
10 Has any member of the jury panel ever been related by blood or
11 marriage to any of the people I've just described for you or
12 read to you? If so, would you please stand.

13 Okay, sir. What is your name?

14 JUROR NUMBER 155: Rashad Manuel. Rashad Manuel.

15 THE COURT: Would you get that, Madam Clerk?

16 MADAM CLERK: 155.

17 THE COURT: 155. You're Mr. Rashad Manuel. And which
18 one of these witnesses are you related to?

19 JUROR NUMBER 155: Chastity Robinson.

20 THE COURT: Stephanie?

21 MADAM CLERK: Chastity Robinson.

22 SOLICITOR THORNTON: Chastity Robinson, your Honor,
23 Witness Number 1.

24 THE COURT: Okay. I'm so sorry, I just can't hear in
25 this courtroom very well. Now, how are you related to Ms.

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1 Robinson?

2 JUROR NUMBER 155: For the deceased dad.

3 THE COURT: Sir?

4 JUROR NUMBER 155: Deceased mother. Deceased mother.

5 SOLICITOR THORNTON: He's related through her deceased
6 mother, I believe is what he's saying, your Honor.

7 THE COURT: Okay. And how often do you see Ms. Robinson?

8 JUROR NUMBER 155: Not very often.

9 THE COURT: Now, would the fact that you may hear
10 testimony in which she's a witness, would that prevent you from
11 being fair and impartial to both the State and to this
12 defendant?

13 JUROR NUMBER 155: No.

14 THE COURT: Are you sure?

15 JUROR NUMBER 155: Yes.

16 THE COURT: Thank you, sir. All right, anyone else?

17 Has any member of the jury panel ever had a close
18 personal or social relationship with any of the potential
19 witnesses I read off to you. If so, would you please stand.

20 Okay.

21 JUROR NUMBER 148: 148.

22 THE COURT: 148. All right.

23 JUROR NUMBER 148: Okay. Teddy Johnson or William
24 Johnson, he and I became friends. As a matter of fact, when we
25 were growing up, I used to beat him up all the time. But

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1 anyway, we became friends when we were like eight or nine years
2 old. And that relationship, that friendship, has continued
3 over the years. We even graduated together from high school.
4 And he is a close friend.

5 THE COURT: Okay. And this is William *Teddy* Johnson?

6 JUROR NUMBER 148: William, yes.

7 SOLICITOR THORNTON: It's the victim's son, your Honor.
8 Also, unlikely he would testify. It is a possibly, but not
9 likely.

10 THE COURT: Okay.

11 SOLICITOR THORNTON: But that is the victim's son.

12 THE COURT: All right. Well, let me just say this. If
13 he testifies or if, in fact, he's somehow collaterally related
14 to this case because he's the victim's son, allegedly, would
15 that impact on your ability to be fair and impartial to the
16 State and to this defendant?

17 JUROR NUMBER 148: No, sir.

18 THE COURT: All right. Thank you, ma'am. Anyone else?
19 Any other further voir dire?

20 All right, Mr. Hughes, would you stand up and introduce
21 yourself and your firm, please, sir.

22 MR. HUGHES: Good afternoon. My name is Robert Hughes.
23 I'm an attorney in the Public Defender's Office. My office is
24 in Ridgeland, South Carolina. And this is Mr. Gabriel Joyner.
25 He is from Denmark, but he occasionally lives in Allendale.

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1 THE COURT: Thank you, sir. All right, Mr. Thornton.

2 SOLICITOR THORNTON: Thank you, your Honor. Ladies and
3 gentlemen, my name is Sean Thornton. I'm deputy solicitor,
4 here for the 14th Circuit. The 14th Circuit is comprised of
5 five counties. It's Allendale, Beaufort, Colleton, Jasper, and
6 Hampton Counties. I'm Deputy Solicitor, and serve on behalf of
7 the Solicitor, Isaac McDuffie Stone III.

8 With me is Bryan Hollen from our office. He's an
9 assistant solicitor, who works here in Allendale and in
10 Hampton.

11 And also, Donnie Hutto, who is investigator with our
12 office, and formerly, I believe, worked with Allendale Police
13 Department and the Allendale Sheriff's Office.

14 Donnie, is there anybody you didn't work for here in
15 Allendale? I think that covers it. Thank you all very much.

16 Thank you, your Honor.

17 THE COURT: Thank you. All right. First, ladies and
18 gentlemen, has any member of the jury panel ever been related
19 in the -- I mean, related -- been represented in the past, or
20 are you currently represented by any of these attorneys here in
21 the courtroom?

22 Has any member of the jury panel in the past or are you
23 currently being represented by any members of the 14th
24 Solicitor's Circuit, Public Defender's Office, or the sol's
25 office in the 14th Circuit? In other words, any lawyer

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1 connected with the Public Defender's Office here in the 14th
2 Circuit or the Solicitor's Office. If so, would you stand.

3 Has any member of the jury panel ever been related by
4 blood or marriage to either any of these attorneys here in the
5 courtroom, any attorney associated with the Public Defender's
6 Office here in the 14th Circuit or the Solicitor's Office in
7 the 14th Circuit? If so, would you please stand.

8 Has any member of the jury panel ever had a close
9 personal or social relationship with any of these attorneys
10 here in the courtroom, any attorney with the Public Defender's
11 Office or the Solicitor Office in the 14th Circuit? If so,
12 would you please stand.

13 Has any member of the jury panel read, heard, or seen
14 anything about the case of the State of South Carolina versus
15 Gabriel Joyner prior to coming to court today? Have you read,
16 heard, or listened to any media or any news about this case
17 prior to today? If so, I want you to stand, but do not tell me
18 what you read or heard or saw. Please stand.

19 Has any member of the jury panel formed or expressed an
20 opinion about any issue or matter in the State of South
21 Carolina versus Gabriel Joyner prior to today? If so, would
22 you please stand.

23 Is there any member of the jury panel that is aware of
24 any bias or prejudice they may harbor to either the State of
25 South Carolina or towards Gabriel Joyner in this case or their

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1 respective attorneys or their offices. If so, would you please
2 stand.

3 Is there any member of the jury panel that was a member
4 of the Allendale Grand Jury which issued the indictments in
5 this matter. If so, would you please stand.

6 Is there any member of the jury panel who is a member of
7 or a contributor to any group which has as its primary concern
8 the promotion of law enforcement or victim's rights? Examples,
9 but certainly not an exhaustive list of such groups would be
10 MADD, SADD, OR CAVE. But if there's any member of the panel --
11 jury panel that is a contributor to or a member of any group
12 which has its primary concern is promotion of law enforcement,
13 rights, or victim's rights, would you please stand.

14 Is there any member of the jury panel who knows of any
15 reason whatsoever why he or she should not be selectee to serve
16 in the trial of this matter, with particular emphasis being
17 laid upon your ability to be fair and impartial to the State of
18 South Carolina and fair and impartial to Gabriel Joyner? And
19 if you know of any reason why you shouldn't serve, would you
20 shouldn't serve, would you please stand.

21 Very good. Any additional voir dire from the State?

22 SOLICITOR THORNTON: May we approach, your Honor?

23 THE COURT: Yes, sir.

24 OFF-THE-RECORD BENCH CONFERENCE, OUT OF
25 HEARING OF JURORS. PRESENT: THE COURT,

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1 SOLICITOR THORNTON, MR. HUGHES.

2 END BENCH CONFERENCE.

3 THE COURT: All right, ladies and gentlemen, is there any
4 member of the jury panel who has -- who is related by blood or
5 marriage to any employee of the 14th Circuit Solicitor's Office
6 of any employee of the 14th Circuit Public Defender's Office?

7 Okay. Would you please stand. And what is your name,
8 please?

9 JUROR NUMBER 159: My name is Lee McMillan. Lee
10 McMillan.

11 THE COURT: McMillan. Okay, and you are Juror Number
12 159. And are you related to someone who is employed by which
13 side? The State?

14 JUROR NUMBER 159: Solicitor's Office, yes.

15 THE COURT: Okay. And would that relationship cause you
16 to be unable to be fair and impartial to both the State and the
17 defendant in this matter?

18 JUROR NUMBER 159: No.

19 THE COURT: Can you make your testimony based on the
20 testimony and evidence presented here in this courtroom and
21 according to the law as I give it to you, unaffected by that
22 relationship?

23 JUROR NUMBER 159: Yes.

24 THE COURT: Okay. Thank you, ma'am.

25 Any additional questions from the State?

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JURY SELECTION

1 SOLICITOR THORNTON: Nothing from the State, your Honor.

2 THE COURT: From the Defense?

3 MR. HUGHES: No, your Honor.

4 THE COURT: All right.

5 JURY SELECTION:

6 THE COURT: All right. Are the parties ready to begin
7 jury selection?

8 SOLICITOR THORNTON: The State is ready, your Honor.

9 MR. HUGHES: Defense is ready, your Honor.

10 THE COURT: Very good. All right. Ladies and gentlemen

11 --

12 Okay, let me just confirm this. Defense, ten; State,
13 five; two alternates. Defense, two; State, one, for each
14 alternate. Agreed?

15 SOLICITOR THORNTON: Yes, sir.

16 MR. HUGHES: Yes, sir.

17 THE COURT: Very good. All right.

18 Ladies and gentlemen, what we're getting ready to do,
19 instead of having, as I said -- well, I did tell you, back in
20 the day, before I had gray hair, when we were picking juries,
21 we'd have people who would come in and who couldn't read or
22 write, and either because they were young or because they had
23 some other infirmity, they'd draw out names sufficient to
24 constitute a jury. The reason we wanted that was because we
25 didn't want them knowing the names of the people that are

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JURY SELECTION

1 selected, because it's fair and impartial.

2 Now what we have is the computer that will randomly
3 select some names of potential jurors. If your name is called
4 I'm going to ask that you come through what we call the Bar.
5 In other words, that thing in the middle is like a turn buckle,
6 it's called the Bar. You walk through, and you'll stand right
7 in front of the court reporter -- I mean, the clerk of court.
8 There's a copy machine. You'll face the State, you'll face the
9 Defense, and they'll make a decision as to whether or not
10 you'll be selected to serve in this case.

11 If your name is called, please bring your personal items
12 with you, in the event you are selected to serve. Okay.

13 Madam Clerk, are you ready?

14 MADAM CLERK: Yes, sir. Deborah Crumley.

15 SOLICITOR THORNTON: What number, Madam Clerk?

16 MADAM CLERK: 62. What says the State?

17 SOLICITOR THORNTON: Please present this juror.

18 MADAM CLERK: What says the Defense?

19 MR. HUGHES: Please seat the juror.

20 MADAM CLERK: Ms. Crumley, will you have a seat in the
21 box for me.

22 Melissa Davis, Juror Number 64. What says the State?

23 SOLICITOR THORNTON: Please present this juror.

24 MADAM CLERK: What says the Defense?

25 MR. HUGHES: Please seat the juror.

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JURY SELECTION

1 MADAM CLERK: Brandon Iman, Juror Number 128. What says
2 the State?

3 SOLICITOR THORNTON: Please excuse this juror.

4 MADAM CLERK: Okay. Have a seat.

5 Lakia Kelly, Juror Number 141. What says the State?

6 SOLICITOR THORNTON: Please present this juror.

7 MADAM CLERK: What says the Defense?

8 MR. HUGHES: Please seat the juror.

9 MADAM CLERK: Emma Smalls, Juror Number 210. What says
10 the State?

11 SOLICITOR THORNTON: Please present this juror.

12 MADAM CLERK: What says the Defense?

13 MR. HUGHES: Please excuse the juror from the trial of
14 this case.

15 MADAM CLERK: Shaquanna Dunbar, Juror Number 74. What
16 says the State?

17 SOLICITOR THORNTON: Please present this juror.

18 MADAM CLERK: What says the Defense?

19 MR. HUGHES: Please seat the juror.

20 MADAM CLERK: Jaquetta Smalls, Juror Number 211. What
21 says the State?

22 SOLICITOR THORNTON: Please present this juror.

23 MADAM CLERK: What says the Defense?

24 MR. HUGHES: Please seat the juror.

25 MADAM CLERK: Evon Berry, Juror Number 15. What says the

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JURY SELECTION

1 State?

2 SOLICITOR THORNTON: Please present this juror.

3 MADAM CLERK: What says the Defense?

4 MR. HUGHES: Please seat the juror.

5 MADAM CLERK: Deborah Breland, Juror Number 28. What
6 says the State?

7 SOLICITOR THORNTON: I'm sorry, Madam Clerk, was that 28?

8 MADAM CLERK: Um-hmm.

9 SOLICITOR THORNTON: Thank you, ma'am.

10 MADAM CLERK: Deborah Breland?

11 THE COURT: Is Deborah Breland, Number 28, here in the
12 courtroom? Mr. Bailiff, would you go out and take a look
13 outside for her. If not, send the sheriff for her?

14 Are you Deborah Breland?

15 JUROR NUMBER 28: Yes, I am.

16 THE COURT: Thank you. I appreciate you sticking around.
17 Thought maybe you had taken a sabbatical on us, but you stayed.
18 Thank you.

19 JUROR NUMBER 28: No, I had to sit out there, so.

20 THE COURT: That's okay. Would you mind coming up this
21 way and looking at the State and the Defense table?

22 JUROR NUMBER 28: Looking at what, now?

23 MADAM CLERK: Just turn around and face Mr. Thornton for
24 me.

25 JUROR NUMBER 28: Okay.

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JURY SELECTION

1 MADAM CLERK: What says the State?

2 SOLICITOR THORNTON: Please present this juror.

3 MADAM CLERK: What says the Defense?

4 MR. HUGHES: Please excuse the juror from the trial of

5 this case.

6 MADAM CLERK: Ms. Breland, you can have a seat back out

7 there with the rest of them. Okay?

8 Angela Smith. What says the State?

9 SOLICITOR THORNTON: Please present this juror.

10 MADAM CLERK: What says the Defense?

11 MR. HUGHES: Please seat the juror.

12 MADAM CLERK: Melanie Ford. What says the State?

13 SOLICITOR THORNTON: Please present this juror.

14 MADAM CLERK: What says the Defense?

15 MR. HUGHES: Please excuse the juror from the trial of

16 this case.

17 MADAM CLERK: Eva Smoaks. What says the State?

18 SOLICITOR THORNTON: Please present this juror.

19 MADAM CLERK: What says the Defense?

20 MR. HUGHES: Please seat the juror.

21 MADAM CLERK: John Brand.

22 SOLICITOR THORNTON: What number, Madam Clerk?

23 MADAM CLERK: 177.

24 SOLICITOR THORNTON: Thank you, ma'am.

25 MADAM CLERK: Um-hmm. What says the State?

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JURY SELECTION

1 SOLICITOR THORNTON: Please present this juror.

2 MADAM CLERK: What says the Defense?

3 MR. HUGHES: Please seat the juror.

4 MADAM CLERK: Earnest Burkes. What says the State?

5 SOLICITOR THORNTON: Please present this juror?

6 MADAM CLERK: What says the Defense?

7 MR. HUGHES: Please excuse the juror from the trial of
8 this case.

9 MADAM CLERK: Eddie Isham. You can have a seat back out
10 there, Mr. Burke.

11 JUROR BURKE: Okay.

12 MADAM CLERK: Thank you.

13 MADAM CLERK: What says the State?

14 SOLICITOR THORNTON: Please present this juror.

15 MADAM CLERK: What says the Defense?

16 MR. HUGHES: Please seat the juror.

17 MADAM CLERK: Dorothy Lingard, Juror Number 148. What
18 says the State?

19 SOLICITOR THORNTON: Please present this juror.

20 MADAM CLERK: What says the Defense?

21 MR. HUGHES: Please excuse the juror from the trial of
22 this case.

23 MADAM CLERK: Vanessa Cunningham, Juror Number 63. What
24 says the State?

25 SOLICITOR THORNTON: Please present this juror.

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JURY SELECTION

1 MADAM CLERK: What says the Defense?

2 MR. HUGHES: Seat this juror, please.

3 MADAM CLERK: James Badger. What says the State?

4 SOLICITOR THORNTON: Please excuse this juror.

5 MADAM CLERK: Mr. Badger, you can have a seat.

6 Shirley Holmes, Juror Number 127. What says the State?

7 SOLICITOR THORNTON: Please present this juror.

8 MADAM CLERK: What says the Defense?

9 MR. HUGHES: Please seat this juror.

10 MADAM CLERK: This will be Alternate Number 1. Maria

11 Ruth, Juror Number 200. What says the State?

12 SOLICITOR THORNTON: Please present this juror.

13 MADAM CLERK: What says the Defense?

14 MR. HUGHES: Please seat this juror.

15 MADAM CLERK: Alternate Number 2, Isaiah Albany, Juror

16 Number 1. What says the State?

17 SOLICITOR THORNTON: Please present this juror.

18 MADAM CLERK: What says the Defense?

19 MR. HUGHES: Please seat the juror.

20 MADAM CLERK: Judge, we have our panel.

21 You can have a seat.

22 THE COURT: All right. Do you all have any motions

23 directed at the jury selection process from the State?

24 SOLICITOR THORNTON: None from the State, your Honor.

25 THE COURT: From the Defense?

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BY THE COURT

1 MR. HUGHES: None from Defense, your Honor.

2 BY THE COURT:

3 THE COURT: Okay. All right. Ladies and gentlemen, just
4 to give you -- for those of you who were selected, give you a
5 head's up of what we're going to do, I'm going to send you back
6 with our bailiff for just a few minutes. I want you to select
7 a foreperson. The foreperson will be in charge of
8 communicating, or anytime there needs to be any communications.
9 Also, they will preside over the deliberations at the end of
10 the case, when the jury's told to begin their deliberations.
11 If you'll go back now.

12 Our alternates have a right to vote, but they may not
13 serve as foreperson. And it doesn't have to be unanimous.
14 It's just by simple majority. Once you have a foreperson
15 selected, if that person would then turn around and ask the
16 remaining jurors who, if anyone, would like to have pad and pen
17 to use to take notes with during the course of this trial.
18 Once you get that figure, then write down, with your name on a
19 piece of paper, knock on the door, and then we will excuse you
20 for the afternoon to come back for the opening statements in
21 the morning. But I have to give you a few closing instructions
22 before I let you go for the day. Okay? If you'll go with our
23 bailiff, please.

24 JURORS LEAVE COURTROOM 3:56 P.M.

25 THE COURT: All right. Ladies and gentlemen, those of you

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BY THE COURT

1 that weren't selected, I can see that you are very
2 disappointed. But I don't know -- and I have some suspicions
3 that this will be the only trial we do this week. However, out
4 of an abundance of caution, if you would call back -- today's
5 Monday -- call back tomorrow night after 6:00 o'clock.
6 There'll be a message that says whether or not they need you to
7 report, and if so, what time. And if you would continue to do
8 that each night, each night after 6:00 o'clock, until there's a
9 message saying you need to come in or you're excused for the
10 week.

11 Now, in the off chance that I'm not going to see any of
12 you again, let me thank each and every one of you for coming.
13 Without you, who are willing to do their civic duty for their
14 county and for your state, we'd have no ways of disposing of
15 matters in a civilized basis. And regardless of what you think
16 about our system, I challenge any of you or all of you to find
17 a better system that works more fairly and equitably to anyone
18 across this country, and across this world.

19 That being said, make sure you get a copy of the card in
20 the back of the courtroom from the bailiff that has that call-
21 in number, and going to excuse you for the remainder of the
22 day. Thank you very much.

23 JURORS NOT CHOSEN LEAVE COURTROOM AT 3:57 P.M.

24 SOLICITOR THORNTON: Your Honor, I'm -- I apologize. Can
25 we approach?

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BY THE COURT

1 THE COURT: Yes, sir.

2 OFF-THE-RECORD BENCH CONFERENCE, OUT OF
3 HEARING OF JURORS. PRESENT: THE COURT,
4 SOLICITOR THORNTON, MR. HUGHES.
5 END BENCH CONFERENCE.

6 SOLICITOR THORNTON: Your Honor, may we approach?

7 THE COURT: Sure.

8 OFF-THE-RECORD BENCH CONFERENCE, OUT OF
9 HEARING OF JURORS. PRESENT: THE COURT,
10 SOLICITOR THORNTON, MR. HUGHES.
11 END BENCH CONFERENCE.

12 THE COURT: All right. We're back on the record. It's
13 come to our attention that one of the primary jurors has two
14 sons that have pending charges, or at least reportedly had
15 pending charges, here in Allendale County. Our Solicitor
16 looked that up. One has recently pled to a weapons charge, and
17 was represented by the Public Defender's Office. The other,
18 it's not been determined whether or not it's even in this
19 county. Is that a fair statement?

20 SOLICITOR THORNTON: That's correct, your Honor. They're
21 looking. We don't have anything here, but your Honor did
22 correctly state she did have a son, and that was just within
23 the last couple of months.

24 THE COURT: And that's your understanding, too, Mr.
25 Hughes?

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BY THE COURT

1 MR. HUGHES: Yes, your Honor.

2 THE COURT: All right. And we had a bench conference,
3 and I want to put this on the record. I offered to allow me,
4 with Counsel present in my chambers, to question this
5 particular juror, Number 62. And I think at the end of our
6 discussion that it appeared to be unanimously agreed upon that
7 the better course of action, since this is not going to be an
8 unduly long trial, would be to go ahead and strike that
9 particular juror, and replace them with the very first
10 alternate that would be on the list, which is Alternate 200.

11 Now, is that your understanding?

12 SOLICITOR THORNTON: It is, your Honor. The State agrees
13 that's probably the safest course.

14 THE COURT: Okay. Do you agree with that, Mr. Hughes?

15 MR. HUGHES: Yes, your Honor.

16 THE COURT: Okay. Now, do you understand what we're
17 saying, son, as far as what we're just doing?

18 DEFENDANT JOYNER: Yes, sir.

19 THE COURT: That's agreeable with you?

20 DEFENDANT JOYNER: Say again?

21 THE COURT: And that's agreeable to you?

22 DEFENDANT JOYNER: Yes, sir, it is.

23 THE COURT: Taking that one off and replacing it with an
24 alternate?

25 DEFENDANT JOYNER: Yes, sir. Yes, sir.

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BY THE COURT

1 THE COURT: Thank you so much. All right. Let's go
2 ahead and bring the jury back in here, and then I'm going to
3 grab her. I'm just not embarrassing her in the middle of
4 everybody. Just wait till we get through, then we'll stop.

5 SOLICITOR THORNTON: Yes, sir.

6 THE COURT: All right. Would you bring the jury in.

7 JURORS ENTER COURTROOM 4:12 P.M.

8 THE COURT: Now, which one of you has been reported as
9 our foreperson? Who is our foreperson? You are?

10 FOREPERSON BERRY: Yes, sir.

11 THE COURT: Okay. Sir, if you would, each time we come
12 in and out of the courtroom, if you would use that chair. And
13 I'm sure I'll probably tell you tomorrow, but if you would use
14 that chair, it helps us keep up with administrative matters.

15 Our two alternates. Are these the alternates over here?
16 If you don't mind, if you'd use those seats each time we come
17 in and out of the courtroom. Again, it helps us to keep up
18 with administrative matters. And the rest of you can come and
19 sit wherever you'd like to. Okay?

20 Now, let me give you a few instructions before I let you
21 go for the day. First, from this point forward, from this
22 point forward -- can you hear me okay? I CAN see one of them
23 straining over there. From this point forward, you may not
24 speak with anyone about this case. You can't talk to anybody
25 about the testimony you hear, about the arguments that you

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BY THE COURT

1 hear, about the process you hear. You can't talk with your
2 fellow jurors at this juncture. At the end of the case, when I
3 say you may begin your deliberations, you can. But from this
4 point forward, if we take a break over the lunchtime or during
5 the day or anytime during the course of the trial, you can't go
6 back and say, man, how about that, that just happened in the
7 courtroom, what about this. You can't text people, you can't
8 email, Twitter, phone call.

9 The reason we don't want you to is because we want you to
10 make your decision based on the testimony and evidence you hear
11 from this witness stand right here, and the exhibits that are
12 allowed into evidence, and according to the law as I give it to
13 you, unaffected by any outside influence.

14 In addition, all trial judges are required to instruct
15 juries that they may not, shall not, engage in what's called
16 independent jury research. In other words, you can't go back
17 when you're back in the jury room -- do you have that -- do you
18 all even let them have phones? Cell phones?

19 BAILIFF: No, sir.

20 THE COURT: I didn't think so. But you can't go home
21 overnight and get on your cell phone or your computer and look
22 up something about somebody who's appeared in this case,
23 whether it be me or the court reporter, the Solicitor's Office,
24 a witness, the Public Defender's Office, or the defendant. You
25 can't look up anything about anybody. You can't look up

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BY THE COURT

1 anything about any issue you hear during the trial or any issue
2 that you think may be helpful for the trial. And again, the
3 whole reason is that we want you to make your decision based on
4 the testimony and evidence you hear here in the courtroom and
5 according to the law, unaffected by any outside influence.

6 And I will ask you each morning whether or not any of you
7 have read, heard, or seen anything about this case, or whether
8 you've spoken to anyone about this case, including each other.
9 So, put you on notice, that's what I'm going to do. Okay? At
10 the end of this case you can look up whoever you want to, to
11 your heart's desire, talk to anybody you want to, but until
12 that time, if you would not.

13 Now, there's twelve people who want to have pad and
14 pencil, and we'll have those available for you. Let me just
15 give you a quick warning about pads and pencils. Just, Mr.
16 Foreman, at the end of the day, when you begin your
17 deliberations, when we let you know you're supposed to, just
18 because something appears in somebody's notes doesn't mean that
19 it trumps somebody's memory. Some people are better note-
20 takers than others, some people are better listeners than
21 others. That's why there are deliberations. You'll have to
22 hash that issue out.

23 Also, and I'll tell you more about it tomorrow, when
24 performing your duties as jurors, we say that you are finders
25 of the facts. And part of the way you find facts is determine

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BY THE COURT

1 the credibility of the witnesses, or the believability. And if
2 somebody's engaged in something on the witness stand that shows
3 their demeanor while they're on the stand, it may give you a
4 good indication to you as to whether or not that person is
5 telling the truth or not telling the truth. Now, if you're
6 engaged fiercely in writing any notes, you may miss it. So I
7 caution each of you not to become so engaged in your notes that
8 you miss subtle reactions on the stand.

9 Each day when you are in the courtroom and we take a
10 break, I'm going to ask that you leave your jury -- your notes
11 on the jury chairs where you are sitting. At lunch time, we'll
12 take them back to your jury room and leave them there. And at
13 night, you'll leave them in the jury room and leave them there.
14 In other words, we don't want you sharing your notes or looking
15 at them during the breaks. Okay?

16 That being said, ladies and gentlemen, any reason why any
17 of our jury panel can't be up and ready to start by 9:30?
18 Okay.

19 Now, I'm going to ask each and every one of you -- I'm
20 driving over from Beaufort each morning, but I will be here,
21 ready to go, promise you. I will make it -- I'll give you my
22 word I'm not going to let you sit around and wait. We'll be
23 working. But if you'll be here by about 9:25, I'm going to try
24 to get us started right at 9:30 on the dot, if at all possible.
25 Okay? Thank you, ladies and gentlemen. We'll see you in the

1-9-17 STATE V JOYNER

BY THE COURT

1 morning.

2 JURORS LEAVE COURTROOM 4:12 P.M.

3 THE COURT: Any exceptions or additions from the State?

4 SOLICITOR THORNTON: No, sir.

5 THE COURT: From the Defense?

6 MR. HUGHES: No, your Honor.

7 THE COURT: Very good. If you all will just be at ease
8 right quick, I'll be right back.

9 SOLICITOR THORNTON: Thank you, your Honor.

10 OFF THE RECORD.

11 BACK ON THE RECORD 4:30 P.M.

12 BAILIFF: All rise.

13 THE COURT: Please be seated.

14 SOLICITOR THORNTON: Thank you, your Honor.

15 THE COURT: Yes, sir.

16 SOLICITOR THORNTON: Your Honor, I've asked Mr. Hughes,
17 and he's also gone through these with his client. We have a
18 fairly large stack, which he has indicated he does not find
19 objectionable, and a smaller stack, which he indicates he has
20 an objection to. They are going to be -- I've had them marked
21 as Court's Exhibits, 4, 5, 6, 7 -- I believe it's through 10,
22 your Honor. Yes, sir. So 4 through 10 are all photographs.
23 And I don't know how you want to handle it, Judge, one at a
24 time. It's going to be his moving to object, so I can --

25 THE COURT: Okay.

1-9-17 STATE V JOYNER

BY THE COURT

1 SOLICITOR THORNTON: May I approach?

2 THE COURT: Go ahead and look at them now and hear the
3 objections. And may be I just got to hear testimony and rule
4 on it at the time. I'll try to dispose of it if I can.

5 SOLICITOR THORNTON: All right.

6 THE COURT: Now, what numbers are admitted into evidence?

7 SOLICITOR THORNTON: None of them have -- Judge, those
8 are just -- the reason I did that, I got my copies that would
9 not go to the jury. I've got copies of all those on hardback,
10 thicker paper that I would introduce. I'm just -- I had those
11 marked as a Court's exhibit for the purposes of this hearing.

12 THE COURT: Okay. I understand.

13 SOLICITOR THORNTON: Yes, sir.

14 THE COURT: What I was doing was kind of changing gears
15 on you. But it seems to me there's a number of exhibits that
16 were not objected to.

17 SOLICITOR THORNTON: There are, Judge. But I haven't had
18 those marked yet, because that --

19 THE COURT: Oh.

20 SOLICITOR THORNTON: Which is why I had those marked just
21 as Court's exhibits. We've probably got twenty or twenty-five
22 photographs that are not objected to. And I just haven't
23 marked them yet, because I've got to sort the order and
24 everything before in the morning.

25 THE COURT: Mr. Hughes.

1-9-17 STATE V JOYNER

BY THE COURT

1 MR. HUGHES: Your Honor, with the exception of two
2 pictures that show the body tied up with a bag on its head, and
3 I have already agreed with Mr. Thornton to three pictures of
4 that scene, all the rest of them show the deceased at the
5 autopsy, with two exceptions. They show a large amount of
6 blood, they show major damage. And frankly, I think that the
7 prejudicial aspect of them outweighs any probative value the
8 Solicitor is going to have.

9 The pathologist testifying as to the damages to the
10 deceased, they're going to have someone probably talk through
11 exactly what happened to him. The pictures are basically shock
12 of conscience, your Honor. They look at them and you rear
13 back. It provokes an emotional response, and that's unfair to
14 my client, and it has -- the prejudicial aspect of it
15 definitely outweighs any probative value they get.

16 THE COURT: Well, let's get down to the specifics. Under
17 Exhibit 8, 9, and 10, which shows the victim laying on the
18 ground with a bag. I see here it shows -- on his head, it
19 shows hands tied behind his back and a closeup of the bag.
20 Specifically --

21 MR. HUGHES: The reason why, your Honor, okay, is that
22 Mr. Thornton has shown me a number of pictures --

23 SOLICITOR THORNTON: There's two, not three.

24 MR. HUGHES: I thought there was a third one, too.

25 SOLICITOR THORNTON: I took it out already.

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BY THE COURT

1 MR. HUGHES: Okay. That showed exactly the same thing.
2 If I may I approach?

3 THE COURT: Yes, sir, please.

4 MR. HUGHES: This is the State's exhibit, so I'll be very
5 careful with it.

6 THE COURT: Well, the one with the door open doesn't
7 necessarily depict the same thing. It shows him on the ground
8 and shows part -- you can kind of see his hands behind his
9 back.

10 MR. HUGHES: And your Honor, the only reason I objected
11 to the two showing him on his stomach, with the bag on his
12 head, and his hands tied behind his back is like I said, the
13 Solicitor's Office already got two of those in. Anymore would
14 just be redundancy. I see no probative value of it. It's
15 going to be shown, the jury can see what it was, and this way
16 it doesn't focus entirely on that, and allows them to sort of
17 see the scene without it being shoved in their face.

18 THE COURT: Just one second, Mr. Thornton. The two
19 pictures I looked at that are unmarked, glossy, the one with
20 the victim's feet coming from behind the door, you can tell
21 there was some kind of -- something wrapped around his hands,
22 but you can't really tell what it is, and there's another
23 closeup of it. Any other pictures of the victim on the ground
24 in the other -- in the other photographs you were seeking to
25 submit into evidence?

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BY THE COURT

1 SOLICITOR THORNTON: No, sir. I don't -- I believe I've
2 taken all the rest -- oh, I'm sorry. There is one other one,
3 which I will -- I'm just going to remove, because it's -- it's
4 about the same as -- as one of the ones you just saw. So I
5 will remove that. So, no, sir, those, and 8, 9, and 10. And
6 obviously, I can tell you why I think 8, 9, and 10 are
7 different when you get ready, but that would -- the ones that
8 you saw, as well as the ones that are in front of you, which I
9 believe are 8, 9, and 10, Court's exhibits --

10 THE COURT: Right.

11 SOLICITOR THORNTON: -- would be it.

12 THE COURT: Okay. I'd be glad to hear you.

13 SOLICITOR THORNTON: Well, Judge, if you'll look, your
14 Honor -- and I'm sorry, these are not marked, because I just
15 don't have them in order yet -- but there's a -- there is one
16 in -- that your Honor's pointed out that just basically shows
17 his legs. And that's more of a -- how they found him coming in
18 the door as a -- just to kind of establish direction. You can
19 see that there's something around his hands. You can't even
20 see that they're tied. There's no blood, there's no nothing in
21 that photograph. The other thing that's important about that
22 photograph is, you can see the phone in the background, which
23 is off the hook, which is relevant, as you remember, from the
24 last time that you tried this case, or sat in -- during the
25 trial of this case, because he had been -- the victim had been

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BY THE COURT

1 tried to get a hold of by numerous people for a couple of days,
2 and the phone had stayed busy.

3 The other photograph that your Honor looked at that Mr.
4 Hughes does not object to is kind of a distant shot. It does
5 show his hands bound, it does show a bag, but there is
6 something next to the television, up in the corner, that you
7 cannot see in relation to his body or cannot identify, which is
8 shown in those, which is a piece of his dentures, because the
9 force of the beating was such that it fractured the dentures
10 and scattered them all over the house.

11 Additionally, your Honor, his wallet is right next to one
12 of those dentures which is in one of the photographs. And
13 obviously, one of the things we've talked about and one of the
14 elements in this is a robbery and a burglary, a strong-armed
15 robbery and then the burglary first, and the stealing and the
16 taking of things is an element of the offense.

17 And in addition to that, your Honor, I think it's very
18 important for the jury to be able to see all of those things
19 together, and you can't really identify that from this picture.
20 It is not uncommon for us to have kind of a distant shot,
21 Judge, and then a closeup of what we've seen. And relevant to
22 what we have in some of these other photographs, I don't think
23 that's gory or graphic at all. It's how they found him. It
24 helps the triers of -- excuse me -- not the triers of fact --
25 it helps the folks testifying explain to the triers of fact

1-9-17 STATE V JOYNER

BY THE COURT

1 what the condition of the -- what condition he was in, what
2 position he was in, and more importantly, the closeups show
3 more detail, and they show those dentures that had been
4 fractured and his wallet, which appeared to have been moved or
5 at least gone through.

6 So that's why they're different, and that's why we would
7 ask that your Honor respectfully -- as to 8, 9 and 10, since
8 we're breaking them up that way, deny the request to suppress
9 those.

10 THE COURT: Any response to that?

11 MR. HUGHES: Okay. Your Honor, I'm not exactly -- are 8,
12 9 and 10 all of the victim on the floor, face-down?

13 THE COURT: No, one is with him on his side. It shows
14 the blood.

15 MR. HUGHES: Okay. I strongly object to that, your
16 Honor, because that shows blood that has basically settled to
17 the lowest. It does not show what the actual damages were that
18 shows stuff that the forensic pathology -- pathologist would
19 testify to. It is not an indication of how bad he was beaten.
20 All that shows is a natural function after death of blood
21 settling. It's a very horrendous-looking picture that you look
22 at it, you go -- you -- you have to sort of step back to
23 actually realize what you're seeing. There --

24 THE COURT: Well, can I stop you right there for a
25 minute.

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BY THE COURT

1 MR. HUGHES: Certainly.

2 THE COURT: Is that correct? I mean, I know that you
3 have the pooling effect, but is this picture of the pooling
4 effect, or is that the actual blood that caused -- caused by
5 the beating.

6 SOLICITOR THORNTON: Well, yes, sir. I mean, it -- it is
7 pooling, but it's pooling outside of his body, Judge. I would
8 respectfully disagree with Mr. Hughes.

9 THE COURT: All right.

10 SOLICITOR THORNTON: If you don't have external injuries
11 or a beating, the blood is not going to pool outside of your
12 body. That would be a great argument if his shirt wasn't
13 soaked in blood, and it was just lividity or, you know, what
14 looked like a giant bruise from a body.

15 THE COURT: I'll tell you, here's what I'm going to do
16 out of an abundance of caution. 8 and 9 -- 9 and 10 are -- I'm
17 just going to -- assuming that the proper foundation is laid, I
18 have no problem with those. As far as Number 8 goes --

19 MR. HUGHES: 8 is on the side?

20 THE COURT: Yes, sir. This one right here.

21 MR. HUGHES: Okay.

22 THE COURT: And make sure you make a note, Mr. Hughes,
23 when you start to bring it up, tell him -- I want to have the
24 witness tell us whether or not this is pooled. I just don't
25 know.

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BY THE COURT

1 SOLICITOR THORNTON: Yes, sir.

2 THE COURT: I don't think it is, because I think what
3 what you said is correct; that's an internal thing that occurs
4 and not an external thing. But send the jury out, lay your
5 foundation as to what this is in this picture.

6 SOLICITOR THORNTON: Yes, sir.

7 THE COURT: And then I'll rule on it. And quite frankly,
8 if that's the condition of the body when they found it and they
9 looked at it, and it goes to some of the elements of the crime,
10 I'm going to let it in. Okay?

11 MR. HUGHES: I believe there is another one of that same
12 viewpoint, your Honor.

13 THE COURT: Sir?

14 MR. HUGHES: I believe there are actually two pictures of
15 that.

16 THE COURT: There is only one that I have. I may have --

17 SOLICITOR THORNTON: I pulled the other one.

18 MR. HUGHES: Okay. And I apologize, your Honor. I was
19 shown two earlier.

20 THE COURT: Okay. That's -- that, particularly, is
21 Exhibit -- Court Exhibit Number 8. So make sure we have some
22 consistency there, because this may not be your Exhibit Number
23 8.

24 SOLICITOR THORNTON: Yes, sir. Yes, sir.

25 THE COURT: Now, I want, Mr. Thornton, if you would,

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BY THE COURT

1 Exhibits 4, 5, 6, and 7.

2 SOLICITOR THORNTON: Yes, sir.

3 THE COURT: I mean, obviously, they are there to show the
4 various damage.

5 SOLICITOR THORNTON: Yes, sir. They're -- they're
6 evidence of injury from -- from -- that the -- that's on the
7 pathology report that Mr. Hughes has. It was testified to the
8 last time. Also, obviously, it shows some of the blood that's
9 still on the victim's body. I mean, he's the -- you know, this
10 whole thing was that he was -- he died from both asphyxiation
11 and blunt force trauma, and then was left there, and laid there
12 for some time before he was discovered, all of which I think is
13 shown.

14 And obviously, as your Honor knows, and I think Mr.
15 Hughes would have to admit -- not that I'm asking him to
16 concede to these photographs -- but I get a lot more than that,
17 and I tried to trim it down to be as reasonable as possible.
18 But the fact of the matter is, the man was beaten and
19 asphyxiated to death. It's going to be graphic, your Honor.
20 But I believe all of those are evidence of injury, specifically
21 the ones we've got with the back of the head. We have one with
22 the chin. We have the chin pulled -- or the lip pulled back,
23 showing that it went all the way through the lip, some of the
24 damage, and overall, Judge, just the swelling and everything of
25 the face. It looks like someone who was beaten to death, and

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BY THE COURT

1 that's what occurred. I don't think -- I realize they are
2 certainly graphic, but it's a graphic crime, Judge, and I don't
3 think the State is going overboard with either number or type
4 of photographs in that regard.

5 THE COURT: Well, let me ask you this, with regard to
6 Exhibit Number 4, because of -- that one, that seems to be the
7 most objectionable. Maybe because I have the base reactions
8 that anybody else would while I'm looking at them. Can you not
9 -- number one, you are representing to me that all four of
10 these go as evidence in the case in chief of the charge of
11 married, right?

12 SOLICITOR THORNTON: Yes, sir. And burglary in the first
13 degree, Judge, because the reason it's a first is because
14 someone was assaulted and injured. So it's one of the
15 elements, actually, you could argue on both charges.

16 THE COURT: Right. Right. Now, as far Exhibit 4, is
17 there any reason why we could not turn that to a black-and-
18 white to make that --

19 SOLICITOR THORNTON: No problem at all, Judge. Happy to
20 do it.

21 THE COURT: All right. Well, I think that you will get
22 the same information out of a black-and-white that you would
23 under color. Well, you get the same information, but not get
24 the physical reaction.

25 SOLICITOR THORNTON: Yes, sir. Happy to do that, Judge.

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BY THE COURT

1 It's not a problem.

2 THE COURT: All right. Now, go ahead, Mr. Hughes. I
3 haven't ruled that, obviously. I'm just asking.

4 MR. HUGHES: Your Honor, I would need to see how it
5 looked in black-and-white. I agree with you that a lot of that
6 is the blood. But I'd -- I think we need to have the
7 pathologist explain what we're seeing and why we're seeing it,
8 because if it is postmortem that is causing some of this,
9 causing some of the swelling, causing some of that, then I
10 think I would have more to argue. As it stands right now, I
11 would actually prefer every picture from the autopsy to be
12 black-and-white before I even, you know, came close to agreeing
13 to this. All it does is show the bright red blood. I'm not
14 exactly sure why it shows that, especially since it was at
15 least two or three days postmortem.

16 THE COURT: Let me just tell you, Exhibits 5, 6, 7 are
17 such that shock the conscience to me. They show injury. I've
18 seen a lot worse in car wreck cases. And so, I mean.

19 MR. HUGHES: Well, my problem --

20 THE COURT: Maybe if you have blood in the back of the
21 hair in Number 5, back of the head. But Number 4 just kind of
22 leaps off the page at you, to me.

23 MR. HUGHES: That's the one of the -- yes, sir.

24 THE COURT: That's the one with the face turned towards
25 the --

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BY THE COURT

1 MR. HUGHES: Right.

2 THE COURT: So, I'm going to at least require them to
3 turn it into a black-and-white.

4 SOLICITOR THORNTON: Your Honor, may I approach?

5 THE COURT: Sure.

6 SOLICITOR THORNTON: I'll hand this up to you. I've
7 shown it to Mr. Hughes. Do you have another copy? Let Mr.
8 Hughes have that.

9 THE COURT: Mr. Hughes?

10 MR. HUGHES: Your Honor, I would still object to it, but
11 I agree with you, it's not nearly as bad as the just total oh-
12 my-Lord of the color.

13 THE COURT: All right. I tell you what I'm going to do.
14 I'm going to allow 5, 6, 7, 8, 9, and 10, I believe I'm right,
15 8, 9, and 10 into evidence. I will find they're admissible.
16 I'm not going to rule one way or the other, but I'm going to
17 ask, as far as Number 4, that you lay the proper foundation for
18 it, and show how it goes into the scope of your case. And
19 that, at minimum, will be black-and-white, but a proffer
20 outside of the presence of the jury. I think we'll get a
21 better feel for it.

22 SOLICITOR THORNTON: Yes, sir.

23 MR. HUGHES: Your Honor, when you said 8, you meant this
24 in black-and-white? This is 8, right?

25 SOLICITOR THORNTON: That's 4.

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BY THE COURT

1 MR. HUGHES: This is 4?

2 THE COURT: That's 4.

3 MR. HUGHES: I'm sorry. I don't have them numbered.

4 THE COURT: Come here, I'll show it to you right quick.

5 MR. HUGHES: You're going to have 8 testified to by the
6 pathologist?

7 THE COURT: That's right. But he's going to -- Number 8,
8 you will do that outside the presence of the jury. That's
9 right.

10 SOLICITOR THORNTON: Yes, sir. I will do that outside
11 the presence of the jury. I don't know, your Honor, that it
12 would be necessary to do it the pathologist. I have an EMT, a
13 paramedic, coming, and --

14 THE COURT: I'm not trying to try your case, but --

15 SOLICITOR THORNTON: Yes, sir. Absolutely.

16 THE COURT: And then Number 4?

17 SOLICITOR THORNTON: Yes, sir. That's definitely the
18 pathologist. And I'm going to have Brian Hollen double-check
19 with her. I mean, again, she's already testified once. We'll
20 go back over it again. If there's anything she can't tell me
21 is evidence of injury, I'll pull it, and you won't even have to
22 rule on it.

23 THE COURT: All right. Are you clear?

24 MR. HUGHES: Yes, sir.

25 THE COURT: Would you hand that -- well, I guess this

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BY THE COURT

1 goes to the court reporter. Would you hand this to the court
2 reporter.

3 MR. HUGHES: And if Number 4 does come in, it'll be
4 black-and-white?

5 SOLICITOR THORNTON: Yes. Your Honor has already
6 indicated that, so.

7 ITEMS IDENTIFIED AS PHOTOGRAPHS

8 MARKED COURT'S EXHIBIT 4, 5, 6, 7, 8, 9, 10.

9 THE COURT: Right. All right. Now, any other
10 evidentiary matters from the State that I can help deal with
11 today?

12 SOLICITOR THORNTON: I don't think there's anything else
13 today, Judge. I think we got as much done as we could. I will
14 -- we're going to stay, obviously, and try to get some stuff
15 organized. We'll be here bright and early in the morning to
16 take up anything that's last-minute, but I -- I've got to get
17 with the Clerk's Office, and we've got to pull all the evidence
18 that was admitted in the last case. There's not a lot of it,
19 but there is some, so we will need to do that. And I'll make
20 sure Mr. Hughes knows of anything, and I'll show everything to
21 Mr. Hughes, so he can raise any objections, and we can take
22 that up, hopefully, in the morning, without keeping the jury
23 waiting.

24 THE COURT: Sounds good. All right. So Madam Court
25 Reporter, who is the foreman?

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BY THE COURT

1 COURT REPORTER: Evon.

2 THE COURT: What was -- who was --

3 COURT REPORTER: B/e/r/r/y. E/v/o/now, B/e/r/r/y, Evon
4 Berry.

5 THE COURT: All right. And for the record, we have
6 stricken Juror Number 62 from primary jury. We've replaced her
7 with Juror Number 200, the first alternate on the list,
8 correct?

9 SOLICITOR THORNTON: That's correct, your Honor.

10 MR. HUGHES: Yes, your Honor.

11 THE COURT: All right. Anything from the Defense further
12 before we break for the afternoon?

13 MR. HUGHES: I believe the Solicitor has given you the
14 audio disc? Okay.

15 THE COURT: They have.

16 SOLICITOR THORNTON: Yes, sir. That's the only other
17 thing I was going to mention, Judge. We can make sure we have
18 gotten you that. I've given a copy to Mr. Hughes, and we'll
19 listen to it, obviously, to make sure that anything
20 objectionable has been removed. And again, my intention would
21 probably be just to introduce it and not publish it because of
22 the quality of the tape.

23 THE COURT: And if the jury wants to hear it, we'll play
24 it here in the courtroom as opposed to --

25 SOLICITOR THORNTON: I always think that's the safer

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BY THE COURT

1 course, your Honor, so that we know exactly what they've heard.

