VOLUME I OF II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Greenville County

Honorable Alex Kinlaw, Circuit Court Judge

LORENZO A. JACKSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2019-001346

APPENDIX

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STATE OF SOUTH CAROLINA,	)	
	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
LORENZO AZIA JACKSON,	)	
DEFENDANT.	)	
	)	

ORIGINAL

August 22, 23, and 24, 2016
Greenville, South Carolina

B E F O R E:

THE HONORABLE D. GARRISON HILL, JUDGE; and a jury.

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Circuit Court Reporter

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(IC) - Denotes In Camera

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P R O C E E D I N G S

THE COURT: Okay. Yes, ma'am.

MS. SALISBURY: Your Honor, as I understand it, there are no other Defendants entertaining a guilty plea. There are two Defendants that remain charged. The State's prepared to proceed.

THE COURT: All right. Yes, ma'am.

Any pre-trial motions?

MR. SMITH: Yes, sir, Your Honor.

THE COURT: Mr. Smith.

PRE-TRIAL MOTIONS

MR. SMITH: From the information that she just told you that she wanted to proffer to us, we haven't gotten that.

The other issue is -- I think we -- and the person that was just identified now for me to get his information, we don't have that from discovery.

The -- any additional that the State may call, we want the criminal records. We'd like to have the summaries that she just read off to the Court. With each one of them that she did negotiate the pleas with and she's reserving -- because we'd like to know what the deal's going to be, beside the fact of dropping charges.

My client, Mr. Maldonado -- and the Court will be made aware during the course of the trial was not involved

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in this incident, except -- he wasn't in any street gang. We don't approve of no [sic] street gangs, none of that, no part of any of the other prior incidents. He didn't go in the house. He sat in the car and rode away when he heard shots. That's what the evidence, we believe, from our side is going to show.

We want any information from their file with regard to any information regarding street gangs and whether my client has ever been listed in any street gang called Cross Tracks, Latino Kings, I think, is one of them mentioned during the course of the police interviews on tape, whether or not they've taken -- taken any of those tapes and reduced them to writing. We would like to have that information.

Any of the phone records which would indicate any -- any indication from the cell phones that my client had a continuous relationship with any of the individuals that have just pled guilty, or any other individuals with regard to any gang that they have identified, or are going to try to identify during the course of the trial.

We, also -- with regard to the video, we didn't get the video part of where -- when the cars left the gas station. We'd like to have any videos with regard to when the cars exited the gas station.

We, also, want to know whether or not they, actually,

did any logs with regard to the computer system inside the cars, any GPS systems, anything of that nature which would indicate the direction that the cars went at the time that this alleged incident had gone on. Any other ballistics tests besides any that they've already given us, I would like to have that.

And, as I've said, the criminal records and the deals that have been offered by the Prosecution. We'd, also, like to have if -- from the Prosecution that if the -- you know, on the deferred sentencing, it's almost like blackmail in a sense. Because if the person doesn't testify in conformity with what the Solicitor wants -- or the State wants, then, I guess, they'll ask for more time beyond what they've already offered.

But I would like to know what -- the range of what they're going to offer that particular person when that person testifies successfully for them, and what recommendations they're going to make to the Court. Because if there's a deal -- although the deal is not going to be on the record. There's an implication that there's going to be a deal on sentencing in the future based on what she's represented to the Court.

So therefore -- and, also, if my client has not been identified in any other documentation with regard to any gang, I'm making a motion in limine that they not mention

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my client as being part of any gang structure here in Greenville, South Carolina, or anywhere else in the world for that matter.

Thank you, Your Honor.

THE COURT: Thank you, Mr. Smith.

MR. SMITH: And I think -- you know, I wrote them a letter under Brady v. Maryland, which was quite complete with regard to my particular standpoint. I think all the information I'm asking for was sent to them on October 20th, 2014.

And I'll just hand the Court a copy of my letter that I wrote to the Solicitor. And I, also, filed a conterminous motion as well.

THE COURT: Okay. Are those all the pre-trial motions you have, sir?

MR. SMITH: Yes, sir.

THE COURT: Mr. Robinson, do you have any, sir?

MR. ROBINSON: Yes, sir, Your Honor.

We have -- first of all, I would join with the -- with Mr. Fletcher on the motion in limine --

THE COURT: Mr. Smith.

MR. ROBINSON: Mr. Smith. Excuse me, Your Honor.

As far as the gang, as far as them saying he was part of a gang, it's a totally different side of town in this case. We believe it's extremely prejudicial for them to

put that monitor [phonetic] of a gang on my client, and Mr. Smith's client as well, Your Honor. It's very prejudicial. It kind of groups them all in the same -- people.

And, also, Judge, we would like a Neal v. Biggers hearing as far as identification goes in this matter whenever the Court has time to do that.

And I think the Prosecution may have a Jackson v. Denno hearing she may have talked about before.

THE COURT: Okay. Yes, ma'am, Ms. Salisbury.

MS. SALISBURY: Well, Your Honor, I do believe that we're ready to proceed for purposes of Jackson v. Denno.

I did not make a list of all the things that Mr. Smith was telling the Court he needed. But it's the State's position that we've made available everything. Every video has either been delivered by way of hard copy or been made available online, including the video interviews of every witness, including the victims, and the co-defendants to the extent that several of the co-defendants indicate that they know Mr. Smith's client to be a member of the Latin Kings. That's their testimony.

I've not had an opportunity to meet with them, as they are represented Defendants who have charges pending, and attorneys in the mix to advise them about what is

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inappropriate for them to describe as they relate how it is they know either of these Defendants.

So to the extent that any of the corroborating Defendants or witnesses in this case is prepared to talk about whether these two Defendants are, were, or are known to be members of a street gang, that's just not information that I have had the opportunity to fine tune.

I'll tell the Court that in the videos we've made available, there is mention of it. And, as I said, there's a possibility that when inquired of, these co-defendants may describe that that's exactly how they know, at least, Mr. Maldonado.

I don't know that a Neal v. Biggers hearing with respect to Mr. Jackson is altogether necessary. I believe that the only photo lineup in this case was conducted with Zykeia Harper, as I recall. I believe she was shown a photo lineup as part of her interview.

The rest of these co-defendants seem to know Mr. Jackson by name. We're, certainly, prepared to do that. But I don't believe Ms. Harper is here right now and can answer questions about the extent to which she selected Mr. Jackson from that photo lineup as the result of any pressure, coercion, or other negative influence from law enforcement.

So I'm happy to proceed however the Court feels

comfortable. The only matter of business that the State needs to conduct pre-trial is the Jackson v. Denno hearing with respect to Mr. Maldonado's statement.

THE COURT: Thank you.

Mr. Smith.

MR. SMITH: Thank you, Your Honor.

The fact is, I mean, anybody who knows street gangs knows that if you're a member of one gang, you're not going to go and cavort with another member of another gang, which is an absurdity on its face.

What I want to know from law enforcement -- and our law enforcement is pretty accurate around here about who is -- who are members of street gangs. They have a database with SLED. And they, actually, routinely update that database with people who are members of gangs here.

And, you know, I've been an assistant prosecutor, too. The way to play fair in this regard is to give me any information that deals with my client now being alleged to be a member of the Latino Kings. That's a racial slur from my standpoint. And the fact of the matter is if he is a member of the Latino Kings or whatever they call this gang, we would like to have that information for us and, for the record, for the Court.

I don't want these people blurting out that he's a member of te Cribs, or Bloods, or whatever these crappy

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little gangs are around here. I want to know, factually, do they have anything factually to offer that my client during the course of this trial is a member of any Latino gang or any other Hispanic gang because he's a Hispanic, and any black gang that may have been involved in this situation. And to make their law enforcement records available with regard to whether or not they've, actually, defined the street gang as the Latino Kings, and the database that they utilize to find out who are members or not members of that gang. We would like to have that.

And that would be -- in my estimation would, actually, be Brady material.

THE COURT: So it's exculpatory in what way?

MR. SMITH: The exculpatory shows that he's not a member of a gang.

THE COURT: Well, what about that, Ms. Salisbury?

MS. SALISBURY: Well, Judge, again, I'm not sure how to respond to that. The only evidence I have comes from the statements of the co-defendants. All of that's been made available. I don't have anything else. I don't know how to access the law enforcement investigation.

I can, certainly, call one of the assigned gang investigators to talk about their experience with Mr. Maldonado. But that's not part of the State's case in chief. If we need to hunt down exculpatory evidence, I

don't know that this falls in the relevant material burden that the State is required to meet with respect to demonstrating proof in this case.

I don't know what Mr. Smith wants. I've given him the facts as the State intends to present them at trial, which includes the testimony as I expect will come from each of these co-defendants. Those statements were video recorded.

So all of that has been available for the past two years. I don't know what else to go get.

MR. SMITH: Your Honor, I respect my esteemed colleague, but she is the State of South Carolina. She represents the State of South Carolina.

This law enforcement officer who, actually, conducted the investigation most certainly looked into gang activity, if he did his job. And he most certainly, if he did his job -- and I'm certain he did his job as a law enforcement officer looked and saw who were members of street gangs, whether he went to the SLED database or the database they have in the Greenville County Sheriff's Department. All they have to do is pull up their database and give us that information.

The fact that she's got witnesses that are going to come up that she's going to utilize, we have a right to, actually, impeach those witnesses with any information

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that they bring from those data files. And we believe they're exculpatory.

Thank you, Your Honor.

And the excuse that she doesn't have it for her case in chief is not enough under Brady v. Maryland.

MR. ROBINSON: And, Your Honor, I would join in on that motion on behalf of my client.

MR. SMITH: At the very least, Your Honor -- and I don't want to keep popping up. But at the very least, we want to make an offer of proof with regard to those particular documents if they're not, actually, introduced during the course of her case in chief, or even during cross-examination.

We believe that in order to maintain the integrity of the record that she, at least, needs to provide the Court with the information so the Court -- if the Court wants to do an in-camera look at the documents and place them in the file.

THE COURT: Well, I don't know much about the case, but what I've heard here this morning. And I suppose if she's not going to put up any information other than co-defendants statements concerning your client's participation in a gang that that would be something you could interpret, use, or spin however you wanted to do it.

But I don't know how I can order law enforcement to

turn over evidence they tell me they don't have.

MR. SMITH: All right. Well, if that's the representation she's making that the sheriff's department doesn't have that kind of information, then we'll accept it. And then, at the appropriate time, we'll go to the Supreme Court, if we need to. Then we'll, of course, bring it to this Court's attention or any other court that has relevant jurisdiction.

And, Your Honor, one other thing. And I don't want to keep belaboring the point. Because my client, you'll see, only had a tangential piece in this whole process. But if the Court would issue an order in limine to prevent them from, actually, testifying, that would correct it.

Because we believe that to, actually, say that he was a member of the -- what we'd like to do is have a hearing with regard to each one of those witnesses to see exactly what they're going to say about when they learned this man was a member of any known street gang before it's presented to the jury.

THE COURT: I understand.

MR. SMITH: Thank you, Your Honor.

THE COURT: Thank you.

What is the scope of the Jackson v. Denno matter?

MS. SALISBURY: Mr. Maldonado gave an interview with police. I expect that hearing to be extremely brief.

THE COURT: What about Mr. Jackson? Is there any --

MS. SALISBURY: No statements, Your Honor.

THE COURT: No Jackson v. Denno?

MS. SALISBURY: No, sir.

THE COURT: Okay. We can go with the Maldonado Jackson v. Denno.

MS. SALISBURY: Okay. In that, the State would call Investigator Matt Owens.

Investigator, if you would, please, come up and be sworn.

THE CLERK: Raise your right hand and place your left hand on the Bible.

WHEREUPON,

MATTHEW OWENS,

after first having been duly sworn, testified as follows:

THE CLERK: And will you state your full name for the record?

THE WITNESS: Matthew Owens.

DIRECT EXAMINATION

BY MS. SALISBURY:

Q Investigator, where are you employed?

A Greenville County Sheriff's Office.

Q In what capacity?

A I am currently a school resource officer.

Q Back in September of 2014, what was your assignment

at the sheriff's office?
A I worked in the armed robbery division.
Q Do you recall as part of your investigation of the case that's the subject of this trial ever speaking with the Defendant, Mr. Joseph Maldonado?
A I do.
Q Do you recall when you had that conversation with him?
A I believe it was September 5th, if I'm not mistaken.
Q With respect to the robbery, how close in time?
A Just a couple of days.
Q Okay. Describe just for the Court how it is you became involved. How did you find yourself interviewing the Defendant?
A After the incident occurred on September 3rd, I was assigned by my sergeant to investigate the incident.
Q And how is it that you became involved with the Defendant?
A So during the course of the investigation, we learned that Mr. Maldonado's name came up as being the driver of one of the vehicles. So I did some research, found out that Mr. Maldonado is -- was associated with somebody who owned a Honda CRV.
Basically, after that point, I continued the investigation, ended up receiving a phone call from the --

I think it's Southside High School that Mr. Maldonado and his mother were asking where they needed to go to come talk to me.

Q Okay. Where did you, ultimately, physically encounter the Defendant?

A The Defendant and his mother came down to the sheriff's office.

Q All right.

A And I spoke to him in my office.

Q Was he placed under arrest at the outset?

A Yes.

Q All right. Did he indicate to you that he wanted to talk to you, or give you a statement?

A Yes.

Q When?

A Same day. I -- same day him and his mother came down. I advised him of his Miranda rights. He stated he understood and he said he wanted to talk to me then.

Q Okay. About what time of day -- was it during business hours?

A Yes, ma'am.

Q At the time of the interview, was he in handcuffs?

A No, ma'am.

Q Who -- aside from the two of you, who else was present?

A During the interview?
Q Yes, sir.
A His mother.
Q Did -- before you talked to him and asked him any questions, did you review with him his Miranda rights?
A Yes.
Q Did you read those from a form, or did you recite them from memory?
A A form.
Q Was the Defendant given a copy of the form?
A Not -- I do not believe he was given a copy, no.
Q Did he read the form for you?
A Part of it -- a portion of it.
(WHEREUPON, State's Exhibit No. 1 was marked for identification only.)
BY MS. SALISBURY:
Q Let me show you State's Exhibit No. 1. Do you recognize that?
A I do.
Q What is it?
A That is the Miranda rights form, which Mr. Maldonado initialed and signed.
Q Is your signature on that form?
A It is.
Q Is that the form that you reviewed with the Defendant

before you asked him any questions about this incident?
A Yes, ma'am.
MS. SALISBURY: Your Honor, at this point, the State would move in State's Exhibit No. 1 for purposes of this hearing.
THE COURT: Any objection?
MR. SMITH: Your Honor, can we reserve objection until I ask the officer about the authenticity of the signature during cross-examination? I just want to see -- did he lay a foundation for it?
THE COURT: Let me see the document real quick.
MS. SALISBURY: That is a copy. I, typically, reserve the original for purposes of the actual trial.
MR. SMITH: Okay. I didn't see that one. That's for identification. Let me take a look at it.
THE COURT: Yes, sir.
MR. SMITH: Thank you, Your Honor.
No objection.
THE COURT: Okay. It's in evidence.
(WHEREUPON, State's Exhibit No. 1 was admitted into evidence.)
BY MS. SALISBURY:
Q Before the Defendant gave his statement, is that form what you read to the Defendant?
A Yes, ma'am.

Q Please read what you read.
A Before we ask you any questions, you must understand your rights. You have the right to remain silent. Anything you say can be used against you in court. You have the right to talk to a lawyer for advice before we ask you any questions, and to have him with you during questioning. If you have no money to pay a lawyer's fee, the Court will appoint one to represent you without cost, if you wish.

If you decide to answer questions now without a lawyer present, you still have the right to stop answering at any time. You, also, have the right to stop answering at any time until you talk to a lawyer.

And after each sentence, I had him initial it just to make sure we understood each other. And then the last part, the waiver of rights, I asked the Defendant to read that out loud to me.

Do you want me to read that, too?

Q Sure.
A I have read this statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me, and no pressure or coercion of any kind has been used against me.

Q So by way of making those initials and then signing the form, did the Defendant indicate to you that he understood his rights?
A Yes, ma'am.
Q Did he have any questions for you about what any of those meant?
A No, ma'am. I did circle "coercion." And we go over that just to make sure they understand what that means.
Q Did he indicate to you that he understood what "coercion" meant?
A Yes, ma'am.
Q After reviewing that form with him, did he indicate to you that he wanted to waive his rights and give you a statement?
A Yes, ma'am.
Q By doing what? How did he waive -- how did he tell you that -- communicate that to you?
A He signed this and said he wanted to talk to me.
Q Okay. Now, you mentioned earlier that you conducted this interview in your office?
A Yes, ma'am.
Q Did you video record this interview?
A Yes, ma'am.
Q Did you record the entire duration of it?
A Yes, ma'am.

Q Did you preserve that recording of the entire interview?
A Yes, ma'am.
(WHEREUPON, State's Exhibit No. 2 was marked for identification only.)
BY MS. SALISBURY:
Q I'm showing you State's Exhibit No. 2. Do you recognize that?
A I do.
Q What is it?
A That is a DVD of the statement from Joseph Maldonado.
Q How do you know?
A Because I made it.
Q All right. Did you place it into evidence after you completed your interview with the Defendant?
A I did.
Q To your knowledge, has it been in evidence ever since?
A Yes, ma'am.
Q All right. And is that recording a complete representation of your conversation with the Defendant that day?
A Yes, ma'am.
Q At any point during the interview, did the Defendant indicate to you that he wanted to stop answering your

questions?
A No, ma'am.
Q Did the Defendant ever indicate to you that he wanted to stop and speak to a lawyer?
A No, ma'am.
Q All right. Did it appear to you that the Defendant understood your questions?
A Yes, ma'am.
Q Have you ever in the course of your employment at the sheriff's office dealt with individuals who were under the influence of either drugs or alcohol?
A Yes, ma'am.
Q Did the Defendant appear to you to be impaired or intoxicated in any way by any substance?
A No, ma'am.
Q Was the Defendant responsive to your questions?
A Yes, ma'am.
Q Did he appear to understand your questions, both regarding his rights and regarding the incident?
A Yes, ma'am.
Q Was his speech clear and coherent?
A Yes, ma'am.
Q Did he indicate to you that he could read and write?
A Yes, ma'am.
Q All right. Did you ask him what level of education

he had?
A I don't remember.
Q Okay. During the course of your interview, did the Defendant -- did you ever threaten, coerce, pressure the Defendant in any way to provide a statement, or otherwise answer your questions?
A No, ma'am.
Q Was the Defendant ever deprived of food or water?
A No, ma'am.
Q As you recall, what is -- generally, how long was the interview?
A A half hour.
Q Did -- was the Defendant ever prevented from using the restroom during that time?
A No.
Q Okay. At any point during that entire interview, did the Defendant ever indicate to you that he wanted to stop answering your questions, or not give a statement, or speak to a lawyer?
A No, ma'am.
MS. SALISBURY: All right. Please answer any questions Mr. Smith may have for you.