2 THE COURT: All right. Unless you have a plain computer,
3 that's --

4 SOLICITOR THORNTON: Exactly, yes, sir.

5 THE COURT: All right. Anything further?

6 MR. HUGHES: Nothing else, your Honor.

7 THE COURT: All right. Gentlemen, thank you. Thank you
8 for your preparation. We'll see you in the morning.

9 SOLICITOR THORNTON: Thank you, your Honor.

10 OFF THE RECORD 4:51 P.M.

11 END DAY ONE, MONDAY, JANUARY 9, 2017.

12 BEGIN DAY TWO, TUESDAY, JANUARY 10,
13 2017, 9:36 A.M.

14 BY THE COURT:

15 THE COURT: Good morning. Please be seated.

16 All right. Just for record-keeping purposes, we're going
17 to move Juror Number 200 to the primary juror -- jury, and
18 leave Juror Number 1 as the alternate, correct?

19 MR. HUGHES: Yes, your Honor.

20 SOLICITOR THORNTON: Yes, your Honor.

21 THE COURT: All right. Anything from the State before we
22 bring the jury in?

23 SOLICITOR THORNTON: Yes, your Honor, briefly. I'm
24 trying to get these in order right now. I've talked to Mr.
25 Hughes this morning and he and I have, I think, agreed on one

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BY THE COURT

1 of the issues that was still kind of unresolved until this
2 morning, which was the photographs.

3 THE COURT: Yes, sir.

4 SOLICITOR THORNTON: And I'm going to show these as I
5 tell this to the Court, to make sure Mr. Hughes and I are on
6 the same page. Exhibit Number 4, your Honor, which is one that
7 I had put in black-and-white, and this is Court's Exhibit
8 Number 4, which was a photograph taken at the pathologist. The
9 Court had asked me to have that changed to a black-and-white
10 photo. I am going to not put that into evidence or attempt to
11 put that into evidence, either in color or in black and white.

12 Additionally, Court's 5, Court's Exhibit 5, which shows
13 the back of the decedent's head, and it did have some blood on
14 it, also taken by the pathologist, I will not seek to introduce
15 that.

16 Your Honor, I believe, had indicated that 6 and 7,
17 Court's 6, Court's 7, which are injuries to the face, both
18 inside and outside the lips to the decedent, were already going
19 to be in.

20 Also, your Honor, that 9 and 10, Court's 9 and Court's
21 10, which are closer photographs of the decedent, with the bag
22 over his head and tied, but also showing the wallet and some
23 other things that the other -- the other photographs have not
24 shown, you've indicated those were in.

25 The only other one remaining was 8, which is the decedent

1-10-17 STATE V JOYNER

BY THE COURT

1 being rolled over and there being some blood on his shirt.

2 After reviewing the photographs again this morning, Mr. Hughes
3 does concede that that is blood. And in exchange for me not
4 showing the two photographs I've already referenced, which were
5 taken -- the Court's 4 and Court's 5, he has agreed to withdraw
6 his objection to Court's 8. So I will not be putting in
7 Court's 4 or 5, and I will be putting in Court's 8. It's my
8 understanding Mr. Hughes has waived his objection to that, in
9 exchange for me not attempting to put in 4 and 5.

10 THE COURT: Is that correct, Mr. Hughes?

11 MR. HUGHES: Yes, your Honor.

12 THE COURT: Any other housekeeping matters before we get
13 started, from the State?

14 SOLICITOR THORNTON: Your Honor, if I could have just a
15 moment, I want to check on a witness.

16 THE COURT: Yes, sir.

17 SOLICITOR THORNTON: Your Honor, the State is ready to
18 proceed. We have a witness who would be fifth in order that we
19 believe is on the way and just not here yet. We may need to
20 take a break, but we do have our first four here and ready to
21 go.

22 THE COURT: Okay. Anything housekeeping from the
23 Defense?

24 MR. HUGHES: No, your Honor.

25 THE COURT: Would you bring the jury in, please, sir.

1-10-17 STATE V JOYNER

BY THE COURT

1 JURORS ENTER COURTROOM 9:42 A.M.

2 THE COURT: Good morning, ladies and gentlemen. I hope
3 you had a nice evening. Before we get started, I'm going to
4 ask our clerk to swear you in, please.

5 JURORS SWORN.

6 MADAM CLERK: Good morning.

7 RESPONSES FROM JURORS.

8 MADAM CLERK: Would everyone please stand and raise your
9 right hand. Do you swear -- do you -- do you -- you shall well
10 and truly try and true deliverance make between the State of
11 South Carolina and the defendant at the Bar as charged, and a
12 true verdict give, according to the evidence, so help you God?
13 If you accept this oath, please indicate by saying I do at this
14 time.

15 RESPONSES FROM JURORS.

16 MADAM CLERK: Thank you. You may be seated.

17 THE COURT: Thank you, ma'am.

18 All right. Mr. Foreman and ladies and gentlemen of the
19 jury, housekeeping matters, Juror Number 200, Ruth --

20 JUROR NUMBER 200: Marie Ruth.

21 THE COURT: -- I'm going to move you over to the primary
22 jury. Okay? You are no longer an alternate, you will be part
23 of the primary jury.

24 Juror Number 1, you will still remain as an alternate,
25 please.

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BY THE COURT

1 So, Ms. Ruth, you can sit wherever you'd like.

2 I still ask that our alternate stay there, and that our
3 foreperson stay where he is each time you come in the
4 courtroom.

5 All right. Ladies and gentlemen, as you've heard, we're
6 about to begin the case of the State of South Carolina versus
7 Gabriel Joyner, who has three charges against him. There's a
8 charge of murder, a charge of burglary first degree, and a
9 charge of strong-armed robbery.

10 Before we get started I'm about to tell you basically the
11 layout. This is not a charge on the law, I will give that to
12 you at the end of the case, but I like to explain to jurors the
13 process they're about to undergo, so that you know what you're
14 doing, know what you're looking at during the course of this
15 trial.

16 Mr. Foreman, ladies and gentlemen, a trial is not an
17 endurance contest. So, if anytime the jury needs to have a
18 break, if you would indicate to me that the jury needs to
19 break, let me know.

20 Also, it's important that you're able to see and hear the
21 proceedings. So, if any time you cannot hear or you cannot
22 see, if you would indicate it, we will stop and make sure that
23 you can.

24 And also, Mr. Foreman, if I were to call you back to the
25 jury room -- from the jury room before you're ready, just send

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BY THE COURT

1 us a message and we'll, you know, wait for you.

2 Now, ladies and gentlemen, before we get started, has
3 anybody read, heard, or seen anything about this case during
4 the break?

5 Has anybody spoken with anybody, including amongst
6 yourselves, about this case during the break? If so, raise
7 your hand.

8 Very good, thank you. Let the jury -- let the record
9 reflect that no one responded positively.

10 Now, ladies and gentlemen, I don't know if any of you
11 have been involved in a trial before, whether in civil court or
12 whether in criminal court like we're in today. I would
13 challenge you, though, that trials are probably different than
14 what you expect. They're nothing like you see on T.V. They're
15 not like they're at the movies. Trials are very slow, they're
16 very methodical, and they're very deliberate. They're
17 certainly not entertaining, but they are a fundamental part of
18 our democracy.

19 Ladies and gentlemen, these attorneys here today, when
20 they're sworn in just like any other attorneys, they take an
21 oath to be advocates for their clients for their position in
22 the case, and you can expect no less of them in this case. But
23 they're also, if officers of the Court. What that means is
24 that you can expect these attorneys to be professional,
25 competent, and ethical to one another, to this court, and to

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BY THE COURT

1 any witness who may appear during these proceedings.

2 Likewise, you've just taken the oath. In that oath, you
3 have sworn or affirmed that you would be fair and just. And
4 that means that these parties, these attorneys, and the Court
5 has a right to expect of you that you will be fair, that you
6 will be impartial, and that you will be ethical in your
7 dealings throughout the course of this trial.

8 Now, as I told you, this is not the charge on the law. I
9 will give that to you at the end of this trial, before I tell
10 you to begin your deliberations. I remind you, you're not to
11 engage in any type of deliberations until that time.

12 Basically, this is a roadmap so you can understand what you're
13 going through, and understand where you are at any given time.

14 Now, several of you have elected to take notes during the
15 course of this trial. Do you have your pad and pencils with
16 you?

17 RESPONSES FROM JURORS.

18 THE COURT: Let me remind you, ladies and gentlemen, that
19 at the end of this case, when you begin your deliberations,
20 that some people are better note-takers than others. The fact
21 that something may appear in one of the juror's notes doesn't
22 mean it trumps another juror's recollection on that same issue.

23 Mr. Foreman, that's why they call them deliberations, and
24 you'll just have to hash out those issues.

25 Also, you will have to determine which testimony you wish

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BY THE COURT

1 to believe, and which testimony you wish not to believe. So
2 it's important for you to watch the witnesses' demeanor while
3 they're on the stand so you can determine their credibility as
4 a witness. And if you're so engaged in taking notes, you may
5 miss something that's a subtle reaction that may be indication
6 to you as to whether or not you should or should not believe
7 their testimony.

8 Now, in this case, as I've told you what the charges are,
9 the elements of each of those charges will be given to you at
10 the end of this case. You saw the indictments presented by the
11 State yesterday. Let me just remind you that the fact that
12 this gentlemen has been arrested, charged, and indicted is not
13 evidence of his guilt. It does not raise an inference or a
14 presumption of his guilt. The indictments are simply the
15 charging mechanisms by which the State of South Carolina brings
16 this defendant before you for a trial and a determination of
17 his guilt or his innocence.

18 In fact, the defendant has said, I'm not guilty. Under
19 our law, the defendant is presumed to be innocent. So,
20 therefore, the State has the burden of proving each and every
21 element of the charges against him by proof beyond a reasonable
22 doubt. At the end of this case, you'll be called upon to
23 determine whether or not the State has, in fact, met that
24 burden of proof.

25 And let me give you a quick charge on what reasonable

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BY THE COURT

1 doubt is, so you can have that in your mind throughout the
2 course of this trial. This is a brief definition. A
3 reasonable doubt is the kind of doubt that would cause a
4 reasonable person to hesitate to act.

5 As I told you, the State has the burden of proving the
6 defendant guilty by proof beyond a reasonable doubt. I don't
7 know if any of you have every been involved in a civil case.
8 In the civil case, the burden of proof is what we call a
9 preponderance or the greater weight of the evidence. In
10 criminal cases, the burden is much higher. It is proof that is
11 proof beyond a reasonable doubt. Proof beyond a reasonable
12 doubt is proof that leaves you firmly convinced of the
13 defendant's guilt.

14 Now, that being said, ladies and gentlemen, there are
15 very few things in this world that we know with absolute
16 certainty, and in criminal cases, the law does not require
17 proof that overcomes every possible doubt. At the end of the
18 case, when you're told to begin your deliberations, if, based
19 on your consideration of the evidence, if you are firmly
20 convinced that the defendant is guilty of the charge or charges
21 for which he has been charged, it'll be your duty to find him
22 guilty.

23 On the other hand, if you think there is a real
24 possibility the defendant is not guilty, you must give him the
25 reasonable benefit of the doubt and find him not guilty.

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1 I also remind you, at the end of this case, Mr. Foreman,
2 ladies and gentlemen, that each charge will stand on its own,
3 and you will have to find -- you will have to determine each
4 charge separately from one another in your decision on the
5 separate charges.

6 Now, ladies and gentlemen, your purpose as jurors in this
7 case is to determine and to find facts. As lawyers say, you
8 are the sole judges of what the facts are. If, during the
9 course of this trial, if, at any time, I make a comment, I make
10 a gesture, a facial expression, or do anything that seems to
11 indicate to you the facts that you're supposed to find or the
12 verdict you're supposed to reach, I'm going to ask you, but I'm
13 also going to charge you that you are to disregard that. Our
14 state *Constitution* does not allow any trial judge to make a
15 comment or have an opinion about the facts of a case. We,
16 essentially, are referees to make sure that each side of the
17 case has a fair and impartial trial, and then we instruct you
18 on the law that you must apply to the facts as you find them to
19 be. And you will determine what those facts are by the
20 testimony you hear from this witness stand and from any
21 exhibits that I allow into evidence. Once evidence has been
22 admitted by way of testimony or exhibits, any inferences you
23 determine you feel are warranted, what you wish to draw from
24 that will be solely up to you.

25 I'm going to ask you and charge you, also, that this is

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1 not going to be a terribly long trial. It'll be important for
2 you to stay diligent and pay attention throughout the course of
3 this trial, so that at the end, after I charge you on the law,
4 you'll be ready to engage in your deliberations about what the
5 verdict you want to reach.

6 I will also tell you that, ordinarily, if you let your
7 mind wander, there's no way on appeal to correct erroneous
8 finding of facts. If I make an error of law, there are groups
9 in Columbia who will correct me. But ordinarily, an incorrect
10 finding of fact is not correctable.

11 Now, ladies and gentlemen, the law that makes you the
12 sole judges of the facts makes me the sole judge of the law.
13 You must and shall take the law as I give it to you. You may
14 not be concerned with what you think it should be, but only
15 with what it is. You must apply the law as I give it to you,
16 to the facts as you find them to be. I may not invade your
17 province of being the sole finders of the facts, and you may
18 not invade my province of giving you what the law is.

19 Now, again, I will remind you that you are not to begin
20 any deliberations at all, including conversations amongst
21 yourselves during the course of this trial. You are not to be
22 engaged in any independent jury research, as I told you about
23 yesterday, and I'm not going to go back through that with you.

24 Now, in counties such as Allendale or Anderson, where I'm
25 from, we do everything in the big courtroom. That means that

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BY THE COURT

1 there's opportunity that a witness, an attorney, or somebody
2 else associated with the case will bump into you throughout the
3 course of this trial. These attorneys know and their clients
4 know, they're not to have any conversation with you. So, if
5 you see these attorneys and they act like they're being rude,
6 they're not. They're following my instructions that they're
7 not to have any communications with you. And I also ask that
8 you not have any communications with them, because, if the
9 other side sees that, they will construe that as improper ex
10 parte communications, and we have a problem. Okay? So just
11 don't engage in that.

12 I will ask you each morning as to whether or not any of
13 you have read, heard, or seen anything about this case, and
14 also, whether or not you've spoken to anybody about this case,
15 including one another. So I want you to anticipate that.

16 In every case, whether or not it's civil or criminal, we
17 have five phases. The first phase in just a minute will be an
18 opening statement. There will then be the presentation of the
19 evidence. The lawyers, after conclusion of the presentation of
20 the evidence, will give you their closing statements. I will
21 then give you the charge on the law, and then you'll begin your
22 deliberations. I tell that to you so you generally know where
23 you are throughout the course of the trial.

24 Now, in just a moment, the Solicitor's going to stand up
25 and give you his opening statement. He will explain to you

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BY THE COURT

1 what he thinks the case is about, and what his contentions of
2 this case is. The defendant may, but is not required to give
3 an opening statement, since the burden lays on the State of
4 South Carolina to prove his guilt.

5 Now, what these attorneys may tell you in their opening
6 statement is not evidence. It is their contention about what
7 the case is about. It's a roadmap about the case, and it's
8 helpful. But the only true evidence that may be considered as
9 evidence is sworn testimony from this witness stand and any
10 exhibits that I allow into evidence.

11 Ladies and gentlemen, attorneys, when they're sworn in,
12 as I told you in the beginning, are advocates. That means that
13 throughout the course of this trial, there will likely be
14 objections. I may let you stay in the courtroom and listen to
15 the objections and my ruling on them; I may ask that you leave
16 the courtroom so that I can rule on matters that you shouldn't
17 hear, doesn't come before you. Sometimes you may feel like
18 cattle coming in and out of the courtroom, because that's just
19 the way trials are.

20 Mr. Foreman, ladies and gentlemen, I will tell you, at
21 the end of the day, when you begin your deliberations, you may
22 not and you shall not discuss the fact that there was an
23 objection, or, to the extent that I let you stay in here during
24 my ruling on that, my ruling on that objection. Suffice it to
25 say that objections are a part of the process of any trial, and

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1 that would be not a proper topic for the jury's deliberation.
2 Okay?

3 Now, at any time, Mr. Foreperson, if you need anything,
4 I'm going to ask that all communications with the Court or with
5 anyone else be in writing. Now, the way you will handle that
6 is this. You will write down whatever it is you need. You
7 will knock on the door and give it to the bailiff. He'll
8 respond with me, if I need to respond. And I'll bring the
9 attorneys out here, and we'll respond to it in open court. You
10 may not communicate with anybody, including our bailiffs, other
11 than by in writing. Do you understand that?

12 FOREPERSON BERRY: Yes, sir.

13 THE COURT: Okay. With that being said, let me make sure
14 that I haven't mis-spoken about anyone -- about anything. I'm
15 going to ask that you take a quick step back to your jury room.
16 I'm going to go over with these lawyers whether or not I need
17 to clarify something I've told you, whether I've omitted
18 something, or I need to correct something I told you. I don't
19 think you'll be there long, so don't get settled too much, and
20 then we'll bring you back in here for opening statements. But
21 if you'll go back to the jury room, please.

22 JURORS LEAVE COURTROOM 9:58 A.M.

23 THE COURT: Any additions or exceptions from the State?

24 SOLICITOR THORNTON: None from the State, your Honor.

25 THE COURT: From the Defense?

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BY THE COURT

1 MR. HUGHES: No, your Honor.

2 THE COURT: Do you want to take a quick break before you
3 do your opening, or are you ready to get started?

4 SOLICITOR THORNTON: Your Honor, if I could just have
5 five minutes to just kind of verify whether that witness is
6 here for planning purposes, that would be great.

7 THE COURT: Great. Would you send word back.

8 SOLICITOR THORNTON: Yes, sir. Thank you, your Honor.

9 THE COURT: Yes, sir.

10 OFF THE RECORD 9:58 A.M.

11 BACK ON THE RECORD 10:06 A.M.

12 BY THE COURT:

13 THE COURT: Mr. Hughes, do you intend to make an opening
14 statement?

15 MR. HUGHES: I do.

16 THE COURT: Thank you, sir.

17 JURORS ENTER COURTROOM 10:07 A.M.

18 THE COURT: All right. Mr. Thornton, is the State ready
19 with its opening statement?

20 SOLICITOR THORNTON: The State's ready, your Honor.

21 THE COURT: Mr. Hughes, Defense intend to have opening
22 statement?

23 MR. HUGHES: Defense will open, your Honor.

24 THE COURT: Very good. All right. Mr. Thornton.

25 SOLICITOR THORNTON: Thank you, your Honor.

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STATE OPENING STATEMENT

1 OPENING STATEMENT ON BEHALF OF THE

2 STATE, BY SOLICITOR THORNTON:

3 SOLICITOR THORNTON: Mr. Foreman, ladies and gentlemen of
4 the jury, good morning.

5 RESPONSES FROM JURORS.

6 SOLICITOR THORNTON: As I told you all yesterday, I'm
7 Sean Thornton. I'm Deputy Solicitor for the Fourteenth
8 Circuit. What this case is about is a man named Willie
9 Johnson. Mr. Johnson lived on Pickrum Street here in -- in
10 Allendale. And on June the 19th of 2014, one of the members of
11 his church, who you'll hear from, you'll hear testify today,
12 Robert Miller, found him dead, murdered in his home, on Pickrum
13 Street. He had been tied up, with his hands behind his back.
14 He had a black garbage bag wrapped around his head. And you'll
15 hear testimony from several different folks during this trial
16 who had been trying to get a hold of Mr. Johnson, all the way
17 back from the 17th, mostly members of his church. He's a man
18 been here for many, many years. But that's what this case is
19 about.

20 And you're likely to hear several names, and I'm going to
21 tell you a little bit about them, but this case is about the
22 defendant, Gabriel Joyner. That's what you're here to decide,
23 on his three charges. But there were three people total
24 charged in this: Robert Miller III, who is no relation to the
25 Robert Miller I just mentioned, who found Mr. Johnson in his

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STATE OPENING STATEMENT

1 home, and Kashon Bynum, who were brothers.

2 And Robert Miller III, he's already had his trial and
3 been convicted. This case isn't about him, and it's not about
4 Kashon. This case is about Gabriel Joyner and what he did, and
5 what they, together, did. Because one of the things that --
6 that I believe his Honor will charge you at the end of this
7 case when he charges you in full on the law -- remember that
8 was one of the things that he mentioned that he would do, is
9 give you the law in the state of South Carolina -- it's called
10 the hand of one is the hand of all. Meaning, if you're all
11 there and you're all participating in a crime, anything that
12 happens as a result of that crime that's a natural consequence,
13 you are all responsible. The act of one is the act of all, and
14 the hand of one is the hand of all. But that's what this case
15 is about.

16 It's about Willie Johnson, 86 years old, beaten and
17 strangled to death, asphyxiated with a plastic bag in his own
18 home, so that he could be robbed, so that his house could be
19 burglarized.

20 Nothing I tell you is evidence, and his Honor's already
21 told you this. Nothing that Mr. Hughes tells you is evidence.
22 The evidence in this case is what people testify to on the
23 stand and any exhibits that come in. That's what you have to
24 base your decision on.

25 After years of doing this, something that is always

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STATE OPENING STATEMENT

1 concerning anytime you get up and you start talking to a jury
2 is everybody has seen, you know, the *Court T.V.'s* and the *Law*
3 *and Order's* and all that stuff. And you know, I'm very glad
4 that the Judge kind of covered this just a little bit already,
5 but this isn't television, it's real life. There's a real
6 murdered person here. And there's a real defendant sitting
7 over there. And cases do tend to be methodical.

8 There's going to be a lot of pictures introduced as
9 exhibits, and you're going to see me kind of ask the same
10 question as to each picture over and over again, and that's
11 like the Judge said, it's because this is a methodical process,
12 and it's that way for a reason.

13 The State has the burden of proof. It's my job to prove
14 that Gabriel Joyner is guilty. He's guilty of murder, he's
15 guilty of burglary, and he is guilty of strong-armed robbery,
16 also, known as common-law robbery. And we'll get into what the
17 elements are of that. The judge is, obviously, the final judge
18 of the law, just as you are the final judges of the facts.

19 It will be methodical, and you will say, man, I can't
20 believe he's asking those same questions; he's asked that on
21 every picture. Well, we have to do that, because what we put
22 in front of you is evidence. It's very easy to get up here and
23 talk to you and tell you what I think, or for Mr. Hughes to
24 tell you what he thinks, but that's not the evidence. That's
25 why we have to go through the proper procedure to introduce

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STATE OPENING STATEMENT

1 those things to you, so that you can make your decision at the
2 end of this case.

3 And the only other thing that I could ask you -- as the
4 Judge, indicated, this is not going to be a long trial. Some
5 of you, I'm sure, when you were sitting out there worried about
6 being picked on this jury, that you were thinking about those
7 things you hear about in California, where it takes them six
8 weeks and eight weeks of trial. No, sir and no, ma'am. I
9 think this case will be wrapped up in the next day or two. You
10 should have it by then, unless something unusual happens.
11 Please don't hold me to that. I can't promise you that. I
12 don't control the entire process. But it is very likely going
13 to, to be -- certainly won't go longer than this week. And it
14 very likely will be over in the next day or two. You should
15 have it by then to make your deliberation.

16 But it's not television. Willie Johnson is not some
17 character on the T.V. He's a man that lived right here in
18 Allendale, on Pickrum Street, and he was beaten to death and
19 asphyxiated with a plastic bag at 86 years old, by three
20 people, one of whom sits right there at that table, Gabriel
21 Joyner. And again, this occurred in 2014. The crime occurred
22 on the evening of June the 17th, is what the evidence, I
23 believe, will show you, and he was found two days later, June
24 the 19th. Thank you.

25 THE COURT: Mr. Hughes.

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DEFENSE OPENING STATEMENT

1 MR. HUGHES: May it please the Court?

2 THE COURT: Yes, sir.

3 MR. HUGHES: Mr. Thornton.

4 OPENING STATEMENT ON BEHALF OF THE

5 DEFENSE, BY MR. HUGHES:

6 MR. HUGHES: I introduced myself yesterday, but I'm going
7 to do it again. My name is Bob Hughes. I'm one of the public
8 defenders. I'm generally assigned in Jasper County, but
9 sometimes I get assigned in Hampton and Allendale.

10 They gave most of my speech, because, usually, I talk
11 about how it's not going to be like anything you've seen on
12 television. You're going to hear some questions from Mr.
13 Thornton, and you're going to look at him like, of course
14 Allendale's in Allendale County. But like he says, it's
15 something that they have to ask.

16 When I ask a question, I generally want to get a point
17 out. Sometimes I ask a question because I think it's something
18 you all want to hear, because they're not going to be able to
19 say everything that they know. But sometimes something I need
20 to know or something Mr. Thornton needs to know has something
21 else, which you all want to know. And I try to ask that
22 question, just so that you all can get all the facts.

23 The Judge is going to tell you, you're the finder of the
24 facts. And if you don't have all the facts, you can't find the
25 facts. So what I'm going to do is, I'm going to ask some

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DEFENSE OPENING STATEMENT

1 questions. Some people, I'm not even going to ask questions
2 to, because Mr. Thornton has already gotten the answers that
3 I'd be asking for, and I'm not going to waste your time having
4 the person repeat themselves.

5 Now, in every courtroom drama on television or in the
6 movies, someone stands up and goes, objection, your Honor.
7 That's the only time you'll ever see me do that. I'll stand
8 up, I'll say, objection. Generally, it's because Mr. Thornton
9 asks leading questions. Mr. Thornton used to have my job, and
10 he asked -- and I can ask leading questions, but he can't. And
11 usually, I'll let Mr. Thornton ask the leading question, simply
12 because it gets the answer, it gets things moving fast, and you
13 all don't have to sit there and listen to Mr. Thornton try to
14 figure out how to rephrase the questions so that it's not
15 leading.

16 Now, occasionally, Mr. Thornton will ask too many leading
17 questions, and I ask the Judge to, you know, come on, Judge,
18 I've let him lead for awhile; let him ask the question
19 normally. But I'm not trying to hide anything from you.
20 That's part of your job is to find the truth, and you can't
21 find the truth if somebody tries to hide something from you. I
22 want you all to have the truth.

23 Now, after all this is over, I'm going to come back and
24 we're going to talk. And by then, you will know everything
25 that Mr. Thornton and I know. And I'm going to explain Mr.

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DEFENSE OPENING STATEMENT

1 Joyner's position, and Mr. Thornton is going to explain the
2 State's position, and then you're going to go back and you're
3 going to decide. But until then, you need the facts, and the
4 facts come from up there. And I want you all to have all of
5 the facts. So, if I sit there, and after Mr. Thornton has
6 asked his questions, no further questions, your Honor, and I
7 stand up and I say, no questions, that doesn't mean that I
8 doesn't mean that I didn't have questions. It just means Mr.
9 Thornton already asked it, and I'm not going to waste your
10 time.

11 Now, this case is going to go on after lunch. This
12 courtroom is nice and comfortable, and if you have a big lunch,
13 you're going to get drowsy. Fight it. Please fight it. I
14 know it's difficult, especially if I'm talking or some witness
15 is talking, and they're just droning on and on and on. And Mr.
16 Thornton is apt to go, is that a true and accurate
17 representation of the site when you were there; yes. And then,
18 with the next one, is that a true and accurate represen --
19 represent -- whatever, on the site. And it goes on and on, and
20 your eyelids start getting heavier and heavier and heavier.
21 Fight it. You've gotta have the facts.

22 Another thing, I walk around a lot when I talk. This is
23 the best-looking -- it is a beautiful courtroom, but the
24 acoustics are horrible. And if I turn my back to you, there is
25 a good chance you will not understand a word I just said. Let

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CHASTITY ROBINSON - DX - THORNTON

1 the Judge know. This young lady here is taking down everything
2 I say. She's used to me talking. She will call me to task if
3 she can't understand me. But if you can't understand me, or
4 you can't understand a witness -- because some people, when
5 they get up there, they look over and see you all, they get
6 shy, and they talk softly. And if you can't understand them,
7 let the Judge know, because that's where the facts come from,
8 and you all have to have the facts.

9 Thank you all.

10 THE COURT: Call your first witness, please, sir.

11 SOLICITOR THORNTON: State calls Chastity Robinson.

12 THE COURT: All right.

13 SOLICITOR THORNTON: Your Honor, they're, obviously,
14 pursuant to the court order of sequestration. It may take a
15 moment for them to get here.

16 THE COURT: Absolutely.

17 MADAM CLERK: Do you swear or affirm to tell the truth,
18 the whole truth, and nothing but the truth, so help you God?

19 CHASTITY ROBINSON: Yes, I do.

20 CHASTITY ROBINSON

21 DIRECT EXAMINATION BY SOLICITOR THORNTON:

22 Q. Good morning, Ms. Robinson. How are you?

23 A. Good morning. I'm fine. How are you?

24 Q. I'm fine. And could you tell the jury, please, where
25 you work.

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CHASITY ROBINSON - DX - THORNTON

1 A. I currently work for the Allendale County
2 Magistrate's Court. During the time of this incident, I was
3 working for Allendale County Communications, which is 911.

4 Q. You have clearly testified for me enough times now
5 that you're anticipating my question. That would've been my
6 followup. So, in June of 2014, you were a 911 dispatcher?

7 A. Yes, sir.

8 Q. All right. I'm going to hand you what's been marked
9 as -- it's actually got two stickers on it, one from the
10 previous trial, where I believe you testified, and then one
11 from this one. If you would, take that disc out. It's marked
12 as State's Exhibit 1, for identification, and tell me you can
13 identify that disc.

14 A. Yes, sir, I can.

15 Q. And what's on that disc?

16 A. Basically, the 911 call that I took for this
17 incident. And clearly, my initials are on here where I
18 listened to it.

19 Q. And is it dated from the trial in July --

20 A. Yes.

21 Q. -- on Robert Miller III?

22 A. Yes, sir. It's dated 7-12-16.

23 Q. All right. And is that a true and accurate copy of
24 the 911 call, including a transcript of that call, that was
25 made on that day involving the murder of Willie Johnson?

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CHASITY ROBINSON - DX - THORNTON

1 A. Yes, sir, it is.

2 Q. Had it been altered or changed in any way?

3 A. No, sir.

4 SOLICITOR THORNTON: Your Honor, at this time I would ask
5 to introduce State's Exhibit 1, which is the 911 call.

6 THE COURT: Any objection?

7 MR. HUGHES: Without objection.

8 THE COURT: Admitted.

9 ITEM IDENTIFIED AS C.D. OF 911 CALL

10 MARKED STATE'S EXHIBIT 1

11 ADMITTED AS EVIDENCE.

12 BY SOLICITOR THORNTON:

13 Q. Again, we've -- you weren't here. Obviously, you
14 were under sequestration. We talked a little bit to the jury
15 about having to do formality things, even sometimes that they
16 don't make sense. Can you explain to the jury exactly what --
17 what a 911 -- in other words, what happens when someone dials
18 911, and what your job was at that time.

19 A. Okay. At that time, during this incident, I was a
20 dispatcher for Allendale County. Basically, what my job was,
21 was to answer any 911 call that came through on the system, and
22 to dispatch or send the appropriate personnel there. So,
23 anyone --

24 Q. I apologize.

25 A. That's okay.

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CHASITY ROBINSON - DX - THORNTON

1 Q. Go ahead.

2 A. So anyone who was a first responder, meaning EMS,
3 police, or fire, that's our job, is to send them. We have to
4 listen to the call, basically take all of the details that the
5 caller gives us, and then we have to make the decision of who
6 needs to be sent to the scene of the incident.

7 Q. And we just heard the very beginning of that. Is
8 that what -- the jury's going to hear part of that phone call?

9 A. Yes, sir.

10 Q. All right.

11 SOLICITOR THORNTON: Your Honor, at this time I'd like to
12 publish to the jury.

13 THE COURT: Yes, sir.

14 STATE'S EXHIBIT 1, C.D. OF 911 CALL,
15 PUBLISHED TO JURY.

16 BY SOLICITOR THORNTON:

17 Q. Thank you very much, ma'am. I have no further
18 questions. Please answer any questions that Mr. Hughes may
19 have.

20 MR. HUGHES: I have no questions for Ms. Robinson.

21 THE COURT: May this witness be excused?

22 SOLICITOR THORNTON: Ask that she be excused, Judge.

23 THE COURT: Thank you, ma'am. You're excused.

24 CHASTITY ROBINSON: Thank you.

25 SOLICITOR THORNTON: Outique Manor.

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QUTIQUE MANOR - DX - THORNTON

1 MADAM CLERK: Do you swear or affirm to tell the truth,
2 the whole truth, and nothing but the truth, so help you God?

3 QUTIQUE MANOR: Yes, ma'am, I do.

4 MADAM CLERK: You may be seated.

5 COURT REPORTER: Spell your first name, please. Spell
6 your first name.

7 QUTIQUE MANOR: It's Q/u/t/i/q/u/e. Last name Manor,
8 M/a/n/o/r.

9 MADAM CLERK: Do you swear or affirm to tell the truth,
10 the whole truth, and nothing but the truth, so help you God?

11 QUTIQUE MANOR: Yes, ma'am, I do.

12 MADAM CLERK: Have a seat.

13 QUTIQUE MANOR

14 DIRECT EXAMINATION BY SOLICITOR THORNTON:

15 Q. Mr. Manor, who do you currently work for?

16 A. Allendale Police Department.

17 Q. All right. And did you work for the Allendale Police
18 Department during June, specifically June 19th of 2014?

19 A. Yes, sir, I did.

20 Q. And what did you do for them at that time?

21 A. I was a detective.

22 Q. What kind of police officer are you?

23 A. I'm a detective. I help in investigations.

24 Q. All right. Detective Manor, did you respond to a
25 particular location on June the 19th, 2014?

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QUTIQUE MANOR - DX - THORNTON

1 A. Yes, I did. I responded to [REDACTED] Pickrum Street, in
2 the town of Allendale.

3 Q. All right. And although this is an obvious question,
4 what county is the town of Allendale in?

5 A. Allendale County.

6 Q. All right. Go ahead.

7 A. I was -- I was contacted by Mr. William Johnson.
8 He's the son of Mr. Willie Johnson. He arrived at Allendale
9 Police Department and stated that he -- he was trying to
10 contact his father for a matter of days, and he didn't see him
11 since Father's Day, which would've been that Sunday. He
12 arrived, and we decided that we -- I would escort him over to
13 the residence to see if he could make contact with his father.

14 Q. And did you head over to his -- to [REDACTED] Pickrum
15 Street?

16 A. Yes, sir, I did.

17 Q. To William Johnson's residence?

18 A. Yes, sir, I did.

19 Q. And did you -- was anything already going on, either
20 when you were even route or by the time you got to [REDACTED] Pickrum
21 Street?

22 A. Dispatch -- when I was notifying Dispatch, they also
23 notified me there was another subject already at the residence,
24 I believe a church member, at Mr. Robinson -- Mr. Johnson's
25 residence. He was in the yard, and he was waving us down when

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OUTIQUE MANOR - DX - THORNTON

1 we pulled up.

2 Q. All right. So, just based on what you've testified
3 to, the victim in this case, Willie Johnson, his son had come
4 to the Police Department and asked you, basically, to go out
5 there with him?

6 A. Correct. Yes, sir.

7 Q. And by the time you all got there, you heard Dispatch
8 that there was already a church member at the house?

9 A. That's correct.

10 Q. And that was the -- I know you weren't in here,
11 obviously, but there was a 911 call placed. That's how
12 Dispatch gets notified.

13 A. That's correct.

14 Q. I'm going to show you three photographs that have
15 been marked State's Exhibit 2, 3, and 4. Can you -- for
16 identification. Can you identify those for me.

17 A. It's pictures of [REDACTED] Pickrum Street.

18 Q. And whose residence was that in June of 2014?

19 A. That's Mr. Johnson's residence.

20 Q. That's the victim in this case?

21 A. That's correct.

22 Q. Are those true and accurate photographs of how it
23 appeared on that day?

24 A. Yes, sir, it is.

25 Q. Do they appear to have been altered or changed in any

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QUTIQUE MANOR - DX - THORNTON

1 way?

2 A. No, sir.

3 SOLICITOR THORNTON: Judge, I'd ask that State's Exhibit
4 2, 3, and 4 be entered into evidence.

5 THE COURT: Any objection?

6 MR. HUGHES: No objections.

7 THE COURT: Admitted.

8 ITEM IDENTIFIED AS PHOTOGRAPH

9 MARKED STATE'S EXHIBIT 2

10 ADMITTED AS EVIDENCE.

11 ITEM IDENTIFIED AS PHOTOGRAPH

12 MARKED STATE'S EXHIBIT 3

13 ADMITTED AS EVIDENCE.

14 ITEM IDENTIFIED AS PHOTOGRAPH

15 MARKED STATE'S EXHIBIT 4

16 ADMITTED AS EVIDENCE.

17 SOLICITOR THORNTON: Exhibit 2.

18 MR. HUGHES: May I --

19 THE COURT: Just one second.

20 MR. HUGHES: May I move over there, sir?

21 THE COURT: Yes, sir.

22 BY SOLICITOR THORNTON:

23 Q. All right. Detective Manor, I've got Exhibit 2 up.

24 Is that the house that you're referring to?

25 A. Yes, sir, that's [REDACTED] Pickrum Street.

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QUTIQUE MANOR - DX - THORNTON

1 Q. All right, sir. And is that the front of the house?

2 A. Yes, sir.

3 Q. All right. Exhibit 3. Same house?

4 A. Yes, sir.

5 Q. And Exhibit 4?

6 A. Same residence, yes, sir.

7 Q. So those are the three pictures of the victim,
8 Willie's Johnson's house, at [REDACTED] Pickrum Street, here in
9 Allendale County?

10 A. Yes, sir, that's correct.

11 Q. What did you do upon -- what did you do upon getting
12 to the residence? You said there was someone already in the
13 yard waving you down. Do you know at this point -- obviously,
14 after the investigation of the case, do you know who that was?

15 A. Yes, sir. His name was -- I think his name was also
16 Robert Miller. He's a older guy, older subject.

17 Q. And when you say *also Robert Miller*, again, you
18 weren't in here. I briefly explained it to the jury. Was
19 there -- how many defendants are you aware of them charging in
20 this case?

21 A. Three.

22 Q. All right. And what is one of them's name?

23 A. Robert Miller, also.

24 Q. All right. But any relation to the Robert Miller
25 that we're talking about?

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OUTIQUE MANOR - DX - THORNTON

1 A. No relation. No relation.

2 Q. All right. So a church member, Robert Miller, was at
3 the house. You said he was waving you down?

4 A. That's correct.

5 Q. What happened when you got to him?

6 A. He -- he really didn't say too much. He was kind of
7 distraught. I walked -- I approached the door. Mr. William
8 Johnson, he was behind me, pretty close, and I told him,
9 because I knew something didn't seem right, I asked him to
10 stand back a little bit if I can check and see what was going
11 on.

12 I approached the door, myself and another officer, and
13 that's when I observed Mr. Johnson lying on the floor.

14 Q. All right. Hang on just second. And obviously,
15 you've mentioned now two Mr. Johnsons. Mr. Johnson being the
16 elder Mr. Johnson and the resident at the home.

17 A. Correct. Correct, Mr. Willie Johnson.

18 Q. I'm going to hand you what's been marked for
19 identification as State's 5, 6, 7, and 8, if you would just go
20 through them one at a time. Just in the general sense,
21 identify what they are, if you recognize them.

22 A. Exhibit 5 is the entryway to Mr. Johnson's residence,
23 Mr. Willie Johnson's residence. It's another picture of the
24 house, showing Mr. Johnson lying on the floor. It's another
25 angle of how we found Mr. Johnson when he entered the house.

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QUTIQUE MANOR - DX - THORNTON

1 Exhibit 8 is going to be a closeup of how we found Mr. Johnson
2 in the residence.

3 Q. All right. As to each of those photographs, which
4 are State's 5, 6, 7, and 8, are they true and accurate
5 depictions of how you saw Mr. Johnson and his home that day
6 when you walked in?

7 A. Yes, sir, that's correct.

8 Q. Have they been changed or altered in any way?

9 A. No, sir.

10 SOLICITOR THORNTON: Your Honor, I'd ask State's 5, 6, 7,
11 and 8 be moved into evidence.

12 MR. HUGHES: No objections, your Honor.

13 THE COURT: Admitted.

14 ITEM IDENTIFIED AS PHOTOGRAPH

15 MARKED STATE'S EXHIBIT 5

16 ADMITTED AS EVIDENCE.

17 ITEM IDENTIFIED AS PHOTOGRAPH

18 MARKED STATE'S EXHIBIT 6

19 ADMITTED AS EVIDENCE.

20 ITEM IDENTIFIED AS PHOTOGRAPH

21 MARKED STATE'S EXHIBIT 7

22 ADMITTED AS EVIDENCE.

23 ITEM IDENTIFIED AS PHOTOGRAPH

24 MARKED STATE'S EXHIBIT 8

25 ADMITTED AS EVIDENCE.

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OUTIQUE MANOR - DX - THORNTON

1 BY SOLICITOR THORNTON:

2 Q. I'm going to bring these up one at a time, and if you
3 could just kind of orient the jury to what they're looking at
4 as -- as you came in the door. So, if you could, just please
5 tell us.

6 A. Yes, sir.

7 Q. Exhibit 6 -- Exhibit Number 5?

8 A. That's the doorway of Mr. --

9 Q. And if it helps I'll hand you them as we go through
10 --

11 A. Yes, sir.

12 Q. -- just in case you can't see, as far as you are
13 away.

14 A. That's the entryway to Mr. Johnson's -- Mr. Willie
15 Johnson's residence.

16 Q. Now, what is it -- what do we see right next to the
17 blanket, kind of in the lower, right corner? What is that?

18 A. That's Mr. Johnson's feet.

19 Q. All right. So that gives the jury an idea of, if you
20 were coming in the front door, where he would be.

21 A. Yes, sir.

22 Q. Exhibit Number 6? Where would you be -- is that -- I
23 mean, where would you be standing to take that picture?

24 A. In a corner of the residence, kind of at an angle,
25 and that's where you can see Mr. Johnson lying behind the door,

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OUTIQUE MANOR - DX - THORNTON

1 which is still in the entryway of the main -- main room.

2 Q. And was there any -- I should've asked you this
3 first.

4 A. Yes, sir.

5 Q. When you got there, you had testified that Robert
6 Miller, no relation to the defendant --

7 A. Yes, sir.

8 Q. -- that's already been convicted, that Robert Miller
9 was in the yard.

10 A. Correct.

11 Q. Was there anybody -- at some point did you do what's
12 called a protective sweep?

13 A. Myself and Officer Tison, initially what we do for
14 officer safety and make sure that the person that may have
15 committed this crime is not in the residence, we -- we cleared
16 the residence. That -- we do a quick sweep of the residence.

17 Q. All right. And was there anyone in the residence at
18 that time?

19 A. No.

20 Q. And had you, at this point, is it -- is that how Mr.
21 Johnson and the house looked?

22 A. Yes.

23 Q. All right. Had you moved anything or disturbed
24 anything?

25 A. No, sir.

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OUTIQUE MANOR - DX - THORNTON

1 Q. Exhibit Number 7.

2 A. That's a close-up picture of how we found Mr.
3 Johnson, with his hands behind his back and tied with some type
4 of string, and also, a black plastic bag over his head.

5 Q. And what -- I don't know if the jury can make it out,
6 but it may be clear in another picture. To the left, is that a
7 television that's next to him?

8 A. That's correct.

9 Q. And finally, Exhibit Number 8.

10 A. It's a closeup of Mr. Johnson. It also shows his
11 hand -- hands behind his back, tied, a plastic bag over his
12 head. Also, you can see a portion of his dentures that had
13 been knocked out, also.

14 Q. Is that this item right here, this portion of his
15 dentures been broken and knocked out?

16 A. Yes, sir, that's correct.

17 Q. And what's next to his dentures that also appears to
18 have been removed?

19 A. His wallet.

20 Q. And what's right next to him on his left side?

21 A. It seems to be a -- a piece of paper that was removed
22 out of his wallet, I'm thinking.

23 Q. Is all that -- is that as you saw it when you walked
24 in?

25 A. That's how we found it.

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QUTIQUE MANOR - DX - THORNTON

1 SOLICITOR THORNTON: Court's indulgence, please, your
2 Honor.

3 BY SOLICITOR THORNTON:

4 Q. I'm going to show you what's been marked for
5 identification, Detective, as State's 10, 11, and 12. And if
6 you could just, in general, identify what those are pictures
7 of, if you recognize those.

8 A. Number 10 is a wallet, and also a piece of Mr.
9 Johnson's dentures.

10 Q. All right. Is that a closeup of -- of what we saw
11 from a distance earlier --

12 A. Yes, sir, it is.

13 Q. -- in the last picture?

14 A. Yes, sir, it is.

15 Q. All right. What's next?

16 A. Number 11, it shows the wall near Mr. Johnson's alarm
17 system in his residence.

18 Q. All right. And does it show any kind of phone
19 system?

20 A. It does. The phone is off the hook.

21 Q. All right. And what was one of the complaints,
22 without specifically referencing what he told you, although I
23 think you've already testified to it.

24 A. Yes, sir.

25 Q. What was the complaint of his son when he came to you

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QUTIQUE MANOR - DX - THORNTON

1 all?

2 A. That he couldn't get in contact with him by phone.

3 Q. And -- and you said in that picture the phone is off
4 the hook?

5 A. Yes, sir, it is.

6 Q. And was that the way you found it?

7 A. Yes, sir, it is.

8 Q. What about the next picture?

9 A. That shows another phone in the residence. Also,
10 it's off the hook, also.

11 Q. And does that appear -- excuse me -- does that just
12 appear to be a closeup of the phone in the previous picture?

13 A. Correct.

14 Q. The receiver laying on the ground?

15 A. Correct, yes, sir.

16 Q. And were these accurate depictions of how you saw the
17 residence on June the 19th, 2014?

18 A. Yes, sir, it is.

19 Q. Do they appear to have been altered or changed in any
20 way?

21 A. No, sir.

22 SOLICITOR THORNTON: Your Honor, I'd ask that State's 10,
23 11, and 12 be moved into evidence.

24 THE COURT: Any objection?

25 MR. HUGHES: No objection, your Honor.

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QUTIQUE MANOR - DX - THORNTON

1 THE COURT: Admitted.

2 ITEM IDENTIFIED AS PHOTOGRAPH

3 MARKED STATE'S EXHIBIT 10

4 ADMITTED AS EVIDENCE.

5 ITEM IDENTIFIED AS PHOTOGRAPH

6 MARKED STATE'S EXHIBIT 11

7 ADMITTED AS EVIDENCE.

8 ITEM IDENTIFIED AS PHOTOGRAPH

9 MARKED STATE'S EXHIBIT 12

10 ADMITTED AS EVIDENCE.

11 BY SOLICITOR THORNTON:

12 Q. And I think you've already testified as to what each
13 one of those is: a closeup of broken dentures and a wallet.
14 Exhibit 11, is this the phone down here that you referenced?

15 A. Yes, sir, it is.

16 Q. At the bottom, with -- off the hook?

17 A. Yes, sir.

18 Q. And appears to be the receiver in a chair. So, if
19 you would look at 11 and 12, does that appear to be the same
20 phone, just a closeup of the receiver in the chair, on 12?

21 A. Yes, sir, it is. 12 is just a closeup.

22 Q. And I may actually recall you at some point,
23 Detective Manor. I know you -- I know there were other things
24 that you were involved with, but as far as the initial
25 response, is that primarily what your responsibilities were,

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OUTIQUE MANOR - DX - THORNTON

1 once you got in and did your protective sweep? As far as right
2 then, did you do anything else?

3 A. No, sir. At that time I made contact with sheriff
4 units to help me secure the scene, and my chief made con -- and
5 I -- myself and my chief made contact with SLED, South Carolina
6 Law Enforcement.

7 Q. Thank you very much for mentioning that. So would
8 you say again who SLED is?

9 A. South Carolina Law Enforcement Division.

10 Q. All right. And do you or the chief --

11 A. Um-hmm.

12 Q. -- sometimes call them in to assist in crimes of this
13 nature?

14 A. Yes, sir, that's correct.

15 Q. So you said you called sheriff's deputies to secure
16 the scene. What do you mean by that?

17 A. Just to make sure that the scene is secured, nobody
18 tampers with anything, nobody comes around the scene, period,
19 just for assistance.