CROSS-EXAMINATION

BY MR. SMITH:
Q You didn't put a gun to his head, did you?

A No, sir.
Q You didn't water board him?
A No, sir.
Q You didn't torture him in any way, did you?
A No, sir.
MR. SMITH: No further questions.
THE COURT: All right. Anything further?
MS. SALISBURY: No additional questions from the State, Your Honor.
That would be the only witness the State would offer for purposes of the admissibility of the statement.
THE COURT: And does the Defense wish to present any evidence on this issue at this time?
MR. SMITH: No, sir.
Thank you, Your Honor.
THE COURT: All right. Investigator Owens, thank you.
THE WITNESS: Thank you.
THE COURT: You may step down.
I do find that the State has proven by the greater weight of the evidence that the statement given was voluntary, given freely, knowingly, willingly, and is admissible. And the jury will have to determine any other aspects of the statement. But it can be admitted into evidence.

MR. SMITH: The only issue with regard to it is she needs to redact out the part about the polygraph test.

MS. SALISBURY: Your Honor, I don't intend to publish the entire video. I figured we would reach that issue at the point in the trial where the State --

THE COURT: Okay.

MS. SALISBURY: -- intends to talk about the Defendant's testimony.

MR. SMITH: Well, Your Honor, under Rule 105, we're going to request that the entire tape be played, except the information with regard to the polygraph. That's why you introduce it into evidence in the first place is because the jury gets to have the entire tape.

But as the Court has probably indicated to me in the past, video -- I mean polygraphs are not admissible in the State of South Carolina. That would be obtained on the evidence.

And so under those circumstances, we would ask that that part be redacted by the State.

THE COURT: Well, maybe y'all can work that part out. But, if not, I'll be glad to rule on it.

MR. SMITH: Thank you, Your Honor.

MS. SALISBURY: I don't think that's necessary, Your Honor. We'll, I'm sure, reach a resolution.

THE COURT: Okay. We'll take a break until 2:00 for

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lunch and resume the pre-trial matters then. Hopefully, we'll be able to pick a jury not too long after that.

Yes, sir.

MR. SMITH: Your Honor, could we get those proffers that she was talking about during the lunch period so I can read over them?

MS. SALISBURY: I'm doing my best to get copies right away, Your Honor.

THE COURT: Okay. Thank you.

MR. SMITH: Thank you.

THE COURT: Okay. We'll be back at, let's say 2:15, to be realistic about it.

(WHEREUPON, a lunch break was taken.)

THE COURT: Okay. What's next on our motion list?

MS. SALISBURY: Nothing else from the State, Your Honor.

THE COURT: Mr. Robinson?

MR. ROBINSON: May it please the Court.

Your Honor, this is -- we need to -- I would like to request a Neil v. Biggers hearing for identification in this case.

THE COURT: Okay.

MR. ROBINSON: I would call the officer.

THE COURT: All right. Now, specifically, what kind of identification are you challenging?

MR. ROBINSON: The identification of my client by these co-defendants that they have. I've reviewed all of the tapes -- the videos that they've sent us. They have one group that was taken right after the time of the original arrest. The next group was later on, like, in 2016, or later on in 2015.

THE COURT: Okay.

MR. ROBINSON: None of the -- they don't identify my client in the original group of people. They don't identify my client as being part of that group.

THE COURT: All right.

MR. ROBINSON: Later, the Defendants that, actually, came up here today all have my client in this mix, in this thing, and they identify him. Your Honor, I think the Solicitor said it herself that they only did one six-person lineup. And that was by Zykeia Harper.

And I believe that what's happened is the officer in this case, Mr. Owens, or one of his lieutenants, or workers, they took a picture of my client and showed it to each one of these people and said this is the guy.

And we believe that that's very prejudicial to my client. Because that means that they can just take any picture of anyone and just say this is the guy without doing any sort of lineup, or anything of that nature that they didn't do in this case for my client.

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And as far as Zykeia Harper, they're talking about when she, originally, gave her video testimony in this case, and she didn't -- I believe she didn't mention my client. Only later did she mention my client, after they had an opportunity to talk to her and maybe offer her some incentive to testify or name Mr. Jackson.

But my position is if it was -- it was an unlawful identification of him because it was not done with any six-person lineup. It was done illegally in this case. And we believe any identification testimony of my client -- of Mr. Jackson by any of these four or five Defendants should be suppressed as a result of that.

THE COURT: Okay. Well, Ms. Salisbury, what's your position?

MS. SALISBURY: Well, I don't know that I understand Mr. Robinson's argument to the extent that this identification was illegal. As the Court is aware, there's no requirement that the State prepare six photos of anyone.

As I recall from watching the interviews, during each of these interviews -- and there are several, the investigators show the speaking witness a photograph of someone, and ask them to confirm if that's the person they're talking about.

As the Court is aware, any time that there is an

out-of-court identification that is going to be discussed as part of a witnesses testimony, I think that's the part where we reach whether it was a suggestive lineup to the extent that the identification was not accurate, or the in-court identification is now not accurate because of the inappropriate prior out-of-court identification.

I'd tell the Court, just as I did before lunch, that the State is not in a position to move forward on this issue, just based on the fact that Zykeia Harper is not here. She's not in this building.

She is a co-defendant and has pled guilty. And I expect that if she is called to testify, it will be much later in the trial. So I don't know that I can intelligently respond to the issue of whether any identification she made of Lorenzo Jackson was tainted by any law enforcement suggestion.

So I -- I'm perfectly willing to proceed if the Court finds that necessary. But it's the State's position that she identified this person by name, and that this was not a photo lineup. She looked at a photograph of this person and confirmed that was who she was speaking of.

But it was -- this was not a traditional take a look at these pictures and tell me if you recognize anybody. I don't believe that this is even an identification -- an out-of-court identification that falls under the analysis

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for Neil v. Biggers.

MR. ROBINSON: May it please the Court, Your Honor.

THE COURT: Yes, sir, Mr. Robinson.

MR. ROBINSON: Judge, my client and I have looked over -- we've watched all of the tapes in this case. And none of the early tapes have anything where they're showing a picture of him and identify him. They've got other people, but not Mr. Jackson in this case. Only later on, months later, when they had the opportunity to put together their case that they're doing did they show a picture of Mr. Jackson in this case, just a picture.

MS. SALISBURY: Your Honor, not to belabor, but just to respond. The interviews with Zykeia Harper happened within a matter of four or five days. She was interviewed at the time of her arrest, the very next day, and then, I think, maybe three days later.

It is true and accurate to suggest that her versions of the facts were inconsistent among each of those interviews. It's the State's position that she, eventually, realized that it was beneficial to be candid, rather than to continue to protect herself and her co-defendants. But that's an argument to be made for the jury.

But for purposes of how this timeline played out, we're talking about an interview that happened where she

was not willing to name co-defendants and then a couple days later, when, I believe, her grandmother, actually, was in the room and present for the interview and encouraging her to be candid that she started, actually, naming names. And it's during that conversation that law enforcement shows her pictures as she says names to confirm if that's the person she's talking about.

So when she mentions Mike Smalls, they show a picture of Mike Smalls and say, Is this who you're talking about? She either confirms or denies. I don't know if that's helpful.

THE COURT: I don't guess anybody has got any case law that would support their respective positions. And I'm thinking, specifically, of the issue of whether the out-of-court identification -- I mean, the way it arose in this case, Mr. Robinson.

MR. ROBINSON: The case that I have is the State v. Dukes, which is 745 S.E.2d 137.

THE COURT: 745?

MR. ROBINSON: Yes, sir, 745.

THE COURT: S.E.2d?

MR. ROBINSON: It was an opinion by Chief Judge Few, Your Honor.

THE COURT: S.E.2d what?

MR. ROBINSON: S.E.2d 137.

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And Judge Few has a specific section on identification evidence in that case.

Another case, Your Honor -- I can give you a whole litany of cases, if you like. I have a 2003 -- excuse me one second, Judge.

(Pause.)

MR. ROBINSON: I have a 2012 Supreme Court case from South Carolina, which I, also, have, which is State v. Liebermann as well.

Would you like the citation, Judge?

THE COURT: I've got it right here.

MR. ROBINSON: Yes, sir.