20 Q. And I know there may have been later on, but as far
21 as right then that day, is that -- is that primarily what you
22 were focused on?

23 A. Yes, sir.

24 Q. All right.

25 SOLICITOR THORNTON: I don't have any questions at this

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ROBERT MILLER I - DX - THORNTON

1 time, Judge. I do need him subject to recall.

2 THE COURT: Very good. Cross-examination.

3 MR. HUGHES: Your Honor, I have no questions for him
4 concerning that aspect of this case.

5 THE COURT: Very good. All right, sir, I'm going to
6 excuse you right now, but you may be called back as a witness.

7 QUTIQUE MANOR: Yes, your Honor.

8 THE COURT: Thank you.

9 QUTIQUE MANOR: Thank you, sir.

10 SOLICITOR THORNTON: Robert Miller II.

11 Sorry for the delay, Judge.

12 THE COURT: No problem.

13 SOLICITOR THORNTON: The room that we got to put them in
14 is at the other end of the hall.

15 THE COURT: Not a problem.

16 MADAM CLERK: How you doing?

17 ROBERT MILLER II: How you doing?

18 MADAM CLERK: Do you swear or affirm to tell the truth,
19 the whole truth, and nothing but the truth, so help you God?

20 ROBERT MILLER II: Yes.

21 MADAM CLERK: You may be seated.

22 ROBERT MILLER II

23 DIRECT EXAMINATION BY SOLICITOR THORNTON:

24 Q. Good morning, Mr. Miller.

25 A. Good morning.

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ROBERT MILLER I - DX - THORNTON

1 Q. Mr. Miller, where do you live, sir?

2 A. Right now, I living on Pickrum Street.

3 Q. Have you --

4 A. [REDACTED] Pickrum Street.

5 Q. Yes, sir. Have you lived here in Allendale for a
6 pretty good while?

7 A. All my life.

8 Q. Did you know a man by the name of Willie Johnson, who
9 lived at [REDACTED] Pickrum Street?

10 A. Yes, sir.

11 Q. And on about June the 19th -- I realize it's been
12 awhile, you and I talked about this, obviously, at the last
13 trial -- June the 19th of 2014, did you have any reason to go
14 over to his house?

15 A. Yes.

16 Q. And why were you headed over there?

17 A. I had -- excuse me. I had a phone call from one of
18 my friends, member, church member.

19 Q. All right.

20 A. They tell me to go over there and check on him
21 because they were calling and ain't got -- got no answer.

22 Q. All right. So somebody from the church had been
23 calling on Mr. Johnson and couldn't reach him?

24 A. Right.

25 Q. And you went over there to check on him?

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ROBERT MILLER I - DX - THORNTON

1 A. Right.

2 Q. Do you remember who it was that called you?

3 A. Yes, Brother Raymond Simmons.

4 Q. All right. Is he -- does he -- at the time, was he a
5 deacon in the church?

6 A. Oh, yes, Deacon Raymond Simmons.

7 Q. How did you know Mr. Johnson?

8 A. All of us church members.

9 Q. He was a church member with you?

10 A. Yes, sir.

11 Q. Had he been there for a long time?

12 A. A long time.

13 Q. Is it fairly common for -- for church members to
14 check on each other, especially the older church members?

15 A. Yes, sir. That's what we do.

16 Q. Do you -- you got any idea how old Mr. Johnson was?

17 A. I think it was 86.

18 Q. When you got over to Mr. Johnson's house, can you
19 tell me what happened when you got there.

20 A. When I got there, I knock on the door. Well, first,
21 I opened the gate and ran inside -- ran inside the yard, and I
22 knock on the door. And I got -- got no answer. And then, I
23 heard the air conditioner running. That's unusual for him, for
24 the air conditioner to be running, so I turned the knob, open
25 the door, and walk in.

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ROBERT MILLER I - DX - THORNTON

1 Q. Okay.

2 A. I saw Mr. Johnson on the floor. Seems like I saw a
3 quilt first on the floor.

4 Q. I'm going to hand you what's already been admitted
5 into evidence as State's Exhibit Number 6, Mr. Miller. You'll
6 notice there's a blanket there, or quilt as you want to call
7 it.

8 A. Right.

9 Q. Is that what you saw when you walked into Willie
10 Johnson's house?

11 A. Yes, sir.

12 Q. And is that how you saw Willie Johnson?

13 A. That's how I saw him.

14 Q. And was there anybody else in there that you could
15 see when you got there?

16 A. No, no one in there. No, sir.

17 Q. Mr. Miller, what -- when you saw Willie Johnson
18 laying there like that, tied up, what did you do?

19 A. Closed the door back fast and holler across the
20 street and tell someone to call 911.

21 Q. All right. And at some point, did someone call 911?

22 A. Yes, I think so.

23 Q. All right.

24 A. Yes.

25 Q. And did the police get there at some time?

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ROBERT MILLER I - DX - THORNTON

1 A. When I closed the door and walked out, and I holler
2 over across next door, tell them to call the cops, call 911, I
3 saw the cops, and his son was coming down the road, turning the
4 curve, coming down the road wide open.

5 Q. And do you remember, was he with -- was there an
6 officer with him? Outique Manor?

7 A. Behind him. Behind him.

8 Q. Behind him?

9 A. Yeah.

10 Q. And did -- once the police got there, did you stay
11 for awhile, or did you leave?

12 A. I stayed for awhile.

13 Q. And other than when the police got there, did you see
14 anybody else come out of the house or anything like that?

15 A. No, sir.

16 Q. Now, I know you testified a minute ago that you
17 walked in when you saw Willie Johnson right there, you closed
18 the door and left. Did you walk up and -- and get close to him
19 or touch anything in the house?

20 A. No. No, no, no, no, no, no, no. I just stopped
21 right there to the door, and I turned around. I didn't walk up
22 closer. Matter of fact, I wasn't even much in the house, just
23 right to the doorstep.

24 Q. And that picture that I showed you, State's Exhibit
25 6, that was kind of your viewpoint?

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JOHN JOHNSON - DX - THORNTON

1 A. Right.

2 SOLICITOR THORNTON: I don't have any further questions,
3 your Honor. Thank you, Mr. Miller. Please answer any
4 questions Mr. Hughes has.

5 THE COURT: Cross-examination.

6 MR. HUGHES: No questions for Mr. Miller.

7 ROBERT MILLER II: Thank you.

8 THE COURT: May this witness be excused?

9 SOLICITOR THORNTON: I ask he be excused. Thank you, Mr.
10 Miller.

11 ROBERT MILLER II: Okay. I hope I ain't got to come
12 back, though.

13 SOLICITOR THORNTON: John Johnson.

14 MADAM CLERK: Do you swear or affirm to tell the truth,
15 the whole truth, and nothing but the truth, so help you God?

16 JOHN JOHNSON: Yes, I do.

17 JOHN JOHNSON

18 DIRECT EXAMINATION BY SOLICITOR THORNTON:

19 Q. Good morning, Mr. Johnson.

20 A. Good morning.

21 Q. Mr. Johnson, where do you currently work?

22 A. I'm retired.

23 Q. And where did you retire from?

24 A. Last time, from Allendale County EMS.

25 Q. Yes, sir. And back in June, specifically June the

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JOHN JOHNSON - DX - THORNTON

1 19th of 2014 --

2 A. Um-hmm.

3 Q. -- who did you work for at that time?

4 A. I was working for Allendale County Rescue Squad and
5 EMS as a paramedic.

6 Q. All right, sir. And could you explain to the jury, a
7 lot of people here, things like an EMT and paramedic, can you
8 say what a paramedic requires and what kind of training you
9 have to be a paramedic?

10 A. A paramedic is the highest-recognized pre-hospital
11 emergency care in -- person in the state of South Carolina.

12 Q. And what, say, what are you allowed to do that, say,
13 EMT basic or EMT intermediate can't do?

14 A. A paramedic is allowed to give drugs, do some
15 invasive procedures that EMT's are not allowed to do.

16 Q. And I think you testified it was the highest level of
17 --

18 A. Yeah.

19 Q. -- pre -- what's the word you used?

20 A. Pre-hospital emergency care.

21 Q. And what -- what sort of training is required to
22 become a paramedic? All right. Let me ask it a different way,
23 because I know there could be lots.

24 A. A lot.

25 Q. What kind of training did you have in becoming a

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JOHN JOHNSON - DX - THORNTON

1 paramedic?

2 A. Well, you -- in South Carolina, you begin as a EMT.

3 Q. Yes, sir.

4 A. You go through EMT training. Most people, after
5 that, you can either go to advanced training or you can go to
6 the paramedic level. The paramedic level requires quite a bit
7 of classroom instruction, plus, you have clinicals, where you
8 actually go into the hospitals and work. And you also have a
9 component where you actually have to ride on an ambulance and
10 work, as well.

11 Q. Mr. Johnson, at the time that this happened in June
12 of 2014 --

13 A. Um-hmm.

14 Q. -- how much experience had you had as a paramedic at
15 that time?

16 A. About twelve years. Um-hmm.

17 Q. And you have -- did you have additional experience?

18 A. Oh, yeah. I -- when I retired, they gave me a
19 plaque, so I'd had 33 years.

20 Q. Mr. Johnson, I'm going to ask you, on June the 19th
21 of 2014, do you recall going out to any particular residence in
22 Allendale?

23 A. Yes.

24 Q. And where did you go to?

25 A. Let's see. On January [sic] the 19th, we were

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JOHN JOHNSON - DX - THORNTON

1 dispatched to a call at 1:03. We arrived at 1:06 to --

2 Q. All right. And let me stop you a second, Mr.
3 Johnson. P.M., like, in other words, 1:00 o'clock in the
4 afternoon?

5 A. Yeah. It was -- it was 1:00 o'clock in the
6 afternoon.

7 Q. All right, sir. Go ahead.

8 A. When we arrived at, I believe it was [REDACTED] Pickrum
9 Street, is the address I have here.

10 Q. Yes, sir.

11 A. We were requested to come there by the Police
12 Department.

13 Q. Yes.

14 A. When we arrived, one of the officers escorted us into
15 the residence. When I went into the residence, I observed a
16 gentleman -- apparently, a gentleman that was lying prone,
17 which is chest-down, on the floor. There was no spontaneous
18 respirations associated with him.

19 Q. All right.

20 A. There was something covering his head. I, at that
21 point, could not tell you what that was. His hands were behind
22 his back in what appeared to be something that was restraining
23 them, as well as his feet were together, and there was
24 something down there that appeared to be restraining them, too.
25 Once --

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JOHN JOHNSON - DX - THORNTON

1 Q. Let me ask you a question. I'm going to pull up --

2 A. Um-hmm.

3 Q. -- what's already in evidence and ask you if that's
4 an accurate reflection, sir.

5 SOLICITOR THORNTON: Your Honor, Court's indulgence,
6 please, just a moment.

7 JUROR UNKNOWN: i could barely hear him. The microphone
8 --

9 THE COURT: Okay. Would you pull that microphone closer.

10 A. Oh.

11 THE COURT: Speak into it.

12 A. Is that better?

13 JUROR UNKNOWN: That's a whole lot better.

14 A. OKAY.

15 JUROR UNKNOWN: Thank you.

16 BY SOLICITOR THORNTON:

17 Q. Mr. Johnson, I don't know if you'll be able to see it
18 on the screen, but so you and the jury are looking at the same
19 thing, I'll hand you State's Exhibit 7. Is that more or less
20 the scene as far as the -- Mr. Johnson in this case, that you
21 saw him that day? As you just described.

22 A. Yes. Um-hmm.

23 Q. Let me ask you this, Mr. Johnson. One of the things
24 that you -- you indicated you were talking about no signs of
25 respiration?

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JOHN JOHNSON - DX - THORNTON

1 A. Um-hmm.

2 Q. I believe is what you testified to. Did you -- was
3 he warm to the touch, cold to the touch?

4 A. Yeah, when -- when I was leaving the room, because it
5 was pretty obvious to me this gentleman was deceased --

6 Q. All right.

7 A. -- I took my forearm and the portion of his body that
8 skin was available on, I touched my forearm to his arm, and
9 that arm was -- is cold as ice. I mean, it was no -- no body
10 heat there at all.

11 Q. Was it clear that you -- or, you just said it, so
12 I'll just ask it just so it's clear to the jury. Was it clear
13 to you that he was -- he was dead at that time?

14 A. Yes. He was deceased. Um-hmm.

15 Q. All right. And had -- had he -- did it appear that
16 he had been there for at least some time? In other words, this
17 wasn't just right then.

18 A. It -- it -- it wasn't anything that had been soon
19 after, you know, we -- it had been some time. I couldn't tell
20 you how long, but --

21 Q. I understand.

22 A. -- you know.

23 Q. Other than that -- you indicated there were no signs
24 of life. Did you do anything else, or disturb anything else
25 inside?

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JOHN JOHNSON - CX - HUGHES

1 A. No. When -- when they made a determination that this
2 gentleman was deceased, at that point, we recognized that this
3 was a crime scene. And it being a crime scene, we did to want
4 to do anything additional that would have had any negative
5 impact on any forensic examination or investigation that would
6 be done.

7 Q. So what did you do at that point, sir?

8 A. We left. Um-hmm.

9 Q. I have no further questions. Please answer any
10 questions Mr. Hughes has.

11 JOHN JOHNSON

12 CROSS-EXAMINATION BY MR. HUGHES:

13 Q. Just one clerical matter, Mr. Johnson. When you were
14 looking at your report you gave a date. I believe you said it
15 was January 19th. Would you like to correct that?

16 A. June 19.

17 Q. Okay.

18 A. Um-hmm.

19 MR. HUGHES: No further questions, your Honor.

20 THE COURT: Re-direct.

21 SOLICITOR THORNTON: None, your Honor.

22 THE COURT: May this witness be excused?

23 SOLICITOR THORNTON: We ask he be excused, Judge.

24 THE COURT: Mr. Hughes?

25 MR. HUGHES: No problem.

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KIAWAH CAVE - DX - HOLLEN

1 THE COURT: Thank you, sir.

2 JOHN JOHNSON: Um-hmm.

3 SOLICITOR HOLLEN: Kiawah Cave.

4 MADAM CLERK: Do you swear or affirm to tell the truth,
5 the whole truth, and nothing but the truth, so help you God?

6 KIAWAH CAVE: Yes, ma'am, I do.

7 MADAM CLERK: Thank you.

8 KIAWAH CAVE

9 DIRECT EXAMINATION BY SOLICITOR HOLLEN:

10 Q. Good morning, Ms. Cave.

11 A. Hi.

12 Q. Ms. Cave, where do you live?

13 A. Where do I live now?

14 Q. Yes, ma'am.

15 A. In Pinewood Apartments.

16 Q. Okay. Is that here in Allendale?

17 A. Yes, sir.

18 Q. What about in 2014? Did you live --

19 A. I lived on Pickrum Street.

20 Q. You lived on Pickrum Street?

21 THE COURT: Hang on for a second. Can you -- can the
22 jury hear her testimony? Would you mind pulling that
23 microphone a bit closer. I can -- I'm having a hard time
24 hearing myself.

25 BY SOLICITOR HOLLEN:

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KIAWAH CAVE - DX - HOLLEN

1 Q. Ms. Cave, are you from Allendale?

2 A. Yes, sir.

3 Q. Okay. And were you familiar with the victim in this
4 case, a gentleman named Willie Johnson?

5 A. Yes, sir.

6 Q. And how were you familiar with him?

7 A. He was my parents' neighbor.

8 Q. Okay. So where did your parents live, or where do
9 they live?

10 A. Right next door. The only thing separated the two
11 yards was some bushes.

12 Q. All right. And Ms. Cave, where do you work now?

13 A. Hampton.

14 Q. All right. And in June of 2014, where did you work?

15 A. In Savannah, Georgia.

16 Q. All right. What were you doing in Savannah at the
17 time?

18 A. Home care.

19 Q. All right. Like home healthcare?

20 A. Yes, sir.

21 Q. Do you have a specific recollection of June the 17th
22 of 2014?

23 A. I was on my way to work that day. I left early cause
24 I wanted to stop and get something to eat. I had to be to work
25 about 8:00. So I was driving by, and I just saw three guys in

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KIAWAH CAVE - DX - HOLLEN

1 the yard. One guy was closing the gate, and the other two was
2 going around the side of the house.

3 Q. Okay. So you were driving by whose house at that
4 time?

5 A. Mr. Johnson's.

6 Q. Mr. Johnson. Okay. And you said you saw three guys.

7 A. Um-hmm.

8 Q. Can you --

9 COURT REPORTER: Is that yes or no?

10 A. Yes, sir.

11 Q. Can you describe a little bit more what ages, skin
12 color.

13 A. I know they were young, cause I didn't know them,
14 like, from my age or school-wise. They're -- they were young.
15 They not -- wouldn't even be -- like I say, 20, 21, they wasn't
16 even that age.

17 Q. Okay. So they were young. Were they white, black?

18 A. They were black guys.

19 Q. Black guys. All right. And how many did you say
20 there were?

21 A. Three.

22 Q. Three. Okay. Ms. Cave, I'm going to hand you what's
23 already been admitted as State's Exhibit 2. Do you recognize
24 that?

25 A. Yes, sir.

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KIAWAH CAVE - DX - HOLLEN

1 Q. And what is it?

2 A. Mr. Johnson's yard.

3 Q. All right. And specifically, in the front there,
4 what -- by the street, is that the gate you were talking about?

5 A. Yes, sir.

6 Q. Okay. So you saw three guys. Do you know
7 approximately what time it was? Was it early, late in the
8 afternoon?

9 A. It was in the earlier day, like 6:00 o'clock, around
10 like, 6:00, 6:30 at the latest.

11 THE COURT: Would you speak up, please.

12 SOLICITOR HOLLEN: Speak up just a little bit.

13 BY SOLICITOR HOLLEN:

14 A. It was like 6:00, 6:30 at the latest.

15 Q. And you were heading to Savannah.

16 A. Yes, sir.

17 Q. And one more time, where were they standing when you
18 saw them? Do you recall?

19 A. It was one guy, the guy with dreads, he was, like,
20 skinny, he was closing the gate. The other two were walking
21 around on the side of the house.

22 Q. On -- on the side of the house? Is that what --

23 A. Um-hmm.

24 Q. On the right side of the house, left side?

25 A. On this side of the house. Facing the house, it was

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KIAWAH CAVE - CX - HUGHES

1 on this side.

2 Q. Okay.

3 SOLICITOR HOLLEN: Court's indulgence, your Honor.

4 Your Honor, I have no further questions for Ms. Cave.

5 Please answer anything Mr. Hughes might have for you.

6 THE COURT: Cross-examination.

7 MR. HUGHES: Just a few quick questions.

8 KIAWAH CAVE

9 CROSS-EXAMINATION BY MR. HUGHES:

10 Q. Okay. So, in June, 6:00, 6:30 is daylight, right?

11 A. Yes, sir, it was still daylight.

12 Q. And how close did you -- how close is the road to the
13 -- where you were to the person you saw standing by himself?

14 A. The road, basically, it's not even that much grass
15 between the road and the gate. So, basically, I was on the
16 highway, and I looked over and I saw them. Cause when I was
17 coming up, I saw them going in the yard, and I glanced over.
18 But I didn't think anything of it, because I knew Mr. Johnson
19 was older, and he used to get my father and other people to do
20 yard work for him. So I just thought they was going to help
21 him in the yard.

22 Q. Now, I noticed you just looked to your left. Were
23 they on your left or were they on your right?

24 A. They were on my left.

25 Q. So, if you're driving and they're on your left --

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KIAWAH CAVE - CX - HUGHES

1 A. Um-hmm.

2 Q. -- how close did you get to the person standing by
3 himself?

4 A. By himself? I glanced over at him. I was driving, I
5 wasn't walking.

6 Q. Oh, I understand that.

7 A. Yeah.

8 Q. But since you're driving and you look to the left,
9 that means there's not the whole car between you and them, and
10 there's not much road -- grass there. So was it as close to me
11 as you?

12 A. Closer --

13 Q. Or closer?

14 A. Closer than that.

15 Q. Okay. Did you give a description to law enforcement?

16 A. I told them what I saw, yes, sir.

17 Q. And I think you said dreads?

18 A. Dreads was what the guy that was closing the gate. I
19 told them that.

20 Q. And did law enforcement ever show you any pictures?

21 A. No, sir, cause I told them I didn't see their faces
22 directly. I just saw the image -- because the two guys that
23 were on the side of the house, they was turned. So I couldn't
24 see their faces, and I'm driving, so I'm not -- I didn't stop
25 and stare at them. I kept driving.

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KIAWAH CAVE - CX - HUGHES

1 Q. I understand that. So you had no idea who they were.
2 You just saw three young men, and but you were within ten feet
3 of one of them?

4 A. Yeah.

5 Q. And that person had dreads?

6 A. Yeah.

7 MR. HUGHES: No further questions, your Honor.

8 THE COURT: Re-direct?

9 SOLICITOR HOLLEN: No, your Honor.

10 THE COURT: May this witness be excuse?

11 SOLICITOR HOLLEN: We'd ask that she be excused.

12 MR. HUGHES: No objection.

13 THE COURT: Thank you, ma'am. Let me see the attorneys
14 up here right quick.

15 OFF-THE-RECORD BENCH CONFERENCE, OUT OF
16 HEARING OF JURORS. PRESENT: THE COURT,
17 SOLICITOR THORNTON, SOLICITOR HOLLEN,
18 MR. HUGHES.

19 END BENCH CONFERENCE.

20 THE COURT: All right. Mr. Foreman, ladies and
21 gentlemen, let's take a morning break. We'll take about
22 fifteen minutes, then we'll resume testimony. If the jury
23 needs anything, if you'll let our bailiff know. Then, we'll
24 resume testimony about 11:15.

25 JURORS LEAVE COURTROOM 11:03 A.M.

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MARY BOWMAN - DX - HOLLEN

- 1 THE COURT: All right. Recess till 11:15.
- 2 OFF THE RECORD 11:03 A.M.
- 3 BACK ON THE RECORD AT 11:20 A.M.
- 4 THE COURT: Please be seated. All right. State ready to
5 proceed?
- 6 SOLICITOR THORNTON: State's ready, your Honor.
- 7 THE COURT: Defense ready?
- 8 MR. HUGHES: Defense is ready, your Honor.
- 9 THE COURT: Okay. Would you bring the jury in, please.
- 10 JURORS ENTER COURTROOM AT 11:22 A.M.
- 11 THE COURT: Mr. Thornton?
- 12 SOLICITOR THORNTON: Mr. Hollen will be calling the next
13 witness, your Honor.
- 14 THE COURT: Mr. Hollen.
- 15 SOLICITOR HOLLEN: Mary Bowman.
- 16 MADAM CLERK: Place your right hand on the *Bible* and
17 raise your right hand. Do you swear to tell the truth, the
18 whole truth, and nothing but the truth, so help you God?
- 19 MARY BOWMAN: I do.
- 20 MARY BOWMAN
- 21 DIRECT EXAMINATION BY SOLICITOR HOLLEN:
- 22 Q. Good morning, Ms. Bowman. Try to speak into that
23 microphone so the jury can hear you, okay?
- 24 A. Good morning.
- 25 Q. Ms. Bowman, where are you from?

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MARY BOWMAN - DX - HOLLEN

1 A. Allendale.

2 Q. You lived here all your life?

3 A. Yes.

4 Q. And you still live in Allendale now?

5 A. Yes.

6 Q. Were you familiar with the victim in this case, Mr.
7 Willie Johnson?

8 A. Yes.

9 Q. It's all right, Ms. Bowman. Just take your time.
10 How did you know Mr. Johnson?

11 A. He was a member of my church, my family friend. I've
12 known him basically all of my life.

13 Q. Ms. Bowman, I know this is hard. I'm going to ask
14 you to think back to June 17th of 2014. Okay?

15 A. Yes.

16 Q. Did you receive a call from Mr. Johnson on June 17th?

17 A. I did.

18 Q. And did you speak with Mr. Johnson when he called you
19 on the 17th?

20 A. I did not. I was not at home.

21 Q. All right. And what was the reason for his call?

22 A. He wanted me to take him someplace.

23 Q. Okay. Do you recall about what time, just roughly,
24 he called you on that day?

25 A. It would've been somewhere in the afternoon.

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MARY BOWMAN - DX - HOLLEN

1 Q. All right. And --

2 THE COURT: I'm sorry. What did you say, please, ma'am?

3 A. It would've been sometime during the afternoon,
4 because I received the call when I returned home.

5 BY SOLICITOR HOLLEN:

6 Q. All right. So he left you a message on your home
7 phone?

8 A. Yes.

9 Q. Okay. And you said he wanted you to take him
10 somewhere.

11 A. Yes.

12 Q. Did he often call you to take him places?

13 A. Yes.

14 Q. Did he call just you, or did he call other people to
15 take him places?

16 A. Well, sometimes I think other people, but basically,
17 I was the one that would take him shopping, and then take care
18 of his businesses and whatnot.

19 Q. Okay. And why did he call you to take him places?
20 Did he -- did he not drive?

21 A. Well, he used to drive, but he had gotten older and
22 he'd stopped driving. And I had made a promise to his son that
23 I would look out for him, because his son lived in Augusta.

24 Q. So, Ms. Bowman, you got -- you said you missed his
25 call. Did you try to call him back on that day?

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MARY BOWMAN - DX - HOLLEN

1 A. I did.

2 Q. Do you remember about what time you might have tried
3 to call him back?

4 A. I know that I called Mr. Johnson approximately about
5 four times or more, but I never got him.

6 Q. Okay. Do you remember -- and again, just roughly,
7 about maybe when you first tried to call him?

8 A. I would think that it may have been somewhere around
9 8:00.

10 Q. Okay. And what about the last time you tried to call
11 him?

12 A. I know it was about 11:00.

13 Q. All right. And were you able -- were you ever able
14 to reach him?

15 A. No, sir.

16 Q. And in his message, what -- when did he ask you to
17 take him somewhere? Do you remember when he was asking you to
18 take him? Was it on the 17th, or was it the next day? It's
19 okay if you don't remember.

20 A. It would've been the next day.

21 Q. Okay. So, Ms. Bowman, did you ever speak to Mr.
22 Johnson the next day, which would've been June 18th?

23 A. No, I did not.

24 Q. Did you ever speak to him the day after that, which
25 would've been the 19th?

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MARY BOWMAN - DX - HOLLEN

1 A. No, I did not.

2 Q. Did you receive any other calls from anyone else
3 related to Mr. Johnson or about Mr. Johnson?

4 A. I received a call from his son.

5 Q. Okay. And when -- do you remember when that -- when
6 you got that phone call?

7 A. It was during the morning hour. I don't remember the
8 hour.

9 Q. And what about the day? Do you remember which day?
10 Was that the --

11 A. I don't --

12 Q. You don't remember?

13 A. -- it's hard for me to --

14 Q. I understand. Just best you recall, ma'am. Okay.

15 A. I don't remember. I don't remember.

16 Q. That's okay. It's all right. You said you've known
17 Mr. Johnson all his life.

18 A. Yes.

19 Q. And you went to church with him?

20 A. Yes.

21 Q. What was his role in the church? What did he do at
22 the church?

23 A. He was a deacon.

24 Q. Okay. And so, Ms. Bowman, let's go back a little
25 bit. When you received a call from his son, what was the next

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MARY BOWMAN - DX - HOLLEN

1 thing that you did?

2 A. When I received a call from his son, asking if I knew
3 where he was, the next thing I did was to call Raymond Simmons,
4 another deacon from the church.

5 Q. All right.

6 A. Just ask him if he knew where he was.

7 Q. And did you speak to Deacon Simmons?

8 A. I did.

9 Q. And had he heard from Mr. Johnson?

10 A. No.

11 Q. Okay. Without kind of getting into what anyone told
12 you, do you know what happened next, as far as Deacon Simmons
13 and Mr. Johnson?

14 A. When I called Deacon Simmons, he called Deacon
15 Miller, and I called the IGA.

16 Q. The grocery store IGA?

17 A. I did.

18 Q. Okay.

19 A. And he was not at the store. So, when I hung up,
20 Deacon Simmons called me back.

21 Q. Um-hmm.

22 A. And told me to come.

23 Q. To come?

24 A. That they had found Mr. Johnson.

25 Q. Okay. And so, did you go get Deacon Simmons? Is

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MARY BOWMAN - DX - HOLLEN

1 that --

2 A. I did.

3 Q. All right. And what -- what did you all do after
4 that?

5 A. We went over to the house.

6 Q. Ms. Bowman, you said you tried to call Mr. Johnson
7 several times, and you weren't able to reach him. When you say
8 that, did the phone just ring, was it busy, what --

9 A. It was busy.

10 Q. The phone was busy?

11 A. Yes.

12 Q. Okay. Was that unusual?

13 A. Well, sometimes I would call and it would be busy,
14 and I would just keep calling, and then he would answer.

15 Q. Um-hmm.

16 A. But this time he didn't answer.

17 SOLICITOR HOLLEN: Court's indulgence, your Honor.

18 THE COURT: Yes, sir.

19 SOLICITOR HOLLEN: Ms. Bowman, I have no further
20 questions for you. Answer anything Mr. Hughes has. Okay?

21 MARY BOWMAN: Yes.

22 THE COURT: Cross-examination.

23 MR. HUGHES: I have no further questions for this
24 witness.

25 THE COURT: May this witness be excused?

1-10-17 STATE V JOYNER

RAYMOND SIMMONS - DX - HOLLEN

1 SOLICITOR HOLLEN: Yes, your Honor.

2 MR. HUGHES: No objection.

3 THE COURT: Thank you, ma'am. Would you assist her.

4 SOLICITOR HOLLEN: Raymond Simmons.

5 MADAM CLERK: Raise your right hand and put your left
6 hand on the *Bible*. Do you swear to tell the truth, the whole
7 truth, and nothing but the truth, so help you God?

8 RAYMOND SIMMONS: I do.

9 MADAM CLERK: You may be seated.

10 RAYMOND SIMMONS

11 DIRECT EXAMINATION BY SOLICITOR HOLLEN:

12 Q. Good morning, Mr. Simmons. Kind of pull that
13 microphone close to you. Thank you. Mr. Simmons some people
14 have referred to you already as deacon. Is that --

15 A. Yes, sir.

16 Q. -- proper? All right.

17 A. Yes, sir.

18 Q. So is that your position in the church?

19 A. Yes, sir.

20 Q. And where do you live? Where do you live?

21 A. Allendale.

22 Q. Allendale?

23 A. Um-hmm.

24 Q. And how long have you lived in Allendale?

25 A. All my life.

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RAYMOND SIMMONS - DX - HOLLEN

1 Q. All your life?

2 A. Um-hmm.

3 Q. All right. Deacon Simmons, were you familiar with
4 the victim in this case, Mr. Willie Johnson?

5 A. Yes, sir.

6 Q. How did you know Mr. Johnson?

7 A. I knew Brother Johnson from the -- from the church.
8 He was a deacon. Ever since I know him, he been a deacon at
9 Macedonia Church, before I even come -- been a deacon. Brother
10 Johnson been one hundred percent behind his church.

11 Q. And about how long did you know Mr. Johnson? A long
12 time?

13 A. Yes, sir.

14 Q. Okay.

15 A. All my life I know him.

16 Q. Deacon Simmons, you said he was one hundred percent
17 in his church. What do you mean by that? Was he active in the
18 church?

19 A. Yes, sir, in the church and out the church.

20 Q. All right. And when you say that, did he -- what did
21 he do? Did he work around the church? Did he --

22 A. Yes, sir. He didn't only work around the church, he
23 would work around the whole block.

24 Q. Okay.

25 A. Up and down on that street.

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RAYMOND SIMMONS - DX - HOLLEN

1 Q. Deacon Simmons, at some point on June the 19th of
2 2014, did you get a phone call about --

3 A. Yes, sir.

4 Q. -- about Mr. Johnson?

5 A. Yes, sir.

6 Q. And who made that phone call to you?

7 A. Sister Bowman.

8 Q. All right. And when she called you, what was her
9 demeanor like? Do you remember?

10 A. Yes, sir. She told me, said, I'm calling Brother
11 Johnson, and I can't get no answer, and I keep calling him. So
12 I told her, I said, well, you hold on; I said, I call you back,
13 I'll get somebody to go see. So that's when I called Brother
14 Miller.

15 Q. Okay.

16 A. Asked Brother Miller to go check on Brother Johnson.

17 Q. All right. And so, you called, you said, Brother
18 Miller. Is that Robert Miller II?

19 A. Yes, sir.

20 Q. Okay. And is Mr. Miller also a member of the church?

21 A. Yes, sir.

22 Q. All right.

23 A. Yes, sir.

24 Q. And when you called him, what did you ask him?

25 A. I asked Brother Miller, I said Brother Miller, how

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RAYMOND SIMMONS - DX - HOLLEN

1 about go check on Brother Johnson, because Sister Bowman
2 started calling and she can't get no answer.

3 Q. Um-hmm.

4 A. And so, he told me, he said, well, give me a few
5 minutes, I'll put my shoes on, and I'll go. And so, the next
6 thing I know, he called me back, told me about the tragedy.

7 Q. Deacon Simmons, do you remember about what time that
8 might've been?

9 A. Sir?

10 Q. Do you remember about what time the phone call might
11 have been?

12 A. I believe it been after 1:00, if I'm not mistaken.

13 BY SOLICITOR HOLLEN:

14 SOLICITOR HOLLEN: Court's indulgence, your Honor.

15 Deacon Simmons, I have no further questions for you.
16 Please answer anything Mr. Hughes has.

17 MR. HUGHES: I have no questions for Deacon Simmons.

18 THE COURT: All right. May this witness be excused?

19 SOLICITOR HOLLEN: Yes, your Honor.

20 THE COURT: Mr. Hughes?

21 MR. HUGHES: No problem.

22 THE COURT: Thank you, sir.

23 SOLICITOR HOLLEN: Marquita Barron. Marquita Barron.

24 MADAM CLERK: Put your right hand, and put your left
25 hand. Do you swear to tell the truth, the whole truth, and

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MARQUITA BARRON - DX - HOLLEN

1 nothing but the truth, so help you God?

2 MARQUITA BARRON: Yes, ma'am.

3 MADAM CLERK: Okay.

4 MARQUITA BARRON

5 DIRECT EXAMINATION BY SOLICITOR HOLLEN:

6 Q. Good morning, Ms. Barron.

7 A. Good morning.

8 Q. Ms. Barron, where do you work right now?

9 A. Allendale.

10 Q. And what do you do?

11 A. Caregiver.

12 Q. What about in June of 2014, where did you work?

13 A. Officer agent.

14 THE COURT: Speak up, please, ma'am.

15 BY SOLICITOR HOLLEN:

16 A. Officer agent.

17 Q. In the same place you work now?

18 A. Um-hmm.

19 Q. All right. Did you have any other jobs in June of
20 2014?

21 A. Yes, the one that I'm doing now.

22 Q. The --

23 A. Which is the Disability Board.

24 Q. All right. What about a job with Meals on Wheels?

25 A. Yes.

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MARQUITA BARRON - DX - HOLLEN

1 Q. All right. And what did you do for Meals on Wheels
2 in June of 2014?

3 A. I was the driver that actually took the meals out
4 from home to home.

5 Q. Okay. Were you familiar with the victim in this
6 case, Willie Johnson?

7 A. Yes, sir.

8 Q. And how did you know him?

9 A. Actually taking his meals to him every Wednesday.

10 Q. So you delivered meals to Mr. Johnson every Wednesday
11 for Meals on Wheels?

12 A. Yes, sir.

13 Q. All right. Do you recall a day, June 18, 2014, which
14 would've been a Wednesday?

15 A. Yes, sir.

16 Q. And what day did you take -- I think you already
17 testified to this, but what day did you always take Mr. Johnson
18 his meals?

19 A. The meals actually be delivered every Wednesday, and
20 I was the one that actually doing it every Wednesday.

21 Q. Got it. All right. And about how long did you
22 deliver Mr. Johnson's meals to him?

23 A. Probably -- I had worked there almost a year.

24 Q. Okay. And on June 18th of 2014, do you recall just
25 approximately what time you might've been by Mr. Johnson's

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MARQUITA BARRON - DX - HOLLEN

1 house?

2 A. I'd say around lunchtime.

3 Q. Around lunchtime. And anything different about this
4 day when you first got there?

5 A. No, sir.

6 Q. All right. So can you just kind of walk us through
7 what happened on that day? What -- when you delivered the
8 meals, what was your usual course of action with Mr. Johnson?

9 A. Actually, just -- it was the normal.

10 Q. Um-hmm.

11 A. I mean, I actually stopped at the home. We have to
12 get the meals out. I went inside the gate, knocked on the
13 door. Didn't get no answer.

14 Q. And you're talking about June 18th?

15 A. Yes, sir.

16 Q. All right. When you got there, just -- let's go
17 through the usual first.

18 A. Okay.

19 Q. In the time that you delivered Mr. Johnson's meals,
20 had he ever not been home when you delivered a meal?

21 A. Always at home.

22 Q. Always?

23 A. Always.

24 Q. And then, when you got to Mr. Johnson's on June 18th,
25 did he answer the door?

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MARQUITA BARRON - DX - HOLLEN

1 A. No, he didn't.

2 Q. And did you notice anything about the doors when you
3 got there that was unusual, that was --

4 A. No, sir.

5 Q. When you arrived at Mr. Johnson's house, describe for
6 me there, what did the front doors look like?

7 A. It was closed.

8 Q. It was closed?

9 A. Yes.

10 Q. So what did you do when Mr. Johnson didn't come to
11 the door?

12 A. I left with his meal.

13 Q. And that day, did you come back at all?

14 A. It was a total of three times that I went to Mr.
15 Johnson's house, because, as I said before, he's always at
16 home.

17 Q. Always at home. So you went back two more times?

18 A. It was a total of three times.

19 Q. All right. When your shift was over, what did you do
20 next?

21 A. I actually went on back. Took the company car back.

22 Q. Um-hmm.

23 A. Talked to my supervisor, like I saw -- always does,
24 because if we have any meals that was left, we have to actually
25 give them back to her. And like I said, I thought maybe he was

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MARQUITA BARRON - DX - HOLLEN

1 actually sick or he had a doctor's appointment, due to the fact
2 because he's always at home. His front door always stayed open
3 due to the fact -- the screen door, you can see inside the
4 house. This particular day it wasn't. So I took it back, like
5 I said, to my supervisor; explained to her what was going on.
6 Maybe he had a doctor's appointment or he was in the hospital
7 or something, and she took it up from there.

8 Q. Okay. So, when you got there June 18th, you said the
9 screen door and the other door were closed. Is that right?

10 A. Yes, sir.

11 Q. And was that normal?

12 A. No, not with me.

13 Q. Okay.

14 A. As the driver, every Wednesday, him being home, like
15 I said, the hard door always stay open.

16 Q. Right. And -- okay. So, when you got back, who did
17 -- who was your supervisor at that time?

18 A. Ms. Jannette Bennett.

19 Q. And did Ms. Bennet say anything else to you, or did
20 she do anything when you informed her that Mr. Johnson wasn't
21 home?

22 A. She did. And later on that -- a couple of days
23 later, she informed me what had happened to him.

24 Q. Okay. I don't have any further questions, Ms.
25 Barron. Please answer anything Mr. Hughes might have for you.

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MARQUITA BARRON - DX - HOLLEN

1 A. Okay.

2 THE COURT: Cross-examination.

3 MR. HUGHES: No questions.

4 THE COURT: All right. May this witness be excused?

5 SOLICITOR HOLLEN: Please, your Honor.

6 MR. HUGHES: No problem.

7 MARQUITA BARRON: Thank you.

8 THE COURT: Thank you, ma'am.

9 SOLICITOR HOLLEN: Jannette Bennett.

10 SOLICITOR THORNTON: Your Honor, while that witness is
11 coming in, may Mr. Hughes and I approach about a scheduling
12 matter?

13 THE COURT: Yes, sir.

14 OFF-THE-RECORD BENCH CONFERENCE, OUT OF
15 HEARING OF JURORS. PRESENT: THE COURT,
16 SOLICITOR THORNTON, MR. HUGHES.

17 END BENCH CONFERENCE.

18 SOLICITOR THORNTON: Thank you, your Honor.

19 THE COURT: Yes, sir.

20 MADAM CLERK: Raise your right hand and put your left
21 hand on the *Bible* for me. Do you swear or affirm to tell the
22 truth, the whole truth, and nothing but the truth, so help you
23 God?

24 JANNETTE BENNETT: Yes.

25 MADAM CLERK: Okay.

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JANNETTE BENNETT - DX - HOLLEN

1 THE COURT: Would you pull that microphone to your face,
2 please.

3 COURT REPORTER: It won't pull.

4 JANNETTE BENNETT

5 DIRECT EXAMINATION BY SOLICITOR HOLLEN:

6 Q. Good morning, Ms. Bennett.

7 A. Good morning.

8 Q. Where do you work?

9 A. Allendale County Office on Aging.

10 Q. All right. And is that associated with a program
11 called Meals on Wheels?

12 A. Yes.

13 Q. And what is your position there in the county?

14 A. Site manager.

15 Q. All right. Ms. Bennett, in your position with Meals
16 on Wheels, were you familiar with the victim in this case, Mr.
17 Willie Johnson?

18 A. Yes.

19 Q. And is that how you knew him, through that?

20 A. Yes.

21 Q. All right. So had you delivered meals to Mr.
22 Johnson?

23 A. Yes.

24 Q. Ms. Bennett, on June 18, 2014, did one of your
25 employees speak with you about Mr. Johnson?

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JANNETTE BENNETT - DX - HOLLEN

1 A. Yes.

2 Q. And who was that?

3 A. Marquita --

4 Q. And --

5 A. -- Barron.

6 Q. All right. And when she came, did she have some
7 concerns?

8 A. Yes.

9 Q. And without telling us what she said, what were her
10 concerns?

11 A. Mr. Johnson was not at home to receive his meals.

12 Q. And was that unusual?

13 A. Yes.

14 Q. So, after Ms. Barron told you that Mr. Johnson wasn't
15 home, what did you do next?

16 A. I called at Mr. Johnson house. His phone line was
17 busy.

18 Q. And I'm sorry, just to interrupt you for a second.
19 When would that have been? Do you remember?

20 A. Right after Marquita came in and reported that she
21 could not get him at the door to receive his meals.

22 Q. All right. So that would've been in the afternoon of
23 June 18th?

24 A. Yes.

25 Q. You stated you called Mr. Johnson that afternoon?

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JANNETTE BENNETT - DX - HOLLEN

1 A. I called at his house.

2 Q. And did you speak with him?

3 A. No, sir.

4 Q. When you called, did the phone ring? What did it do?

5 A. I hung the phone up. I had gone back out to deliver
6 some more meals.

7 Q. Okay. And I -- that was a poorly asked question, I
8 apologize. Was the phone busy? Did you get an answering
9 machine?

10 A. It was -- it was busy.

11 Q. All right.

12 A. No answering machine.

13 Q. And did you do anything else on Wednesday, June 18th,
14 regarding Mr. Johnson?

15 A. That's all I had did.

16 Q. All right. And what -- what about the next day?

17 A. The next day, I came into work. I told a staff
18 member in the kitchen, I said Mr. Johnson was on my mind all
19 night, because this was unusual for him not to be home to
20 receive his meals. I was going to call his niece, and which I
21 did.

22 Q. Okay.

23 A. His niece name's Tiffany.

24 Q. All right. And --

25 A. I called her, told her who I was and the reason why I

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JANNETTE BENNETT - DX - HOLLEN

1 was calling. And she felt so excited about Mr. Johnson giving
2 me her telephone number. So I explained to her, we deliver his
3 meals on yesterday, which was Wednesday, but we could not reach
4 him and he's always at home. So she thanked me for calling,
5 and she said, I will get in touch with his son this afternoon,
6 and we will come down to Allendale and see what's going on.

7 Q. Ms. Bennett, I don't have any further questions for
8 you, okay? Please answer anything Mr. Hughes has.

9 THE COURT: Cross-examination.

10 MR. HUGHES: No questions, your Honor.

11 THE COURT: May this witness be excused?

12 SOLICITOR HOLLEN: Yes, your Honor.

13 MR. HUGHES: No problem.

14 THE COURT: All right. Thank you, ma'am. You're
15 excused.

16 JANNETTE BENNETT: Thank you, too.

17 SOLICITOR THORNTON: Your Honor, at this time the State
18 -- we're at a good stopping point, we've got some SLED
19 witnesses who are coming from Columbia, and I would ask the
20 Court to take a lunch break. If it's all right with the Court,
21 1:30 we should be ready to -- to continue on with the case.

22 THE COURT: Any objection to that?

23 MR. HUGHES: No, your Honor.

24 THE COURT: Very good. All right. Foreman, ladies and
25 gentlemen of the jury, we're going to go ahead and take a

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JANNETTE BENNETT - DX - HOLLEN

1 stopping point in the trial. We apparently have some witnesses
2 even route. I'm going to let you go have lunch on your own.
3 If you would, leave your notepads in the jury room, don't take
4 them with you. I'm going to remind you not to speak amongst
5 yourselves or with anyone about this case. If someone tries to
6 talk to you about the case, tell them you're a juror. If they
7 persist, bring it to law enforcement, they'll bring it to me.
8 Okay? You'll be back in your jury room, if you don't mind, at
9 1:30.

10 JURORS LEAVE COURTROOM 11:50 A.M.

11 THE COURT: Anything before we break for lunch from the
12 State?

13 SOLICITOR THORNTON: No, your Honor.

14 THE COURT: From the Defense?

15 MR. HUGHES: No, your Honor.

16 THE COURT: All right. We'll be in recess until 1:30.

17 SOLICITOR THORNTON: Thank you, Judge.

18 OFF THE RECORD 11:51 A.M.

19 BACK ON THE RECORD 1:50 P.M.

20 BAILIFF: All rise. This Court is back in session.

21 THE COURT: Please be seated. How long do you
22 anticipate, roughly, I know I'm not going to hold you to it,
23 but your testimony to take this afternoon?

24 SOLICITOR THORNTON: Judge, I would think that the
25 pathologist -- obviously, if Mr. Hughes disagrees with this, he

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JANNETTE BENNETT - DX - HOLLEN

1 can jump in. I would think the pathologist is pretty
2 straightforward. Probably no more than fifteen minutes for
3 her, half hour for the Agent Merrell, and maybe five or ten
4 minutes -- because Agent Johnson is just going to be for the
5 purposes of the voluntariness of the confession. I'd probably
6 say an hour, maybe a little bit more than that, but not much,
7 unless Mr. Hughes thinks the cross is going to be very long.

8 MR. HUGHES: I don't see the cross being extensive, your
9 Honor.

10 THE COURT: Okay. Thank you, gentlemen. All right. You
11 ready to proceed?

12 SOLICITOR THORNTON: I am, your Honor.

13 THE COURT: Mr. Hughes?

14 MR. HUGHES: Yes, your Honor.

15 THE COURT: Can you bring the jury in, please, sir?

16 9:30 in the morning?

17 SOLICITOR THORNTON: Yes, sir. And I conferred with all
18 the SLED people, your Honor, they will be here at 9:00 o'clock.

19 JURORS ENTER COURTROOM 1:52 P.M.

20 THE COURT: All right. Mr. Foreman and ladies and
21 gentlemen of the jury, just to give you an update and status on
22 where we are, one of the hardest things for the lawyers when
23 practicing for 25 years is trying to schedule things. It's
24 like one of my law school professors used to tell us that
25 practicing law is like having five baskets with poisonous

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DR. JANICE ROSS - DX - THORNTON

1 snakes in them with only five tops; you're always juggle them
2 around. Well, we're going to have a shorter afternoon this
3 afternoon because we had some scheduling problems, and that's
4 the Court's fault. It was not either the State of the Defense
5 fault in this matter. Then we'll break. So we'll probably
6 have an hour, hour and a half, this afternoon. We're going to
7 break early. Any reason after we break you all can't come back
8 tomorrow at 9:30 in the morning? Okay. If anybody has a
9 problem with that time -- we were going to go in the morning
10 anyway. It was just one of those things. And I'll apologize
11 to you for that.