MS. SALISBURY: Your Honor, if it's of consequence, I'm showing a reference to State v. Singleton. Apparently, this is a case where the victim had personal knowledge of the defendant, and was able to identify the defendant by name. I think that case discusses whether there's a need for a hearing.

THE COURT: Well, the issue really is whether someone -- I'm just assuming. I don't know. I'm just going by what y'all have told me, which is minimal.

But is the evidence going to be that these witnesses knew -- had previous knowledge of Mr. Jackson's identity?

MS. SALISBURY: It's my understanding that there are some witnesses who were very familiar with Mr. Jackson. I

believe the testimony will be that Mike Smalls, in particular, had a relationship with someone's niece. It's a little bit attenuated. But, nonetheless, Mike Smalls was able to describe that he knew Mr. Jackson by name. And several of the co-defendants, which we've not had the opportunity to speak with, say that they were introduced to James Gantt and Lorenzo Jackson through Mike Smalls.

So there appears to be sort of two different social circles that come together for the purpose of effecting the robbery, if not more outliers than those two social circles.

So I don't know whether Zykeia's testimony will be that she knew the Defendant before this particular incident. But, as I recall, she knew Mr. Jackson by name. And as she was identifying who was in which respective car, who did what during the robbery, not only Zykeia, but several of the co-defendants refer to him by name.

So I believe there will be testimony throughout the course of the trial that there is, at least, some level of comfort and familiarity among the Defendants. But if it's helpful to have the hearing just to be able to have had the hearing, I'm perfectly willing to do that. I'm just not in a position to, at this point, proffer the evidence I need to because the person who makes the identification needs to testify about the circumstances of how they made

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that identification.

I don't know that I'd be offering a complete picture of the process if I were to only offer the officer's testimony.

THE COURT: All right. Well, we'll just proceed with the hearing.

And my memory is that there's a case called State v. Miller that I'm looking up that's somewhat on point here.

MS. SALISBURY: I'm reading that summary right now.

(Pause.)

MS. SALISBURY: Well, Your Honor, again, I'm not equipped to move forward with the hearing without the identifying witness. She's in custody. And she's not been transported, as I didn't expect to call her to testify until much later.

THE COURT: Well --

MS. SALISBURY: I, certainly, could have her transported over and, perhaps, here by the time we finish the jury selection process.

THE COURT: Okay. That's fine.

MS. SALISBURY: Can we get her here?

THE COURTROOM DEPUTY: We'll try.

MS. SALISBURY: Zykeia Harper. She's coming from SCDC. It's my understanding they put her in detention.

THE COURTROOM DEPUTY: Okay.

THE COURT: Are there other aspects of the hearing we can go forward with now?

MR. SMITH: She's given us the proffer on, at least, one of these persons, Damon Young-Gaines. I thought we were asking for other information, like the summary sheet to see what they were -- cases she dropped on them, and stuff like that. I haven't gotten that yet.

MS. SALISBURY: I don't have that information available. I put it all on record for that reason.

MR. SMITH: Well, it's hard for me to copy it off the record with the court reporter. You were reading it from your own document.

THE COURT: Yes. Just provide it. You can provide it to him.

MS. SALISBURY: Okay.

MR. SMITH: And, Your Honor, one other thing, too. Your Honor, some of the stuff on these documents that they've given us have been redacted.

I'm going to have to go over tonight and find Dean Scaturro. Because he might be able to provide light on information relative to the people running to the car.

I asked law enforcement and the Solicitor whether or not they had his address. I don't know whether or not they've got his address. That would be very helpful.

But the key is -- what's important about it is it

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goes right to the defense of my client. There were two cars out there that night. We admit that my client drove over to the scene where the robbery took place. But one of the cars was silver.

And, according to Mr. Scaturro, who's a witness, he told the officer over here -- he stated that, I -- he informed me that he is friends with one of the victims. He informed me that he was at home on Power Street when he heard some gunshots. He said he then saw two people running toward a car parked on Power Street. He said he believes one of them was a female. I asked him to describe her clothing. And he told me she was wearing tan pants that may have been camouflage.

That's what Zykeia is alleged to have been wearing that night.

Dean told me that the other person was a male, but he was not able to give a description. And he, also, said -- the officer asked him -- this is a man who, actually, heard gunshots and, actually, saw witnesses running, and everything.

And so their position is they've got all of these witnesses who are going to come in and say they got in Mr. Maldonado's car. Now, was it two people? Was it five people that got in somebody's car? But the Honda that he identifies in another part of the statement to Officer

Matthew Owens, he says he saw the individual get into a silver or gold Toyota or Honda, which was parked on Power Street.

Now, my client had a CRV. So -- and I don't know whether it's his -- Mr. Scaturro's address that has been blacked out right here. But I would like to, at least, have it so I don't have to be circling all through that community tonight trying to find him.

And because he said he was going to give a statement to the police -- I assumed that he was going to give his statement, but the police didn't follow up.

MS. SALISBURY: Your Honor, we talked about this during the break. I asked the officer to look at his report. We don't have an address. He never came in to give a statement. That's why he's not a witness. I cannot give information I don't have. I don't know what I can do.

MR. SMITH: Well, that's fine. But I would like to have it on the record that it does show that this investigation was skewed against my client when an investigator doesn't follow-up on information that seems to prove the innocence of my client with regard to two of the principle witnesses that she's going to put on the witness stand.

THE COURT: I understand.

MR. SMITH: Thank you, Your Honor.

THE COURT: Back to Neil v. Biggers. Is there any testimony either side wishes to put up about this issue?

MS. SALISBURY: I can, at least, put the officer up --

THE COURT: Sure.

MS. SALISBURY: -- so you understand how that process went.

THE COURT: Okay.

MS. SALISBURY: The State could call Investigator Matt Owens.

WHEREUPON,

MATTHEW OWENS,

after first having been duly sworn, testified as follows:

THE CLERK: Please have a seat.

Will you state your full name for the record?

THE WITNESS: Matthew Owens.

DIRECT EXAMINATION

BY MS. SALISBURY:

Q Investigator, during the course of your investigation of this particular incident that's the subject of this trial, did you have an occasion to interview one of the co-defendants, Ms. Zykeia Harper?

A I did.

Q Okay. Do you remember the circumstances of your

interviews with Ms. Harper?
A Yes, ma'am.
Q All right. Where, generally, were you during each of these interviews?
A In my office at the law enforcement center.
Q Okay. Was Ms. Harper under arrest at the time of her interviews?
A Yes, ma'am.
Q How long since the substantive crime -- the actual robbery did your interviews with Ms. Harper take place?
A I would have to look at my notes, but I believe the incident happened on September 3rd. I believe September 4th is when we first spoke with her. And then maybe September 5th, and then another date. I don't know. Again, I'll have to look at my notes to give you the exact dates, but it was in close proximity.
Q Okay. During your conversations with her, was she able to identify for you -- or willing to identify for you the specific names of people with whom she participated in the robbery?
A Yes, sic [sic].
Q Okay. Was one of those names Lorenzo Jackson?
A I cannot say for sure that she said Lorenzo Jackson. I would have to review everything. But I cannot say for sure she positively identified -- said his name.

Q Okay. Was she able to give to you a physical description of the people that she didn't know by name?
A Yes.
Q Okay. How did she describe the people that she was not familiar with by name?
A Just the basic physical appearance, height, weight, sex, race, so on and so forth.
Q Okay. At this point in the investigation, have you identified or, at least, come up with a potential list of suspects?
A Yes.
Q How did you do that?
A So after speaking with Ms. Harper, I was able to develop numerous defendants in that -- yeah, basically, I was able to develop, like, five or six -- actually, it was six defendants.

During the course of that, I was, actually, interviewing Mr. Maldonado. And we had a -- uniform patrols were driving around trying to find the Honda Civic that was in the video.

I received -- while I was speaking with him, I received a phone call from another deputy saying, Hey, I'm out with this Honda Civic. It matches the one from the video from the --
Q Well, what do you mean it "matches"?

A The description, the make, the model, the -- I guess there were some -- the moon roof. There was a bungee that was on the trunk kind of holding the trunk down.

So I was on the phone with the deputy. I was asking the deputy what it looks like. And I was, also, asking Mr. Maldonado what the -- what he remembers the Honda Civic looking like.

Well, they both are giving me the identical cars. From that point, I was -- like, I knew that -- that has to be the car. It has the bungee cord. Mr. Maldonado said it had a bungee cord, moon roof, so on and so forth, silver.

So the deputies out there made an arrest on an unrelated incident. I was speaking with Mr. Maldonado. He was continuing to give me a statement. Eventually, I escorted him over to the detention center.

While we were going to the detention center, I heard somebody from the holding cell yelling out profanities, something -- Look at that bitch, or something like that. And I looked at Mr. Maldonado. And I was like, Are they talking to you?

And he looked and he said, Yes. Those two guys were in the Honda.

And this other defendant was in the holding cell during that time.

Q Okay. So based on that encounter that you had --
A Yes.
Q -- were you able to then formulate and add to your list of suspects Lorenzo Jackson?
A Yes.
Q Okay. After that, did you have an opportunity to ask Zykeia Harper about Lorenzo Jackson, specifically?
A Yes.
Q How did that happen?
A Okay. So because of the multiple suspects in this case, I wanted to make sure that I had each suspect with -- pertaining to what vehicle they were in during this incident.