12 That being said, State ready to proceed?

13 SOLICITOR THORNTON: The State's ready, your Honor.

14 THE COURT: Defense ready to proceed?

15 MR. HUGHES: Defense is ready, your Honor.

16 THE COURT: Call your next witness, please, sir.

17 SOLICITOR THORNTON: Dr. Janice Ross.

18 MADAM CLERK: Do you swear to tell the truth, the whole
19 truth, and nothing but the truth, so help you God?

20 DR. JANICE ROSS: I do.

21 DR. JANICE ROSS

22 DIRECT EXAMINATION BY SOLICITOR THORNTON:

23 Q. Dr. Ross, obviously, I'm referring to you as doctor.
24 Are you holding the degree of medical doctor?

25 A. I do.

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DR. JANICE ROSS - DX - THORNTON

1 Q. And what is it that you do currently?

2 A. I'm a pathologist, a forensic pathologist in
3 Newberry, South Carolina. I also do hospital pathology.

4 Q. And Dr. Ross, could you tell us, on or about June --
5 I believe it was June 21st of 2014, what did you do at that
6 time?

7 A. We received a body from Allendale from the -- by
8 authorization of the county coroner for an autopsy. We do the
9 autopsies in the morgue at Newberry County Memorial Hospital.

10 Q. All right. So, at that time, in June of 2014, you
11 were a pathologist at that time?

12 A. Yes.

13 Q. In order to become a pathologist, specifically with
14 you, can you talk about your education and certifications that
15 you currently hold.

16 A. Yes. I have a bachelor's degree from the University
17 of South Carolina; and my doctor of medicine, an M.D., from
18 Upstate Medical Center in Syracuse, New York. I did four --
19 over four years more training in the field of pathology, which
20 is the study of disease. As opposed to, like, being a surgeon
21 or a pediatrician, a pathologist learns how to identify
22 diseases by looking at tissue under the microscope, identifying
23 cancers or leukemias, that kind of thing.

24 We also learn how to do an autopsy in order to find a
25 cause of death. I'm further trained and certified in the field

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DR. JANICE ROSS - DX - THORNTON

1 of forensic pathology. The word *forensic* means legal, so we
2 use our knowledge on legal matters, such as homicides and
3 suicides. We do a specific and more intricate autopsy to
4 identify patterns of injury, to collect specimens for the court
5 of law, and for toxicology, and to document everything that we
6 see by autopsy, and formulate or find a cause of death and a
7 manner of death.

8 Q. Dr. Ross, how long have you been a forensic
9 pathologist?

10 A. Forty years.

11 Q. And approximately how many -- this may be hard for
12 you to figure exactly, but roughly how many autopsies do you
13 think you've done?

14 A. Over eleven thousand.

15 Q. And have you ever been qualified as an expert in the
16 courts of this state or any other state?

17 A. Yes.

18 Q. How many times?

19 A. In South Carolina, over 200 times.

20 SOLICITOR THORNTON: Your Honor, at this time I'd ask
21 that Dr. Ross be declared an expert in the fields of -- in the
22 field of forensic pathology.

23 THE COURT: Forensic pathology?

24 MR. HUGHES: Your Honor, I have absolutely no objection
25 to Dr. Ross being so qualified.

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DR. JANICE ROSS - DX - THORNTON

1 THE COURT: All right. Mr. Foreman, ladies an gentlemen
2 of the jury, the State seeks to have Dr. Ross determined to be
3 an expert in the field of forensic pathology. The Defense says
4 that they agree that she is, in fact, an expert in that area.
5 I'll tell you that, normally, a witness is not allowed to give
6 their opinion in the courtroom, unless in very limited
7 circumstances. A witness is required to testify as to what
8 they say, they heard, they smelled, they felt. In other words,
9 something they had personal knowledge of. They're not allowed
10 to give an opinion. However, a person, because of their
11 education or their experience, or a combination of the two, who
12 has expertise in a particular area. If that expertise would be
13 helpful to you as to the finders of fact, are allowed, upon
14 qualification, to give their opinion in the area of their
15 expertise.

16 In this case, Dr. Ross is going to be determined to be an
17 expert in the field of forensic pathology. She will be allowed
18 to give her opinion in that area and the reasons for her
19 opinion. I'll charge you that expert testimony is like any
20 other testimony that you will hear in this courtroom. You may
21 accept it, you may reject it, or give it so much weight as it
22 deserves, depending on the facts and evidence that you hear in
23 this case.

24 SOLICITOR THORNTON: Thank you, your Honor.

25 BY SOLICITOR THORNTON:

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DR. JANICE ROSS - DX - THORNTON

1 Q. Dr. Ross, we were talking earlier. On or about June
2 the 21st of 2014, did you do an autopsy on the victim in this
3 case, Mr. Willie Johnson?

4 A. Yes. Yes, I did.

5 Q. And can you describe briefly to the jury what your --
6 how he appeared when he was brought to you, and what, if any,
7 evidence of injury you were able to discover.

8 A. Yes. He -- they bring us the patients in a body bag.
9 We open them and take photographs. We found that Mr. Johnson
10 had a plastic, black plastic bag around his neck, around his
11 head, tied in a knot around his neck. He had his hands wrist-
12 bound by, like, a shoestring, behind his back. And he had some
13 other clothing on. So what we do is photograph all that,
14 document it, and then take everything off and look at the body
15 externally. And we found that he had -- Mr. Johnson had a lot
16 of injury around his face and some around his chest.

17 Q. And could you be a little bit more specific as far as
18 the -- your autopsy findings as the actual evidence of injury.

19 A. Yes. He had a lot of bruising around his forehead
20 and his eyelids. He had lacerations of the -- both upper and
21 lower lips, and a laceration through the lower lip, which is
22 consistent with teeth having been protruding through the lip.
23 So indicating there was a lot of pressure on the -- on the
24 face, around the -- around the mouth and the -- and the eyes
25 and nose.

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DR. JANICE ROSS - DX - THORNTON

1 Q. Doctor, the left ribs, number seven through nine,
2 were you able to determine evidence of injury on those ribs?

3 A. Yes. When we did some internal work, we looked at
4 him internally, we found two ribs on the left fractured, and
5 some bruising around his left collarbone.

6 Q. Just as a general term, what would those -- what
7 would be the word you would use, or words you'd use, to
8 describe that type of injury as being consistent with?

9 A. With a -- what we call blunt force injury, being hit,
10 or with something. There was no -- no specific pattern, like a
11 baseball bat or a rod, but it was all blunt force injury, which
12 could be, for instance, a fist. Something that didn't leave a
13 specific mark.

14 Q. And there's, in your report, conjunctival petechia.
15 Could you explain what that is and what that's consistent with.

16 A. Yes. They define the word asphyxia, that means
17 there's lack of oxygenation into the blood system, and you can
18 get that way many ways. You can be strangled, you can have
19 pressure put on your mouth and nose, you can have somebody sit
20 on your chest. And what happens in those instances, one of the
21 ways you can document it is you see little red dots in the
22 eyes, which are called petechia. What petechia are is, it
23 refers to the pressure on veins that -- that bring blood down
24 from the head, down towards the heart are -- are being blocked
25 because of the pressure externally. So pressure builds up in

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1 those blood vessels, and little red blood cells pop out of the
2 capillaries and cause little red dots that you can see on the
3 -- on the whites of the eyes or even on the face. So we saw a
4 lot of petechia in the eyes, indicating that he had
5 asphyxiation.

6 Q. Which could be due, based on what you just said, from
7 strangling or pressure, or other things, in addition to the
8 blunt force trauma. Is that right?

9 A. Yes. Plus the bag being over his head.

10 Q. I'm going to show you State's Exhibit, just for
11 identification, 28 and 29, and ask if you can identify those
12 two photographs.

13 A. Exhibit 28 shows the inside of the lower lip of Mr.
14 Johnson. The -- it shows the laceration of that little skin-
15 like thing is called the frenula. And Number 28 -- I'm sorry -
16 - 29, again, shows the -- the external lips of Mr. Johnson,
17 showing the lacerations, especially the lower ones where the
18 teeth probably came through.

19 Q. And are those pictures either you photographed or was
20 photographed in your presence?

21 A. Yes, that's my -- my number and my assistant's hands.

22 Q. Are these both State's 28 and 29 an accurate
23 depiction of some of the facial injuries that you just
24 described?

25 A. Yes.

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DR. JANICE ROSS - DX - THORNTON

1 Q. All right. And have they been altered or changed in
2 any way?

3 A. No.

4 Q. All right.

5 SOLICITOR THORNTON: Your Honor, at this time I would ask
6 that 28 and 29 for the State be moved into evidence.

7 MR. HUGHES: No objections.

8 THE COURT: Admitted.

9 ITEM IDENTIFIED AS PHOTOGRAPH
10 MARKED STATE'S EXHIBIT 28
11 ADMITTED AS EVIDENCE.

12 ITEM IDENTIFIED AS PHOTOGRAPH
13 MARKED STATE'S EXHIBIT 29
14 ADMITTED AS EVIDENCE.

15 BY SOLICITOR THORNTON:

16 Q. All right. State's 28, I believe you testified, was
17 the inside, and is the -- can you see that okay, Dr. Ross?

18 A. Yes, sir.

19 Q. Is this the area of the picture -- I see bruising and
20 blood pooling there, and then it's all obviously some -- some
21 other blood. Is that some of the evidence of injury you were
22 talking about?

23 A. Yes, it is.

24 Q. And go to 29. And is this right here is where the
25 middle, right underneath his lip where the -- it was actually

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DR. JANICE ROSS - DX - THORNTON

1 enough force used that it caused what you believe his teeth to
2 punch through his lip entirely?

3 A. Yes.

4 Q. In addition to that, you testified that there were
5 other blunt force injuries to his face, and I believe that you
6 said rib seven and nine -- basically, he had broken ribs. His
7 ribs had been broken, as well.

8 A. That's correct.

9 Q. And the last thing I think you said, Doctor, was that
10 there was other associated bruising in addition to all of that.

11 A. Yes. He had bruises on the eyes, eyelids, and when
12 we reflect the scalp we could see bruise on the left temple
13 area, and then the forehead.

14 Q. And forgive me, Doctor, but what's the technical name
15 when you have bruising and pooling of blood under the scalp?

16 A. Well, it's a contusion or bruise, which is called
17 subgaleal. It's underneath the scalp.

18 Q. Okay. And so, there was bruising, including
19 underneath the scalp?

20 A. Correct. And you may not see the injury from the
21 outside, but you can see it underneath the skin.

22 Q. One of the things you testified earlier, Doctor, was,
23 one of the things you do as a pathologist is talk about the
24 cause and manner of death. Can you first explain to the jury
25 what the difference between those two things are.

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DR. JANICE ROSS - DX - HUGHES

1 A. Yes. Cause of death is just like it sounds, what
2 caused the actual death. And a natural disease might be heart
3 attack. In this case there was evidence of smothering. Manner
4 of death is how that cause of death came about, and there are
5 five manners of death. One's natural, like I say, the heart
6 attack. One's suicide, homicide, accident, or sometimes we
7 can't determine the manner of death, so we can have -- we can
8 say undetermined.

9 Q. Dr. Ross, in this case, and you would have -- and you
10 just testified that the -- the cause of -- the cause of death
11 is asphyxiation. Was there attributing factor as well with
12 blunt force trauma?

13 A. Yes.

14 Q. And in addition to those two, did you -- were you
15 able to determine the manner of death in this case, based upon
16 all of your findings and the information provided?

17 A. Yes.

18 Q. And what is the manner of death?

19 A. Homicide.

20 Q. Thank you, Doctor. I have no further questions.
21 Please answer any questions Mr. Hughes has.

22 DR. JANICE ROSS

23 CROSS-EXAMINATION BY MR. HUGHES:

24 Q. Just one question, Doctor. You can't say who caused
25 this, can you?

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RICHARD JOHNSON - DX - THORNTON

1 A. No, I cannot.

2 MR. HUGHES: No further questions, your Honor.

3 THE COURT: Re-direct.

4 SOLICITOR THORNTON: None, your Honor. I'd ask that Dr.
5 Ross be excused, with my thanks.

6 MR. HUGHES: No objection.

7 THE COURT: Thank you, ma'am, you're excused.

8 DR. JANICE ROSS: Thank you.

9 SOLICITOR THORNTON: Richard Johnson.

10 MADAM CLERK: Do you swear or affirm to tell the truth,
11 the whole truth, and nothing but the truth, so help you God?

12 RICHARD JOHNSON: I do.

13 RICHARD JOHNSON

14 DIRECT EXAMINATION BY SOLICITOR THORNTON:

15 Q. Mr. Johnson, who do you currently work for, sir?

16 A. South Carolina Law Enforcement Division.

17 Q. And are you an agent, and is that also otherwise
18 known as SLED?

19 A. That's correct.

20 Q. Agent Johnson, in June of 2014, did you also work for
21 SLED?

22 A. Yes, I did.

23 Q. And did you have occasion to work in some capacity on
24 the case that we're here about today involving the murder of
25 Willie Johnson?

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RICHARD JOHNSON - DX - THORNTON

1 A. Yes, I did.

2 Q. And I'm just going to draw your attention
3 specifically to one instance. Did you have occasion on or
4 about June the 24th of 2014 to interview Gabriel Joyner?

5 A. Yes, I did.

6 Q. And who else, if anybody, was present with you when
7 you talked to Mr. Joyner?

8 A. Agent Merrell. His mother, Latasha Brandt was
9 present.

10 Q. All right. And who --

11 A. Yes.

12 Q. -- Gabriel Joyner's mother?

13 A. Gabriel Joyner's mother.

14 Q. All right. And Natasha Merrell. Is she anywhere in
15 the courtroom?

16 A. I'm sorry. Natasha Merrell.

17 Q. Yes. Is she here in the courtroom?

18 A. Yes, sir.

19 Q. All right. And she's sitting right there next to me?

20 A. That's correct.

21 Q. And is she the case officer on this case?

22 A. Yes, sir.

23 Q. So you were there assisting her during this interview
24 of Gabriel Joyner?

25 A. That's correct.

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RICHARD JOHNSON - DX - THORNTON

1 Q. And you indicated Gabriel Joyner was there,
2 obviously, and Gabriel's mother?

3 A. That's correct.

4 Q. Did you do what's called -- or were you present when
5 a *Miranda* rights form was done?

6 A. Yes, I was present.

7 Q. And I'm going to show you what's been marked for
8 identification as State's Exhibit Number 32. Can you identify
9 that form for me.

10 A. Yes. This is the *Miranda* rights form that was read
11 to Mr. Joyner.

12 Q. And did you actually sign as a witness on that form?

13 A. Yes, I did.

14 Q. And is it a true and accurate copy of the form that
15 was read to him, read to him being Gabriel Joyner, on June the
16 24th, at approximately 11:41 p.m.?

17 A. Yes, it is.

18 Q. And has it been altered or changed in any way?

19 A. No, sir.

20 SOLICITOR THORNTON: Your Honor, I'd ask that State's
21 Exhibit 32 be moved into evidence.

22 MR. HUGHES: No objection.

23 THE COURT: Admitted.

24 ITEM IDENTIFIED AS *MIRANDA* RIGHTS FORM

25 MARKED STATE'S EXHIBIT 32

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RICHARD JOHNSON - DX - THORNTON

1 ADMITTED AS EVIDENCE.

2 BY SOLICITOR THORNTON:

3 Q. If you would, actually, since this is now in
4 evidence, would you please go through each of the rights that
5 you witnessed being read to Mr. Joyner?

6 A. Yes, it's a --

7 Q. The defendant in this case.

8 A. Yes, sir. It starts out:

9 *Before we ask you any questions, you must*
10 *understand your rights. You have the right to*
11 *remain silent. Anything you say can be used in*
12 *court as evidence against you. You're entitled to*
13 *talk to a lawyer now and have him present now, or*
14 *at any time during questioning. If you cannot*
15 *afford an attorney, one will be appointed for you*
16 *without cost. If you decide to answer questions*
17 *now, without a lawyer present, you will still have*
18 *the right to stop answering at any time. You also*
19 *have the right to stop answering at any time until*
20 *you talk to a lawyer.*

21 *Do you understand these rights? Do you wish*
22 *to talk to us at this time? I have read the*
23 *statement of my rights, and I understand what my*
24 *rights are. I am willing to talk now, without a*
25 *lawyer present. I understand and know what I am*

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RICHARD JOHNSON - DX - THORNTON

1 *doing. No promises or threats have been made to*
2 *me. No pressure or coercion of any kind has been*
3 *used against me.*

4 Q. And is there a space next to each one of those things
5 for either an initial, or in the last -- in the case of the
6 very last paragraph you read, a signature?

7 A. Yes. Each -- starting with, *you have the right to*
8 *remain silent*, on down, there's a spot for individual to put
9 their initials. And at the bottom, where it reads, *I have read*
10 *this statement*, there's a spot for the defendant to sign,
11 acknowledging that he is willing to speak with us.

12 Q. And did Gabriel Joyner initial each one of those
13 blocks and then sign that he wished to speak with you?

14 A. Yes, he did.

15 Q. And did he, in fact, after doing that, did he speak
16 with you, and did you and Agent Merrell question him?

17 A. Yes.

18 Q. And ultimately, did he write a -- or, excuse me.
19 Ultimately, did Agent Merrell write a statement on his behalf
20 that he signed?

21 A. That is correct.

22 Q. And did that statement mirror what he told you --
23 ultimately, what he told you and agent Merrell during the
24 interview?

25 A. Yes, sir.

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RICHARD JOHNSON - DX - THORNTON

1 Q. At any time -- there's a space on there that said no
2 threats, or I believe coercion was the other word used.

3 A. Yes, sir.

4 Q. Did you get -- did you make general statements to him
5 that he needed to tell the truth?

6 A. More to like yes.

7 Q. And did you make statements like you need to come
8 clean and we'll speak with the prosecutor, whoever decides to
9 come clean, things like that, of that nature?

10 A. Yes, sir.

11 Q. But did you make any specific promises of leniency or
12 any threats, or try to coerce him in any way?

13 A. No, sir.

14 Q. And you indicated his mother was in the room. Was
15 she in the room when these rights were read?

16 A. Yes, she was.

17 Q. And she actually signed as a witness?

18 A. Yes, she did.

19 Q. And I asked, obviously, Agent Johnson, about you.
20 Did Agent Merrell or anyone else in your presence make any
21 threats or promises of -- specific promises of leniency or
22 anything like that to the defendant to get him to talk to you?

23 A. No, sir.

24 SOLICITOR THORNTON: Your Honor, Court's indulgence,
25 please, for one moment.

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RICHARD JOHNSON - CX - HUGHES

1 THE COURT: Yes, sir.

2 SOLICITOR THORNTON: Your Honor, obviously, subject to
3 recall, he's one of the SLED agents, I don't have any further
4 questions about this matter. I ask that he answer any
5 questions Mr. Hughes has about the voluntariness.

6 THE COURT: Cross-examination.

7 MR. HUGHES: Thank you.

8 RICHARD JOHNSON

9 CROSS-EXAMINATION BY MR. HUGHES:

10 Q. Mr. Johnson, I take it you beat him with a rubber
11 hose to get him to confess.

12 A. No, sir.

13 Q. You didn't use a phone book?

14 A. No, sir.

15 Q. Beat him upside the head to make him confess?

16 A. No, sir.

17 Q. So he voluntarily confessed?

18 A. Yes, he did.

19 Q. Cooperated?

20 A. Yes.

21 Q. No further questions.

22 THE COURT: Re-direct.

23 SOLICITOR THORNTON: None, your Honor. Ask that he be
24 excused, obviously, subject to recall, I can call him, but we
25 should not be needed back today.

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NATASHA MERRELL - DX - THORNTON

1 THE COURT: Do you understand?

2 RICHARD JOHNSON: Yes, sir.

3 THE COURT: All right. Thank you, sir. You're excused
4 for the afternoon.

5 SOLICITOR THORNTON: And your Honor, just by the way, Mr.
6 Johnson already knows this, but obviously, he would still be
7 under the Court's sequestration order until told otherwise.

8 RICHARD JOHNSON: Okay.

9 SOLICITOR THORNTON: Thank you, Agent Johnson.

10 THE COURT: Thank you, sir.

11 RICHARD JOHNSON: Yes, sir.

12 SOLICITOR THORNTON: State calls Natasha Merrell.

13 MADAM CLERK: Do you swear or affirm to tell the truth,
14 the whole truth, and nothing but the truth, so help you God?

15 NATASHA MERRELL: Yes, ma'am.

16 NATASHA MERRELL

17 DIRECT EXAMINATION BY SOLICITOR THORNTON:

18 Q. Agent Merrell, this is going to be -- just kind of
19 fall into that category of things you saw me tell the jury in
20 the opening statements of things that are probably be silly,
21 but as a formality, they need to be done. Who do you work for,
22 ma'am?

23 A. South Carolina Law Enforcement Division, also known
24 as SLED.

25 Q. And are you an agent with SLED?

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NATASHA MERRELL - DX - THORNTON

1 A. Yes, I am.

2 Q. Are you the case agent on the case that we're here
3 about today involving the murder of Willie Johnson?

4 A. Yes, I am.

5 Q. You heard testimony just a moment ago from Agent
6 Johnson regarding an interview conducted with the defendant in
7 this case, Gabriel Joyner. Is that correct?

8 A. Correct.

9 Q. Was that the first time you had talked to Gabriel
10 Joyner?

11 A. No, sir.

12 Q. When you spoke with Gabriel Joyner before, was he
13 under arrest, or had you placed him under arrest, or did you
14 have much information at that time about the case?

15 A. No, sir.

16 Q. Okay. And do you know where Gabriel Joyner lived in
17 proximity to [REDACTED] Pickrum Street, which is the victim Willie
18 Johnson's address?

19 A. He lived across the street.

20 Q. And at some point during the investigation, did you
21 feel it prudent to talk to Gabriel Joyner?

22 A. Yes.

23 Q. And this is early on. Again, he was -- was he under
24 arrest or anything?

25 A. No.

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NATASHA MERRELL - DX - THORNTON

1 Q. And did he -- what did he tell you, if anything?

2 A. He spoke about his day that day, that he was with his
3 uncle, and they were coming back home late one night. He
4 noticed that Mr. Johnson's lights were on, but he had never
5 been inside of his residence.

6 Q. Did he admit knowledge of anybody else going in, or
7 him going in, or any participation whatsoever with this crime?

8 A. No.

9 Q. So he denied knowing anything about it?

10 A. That is correct.

11 Q. That would -- and do you recall what date that was
12 on?

13 A. That was on June 19th.

14 Q. All right. And obviously, the jury's heard
15 testimony. Was that the day that Willie Johnson, the victim in
16 this case, was found murdered in his home?

17 A. Yes, it was.

18 Q. All right. Did you have occasion as a result of your
19 investigation into this case to talk to Gabriel Joyner again?

20 A. Yes, we did.

21 Q. And when was that?

22 A. That was on June 24th.

23 Q. And is that the statement, the testimony that was
24 given by Agent Johnson just a moment ago?

25 A. Yes.

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NATASHA MERRELL - DX - THORNTON

1 Q. And can you please go back over for the jury who was
2 present in the room.

3 A. Myself; Agent Johnson; Gabriel Joyner; and his
4 mother, Latasha Brandt.

5 Q. And did his mother, him being Gabriel Joyner, the
6 defendant in this case, did his mother stay in the room the
7 entire time.

8 A. Not the entire time. Once he started talking to us
9 about the details of what happened, she exited the room, said
10 that she could not listen to it.

11 Q. All right. Did you force her to leave or ask her to
12 leave, or was that of her own volition?

13 A. She left on her own will.

14 Q. I have already entered this into evidence, but let me
15 go over this very quickly. It's already been entered as
16 State's Exhibit Number 32, and you heard Agent Johnson talk
17 about what everybody commonly knows as *Miranda* rights. Did you
18 -- are you the one who read those to Gabriel Joyner?

19 A. I did.

20 Q. And did you have him initial next to each one?

21 A. Yes.

22 Q. And did he sign at the very bottom, indicating he
23 wished to talk with you?

24 A. Yes.

25 Q. Agent Merrell, was there, for lack of a better word,

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NATASHA MERRELL - DX - THORNTON

1 an attempted audio tape done in this -- for this interview?

2 A. Yes.

3 Q. And what did you, if anything, what did you use to
4 try and tape this?

5 A. I used my SLED-issued iPhone 4S.

6 Q. All right. And at some point during -- during the
7 interview of Gabriel Joyner, did you notice that something
8 unusual happened when you were using an iPhone to make the
9 recording?

10 A. Yes. If your phone is not placed in airplane mode
11 while you're recording, you receive an incoming call the
12 recording will stop. So you would have to go back and manually
13 restart the recording.

14 Q. And is the recording quality what you would consider
15 high level?

16 A. No, sir.

17 SOLICITOR THORNTON: Your Honor, I'm going to take this a
18 little bit out of order, but go ahead and finish it up. We've
19 shown it to both the Court and Mr. Hughes.

20 BY SOLICITOR THORNTON:

21 Q. This is actually -- I'm going to ask you, Agent
22 Merrell, if you will identify Item 34 at our request. Is that
23 the audio version of your interview, such that it is?

24 A. Yes.

25 Q. All right. And was it altered or changed in any way?

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NATASHA MERRELL - DX - THORNTON

1 A. No.

2 Q. All right.

3 SOLICITOR THORNTON: Your Honor, I'm not going to play it
4 for the jury. I don't think it will help them that much.
5 Obviously, the agent is here. But I do think if they want it
6 -- if the jury wants to hear it at some point they should be
7 able to. It's about forty minutes long and the audio quality
8 is not the greatest, but at this time, I would move it into
9 evidence.

10 MR. HUGHES: Just what number is that?

11 SOLICITOR THORNTON: It's -- excuse me -- Exhibit 34.

12 MR. HUGHES: No objection.

13 THE COURT: All right. Admitted.

14 ITEM IDENTIFIED AS C.D. OF
15 INTERVIEW OF GABRIEL JOYNER
16 MARKED STATE'S EXHIBIT 34
17 ADMITTED AS EVIDENCE.

18 BY SOLICITOR THORNTON:

19 Q. And so, I'm going to ask you, obviously, because of
20 the quality of that audio, we'll go maybe into a little bit
21 more detail than we normally would, Agent Merrell, instead of
22 trying to play that. When you were reading Gabriel Joyner his
23 rights, one of the items on there after you've read his rights
24 is, do you understand these rights.

25 A. Yes.

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NATASHA MERRELL - DX - THORNTON

1 Q. And did you ask him that question?

2 A. Yes.

3 Q. And what did he say?

4 A. He said yes.

5 Q. And did he initial it?

6 A. Yes, he did.

7 Q. What's the next question on there?

8 A. Do you wish to talk to us at this time.

9 Q. And what was it that he said, or are you sure?

10 A. He mumbled a lot.

11 Q. Okay.

12 A. The questions before that, before do you understand
13 these rights, and he answered me clearly, it was always um-hmm,
14 hmm, um-hmm. So, when I got down to do you wish to talk to us
15 at this time, he mumbled again. And I asked him, no, in
16 clarification, because I didn't understand what he was saying.

17 Q. In other words, were you trying to find out if he
18 wanted to continue to talk to you or not?

19 A. That is correct.

20 Q. All right. And did he make any gestures or facial
21 indications that you thought he did still want to talk to you?

22 A. He shook his head yes.

23 Q. All right. And was his mother still in the room?

24 A. Yes, she was.

25 Q. Now, after that question, what's the very next

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NATASHA MERRELL - DX - THORNTON

1 question?

2 Q. That is the waiver of rights. That's the small
3 paragraph that says I have read this statement -- I have read
4 this statement of my rights, and I understand what my rights
5 are; I am willing to talk now, without a lawyer present; I
6 understand and know what I am doing; no promises or threats
7 have been made to me, and no pressure or coercion of any kind
8 has been used against me.

9 Q. And did you -- did he -- did you indicate that
10 paragraph to him and did he sign it?

11 A. Yes, he did sign it.

12 Q. And did he talk to you pretty much this entire time,
13 did he continue to answer questions?

14 A. Yes, he did.

15 Q. And was his mother still in the room at that time, or
16 was she already gone?

17 A. She left shortly after the *Miranda* was signed, and
18 that's when he started talking to us about the details of what
19 happened.

20 Q. All right. Now, did he immediately come clean, or
21 what did he say?

22 A. No, he referred back to the first statement that he
23 gave us.

24 Q. Which was?

25 A. That he had nothing to do with anything, didn't know

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NATASHA MERRELL - DX - THORNTON

1 what was going on.

2 Q. All right. And for lack of a better word, did you
3 and Agent Johnson basically tell him that you didn't think that
4 was true?

5 A. That's correct.

6 Q. And did he, at some point during this -- and first of
7 all, let me ask you this. How long of a process was this
8 interview? Was it a long, several hours, or just a short time?

9 A. The interview with Gabriel, I think it lasted maybe a
10 little less than an hour.

11 Q. So, at some point during that hour or a little less,
12 does Gabriel finally come off of it and start giving you some
13 information?

14 A. Yes, he does.

15 Q. And what does he tell you?

16 A. He tells us about the two other -- I -- I don't -- I
17 don't know if I should say co-defendants, or?

18 Q. That's fine.

19 A. Okay.

20 Q. Co-defendants is fine.

21 A. The --

22 Q. And who does he name, if anybody?

23 A. Robert Miller III, also known as Rob, is what he
24 addressed him as; and Kashon. That they came to his house and
25 asked him if he wanted to do a lick.

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NATASHA MERRELL - DX - THORNTON

1 Q. All right. Slow down for me.

2 A. Okay.

3 Q. All right. They, being Robert Miller and who?

4 A. And Kashon Bynum.

5 Q. I already told the jury, obviously, that they -- they
6 would hear that name, and no relation to the Robert Miller that
7 found Willie Johnson dead in his home, correct?

8 A. Correct.

9 Q. This is the Robert Miller III, who has already been
10 convicted in this case in a separate trial?

11 A. Correct.

12 Q. All right. So Gabriel Joyner names Robert Miller,
13 Kashon Bynum. He says they came to his house, meaning came to
14 Gabriel's house?

15 A. That's correct.

16 Q. And again, for the jury, where does Gabriel live?

17 A. Across the street from Mr. Willie Johnson.

18 Q. And what do -- what does the defendant say, Gabriel
19 Joyner, said to him?

20 A. He says that they came, Kashon and Rob, and asked him
21 if he wanted to do a lick.

22 Q. And for those people on the jury who may not
23 understand what that means, you and I deal with it every day.

24 A. A robbery.

25 Q. Go ahead. I'm sorry.

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NATASHA MERRELL - DX - THORNTON

1 A. It means a robbery.

2 Q. All right. And did they indicate, according to him,
3 who?

4 A. Yes. Across the -- the old man across the street.

5 Q. And what was the -- what did Gabriel Joyner tell you
6 what his response was?

7 A. He said at first he told them no, because that side
8 of town was already hot.

9 Q. Meaning?

10 A. Meaning that, I guess they've had issues over in that
11 area before, so there was a lot more police presence on that
12 side.

13 Q. All right. So he said no because it was too hot?

14 A. Correct.

15 Q. And eventually, did he indicate to you that he
16 changed his mind?

17 A. Yes.

18 Q. All right. What does he say?

19 A. He says somehow Kashon talked him into it, so he
20 decided to go along with it.

21 Q. And what happened next?

22 A. So they go over to Mr. Johnson's home, and Kashon and
23 Rob goes and knock on the door, and he's standing on the side
24 of the house by the air conditioning unit.

25 Q. Let me stop you for just a second. I'm going to show

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NATASHA MERRELL - DX - THORNTON

1 you what's already into evidence as State's Exhibit Number 3,
2 which is already in evidence. You indicated that Gabriel
3 Joyner said that he was standing on the side by the air
4 conditioner. Do you see the side of [REDACTED] Pickrum Street, Mr.
5 Willie Johnson's house?

6 A. Yes.

7 Q. What's on the side of it?

8 A. The air conditioning unit's sticking out of the
9 window.

10 Q. So what -- what did Gabriel Joyner say they did next?

11 A. Once Rob and Kashon knocked on the door, they bum-
12 rushed in, he followed in behind them. He said Rob was beating
13 him, beating the old man, and Kashon was having problems tying
14 up the old man. And while that was going on, he searched the
15 house.

16 Q. All right. And did he tell you that he -- whether or
17 not he saw the victim in this case, eighty-six-year-old Willie
18 Johnson, being beaten?

19 A. Yes, he did.

20 Q. And who did he say did the beating?

21 A. He said Rob did.

22 Q. And what was he doing as this -- as this eighty-six-
23 year-old man was being beaten to death?

24 A. He was searching the house for a safe, money, guns,
25 whatever they were going in there to look for.

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NATASHA MERRELL - DX - THORNTON

1 Q. All right. And did he indicate whether or not -- you
2 said that he said Kashon was tying him up. Did he say what
3 with? Did he get more specific about being tied up?

4 A. He said shoestring. Like --

5 Q. And --

6 A. -- from --

7 Q. Although the jury's seen the picture, what was Mr.
8 Johnson tied up with?

9 A. Shoestrings.

10 Q. Did he indicate whether or not he saw a bag being
11 placed over Mr. Johnson's head?

12 A. Yes, he said Rob placed the bag over his head.

13 Q. Did he say where Rob got the bag from or whether they
14 found it there? Did he make any indications?

15 A. He said Rob brought it with him.

16 Q. You mentioned a safe earlier. Did -- hang on.

17 SOLICITOR THORNTON: I'm sorry, Judge, Court's
18 indulgence.

19 THE COURT: Yes, sir.

20 BY SOLICITOR THORNTON:

21 Q. You mentioned a safe earlier. Did -- did Gabriel
22 Joyner talk to you about a safe in the victim's house?

23 A. Yes.

24 Q. And what, if anything, did he tell you about it?

25 A. That he found the safe off the side of the living

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NATASHA MERRELL - DX - THORNTON

1 room, and he rolled it into the living room.

2 Q. And by rolled it, meaning it's on wheels, or flipping
3 it over?

4 A. Flipping it over.

5 Q. At that point -- now, this is -- you've testified
6 this statement was done June the 24th. Excuse me. And so,
7 this is -- the murder occurs on the 17th, and he's found on the
8 19th, so this is the next week, basically. Is that right?

9 A. That is correct.

10 Q. Up until that point, did you know anything, or had
11 you guys found any kind of safe that was tied to this case?

12 A. No. There was a safe inside the house, but we did
13 not know about the safe that he talked about.

14 Q. All right. And subsequent to that, did you go out
15 and do a search?

16 A. Yes, we did.

17 Q. I'm going to show you what's been marked as State's
18 Exhibit 24 and 25, for identification. Can you identify those
19 two photographs.

20 A. These are photos of the safe that was found behind
21 Mr. Johnson's house in a drainage ditch.

22 Q. All right. And you already testified you did not
23 know about that safe until Gabriel Joyner told you about it.
24 Is that correct?

25 A. That is correct.

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1 Q. And did he tell you where it was?

2 A. Yes. He told us that it was behind Mr. Johnson's
3 house in the woods somewhere.

4 Q. And where did you find it?

5 A. Behind Mr. Johnson's house, in the woods.

6 Q. Have these pictures been altered or changed in any
7 way?

8 A. No, sir.

9 Q. Are they accurate depictions of the safe?

10 Q. Yes.

11 SOLICITOR THORNTON: Your Honor, I'd ask that State's
12 Exhibit 24 and 25 be moved into evidence.

13 MR. HUGHES: No objection.

14 THE COURT: Admitted.

15 ITEM IDENTIFIED AS PHOTOGRAPH

16 MARKED STATE'S EXHIBIT 24

17 ADMITTED AS EVIDENCE.

18 ITEM IDENTIFIED AS PHOTOGRAPH

19 MARKED STATE'S EXHIBIT 25

20 ADMITTED AS EVIDENCE.

21 BY SOLICITOR THORNTON:

22 Q. And did he -- do you recall whether or not he told
23 you what color the safe was?

24 A. He said it was like a gray-ish color.

25 Q. Although it should be obvious. What color does that

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NATASHA MERRELL - DX - THORNTON

1 say?

2 A. It's a gray-ish color.

3 Q. Did he mention to you anything about --

4 SOLICITOR THORNTON: -- hang on a second, I will -- let
5 me withdraw that question. I apologize, Judge.

6 BY SOLICITOR THORNTON:

7 Q. I'm going to hand you what's been marked as State's
8 Exhibit 33, for identification. Can you identify that for me.

9 A. This is the voluntary statement that I wrote on the
10 request of Gabriel Joyner.

11 Q. Is -- is that -- when did that occur, that interview?
12 Was that at the beginning, at the end?

13 A. This is at the end.

14 Q. All right. So is this -- is his, for lack of a
15 better word, a recap of what you had already talked about?

16 A. That's correct.

17 Q. And is it -- do you review that now?

18 A. Yes.

19 Q. Is it a true and accurate depiction of the statement?
20 And who wrote that statement? Who actually physically wrote
21 it?

22 A. I physically wrote it.

23 Q. And does it match what Gabriel told you during the
24 interview?

25 A. Yes, it does.

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NATASHA MERRELL - DX - THORNTON

1 Q. And did you allow him time to review it?

2 A. Yes, I did, and asked him to initial.

3 Q. And did he do so?

4 A. Yes.

5 Q. And did he sign or print his name at the end of it,
6 saying it was -- it was a true statement of his?

7 A. That's correct.

8 Q. Has it been altered or changed in any way?

9 A. No.

10 SOLICITOR THORNTON: Your Honor, at this time I'd ask
11 that the written statement of the defendant in this case,
12 Gabriel Joyner, which is State's, I believe, 33, be moved into
13 evidence.

14 MR. HUGHES: No objection.

15 THE COURT: Okay. Admitted.

16 ITEM IDENTIFIED AS WRITTEN STATEMENT

17 OF DEFENDANT GABRIEL JOYNER,

18 DATED JUNE 24, 2014

19 MARKED STATE'S EXHIBIT 33

20 ADMITTED AS EVIDENCE.

21 BY SOLICITOR THORNTON:

22 Q. Agent Merrell, would you please read the statement to
23 the jury.

24 A. The first section is basic information. It asks for
25 last name, first name, middle, age, date of birth, male --

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1 whether you're male or female; Social Security number, street
2 address, city, state, ZIP, mailing address, telephone numbers,
3 occupation, employers, date and time of interview, which was
4 June 24, 2014, at 11:40 p.m. And the location of the interview
5 was at Fairfax Police Department. I was the interviewing
6 agent, along with Richard Johnson. And then, it says:

7 *I, Gabriel Joyner, understand I do not have*
8 *to say anything, and volunteer the following*
9 *information of my own free will, for whatever*
10 *purposes it may serve.*

11 It says:

12 *I can or cannot read and write, and completed*
13 *the ninth grade in school.*

14 And then, there's a section where you begin writing your
15 statement. And the first sentence says:

16 *I, Gabriel Joyner, request S.A., meaning*
17 *Special Agent Merrell to write on my behalf. It*
18 *says Kashon and his brother Rob showed up to my house,*
19 *asking me did I want to hit a lick with them. So I*
20 *was like, where. Kashon and Rob said across the*
21 *street, and I told them no, that this side was*
22 *already hot. And somehow Kashon talked me into it,*
23 *and I said yeah.*

24 *So we went across the street. While Kashon*
25 *and Rob walked through the front gate, I jumped over*

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1 the fence on the side of the house and waited by the
2 air conditioner, while Rob and Kashon went and knocked
3 on the door. When the man came to the door, Kashon
4 and Rob rushed in, and I came behind them. While Rob
5 was beating him, Kashon was tying him up, then Rob
6 put the bag over his head. Then, me and Kashon
7 was searching for things, and we found a safe, and we
8 left with the safe, and threw it in the woods.

9 On the second page, there is a supplemental page where we
10 did a question and answer, where I would ask a question, and
11 then ask for a response. The first question says:

12 Where did the bag come from?

13 His answer was:

14 Rob came with the bag. It was a black bag.

15 Did anyone leave with a gun?

16 I left with a pellet gun, was his answer.

17 The next question was:

18 Where did you go when you left?

19 His answer was:

20 We went to put the safe in the woods.

21 Question:

22 Who got the safe out the room?

23 Answer:

24 I dragged it out into the living room.

25 The next question was:

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1 Where was the safe?

2 His answer was:

3 In the room by the kitchen.

4 The last question was:

5 What color was it?

6 His answer was:

7 Like gray-ish.

8 Q. One of the things that you just mentioned was that,
9 in answer to one of the questions about guns, Gabriel Joyner
10 indicated that he took some sort of pellet or B.B. gun. Is
11 that correct?

12 A. That's correct.

13 Q. As a result of your investigation, were you -- did
14 you do -- participate in a search in the area, I believe it was
15 in Fairfax, behind some apartments, looking for items
16 associated with this crime?

17 A. Yes.

18 Q. I'm going to hand you what's been marked as State's
19 Exhibit Number 26, for identification. Can you identify what
20 that is.

21 A. This is a aerosol B.B. gun that was located behind
22 the apartments in Fairfax, along with a --

23 Q. And was it located with other items associated with
24 this case?

25 A. Yes.

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NATASHA MERRELL - DX - THORNTON

1 Q. Has this -- is this an accurate photograph?

2 A. Yes, it is.

3 Q. Has it been altered or changed in any way?

4 A. No.

5 SOLICITOR THORNTON: Your Honor, I'd ask that State's
6 Exhibit Number 26 be moved into evidence.

7 MR. HUGHES: No objection.

8 THE COURT: Admitted.

9 ITEM IDENTIFIED AS PHOTOGRAPH

10 MARKED STATE'S EXHIBIT 26

11 ADMITTED AS EVIDENCE.

12 BY SOLICITOR THORNTON:

13 Q. Agent Merrell, obviously, that looks very like a real
14 firearm, except for the orange tip. But that -- it would
15 appear there's a spring here, so that is an aerosol or a B.B.
16 gun?

17 A. That's correct.

18 Q. And is that, at least in general terms, what the
19 defendant in this case, Gabriel Joyner, indicated that was one
20 of the things he stole, other than the safe?

21 A. That's correct.

22 SOLICITOR THORNTON: Your Honor, Court's indulgence,
23 please, for just a moment.

24 Your Honor, if I could have just a moment. I don't need
25 a break, I just need to send someone out to grab one more piece

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1 of evidence that we need to introduce through the agent.

2 THE COURT: Okay, sir. Mr. Foreman, ladies and
3 gentlemen, would you just check with your jury and make sure
4 everybody's okay, because this would be a good time if anybody
5 needs to take a personal break. But if not, we'll be at ease.

6 SOLICITOR THORNTON: Take one minute, your Honor.

7 BY SOLICITOR THORNTON:

8 Q. Agent Merrell, obviously -- I hope you can see these,
9 but let me hand you what's first been marked for identification
10 as State's Exhibit 35.

11 A. Um-hmm.

12 Q. Can you, without have -- without opening it, can you
13 identify what -- what is in that box that you recovered at my
14 request, or do you need to open it?

15 A. No, I don't need to open it.

16 Q. Okay.

17 A. It's the hedge clippers.

18 Q. And are those hedge clippers? Is that the hedge
19 clippers that you're talking about, found next to the safe?

20 A. Yes.

21 Q. And is that what's in State's 35?

22 A. Yes.

23 Q. And is it still sealed with SLED tape?

24 A. Yes, it is.

25 Q. So has it been altered or changed in any way?

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NATASHA MERRELL - DX - THORNTON

1 A. No.

2 SOLICITOR THORNTON: Your Honor, I'd ask that State's
3 Exhibit 35, the clippers found next to this safe, be moved into
4 evidence.

5 MR. HUGHES: No objection.

6 THE COURT: Admitted.

7 ITEM IDENTIFIED AS HEDGE CLIPPERS

8 MARKED STATE'S EXHIBIT 35

9 ADMITTED AS EVIDENCE.

10 BY SOLICITOR THORNTON:

11 Q. Next, what's been marked as 36, do you recognize this
12 safe?

13 A. Yes.

14 Q. And has that been in care, custody, and control of
15 SLED since being recovered?

16 A. Yes.

17 Q. And is this, in fact, the safe that was recovered
18 that Gabriel Joyner talked to you about?

19 A. Yes.

20 Q. And it that the safe that appears also in the
21 photograph as State's 26?

22 A. That is correct.

23 Q. All right. Has it been altered or changed,
24 obviously, in any way?

25 A. No.

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NATASHA MERRELL - CX - HUGHES

1 SOLICITOR THORNTON: Your Honor, I'd ask that State's 36,
2 the actual safe itself, be moved into evidence.

3 THE COURT: Any objection?

4 MR. HUGHES: No objection.

5 THE COURT: Admitted.

6 ITEM IDENTIFIED AS SAFE

7 MARKED STATE'S EXHIBIT 36

8 ADMITTED AS EVIDENCE.

9 SOLICITOR THORNTON: Subject, obviously, to recall, this
10 case officer, Judge, I have no further questions at this time
11 for Agent Merrell. Ask you to answer any questions Mr. Hughes
12 has.

13 THE COURT: Cross-examination.

14 NATASHA MERRELL

15 CROSS-EXAMINATION BY MR. HUGHES:

16 Q. Agent Merrell, let's start off with a simple
17 question. Do you usually have the parents of adult suspect in
18 the interview with them?

19 A. Adult suspects, no.

20 Q. Okay. Why was Gabriel Joyner's mother in the
21 interview room with him?

22 A. He was a juvenile at the time.

23 Q. How old was he?

24 A. He was sixteen.

25 Q. And you didn't beat him to get a confession out of

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1 him, did you?

2 A. No, sir.

3 Q. You didn't use a rubber hose?

4 A. No, sir.

5 Q. Phone book?

6 A. No.

7 Q. Matter of fact, when you start talking, he
8 cooperated, right?

9 A. That is correct.

10 Q. And if you told him something that was wrong, did he
11 go along with it, or did he correct you?

12 A. No, he corrected us.

13 Q. And did you ever show him the stuff you found after
14 he had given his statement?

15 A. I'm not sure what stuff you're talking about.

16 Q. The safe, the clippers, the pistol?

17 A. That was found after we spoke to him.

18 Q. I know. But did you ever go, is this what you were
19 talking about?

20 A. No, sir.

21 Q. So he told you a pellet gun, right?

22 A. That's correct.

23 Q. And you all found a B.B. pistol?

24 A. That's correct.

25 Q. So you didn't find out from him if that's what he was

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1 talking about?

2 A. No.

3 Q. I'm going to ask a question I really don't know the
4 answer to, but I'm going to anyway, because -- what exactly
5 does it mean when you say you're the case officer?

6 A. I'm -- I am assigned as the lead case agent.

7 Q. Okay. So you know everything about the case?

8 A. I know majority of the case, but there -- we work in
9 collaboration, along with Crime Scene and everyone else that
10 supported during this investigation.

11 Q. Do you know of any physical evidence that ties
12 Gabriel Joyner to the murder of Willie Johnson?

13 A. No, sir.

14 MR. HUGHES: No further questions, your Honor.

15 THE COURT: Direct -- re-direct?

16 SOLICITOR THORNTON: Yes, sir.

17 NATASHA MERRELL

18 RE-DIRECT EXAMINATION BY SOLICITOR THORNTON:

19 Q. Now, when Mr. Hughes asked you that, obviously, he's
20 not thinking of hand of one is the hand of all. Since he's
21 asked that question, we'll get into it. Obviously, Tiffany
22 Edwards -- do you know who Tiffany Edwards is, with SLED?