So what I did is -- so what I did is I, basically, had a group of photos and put it -- you know, had a picture of the vehicle. And then I had a group of photos taped to that vehicle. And then I showed Zykeia, I said, Does this resemble who was in what vehicle during the incident?

And she said, Yes.
Q Was Zykeia Harper ever sent an array of photos and asked to identify this Defendant by name?
A I would have to check. I don't remember. I think this is how -- what I have in front of me is how we were able to positively identify Lorenzo as being associated

with the Civic.

Q Did Ms. Harper ever indicate to you that the photographs you had were of the wrong people, or incorrectly attributed to each car?

A No. Actually, I had two other photos up there off to the side. And she said -- she, basically, said those two photos I had were not involved in this incident whatsoever.

MS. SALISBURY: Okay. I don't believe I have any additional questions.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. SMITH:

Q Officer, why did you put Mr. Maldonado in the same cell with the two defendants that was calling him a bitch?

A I didn't put him in the same cell.

Q Was he ever in the cell with them --

MS. SALISBURY: Your Honor, I object to the relevance of this line of questioning.

MR. SMITH: I can test the credibility of the witness.

THE COURT: Go ahead.

Overruled.

BY MR. SMITH:

Q Go ahead.

A So I never put -- he was never in the same -- I physically never put him in the same cell. When we walked into the jail, he was -- we went to the -- I got the warrant and he was in.
Q All right. And the -- when you spoke to Mr. Maldonado, he told you he had a CRV?
A Yes.
Q And when you spoke to Mr. Dean Scaturro, he told you about the -- he told you about the incident that night with the cars that were parked out there?
A Yes.
Q Now, let me ask you this question. With regard to East Parker Street, where is Power Street in reference to East Parker Street?
A It's East Parker Road and Power Street is -- I believe it's right there when you turn onto -- if you're on Smythe, you turn left onto East Parker, and I believe Power Street is right there in the vicinity.
Q Okay. Can you draw it on there and show me what it looks like?
A Well, again, I'm --
Q Yeah. I mean, it's not going to be scale.
A -- not positive.
Q It's not going to be to scale.
A Something like that.

Q All right. Now, can you --
A That's East -- this is East Parker. That's where the Corner Mart's at. This is right where the incident location was. And that's -- Power Street is somewhere in there.
Q Now, where were the cars parked with regard to the incident itself?
A To my understanding, Power Street.
Q Power Street. So the cars were on Power Street themselves?
A Yes.
Q Right. And then you interviewed Mr. Maldonado shortly after the incident. And he indicated to you he wanted to cooperate with you; is that correct?
A Yes, sir.
Q And that was basically -- I think he gave you two statements on the video?
A Yes, sir.
Q And those two statements are the ones that have just been introduced into evidence by the Court and the Prosecution requested?
A Yes, sir.
Q Now, I think you interviewed Zykeia?
A Zykeia.
Q Zykeia, yeah. And I think she had a lawyer at one of

those interviews named Frank Eppes; right?
A The third interview, yes, I believe.
Q Yeah. I think you told her -- you said you talked to Frank Eppes and he said she was lying about a lot of stuff. Do you remember that?
A I do not remember that.
Q If it was on the tape of her testimony, then that would speak to what you would say? I'll play it for you tomorrow whenever we get to trial.
A Sure.
Q Okay. So, based on that, you knew that she was a non-credible --
MR. SMITH: It sounded like CSI, Your Honor.
THE COURT: It's Law & Order.
MR. SMITH: Law & Order, yeah.
BY MR. SMITH:
Q So you knew that she was a potential liar because she had lied to you on a number of occasions. I think you indicated that you knew she was lying on occasion to you?
A No. I wouldn't consider her lying. Inconsistent.
Q Well, you said it on the tape. The tape will speak for itself where you said she was a liar.
And then the other thing, too, is these people that were involved in it, all of them were black individuals, African-American, whatever you want to call it?

A Yes, sir.
Q And Mr. Maldonado is Hispanic; correct?
A Yes, sir.
Q Did you look on any database to find out whether or not Mr. Maldonado was in the Latin Kings?
MS. SALISBURY: Your Honor, I object to this line of questioning. We're trying to handle --
MR. SMITH: She's the one that brought Mr. Maldonado up. I just wanted to see who he -- I'm just testing a little bit. I won't go too far, Your Honor.
THE COURT: All right. I'll give you a little leeway.
MR. SMITH: Thank you, Your Honor.
THE WITNESS: No, sir.
BY MR. SMITH:
Q No, sir, you didn't. And then these Cross -- who are these other guys?
A Cross Track.
Q Did you find in the database that he was in there?
A No, sir.
MR. SMITH: That's all.

CROSS-EXAMINATION

BY MR. ROBINSON:
Q Officer, let's go back to the first time that you say that you had exposure to the name Lorenzo Jackson.

A Okay.
Q That would be at the detention center; is that correct?
A Yes, sir.
Q Okay. So there were two people that supposedly called him something -- or someone called him a name, or said something?
A Yes, sir. I don't know which one. I just heard --
Q And these two folks, the folks that were at the window, do you know if they were the ones that uttered that?
A Say that again.
Q The ones at the window, were they the people that said that?
A I believe so, yes, sir.
Q Do you know that for sure? Did you see them say --
A I heard them. I can't say that I saw that person say it. I just heard somebody say that.
Q And then you saw two people at the window; is that correct?
A Are you talking about, like, a holding cell?
Q Holding cell.
A Yes.
Q You saw two people; correct?
A Uh-huh.

Q And, at that point, did you point out Mr. Jackson? What did you do?
A No. I'm not -- I wasn't going to point anybody out. I just kind of leaned over to Mr. Maldonado and said, Do you know those guys?
And he said, Yes. They were in the Honda.
Q Okay. So that's where you got the information about the Honda; correct?
A Yes.
Q And he identified --
A The Civic, the Honda Civic.
Q I'm sorry.
A The Honda Civic, yes.
Q And he said, at that point, that he was in the vehicle, the Honda vehicle; correct?
A Yes.
Q But you're not sure whether or not Mr. Jackson is the one who said that or not?
A Correct.
Q Correct. Okay. Regarding the other folks, the folks that we saw come into court today. Now, you saw the videos -- I think you, actually, did the videos of these folks giving a statement; correct?
A Yes, sir.
Q Would you agree with me, initially, in the first

group of statements, they said nothing about Mr. Jackson?
A Yes, sir.
Q Now, let's talk about how you went about putting Mr. Jackson in this mix. Did you show any of these folks a lineup?
A No, sir.
Q You just put a photo of Mr. Jackson in front of them and said, Is this the guy? Is that what you did?
A If they said a name or if I'm trying to identify somebody, I'm not going to say, This is the guy who did this; right? I'm not going to say that.

I'll say, Who is this? Do you know who this guy is? And they would respond either by saying, no, I don't know who that is, or they would respond by saying, yes, that was the gentleman in the Civic.

Q So is that what you did with Mr. Jackson? Is that how you talked about Mr. Jackson?
A Is that how what?
Q Is that how you dealt with Mr. Jackson in this case? Did you show them a picture of Mr. Jackson? Is that what you did?
A Did I show him a picture?
Q No. Did you show these guys these photos that you testified --
A I would have to go through every single interview

again and confirm that.
Q Okay.
A So, right now, I can't say yes or no. I would have to go through all the interviews.
Now, as far as Zykeia, like I said, I remember making the pictures and putting the pictures with the vehicles, and stuff like that. That's how I could get this to make more sense to me. I want to be able to, I guess, get confused [sic] who was in what car, and so on and so forth. That's why I -- I made it for me, basically.
Q So she's the only one you put pictures on a wall and asked her about; correct?
A I don't think I spoke with anybody else with these pictures behind me. I want to say, yes. But I'm not 100 percent sure.
Q Would it surprise you that none of the videos show -- have any indication that Mr. Jackson was involved with this?
A The videos that I --
Q Yes.
A If the videos don't say anything, then...
MR. ROBINSON: Okay. That's all I have.
Thank you.
MS. SALISBURY: Your Honor, I don't have any additional questions.

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I don't know if you need to hear argument from the State.

THE COURT: All right. You can step down.

THE WITNESS: Thank you.

THE COURT: Any further evidence?

MS. SALISBURY: Nothing else from the State.

MR. ROBINSON: Judge, I'd like to put up Mr. Maldonado.

MR. SMITH: Your Honor, I have no problem -- just -- because he's already given a statement to the police.

THE COURT: All right.

MR. ROBINSON: I'm going to withdraw that.

Nothing more, Your Honor.

THE COURT: All right. Anything else on Neil v. Biggers?

Any argument, Mr. Robinson?

MR. ROBINSON: No, sir, Judge.

THE COURT: All right.

MS. SALISBURY: Nothing from the State, Your Honor, unless you need to hear something.

THE COURT: Well, based on what I heard, I don't find the procedure was unduly suggestive. I think, at least, some, if not all of the out-of-court identifications were made after -- if I heard Investigator Owens correctly, who I find to be credible, he was given someone's name by

these witnesses. And then he had photographs, I think, of them with -- they confirmed the identification.