23 A. Yes.

24 Q. And did she work at all on this case?

25 A. Yes, she did.

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1 Q. And what is it that Tiffany Edwards does?

2 A. She was the crime scene technician on this
3 investigation.

4 Q. When Mr. Hughes asked you about physical evidence
5 that ties his client to the murder, I'm going to assume what he
6 meant was making physical contact with the victim. In other
7 words, did Gabriel tell you -- did he ever admit to you that he
8 hit the defendant?

9 A. No.

10 Q. All right. Who did he say did that?

11 A. He said Rob did the hitting.

12 Q. And although we -- I'm not asking you to testify to
13 it directly -- is there a piece of evidence that the jury is
14 likely going to hear tomorrow that -- specifically physical
15 evidence that ties Robert Miller to striking the victim in this
16 case, Willie Johnson?

17 A. That is correct.

18 Q. Just want to make sure you are not trying to tell
19 this jury that -- that they couldn't find him guilty of
20 anything. That's their call once they've heard the law from
21 the Judge. Is that correct?

22 A. That is correct.

23 Q. All right.

24 SOLICITOR THORNTON: I just wanted to make sure that was
25 clear, your Honor, because I think the way the question was

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BY THE COURT

1 phrased, the physical evidence --

2 THE COURT: That's all right. You don't need to go ahead
3 and make a narrative. Ask her a question, sir.

4 SOLICITOR THORNTON: Yes, sir.

5 BY SOLICITOR THORNTON:

6 Q. Other than the -- what we're talking about, the
7 physical evidence in this case that points to Robert Miller the
8 jury will likely hear about tomorrow, is there physical
9 evidence that shows Gabriel Joyner physically making contact
10 with the victim?

11 A. That, I do not know.

12 Q. Okay.

13 A. You would have to ask Tiffany.

14 Q. And -- Tiffany?

15 A. Yes.

16 Q. Thank you, ma'am. No further questions.

17 THE COURT: All right. Thank you, ma'am. You may step
18 down.

19 NATASHA MERRELL: Thank you, Judge.

20 SOLICITOR THORNTON: That's it for today, your Honor.
21 The other witnesses are in the other murder trial. They should
22 be here hopefully -- they'll be here by 9:00 tomorrow.

23 BY THE COURT:

24 THE COURT: Very good. All right. Mr. Foreman, ladies
25 and gentlemen of the jury, that concludes the testimony we're

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BY THE COURT

1 going to be taking today. We're going to resume testimony
2 tomorrow at 9:30, and I think everybody told me they could be
3 here at 9:30 without a problem. Is that correct? Okay. If
4 you would when you leave tonight, would you leave your pads in
5 your jury room.

6 Let me remind you, please do not speak amongst yourselves
7 or with anyone else about this case. Don't read, hear, or
8 listen to anything about it if anything happens to be in the
9 media, and I'll see you in the morning. Take care.

10 JURORS LEAVE COURTROOM 2:46 P.M.

11 CHARGE CONFERENCE:

12 THE COURT: It would be my plan to just do a charge
13 conference that we could supplement later, if necessary.
14 Anybody have a problem doing that?

15 SOLICITOR THORNTON: No, sir.

16 MR. HUGHES: Your Honor, I don't have a problem with
17 that. I do have a problem with what Mr. Thornton just said to
18 the Court before the jury.

19 THE COURT: I'm sorry?

20 MR. HUGHES: I have a problem with what Mr. Thornton said
21 to the Court right before the jury was excused for the evening.
22 He needs, I believe, or either the Court needs, tomorrow
23 morning, to qualify or to explain to the jury what was meant
24 when Mr. Thornton said in open court, the other witnesses are
25 involved in the other murder trial. I know it means the case

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CHARGE CONFERENCE

1 in Newberry County, but that might sort of confuse the jury,
2 and I'd rather that didn't happen.

3 THE COURT: I agree. And while you're on that subject,
4 I'd prefer if we don't have any further references to the
5 conviction or lack thereof of any co-defendants. Okay? And
6 I'd be glad to. Would you please remind me of that in the
7 morning.

8 MR. HUGHES: Yes, sir.

9 THE COURT: All right. That being said, anything from
10 the State before we go into the charge conference?

11 SOLICITOR THORNTON: No, your Honor.

12 THE COURT: From Defense?

13 MR. HUGHES: No, your Honor.

14 CHARGE CONFERENCE:

15 THE COURT: Okay. Take a minute, look at what we have.
16 Then I'm going to go over my -- I know I've tried a case with
17 Mr. Thornton. Mr. Hughes, seems like I have with you, too, but
18 I'm not sure. But my charge is going to be in three parts.
19 The first part would be the rules that define and control the
20 jury's duties. The three parts of my charge, the first part or
21 the rules that control the jury's duties, the second part would
22 be what you have before you, and then the third part would be
23 some considerations of their deliberations and the verdict
24 form. And I'll go over the other two. This is what you have.
25 It's just the middle part.

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CHARGE CONFERENCE

1 All right. First, have you had the chance to read the
2 substantive part of my charge?

3 SOLICITOR THORNTON: Yes, your Honor.

4 THE COURT: Let me go over with you my thoughts. Mr.
5 Hughes, have you?

6 MR. HUGHES: I have, your Honor.

7 THE COURT: All right. Anticipating what you're going to
8 say, going to, under the murder charge, the only part of that
9 on Page 3 would be the first sentence at the top of the page.
10 The rest of it, through the rest of Page 4, would not be read.
11 Unless somebody disagrees with that charge?

12 SOLICITOR THORNTON: I don't disagree if you want to take
13 that out, Judge.

14 THE COURT: Thanks. Mr. Hughes?

15 MR. HUGHES: I have no problem with that coming out.

16 THE COURT: So it would be Pages 1, 2, and the first line
17 of Page 3, which is, *malice may be inferred from the conduct*
18 *shown, and total disregard for human life.* Stop.

19 SOLICITOR THORNTON: I think it's safer that way, Judge.

20 THE COURT: I do, too. Although it's not necessary
21 totally appropriate, I think that's the better way to go.

22 Burglary first degree. Under the case of *State versus*
23 *Bernsten*, 295 South Carolina 52; and also *State versus White*,
24 that's 566 Southeast 2nd 305, since the only evidence appears
25 in this case to be that this was a dwelling, --

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CHARGE CONFERENCE

1 SOLICITOR THORNTON: Yes, sir.

2 THE COURT: -- that it would not be appropriate to charge
3 a lesser included or a lesser included of burglary second.
4 Anybody disagree with that proposition?

5 SOLICITOR THORNTON: The State does not disagree, Judge.

6 THE COURT: You don't have to answer that now, Mr.
7 Hughes. Think about it overnight, and I'll hear you before. I
8 think that's right. But you're probably going to have to
9 convince me.

10 MR. HUGHES: I would like to do some research on that,
11 your Honor.

12 THE COURT: Sir?

13 MR. HUGHES: I would like to have a chance to do some
14 research on that.

15 THE COURT: Okay.

16 MR. HUGHES: I think you're right, but I'd like to argue
17 with you.

18 THE COURT: You're one of the first ones in awhile, but
19 that's okay. All right.

20 SOLICITOR THORNTON: Sorry, Judge. I have one other
21 issue on the burglary first charge.

22 THE COURT: Oh, okay. Okay. Then, let me go for it.

23 SOLICITOR THORNTON: Your Honor, the way it reads is, on
24 Page 8, I believe it's --

25 THE COURT: Under Page 8?

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CHARGE CONFERENCE

1 SOLICITOR THORNTON: Yes, sir. It's -- obviously, it
2 starts -- when you're getting into in addition to a dwelling,
3 we have to prove the following.

4 THE COURT: Okay. Hang on. Let's do this. I'm going to
5 go over that in just a second.

6 SOLICITOR THORNTON: Yes, sir.

7 THE COURT: Okay. And I'll -- I'm going to let everybody
8 have their time. And also, please understand, you haven't had
9 a chance to think about it overnight, but if you have a change
10 of heart, other than what we argue, I would not preclude you
11 from doing so, or preclude you to request charges.

12 My concern would be, number one, beginning of Page 7,
13 from the State's perspective, finally the State must prove
14 beyond a reasonable doubt, and this is going into the
15 aggravating circumstances, does the State contend that Subpart
16 Number 1 should be charged that is armed with a deadly weapon?
17 And that's in paraphrasing.

18 SOLICITOR THORNTON: No, sir. I don't think it's -- I
19 don't think it's something that would really fit the facts of
20 this case. There's been evidence of that, which was my
21 concern, because there are -- if we were going to do that, we'd
22 need an or in there. Because the way it's written, it looks
23 like I have to prove that there was a deadly weapon, and there
24 was injury, and. And that's, I don't think a correct
25 representation of the law. That was -- but I agree with you, I

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CHARGE CONFERENCE

1 don't know that there is any evidence. If you want to take it
2 out, I mean, it's a pellet gun, and as you know, hands can be -
3 - but we've already taken that --

4 THE COURT: A gun can be used as a deadly weapon or can
5 be considered as a deadly weapon, if it's not even operating.
6 But the facts of this case, it seemed like it's more.

7 SOLICITOR THORNTON: I would rather have a cleaner
8 charge, Judge, would be my perspective, probably just take that
9 out.

10 THE COURT: What about you, Mr. Hughes?

11 MR. HUGHES: It would basically take out all of 1 and
12 start with 2?

13 THE COURT: That would be my initial -- yes, that would
14 be what I would suggest. Any objection to that?

15 MR. HUGHES: I have no problem with taking 1 out.

16 THE COURT: Okay. So, then, we'd start with Subsection
17 2, that is causing physical injury when entering a home and
18 fleeing. Anybody seriously disagree with that charge being
19 given? Okay.

20 SOLICITOR THORNTON: Not the State, your Honor.

21 MR. HUGHES: No, your Honor.

22 THE COURT: Subparts 3 or 4, what's the State's position
23 on those? I had question marks for those.

24 SOLICITOR THORNTON: You know, your Honor, it's the same
25 thing. I mean, I don't think it fits the facts of the case. I

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CHARGE CONFERENCE

1 don't think there's any evidence or testimony, unless you,
2 again, we start talking about hands or bags as dangerous
3 objects. And since we've eliminated it already, I don't think
4 we need -- if we're going to eliminate it in the front half, we
5 need to take out 3 and 4 on the back half. I think it ought to
6 just be 2, because that's what the facts of this case are.

7 MR. HUGHES: I agree.

8 THE COURT: So the only aggravating circumstance would be
9 the assault?

10 SOLICITOR THORNTON: Yes, sir.

11 THE COURT: Do you agree with that?

12 MR. HUGHES: Yes, sir.

13 THE COURT: All right. I do, too. All right. Common
14 law or strong-armed robbery. Any --

15 MR. HUGHES: I didn't see anything in that, your Honor.

16 SOLICITOR THORNTON: No, sir.

17 THE COURT: Okay. Also, I was going to charge the hand
18 of one is the hand of all, which would be appropriate. As
19 written here, any objections from the State?

20 SOLICITOR THORNTON: No, sir.

21 THE COURT: From the Defense?

22 SOLICITOR THORNTON: No, your Honor.

23 THE COURT: And by the way, I think that the hand-of-one-
24 hand-of-all charge does have a mere presence language that
25 generally is requested. If it doesn't due to the certain --

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CHARGE CONFERENCE

1 and then I have the statement by the defendant. That would be
2 the substantive part of the second page of my charge to the
3 jury. Can you, top of your head, Mr. Thornton, think of
4 anything in addition to that, that you would ask that I charge
5 as to substantive law that applies to this case?

6 SOLICITOR THORNTON: No, sir.

7 MR. HUGHES: I can't find any, your Honor.

8 THE COURT: Okay. And again, that's without prejudice to
9 either one of you. Okay. So going back, just in case you
10 haven't been with me before, I'm going to hurriedly go over it.
11 I have it here in my charge book. Either one of you, or all
12 three of you, are more than welcome to come back and read my
13 charge. I plagiarized from Judge Hill from Greenville, and I
14 always use it.

15 But as I said, the first one was general rules that
16 define and control the jury's duties, and I tell them that they
17 have to make -- find their facts based on the evidence
18 presented at trial, from the testimony from the witness stand
19 or exhibits; and they must apply the law as I give it to them;
20 and then, as far as the law, they should not be concerned with
21 what it -- with what it should be, but what it is; and they
22 shouldn't be influenced by personal likes, dislikes, prejudice,
23 or undue sympathy. And that simply means they're to decide the
24 case solely on the evidence and according to the law, and
25 that's what they said that they would do under oath.

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1 I remind them that if I've done anything to indicate to
2 them how they should find facts, they are to disregard it, as I
3 don't have an opinion, I'm not allowed to have an opinion; that
4 they, and they alone, are the judges of the facts. And again,
5 I'm paraphrasing this going through, but. And they determine
6 the facts by evaluating and weighing the evidence, and I can't
7 give them a set of scales in the literal sense, but it's a
8 mental process where they use their good common sense and sound
9 judgments to the testimony that they heard and the law as I
10 give it to them. I will describe to them what is testimony --
11 I mean, what is evidence and what is not.

12 There's no stipulations in this case I'm aware of in this
13 case at this juncture.

14 SOLICITOR THORNTON: I don't believe so. No, sir, your
15 Honor.

16 THE COURT: Okay. And then, I, you know, tell them what
17 is not evidence, and then that certainly would be your
18 arguments, questions, objections. There's been nothing
19 stricken from the record, so that wouldn't be relevant.

20 I give the circumstantial evidence charge, direct and
21 circumstantial evidence charge out of *State versus Logan*. And
22 that simply is you have two types, direct evidence and
23 circumstantial evidence, et cetera, et cetera. But to the
24 extent the State seeks to establish its case using
25 circumstantial evidence, the circumstantial evidence must be

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1 consistent with each other, and point conclusively to the guilt
2 of the accused beyond a reasonable doubt, et cetera, et cetera.
3 Okay? And I have them in here, again, if you want to take time
4 to look at it.

5 I go over factors in determining the credibility of the
6 witnesses or testimony they wish to believe. I have deleted,
7 pursuant to *State versus Beaty*, which just came out, that their
8 sole objective is to find the truth; it doesn't matter which
9 witness it comes from, et cetera, et cetera.

10 I will give them a charge on expert testimony, remind
11 them that it's just like any other testimony.

12 I'll remind them again that the fact the defendant was
13 arrested, charged, and indicted is not evidence of guilt,
14 presumption or inference of guilt. And that each one of these
15 charges is stand-alone charges, and they can't -- they can --
16 they have to decide one, and make a decision on it before they
17 go to the other. Anybody disagree with that proposition in
18 this case?

19 SOLICITOR THORNTON: No, sir.

20 THE COURT: Okay. I describe for them the presumption of
21 innocence, reasonable doubt. All right. And a lot of times
22 I'm asked -- I do -- I have one that calls reasonable, sincere,
23 and conscientious person and firmly held belief all in the same
24 charge.

25 I have intent, depending on what happens in this case.

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1 Failure or not to testify by the defendant.

2 Is there any -- there's no -- there was no identification
3 testimony at this juncture that I'm aware of?

4 SOLICITOR THORNTON: No, your Honor.

5 THE COURT: You agree with that, Mr. Hughes?

6 MR. HUGHES: Yes, sir.

7 THE COURT: Okay. Then, after the substantive charge, I
8 go to points about their deliberations; that they're not
9 partisans or advocates for one side or the other; that they
10 represented and both sides believe that they both could be fair
11 and impartial; and that they're to use their experiences in
12 life and common sense and logic in going through the evidence
13 and, hopefully, coming up with a unanimous decision.

14 I define deliberation for them, and tell them that they
15 are to discuss this case thoroughly and calmly, encouragingly
16 with one another; and that they are not advocates, but judges
17 of the facts; and they are to listen to the views of the
18 jurors, their fellow jurors, their points of view, and walk
19 through each of those thoroughly; and if they're in a hurry,
20 they should not be in a hurry because this is -- each side's
21 only day in court; and that the only --

22 In order for their verdict to stand, it must be
23 unanimous. However, with that being said, each person has to
24 decide the case for themselves; not to be afraid to change their
25 idea about the weight of the evidence, if the deliberations

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1 convinces you to do so; but do not come to a decision just to
2 appease your fellow jurors.

3 I will go over the communications with the foreman,
4 communicating with the Court and how he should do it, and that
5 he should never give us any numerical count of where the jury
6 stands. And then I go to the verdict form.

7 With that being said, this is here on my desk, just
8 fairly quick. You're more than welcome to come back and look
9 at it in my chambers, and I'd be glad to give it to you. Have
10 you had a chance to look at the proposed verdict form?

11 SOLICITOR THORNTON: I have, your Honor. I have no
12 objections.

13 THE COURT: From the Defense.

14 MR. HUGHES: I have also looked over it. I have no
15 objection.

16 THE COURT: Okay. If you have any proposed jury charges,
17 would you give them to my law clerk. If not, if you have a
18 change of heart, just point it out to me, we'll go over it on
19 the record and make a decision before we start going through
20 the argue and charge. Okay?

21 SOLICITOR THORNTON: Thank you, your Honor.

22 THE COURT: All right. Anything further from the State
23 before I break?

24 SOLICITOR THORNTON: The only thing I would ask, Judge,
25 is, for planning purposes tomorrow, the State would request --

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1 we've got three witnesses, they're pretty short. I know you
2 have a conference call at about 11:00. Will we be able to take
3 that time to prepare for closing so we can go ahead -- in other
4 words, not to do it and move immediately into closing, but have
5 a little bit of time?

6 THE COURT: I don't see any reason why we can't do that.

7 MR. HUGHES: Sounds good to me, your Honor.

8 THE COURT: Okay. Sounds like a winner. And I'll -- you
9 know, I'm going to give your client his *Fifth Amendment* rights
10 now. I'm not asking for you to make a decision. I just want
11 to go ahead and have him -- have that on his mind overnight.

12 MR. HUGHES: Okay.

13 DEFENDANT'S RIGHTS:

14 THE COURT: So, Mr. Joyner, would you mind standing up,
15 please, sir? Okay. Raise your right hand. Do you swear or
16 affirm to tell the truth, the whole truth, and nothing but the
17 truth?

18 DEFENDANT JOYNER: Yes, sir.

19 THE COURT: Okay. I need you to speak loud enough for me
20 to hear.

21 DEFENDANT JOYNER: Yes, sir.

22 THE COURT: All right. You can put your hand down. Mr.
23 Joyner, I want you to tell me anything that you -- what you
24 have spoken with your attorney about, except this. Has he
25 explained to you your rights under the *Fifth Amendment* to the

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1 *United States Constitution?*

2 MR. HUGHES: No, sir. Not that I can recall.

3 THE COURT: Well, let me go over those with you. I
4 imagine I probably should ask it another way. After the State
5 puts up its case, --

6 DEFENDANT JOYNER: Um-hmm.

7 THE COURT: -- then they will what they call rest,
8 meaning that's all of the evidence they're going to put up
9 against you in their case in chief.

10 DEFENDANT JOYNER: Okay.

11 THE COURT: Then, the decision will be made by you and
12 your attorney, or you with your friends or family, or anybody
13 who's relatively and reasonably close to assist you, as to
14 whether or not number 1, you wish to testify. You have
15 constitutional right, number one, to present evidence in your
16 own defense. As you've seen, you'll have the right to cross-
17 examine the State's witnesses against you. You have the right
18 to subpoena people here to court.

19 DEFENDANT JOYNER: Okay.

20 THE COURT: To testify on your behalf. And under the
21 *Fifth Amendment*, you have the right to remain silent. And let
22 me tell you what it basically says in perfect part. It says
23 this. It says, no person shall be compelled in any criminal
24 case to be a witness against themselves. So what that simply
25 means, Mr. Joyner, is that Mr. Hughes can't make you get up on

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1 the stand and testify. Mr. Thornton can't make you get up or
2 Mr. Hollen can't make you get up on the stand and testify. I
3 can't make you get up and testify. Your decision as to whether
4 or not you wish to testify or whether or not you wish to claim
5 the protections under the *Fifth Amendment* to the *United States*
6 *Constitution*, that I've just gone over with you is a decision
7 that has to be made by you.

8 DEFENDANT JOYNER: All right.

9 THE COURT: And you have to make that decision freely,
10 voluntarily, and intelligently, knowing the rights under the
11 *Fifth Amendment*, and the consequences or lack thereof if you go
12 forward with your testimony. Okay?

13 DEFENDANT JOYNER: All right.

14 Now, if you don't understand anything I say, stop me.
15 Have you understood everything I've gone over so far?

16 DEFENDANT JOYNER: Yes, sir.

17 THE COURT: Okay. Now, if you do testify, --

18 DEFENDANT JOYNER: Um-hmm.

19 THE COURT: -- you will be subject to direct examination
20 by your attorney.

21 DEFENDANT JOYNER: Um-hmm.

22 THE COURT: You also will be subject to cross-examination
23 by the State.

24 DEFENDANT JOYNER: Okay.

25 THE COURT: Now, although there's been some changes in

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1 the law, but if you have any convictions on your record -- now
2 it used to be for false statement or dishonesty or crimes for
3 more than a year, but now it's basically false statement or
4 dishonesty. Do you agree with that, Mr. Hughes, as to
5 impeachment purposes?

6 MR. HUGHES: I think there actually might be one or two
7 more, but that is the primary ones, sir.

8 THE COURT: Anyway, there's a laundry list of things that
9 -- number one, if you have a prior criminal record --

10 DEFENDANT JOYNER: Um-hmm.

11 THE COURT: -- and most importantly, your crime's
12 involving dishonesty or false statement, and I find that the
13 probative value of those prior convictions outweighs the -- the
14 prejudicial effect, excuse me, on you; the probative value
15 meaning more tendency to prove likely than not, and prejudice
16 means it'll hurt you. You got it?

17 DEFENDANT JOYNER: Say it again?

18 THE COURT: I didn't do a very good job. But if you have
19 a prior record --

20 DEFENDANT JOYNER: Um-hmm.

21 THE COURT: -- and I find if it qualifies to come into
22 evidence, and I also find that it's value for the jury is more
23 than its prejudice to you, then the State will be allowed to
24 cross-examine you about your prior criminal record.

25 DEFENDANT JOYNER: Um-hmm.

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1 THE COURT: Now, you understand why they'll want to do
2 that, but just to make sure, they want to do that to hurt your
3 credibility if you got up on the stand. You understand that?

4 DEFENDANT JOYNER: Yes, sir.

5 THE COURT: Okay. Now, on the other hand, if you decide
6 you do not want to testify, in my final charge to the jury, I
7 will instruct the foreperson that they may not and shall not
8 consider your failure to testify whatsoever, because that's
9 your right under the *Fifth Amendment* to the *United States*
10 *Constitution*, and the State has to prove you guilty by proof
11 beyond a reasonable doubt without you doing anything, and that
12 if anybody tries to talk about it they're to stop that. Okay?
13 Do you understand?

14 DEFENDANT JOYNER: Yes, sir.

15 THE COURT: Even if you decided you do not want to
16 testify, you still have the right to present other evidence,
17 other witnesses. You understand that?

18 DEFENDANT JOYNER: Yes, sir.

19 THE COURT: Okay. I'm not asking you now to make a
20 decision, except -- I'm asking you to answer the question, so
21 far, have you understood everything that I have gone over with
22 you?

23 DEFENDANT JOYNER: Yes, sir.

24 THE COURT: Do you have any questions of me?

25 DEFENDANT JOYNER: No, sir.

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1 THE COURT: Do you have any questions of your attorney?

2 DEFENDANT JOYNER: No, sir.

3 THE COURT: All right, sir. Now, you will be allowed to
4 speak with your attorney, and preferably your attorney, but
5 anybody else who is reasonably near to assist you in making
6 your decision. But at the end of the State's case, you're
7 going to be required to make that determination. It has to be
8 your own determination. Okay, sir?

9 DEFENDANT JOYNER: I got you.

10 THE COURT: All right. Any questions of me?

11 DEFENDANT JOYNER: No, sir.

12 THE COURT: Any additional statements, Mr. Hughes, you'd
13 like to place on the record?

14 MR. HUGHES: No, your Honor.

15 THE COURT: All right. Thank you, sir. You may have a
16 seat.

17 All right. Anything else from the State before we stop
18 for the afternoon?

19 SOLICITOR THORNTON: No, your Honor.

20 THE COURT: From the Defense?

21 MR. HUGHES: No, your Honor.

22 THE COURT: Thank you, gentlemen. I appreciate it, as
23 always. I will see you tomorrow at 9:30.

24 SOLICITOR THORNTON: Yes, sir.

25 END DAY TWO, TUESDAY, JANUARY 10,

1-11-17 STATE V JOYNER

BY THE COURT

1 2017, 3:15 P.M.

2 BEGIN DAY THREE, WEDNESDAY, JANUARY 22,

3 2017, 9:38 A.M.

4 BY THE COURT:

5 THE COURT: Do you all need anything from the State
6 before we bring the jury in?

7 SOLICITOR THORNTON: Just one thing, your Honor. I
8 talked with Mr. Hughes this morning, and -- about the matter
9 that we put on the record briefly yesterday that he asked that
10 I -- that someone clarify to the jury that when I said they
11 were testifying in another murder case, that obviously has
12 nothing to do with this one. I talked to Mr. Hughes this
13 morning. If the Court doesn't object to this, what I can do,
14 when the jury is brought in, is just stand up and say, your
15 Honor, just to clarify, all the remaining witnesses for the
16 State are here. They -- as I indicated, they were in a murder
17 case in another part of the state, you know, totally unrelated
18 to this one. As you know, your Honor, SLED is called to cases
19 all over the state.

20 THE COURT: Any objection to that?

21 MR. HUGHES: I would have no objection to that, your
22 Honor.

23 THE COURT: That's fine with me if everybody's in
24 agreement.

25 Anything from the Defense before we get started, Mr.

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BY THE COURT

1 Hughes?

2 MR. HUGHES: Your Honor, I have gone over your charge.

3 THE COURT: Yes, sir.

4 MR. HUGHES: And such --

5 THE COURT: We'll go over that in a little bit. Let's
6 not do that right now, but.

7 MR. HUGHES: Okay.

8 THE COURT: But we'll -- I'll give you a chance to put
9 that on the record, and we'll go over it.

10 MR. HUGHES: Other than that, nothing, your Honor.

11 THE COURT: Okay. Thank you, sir. Let's bring the jury
12 in, please.

13 JURORS ENTER COURTROOM 9:41 P.M.

14 THE COURT: Good morning, ladies and gentlemen. I hope
15 you had a nice evening. Before we get started, let me ask each
16 of the jurors if anyone read, heard, or have seen anything
17 about this case during the break. If so, please raise your
18 hand. Have any jurors spoken with anyone about this case,
19 including one another? Very good. Let the record reflect that
20 no one responded positive. Thank you very much for that.

21 The State ready to proceed?

22 SOLICITOR THORNTON: State is ready, your Honor.

23 THE COURT: Is the Defense ready to proceed?

24 MR. HUGHES: Defense is ready, your Honor.

25 THE COURT: Very good. Call your next witness, please.

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TIFFANY EDWARDS - DX - THORNTON

1 SOLICITOR THORNTON: Thank you. Your Honor, just to
2 clarify something, also, from yesterday. As I indicated, we
3 had several witnesses from the South Carolina Law Enforcement
4 Division that were testifying in another murder case. And
5 obviously, that case has nothing to do with this one. As your
6 Honor knows, they are called all over the state to testify.
7 They are all here, present and ready to go, Judge.

8 THE COURT: Very good. So they were in another case in
9 another jurisdiction?

10 SOLICITOR THORNTON: Totally different jurisdiction,
11 Judge, in the upper part of the state, but they are here this
12 morning and ready to go.

13 THE COURT: Very good. Will you call your next witness,
14 then, please.

15 SOLICITOR THORNTON: Thank you, your Honor. Tiffany
16 Edwards, please.

17 MADAM CLERK: Do you swear or affirm to tell the truth,
18 the whole truth, and nothing but the truth, so help you God?

19 TIFFANY EDWARDS: Yes, ma'am.

20 TIFFANY EDWARDS

21 DIRECT EXAMINATION BY SOLICITOR THORNTON:

22 Q. Ms. Edwards, who do you currently work for?

23 A. I'm currently employed for the South Carolina Law
24 Enforcement Division, commonly referred to as SLED.

25 Q. Try that one more time.

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TIFFANY EDWARDS - DX - THORNTON

1 A. I'm currently employed with the South Carolina Law
2 Enforcement Division, commonly referred to as SLED.

3 Q. And would it be proper to call you a SLED agent?

4 A. Yes, it is.

5 Q. What do you currently do for SLED?

6 A. Currently, I am a special agent assigned to the
7 latent print department. However, I've just transferred to
8 that department. For the last five-and-a-half years I've been
9 working both in the crime scene department and the latent print
10 department. I've been running with two departments pretty much
11 my entire career at SLED.

12 Q. And so, well, you've kind of already answered this
13 question. So, from June of 2014 till now, what -- what have
14 you been doing?

15 A. I've been doing crime scene and latent prints.

16 Q. And can you kind of go over what your education and
17 background and experience are as far as crime scene and latent
18 prints?

19 A. I have a bachelor's degree in criminal justice from
20 the University of Wisconsin at Plattville. I have a master's
21 in forensic science from the University of Central Oklahoma.
22 I'm a certified medical legal death investigator, with four
23 years of experience at the Medical Examiner's Office in
24 Memphis, Tennessee. I'm a certified crime scene analyst with
25 the International Association for Identification.

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TIFFANY EDWARDS - DX - THORNTON

1 I have successfully completed the in-house training at
2 SLED for both crime scene and latent prints under court-
3 qualified senior agents, and I have also successfully completed
4 many external training courses and topics related to latent
5 prints, crime scene, and death investigation, in addition to
6 being a Class 1 officer for the State of South Carolina.

7 Q. And how long have you been with SLED total?

8 A. I began my career at SLED in June of 2011.

9 Q. And have you ever testified before as a latent print
10 or crime scene expert in the courts of South Carolina as an
11 expert?

12 A. Yes, I have.

13 Q. And how many times?

14 A. Approximately twelve.

15 SOLICITOR THORNTON: Your Honor, at this time I'd ask
16 that Agent Edwards is qualified as an expert in both crime
17 scene and latent print examination.

18 MR. HUGHES: No objection.

19 THE COURT: Okay. Ladies and gentlemen, if you recall,
20 as I told you yesterday, normally witnesses are not allowed to
21 testify or give their opinion unless they're qualified as an
22 expert. In this case, Defense stipulates -- is this Ms. Hezel?

23 A. It's --

24 SOLICITOR THORNTON: It used to be Hezel, which I always
25 mispronounce. It is currently Edwards, your Honor.

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TIFFANY EDWARDS - DX - THORNTON

1 THE COURT: Edwards. Ms. Edwards is an expert in the
2 scene of crime scene analysis and latent print analysis.
3 She'll be allowed to give her opinion in the areas of her
4 expertise and the reasons for her opinion. I'll remind you
5 that expert opinion is just like any other testimony that
6 you'll hear in this case. You may accept it, you may reject
7 it, or give it as much weight as you think it deserves. All
8 right, sir.

9 SOLICITOR THORNTON: Thank you, your Honor.

10 BY SOLICITOR THORNTON:

11 Q. Agent Edwards, did you respond out to a scene at [REDACTED]
12 Pickrum Street here in Allendale back in June of 2014?

13 A. Yes, I did.

14 Q. And what case was that in reference to as far as the
15 victim in the case?

16 A. We were called to assist in the death investigation
17 of a Mr. Willie Johnson.

18 Q. And did you respond out to [REDACTED] Pickrum Street, among
19 other locations?

20 A. Yes, I did.

21 Q. And what did you do when you got on the scene?

22 A. Upon my initial arrival on scene, I met with the
23 field agents who were already currently there. Crime scene
24 response from Columbia and the field agents are generally
25 localized in the region where the incident has occurred, so we

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TIFFANY EDWARDS - DX - THORNTON

1 do get there some time after them. So they were able to get
2 there, get some information, to kind of get the investigation
3 going. When I arrived, I kind of got updated to where they
4 were in the investigation and what we had, verified that the
5 scene had been contained, no one else had been in there since
6 the residence had been cleared, the victim had been discovered.

7 And then, we kind of did a general walkthrough of the
8 scene, just taking in all of the evidence, the disturbances
9 present, and developed a game plan of how I was going to go
10 forward and process the scene to collect all the evidence, and
11 get a time frame from the coroner on when Mr. Johnson would be
12 able to be removed from the fac -- from the residence to the
13 facility, pending autopsy.

14 Q. I'm going to hand you several photographs. We'll do
15 one at a time. Can you -- before I do that, let me hand you
16 what's been marked for identification State's Exhibit 37. Can
17 you identify that for me.

18 A. This is the crime scene sketch that was prepared.
19 Basically, it's going to show a very rough blueprint outline of
20 the layout of the house, showing exactly how many rooms there
21 were and where the victim was located. There's a few pieces of
22 furniture, just to give you an idea of how the room was
23 furnished. Not all items are represented in this. Again, it's
24 just kind of like a guide as to show you, to kind of supplement
25 with the photographs, where we're at in the house.

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TIFFANY EDWARDS - DX - THORNTON

1 Q. And is that a true and accurate depiction? It may
2 not be to scale, but is that a true and accurate depiction of
3 -- of the scene as you saw it that day?

4 A. Yes, it is.

5 Q. And has that been altered or changed in any way?

6 A. It has not.

7 SOLICITOR THORNTON: Your Honor, I'd ask that State's
8 Exhibit --

9 THE COURT: 37.

10 SOLICITOR THORNTON: -- 37 be moved into evidence.

11 MR. HUGHES: No objection.

12 THE COURT: Admitted.

13 SOLICITOR THORNTON: Thank you, your Honor.

14 ITEM IDENTIFIED AS PHOTOGRAPH

15 MARKED STATE'S EXHIBIT 37

16 ADMITTED AS EVIDENCE.

17 BY SOLICITOR THORNTON:

18 Q. Agent Edwards, I'm going to hand you what's already
19 in evidence as State's Exhibits 11 and 12, and we may jump
20 around a little bit. They're already in evidence. Can you
21 briefly talk about what -- what 11 and 12 are? And then I'll
22 start with some new photographs that we need to authenticate.

23 A. These are two photographs that are from the small
24 kind of cove where two bedrooms -- to the left is a bedroom,
25 and to the right is a bedroom, from that blue wall that you're

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TIFFANY EDWARDS - DX - THORNTON

1 seeing. So right there you have an alarm key code, and you
2 have a phone sitting right there on a little table with the
3 receiver off the hook, sitting in the chair next to it.

4 There is some blood on the second photograph upon some
5 paper that's on the floor. There were a couple pieces of paper
6 in this general area that did have suspected blood evidence
7 present upon them.

8 Q. All right. Thank you, ma'am. I'm going to now hand
9 you what's been marked only for identification at this point as
10 State's Exhibit 13.

11 MR. HUGHES: Your Honor, may I stand over there, please?
12 May I stand over there so I can see the screen?

13 THE COURT: Yes, sir, absolutely, you may.

14 BY SOLICITOR THORNTON:

15 A. Again, this just another piece of paper in that same
16 general area on the floor that -- it's actually a closeup
17 that's just showing the suspected blood evidence a little more
18 close to the eye.

19 Q. All right. And is that a fair and accurate depiction
20 of part of the scene as you saw it that day?

21 A. Yes, it is.

22 Q. Has it been altered or changed in any way?

23 A. It has not.

24 SOLICITOR THORNTON: Your Honor, I'd ask that State's
25 Exhibit Number 13 be moved into evidence.

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1 MR. HUGHES: No objections.

2 THE COURT: Admitted.

3 ITEM IDENTIFIED AS PHOTOGRAPH

4 MARKED STATE'S EXHIBIT 13

5 ADMITTED AS EVIDENCE.

6 BY SOLICITOR THORNTON:

7 Q. Just to kind of speed this process up, I'm going to
8 hand you, for identification only, State's 14, 15, 16, 17, 18,
9 19, 20, 21, 22, 23, and then skipping to 27 and 31.

10 SOLICITOR THORNTON: Your Honor, I've shown all of these
11 to Defense Counsel this morning.

12 BY SOLICITOR THORNTON:

13 Q. Can you, as a general matter, tell me what those are
14 photographs of. You don't have to go through each one
15 individually, just as a group, what are they photographs of?

16 A. All of the exhibits, except for Exhibit 27, were from
17 Mr. Johnson's home, and they depict the condition of the
18 residence and the items within it. It shows blood evidence
19 that was present on the television to the left of where the
20 victim was located. It shows suspected blood evidence on the
21 wall, just up from where the victim's head was placed. It
22 shows a -- an area of a partial palm print in suspected blood,
23 both with and without chemical processing to enhance the
24 ridges, again on that same living room wall, just behind where
25 the victim's head was. And another photograph is showing a

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1 kind of closeup of the victim, Mr. Johnson, with -- his
2 positioning as we have rolled him from being face-down, as he
3 was found, onto his side, to show that the trash bag over his
4 head was tied.

5 Q. Agent Edwards, let me stop you real quick. We'll go
6 through them one at a time so the jury can see them, but as a
7 group -- and we'll take out 27. So just for the record
8 purposes --

9 SOLICITOR THORNTON: Judge, I apologize.

10 BY SOLICITOR THORNTON:

11 Q. Let me re-state that. These will be 14 through 23.
12 So 14 through 23 and State's 31. As a group, are all of those
13 pictures of the scene and Mr. Johnson as you found him upon
14 your arrival at [REDACTED] Pickrum Street?

15 A. Yes. Except the photograph of Mr. Johnson in that
16 particular exhibit is when have started to move him to further
17 document the side of his body that was not immediately exposed.

18 Q. Which would be State's 31.

19 A. Correct.

20 Q. Other than rolling him over, are all of those
21 pictures accurate reflections of the scene?

22 A. They are.

23 Q. Have they been altered or changed in any way?

24 A. They have not.

25 SOLICITOR THORNTON: Judge, as a group, to save time, I

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1 would ask to introduce State's 14 through 23, and 31 at this
2 time.

3 MR. HUGHES: I have no objection to any of the pictures,
4 your Honor.

5 THE COURT: All will be admitted.

6 ITEMS IDENTIFIED AS PHOTOGRAPHS

7 MARKED STATE'S EXHIBIT 14, 15, 16, 17,
8 18, 19, 20, 21, 22, 23, and 31

9 ADMITTED AS EVIDENCE.

10 BY SOLICITOR THORNTON:

11 Q. All right. If you will just go through these,
12 starting with Exhibit 14. And if you will name each picture
13 before you start talking about it. We'll pull it up so the
14 jury can see it, so start with 14.

15 A. Okay. Exhibit 14, this is within the room that
16 appeared to be utilized as a dining room within the residence,
17 and it's just showing that there's boxes that contain some
18 sharp-edged objects that were removed.

19 Q. And go ahead to the next one.

20 A. Exhibit 15, we're in the same room. Again, you're
21 just showing that the container that had the silverware has
22 been opened. It appears to have been gone through. It's not
23 in a normal, organized fashion anymore.

24 Exhibit 16, this is one of the bedrooms. This is just
25 showing that there is jewelry still present, doesn't appear to

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1 have been ransacked or moved from the top of that piece of
2 furniture.

3 Exhibit 17 is the television screen. As you walked in
4 the front door of Mr. Johnson's home, to the left was the
5 television, and to the right of that television Mr. Johnson was
6 located. So this is just showing the blood evidence that is
7 present upon that screen, and we've gone ahead and scaled it,
8 just for documentation purposes.

9 Q. And when you say scaled it, is that what the white
10 tape is for?

11 A. Yes, it is. There's ruler markings on the tape, just
12 to give you a better idea of the size of the bloodstain
13 evidence that's present.

14 Exhibit 18. This is the top of -- I have a different
15 Exhibit 18.

16 SOLICITOR THORNTON: Sorry, Judge. Your Honor, I'm going
17 to -- with the Court's permission I'll just publish the old-
18 fashioned way to the jury. We apparently had one out of order.

19 BY SOLICITOR THORNTON:

20 Q. Go ahead, Agent.

21 A. This is one of the old-fashioned televisions that has
22 the wooden area surrounding the actual screen, so this is the
23 top portion of that television. And you can see, like, there's
24 a smoke detector that's placed there. But the main focal point
25 of the photograph is a part of Mr. Johnson's dentures that have

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1 landed autopsy the television.

2 Q. Thank you. Hand this back up.

3 A. Exhibit 19. Here, we're back in that dining room
4 area where you see the fishing poles, and you see some
5 suspected blood evidence about midway down on that wall, on the
6 right-hand side. The room that you can actually see into is
7 the kitchen. So we're kind of right there at that turnabout,
8 going from one room to the other.

9 Q. Before you move on, let me ask you something else
10 about that photograph.

11 A. Okay.

12 Q. There's -- obviously, there's other photographs
13 already in evidence that the jury has seen. Do you recall the
14 trash bag that was wrapped over -- as far as a description of
15 the trash bag that was found, wrapped and tied around Willie
16 Johnson's head?

17 A. Yes, I do.

18 Q. And what -- what -- describe it for the jury.

19 A. It was a black trash bag with yellow drawstrings.

20 Q. And is there anything other -- else, other than the
21 suspected blood evidence that you would find significant in
22 that picture?

23 A. Within this photograph, if you look into the kitchen,
24 so that room you can see along the left-hand side of the frame,
25 you can see a plastic trash receptacle for the kitchen trash,

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1 but you see a white trash bag present in there. The only trash
2 bags that were present in Mr. Johnson's residence were white.
3 There were no other black trash bags found within his
4 residence, other than the one that was over his head.

5 Q. Thank you. Next.

6 A. Exhibit 20 is from that same perspective. We've just
7 added scale to that suspected blood evidence. Again, just to
8 give reference of size in relation to surrounding areas.

9 Exhibit 21. Okay. Where you see that certificate or
10 that picture hanging there on the wall, that is going to be the
11 wall just behind where Mr. Johnson's head was located. That
12 corner of the wall is going back to that alcove, remember,
13 where we had the telephone and the alarm panel. That's going
14 back to that area where you can kind of see one of the bedrooms
15 on that far-left hand of the frame. So that's just that turn
16 on the wall, the corner right there. So we're going from the
17 living room into that alcove where the bedrooms are, is the
18 reference point for that. And we have some suspected blood
19 evidence along that corner there, with some scale tape for
20 reference.

21 Exhibit 22. This is the same wall, the bottom portion of
22 that photograph. There's still that certificate that you saw
23 in the previous photograph. Now you can see that there are
24 several other areas that are scaled that had suspected blood
25 evidence.

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1 Q. And let me ask you a quick question.

2 A. Um-hmm.

3 Q. What's on the wall now appears to be a different
4 color. Why is that?

5 A. On crime scenes, when you have a red substance that
6 you suspect to be blood, we have some options to test it, to
7 see if it will chemically react to confirm our suspicion that
8 it is blood. In this particular case, I used a chemical called
9 luecocrystal violet, which is known as LCV, that's what we call
10 it. And basically, it's a chemical that when sprayed upon
11 suspected blood, will react with hemoglobin, which is present
12 in blood, and it will present in a blueish purple color upon a
13 positive reaction. So this is not a confirmatory test, it's
14 just a presumptive test for us to move forward.

15 So, in this particular case it presumptively reacted
16 positive, which led us to believe it was truly suspected blood,
17 and we then went forward with collecting swabs from those
18 areas.

19 Q. And -- I'm sorry, you answered that. Go ahead.

20 A. Now, also, within these areas that were marked, not
21 only was it suspected blood evidence, but the blood --
22 suspected blood evidence was present in a ridged, detailed
23 pattern consistent with coming from an area of the body that
24 has friction ridge skin; which the only areas of your body that
25 have this skin are the palms of your hands and the soles of

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1 your feet. So based upon the location, which, when we measured
2 the height of these, they varied from three feet, seven inches,
3 to approximately five feet, as you can see in this scaled ruler
4 to the right. We assumed it was a hand. Most people don't
5 walk around with their feet at five feet, you know, up in the
6 air on the wall, but it was a possibility. So we went forward
7 to process those and collect the ridge detail for further
8 comparison to potential suspects, and to exclude, possibly, the
9 victim himself.

10 Exhibit 23. This is a closeup of the ridge detail that
11 reacted positively with our presumptive test for blood at
12 Marker H. Now, Marker H, if you can recall, probably three
13 photographs back, where we had the bend in the wall and we
14 could see into the bedroom and we had that certificate, this is
15 the one ridge detail area that I was able to identify, and this
16 ridge detail identified to Robert Miller III. s

17 Q. All right. Which is -- has already been told is a
18 co-defendant in this case?

19 A. Correct.

20 Q. Let me ask you a question. When you say the only
21 ridge detail you were able to identify, so is it -- is it
22 correct to say that that's the only print that you found, other
23 than Mr. Johnson's prints, the homeowner, is that the only
24 print that you found?

25 A. No.

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1 Q. Can you explain to the jury why. Is that the only
2 print you were able to identify with a particular person?

3 A. This is the only print I was able to identify to
4 someone that was not the homeowner, Mr. Johnson.

5 Q. All right.

6 A. There were other areas of ridge detail that were
7 collected, but I was not able to identify them. They have an
8 inconclusive result, or they were not identified. So there
9 were areas of ridge detail that were also on this wall, that
10 were inconclusive or deemed to be no value for further
11 comparison; meaning that the amount of ridge detail present
12 wasn't enough for us to move forward, or the area of ridge
13 detail there didn't contain enough characteristics to make it
14 unique enough to move forward, to identify it to a single
15 person.

16 Upon your hand you have all these ridges and lines, and
17 they're unique to you and you alone. So, throughout the day,
18 if you sweat, your touch your hair, you touch your face, and
19 then you go and you touch another object, there's a chance
20 you're going to leave a stamped transfer of that ridge pattern
21 on a surface. Now, if you have blood on your hand when you do
22 that, think of, like, you're painting a wall, and you get paint
23 on -- on you, and then you touch your nice, clean wall that you
24 haven't applied the paint to yet. It's going to leave those
25 ridge details in the paint on that wall. Blood works the same

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1 way.

2 So, in this particular case, there was blood on a hand,
3 and then it touched the wall. Okay? Had the wall been wet
4 with paint and you touched it, you would've taken that paint
5 away with your hand, not added it. So that's kind of how you
6 know the order of things, as well.

7 But now, when you touch things, you're not always making
8 a conscious effort to touch and apply even pressure and leave
9 that nice, firm, stamped impression. So you're touching,
10 you're moving, you're smearing, you're hardly touching it at
11 all with pressure, so you're always going to leave a
12 fingerprint. You're not always going to have that residue on
13 your hand that's going to transfer it. You're not always going
14 to have a different substance like paint or blood or grease on
15 your hand that's going to transfer. So latent evidence, in
16 nature, is really evidence left by chance. You're not always
17 going to leave it, and you're not always going to be conscience
18 about how you press and hold items that you come in contact
19 with.

20 Q. Thank you. You can move on to the next photograph.

21 A. Exhibit 31. To the right of this photograph you can
22 see kind of the baseboard along the blue wall. That's that
23 same blue wall where that certificate was hanging, where we had
24 those different areas of blood stains marked with the scale
25 tape. This is where Mr. Johnson was positioned. Upon us

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1 entering his residence, he was found face-down, hands bound
2 behind his back. We've documented him in that position, and
3 now we needed to photograph the part that was not obviously
4 seen upon our entry. So here, my crime scene partner, with the
5 coroner's permission, rolled him to his side, so we can
6 document the front portion of him, and also the ground that was
7 immediately underneath him in this -- in this frame.

8 Q. And I believe you said it was -- you testified it was
9 Marker H, was the ridge detail that you identified and tested,
10 with Robert -- that came back as Robert Miller III, co-
11 defendant in this case's, print. Did you do anything else at
12 Marker H, from an evidentiary perspective?

13 A. We also swabbed -- after we took that photograph that
14 you saw closeup, where the ridge detail was purple, that's the
15 image that I used for further comparison. I then swabbed that
16 entire area for DONE -- for potential DNA evidence.