To the extent there was some testimony about so called show-up identification or one photo array, maybe that's redundant or oxymoronic. But to the extent there was no impermissibly suggestive identification procedure performed out of court, I still find that the likelihood of irreparable misidentification at trial is remote.

And, therefore, I find there's no due process violation under Neil v. Biggers, or Bustamante, or any other case, Liebermann, that would require me to prohibit the in-court identifications.

So thank you.

Anything else before we call the jury up?

MS. SALISBURY: Nothing else from the State, Your Honor.

MR. SMITH: Nothing further.

MR. ROBINSON: No, Your Honor.

MS. SALISBURY: Your Honor, it's just been brought to my attention that, perhaps, we have a jury panel of only 40. I don't know if that will be enough to pick from. We could see how it goes.

But is it possible to bring back more in the morning?

THE COURT: How many more do we have down there?

THE CLERK: I don't know who told her 40. But I will

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call downstairs.

(Pause.)

THE COURT: Do y'all think 50 will be enough?

MS. SALISBURY: I think it will, certainly, come close. I mean, it's 10 and 20. So 45 -- I think 50 should probably get it done.

THE COURT: Just tell her 55.

We'll be at ease while we're awaiting the jury panel.

(WHEREUPON, a break was taken.)

THE COURT: How long is this trial supposed to last?

MS. SALISBURY: Your Honor, I anticipate being able to rest either late Tuesday, or possibly Wednesday.

THE COURT: Do y'all agree with that?

MR. SMITH: Yes, sir.

I mean, I think most of her witnesses are going to be fluff anyway. So we can get them on the stand and off the stand.

MR. ROBINSON: Your Honor?

THE COURT: Yes, sir.

MR. ROBINSON: Before the jury comes in, I would ask the Court that the Defendants that have already pled guilty and they're down at the detention center that they be separated at different places at the detention center so they can't talk amongst themselves.

THE COURT: I mean, I don't get involved in the

operations of the detention center, so.

MR. ROBINSON: Yes, sir.

THE COURT: Has there been anything in the media about this case? I'm looking at this voir dire.

MS. SALISBURY: Your Honor, I'm not, specifically, aware of anything.

THE COURT: Does anybody have any knowledge of it being in the media?

MR. SMITH: I haven't heard anything.

MR. ROBINSON: I have no knowledge, Your Honor. I was just asking if something did come out.

(WHEREUPON, the jury panel entered the courtroom.)

THE COURT: Ladies and gentlemen, good afternoon.

My name is Gary Hill. I'm one of the circuit judges here in Greenville and Pickens Counties. I'm glad to be serving with you this week in my home circuit.

We are going to select the jury in a criminal case that, actually, has two Defendants. Joseph Colon Maldonado and Lorenzo Azia Jackson are the Defendants.

And before we get started, let me just set forth some things that are important about criminal cases. First of all, I'm about to read to you a number of indictments -- and we'll just wait until we get all the chairs in here before we do that.

(Pause.)

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THE COURT: All right. Has everybody got a seat?

(WHEREUPON, there was no response.)

THE COURT: I'll stand up then. No. Y'all sit down. Listen to what I'm saying.

All right. As I mentioned, I'm going to --

THE BAILIFF: I'm sorry, sir.

THE COURT: That's all right. He's just trying to do his job. You go ahead and do that.

These indictments contain allegations. That's all they are. They're just allegations at this point. They don't constitute evidence of anything. They don't even constitute a suspicion of guilt.

An indictment is simply the formal way a case gets started. It allows a citizen to be informed of what he is charged with. And it is the ticket, so to speak, that allows the State to come into the courtroom and start a criminal prosecution against a defendant for trial. So bear that in mind as I go through these indictments that they are simply allegations, mere allegations at this point.

These Defendants have pled not guilty. And that puts the burden of proof entirely on the State. And a Defendant may only be convicted if the State has proven each and every element of the crime beyond a reasonable doubt to the satisfaction of all 12 jurors.

The Defendant in a criminal case is always presumed innocent. A Defendant does not have to prove himself innocent, or prove himself not guilty, or offer any evidence or explanation whatsoever. That's simply the way our system is designed. And it's important that you know those principles up front. And I'm sure you probably already knew them, but to be reminded of them here today.

So I'm going to read the allegations of the indictments. The first indictment is 2014-GS-23-11798, State v. Joseph Colon Maldonado. It alleges that Joseph Colon Maldonado did in Greenville County on or about the 3rd day of September, 2014, while armed with a deadly weapon or while alleging either by action or words he was armed, or while using a representation of a deadly weapon, or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon did take by means of force or intimidation goods or monies described as U.S. currency from the person or presence of Bobby McClean. This is in violation of Section 16-11-330 of the South Carolina Code of Laws.

Case number 2014-GS-23-11799, State v. Joseph Colon Maldonado, alleges in count one that he did in Greenville County on or about the 3rd day of September, 2014, unlawfully with malice aforethought and with the intent to kill did attempt to kill Dean Suttles. This is in

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violation of Section 16-3-29 of the South Carolina Code of Laws.

Count two alleges that Joseph Colon Maldonado did in Greenville County on or about the 3rd day of September, 2014, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to-wit, burglary first degree and/or armed robbery, or attempted murder. This is in violation of Section 16-3-490 of the South Carolina Code of Laws.

Case 2014-GS-23-11796 alleges that Mr. Maldonado did in Greenville County on or about the 3rd day of September, 2014, unlawfully injure Nathaniel Davis. And the act occurred during the commission of a robbery and/or burglary. This is in violation of Section 16-3-600 of the South Carolina Code of Laws.

Case 2014-GS-23-11797 alleges that Mr. Maldonado did in Greenville County on or about the 3rd day of September, 2014, unlawfully injure Bobby McClean. And the act occurred during the commission of a robbery and/or burglary. This is in violation of Section 16-3-600 of the South Carolina Code of Laws.

Case 2014-GS-23-11795 alleges that Mr. Maldonado did in Greenville County on or about the 3rd day of September, 2014, willfully and unlawfully combine with, at least, one or more coconspirators for the purpose of accomplishing an

unlawful object or a lawful object by unlawful means, to-wit, burglary, and/or armed robbery, and/or attempted murder, and/or assault and battery. This is in violation of Section 16-17-410 of the South Carolina Code of Laws.

Case 2014-GS-23-11800 alleges that Mr. Maldonado did in Greenville County on or about the 3rd day of September, 2014, willfully and unlawfully enter the dwelling of Tony Grove located at [redacted] East Parker Road without consent and with the intent to commit a crime therein. And the burglary was accompanied by circumstances of aggravation, to-wit, armed with a deadly weapon, and/or did cause physical injury to any person who is not a participant in the crime, and/or use or threatened the use of a dangerous instrument, and/or displays what is or appears to be a firearm, and/or the entering and/or remaining occurred during the nighttime hours. This is in violation of Section 16-11-311 of the South Carolina Code of Laws.

Now, the indictments alleged against Mr. Lorenzo Azia Jackson are case 2014-GS-23-11840, which alleges that Lorenzo Azia Jackson did in Greenville County on or about the 3rd day of September, 2014, willfully and unlawfully combine with, at least, one or more coconspirators for the purpose of accomplishing an unlawful object or a lawful object by unlawful means, to-wit, armed robbery, and/or burglary first degree, and/or attempted murder, and/or

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assault and battery. This is in violation of Section 16-17-14 of the South Carolina Code of Laws.

In indictment number 2014-GS-23-11842, it is alleged that Lorenzo Azia Jackson did in Greenville County on or about the 3rd day of September, 2014, unlawfully injure Bobby McClean. And the act occurred during the commission of a robbery, burglary, kidnapping, or theft. This is in violation of Section 16-3-600 of the South Carolina Code of Laws.

Indictment 2014-GS-23-11841 alleges that Mr. Jackson did in this county on or about the 3rd day of September, 2014, unlawfully injure Nathaniel Davis, and the act occurred during the commission of a robbery, burglary, kidnapping, or theft. This is in violation of Section 16-3-600 of the South Carolina Code of Laws.

Case 2014-GS-23-11839 alleges in count one that Lorenzo Azia Jackson did in Greenville County on or about the 3rd day of September, 2014, unlawfully with malice aforethought and with the intent to kill attempt to kill Dean Suttles. This is in violation of Section 16-3-29 of the South Carolina Code of Laws.

And in count two, it alleges that Mr. Jackson did in this county on or about the 3rd day of September, 2014, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to-wit, armed

robbery, and/or burglary first degree, and/or attempted murder. This is in violation of Section 16-23-490 of the South Carolina Code of Laws.

In case 2014-GS-23-11843, it alleges that Lorenzo Azia Jackson did in Greenville County on or about the 3rd day of September, 2014, while armed with a deadly weapon, or while alleging either by actions or words he was armed, or while using a representation of a deadly weapon, or any object which a person present during the commission of a robbery would reasonably believe to be a deadly weapon take by means of force or intimidation goods or monies described as U.S. currency from the person or presence of Bobby McClean. This is in violation of Section 16-11-330 of the South Carolina Code of Laws.

And, finally, case 2014-GS-23-11844 alleges that Lorenzo Azia Jackson did in Greenville County on or about the 3rd day of September, 2014, willfully and unlawfully enter the dwelling of Tony Grove located at [redacted] East Parker Road without consent and with the intent to commit a crime therein. And the burglary was accompanied by circumstances of aggravation, to-wit, armed with a deadly weapon, and/or did cause a physical injury to any person who is not a participant in the crime, and/or use or threatened to use a dangerous instrument, and/or displays what is or appears to be a firearm, and/or the entering in

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or remaining did occur during the nighttime hours. This is in violation of Section 16-11-311 of the South Carolina Code of Laws.

Now, I'll ask Mr. Maldonado and Mr. Jackson just to stand up so everybody can see them.

Thank you, gentlemen.

JURY QUALIFICATION

THE COURT: Is there anyone here who is related by blood or marriage or kin to either Lorenzo Azia Jackson or Joseph Colon Maldonado? If so, please, stand.

(WHEREUPON, there was no response.)

THE COURT: Does anyone have any personal, social, or business relationship with either of these gentlemen? If so, please, stand.

(WHEREUPON, there was no response.)

THE COURT: Does anyone know anything about this case, other than what you've heard from me here this afternoon? If so, please, stand.

(WHEREUPON, there was no response.)

THE COURT: The people who may testify in this case include: Dean Scaturro; Evelyn Jackson; Demetrius Singleton; Bobby McClean; a custodian of records for Sentinel Services. And there are a number of people who are employed by the county, including: Jonathan Parris, Bruce Emily, Matt Waters, Jonathan Bastoni, Devon Hoover,

Andrew Sexton, David Weiner, Mike Fortner, Patrick Swift, Mason Hubber, Chad Maltby, Chris Pletcher, Jake Walters, Jesse Wasserman, Ricky Motes, Jim Leathers, Matt Owens, Timothy Riley, Adam Davis, Tyler Bucholtz, Melanie Watson, Kara Bennick, Kathy Lance, James Armstrong, Tony Grove -- let's see. I don't believe these people are with the county, but Tony Grove, Dean Suttles, Bobby McClean, Nathaniel Davis, Tyshun Richardson, Andre Willis, Mario Idinha, Quancey Harper, Zykeia Harper, Mike Smalls, Demetrius Smalls, and Jakobe German.

Does that cover all the witnesses, everybody?

MR. SMITH: Yes, Your Honor.

MS. SALISBURY: Your Honor, just one addition, Damon Young-Gaines.

THE COURT: How do you spell the last name?

MS. SALISBURY: It's hyphenated, Young-Gaines.

THE COURT: Oh, okay.

And is there anyone here who's related by blood or marriage, or kin to any of those potential witnesses? If so, please, stand.

(WHEREUPON, there was no response.)

THE COURT: Does anyone have any personal, social, or business relationship with any of these potential witnesses? If so, please, stand.

Yes, ma'am. Tell me your name.

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JUROR #139, SHARON LOCK: Sharon Lock, #139.

I used to go to church with Jim Leathers a few years ago.

THE COURT: Would that affect your ability to be fair and impartial?

JUROR #139, SHARON LOCK: I don't think so.

THE COURT: You could decide this case based on the evidence and the law?

JUROR #139, SHARON LOCK: Yes, sir, I believe so.

THE COURT: Thank you.

All right. Does anybody else know any of these potential witnesses?

Now, let me just impress upon you how important this is. If two days from now, we're in the middle of the trial and some witness they call whose name I've already listed comes in here and you go, oh, my goodness, I didn't realize you were talking about that Matt Waters, it causes a huge problem.

So does anybody have anybody on that list they think they might have a connection to and would not be able to judge such a person's credibility fairly and impartially?

(WHEREUPON, there was no response.)

THE COURT: Okay. I'll ask the lawyers who are going to be involved in this case to introduce themselves.

And, yes, ma'am, Ms. Salisbury.

MS. SALISBURY: May it please the Court, Your Honor. Good afternoon.

My name is Katryna Salisbury. I'm a solicitor here in the Thirteenth Judicial Solicitor's Office.

MR. SMITH: Hi. I'm Fletcher Smith.

And I'm an attorney here. And I practice here in Greenville and statewide.

Thank you.

MR. ROBINSON: Good afternoon.

I'm Scott Robinson. I practice in Greenville.

THE COURT: Does anyone have any personal, social, or business relationship, or are you related by blood, or marriage, or kin to in any way the lawyers in this case? If so, please, stand.

JUROR #116, DARLENA IVERY: Mr. Smith represented some of my family in the past.

THE COURT: And, ma'am, your name?

JUROR #116, DARLENA IVERY: Darlena Ivery.

THE COURT: Would that affect your ability to be fair and impartial in this case?

JUROR #116, DARLENA IVERY: I wouldn't think so.

THE COURT: You could decide the case without any bias, or prejudice, and according to the law and the evidence?

JUROR #116, DARLENA IVERY: Yes, sir.

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THE COURT: All right. Thank you.

Yes, ma'am.

JUROR #114, DOROTHY HUSKEY: I'm a paralegal. And I work for McAngus Goudelock & Courie. I know Mr. Smith.

THE COURT: And tell me your name.

JUROR #114, DOROTHY HUSKEY: Just in passing.

Dorothy Husky.

THE COURT: Would that affect your ability to be fair and impartial in this case?

JUROR #114, DOROTHY HUSKEY: No.

THE COURT: You could decide the case based on the evidence and the law?

JUROR #114, DOROTHY HUSKEY: Yes.

THE COURT: Thank you.

Has anyone ever been represented by Mr. Smith, Mr. Robinson, or their firms, or been employed by them, or had a member of your immediate family be employed with them? Or has anyone been employed by the Solicitor's Office for the Thirteenth Circuit, or had a member of your immediate family be so employed? If so, please, stand.

(WHEREUPON, there was no response.)

THE COURT: Is there anyone here who is a contributor to, whether it's your time, or your money, or any other support you might give them any organization whose primary purpose is to promote victim's rights or more aggressive

law enforcement? If so, please, stand.

(WHEREUPON, there was no response.)

THE COURT: Okay. The next several questions ask for some personal information. And if you need to respond, we'll talk to you down here in a little more private atmosphere. We'll still be on the record, of course.

But these questions are as follows: Is there anyone here who has been arrested, charged with, indicted for, or been the victim of a violent crime, or had a member of their immediate family be so charged, or the victim of such a violent crime? And by "immediate family," I mean your spouse, child, parent, or sibling.

And is there anyone here who is -- has a member of their immediate family employed by law enforcement, whether it's the solicitor's office, or the sheriff's office, city police, FBI, or been -- or have you yourself been so employed?

Those are the questions. So if anyone needs to respond, I'll be glad to talk to you up here in the front.

(WHEREUPON, a sidebar was held with the Court, the attorneys, and potential juror.)

(WHEREUPON, Juror #247, Hector Zapata, came forward.)

THE COURT: Yes, sir. Just -- Ms. Jenkins has got to be able to hear you, but other than that --

JUROR #247, HECTOR ZAPATA: #247, Hector Zapata.

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I was a police officer with the Greer Police Department back in 2006 and 2008.

THE COURT: Okay. Thank you.

(WHEREUPON, Juror #247, Hector Zapata, was seated.)

(WHEREUPON, Juror #186, Dawn Phillips, came forward.)

JUROR #186, DAWN PHILLIPS: About 20 years ago --

THE COURT: Hold on a second.

Ms. Phillips, #186.

All right. Go ahead.

JUROR #186, DAWN PHILLIPS: I had a sister that was murdered in New York. It's been about 20 years ago.

THE COURT: All right. Could you decide this case fairly and impartially given that experience?

JUROR #186, DAWN PHILLIPS: Yeah.

THE COURT: All right. You could decide this case based on the evidence and the law?

JUROR #186, DAWN PHILLIPS: Yes.

THE COURT: Thank you.

(WHEREUPON, Juror #186, Dawn Phillips, was seated.)

(WHEREUPON, Juror #7, Azia Artale, came forward.)

THE COURT: How are you doing?

JUROR #7, AZIA ARTALE: Azia Artale.

THE COURT: Okay.

JUROR #7, AZIA ARTALE: My brother when he was 18, he was involved with a robbery. And he was in juvenile

detention until he was 18. And then he was released.

Also, my brother-in-law is in the fire department.

THE COURT: Would that affect your ability to be fair and impartial in this case?

JUROR #7, AZIA ARTALE: I don't believe so.

The only other thing is I'm a witness of God. And it would only allow me to make a faithful judgment if there was, at least, two witnesses.

THE COURT: What -- what would require you to do that?

JUROR #7, AZIA ARTALE: I mean, like two eye witnesses to the case.

THE COURT: Oh, okay. Well, you're saying that if you were instructed by the Court with the law that you would still follow the Bible's law?

JUROR #7, AZIA ARTALE: Divinity.

THE COURT: Including the part that says render under Caesar?

JUROR #7, AZIA ARTALE: Yeah. First to God, though.

THE COURT: All right. Well, we'll excuse you from this case.

Thank you.

(WHEREUPON, Juror #7, Azia Artale, was seated.)