17 Q. I'm going to hand you what's been marked for
18 identification as State's Exhibit 39, and ask you if you can
19 identify any of the envelopes, specifically the one on top,
20 that are contained therein.

21 A. This is showing a description of two swabs of
22 suspected blood with ridge detail from Marker H, with a
23 positive reaction to LCV, collected on June 19th of 2014, at
24 20:11 hours, which is 8:11 p.m., with my initials. It has then
25 been designated with a lab number and item number for this

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1 particular case, which is unique to this -- this item number is
2 unique to this particular swab.

3 Q. And is that a swab that either you collected or was
4 collected in your presence?

5 A. I collected it, yes. That's my handwriting.

6 Q. And what did you do with it after it was collected?

7 A. This swab was then taken back to the forensic lab in
8 Columbia, and it was submitted into evidence, and it was then
9 passed along to the DNA unit for further analysis.

10 Q. And while in your care, custody, and control, was it
11 maintained in a sealed condition?

12 A. Yes, it was. Per our policy with crime scene, all
13 swabs are to be sealed on-scene, prior to leaving and
14 transporting anything back to the laboratory.

15 Q. And it would remain sealed at this time. Is that
16 correct?

17 A. The envelope itself would have been sealed. It was
18 placed in the heat-sealed pouch upon arriving back to the lab.

19 Q. Did you attend the autopsy for the victim in this
20 case, Willie Johnson?

21 A. Yes, I did.

22 Q. Can you identify first --

23 A. May I consult my notes?

24 THE COURT: Ma'am?

25 A. Judge, may, I consult my notes?

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1 THE COURT: Absolutely.

2 BY SOLICITOR THORNTON:

3 Q. This is going to be Item 63 and 64, are your item
4 numbers. Can you identify what those would be.

5 A. Item 63 is going to be the black plastic bag removed
6 from Mr. Willie Johnson's head. And Item 64 are going to be
7 the white strings from around the wrists of Willie Johnson.

8 SOLICITOR THORNTON: Your Honor, may we approach briefly?

9 THE COURT: Yes, sir.

10 OFF-THE-RECORD BENCH CONFERENCE, OUT OF

11 HEARING OF JURORS. PRESENT: THE COURT,

12 SOLICITOR THORNTON, MR. HUGHES.

13 END BENCH CONFERENCE.

14 BY SOLICITOR THORNTON:

15 Q. All right. So you've identified these. Now, were
16 you present at the autopsy when these items were collected?

17 A. Yes, I was.

18 Q. And what did you do with them, if anything?

19 A. Once they were collected from autopsy, they were
20 transported back to the forensics lab. The shoestrings were
21 then forwarded to processing for potential DNA evidence. I
22 actually processed the black trash bag for latent prints.

23 Q. Did you -- with any results?

24 A. There was ridge detail present, but again, it was not
25 of a significant enough quality for me to move forward to do

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1 any comparison. You could tell it had been touched.

2 Q. Other than the normal processing that you did, did
3 you alter or change these in any way?

4 A. No, I did not.

5 Q. And as you can see, they are still sealed. Is that
6 correct?

7 A. That is correct.

8 Q. All right. Your Honor, I would ask that State's
9 Exhibit 40 be moved into evidence at this time.

10 MR. HUGHES: No objection.

11 THE COURT: Admitted. Is that the plastic bag or the
12 wrist restraints?

13 SOLICITOR THORNTON: Both, your Honor.

14 THE COURT: All right.

15 ITEM IDENTIFIED AS BOX CONTAINING

16 SLED ITEMS 63 AND 64

17 MARKED STATE'S EXHIBIT 40

18 ADMITTED AS EVIDENCE.

19 SOLICITOR THORNTON: It's Item 63 and 64 are both in the
20 box. And your Honor, I'll go ahead and say this now. As to
21 both State's 40, and also if we -- if your Honor accepts the
22 evidentiary value of 41 and it gets moved into evidence, I'm
23 not planning on opening either one of these. Obviously,
24 they're stamped as a bio-hazard because of the blood and
25 biological matter. If the jury, at some point, wished to

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1 consider them, if they're in evidence, obviously, that's up to
2 them, but I don't plan on opening them right now, because they
3 are a biohazard.

4 THE COURT: All right.

5 BY SOLICITOR THORNTON:

6 Q. I will now hand you what's been marked as State's
7 Exhibit 41, which looks to be SLED Item 55, 56, 57, 58, 59, 60,
8 and 62. And I'm sorry to throw those all out at you, but they
9 are written on the side of the box. Can you identify what is
10 in State's 41, for identification?

11 A. Within this exhibit we have broken dentures from Mr.
12 Johnson, white Hanes undershirt from Mr. Johnson, a blue
13 Dickie's jumpsuit from Mr. Johnson, a pair of green boxers from
14 Mr. Johnson, a pair of brown socks from Mr. Johnson, a pair of
15 black work boots from Mr. Johnson, and a white handkerchief,
16 kind of napkin, paper towel consistency, from Mr. Johnson.

17 Q. Those would be the clothes that Mr. Johnson was
18 wearing when he was killed?

19 A. Correct.

20 Q. Other than -- I don't know that you didn't, but other
21 than any evidentiary processing, have you altered or changed
22 these in any way?

23 A. I have not.

24 Q. And are they still -- do they still appear to be in a
25 sealed condition from SLED?

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1 A. Yes.

2 SOLICITOR THORNTON: Your Honor, I'd ask at this time
3 that State's 41 be moved into evidence.

4 MR. HUGHES: No objection.

5 THE COURT: Admitted.

6 SOLICITOR THORNTON: And again, your Honor, I will leave
7 these sealed unless the jury decides they want to see them.

8 THE COURT: They've been admitted.

9 ITEMS IDENTIFIED AS SLED ITEMS NUMBERED
10 55, 56, 57, 58, 59, 60, 61, AND 62

11 MARKED STATE'S EXHIBIT 41

12 ADMITTED AS EVIDENCE.

13 BY SOLICITOR THORNTON:

14 Q. While attending the autopsy -- I know you talked
15 about swabbing Item -- but while you were attending the
16 autopsy, did you take possession of any other items that
17 would've been collected?

18 A. Yes. All of the biological evidence that was
19 collected by Dr. Ross or one of her technicians during the
20 process of the examination was turned over to me upon
21 completion of the exam, for me to transport back to the SLED
22 laboratory to log in and distribute to the required departments
23 for further analysis. All of the specimens that she turned
24 over to me were sealed at the time I receive them, and they
25 remained sealed until they made their way to the analyst that

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1 would conduct further analysis.

2 Q. And when you say *biologic specimens*, what -- what was
3 collected in this case and turned over to you? And is, I'm
4 assuming, standard in pretty much any victim case that you do?

5 A. In this particular case, we collected -- well, I
6 collected via chain of custody: a known blood standard; a
7 urine collection; ocular or vitreous fluid, which is fluid
8 that's removed from the eyeball; some gastric fluid; fingernail
9 clippings from both hands. Again, the clothing; the trash bag;
10 the shoestrings from the hands; all of those were also
11 recovered at autopsy.

12 While we were on-scene, we had bagged Mr. Johnson's hands
13 with brown paper bags to preserve any evidence that might be
14 under his fingernails. Those bags were then removed at
15 autopsy, and those bags were retained as evidence, as well,
16 prior to Dr. Ross taking the scrapings.

17 Q. And let me ask you real quickly. As to -- can you
18 describe really quickly what a known blood standard -- what
19 that means when you say a known blood standard, what is that?

20 A. A known blood standard is a -- a standard that's
21 drawn directly from an individual. So, in this particular
22 case, it was blood taken directly from Mr. Johnson's body upon
23 examination.

24 Q. And what did you do with the -- specifically the
25 blood standard and the fingernail clippings? We haven't talked

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1 about those yet. What did you do with those upon receiving
2 them?

3 A. Those were transported back to the SLED forensic lab,
4 and they were transferred to the DNA department for further
5 analysis, once they were logged into our computer system and
6 assigned an item number in this case.

7 SOLICITOR THORNTON: Your Honor, Court's indulgence,
8 please, for one moment.

9 BY SOLICITOR THORNTON:

10 Q. Did you have occasion to go out to another scene at
11 some point involving this case? In other words, other than [REDACTED]
12 Pickrum Street?

13 A. Yes, sir. I responded to several locations in
14 affiliation with this case.

15 Q. Did you go out to a home identified as Robert
16 Miller's mother's house?

17 A. Yes, I did.

18 Q. And I'm going to show you what's been marked as --
19 for identification as State's 27, that we briefly mentioned
20 earlier. Can you identify what's in that photograph.

21 A. This is an empty box from which black trash bags with
22 yellow drawstrings had been located. We photographed this item
23 of evidence. We didn't collect it, but we photographed it,
24 because it was consistent with the bag that had been found over
25 Mr. Johnson's head. And this box was actually located within

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1 one of the main bedrooms at the residence located at [REDACTED]
2 Jackson Street.

3 Q. And has this been altered or changed in any way?

4 A. It has not.

5 SOLICITOR THORNTON: Your Honor, I'd ask that State's
6 Exhibit 27 be moved into evidence.

7 MR. HUGHES: No objection.

8 THE COURT: Admitted.

9 ITEM IDENTIFIED AS PHOTOGRAPH

10 MARKED STATE'S EXHIBIT 27

11 ADMITTED AS EVIDENCE.

12 BY SOLICITOR THORNTON:

13 Q. And I think you already testified to this, but you
14 indicate it consistent with the bag that was wrapped around
15 Willie Johnson's head, the victim in this case. And consistent
16 in what way?

17 A. The bag shows the kind of illustration of a black bag
18 with yellow drawstrings. Also, within the kitchen of this
19 residence was a black trash bag with yellow drawstrings in use
20 as a kitchen trash bag.

21 Q. And just for the jury's purpose, again, what was the
22 trash bag that was wrapped around Willie Johnson's head, what
23 did it look like?

24 A. It, too, was a black trash bag with yellow
25 drawstrings.

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1 SOLICITOR THORNTON: Your Honor, at this time I have no
2 further questions for Agent -- I almost said Hezel -- please
3 answer any questions Mr. Hughes has for you.

4 THE COURT: Cross-examination.

5 MR. HUGHES: Where is the new pictures?

6 SOLICITOR THORNTON: All exhibits, Mr. Hughes, are right
7 here. I've put them all right here.

8 MR. HUGHES: Okay.

9 TIFFANY EDWARDS

10 CROSS-EXAMINATION BY MR. HUGHES:

11 Q. Good morning, Agent Edwards.

12 A. Hello.

13 Q. Just a few things, some clarification. I'm going to
14 show you State's Number 14. You remember this picture?

15 A. Yes.

16 Q. It shows a knife in there.

17 A. Yes.

18 Q. That knife had nothing to do with this crime, did it?

19 A. Not that we believed at the time, other than it had
20 been removed from a box.

21 Q. It's just mere presence at the crime scene; it was
22 not used on Mr. Johnson or anything like that.

23 A. Correct.

24 Q. Okay. Now --

25 MR. HUGHES: May I approach, your Honor?

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1 THE COURT: Yes, sir.

2 BY MR. HUGHES:

3 Q. I don't know exactly what this means. I'm going to
4 show you State's 21 and 22, and ask you to look at them again.
5 You had said that -- go ahead and look at them.

6 A. Um-hmm.

7 Q. You said that was the same area, right?

8 A. Yes.

9 Q. Are you sure?

10 A. May I consult my notes for another reference
11 photograph?

12 THE COURT: Yes, ma'am.

13 BY MR. HUGHES:

14 A. I apologize, I have a lot of pictures.

15 Q. I fully understand, Agent. I would have to go
16 through every one of them. And most of them look exactly the
17 same as the last one.

18 A. I do apologize, these are different walls. There are
19 two different certificates. Exhibit 22 is the wall behind Mr.
20 Johnson's head. Exhibit 21 is a different wall with Marker A,
21 not H. Again, just suspected blood evidence. However, Exhibit
22 22 does have Marker H, that did contain the suspected blood
23 ridge detail that I did identify.

24 Q. I know you're not trying to hide anything, but I just
25 wanted the jury to understand why they might see different

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1 certificates. But you've done a lot of testifying. Did you
2 find any physical evidence against Gabriel Joyner?

3 A. To my knowledge, none of the DNA evidence that I
4 collected matched Mr. Joyner, and I have no conclusive
5 identification on fingerprints to identify Mr. Joyner.

6 Q. Okay. Just a few quick questions about fingerprints.
7 I am standing here with my hand on a piece of wood, highly
8 polished, and it's not raw wood. It has a coat of varnish on
9 it. Is there a good chance I'll leave fingerprints right now?

10 A. It's possible.

11 Q. Okay. I leaned against that wall while you were
12 testifying. Is there a good chance that you would find
13 fingerprints on that wall, or does it depend on what type of
14 surface we're looking at?

15 A. It would depend on the surface, but it also depends
16 on the individual.

17 Q. How long do fingerprints last?

18 A. I cannot time-stamp fingerprints.

19 Q. So, if I have, in the past, touched something in this
20 courtroom two, three years ago, and it has not been disturbed,
21 there is a chance that you would find my fingerprints there?

22 A. With that time frame, I would say that the -- the
23 chance is slim. Again, going back to dependent upon what the
24 fingerprint was placed in. If the fingerprint was latent,
25 meaning just moistures and oils, of course evaporation is going

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ASHLEY BELL - DX - THORNTON

1 to happen. If you left a fingerprint in paint, that would stay
2 longer.

3 Q. But if I touch glass, say, like, one of the bulbs in
4 the ceiling and nobody's touched it since, there's a chance?

5 A. There is a chance.

6 MR. HUGHES: No further questions.

7 THE COURT: Re-direct?

8 SOLICITOR THORNTON: None, your Honor.

9 THE COURT: May this witness be excused?

10 SOLICITOR THORNTON: Ask that she be excused, your Honor.

11 MR. HUGHES: No objection.

12 THE COURT: Thank you, ma'am.

13 TIFFANY EDWARDS: Thank you.

14 SOLICITOR THORNTON: Ashley Bell.

15 MADAM CLERK: Good morning.

16 ASHLEY BELL: Good morning.

17 MADAM CLERK: Place your left hand on the *Bible* and raise
18 your right hand. Do you swear or affirm to tell the truth, the
19 whole truth, and nothing but the truth, so help you God?

20 ASHLEY BELL: Yes, ma'am.

21 ASHLEY BELL

22 DIRECT EXAMINATION BY SOLICITOR THORNTON:

23 Q. Ms. Bell, who do you currently work for?

24 A. The South Carolina Law Enforcement Division, more
25 commonly referred to as SLED.

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ASHLEY BELL - DX - THORNTON

1 Q. And what is it that you currently do for SLED?

2 A. I am a drug chemist in the drug analysis department.

3 Q. And is that a job you had, say, from June of 2014
4 until now, or did you do something different?

5 A. I did something different.

6 Q. And what did you do at that time?

7 A. I was a serologist in the DNA department.

8 Q. And at -- what -- what, generally, did you do as a
9 serologist in the DNA department?

10 A. I was responsible for confirming body fluids.

11 Q. I'm going to -- I'm going to hand you what's been
12 marked for identification as -- and please use the pink
13 sticker, State's 38, for identification. Can you identify
14 what's in that SLED packet.

15 A. Yes, sir, I do recognize the package. My initials
16 and the date that I sealed it are here at the top. That's a
17 unique SLED lab number and item number that's given to the
18 package. I also see my name and initials here. And on the
19 inside of the packaging, I see a packaging -- a packet that I
20 actually created, with my initials, that same SLED unique lab
21 number and item number, as well.

22 Q. So one of the packages in that sealed envelope you
23 said you created. And what did you do that for? What was the
24 purpose of doing that?

25 A. Yes, sir. I see a coin envelope with the SLED lab

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ASHLEY BELL - DX - THORNTON

1 number and item number on it, and my initials. In this
2 particular packaging, I was responsible for taking a blood
3 standard from the victim and stabilizing it. That just means
4 that I took the liquid blood; poured it onto a sterile piece of
5 paper to preserve the blood in a sterile hood, sterile
6 environment; dried that liquid blood onto that paper sample;
7 and then re-packaged the liquid blood and returned it to where
8 it came from.

9 Q. And what is the purpose of stabilizing the blood?

10 A. Liquid blood is just -- you don't want to keep that
11 if you don't have to. It's less stable. The dried blood lasts
12 longer, and we preserve it by pouring it onto that paper.

13 Q. And is that all you did in this case is to, as you
14 indicated, stabilize the known blood standard for the victim in
15 this case, Willie Johnson?

16 A. Yes, sir, that's all I did.

17 Q. And did you -- other than put it on a dry piece of
18 paper, stabilize it, did you alter it or change it in any way?

19 A. No, sir, I did not.

20 Q. And what did you when you got done?

21 A. I packaged the dry blood standard into this coin
22 envelope that you see, I sealed it and dated it with my
23 initials and the date, and I packaged it into this heat-sealed
24 pouch, and it was actually manually transferred to Jennifer
25 Barton, who is the DNA analyst in this case.

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JENNIFER BARTON - DX - THORNTON

1 Q. I was just about to ask you that question. Why would
2 it be transferred, then, from you to Jennifer Barton?

3 A. Jennifer would need that victim standard to do her
4 DNA analysis and comparison.

5 Q. Thank you very much. I have no further questions.
6 Please answer any questions that Mr. Hughes has.

7 MR. HUGHES: I have no questions for the young lady.

8 THE COURT: May this witness be excused?

9 SOLICITOR THORNTON: Ask that she be excused, Judge.

10 MR. HUGHES: No objection.

11 THE COURT: Thank you, ma'am.

12 ASHLEY BELL: Thank you.

13 SOLICITOR THORNTON: State calls Jennifer Barton to the
14 stand.

15 MADAM CLERK: Good morning. Do you swear or affirm to
16 tell the truth, the whole truth, and nothing but the truth, so
17 help you God?

18 JENNIFER BARTON: I do.

19 MADAM CLERK: Thank you.

20 JENNIFER BARTON

21 DIRECT EXAMINATION BY SOLICITOR THORNTON:

22 Q. Ms. Barton, who do you currently work for?

23 A. I work for the South Carolina Law Enforcement
24 Division, commonly known as SLED.

25 Q. And what do you do for SLED?

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JENNIFER BARTON - DX - THORNTON

1 A. I'm a DNA analyst in the DNA case work department.

2 Q. And were you a DNA analyst on or about June 2014
3 until now?

4 A. Yes, I was.

5 Q. And can you tell us about what the education and
6 other qualifications are to be a DNA analyst, and what,
7 specifically, your qualifications are?

8 A. Yes. I have a bachelor's degree in biology from Hope
9 College in Michigan. I also have a master's in forensic
10 science, with a concentration in DNA analysis from Virginia
11 Commonwealth University. I also completed approximately a year
12 of on-the-job training at SLED, with a court-qualified analyst,
13 in the proper techniques and procedures of the laboratory, and
14 we also have continuing education requirements while we're
15 employed at SLED.

16 Q. And have you ever been qualified as an expert in the
17 state of South Carolina to testify in court?

18 A. Yes, I have.

19 Q. And how many times?

20 A. Approximately sixteen times.

21 SOLICITOR THORNTON: Your Honor, at this time I would ask
22 that Agent Barton be qualified as a DNA analyst.

23 MR. HUGHES: No objections.

24 THE COURT: All right. Ladies and gentlemen of the jury,
25 this witness is going to be qualified as an expert in DNA

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JENNIFER BARTON - DX - THORNTON

1 analysis. Just remember what I told you about expert
2 testimony. She'll be allowed to give her opinion and the basis
3 for it. You are to treat it like any other testimony in this
4 case. Okay, sir.

5 SOLICITOR THORNTON: Thank you, your Honor.

6 BY SOLICITOR THORNTON:

7 Q. I'm going to start with what's still only for
8 identification as State's Exhibit -- please go with the pink
9 sticker, 38. Can you identify the envelopes and whether you
10 did any testing or anything on those.

11 A. Yes. This is SLED Container O. It has our SLED Item
12 48.1, which is a dried blood standard from Willie Johnson. It
13 also has Items 46 and 47, which are fingernail clippings from
14 Willie Johnson.

15 Q. And have those -- are those -- do they appear to be
16 sealed, and still sealed, in the SLED container?

17 A. Yes, it does.

18 Q. And did you, in fact, test those items?

19 A. Yes, I did.

20 Q. And were they kept in the care, custody, and control
21 of SLED in -- in a proper sealed condition the entire time?

22 A. Yes, they were.

23 Q. And again, you just testified that they appear to
24 still be sealed at this time?

25 A. Yes, it does.

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JENNIFER BARTON - DX - THORNTON

1 SOLICITOR THORNTON: Your Honor, I'd ask that State's
2 Exhibit 38 be moved into evidence.

3 MR. HUGHES: No objection.

4 THE COURT: Admitted.

5 ITEM IDENTIFIED AS SLED ITEMS 48.1,
6 46, AND 47

7 MARKED STATE'S EXHIBIT 38

8 ADMITTED AS EVIDENCE.

9 BY SOLICITOR THORNTON:

10 Q. I'm going to hand you what's been marked as State's
11 Exhibit 39, for identification. Can you identify, specifically
12 on the top envelope, I believe, that's visible.

13 A. Yes. This is SLED Container G, which includes SLED
14 Item 35. And SLED Item 35 were swabs from documented ridge
15 details at Marker H.

16 Q. And did you -- was that something that you yourself
17 opened and tested? We heard testimony from Ms. Bell earlier
18 about doing dried blood standards. Was that something you did
19 as to H, or is that something someone else did?

20 A. That was something I did. I performed DNA analysis
21 on that item.

22 Q. And was it in a sealed condition when you received
23 it?

24 A. Yes, it was.

25 Q. And has it remained in the care, custody, and control

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1 of SLED?

2 A. Yes, it has.

3 Q. Which I realize is a dumb question, because I believe
4 you brought that with you this morning from SLED; did you not?

5 A. Yes, I did.

6 Q. And is it still in a sealed condition?

7 A. Yes, it is.

8 SOLICITOR THORNTON: Your Honor, I would ask that State's
9 Exhibit -- forgive me, Judge, I've gone through so many of
10 these -- State's Exhibit 39 at this time be moved into
11 evidence.

12 MR. HUGHES: No objection.

13 THE COURT: Admitted.

14 ITEM IDENTIFIED AS SLED ITEM 35

15 MARKED STATE'S EXHIBIT 39

16 ADMITTED AS EVIDENCE.

17 BY SOLICITOR THORNTON:

18 Q. All right. So just to recap this, you've indicated
19 it's -- that thirty -- State's Exhibit 39 is the -- is two
20 swabs from Marker H, which was suspected ridge detail that our
21 crime scene experts already testified to. And SLED -- excuse
22 me -- State's Item 38 are the fingernail clippings and known
23 blood standard for the victim in this case, Willie Johnson.
24 Did you compare those two things to develop a DNA profile?

25 A. Yes, I did.

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1 Q. Or, actually, there's more than two things. Let's
2 start with the known blood standard first. Did you compare
3 that to the swabs from Item H?

4 A. The swabs --

5 Q. Marker H, I apologize. Item 35.

6 A. Yes, I did. The DNA profile that I developed from
7 SLED Item 35 matched the DNA profile of Willie Johnson. The
8 probability of randomly selecting an unrelated individual
9 having a DNA profile matching that profile is approximately one
10 in two hundred and ten trillion.

11 Q. So you can say with a reasonable degree of scientific
12 certainty that the -- that Willie Johnson's DNA is on swabs
13 taken from the ridge detail item H -- or excuse me -- Marker H,
14 Item 35?

15 A. That's correct.

16 Q. All right. Did you test the fingernail clippings?
17 And can you tell the jury what -- what those are, in general.
18 I mean, people say fingernail clippings. What is that?

19 A. It's kind of just like how you clip your own nails.
20 We usually get just clippings of a fingernail. Occasionally,
21 we'll get swabs or scrapings from them. In this case, I
22 swabbed the fingernail clippings that I received, and I
23 performed DNA analysis on -- on those swabs.

24 Q. And what is the purpose of doing the -- doing the
25 testing of -- of fingernail clippings?

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1 A. To see if there's any foreign DNA that is located
2 under the fingernails to indicate if a struggle took place or
3 something of that matter.

4 Q. And did you test the fingernail clippings of Willie
5 Johnson?

6 A. Yes, I did.

7 Q. And what were you able to determine from them?

8 A. The DNA profile that I developed from our Items 46
9 and 47, which was the right hand and the left hand fingernail
10 clippings, were both mixtures of at least two individuals. The
11 major contributor of those -- of those mixtures was consistent
12 with Willie Johnson, and the partial DNA profile of the minor
13 contributors to those mixtures were insufficient for
14 interpretation.

15 Q. All right. And does -- so does that mean, based on
16 your expert opinion, that there are two different DNAs present,
17 one being Willie Johnson and one that's insufficient for
18 analysis?

19 A. That's correct.

20 Q. All right. And is that as to both the right and left
21 hand?

22 A. That's correct.

23 SOLICITOR THORNTON: Your Honor, Court's indulgence,
24 please.

25 THE COURT: Yes, sir.

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1 SOLICITOR THORNTON: Your Honor, I have no further
2 questions. I ask that she answer any questions Mr. Hughes has.

3 THE COURT: Cross-examination.

4 JENNIFER BARTON

5 CROSS-EXAMINATION BY MR. HUGHES:

6 Q. Do you -- do any analysis of anything that came back
7 with a result that said that there is a probability that the
8 person who left this DNA was Gabriel Joyner?

9 A. No, I did not.

10 MR. HUGHES: No further questions, your Honor.

11 THE COURT: Thank you. Re-direct.

12 SOLICITOR THORNTON: None, your Honor. I ask she be
13 excused.

14 THE COURT: Any objection?

15 MR. HUGHES: No objection.

16 THE COURT: Thank you, ma'am. You're excused.

17 STATE RESTS:

18 SOLICITOR THORNTON: Your Honor, at this time the State
19 rests.

20 THE COURT: All right. Very good. All right. Ladies
21 and gentlemen of the jury, if you recall at the beginning of
22 this case, I told you there were five parts in every case. You
23 have the opening statements and the presentation of the
24 evidence. At this juncture, the State says we have presented
25 our evidence in this case, in their case in chief. So I have

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1 some administrative matters I need to take up now. If you'd go
2 back to your jury room, we'll summon you back in just a little
3 while and we'll resume. Okay? If you'll go back to your jury
4 room, please.

5 JURORS LEAVE COURTROOM 10:36 A.M.

6 MOTIONS AND RULINGS:

7 THE COURT: Motions?

8 MR. HUGHES: Yes, your Honor. Your Honor, on the charge
9 of murder, I do not believe the State has produced any evidence
10 that my client was either actively involved in the death of
11 Willie Johnson. I don't think they have overcome the simply
12 mere presence. I move for directed verdict of not guilty on
13 the charge of murder.

14 On the charge of burglary first, I do not believe that
15 they have shown that he knew or even should have known that Mr.
16 Johnson was going to be attacked, that he even was attacked,
17 and I would move for a directed verdict of not guilty on the
18 charge of burglary first.

19 On the charge of burglary second -- excuse me -- on the
20 charge of strong-armed robbery, again it does not appear that
21 Mr. Joyner knew or should have known that this was going to
22 happen. Barring that, I would say that they have not overcome
23 the mere presence aspect of the strong-armed robbery, since
24 there is no evidence that he even approached, talked to, or did
25 anything threatening, or use of force, or any way, manner Mr.

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1 Johnson. I'd move for a directed verdict of not guilty on that
2 count of strong-armed robbery.

3 THE COURT: Mr. Thornton?

4 SOLICITOR THORNTON: Thank you, your Honor. Your Honor,
5 as to the charge of murder, as I indicated to the jury from the
6 beginning, it's the hand of one is the hand of all. Even if
7 you take everything he says in his own confession as true, you
8 certainly have, according to his own testimony, two people
9 coming to him saying let's go do a lick, which is very commonly
10 known as a robbery. They go across the street. During the
11 robbery and, of course, burglary first, which I'll get to those
12 in a second, he -- the victim in the case is beaten to death --
13 well, it's asphyxiated with the contributing cause of blunt
14 force trauma. So he's asphyxiated, in his testimony, by the
15 two people while Mr. Joyner is robbing the man and going
16 through his house, and removes items.

17 What I believe -- you know, obviously murder is the
18 unlawful killing of another with malice aforethought. The
19 conduct certainly is malicious, or at least in the light most
20 favorable to the State I believe could be called malicious, of
21 all three individuals. And you don't have to have, as your
22 Honor already knows, deal the death blow to be guilty of murder
23 under the hand of one is the hand of all.

24 In your Honor's charge, it's -- you know, you're going to
25 tell the jury that, for example, if two people go in and one of

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1 them shoots the other one -- you know, again I don't know that
2 it's that specific -- but during a robbery, just because you're
3 not the one that pulled the trigger, even if the evidence is
4 clear that you didn't pull the trigger, you can still be held
5 responsible. All that's required is that you're not merely
6 present at the crime.

7 In this case, and one of the other things that -- that
8 hand of one is the hand of all talks about is, what was the
9 prearranged plan? Well, the prearranged plan was to go do a
10 robbery on somebody and a burglary, and he's home at the time.
11 Is it a natural and foreseeable consequence that he may die?
12 While they are beating him and tying a bag over his head with
13 his hands behind his back, basically leaving him prone and
14 helpless to suffocate, the defendant goes and finishes the
15 robbery along with them and aids them in getting the safe and
16 other items out of the house, by his own statement, in addition
17 to the circumstantial evidence that backs that up, your Honor.
18 So I would respectfully ask you to deny the motion as to
19 murder.

20 As to burglary in the first degree, your Honor, I believe
21 what the statute says is that you do a -- that you go into
22 another dwelling without permission to commit a crime therein,
23 and that you or another participant in the burglary injures a
24 non-participant. And I'm paraphrasing. But your Honor,
25 clearly, by his own statement, they went over there to a

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1 dwelling, to Mr. Johnson's house, with the intent to commit a
2 crime, to steal from him, and to, you know, do a lick, do a
3 robbery; and while they -- it's by his own testimony, one of
4 the other participants, even if you believe everything in his
5 statement, injures Mr. Johnson. Mr. Johnson died as a result
6 of what happened. I think, clearly, that would also be
7 respectfully -- should be respectfully denied.

8 As to the strong-armed robbery, same thing, Judge. They
9 came over, said let's go do a lick. He goes over, he's robbing
10 the house, and you've got a wallet next to him, you've got
11 other things, he's going through the house stealing while they
12 are holding him and beating him. You don't have to be the one
13 doing the punching or the force in order to be found guilty.
14 He was there, it was by prearranged plan, and he participated,
15 even by his own statement.

16 Thank you, your Honor.

17 THE COURT: Thank you. All right. In the light most
18 favorable to the State, I believe there is both direct and
19 substantial circumstantial evidence to warrant submitting all
20 three charges to the jury. So, therefore, deny your motion,
21 sir.

22 MR. HUGHES: Thank you.

23 THE COURT: Okay.

24 MR. HUGHES: Your Honor, just sort of as a housekeeping
25 matter, Mr. Thornton referred to the statement as testimony. I

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1 would request that he not do that in his closing.

2 THE COURT: I will --

3 SOLICITOR THORNTON: I don't remember doing it, Judge.

4 I'll try to watch that. Obviously, he didn't testify, and that
5 shouldn't be held against him.

6 THE COURT: Sure. All right. You had something -- well,
7 first, does your client intend to testify?

8 MR. HUGHES: He informs me that he does not, your Honor.
9 He was placed under oath yesterday. I would request that you
10 ask him that question yourself.

11 THE COURT: Thank you, sir. Will you stand up, please,
12 Mr. Joyner? Will you raise your right hand?

13 DEFENDANT JOYNER: Yes, sir.

14 THE COURT: Do you swear or affirm to tell the truth, the
15 whole truth, and nothing but the truth?

16 DEFENDANT JOYNER: Yes, sir.

17 THE COURT: Okay. Do you recall I went over your *Fifth*
18 *Amendment* rights with you yesterday?

19 DEFENDANT JOYNER: Um-hmm.

20 THE COURT: And have you had sufficient time to consult
21 with your attorney or anyone else of your choosing to determine
22 whether or not you wish to testify, or whether or not you wish
23 to avail yourself the privileges afforded by the *Fifth*
24 *Amendment*?

25 DEFENDANT JOYNER: Yes, sir.

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1 THE COURT: And do you wish to testify?

2 DEFENDANT JOYNER: No, sir.

3 THE COURT: Have you made that choice of your own free
4 will?

5 DEFENDANT JOYNER: Yes, sir.

6 THE COURT: Freely, voluntarily, and knowing of the
7 consequences or the protections?

8 DEFENDANT JOYNER: Yes, sir.

9 THE COURT: Okay, sir. Thank you very much. I find that
10 Mr. Joyner freely, voluntarily, and knowingly exercised his
11 right under the *Fifth Amendment* and did not testify.

12 Are you going to put up any witnesses?

13 MR. HUGHES: Yes. No, sir, I'm not. I will rest once
14 the jury comes back in.

15 THE COURT: Okay.

16 MR. HUGHES: Your Honor, yesterday, during the charge
17 conference, there was a matter that I had some questions about.
18 I reviewed it overnight. I have nothing -- no problems.

19 THE COURT: That is the burglary first, not doing a
20 lesser included?

21 MR. HUGHES: Yes.

22 THE COURT: Let me hand you out another charge on armed
23 robbery. And I'll let you all pick and choose. I looked at
24 the one this morning. There was actually a footnote created
25 with the charge that's in there from me, and I knew that wasn't

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1 right, but. Take a look at that --

2 MR. HUGHES: This is the strong-arm.

3 THE COURT: -- compare it to the other charge, and tell
4 me what you want to do.

5 MR. HUGHES: I have no problems with this charge, your
6 Honor.

7 THE COURT: Okay, sir.

8 SOLICITOR THORNTON: I don't either, Judge. Either that
9 you've proposed is fine with me.

10 THE COURT: All right. I'll go ahead -- and I like -- I
11 seem to prefer that one, but I will --

12 SOLICITOR THORNTON: Judge, I did have a question, if
13 it's okay. With that -- other than that alteration will be the
14 charges that we were handed yesterday, with the changes that we
15 made yesterday, other than that was that going to be your
16 charge, as far as --

17 THE COURT: Yes, sir. And I -- in fact, what I'm going
18 to do is replace the strong-arm robbery charge. I will hand
19 you my actual charge and let you look at it.

20 SOLICITOR THORNTON: Thank you, Judge.

21 MR. HUGHES: I think the question was --

22 THE COURT: Just don't get them out of order.

23 MR. HUGHES: -- in reference to the burglary charge,
24 you're removing one, four, and -- one, three, and four?

25 THE COURT: The only thing that I was going to charge was

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1 number two, and delete one, three, and four. That's correct.

2 SOLICITOR THORNTON: Yes, sir. Your Honor, for
3 scheduling purposes, did you want to -- we'll just bring the
4 jury back in and go ahead and have him rest, and then take up
5 -- I know you have a conference call.

6 THE COURT: Yeah, I do.

7 SOLICITOR THORNTON: And frankly, I need time to get
8 ready to close.

9 THE COURT: Okay. Let me go over one thing first.

10 SOLICITOR THORNTON: Yes, sir.

11 THE COURT: Do you have any proposed charges that I --

12 SOLICITOR THORNTON: Nothing in addition to what we
13 already talked about yesterday, Judge.

14 MR. HUGHES: No, your Honor.

15 THE COURT: Does anybody have an objection? Number one,
16 I do not send the indictments back to the jury, so. Some
17 people try to argue that they'll be having the indictments.
18 They will not in the case, so. This is not evidence. Does
19 anybody have an objection that at some point during my charge,
20 me telling the jury that if you want to open and inspect any of
21 the exhibits which have not been opened, you may do so; we'll
22 provide you gloves if you decide that's what you want to do.
23 Does anybody have a problem with that?

24 SOLICITOR THORNTON: I don't -- not only do I not have a
25 problem with it, Judge, I think it's appropriate that they

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1 understand that they can look at whatever they wish to. So I
2 -- you know, because I always am concerned, frankly, when I do
3 things like this for convenience, because you know, Judge, as a
4 judge that's been doing this a long time, as Mr. Hughes and I
5 know, what those packages are going to smell like when you open
6 them. But I do think they have a right look at them, and I
7 certainly would ask the Court to tell them if they want to look
8 at them that we'll provide them gloves.

9 THE COURT: All right.

10 MR. HUGHES: Also, I agree with Mr. Thornton, your Honor.
11 I do not wish to be in here when those boxes are opened. The
12 C.D., which I believe is Number 1 from the State?

13 SOLICITOR THORNTON: The 911 --

14 MR. HUGHES: No.

15 SOLICITOR THORNTON: The 911 is Number 1.

16 MR. HUGHES: That's good.

17 SOLICITOR THORNTON: And then you have the audio from the
18 iPhone during the interview. And I'm sorry, I don't have that
19 number right off the top of my head, but it is also in
20 evidence.

21 MR. HUGHES: I --

22 THE COURT: Is it -- the 911, and it was the audio
23 version of the defendant's alleged confession, right?

24 SOLICITOR THORNTON: Yes, sir. Two separate discs.

25 COURT REPORTER: The 911 call is State's 1, and the

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1 interview is State's 34.

2 SOLICITOR THORNTON: Yes, ma'am. 911 call is State's 1,
3 the audio of the alleged confession is State's 34.

4 MR. HUGHES: I would request that you point out that if
5 they wish to hear either one of those, they would be brought
6 back in and it would be played for them here.

7 THE COURT: Say that again, please.

8 MR. HUGHES: That if the jury wishes to hear either one
9 of those, that all they need to do is let you know; they'll be
10 brought back in and it will be played for them.

11 THE COURT: Yeah, I'll also tell them. All right. Let
12 me go over the scheduling with you guys. I anticipate that --
13 these are medical malpractice lawyers coming in. They have a
14 tendency to be a little bit verbose. I have a tendency not to
15 let them get too verbose, but let's assume that the argument --
16 that the motion will go a minimum thirty, up to forty-five
17 minutes. Do you want to come back in quarter to 12:00 and do
18 your closing statements at that point, or where -- what would
19 be your preference? Mr. Thornton?

20 SOLICITOR THORNTON: Your Honor, I'm at the Court's
21 pleasure. Honestly, my preference probably would be to go
22 ahead and give them maybe a little bit of an extended lunch.
23 Not a tremendous one, maybe eleven -- because it's going to be
24 close to 11:00 when we bring them in and he rests. So, say
25 11:00 to 12:30, which would give the Court time, hopefully, to

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1 get something to eat as well, and me enough time to kind of
2 prep this. But if the Court would prefer to bring them in
3 sooner than that, I'm fine with it. But I thought if we did it
4 at 12:30 that still gives them plenty of time this afternoon to
5 -- to go through everything.

6 THE COURT: The way I look at it, this is your trial, and
7 you know, I'm just the referee. What do you -- what's your
8 pleasure, Mr. Hughes?

9 MR. HUGHES: I agree with Mr. Thornton, your Honor. Let
10 them have something to eat.

11 THE COURT: Okay. That's what we'll do. All right. I'm
12 going to bring the jury in. I'm going to tell them that --
13 say, you know, call your first witness. And I'll say Defense
14 rests. Then I'll give them a statement that they're excused
15 for lunch and bring them back at 12:30.

16 Oh, that's right. My law clerk pointed out to me, I have
17 a conference call at 1:00 o'clock. I don't think it's going to
18 be -- let's bring them back at 1:15. Any objection from the
19 State?

20 SOLICITOR THORNTON: No, sir.

21 MR. HUGHES: No, sir.

22 THE COURT: Okay. I apologize. I'd forgotten about
23 that. All right. Would you bring the jury in, please, sir?

24 JURY ENTERS COURTROOM 10:51 A.M.

25 BY THE COURT:

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BY THE COURT

1 THE COURT: All right. Mr. Hughes, would you call your
2 first witness, please, sir.

3 DEFENSE RESTS:

4 MR. HUGHES: Your Honor, at this time the Defense rests.

5 BY THE COURT:

6 THE COURT: All right. Ladies and gentlemen, at this
7 point the State says it has rested. The Defense says it is
8 going to rest. That means that we are finished with the second
9 phase of this case, which is the presentation of the evidence.
10 I'm going to take a break, because I personally have some
11 administrative things to do, and I have some administrative
12 things to take care of with these lawyers. We will bring you
13 back a little bit later in the day. You will have closing
14 arguments, I will then charge you on the law, and then I'll
15 have a brief conference with these attorneys, and then you'll
16 receive word to begin your deliberations at the appropriate
17 time.

18 But I going to excuse you to 1:15. You will have an
19 extended lunch break. But can you be back in your jury room by
20 1:15. Any problem with anybody? Very good.

21 I'll remind you not to speak amongst yourselves while
22 you're on the break. Don't listen, hear, or see anything about
23 this case, if it's out there. Also, would you please leave
24 your notepads in the jury room when you go for lunch break,
25 please.

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BY THE COURT

1 JURORS LEAVE COURTROOM 10:52 A.M.

2 THE COURT: Any additions or exceptions from the State?

3 SOLICITOR THORNTON: None, your Honor.

4 THE COURT: From the Defense?

5 MR. HUGHES: No exceptions, your Honor, but at this time
6 I would like to renew my motions for directed verdicts.

7 THE COURT: Very good. That is denied. Guys, we'll be
8 in recess until 1:15. We'll come back for closing statements.

9 SOLICITOR THORNTON: Thank you, your Honor.

10 THE COURT: Thank you. Now, let's make sure we're all on
11 the same page. I don't have any memory of the Defense
12 presenting any evidence in this case at all, so the State -- I
13 mean, the Defense will have final argument. Is that correct?
14 Does everybody agree with that?

15 SOLICITOR THORNTON: I don't -- I do -- I agree with
16 that, your Honor. I do not disagree.

17 THE COURT: And at this point, do you consider -- you can
18 tell me later, but do you want -- are you going to require the
19 State to open fully on the facts and the law?

20 MR. HUGHES: I want them to open fully on the fact -- I
21 want to go last.

22 SOLICITOR THORNTON: Your Honor, I don't think that --
23 since he didn't put any evidence, I think that we --

24 THE COURT: Oh, yeah, it would be vice-versa. You --

25 SOLICITOR THORNTON: Yes, sir.

1 THE COURT: Are you going to -- I mean, I've got that. I
2 did it twice in a row. Does the State want to require Mr.
3 Hughes to open fully on the facts?

4 SOLICITOR THORNTON: No, sir. I think --

5 THE COURT: Okay. So --

6 SOLICITOR THORNTON: -- we'll keep it like it is, has
7 been for years, Judge. With the Court's, you know, blessing, I
8 think we're correct on the law on that. I'll double-check it
9 during the break.

10 THE COURT: Yes, sir.

11 SOLICITOR THORNTON: But my understanding would be, I'm
12 not going to ask him to do that. I'll go first. He'll go
13 last.

14 THE COURT: I see. Okay. And if you -- that's the way
15 it is.

16 SOLICITOR THORNTON: Thank you, Judge.

17 THE COURT: All right, guys, thank you so much. We'll
18 see you at 1:15.

19 SOLICITOR THORNTON: Yes, sir.

20 OFF THE RECORD 10:54 A.M.

21 BACK ON THE RECORD 1:46 P.M.

22 THE COURT: All right. State ready to proceed with
23 closing arguments?

24 SOLICITOR THORNTON: State's ready to proceed.

25 MR. HUGHES: Defense is ready to proceed. Will the

1 courtroom be sealed once the jury's been seated?

2 THE COURT: The jury be seated and what? Will the
3 courtroom be sealed during what?

4 MR. HUGHES: Once the jury's been seated, the courtroom
5 be sealed, so there's no interruptions for myself and Mr.
6 Thornton while we do closing.

7 THE COURT: It's my practice to seal the courtroom for
8 closing argument or a charge is being given.

9 MR. HUGHES: All right. Thank you very much.

10 THE COURT: Thank you. Mr. Bailiffs, you all understand
11 what I was saying? Once these gentlemen begin their closing
12 arguments, and once I begin the charge on the law, no one will
13 leave the courtroom and no one will enter the courtroom. Okay?
14 Thank you. Thank you, sir.

15 Would you bring the jury in, please.

16 JURORS ENTER COURTROOM 1:48 P.M.

17 THE COURT: All right. Mr. Foreman, ladies and gentlemen
18 of the jury, thank you for your patience. Let me just tell you
19 what was going on. During the lunch break, after I got through
20 with administrative duties, I scheduled some other hearings in
21 my chambers. And I forget sometimes that lawyers get paid by
22 the pound and their words, and it just took a little bit longer
23 than I thought it was going to be. That's my fault. It's no
24 one else's fault. Just me. So I apologize to you for making
25 you wait.

1 All right. Ladies and gentlemen, we're moving to the
2 third phase of this trial. We've had the opening statements,
3 we've had the presentation of the evidence. There'll be no
4 more evidence presented. Then we go to closing arguments,
5 after which, I'll charge you on the law.

6 State ready to proceed?

7 SOLICITOR THORNTON: State's ready, your Honor.

8 THE COURT: Defense ready to proceed?

9 MR. HUGHES: Defense is ready, your Honor.

10 THE COURT: Very good.

11 SOLICITOR THORNTON: Thank you, your Honor. May it
12 please the Court?

13 THE COURT: Yes, sir.

14 SOLICITOR THORNTON: Mr. Hughes.

15 CLOSING ARGUMENT ON BEHALF OF THE

16 STATE BY SOLICITOR THORNTON:

17 SOLICITOR THORNTON: Probably the single most important
18 thing the State can say in a case, especially like this one, is
19 this case is about Willie Johnson. It's about an eighty-six-
20 year-old man who was a deacon in his church, active in his
21 church. He was murdered in his own home. Beaten, and choked
22 to death with a plastic bag. If nothing else is communicated
23 to you right now, that's what this case is about.

24 As a prosecutor, you always have to be aware of the fact
25 that you, as a jury, are going to hear lots of times, you

1 already have, and you're going to hear it I'm sure at least
2 once more from that what tell you isn't evidence, and what Mr.
3 Hughes tells you isn't evidence. The evidence is what you've
4 heard come from that witness stand and the exhibits that we
5 have sitting over there in the floor, photographs, DNA, and
6 other things. That's what this case is about. And that's what
7 you have to base your decision on, what the evidence in this
8 case is. Not what I think the evidence should be; not what Mr.
9 Hughes thinks the evidence should be; but what you find as the
10 evidence.

11 Anytime you're sitting in judgment on a case like this,
12 you have to look at all of the evidence, not just a piece here
13 and a piece there. You have to look at everything that was
14 presented to you, which is why the Judge told you, if you'll
15 remember, every time you all left, don't discuss the case, even
16 amongst yourselves, yet. And the reason for that is, because
17 you're supposed to get all the evidence in, and then make your
18 decision.

19 Let's talk a little bit about the things that you know
20 for certain. June the 17th of 2014, you know that the victim
21 in this case, Willie Johnson, left a message for Mary Bowman
22 around 3:00 o'clock in the afternoon. Remember, Mary Bowman is
23 a church member. She and other church members -- Mr. Johnson's
24 eighty-six years old. She took him to get his groceries and
25 she took him on errands. She said, it's Tuesday, June 17th,

1 around 3:00 o'clock. She had had a message, she wasn't home.
2 So you know that around 3:00, 3:15, Mr. Johnson's still alive,
3 because he'd made a phone call.

4 You know that somewhere around 6:30, late afternoon,
5 early evening, you know that Kiawah Cave is going by Mr.
6 Johnson's house, and she knows who Mr. Johnson is. She told
7 you that, right? She said, these are my parent's next-door
8 neighbor. She's driving by. She doesn't get a good look at
9 anybody, because she didn't think it was unusual. She sees
10 what? Three, young, black men in his yard. Doesn't think
11 anything of it at the time, right? Because Mr. Johnson, again,
12 he's eighty-six years old. He sometimes has folks -- she said
13 her daddy even went over there some. It's not uncommon. I'm
14 sure you many of you, lots of people in this courtroom have
15 parents and uncles and aunts, and members of the community;
16 people in the community go over and help us.

17 She didn't think anything of it. Didn't get a real good.
18 She said there was two of them going towards the house, and one
19 of them was at the gate, and he had something like dreads. And
20 obviously, dreads can mean different things to different
21 people, but that's all she could identify anybody specifically.

22 You know at 8:00 o'clock on Tuesday the 17th, Ms. Mary
23 gets home, and she calls Mr. Johnson back. And what happens?
24 It's a busy signal. And she calls it again and again and
25 again. And she never gets a hold of him.

1 You know that Wednesday, the folks from Meals on Wheels
2 that work with the agency, they went out there to deliver his
3 meals. And what did -- what did Ms. Bowman -- or Ms. Barron --
4 I'm sorry. Let me -- since I've messed up somebody's name,
5 which is obviously bound to happen when you have this many
6 folks that you're trying to remember it all. If anything that
7 I tell you or Mr. Hughes tells you differs from what you
8 recall, you have to go with what you think the evidence was.

9 And any of it can be re-played back. That's why we have
10 a court reporter, who's taking all of it down. So, if there's
11 some dispute as to what somebody said, please go with your
12 memories as a group. And if you need something re-read to you
13 or read back as to what the testimony was, we have the ability
14 to do that. That's why she's here.

15 But what did she tell you? She said every Wednesday,
16 like clockwork, she takes meals to Mr. Johnson. And the door
17 was shut, and that was unusual, because he was always home.
18 Remember that. That's important for you to remember. What did
19 she say? He's always home. Always home.

20 Why is that important? And I'll get to this in a minute.
21 Well, somebody that lives right across the street probably
22 knows he's always home and eighty-six and unable to drive and
23 by himself. Always home.

24 He doesn't answer the door. And not unusual probably for
25 her to take time out to her day, went back, right? Remember,

1 she told you she was so concerned and it was so unusual, she
2 goes back three times. Never can get Mr. Johnson. She tells
3 her supervisor Wednesday evening. She's so concerned after
4 work, she tells her supervisor, Ms. Jannette. What's Ms.
5 Jannette do? She calls. What happens? It's busy. It's been
6 busy now since Tuesday at 8:00.

7 She calls, she told you, a relative of Mr. Johnson who
8 called Mr. Johnson's son, Teddy. Mr. Johnson's son, you
9 remember Detective Manor got up. He's got Mr. Johnson's son at
10 one end and the church at the other. And that ought to tell
11 you what kind of person Willie Johnson is. Or was. So both
12 the church and the son are both concerned. Can't get a hold of
13 Daddy; can't get a hold of the deacon. So they send Robert
14 Miller. No relation to the co-defendant, obviously. And I'm
15 sorry I kept asking about that. I know it can be confusing,
16 and I wanted to make sure.

17 Robert Miller goes over, and what does he find? He finds
18 eighty-six-year-old Willie Johnson beaten. Hands tied behind
19 his back, laying face-down in his own blood. Head covered with
20 a tied garbage bag. Dead.

21 The pathologist came and talked to you about what the
22 cause of death is. That's what the evidence is, right? But
23 she's an expert. She told you what it is. Asphyxiation with
24 complication. And that's just a fancy way of dying because you
25 were choked to death. With complication of what? Blunt force

1 trauma. What's that mean? It means they beat him. That's
2 what it means. He had busted ribs. Right? Remember that?
3 Had the busted ribs. Had contusions. Had the bruising inside
4 his skull, under his scalp's what she testified to.

5 Donnie, bring up 28.

6 He'd been hit hard enough that his own teeth had been
7 punched all the way through his lip.

8 As a prosecutor, one of the other things you have to be
9 aware of and sometimes get accused of is showing horrible
10 pictures. The State tried to keep that to a minimum today, but
11 this is a horrible crime. Those pictures aren't generated by
12 the State. They not invented. That is how Mr. Johnson was
13 treated, and that's what the State has to show you, because
14 that's what happened.

15 Let's talk about the evidence against Gabriel Joyner,
16 because that's what we're here about today. Gabriel gave two
17 statements to police. Remember that? First statement gave to
18 Agent Merrell, I don't know anything; didn't see nothing;
19 never even been in the house. Well, you know that's a lie.
20 Because after they told him that was a lie, what happens? He
21 then starts to tell it. Right? Starts to tell what he says is
22 his part.

23 One of the things the Judge is going to talk to you about
24 -- and again, I'm going to say this once more, I'll try not to
25 say it again. I'm going to talk a little bit about what the

1 law is. Mr. Hughes might do the same. Ultimately, just as you
2 are the judge of the facts, whatever the Judge tells you the
3 law is, is the law, and you have to accept it. So, if it
4 differs from what I say or Mr. Hughes says, if I get it wrong,
5 I promise you, he'll fix it. You have to take what the Judge
6 says.

7 But what I believe one of the things he may tell you is
8 talk about believability, credibility. And the defendant in
9 this case gave two statements to the police. And you're free
10 to believe all, part, or none of them. So, if you believe that
11 it's true when he said I don't know nothing and I didn't see
12 anything and I don't know what you're talking about, then you
13 should find him not guilty. But what does the evidence tell
14 us. Not just his statement, but the evidence, along with the
15 statement. What does he say in his statement when he starts to
16 come off of it?

17 Another thing, by the way, you have to decide is, was it
18 a voluntary statement. You remember when both SLED agents got
19 up, we went through did you promise him anything specific, did
20 you threaten him, did you, you know, did you force him to talk
21 to you. We asked was his mom in the room at the start. Did
22 you go over all his rights? Everybody's heard of *Miranda*
23 rights. Did you go over all those? You got a *Miranda* form
24 that is in evidence. So one of the things you need to
25 consider, yes, he's sixteen at the time. Was he read his

1 rights? Did he seem to understand them? Well, again, you have
2 to go by what was testified to on the stand, and what the
3 agents told you, and the exhibits that's in evidence, and the
4 written statement that's in evidence. All that will be there
5 for you to look at.

6 What does he start to tell us? What does he say in his
7 statement? He says Robert Miller, Rob, and Kashon come over to
8 my house, and they want to do a lick. And you heard testimony,
9 that's commonly known as a robbery. And who did they want to
10 do a lick on? Man across the street. Is there any evidence
11 that that occurred? Yes, Willie Johnson was robbed and
12 murdered in his house, which is right across the street from
13 Gabriel Joyner. So does that make his part of the statement
14 believable?

15 Second part, and this is very important. What did he say
16 initially? He made sure to point out the police, I said no at
17 first. Why did he say no? Because Willie Johnson's eighty-six
18 and never hurt him or anybody else. Because Willie Johnson's a
19 deacon of the church? No. What did he say? Because it's too
20 hot right now, too much heat. Who talks like that? Robbers
21 talk like that. Too much heat. Ultimately, a murdered talks
22 like that. Too much heat.

23 Then I decided to go along with it; they somehow talked
24 me into it. How do you talk somebody into going to rob an
25 eighty-six-year-old man?

1 He says Kashon and Rob and him, right? How many people
2 does Kiawah Cave to see outside between 3:00 when we know he's
3 alive, and 8:00 when he's likely already dead because he's not
4 picking up his phone, because he's what? always home. And
5 there's a busy signal. She sees three people. Three, young,
6 black people.

7 What else does he tell us? Says Rob brings the bag.

8 Bring up 8.

9 And then Rob put the bag over his head, Rob was beating
10 him, and Kashon tied him up. Is he tied up? Said Kashon did
11 it with a shoe string. Does he have a bag over his head?

12 Bring up 27.

13 He said Rob brought the bag. What do we find when we
14 went to Rob's house? Empty box.

15 He also talks about Willie Johnson. I've already said he
16 talks about the beating. He talks about having him tied up and
17 a bag over his head. And what is -- even if you believe
18 everything he says, if you believe he never laid a hand on him,
19 we'll talk about the hand of one is the hand of all. Remember,
20 I told you all that in opening about what the law in South
21 Carolina is. Even if you believe all of his statement, meaning
22 I never laid a hand on him, I never touched him, what is he
23 doing while eighty-six-year-old Willie Johnson's being beat to
24 death? Being asphyxiated. He's robbing him. He's getting the
25 safe out, right? That's what he said.

1 Mr. Hutto, pull up for me 10.

2 And I want you all to look at these for me. That's 10.
3 17. 18. 21. 22. And 23. All right. Take a moment. While
4 this beating is going on -- and Mr. Hughes is right, as the
5 SLED agent had to go back through her notes, she saw those
6 pictures. She obviously -- we don't need to introduce every
7 picture. As she's trying to find those.

8 There was actually LCV, that stuff she talked about,
9 presumptive test for blood. That was on more than one wall.
10 What does that tell you, if the blood was on more than one wall
11 and on the T.V. and going into the kitchen and next to him and
12 pooling underneath him? What kind of beating do you think he
13 had to sustain?

14 And even if you believe Gabriel Joyner's statement that,
15 I mean, I did everything else, but I never touched him, what's
16 he doing while this is going on? Even according to his
17 statement, he's robbing him and getting the safe. By the way,
18 they didn't even know about the safe until he said something.
19 SLED hadn't even found it yet, until he told them about it, and
20 said, yeah, we put that -- we put that out there. We, that's
21 important.

22 14 and 15. Didn't show you that to indicate to you at
23 any point that there was a knife used on Mr. Johnson. But does
24 that look like it's been gone through? Like you might do if
25 somebody is riffling through things, stealing things?

1 15. One of the other pictures you saw -- and I won't
2 bring that one back up -- said, well, I know, again, Robert
3 Miller, he did the beating. Right? Hand print in the victim's
4 blood, on the victim's wall of from Robert Miller. So, when
5 Mr. Hughes asked the question, you don't have any physical
6 evidence to tie my client to the murder, that's an odd
7 question. There is no physical evidence, there is no
8 fingerprint, there's no DNA, there was nothing that we could
9 test under the fingernails that ties Gabriel Joyner, but does
10 that mean he wasn't there? Does that mean he wasn't
11 participating? He told you he participated, in his statement.

12 There were -- what did the SLED agent crime scene expert
13 testify to? Talked about sometimes you leave fingerprints,
14 sometimes you don't. We've got one. Only got one. Does that
15 mean that Robert Miller wasn't there, or was only there for a
16 second? He said Robert Miller did all the beating. Sometimes
17 you get fingerprints, sometimes you do not. But again -- and
18 I'll tell you why in a minute. Even if you believe what
19 Gabriel Joyner says about everything, including I never laid a
20 hand on him, he's still guilty under the law of South Carolina.

21 And would it surprise you that someone who has already
22 lied to the police and said I don't know nothing, I didn't see
23 nothing, and I've never even been in the house, might try to
24 minimize what is clearly the worst part of this case, the
25 beating and suffocation of Willie Johnson? Would it surprise

1 you that somebody might try to minimize that part of what they
2 did? Because you can take that into consideration when you're
3 determining what to believe and what not to believe.

4 Talk to you a little bit about the law. The Judge is,
5 again, going to tell you all about the law. Gabriel Joyner's
6 charged with three things, and as to each of these charges this
7 burden is solely on the State of South Carolina. It is our
8 burden to prove to you beyond a reasonable doubt that Gabriel
9 Joyner's guilty. And the Judge will give a pretty decent-
10 length charge about what reasonable doubt is. And reasonable
11 doubt is the kind of doubt that would cause a person to
12 hesitate to act. But if you are firmly convinced of the
13 defendant's guilt, then he's guilty. In other words, we're not
14 required, the State is not required, to overcome every shadow
15 of possible doubt. It's just reasonable doubt.

16 You were picked as twelve reasonable people. We don't
17 expect you to leave your common sense at the door. It's one of
18 the things that's absolutely imperative for you to use is your
19 common sense.

20 So, if you're firmly convinced at the end of the evidence
21 that he's guilty, then he's guilty.

22 Strong-arm robbery. And again, the State's going to be
23 paraphrasing. You're going to get the full charge. But
24 strong-arm robbery is taking something of value away from the
25 person or in the person's presence by force or threat of force

1 or intimidation.

2 I don't know, ladies and gentlemen, the State, what we
3 can even tell you at this point about that. that you don't
4 already know. There's a safe missing. There's a wallet laying
5 next to him. Looked like it had been gone through. Gabriel
6 Joyner told you they went there to rob the man, and that they
7 took stuff out of his house. Oh, I'd forgotten, pellet gun.
8 We talked, remember? I took a pellet gun. Lo' and behold, as
9 part of their investigation, found a B.B. pistol, which
10 certainly is very -- sounds very similar to a pellet gun.

11 So we're good sneaking away from either him in his
12 presence, like his wallet; or his vicinity, like the house that
13 he was living in. And was it accomplished by force? Well,
14 he's dead. Don't know how much more force you could use.

15 Second charge, burglary in the first degree. And in this
16 case, what the State would have to prove to you beyond a
17 reasonable doubt is this. That Gabriel Joyner went into a
18 dwelling, which is just a fancy word for a house, someplace
19 that somebody lives, with the intent to commit a crime; and
20 while committing that crime, either Gabriel Joyner or any other
21 participant in the burglary injured someone who was a non-
22 participant in the burglary. Well, did they go into a
23 dwelling, house? Clearly, they did. [REDACTED] Pickrum Street is
24 Willie Johnson's house. That's where he lived. Did they have
25 the intent to commit a crime? What did he tell you in his

1 statement? They went there to do a what? Lick, which is a
2 robbery. So did they go in with the intent to commit at least
3 that crime? Yes.

4 And even by his own statement, did he or someone else
5 participating injure a non-participant? Well, Willie Johnson
6 certainly wasn't participating in the burglary and robbery of
7 himself.

8 Was he injured by someone? Clearly, yes. Even his own
9 statement says Kashon's forcing him to the floor, tying him up,
10 and Rob's beating him, and then sticking a bag over his head
11 that he eventually dies from. He has broken ribs. He has
12 inside skull bruising. He has those punctures through his lip
13 and on the inside of his lip. Clearly, he is injured.

14 Now, finally, the last one, murder. Murder is defined as
15 the unlawful killing of another with malice aforethought.
16 We'll kind of break that up a little bit. There can be no
17 question that Willie Johnson was unlawful killed. He had done
18 nothing to anybody. It was during the burglary and robbery.
19 So the unlawful killing of another. Clearly, he was killed,
20 and it was done unlawfully with malice aforethought.

21 There's a very, again, long definition about malice.
22 It's evil-heart. You can judge malice by conduct. In other
23 words, inferred malice by how they act. What is more malicious
24 than the sustained beating of a helpless, eighty-six-year-old
25 man, whose face down and hands bound behind him? What is more

1 malicious than whacking his head, and then tying a bag onto his
2 head? Which is what kills him. Beating him so severely that
3 you scatter his dentures in pieces all over the room. What is
4 more malicious than that?

5 The malice had to be aforethought, meaning it had to
6 occur -- doesn't need to be pre-meditated in the sense of, oh,
7 for a week now we've thought of, or we're going to go in here
8 specifically to kill this man. That's not what it means. What
9 it means is, at any time up until the point of the killing that
10 malice existed. Every blow they struck was malicious. When
11 that bag was put over his head, it was malicious. When his
12 hands were tied behind his back, that is malicious. And when
13 all of them -- even if you believe Gabriel Joyner walked out of
14 that house with the bag still wrapped around his head, knowing
15 that's going to kill him, that is malicious.

16 There is a doctrine in South Carolina that I mentioned to
17 you, and I won't mention it again. It's called the hand of one
18 is the hand of all. The Judge, again, is going to charge you
19 on this. And it's not giving you the entire thing, I do want
20 to talk about a couple pieces of it. Much longer charge the
21 Judge is going to give you. There's a couple parts I want you
22 to understand.

23 33. Where two or more, acting with a common plan or
24 intent are present at the commission of a crime, it does not
25 matter who actually commits the crime, all are guilty. The

1 hand of one is the hand of all.

2 34. A person who joins with another to commit an
3 unlawful act is criminally responsible for everything done by
4 the other person which happens as a probable or natural
5 consequence of the acts done in carrying out the common plan
6 and purpose.

7 For example, two people can be by of killing another
8 person, when only one of the two had the gun, there was only
9 one bullet, and only one of the two fired the shot that caused
10 the death.

11 One of the things that's very important about that
12 natural and probable consequence, what is a natural and
13 probable consequence of a sustained beating of an eighty-six-
14 year-old man, then wrapping a bag around his head, and leaving
15 him there tied with his hands tied behind his back? What is a
16 probable and natural consequence of that? Because it's not
17 just the intent of we're going to go do a lick. It's not just
18 that. It's you're responsible for the act as it continues
19 through the crime that you're committing. Because at any time,
20 any one of them, Gabriel Joyner, Robert Miller, or Kashon
21 Bynum, could have walked by and taken the bag. Because how did
22 he die? He didn't die from the beating, as bad as it was. He
23 died from asphyxiation. But nobody did that. Gabriel Joyner
24 didn't do that. He walked out of that house and left Willie
25 Johnson there wrapped up like a bag of trash.

1 How many times when he was pulling stuff out of the house
2 and moving the safe, which he told you he did, right? in his
3 statement, how many times do you think he stepped over Willie
4 Johnson's body to do that?

5 How many pieces of denture and spots of blood on the wall
6 do you think he walked by, back and forth, so that he could
7 take that safe out and take the stuff from Willie Johnson and
8 get that pellet gun? Because that's worth the man's life.

9 One of the things that mere -- that hand of one is the
10 hand of also says is that being merely present is not enough.
11 You have to be a participant. Okay? But not just a
12 participant in dealing the death blow, right? Because what
13 does it say? Two people can be guilty of killing somebody even
14 if only one of them had a gun and one of them fired the shot
15 and there was only one bullet.

16 What was the reason for the beating? What was the reason
17 to put the bag over the head? It's to facilitate a robbery.
18 to facilitate a burglary. And while they had -- they being,
19 even according to Gabriel Joyner, if you believe everything he
20 says, I never touched him, I just watched them beat the man
21 almost to death, and then choke him out with a plastic bag; I
22 was busy getting stuff. And he wants a pass for that? That's
23 not what the law says.

24 You know, ladies and gentlemen, one of the things you
25 have to look at anytime you're dealing with a case like this is

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CLOSING - DEFENSE - MR. HUGHES

1 you're trying to piece together the evidence and what does it
2 mean and why. Why does it mean this? Why does it mean that?
3 You guys are the sole judges of the facts. You have to decide
4 that. If you're going to go do a robbery and a burglary on
5 somebody and you've agreed to do that, which Gabriel Joyner
6 says he did that, what was the plastic bag for, if they didn't
7 have malice in their hearts? And how are you going to go and
8 rob somebody -- and go back, all the way back, to what is said
9 when I first started, he's always home. Right? How many
10 people got up there and said that. He's always there. So, if
11 he lived across the street, and you know he's always home,
12 because he's always home, are you going to leave a live
13 witness? Because dead witnesses and dead victims, they can't
14 come up here and tell you about the burglar and the robber and
15 the murderer who lives right across the street. And that's
16 what this case is about. It's about Willie Johnson and what,
17 as a group, they did to him and why.

18 Thank you.

19 THE COURT: Mr. Hughes.

20 MR. HUGHES: Please the Court. Mr. Thornton.

21 THE COURT: No, sir. No, sir. You stay right there.

22 I'm sorry, Mr. Hughes.

23 No, sir. You stay in the courtroom.

24 CLOSING ARGUMENT ON BEHALF OF THE

25 DEFENSE BY MR. HUGHES:

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CLOSING - DEFENSE - MR. HUGHES

1 MR. HUGHES: It wasn't like anything you ever saw on
2 television, was it?

3 Mr. Thornton just make a lot of statements. He made a
4 lot of assumptions. But the one statement that he made was
5 basically the only way we know what happened in that house was
6 Gabriel Joyner's statement.

7 Now, here's a bunch of evidence, bunch of photographs,
8 bunch of witnesses, I think fifteen witnesses. No one of them
9 say Gabriel Joyner killed Mr. Johnson.

10 Let's look at his statement. What can we learn about
11 Gabriel Joyner from Gabriel's statement? For one thing, he's
12 sixteen years old. Mr. Thornton goes, he lied to the police.
13 He's sixteen years old. Then he started telling people the
14 truth, but you know, he might have shaded that. He corrected
15 this agent when she made mistakes.

16 According to the statement, and they have shown
17 absolutely nothing to say that anything in that statement is
18 wrong, Mr. Joyner was approached by those two young men. I'm
19 sorry, I cannot comment on them without some disdain. It
20 wasn't his idea?

21 Mr. Thornton makes a big deal of he didn't want to go
22 over there because the heat was on and who talks like that.
23 Sixteen years old, men talk -- males talk like that, because
24 they want to be something they're not. They want to make it
25 sound like they're big and tough, gang bangers, and they are --

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1 but they're just sixteen-year old, young men. Or old kids.
2 It's one of the two.

3 Now, he was outside when those two went in. Now, if you
4 read the statement, it sounds like he's right behind. But if
5 you read further in the statement, by the time he got in, those
6 two young men were already attacking Mr. Johnson and tying him
7 up. That's not following right behind. That's coming in a
8 little while later.

9 I'm not going to try to tell you all that Mr. Joyner is
10 an angel, that he is completely innocent. He's not. He knew
11 he was going to go do a robbery. He was going to go do a lick.

12 Mr. Thornton talks about him walking all -- walking,
13 stepping over Willie's body. There's no evidence of that.
14 There's nothing saying that he came anywhere near Mr. Johnson's
15 body.

16 Mr. Thornton's says that he should have known that the
17 bag was asphyxiating. There's no evidence that he even knew
18 the bag was tied.

19 Excuse me while I dig through these.

20 Here's a picture of Mr. Johnson. Yes, his hands were
21 tied behind his back. Can you tell the bag is tied? Do you
22 see the injuries on Mr. Johnson? Do you know that he is not
23 just simply knocked out? Can you tell that he can't breathe?
24 This is a view that the people that came in had. This is the
25 view that Gabriel Joyner had.

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1 Mr. Thornton wants you to believe that Mr. Joyner should
2 be psychic and know what's going to happen. He's sixteen years
3 old. And the only way that we know that Mr. Joyner was in that
4 house is because he's a sixteen-year-old that told the cops the
5 truth, told the cops about the safe, corrected the cops when
6 they were making a mistake. And he was sixteen years old.

7 Like I said, I can't try to convince you or even lie to
8 you and say that he's an angel. He went there to do a lick.
9 They went there to do what's called a strong-arm robbery.

10 Mr. Thornton gave a very good definition of a strong-arm
11 robbery. They went there to do a burglary second. Definition
12 I learned in law school way too many years ago: the unlawful
13 entry into a dwelling with intent to --

14 SOLICITOR THORNTON: Objection, your Honor. That's not
15 before this jury.

16 THE COURT: Sustained. Ladies and gentlemen of the jury,
17 you are to disregard any remarks about burglary second. It's
18 not appropriate and relevant to this case.

19 BY MR. HUGHES:

20 MR. HUGHES: They went there to do a burglary. And what
21 makes this burglary in Mr. Thornton's eyes was the injuries to
22 Mr. Johnson. And Mr. Thornton wants you to think that that
23 sixteen-year-old young man should have the foresight to
24 understand that this was a likelihood of what would happen, and
25 that the murder was a likelihood of what they were going to do.

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1 Hand of one is the hand of all. That makes some
2 assumptions. That makes the assumption that the person charged
3 is old enough, mature enough, and has enough sense when things
4 changed, to go, no, that's not what I signed up for, I'm
5 leaving.

6 The State wants you to think Mr. Joyner is old enough,
7 mature enough, and has enough sense to have said in that second
8 when he walked in, no, that's not what I signed up for, I'm
9 leaving. He was sixteen years old.

10 The State, in South Carolina, looks at a sixteen-year-old
11 and says you are not old enough, mature enough, or have enough
12 sense to buy a pack of cigarettes. They look at a sixteen-
13 year-old and say you are not old enough, mature enough, or have
14 enough sense to buy a beer. The State of South Carolina looks
15 at a sixteen-year-old and says you are not old enough, mature
16 enough, or have enough sense to buy a scratch-off ticket.

17 The United States government looks at a sixteen-year-old
18 and says you are not old enough, mature enough, to have enough
19 sense to vote.

20 Mr. Thornton wants you to think that Gabriel Joyner was
21 old enough, mature enough, and had enough sense to make a split
22 second decision to go, no, that's not what I signed up for.

23 Mr. Joyner -- excuse me -- Mr. Thornton, and when I say
24 Mr. Thornton, I mean the State. I don't mean the gentleman
25 sitting there. The State of South Carolina talked about how

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1 long it took to do this and how many trips it took. I didn't
2 hear any statement from anybody on how long it took or how many
3 trips it took.

4 In his closing, he was talking about basically looting
5 the house, getting everything out. I see a pocket watch. I
6 see wallets. I see a camera. And I see jewelry. This was not
7 a methodical ransacking of a house, taking anything of value.
8 It looks like a pocket watch. You all are going to have this
9 back there. You all can look at it.

10 Now, you're also going to have the statement back there.
11 Read it. Read what it says.

12 Now, there's an audio disc of that interview. It is a
13 very, very poor audio. But it's in evidence. If you want to
14 hear it, just let the Judge know. He'll bring you out. He'll
15 play it for you.

16 But the statement that was written by the agent covers
17 what was what was on the tape. There's nothing on either side
18 that you all haven't heard. Between the statement and the
19 agent's testimony.

20 Gabriel Joyner went there to do a lift. I can't deny
21 that. It's in his statement. He didn't go there to murder.
22 He didn't know murder was going to happen. Mr. Thornton will
23 argue on the hand of one hand of all. That doesn't matter.
24 Mr. Thornton says he should have left immediately. Gabriel
25 Joyner is not a leader. He's a follower. You can tell that by

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1 his statement.

2 The two other young men came over there, let's go to a
3 lift, where do you want to go, let's go across the street. No,
4 no, let's don't go there. But they talked him into it. That's
5 not a leader. That's a follower.

6 Their entire case rests on the concept of the hand of one
7 is the hand of all. Now, I look at that like going to Outback,
8 and one guy goes in and he orders a salad. And the other two
9 guys, they order Blooming Onion, they order a stake, they order
10 baked potato. They have Chocolate Thunder from Down Under for
11 dessert. And when the waiter comes with separate checks,
12 according to the hand of one the hand is all of all, each check
13 has the same amount on it. Even though one guy had salad, his
14 check is for the same amount as the two guys that had a full
15 meal.

16 Mr. Joyner's not an angel. Not even going to try to
17 convince you he is an angel. But make him pay for the check
18 for what he ate, and not for what the other two guys ate. On
19 the charge of murder, not guilty. On the charge of burglary
20 first, not guilty. On the charge of strong-arm robbery, I'd
21 like to tell you to find him not guilty, but I haven't lied to
22 you. I mean, I can't. It's obviously what he did. It's
23 obviously what he went to do. If you're going to make him pay
24 for his meal, make him pay for what he ate, not what the other
25 two did.

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JURY CHARGE

1 You all have been a very, very good jury. You all have
2 paid attention. I watch you all. I sit over there. I watch
3 you all. This has not been a good trial. This has not been a
4 fun trial. This isn't a trial that you could try to explain to
5 your friends and family. You couldn't.

6 No one has pointed a finger at Mr. Joyner and said that
7 he actively did anything to cause the death of Willie Johnson.
8 Nobody has pointed the finger at Gabriel Joyner and said that
9 he actively did what is required to make it a burglary first.
10 And I'm going to do something most criminal defense attorneys
11 will never do. I'm going to point my finger at Mr. Joyner and
12 say he did a strong-arm robbery, and that's the meal he should
13 pay for.

14 Thank you.

15 JURY CHARGE:

16 THE COURT: Mr. Foreman, ladies and gentlemen of the
17 jury, you've been going probably fifty minutes or so. I
18 anticipate my charge will be in the neighborhood of about
19 thirty plus minutes. I'm going to give you, Mr. Foreman, the
20 opinion to talk to your jury and see which way you want to go.
21 Do you want me to do the charge now and go on through it?
22 Would you like to take about a five- or ten-minute break, and
23 come back and let me give you my charge? You, the jury, will
24 decide, and I'll go with whatever you want me to do.

25 Will you check with the jury now, please, Mr. Foreman.

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JURY CHARGE

1 you've heard in this case. All right. The only evidence
2 you've heard that is truly evidence is the testimony from this
3 witness stand and the exhibits that will be sent back to you
4 for review in your deliberations. To that evidence or to the
5 facts as you find them to be, you must now apply the law as I
6 give it to you. You must not and you shall not be concerned
7 with what you think the law should be, but only what it is.

8 Further, ladies and gentlemen, you must not and you shall
9 not be influenced by any personal likes or dislikes, opinions,
10 prejudice, or undue sympathy that you may have for one side or
11 the other. And what that means is simply this, is that you
12 must decide this case solely based on the evidence that has
13 been presented to you and according to the law as I give it to
14 you now. And if you'll recall, at the beginning of this case,
15 when you took your oath, each of you agreed that you would do
16 that.

17 Now, follow my instructions. You have to follow all of
18 them, because they're all equally important. You can't pick
19 out aspects of my charge now and say I like that, I'm going to
20 enforce that, but disregard others you may not like as much.

21 Also, if I've done anything throughout the course of this
22 trial to indicate to you how you are to find facts, in other
23 words, the verdict that you are to reach, I will instruct you
24 and charge you that you must not and shall not consider
25 anything I've done, any facial face I may made or gesture I

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1 made as an indication of how you ought to find the facts. You
2 and you alone are the judges of what the facts are, and no one
3 can invade that. And you will decide what those facts are by
4 evaluating and weighting the evidence that you heard here in
5 this courtroom during this trial.

6 Now, ladies and gentlemen, there's no way that you can
7 weigh evidence in the literal sense. I can't give you a set of
8 scales to carry back with you to the jury room. Weighing the
9 evidence is entirely a mental process. So, when you engage in
10 your deliberations, you are to use your good common sense and
11 your sound judgment when you make a determination of what the
12 facts or what your verdict will be.

13 Let me remind you, ladies and gentlemen, of what is
14 evidence and what is not evidence. The only evidence that you
15 may consider is the sworn testimony of a witness, whether it be
16 on direct examination or cross-examination; also, any exhibits
17 that have been admitted into evidence is also evidence; and
18 thus, the only two evidences you may consider. So that leads
19 me to what is not evidence.

20 Arguments and statements by the lawyers at any time
21 during this trial, whether it be an opening statement, whether
22 it be a closing statement, or in their statements during the
23 case is not evidence. They're not sworn in. They're not
24 subjected to cross-examination. It is not to minimize the
25 importance of what they tell you, but it is not evidence that

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1 you may consider as such.

2 So what that means is, at the end of the day, if your
3 jury on a collective basis remembers a fact or facts
4 differently than it's told to you by either the State or the
5 Defense or both, your memory will control what they tell you.

6 And Mr. Foreman, let me remind you that just because
7 something appears in a juror's notes, doesn't mean he remembers
8 another juror's recollection on that same issue. That's my
9 they call it deliberations. You'll just have to hash them out.

10 Ladies and gentlemen, questions by the lawyers and
11 objections. I don't think -- this may be one of the few trials
12 I haven't seen objections but one. But, objections by lawyers
13 are not to be considered by you. They have to object by their
14 oath anytime they think there's something going on that's
15 improper in the courtroom. Their questions to the witnesses is
16 not evidence. The responses are, but their questions aren't.

17 And finally, ladies and gentlemen, anything that I told
18 you to disregard or it be stricken from the record, may not and
19 shall not be considered by you in your deliberations.

20 Mr. Foreman, it'll be your job to make sure these matters
21 stay outside the deliberations of the jury.

22 Finally, ladies and gentlemen, anything that you may have
23 heard when court was not in session, is not evidence in this
24 case.

25 So that leads me, ladies and gentlemen, to the two types

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1 of evidence that we recognize in South Carolina. There are two
2 types of evidence which are generally presented during a trial.
3 You have direct evidence and you have circumstantial evidence.

4 Now, direct evidence directly proves the existence of a
5 fact, and does not require deduction or inference. Now, that
6 sounds real flowery. Let me give you an example. If the issue
7 is whether I ran a stop sign, and my law clerk testified that
8 she saw me run that stop sign, that would immediately establish
9 that fact. That's direct evidence. You don't have to infer
10 anything from that.

11 Also, we have circumstantial evidence. And this is
12 circumstantial evidence. Circumstantial evidence is a proof of
13 a chain of facts and circumstances indicating the existence of
14 a fact. In other words, you have to draw an inference from the
15 facts that you have before you to come to a conclusion about
16 what it is. Let me give you an example of what this is.

17 I know in Lowcountry, you probably don't have a whole lot
18 of this, but if you were to go to bed at night, and each of you
19 were to have a fresh sheet of snow in your front yard, if you
20 were to wake up in the morning and see tracks through that
21 snow, you may reasonably infer or deduce that someone or
22 something walked through your front yard during the night, even
23 though you did not see it. Now, the inference you draw may not
24 be speculation or surmise. It must be with reasonable
25 certainly to have occurred.

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1 Now, the law provides, ladies and gentlemen, that crimes
2 may be proven by both circumstantial evidence and direct
3 evidence. The law makes no distinction between the weight or
4 the value to be given either to direct evidence or
5 circumstantial evidence. However, to the extent that the State
6 relies on circumstantial evidence as part of it's case, all of
7 the circumstances must be consistent with one another, and when
8 taken together, point conclusively to the guilt of the accused
9 beyond a reasonable doubt.

10 Now, if these circumstances merely portray the
11 defendant's behavior as suspicious, then the proof has failed,
12 and the State has the burden to prove the defendant guilty
13 beyond a reasonable doubt, and this burden remains with the
14 State regardless of whether it chooses to use direct evidence,
15 circumstantial evidence, or a combination of both.

16 Now, ladies and gentlemen, in deciding what the facts in
17 this case are, you have to determine the credibility of the
18 witnesses. In doing this, you have to decide which testimony
19 you wish to believe, and decide whether or not there's any
20 testimony you wish not to believe. You have a right to
21 disbelieve all or part of any witnesses's testimony. You may
22 believe all of any witnesses's testimony or all witnesses'
23 testimony.

24 In making this decision, Mr. Foreman, ladies and
25 gentlemen of the jury, you may take into account a number of

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1 factors, including the following. And this is not an
2 exhaustive list. You may ask yourself was the witness able to
3 see or hear or note the things about which the witness
4 testified. You may ask yourself how able the witness was able
5 to recall the subject of their testimony. What was the
6 witness's manner or their demeanor while they were on the
7 witness stand. You can ask yourself if there's some reason
8 that a witness would want to help or hurt one side or the
9 other. Whether they had interest in the outcome of this case
10 or any bias or prejudice towards an issue or party involved in
11 this case. You can ask yourself how reasonable that witness's
12 testimony was in light of all the other evidence in this case.
13 And also, whether that witness's testimony had been
14 contradicted by what that witness had said or done at some
15 other point in time or by any other evidence or testimony in
16 this case.

17 Now, ladies and gentlemen, those are just certainly some
18 of the factors that you may consider in determining this
19 credibility-of-the-witness issue. And of course, you don't
20 check your common sense at the door when you're sworn in to be
21 jurors, and you shouldn't in this case. You should use those
22 things in your day-to-day lives that you find indicative of
23 truthfulness or indicative of lack of truthfulness in making
24 this determination.

25 One thing you may not do, is add up the number of witness

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1 that appear on behalf of either the State or the Defense,
2 because it doesn't matter where the facts that you find come
3 from and which testimony it come from, but that is certainly
4 what you're trying to do.

5 Ladies and gentlemen, in this case, you have heard
6 testimony from person's described as experts. As I've told you
7 throughout this trial, usually, people are not allowed to give
8 their opinions. However, a person, because of their education
9 or experience who has gained certain knowledge that would be
10 helpful to you is allowed either to give their opinion in the
11 field of their specialty and the reasons for their opinion.

12 I'll remind you that expert opinions should be judged
13 just like any other testimony in this case. You may accept it,
14 you may reject it, or give it as much weight as you think it
15 deserves, given the witness's education, their experience, and
16 the reason for their opinions, as well as the testimony and the
17 evidence that's already in the case.

18 Now, ladies and gentlemen, the fact that the defendant
19 was charged, arrested, and indicted is not evidence of his
20 guilt. It does not raise inference of his guilt or a
21 presumption of his guilt. That's simply the way the State
22 brings people before the Court for a trial on determination of
23 their guilt. The indictments will not be going back with the
24 jury. I never send them back.

25 Also, Mr. Foreman, each of the charges that you will have

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1 to consider stand independent of one another. Okay? So that
2 you will have to make a decision on one, and then make a
3 decision on the other, uninfluenced by your decision on the
4 first one. Same with the second and same with the third. They
5 all had to be considered independent of one another. Okay?
6 And I'll go over that with you more fully in just a minute.

7 Now, ladies and gentlemen, in this case, the defendant
8 has plead not guilty to all indictments, and that plea places
9 the burden on the State to prove his guilt b proof beyond a
10 reasonable doubt. Now, I'll charge you, ladies and gentlemen,
11 that a person in South Carolina charged of committing a
12 criminal offense is never required to prove himself or herself
13 innocent. It is an important rule of law that the defendant,
14 in a criminal trial, no matter what the seriousness of the
15 charge may be, will always be presumed to be innocent of the
16 crime or crimes for which he has been indicted, unless there's
17 guilt proven to you, ladies and gentlemen, that he is guilty by
18 proof beyond a reasonable doubt. And ladies and gentlemen,
19 this is called the presumption of innocence. And this
20 presumption does not end when you begin your deliberations, but
21 it accompanies the defendant throughout the trial until you
22 reach a verdict of guilty based on evidence satisfying you of
23 guilt beyond a reasonable doubt.

24 It is said that the presumption of innocence is like a
25 robe a righteousness placed around the defendant's shoulders,

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1 where it remains until it has been stripped by evidence
2 satisfying you of guilt beyond a reasonable doubt.

3 Ladies and gentlemen, the presumption of innocence is not
4 a mere legal phrase. It's not just a legal theory. It is a
5 substantial right which every defendant is entitled to, unless
6 you, the jury, are satisfied of that defendant's guilt by proof
7 beyond a reasonable doubt. So let me give you a defendant of
8 reasonable doubt, which is a little bit broader than I gave you
9 at the beginning of the case.

10 This is reasonable doubt. A reasonable doubt is the kind
11 of doubt that would cause a reasonable, sincere, honest, and
12 conscientious person to hesitate to act in an important matter
13 in their own affairs. Proof beyond a reasonable doubt is proof
14 that leaves you firmly convinced of the defendant's guilt.

15 That being said, ladies and gentlemen, there are very few
16 things in this world that we know with absolute certainty, and
17 in criminal cases, the law does not require proof that
18 overcomes every possible doubt. If, ladies and gentlemen,
19 based on your consideration of evidence, you are firmly
20 convinced that the defendant is guilty of the crime or crimes
21 of which he has been charged, you must find him guilty.

22 On the other hand, if you think that there is a real
23 possibility that the defendant is not guilty, you must give the
24 defendant the benefit of the doubt and find him not guilty.

25 A reasonable doubt may arise from the evidence or from

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1 lack of evidence. And I further instruct you, ladies and
2 gentlemen, that a defendant is entitled to every doubt that may
3 arise in the case. And what that simply means, is that if,
4 upon any issue of fact is central to a conviction and a verdict
5 of guilt of the offense for which he has been charged, if you
6 have any reasonable doubt as to how that issue should be
7 resolved, it is your duty to resolve it in favor of the
8 defendant.

9 Now, Ladies and gentlemen, I'm about finished with the
10 first aspect of my charge. I will then give you a break and
11 let you stand up and move around, because I know this is not
12 the most scintillating information. So bear with me.

13 Ladies and gentlemen, in order to establish criminal
14 liability, criminal intent is required. For example, the
15 mental state required to be provision by the State for a
16 particular crime may be purpose, intent, knowledge,
17 recklessness, or crime negligence.

18 Crime intent must be proven by the State beyond a
19 reasonable doubt. Criminal intent is always a matter that must
20 be determined by the jury from the circumstances surrounding
21 the situation. Now, there's no way to prove intent through a
22 mathematical certainly. There's no way that medical science
23 can assess a person's brain to determine what they had in mind.
24 So the law says that criminal intent may be inferred from the
25 circumstances shown that existed.

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1 Now, ladies and gentlemen, this is how you make the
2 determination of whether or not the element required intent was
3 present. It is not necessary to establish intent by direct and
4 positive evidence, but intent may be established by inference
5 in the same way as any other fact, by taking into consideration
6 the acts of the parties and all the facts and circumstances of
7 the case.

8 Criminal intent is a mental state. It is a conscience
9 wrong-doing. And ladies and gentlemen, it will be up to you to
10 determine what the defendant intended to do, based on the
11 circumstances that show you had existed. Criminal intent can
12 arise from action or a failure to act. It may arise from
13 negligence, recklessness, or an indifference to duty, or to the
14 consequences that is considered by law to be equivalent to
15 criminal intent.

16 Now, finally, ladies and gentlemen, and Mr. Foreman, I'll
17 instruct you that the fact that the defendant did not testify
18 may not and shall not be a topic of the jury's deliberations.
19 And I emphasis that. The burden remains on the State of South
20 Carolina to prove his guilt by proof beyond a reasonable doubt.
21 If any juror tries to bring up his failure to testify, it is
22 your job to stop him. Okay, sir.

23 All right, ladies and gentlemen, let's take a quick break
24 and stand up. And if you want to go back to your jury rooms
25 and have a quick drink or refreshment, then you can to that and

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1 come back. The remainder of the charge is much shorter than
2 this part of it. If not, you can just stand up and move about.
3 You want to go back, then go on back. Let's do that. Okay.

4 JURORS LEAVE COURTROOM 3:02 P.M.

5 THE COURT: Court will be in recess for about ten
6 minutes.

7 SOLICITOR THORNTON: Thank you, your Honor.

8 OFF THE RECORD 3:02 P.M.

9 BACK ON THE RECORD 3:13 P.M.

10 BAILIFF: All rise. Court is back in session.

11 THE COURT: Please be seated. All right. Anything from
12 the State before we can't to charge?

13 SOLICITOR THORNTON: No, your Honor, other than just one
14 thing, and apologize about jumping the gun, but you did say you
15 were going to mention to them if they needed to open the
16 evidence. And I know that's not something you have to do every
17 time. I just wanted to remind you.

18 THE COURT: No, I've got that down.

19 SOLICITOR THORNTON: Yes, sir. Thank you.

20 THE COURT: Anything from the --

21 MR. HUGHES: No, your Honor.

22 THE COURT: Thank you, Mr. Hughes.

23 Will you bring the jury in, please, sir.

24 BAILIFF: Yes, sir.

25 JURORS ENTER COURTROOM 3:15 P.M.

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JURY CHARGE

1 THE COURT: All right, Mr. Foreman, ladies and gentlemen
2 of the jury, I'll now go to the second part of my charge, which
3 is the substantive law on the three charges: murder, burglary
4 first degree, strong-arm robbery; also the law of hand of one
5 hand of all; and also the law of a statement allegedly made by
6 the defendant.

7 This is the law of murder. The defendant, ladies and
8 gentlemen, is charged with murder. The State must prove beyond
9 a reasonable doubt that the defendant killed another person
10 with malice aforethought. Malice is hatred, ill will, or
11 hostility towards another person. It is the intentional doing
12 of a wrongful act without just cause or excuse, and with an
13 intent to inflict an injury, or under circumstances that the
14 law will infer an evil intent. Malice aforethought does not
15 require that malice exist for any particular time before the
16 act is committed, but malice must exist in the mind of the
17 defendant just before and at the time of the act is committed.
18 Therefore, there must be a combination of the previous evil
19 intent and the act.

20 Malice aforethought may be expressed or inferred. These
21 terms, express and inferred, do not mean different kinds of
22 malice, but merely the manner in which malice may be shown to
23 exist. That is either by direct evidence or by inference from
24 the facts and circumstances which are proved.

25 Express malice is shown when a person speaks words which

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JURY CHARGE

1 express hatred or ill will for another, or when the person
2 prepared beforehand to do an act which was letter accomplished.
3 For example, laying in wait for a person or any other acts of
4 preparation, going to show that the deed was within the
5 defendant's mind would be express malice. Malice may also be
6 inferred from conduct showing a total disregard for human life.

7 Ladies and gentlemen, that's the charge of murder. This
8 is the charge of first degree burglary.

9 The defendant is charged with first degree burglary. The
10 State must prove beyond a reasonable doubt that the defendant
11 entered a dwelling without consent. A dwelling is any building
12 or portion of a building in which a person ordinarily sleeps.
13 A building constructed as a dwelling that has never been
14 occupied cannot be considered a dwelling for purposes of
15 burglary. But a building is a dwelling, even if the residents
16 are temporarily absent from the building.

17 In order to prove that the defendant entered the
18 dwelling, the State does not have to show that the defendant's
19 entire body entered the dwelling. The smallest entry is
20 sufficient. It may be any part of the body, such as a hand or
21 a foot, or even an instrument, such as a hook or other
22 instrument.

23 In addition, the State does not have to prove that force
24 was used to gain entry. If a person enters a building by using
25 deception or device, trick, or misrepresentation to get consent

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JURY CHARGE

1 to enter, this is an entry without consent.

2 Next, the State must prove beyond a reasonable doubt that
3 the defendant intended to commit a crime, either a felony or a
4 misdemeanor at the time of the entry. The mere entry into a
5 dwelling without consent is not burglary. If the intent to
6 commit a crime is formed after the entry, it is not burglary.
7 On the other hand, if the defendant intended to commit a crime
8 at the time of the entry, it is a burglary, even if the intent
9 was abandoned after the entry. It does not matter that the
10 intended crime was not completed. Intent may be shown by acts
11 and conduct of the defendant and other circumstances from which
12 you may naturally and reasonably infer intent.

13 Finally, ladies and gentlemen, the State must prove
14 beyond a reasonable doubt that when entering while in the
15 dwelling or when fleeing, the defendant and/or an accomplice
16 caused physical injury to anyone not participating in the
17 crime.

18 All right, ladies and gentlemen, the next is the law of
19 strong-arm robbery. Strong-arm robbery is the taking of
20 something of value from a person, or in the immediate presence
21 of a person by violence or intimidation. For you to find the
22 defendant guilty of strong-arm robbery, the State must prove
23 beyond a reasonable doubt that the property was taken from the
24 person of another or in his presence; that not only must the
25 taking be without the consent of the owner, it must be

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JURY CHARGE

1 accomplished by violence or putting the person in fear of
2 violence. The violence must be actual personal violence, or
3 the threat of it.

4 The degree of force used is immaterial, so long as such
5 force or threat of force is actually sufficient to overcome the
6 victim's resistance. The violence or intimidation must be
7 either proceed or be contemporaneous with the taking.

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

20 If two or more people are together, acting together,
21 assisting each other in committing the offense, the act of one
22 is the act of all, or as it is sometimes said, the hand of one
23 is the hand of all. Prior knowledge that a crime is going to
24 be committed without more is not sufficient to make a person
25 guilty of that crime. Mere knowledge that another person is

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JURY CHARGE

1 going to commit a crime, even if the defendant is present when
2 the crime is committed is not sufficient to convict the
3 defendant as a principle.

4 Guilt as a principle is shown by actual or constructive
5 presence at the scene as a result of prior arrangement.
6 Therefore, a finding of a prior arranged plan or common scheme
7 is necessary for a finding of guilt as a principle. The State
8 must prove beyond a reasonable doubt by competent evidence the
9 theory of the hand of one is the hand of all.

10 A principle in a crime is one who either actually commits
11 the crime, or who is present, aiding, abetting, or assisting in
12 committing a crime. When a person does an act in the presence
13 of and with the assistance of another, the act is done by both.
14 Where two or more, acting with a common plan or scheme, or
15 present at the commission of a crime, it does not matter who
16 actually commits the crime. All are guilty. The hand of one
17 is the hand of all.

18 Present at the commission of a crime means to be
19 sufficiently near to aid and abet and assist in the commission
20 of a crime. However, mere presence at the scene of a crime is
21 not sufficient to convict one as a principle on the theory of
22 aiding and abetting.

23 Intent is also a necessary element, for there must have
24 been a common design or intent to commit a crime, and the crime
25 must have been committed pursuant thereto, with the person

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JURY CHARGE

1 aiding and abetting by some overt act. Intent means intending
2 the result which actually occurs, not accidentally or
3 involuntarily. Intent may be shown by acts and conduct of the
4 defendant and other circumstances from which you may naturally
5 and reasonably infer intent. The State must prove these
6 elements beyond a reasonable doubt.

7 Finally, ladies and gentlemen, there is the -- and
8 alleged statement by the defendant. I'm going to charge you on
9 that.

10 A statement alleged to have been made by the defendant
11 has been admitted into evidence in this case. While the Court
12 has determined that the statement is admissible, I instruct you
13 that you, the jury, make the ultimate decision of whether or
14 not the defendant made the statement. If the defendant did
15 make the statement, you must determine whether the statement
16 was made by the defendant voluntarily and of his own free will.
17 This means that the statement was not caused by pressure,
18 force, fear, threats, coercion or intimidation, or by hope of a
19 promise of leniency, or a reward of any kind.

20 In determining whether the statement was voluntary, you
21 should consider both the characteristics of the defendant and
22 the details of the questioning.

23 Some of the factors that you must consider are the age of
24 the defendant, the defendant's education or lack of education,
25 the defendant's mental ability or capacity, the defendant's

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JURY CHARGE

1 I.Q. or intelligence, the defendant's background and
2 environment, the place and length of detention, the nature of
3 the questioning, and the advice or lack thereof to the
4 defendant of his constitutional rights, including, but not
5 limited to, the right to remain silent; that any statement can
6 be used against him in a court of law; the right to have a
7 lawyer present; that if you could not afford a lawyer, a lawyer
8 would be appointed to represent him without cost; and that he
9 could stop making a statement at any time.

10 You must carefully consider all of the surrounding
11 circumstances before you give any weight to an alleged
12 statement. The State has the burden of providing beyond a
13 reasonable doubt that the alleged statement was voluntary. If
14 you determine that it was voluntary, you may give the statement
15 any further consideration that you deem proper. You must
16 decide what weight, if any, should be given to the alleged
17 statement. On the other hand, if you determine that the
18 alleged statement was not the free and voluntary statement of
19 the defendant, you should not consider the statement at all.

20 Now, ladies and gentlemen, that leads me to the last part
21 of my charge, and that it some thoughts about your
22 deliberations. First, when you went through jury
23 qualifications, you represented to the State and to this
24 defendant that you could be fair and impartial and make a
25 decision based on the testify and evidence presented here in

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JURY CHARGE

1 the courtroom and according to the law as I give it to you.

2 That means that you're not partisans or advocates for one side
3 or the other. You are judges of the facts.

4 When you begin your deliberations, you should, and I urge
5 you to, use your experience in life, your good common sense,
6 and your sense of logic and reasoning when you discuss the
7 facts and evidence and come to a unanimous decision.

8 Deliberation is defined as this: it is a careful
9 consideration, weighing of with a view to a decision.

10 Now, regardless of what any of you may think about our
11 jury system, I would submit to you that the genius of our jury
12 system -- it allows twelve men and women such as yourselves to
13 come from twelve different backgrounds, who have twelve
14 different life experiences and perspectives to listen to a
15 trial, to consider the evidence, to listen to the law, to
16 ultimately go back and engage in deliberations and, hopefully,
17 reach a verdict.

18 You are to go through all the evidence carefully,
19 courteously, and calmly. You're not advocates for one side or
20 the other. You are the judges of the facts. I'm going to ask
21 you, but I'm also going to charge you, that you are to listen
22 to each other, listen to each other's views and points of
23 views, discuss why each person has that, and talk through all
24 the evidence thoroughly.

25 Remember, if you're doing something deliberately, you're

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JURY CHARGE

1 not in a hurry. The State doesn't have a second day in the
2 courtroom or a second bite of the apple. The defendant doesn't
3 have a second day in a courtroom or a second bite of the apple.
4 This is both of their only day in court.

5 Now, in order for your verdict to stand, it will have to
6 be unanimous. In other words, all twelve of you will have to
7 agree as to what the verdict should be -- or the verdicts on
8 all three charges. That means that each of you must decide
9 this case for yourself, but you should do so only after you
10 have impartially considered all the evidence, you've fully
11 discussed the case with your fellow jurors and listened to
12 their views and point of view.

13 Don't be afraid to change your opinion as to weight of
14 the evidence if your jury deliberations convinces you that it's
15 the right thing to do. On the other hand, do not come to a
16 decision just to appease your fellow jurors.

17 Now, Mr. Foreman, if, at any time, a question has -- the
18 jury has any questions, you are to write it down, please, sir,
19 on a piece of paper, sign your name, knock on the door, and
20 we'll receive you here in the courtroom. If you want to
21 request to hear the 911 tape, the audio interview of the
22 defendant, or any other testimony, we'll do it here in the
23 courtroom.

24 Remember, it was brought up during the trial that there
25 are sealed boxes of evidence, some of which may have some

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JURY CHARGE

1 biological material on them. If the jury wishes to open up
2 those boxes, you may do so. But if you do want to, we'll
3 provide you with gloves so you can inspect them. You will do
4 that back in the jury room.

5 Other than that, the verdict form is as follows. Mr.
6 Foreman, the order in which these appear is of no consequence.
7 The order of your choice is of no consequence. Because I have
8 to put in some order.

9 But the order is going to be the charge of murder, the
10 charge of burglary first degree, charge of strong-arm robbery.
11 Remember, each one is separately determined by the jury. Then
12 you'll go to the next one.

13 But your options under murder will be this:

14 *As to the charge of murder, under Indictment*
15 *2014-GS-03-153, we, the jury, unanimously find the*
16 *defendant not guilty.*

17 That's (a). If you find that to be your verdict, you
18 will check (a).

19 Under (b), your option would be:

20 *As to the charge of murder, Indictment*
21 *2014-GS-03-156, we, the jury, unanimously find*
22 *the defendant guilty.*

23 That's (b). If you decide that's your unanimous verdict,
24 that's which one you'll check.

25 Then you'll go to the next charge, and that is burglary

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JURY CHARGE

1 first degree. Your options will be in the same order.

2 *As to the charge of burglary first degree,*
3 *we unanimously find the defendant not guilty.*

4 Under (a).

5 Or, under (b):

6 *As to the charge of burglary first degree,*
7 *we, the jury, unanimously find the defendant guilty.*

8 Again, you'll check the appropriate thing.

9 Then you'll go down to strong-arm robbery, and the
10 options will be in the same order.

11 *As to the charge of strong-arm robbery, we,*
12 *they jury, unanimously find the defendant not guilty.*

13 Under (a). Or:

14 *We, the jury, unanimously find the defendant*
15 *guilty.*

16 Under (b). And if you will check the appropriate one,
17 once you have all three determined unanimously, then you'll
18 sign your name, you'll fold and crease the verdict form.
19 You'll knock on the door. You'll keep the verdict form with
20 you. And then, when we come into the courtroom, I'll ask you
21 to present it to the bailiff, and we'll review it and receive
22 your verdict here in the courtroom. Okay?

23 Now, ladies and gentlemen of the jury, I have concluded
24 my charge. Do not begin your deliberations yet. I have to go
25 with these lawyers whether or not I have omitted to say

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JURY CHARGE

1 something or I've improperly stated something.

2 Shortly, the bailiff is going to bring back all the
3 exhibits and the verdict form, and then he'll give you word in
4 express terms to begin your deliberations. Till that time,
5 please do not do so.

6 Now, our alternate, once the bailiff comes back, I'm
7 going to have you come out of the jury room. If you have any
8 personal items, bring them with you, because you can't be in
9 there when deliberations are going on. Okay?

10 So, with that being said, would you go back to the jury
11 room, please.

12 JURORS LEAVE COURTROOM 3:35 P.M.

13 THE COURT: Any additions or exceptions from the State?

14 SOLICITOR THORNTON: No, your Honor.

15 THE COURT: From the Defense?

16 MR. HUGHES: No, your Honor.

17 THE COURT: All right. Let me thank counsel. We know
18 somebody's going to win or lose, but let me thank both of the
19 attorneys, all three of the attorneys, for jobs well done and
20 good preparation for this matter.

21 As you know, I go all over the State, and you see various
22 degree of preparation and skill level. You all have done a
23 fine job for your respective side of the case.

24 That being done, my law clerk has not learned to
25 proofread, and she will learn probably as fast as any, because

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BY THE COURT

1 I'm embarrassing her right now. But anyway, she's going to re-
2 do the verdict form. I want you all to go over the exhibits.
3 She'll bring you that form, and foreman -- the bailiff will
4 take it in and tell them to begin deliberations. Okay, sir?

5 BAILIFF: Yes, sir.

6 SOLICITOR THORNTON: Thank you, your Honor.

7 MR. HUGHES: Thank you, your Honor.

8 OFF THE RECORD 3:35 P.M.

9 EXHIBITS AND VERDICT FORM TO JURORS 3:45 P.M.

10 ITEM IDENTIFIED AS QUESTION FROM JURORS

11 MARKED COURT'S EXHIBIT 11.

12 BY THE COURT:

13 THE COURT: All right, Mr. Foreman -- do we have
14 everybody here we need?

15 MR. HUGHES: Yes, your Honor.

16 THE COURT: Says: *Your Honor, will you please explain*
17 *burglary in the first degree.*

18 So I just assume. I just charge the charge to them
19 again. Does anybody have any different thoughts?

20 SOLICITOR THORNTON: No, sir.

21 MR. HUGHES: No, your Honor.

22 THE COURT: Would you go get them in, please, sir.

23 JURORS ENTER COURTROOM 4:10 P.M.

24 THE COURT: Mr. Foreman, my understanding, the jury asked
25 the following question. It says: *Your Honor, would you please*

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BY THE COURT

1 *explain burglary in the first degree. Is that the jury's*
2 *question?*

3 MR. FOREMAN: Right.

4 THE COURT: Okay, sir. I'm going to go over this charge
5 with you, and I'm going to explain it so you can understand it.
6 Then I'm going to ask you at the end of that satisfies the
7 jury's question. Okay, sir?

8 MR. FOREMAN: Yes, sir.

9 THE COURT: This is the law of first degree burglary.

10 *The defendant is charged with first degree*
11 *burglary. The State must prove beyond a reasonable*
12 *doubt that the defendant entered a dwelling without*
13 *consent. A dwelling is any building or portion of*
14 *a building in which a person ordinarily sleeps. A*
15 *building constructed as a dwelling that has never*
16 *been occupied cannot be considered a dwelling for*
17 *purposes of burglary, but a building is a dwelling*
18 *even if the residents are temporarily absent from*
19 *the building.*

20 *In order to prove that the defendant entered*
21 *the dwelling, the State does not have to show that*
22 *the defendant's entire body entered the dwelling.*
23 *The smallest entry is sufficient. It may be any*
24 *part of the body, such as a hand or foot, or even*
25 *an instrument such as a hook or other instrument.*

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BY THE COURT

1 In addition, the State does not have to
2 prove that force was used to gain entry. If a
3 person enters a building by using deception or
4 device, trick, or misrepresentation to get
5 consent to enter, this is an entry without consent.

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

18 Intended crime may be shown by acts and
19 conduct of the defendant and other circumstances
20 from which you may naturally and reasonably
21 infer intent.

22 Finally, the State must prove beyond a
23 reasonable doubt that when entering, while in
24 the dwelling, or when fleeing, the defendant or
25 an accomplice caused physical injury to anyone

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VERDICT

1 *not participating in the crime.*

2 Now, Mr. Foreman, does that respond to the jury's
3 question?

4 MR. FOREMAN: Yes.

5 THE COURT: Okay. I'm going to ask that you return to
6 your jury room. Do not resume your deliberations right yet.
7 We'll send word back for you to do so, please, sir.

8 JURORS LEAVE COURTROOM 4:14 P.M.

9 THE COURT: Any additions or exceptions from the State?

10 SOLICITOR THORNTON: None from the State, your Honor.

11 THE COURT: From the Defense?

12 MR. HUGHES: None from the Defense, your Honor.

13 THE COURT: Would you tell the jury to resume their
14 deliberations, please, sir.

15 You want to make this a court exhibit.

16 ITEM IDENTIFIED AS JUROR QUESTION

17 MARKED COURT'S EXHIBIT 11.

18 THE COURT: All right, guys, we'll be back in recess.

19 OFF THE RECORD 4:15 P.M.

20 BACK ON THE RECORD 4:47 P.M.

21 VERDICT:

22 THE COURT: All right, gentlemen, I guess the jury's
23 reached a verdict. State ready?

24 SOLICITOR THORNTON: State's ready, your Honor.

25 THE COURT: Defense ready?

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VERDICT

1 MR. HUGHES: The Defense is ready, your Honor.

2 THE COURT: This is you back in the courtroom. We're not
3 going to have any outbursts, regardless of what the verdict is,
4 please.

5 Would you bring the jury in, please.

6 JURORS ENTER COURTROOM 4:48 P.M.

7 THE COURT: All right, Mr. Foreman, has the jury reached
8 a verdict?

9 MR. FOREMAN: Yes, sir, your Honor.

10 THE COURT: Is it unanimous?

11 MR. FOREMAN: Yes, sir.

12 THE COURT: Would you pass that verdict form to the
13 bailiff, please, sir.

14 Thank you, sir.

15 Madam Clerk, would you --

16 MADAM CLERK: *The South Carolina, County of*
17 *Allendale, in the Court of General Sessions, 14th*
18 *Judicial Circuit. As to the charge of murder,*
19 *Indictment 2014-GS-03-156, we, the jury, unanimously*
20 *find the defendant not guilty.*

21 DEFENDANT JOYNER: Yes.

22 MR. HUGHES: Stop.

23 MADAM CLERK: *As to the charge of burglary in the*
24 *first degree, Indictment 2016-GS-03-149, we, the*
25 *jury, unanimously find the defendant guilty.*

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VERDICT

1 As to the charge of strong-armed robbery,
2 Indictment 2016-GS-03-150, we, the jury, unanimously
3 find the defendant not guilty.

4 THE COURT: Mr. Foreman, ladies and gentlemen of the
5 jury, if that was your verdict in the jury room, and if that is
6 your verdict here in the courtroom, will each of you raise your
7 right hand.

8 Let the record reflect that all jurors responded in the
9 affirmative.

10 All right. Ladies and gentlemen of the jury, the Court
11 is never concerned with what your verdict is, but that you paid
12 attention to the process and you followed the instructions we
13 gave to you. You did that in this case. And for your
14 willingness to do your civic duty, not for your verdict, but
15 for your willingness to do your civic duty and your
16 participation in this trial, I thank you on behalf of Allendale
17 County, as well as the South Carolina.

18 For each of you, in just a few minutes, this gentleman
19 will be sentenced. You're more than free to stay here in the
20 courtroom and watch that. Or, if you do not a to, you're free
21 to leave, and you will be escorted out. If you stay, you'll be
22 escorted out.

23 Do you have the sentencing sheets it will take available?

24 SOLICITOR THORNTON: No, sir. It'll take a few minutes
25 to get those together, Judge.

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VERDICT

1 THE COURT: I tell you what, why don't you go back in
2 your jury room, decide whether you want to come back out and
3 watch the sentencing. Certainly, again, you're free. You'll
4 sit there, and then you'll go out another way, if you decide
5 you'd like to do that.

6 I think that's all the trials we have this week. Is that
7 correct?

8 SOLICITOR THORNTON: It is, your Honor.

9 THE COURT: Okay. For those of you who decide they may
10 not want to stick around for the sentencing phase, thank you
11 for your service. You cannot be required to come back to state
12 court for three more years.

13 Does anyone need a statement for their employer?

14 Madam Clerk, do they just need to go down to your office
15 and get those?

16 MADAM CLERK: Yes, sir.

17 THE COURT: Okay. I tell you what, why don't you -- who
18 needs to get those? If you want to come back, let our bailiff
19 know, run down there and get them right quick before 5:00
20 o'clock. That way, you can have them in your hand. Okay?
21 thank you very much.

22 MR. HUGHES: Your Honor, I had a thought outside. Could
23 I talk to you and Mr. Thornton in chambers, please.

24 THE COURT: Sir?

25 MR. HUGHES: When I was outside a few minutes ago,

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VERDICT

1 something occurred to me that I need some clarification between
2 you and Mr. Thornton.

3 THE COURT: Being?

4 MR. HUGHES: Me, you, and Mr. Thornton.

5 THE COURT: Oh, okay. Well, come on.

6 MR. HUGHES: Thank you.

7 THE COURT: You want to do it -- is this something we can
8 do on the record, or?

9 MR. HUGHES: I'd rather do it in chambers.

10 THE COURT: Okay. Well, come on back.

11 OFF-THE-RECORD CONFERENCE IN CHAMBERS.

12 OFF THE RECORD 4:53 P.M.

13 BACK ON THE RECORD 5:06 P.M.

14 BY THE COURT:

15 THE COURT: Mr. Joyner, I'm going to address you and I'm
16 going to address our jury. Mr. Hughes appropriately pointed
17 out -- you can keep your seat -- that because you were sixteen
18 at the time of this charge -- we have a case called *Aiken*
19 *versus Byars* in South Carolina, which is in response to the
20 United States Supreme Court case of *Miller versus* -- who is it,
21 Mr. Hollen?

22 SOLICITOR HOLLEN: That's *Miller versus Alabama*.

23 THE COURT: *Miller versus Alabama*. There is a footnote
24 in the *Biers* case, and Mr. Hollen appropriately pointed out to
25 me that an *Aiken/Biers* hearing is required if there's a

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VERDICT

1 possibly of life without possibility of parole. You were found
2 guilty of burglary first degree, which carries up to fifteen
3 till life in prison.

4 DEFENDANT JOYNER: All right.

5 THE COURT: Okay, sir? He can respond. It's all right.
6 So, out of an abundance of caution, in response to that
7 footnote, since you are sixteen, I've given your attorney my
8 worksheet on the *Aiken/Biers* case. I'm going to order that
9 there be a proper evaluation. We'll have a hearing. Let's try
10 to do it posthaste. You will not be out on bond. You'll still
11 be at the Detention Center, like you've been, till we have a
12 hearing. Once we have the hearing, you'll be sentenced at that
13 hearing. Okay, sir? Just so you understand the procedure we
14 go through.

15 After that hearing, I assume Mr. Hughes, you have ten
16 days to appeal after that hearing. Don't you agree?

17 MR. HUGHES: Yes, your Honor, I do.

18 THE COURT: Okay. Ladies and gentlemen of the jury, let
19 me point out something to you. I was going to sentence him,
20 and Mr. Hughes, being correct in pointing out to me, as lawyers
21 often do, that this case that came out said that if you are a
22 minor and you are subjected to -- really, they made -- well,
23 life without possibly of parole, that there has to be an
24 evaluation and a hearing conducted on the youthfulness and the
25 impetuousness of children and why they may -- the Court should

1-11-17 STATE V JOYNER

VERDICT

1 consider some mitigating circumstances, so that he would not
2 get life without possibly without parole. That doesn't mean
3 he's going to get it. But since this offense, burglary first,
4 carries fifteen years up to life, and the State tells me that
5 life in South Carolina means life, so it'd be the equivalent to
6 life without the possibly of parole, I'm going to go on the
7 safe side. I'm going to order that this evaluation take place.
8 It won't happen overnight. It'll take some time. So he will
9 not be sentenced today. He will be held in the Detention
10 Center where he's been since he's been arrested, my
11 understanding is, until we have that hearing. And at that
12 point, we'll sentence him. Okay? Just so you understand it.

13 Did everybody get the forms they needed? Does any juror
14 have any questions of the Court. Not about your case, not
15 about your verdict, just about the process that you've been
16 through or what's about to happen? Okay. Thank you so much,
17 and I'm going to excuse you for the day and for the week.

18 JURORS LEAVE COURTROOM 5:10 P.M.

19 THE COURT: Anything from the State before we break for
20 the day on this case?

21 SOLICITOR THORNTON: No, your Honor.

22 THE COURT: Anything from the Defense?

23 MR. HUGHES: No, your Honor.

24 THE COURT: Okay. Thank you, gentlemen. If you'll take
25 Mr. Joyner in custody, and we'll have him back at another date

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VERDICT

1 and time.

2 SOLICITOR THORNTON: Thank you, Judge.

3 END DAY THREE, END TRIAL 5:11 P.M.

STATE V JOYNER TRIAL

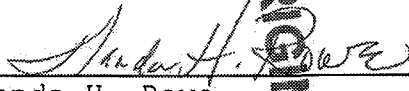
CERTIFICATE OF REPORTER

CERTIFICATE OF REPORTER

JANUARY 9, 10, 11, 2017 TRIAL OF STATE V GABRIEL JOYNER
STATE OF SOUTH CAROLINA
COUNTY OF ALLENDALE

I hereby certify that the foregoing January 9, 10, 11, 2017 Trial of State v Gabriel Joyner was taken by and before me and at the time and place set forth; that the foregoing is a true and accurate record of the proceeding had and exhibits admitted; that I am of neither kin, counsel, nor interest to any party hereto.

Witness my signature September 7, 2019.


Wanda H. Rowe
Post Office Box 146
Beaufort SC 29901-0146

STATE V JOYNER TRIAL

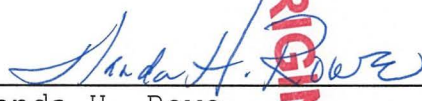
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Witness my signature September 7, 2019.



Wanda H. Rowe
Post Office Box 146
Beaufort SC 29901-0146

ORIGINAL

1. The first part of the document is a list of references, which includes the following items:

State of South Carolina,)
)
 Plaintiff,)
)
 vs.) Transcript of Record
)
 Gabriel Joyner,)
)
 Defendant.)
)
)

April 4, 2019
Ridgeland, South Carolina

B E F O R E:

The Honorable R. Lawton McIntosh, Judge

A P P E A R A N C E S:

Sean P. Thornton, Esquire
Attorney for the State

Robert M. Hughes, Esquire
Attorney for the Defendant

Elizabeth B. Harris, CVR-M-CM
Circuit Court Reporter

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I N D E X

<u>Witness/Description</u>	<u>Page No.</u>
Sentence of the Court	20
Certificate Page.	23

E X H I B I T S

<u>No.</u>	<u>Description</u>	<u>Ev.</u>
C-1	Mitigation Report	22
C-2	Letter from Defendant	22

1 THE COURT: First, this is a term of Common Pleas
2 court here in Jasper County. Do both the state and the
3 defendant agree to me converting this to a nonjury General
4 Sessions matter for the purpose of this hearing?

5 MR. THORNTON: State agrees, Your Honor.

6 MR. HUGHES: Defense agrees, Your Honor.

7 THE COURT: Does the state and defense also agree to
8 have venue for sentencing purposes disposed of here in
9 Jasper County as opposed to being in Allendale County?

10 MR. THORNTON: State agrees, Your Honor.

11 MR. HUGHES: Defense agrees, Your Honor.

12 THE COURT: All right. I've read the *Aiken*, the *Byars*
13 report prepared for Mr. Joyner. This is the case of *The*
14 *State of South Carolina vs. Gabriel Joyner*, indictment
15 number 2016-GS-03-149. Mr. Joyner was tried -- this was
16 January 11, 2017, and he was found guilty of burglary first
17 degree?

18 MR. THORNTON: I believe that is correct, Your Honor.

19 MR. HUGHES: Yes, Your Honor.

20 THE COURT: Okay. Since this is not a very common
21 type of hearing, how do the parties wish to proceed as far
22 as presentation of the matters that we need to consider?

23 MR. HUGHES: Your Honor, if we could make Ms.
24 Leonard's report part of the record, and I think since
25 you've read it, we don't need to rehash it. I would then

1 proceed as normal for a sentencing on burglary first.

2 THE COURT: Does the state agree?

3 MR. THORNTON: The state agrees with that, Your Honor.
4 You were the -- you know, the whole reason, of course, this
5 has taken a while is to, to get you back down here and get
6 this report ---

7 THE COURT: Right.

8 MR. THORNTON: --- squared away. You tried this case
9 twice with two different defendants.

10 THE COURT: Right.

11 MR. THORNTON: So, I think you're very familiar with
12 the facts. My presentation won't take but just a couple of
13 minutes.

14 THE COURT: Okay. All right, would you present your
15 -- well, I have a copy of the report.

16 I'm going to make it a court exhibit, Madame Court
17 Reporter, for purposes of the hearing.

18 MR. THORNTON: Your Honor, if I might?

19 THE COURT: Yes, sir.

20 MR. THORNTON: If I could go ahead and put this on the
21 record, the indictment number for the case?

22 THE COURT: Yes, sir.

23 MR. THORNTON: This is case *State vs. Gabriel Joyner*,
24 Your Honor. The indictment number is 2016-GS-3-149.

25 THE COURT: And, and this, the factors I went back and

1 reviewed again this morning, the *Byars* case. At the time
2 of his conviction or the time of the burglary and murder
3 for which he was not convicted, how old was Mr. Joyner?

4 MR. HUGHES: I believe he was seventeen at the time,
5 Your Honor.

6 THE COURT: I think that's what the -- three
7 codefendants: one fifteen, sixteen, and seventeen. Is that
8 correct?

9 MR. THORNTON: That is correct, Your Honor. Mr.
10 Joyner was the oldest of the three at seventeen.

11 THE COURT: All right, I'll be glad to hear from the
12 state if you ---

13 MR. THORNTON: Your Honor.

14 THE COURT: --- want to make a brief presentation.

15 MR. THORNTON: As -- first off, I, I would say that as
16 you will recall from the trials, the, the decedent in this
17 case, the victim, Mr. Johnson, was eighty-one years old, I
18 believe, at, at the time of his murder. His son was in the
19 courtroom every day of both trials. He could not be here
20 today. His ninety-two year-old mother had an appointment
21 that she could not miss, but he didn't want to delay this
22 any more. He trusted me to put his wishes on the record,
23 but I didn't want the court to think he wasn't concerned
24 about it. He just could not be here, but he didn't want to
25 delay it.

1 THE COURT: And if I recall, he lived out of state.
2 Is that right?

3 MR. THORNTON: He -- yes, sir, and he's -- he could
4 not -- he just couldn't get here for this.

5 THE COURT: Okay.

6 MR. THORNTON: Your Honor, the reason I said this
7 would be short is you remember all of the, I know, all of
8 the facts of the case. You tried it twice, and we had a
9 guilty plea. Here are the things I would ask the court to
10 consider.

11 I will tell you that Mr. Joyner had no significant
12 prior juvenile record, and neither did the other two
13 defendants in this case. I understand the purpose of the
14 *Aiken vs. Byars* report and I know it's, it's -- obviously
15 it's geared toward a mitigation report, and I would ask the
16 court to keep that in mind.

17 And the reason I say that, Judge, is, is in this
18 entire report, which I know was comprehensive -- I looked
19 at, at -- you know, the author of the report is in court.
20 She had listed 2500 pages, I believe, of documents of
21 entire case file that she received. So, I know it was a
22 thorough report. What I would point out to the court is,
23 is in this entire report, after reviewing the entire case
24 file and everything else, the only mention of what he's
25 convicted of is this:

1 The body of eighty-one-year-old William Johnson,
2 a deacon in his church, was found on 6/17/14. On
3 6/24/14, Gabriel and Robert Miller were charged
4 with murder and transported to South Carolina
5 juvenile detention center in Columbia.

6 And then it goes on to talk about his conduct. It
7 doesn't mention that, that during the burglary for which
8 Mr. Joyner was convicted, that Mr. Johnson was beaten so
9 badly that his teeth were scattered all over the place.

10 THE COURT: I recall the facts. I recall that he was
11 suffocated with a black ---

12 MR. THORNTON: Yes, sir.

13 THE COURT: --- plastic bag.

14 MR. THORNTON: And, and ---

15 THE COURT: And I tell you, quite frankly, it's one of
16 more the brutal murders. I've been involved in a lot of
17 them.

18 MR. THORNTON: Yes, sir, and I understand obviously,
19 Judge, that, that Mr. Joyner was not convicted of the
20 murder, but the only thing that I would ask the court to
21 consider when I'm going to ask you for, for how much time
22 I'm asking for is this, and I even mentioned this to Mr.
23 Hughes. So, he knew I was going to bring this up.

24 There were multiple statements given by the defendants
25 in this, not just Mr. Joyner but Mr. Miller, Mr. Robert Lee

1 Miller, III, and there were -- sir? I'm sorry, Judge.
2 Robert Lee Miller, III. What struck me, Your Honor, and I
3 mentioned this in both trials, I think. There was more
4 than one statement where they indicated that as they walked
5 out, eighty-one-year-old Willie Johnson, who'd just
6 suffered that beating, was still alive because it was
7 mentioned that the bag was still moving over his face. All
8 Mr. Joyner or any of the other defendants had to do was
9 pull the bag off of his face and he'd probably still be
10 alive but they didn't. They walked him -- out and they let
11 the man suffocate. They left him there to die and he died.

12 I don't think this is a minimum case, Judge; I don't
13 think this is a fifteen-year case. He's looking at fifteen
14 to life. I also don't think it's a life case. As Your
15 Honor will recall, you sentenced Robert Lee Miller, III.
16 He was convicted on the burglary and the murder and the
17 strong-arm robbery, I believe, to fifty-eight years I
18 believe is what his sentence was.

19 THE COURT: I thought it was fifty-five, but it may
20 be.

21 MR. THORNTON: It might be fifty-five, Your Honor, but
22 I don't think it's fair, and I told the victim -- the
23 victim's son this -- for me to ask for more time or even
24 the same time on, on this defendant because he wasn't
25 convicted of the murder. But I don't think it's a minimum

1 sentence either.

2 I'm going to ask the court for -- to kind of split the
3 difference in between those, the fifteen and the, and the
4 fifty-five and just ask for thirty-five years, Judge. It's
5 not day for day. It's an 85 percent sentence, but I think
6 it's reasonable, given the extenuating facts of this case,
7 and it is one of the more brutal incidents that I've seen,
8 certainly on an eighty-one-year-old man.

9 And while I understand based on this report that, you
10 know, Mr. Joyner had, had, had kind of a tough row to hoe
11 growing up, that doesn't excuse this kind of behavior. So,
12 I agree it's not a maximum. It's not a life; I'm not going
13 to ask you for life. I don't think you'd give life in this
14 case. I don't think it's a life case, based on what he was
15 convicted of, but it isn't fifteen either, Judge. So, I'd
16 ask you for a thirty-five year sentence. Thank you, Your
17 Honor.

18 THE COURT: Thank you.

19 MR. THORNTON: And, Your Honor, if I might? I'll pass
20 the sentencing sheet up. I apologize.

21 THE COURT: Thank you.

22 Mr. Hughes, I read through the report. It was very
23 thorough. It obviously -- it seems primarily to focus on
24 the family and home environment that surrounded Mr. Joyner
25 and speaks in depth as to that.

1 You know, some of the fact -- the factors that we have
2 to look at under the *Aiken, Byars* -- the immaturity,
3 impetuosity, failure to appreciate the risk -- the report
4 really doesn't address that. I guess there's inferences in
5 there along those lines.

6 Also, you have to consider the family and home
7 environment, as I mentioned, the circumstances of the
8 homicide offense, including the extent of the defendant's
9 participation, how familial and peer pressure may have
10 affected him.

11 If the report is accurate as to the facts, it seems
12 like Mr. Joyner was in Allendale County at the time in a
13 mobile home that had no electricity or power to it across
14 the street from the defendant. That he -- his role in this
15 was basically a lookout during the attack by the other two
16 defendants, and then entering into the premises to take --
17 help assist in taking the safe out, which was the primary
18 objective of everybody, if I recall. Is that correct?

19 MR. HUGHES: That is correct, Your Honor, and the
20 state put up witnesses to say exactly that.

21 THE COURT: And also look at the incompetencies
22 associated with his youth, with his youth, including, for
23 example, his inability to assist the attorneys. We really
24 didn't have any factors along these lines, did we, that I
25 can recall.

1 MR. HUGHES: I beg your pardon?

2 THE COURT: The examples that has -- the
3 incompetencies associated with youth, one of the factors we
4 have to look at in the *Byars*, was Mr. Joyner's inability to
5 assist you as his attorney in his defense. We didn't have
6 a real factor with that in this case that I recall.

7 MR. HUGHES: No, sir.

8 THE COURT: Also, you look at, for example, the
9 possibility of rehabilitation. And, and in the report, I
10 notice that there was no mention of any possible
11 rehabilitation at all in this matter. Do you have any
12 presentation ---

13 MR. HUGHES: No, Your Honor, I don't. The
14 rehabilitation aspect of this was never touched on simply
15 because we weren't exactly sure what Gabriel needed to
16 rehabilitate himself because of what was going on in this.

17 THE COURT: Would you, Mr. Hughes, would you like to
18 make a statement to the court?

19 MR. HUGHES: I would Your Honor. Your Honor, Mr.
20 Gabriel was tried in front of twelve people in Allendale
21 County. They found him not guilty of murder; they found
22 him not guilty of strong-armed robbery. The only thing
23 they found him guilty of was the burglary first.

24 I did not object to Mr. Thornton in his statement
25 because I felt that you already knew all the facts, and I

1 would just be objecting to him repeating what you already
2 knew. Therefore, I would ask Your Honor not to look upon
3 this as a continuation of the murder verdict which he was
4 found not guilty on, or strong-armed robbery verdict which
5 he was found not guilty on. The only thing he was found
6 guilty on was a burglary first, and as ---

7 THE COURT: Of course, Mr. Hughes, in the case, if I
8 recall, I felt like to a large degree it was a fairly
9 inconsistent verdict, in my view, just because the
10 circumstances which would warrant a finding of burglary
11 first was the murder itself, was it not?

12 MR. HUGHES: Ah, that was where I was getting, Your
13 Honor.

14 THE COURT: Okay, sir.

15 MR. HUGHES: Since, as Your Honor pointed out, what
16 made this a burglary first was a murder and he was found
17 not guilty, I would ask Your Honor to overturn the verdict
18 on the burglary first, allow my client to plead guilty to a
19 burglary second. That matches the facts if you remove the
20 murder situation from it.

21 THE COURT: I'm going to deny that request, Mr.
22 Hughes.

23 MR. HUGHES: Okay. I ---

24 THE COURT: Maybe you can address this on appeal.
25 Now, have you explained to Mr. Joyner that following the

1 sentencing today, he'd have ten days to appeal?

2 MR. HUGHES: I have not, Your Honor. I have gone,
3 gone over appeals with him a number of times and explained
4 to him we could not appeal until sentencing took place.

5 THE COURT: Right.

6 MR. HUGHES: But as to directly address that, I have
7 not. I will be happy to before he leaves back to
8 Allendale.

9 THE COURT: If you would, please, sir.

10 MR. HUGHES: I'll be happy to. Your Honor, that being
11 said, I would request that if you do sentence him on the
12 burglary first, that you put aside the charges that he was
13 acquitted on and sentence him only on a burglary first as a
14 young man, seventeen years old, no previous criminal record
15 or significant criminal record I believe is the word the
16 solicitor used, and treat it accordingly.

17 We don't put first offenders in prison for thirty
18 years on a burglary first, Your Honor. The solicitor was
19 correct: this is a serious, violent crime. It is an 85
20 percenter. I'm asking for the fifteen years that his age,
21 the crime he was convicted of, demand. Thank you.

22 THE COURT: Did your client wish to make a statement?

23 MR. HUGHES: Your Honor, he has written a letter I
24 will pass up, and I don't know if he wishes to make a
25 verbal statement or not.

1 THE COURT: Have you checked -- have you shown that to
2 Mr. Thornton?

3 MR. HUGHES: I don't believe I have. I just got it
4 myself.

5 (A PAUSE.)

6 MR. THORNTON: The state has no objection, Your Honor.

7 THE COURT: Very good.

8 Mr. Thornton, let me ask you a question, if I may.

9 MR. THORNTON: Yes, sir.

10 THE COURT: And there is no evidence that I can
11 recall, or maybe there was and I just don't remember it,
12 but based on your participation -- you were in all three of
13 these cases, were you not?

14 MR. THORNTON: Yes, sir.

15 THE COURT: Did Mr. Joyner seem to be the instigator
16 or more of a follower in this situation, or was there any
17 evidence one way or the other?

18 MR. THORNTON: There was evidence both ways, Judge.
19 According to his confession, he was just the lookout and
20 stayed outside. According to Robert Lee Miller, that he
21 was directly involved. You know, so, so I can't, I can't
22 for sure say one way or the other, Judge. I will say that,
23 according to his confession, he stayed outside the initial
24 assault.

25 THE COURT: Right.

1 MR. THORNTON: And then he went in while they were
2 finishing the assault.

3 THE COURT: Right.

4 MR. THORNTON: And helped them remove everything. So,
5 even by his own admission, he's inside the house where the
6 man's dying and he leaves him there.

7 THE COURT: Right. Well, I mean, I ---

8 MR. THORNTON: But there was evidence both ways.

9 THE COURT: Well, I'm thinking not so much in the acts
10 themselves at the time at the scene. More in the idea in
11 coming up with the plan. You know, it seems to me, Mr.
12 Thornton, that this gentleman lived across the street from
13 the victim.

14 MR. THORNTON: Yes, sir.

15 THE COURT: And, therefore ---

16 MR. THORNTON: He was also ---

17 THE COURT: --- had some knowledge ---

18 MR. THORNTON: Sorry, Judge. He was the oldest.

19 THE COURT: Yeah. That's...

20 MR. THORNTON: And physically the largest.

21 THE COURT: Well, I -- yeah, that's true. I'll be
22 honest with you. Reading through the report that I
23 received in this matter under *Aiken vs. Byars*, you know,
24 this gentleman was shipped all over. Had a horrendous
25 family life. His mother was particularly absent or abusive

1 and mentally ill.

2 MR. THORNTON: Yes, sir.

3 THE COURT: Substance abuser. He had a lot of
4 tragedy. Saw other acts of violence in his life, and it
5 seemed to me that he was basically left to fend for himself
6 in a lot of ways out there. And, and so my impression,
7 even though I don't have anything really except it being my
8 impression, that he was more of a follower of the other two
9 in this matter than a leader, and I don't ---

10 MR. THORNTON: It's certainly ---

11 THE COURT: I can't say why.

12 MR. THORNTON: --- possible, Judge. The only thing I
13 would point out to Your Honor that is in that report, the
14 -- I believe it's his second cousin that he was staying
15 with in North Carolina that was more like an uncle ---

16 THE COURT: Right.

17 MR. THORNTON: --- to him. He was supposed to go
18 back.

19 THE COURT: And didn't.

20 MR. THORNTON: And he asked not to. He wanted to
21 extend his stay. So, this was -- so, obviously he wasn't
22 concerned with staying in a trailer with no electricity and
23 things right across the street from the victim in this case
24 because he asked to, to stay longer than he was -- than he
25 would -- had originally planned.

1 THE COURT: Well.

2 MR. THORNTON: But I don't have any, any evidence,
3 Judge, to tell you the other way other than I got to go by
4 what the statements are. His statement would indicate he
5 was more following their suggestion; their statement was
6 that they were all in it together.

7 THE COURT: So, there's no clear evidence one way or
8 the other.

9 MR. THORNTON: No, sir.

10 THE COURT: All right.

11 MR. THORNTON: It could go either way.

12 THE COURT: Just give me a moment to read this,
13 please.

14 (A PAUSE.)

15 THE COURT: All right, I'm going to, unless anybody
16 has an objection, I was going to make Mr. Joyner's letter
17 Court Exhibit Number 2.

18 MR. HUGHES: No objection.

19 MR. THORNTON: No objection from the state, Judge.

20 THE COURT: All right, Mr. Joyner, do you wish to make
21 a statement?

22 DEFENDANT: Yes, sir. I can stand up.

23 THE COURT: I'm going to ask that you to speak loud
24 enough for me to hear you, please, sir.

25 DEFENDANT: Oh. Yes, sir, I do, Your Honor. Due,

1 due to the things that I have been through in my life, and
2 you have read through what Ms. Leonard had written on, as
3 you have said, the tragedies and things of that sort, I
4 have ---

5 COURT REPORTER: Excuse me. Could he speak into the
6 microphone, please?

7 THE COURT: I tell you. Do you mind stepping around
8 to come in front of here so ---

9 MR. HUGHES: Certainly, Your Honor.

10 THE COURT: --- the court reporter and ---

11 MR. HUGHES: This microphone doesn't ---

12 THE COURT: --- I can hear you better, please, sir?

13 MR. HUGHES: --- appear to be working.

14 DEFENDANT: Due to tragedies that I have been through
15 in my life, sir, as you have read through the report that
16 Ms. Leonard had, had arranged for me and things of that
17 sort, just like you had read in the letter from --- three,
18 three, three enemies that I know that seems to be the enemy
19 of the black man are illiteracy, ignorancy, poverty. And
20 from all of these things that you have read -- I was
21 staying in the trailer with my moms that, you know, was
22 practically not there, not raising me; my, my dad being in
23 prison seventeen years and things of that sort -- that was,
24 that, that, that affected my life. You know, my grandmomma
25 being sick and raising me practically by herself and me

1 having practically no father figure or anything of that
2 sort.

3 I have come to understand as a young black man that
4 there is a obligation placed upon me. I do understand my,
5 my -- I do understand the responsibility. I took it upon
6 myself of going through something then at a young age.

7 But from, from, from my experience and as I had wrote,
8 you know, only God can change certain things, you know what
9 I mean? God has a place that's able to -- excuse me. Only
10 God has a place inside a person's life in order to make a
11 person to be revealed and to basically illuminate. You can
12 see clearly about things, and those are one of the main
13 things that I want the youth, you know what I'm saying, to,
14 to, to, to begin to understand them self. That just
15 because they don't have any father figures or things of
16 that sort, there always somebody out there to reach out to
17 them. So, I was thinking about -- it's a lot of ideas that
18 I have that I would like to share with the youth and the
19 people that's out there, you know? That's just all, what I
20 want to say. Thank you.

21 THE COURT: All right. Thank you.

22 All right, anything further, Mr. Hughes?

23 MR. HUGHES: That's all I have, Your Honor.

24 THE COURT: All right, do you think we've -- you have
25 anything else from the state that you need to add, Mr.

1 Thornton?

2 MR. THORNTON: No, Your Honor. Again, we're, we're in
3 a little bit different situation than some hearings maybe
4 like this because you were the trial judge.

5 THE COURT: Right.

6 MR. THORNTON: And tried the case twice. You know
7 what the facts are, and I think you've covered all the, the
8 factors that you need to consider.

9 SENTENCE OF THE COURT:

10 THE COURT: Let me just say this for the record.
11 Again, this was a brutal, brutal murder. You were a part
12 of it. Seventeen years old at the time. Obviously, you
13 had no guidance growing up; you had a bad home life beyond
14 your control. Your education was very lacking. In
15 balancing that, I agree with Mr. Thornton that it doesn't
16 warrant a full sentence but it warrants a substantial
17 sentence, and I feel like twenty-five years would be
18 appropriate, and that's what I'm going to sentence you to,
19 twenty-five years in jail. You'll have to serve at least
20 85 percent of that. You'll get credit for the time that
21 you have served.

22 And Mr. Hughes is going to tell you more about it, but
23 I'm going to tell you for the record you will have ten days
24 excluding today to appeal this sentence, okay, sir?

25 DEFENDANT: Yes, sir.

1 THE COURT: Good luck to you.

2 MR. THORNTON: Thank you, Your Honor.

3 THE COURT: How much time has be been in jail, Mr.
4 Thornton? Do you know?

5 MR. THORNTON: I don't, Your Honor. I know they
6 calculate it now. We just had a thing at our boot camp
7 presentation by the, the Department of Corrections that
8 they, they do their own calculation.

9 THE COURT: Oh. Really?

10 MR. THORNTON: I mean, he's been in jail since the
11 date that this occurred, but I did not calculate up the
12 days.

13 THE COURT: What's -- the date of the murder itself?

14 MR. THORNTON: Yes, or right -- very soon after that.

15 THE COURT: Do you know, do you know the date he was
16 incarcerated?

17 MR. HUGHES: He says he was arrested June 24, 2014,
18 Your Honor, at which time he was ---

19 THE COURT: So, if I give him credit from June 24,
20 2014, does everybody agree that's appropriate?

21 MR. THORNTON: I don't know, Your Honor. I'm -- let
22 me get -- will the court give me about two minutes? I can
23 look it up.

24 THE COURT: Yes, sir, I'll be glad to. I'd rather it
25 be accurate.

1 (A PAUSE.)

2 (MITIGATION REPORT MARKED INTO EVIDENCE AS COURT'S
3 EXHIBIT NUMBER 1.)

4 (LETTER FROM DEFENDANT MARKED INTO EVIDENCE AS COURT'S
5 EXHIBIT NUMBER 2.)

6 MR. THORNTON: That is correct, Judge. I have his
7 arrest on June 24, 2014, and my understanding is he's been
8 in jail since that day.

9 THE COURT: All right, credit from June 24 2014.

10 MR. THORNTON: Thank you, Your Honor.

11 THE COURT: Good luck.

12 MR. HUGHES: Thank you, and, Your Honor, for the
13 record, I have explained to him about appeals, and I will
14 be filing one for him in this matter.

15 THE COURT: Very good.

16 --- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED
VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH
JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO
HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE
AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING
OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE
CIRCUIT COURT FOR ALLENDALE COUNTY, SOUTH CAROLINA, ON
THE 4TH DAY OF APRIL, 2019.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

/S/Elizabeth B. Harris, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

MAY 7TH, 2019

WITNESSES

Natasha Merrell - South Carolina Law
Enforcement Division

DOCKET NO. 2016GS0300149

The State of South Carolina

County of Allendale

COURT OF GENERAL SESSIONS

November Term 2016

THE STATE

vs.

Gabriel Joyner

Indictment For

Burglary, 1st Degree

SC Code: 16-11-311(A)(1)(b)

CDR Code: 0079

After being fully advised as to my
legal rights, I hereby waive
presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper
person and plead guilty to the within
indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

ARREST WARRANT NUMBER

2016GS0300149

DIRECT INDICTMENT

2016ALLA300149

Christina D. Riley

Foreperson of Grand Jury

Date: 11/17/16

VERDICT

True Bill
Guilty

X E. J. Barry

Foreperson of Petit Jury

Date: 1-11-17

INDICT

RECEIVED

APR 11 2019

SC Court of Appeals

STATE OF SOUTH CAROLINA)

COUNTY OF ALLENDALE)

INDICTMENT

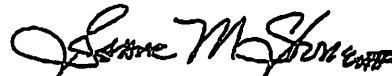
2016GS0300149

At a Court of General Sessions, convened on November 17, 2016 the Grand Jurors of Allendale County present upon their oath:

Burglary, 1st Degree

That in Allendale County, South Carolina, on or about June 17, 2014, the Defendant, Gabriel Joyner, did enter a dwelling without consent and with intent to commit a crime therein and when, in effecting entry or while in the dwelling or in immediate flight therefrom, he or another participant in the crime caused physical injury to Willie Johnson who was not a participant in the crime, all in violation of Section 16-11-311(A)(1)(b), et al. of the Codes of Law of South Carolina.

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



Solicitor

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,

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May 29 2020

SC Court of Appeals



Robert M. Dudek
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

This 29th day of May, 2020.