(WHEREUPON, Juror #188, Helia Pimentel, came forward.)

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THE COURT: How are you doing?

JUROR #188, HELIA PIMENTEL: Fine.

My two sons, while on their way home, were beaten by two black boys.

THE COURT: I'm sorry. Can you start over?

JUROR #188, HELIA PIMENTEL: My --

THE COURT: You're #188?

JUROR #188, HELIA PIMENTEL: Yes.

THE COURT: Okay. Go ahead, Ms. Pimentel.

JUROR #188, HELIA PIMENTEL: My sons, when they were young and in elementary school, were attacked by two black boys, beaten, and got their bikes stolen.

THE COURT: Okay. Could you be fair and impartial in this case?

JUROR #188, HELIA PIMENTEL: Yeah.

THE COURT: And you could decide this case based on the evidence and the law, and put that prior episode out of your mind?

JUROR #188, HELIA PIMENTEL: Yes.

THE COURT: You're confident of that?

JUROR #188, HELIA PIMENTEL: Yes.

THE COURT: All right. Thank you.

(WHEREUPON, Juror #188, Helia Pimentel, was seated.)

(WHEREUPON, Juror #236, John Wells, came forward.)

THE COURT: How are you doing?

JUROR #236, JOHN WELLS: My son is an officer with the City of Laurens.

THE COURT: Okay. Thank you, sir.

(WHEREUPON, Juror #236, John Wells, was seated.)

(WHEREUPON, Juror #58, Matthew Dey, came forward.)

THE COURT: Yes, sir.

JUROR #58, MATTHEW DEY: I was a victim of a highly aggravated assault. It was -- I was attacked by about 12 African-Americans.

THE COURT: So you're number #58?

JUROR #58, MATTHEW DEY: Yeah.

THE COURT: And would you be able to put that aside and decide this case based on the evidence and the law?

JUROR #58, MATTHEW DEY: I believe so.

THE COURT: You could decide this case fairly and impartially?

JUROR #58, MATTHEW DEY: I believe so.

THE COURT: Okay. Thank you.

(WHEREUPON, Juror #58, Matthew Dey, was seated.)

THE COURT: All right. Any other voir dire?

MR. SMITH: No, sir.

MS. SALISBURY: No, Your Honor.

MR. ROBINSON: No, Your Honor.

(WHEREUPON, there was no response.)

(WHEREUPON, the sidebar was concluded.)

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THE COURT: Does anyone know of any reason why they could not be fair and impartial in this case, or aware of any bias or prejudices they may have as to anyone or any issue involved in this case? If so, please, stand.

(WHEREUPON, there was no response.)

THE COURT: All right. We will proceed with the selection of the jury.

So, as I understand it, the strikes are 10 and 20.

MR. SMITH: Yes, sir.

THE COURT: Total for the Defense.

MR. SMITH: Yes, sir.

THE COURT: Okay.

MR. SMITH: Thank you, Your Honor.

JURY SELECTION

THE CLERK: When I call your name, would you, please, stand in place, and then we'll either have you sit back down or come to the jury box.

Juror #149, Joy Martin.

(WHEREUPON, Joy Martin, a white female, stood.)

THE CLERK: What says the State?

JUROR #149, JOY MARTIN: I'm sorry.

THE CLERK: Oh, I'm asking the State if --

MS. SALISBURY: Please present Ms. Martin.

THE COURT: What says the Defendants?

MR. SMITH: Swear the juror.

THE CLERK: You may bring your things and have a seat in the jury box.

Juror #88, Deonte Gist.

(WHEREUPON, Deonte Gist, a black male, stood.)

THE CLERK: What says the State?

MS. SALISBURY: Please present Mr. Gist.

THE CLERK: What says the Defendants?

MR. SMITH: Swear the juror.

THE CLERK: Please bring your things and have a seat in the jury box.

Juror #158, Erin McCarthy.

(WHEREUPON, Erin McCarthy, a white female, stood.)

THE CLERK: What says the State?

MS. SALISBURY: Please present Ms. McCarthy.

THE CLERK: What says the Defendants?

MR. SMITH: Just excuse her for just this case.

THE CLERK: You may, please, have a seat.

Juror #135, Darren Lawson.

(WHEREUPON, Darren Lawson, a white male, stood.)

THE CLERK: What says the State?

MS. SALISBURY: Please present Mr. Lawson.

THE CLERK: What says the Defendants?

MR. SMITH: Excuse the gentleman for this case.

THE CLERK: You may take your seat.

Juror #84, Camden Gfeller.

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(WHEREUPON, Camden Gfeller, a white male, stood.)
THE CLERK: What says the State?
MS. SALISBURY: Please present Mr. Gfeller.
THE CLERK: What says the Defendants?
MR. SMITH: Excuse the gentleman for this case.
THE CLERK: You may take your seat.
Juror #159, Dennis McClain.
(WHEREUPON, Dennis McClain, a white male, stood.)
THE CLERK: What says the State?
MS. SALISBURY: Please present Mr. McClain.
THE CLERK: What says the Defendants?
MR. SMITH: Excuse Mr. McClain for this case, please.
THE CLERK: You may take your seat.
Juror #223, Gerzet --
(WHEREUPON, Jerzy Szczgiel, a white male, stood.)
JUROR #223, JERZY SZCZGIEL: It's Jerzy --
THE CLERK: I'm sorry. Go ahead.
And your last name?
JUROR #223, JERZY SZCZGIEL: Szczgiel.
THE CLERK: Thank you.
What says the State?
MS. SALISBURY: Please excuse the juror.
THE CLERK: You may take your seat.
Juror #256, Brandon Toliver.
(WHEREUPON, Brandon Toliver, a black male, stood.)

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THE CLERK: What says the State?
MS. SALISBURY: Please excuse Mr. Toliver.
THE CLERK: You may take your seat.
Juror #80, Janet Fuller.
(WHEREUPON, Janet Fuller, a white female, stood.)
THE CLERK: What says the State?
MS. SALISBURY: Please present Ms. Fuller.
THE CLERK: What says the Defendants?
MR. SMITH: Swear the lady.
THE CLERK: You may bring your things and have a seat in the jury box.
Juror #28, Dloran --
(WHEREUPON, Dloran Bradybissette, a white female, stood.)
JUROR #28, DLORAN BRADYBISSETTE: Bradybissette.
THE CLERK: Thank you.
What says the State?
MS. SALISBURY: Please present Ms. Bradybissette.
THE CLERK: What says the Defendants?
MR. SMITH: Swear the lady.
THE CLERK: You may bring your things and have a seat in the jury box.
Juror #161, Tracy McReynolds.
(WHEREUPON, Tracy McReynolds, a white female, stood.)
THE CLERK: What says the State?

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MS. SALISBURY: Please present Ms. McReynolds.
THE CLERK: What says the Defendant?
MR. SMITH: Swear the lady.
THE CLERK: You may bring your things and have a seat in the juror box.
Juror #188, Helia Pimentel.
(WHEREUPON, Helia Pimentel, a white female, stood.)
THE CLERK: What says the State?
MS. SALISBURY: Please present Ms. Pimentel.
THE CLERK: What says the Defendants?
MR. SMITH: Excuse her for this case, please.
THE CLERK: You may, please, take your seat.
Juror #144, Todd Lumsden.
(WHEREUPON, Todd Lumsden, a white male, stood?
THE CLERK: What says the State?
MS. SALISBURY: Please present Mr. Lumsden.
THE CLERK: What says the Defendants?
MR. SMITH: Swear the gentleman.
THE CLERK: You may bring your things and have a seat in the jury box.
Juror #146, Richard Lyons.
(WHEREUPON, Richard Lyons, a white male, stood.)
THE CLERK: What says the State?
MS. SALISBURY: Please present Mr. Lyons.
THE CLERK: What --

MR. SMITH: Swear Mr. Lyons.

THE CLERK: You may bring your things and have a seat in the jury box.

Juror #114, Dorothy Huskey.

(WHEREUPON, Dorothy Huskey, a white female, stood.)

THE CLERK: What says the State?

MS. SALISBURY: Please excuse Ms. Huskey.

THE CLERK: You may take a seat.

Juror #58, Matthew Dey.

(WHEREUPON, Matthew Dey, a white male, stood.)

THE CLERK: What says the State?

MS. SALISBURY: Please present Mr. Dey.

THE CLERK: What says the Defendants?

MR. SMITH: Excuse the gentleman for this case, please.

THE CLERK: You may take your seat.

Juror #67, Amanda Egli.

(WHEREUPON, Amanda Egli, a white female, stood.)

THE CLERK: What says the State?

MS. SALISBURY: Please present Ms. Egli.

THE CLERK: What says the Defendants?

MR. SMITH: Swear the lady.

THE CLERK: You may bring your things and have a seat in the jury box.

Juror #251, Sherice Ewart.

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(WHEREUPON, Sherice Ewart, a black female, stood.)
THE CLERK: What says the State?
MS. SALISBURY: Please present Ms. Ewart.
THE CLERK: What says the Defendants?
MR. SMITH: Mine is out of order on this sheet. I need to see it just make sure.
THE CLERK: Okay.
MR. SMITH: Swear the lady.
THE CLERK: You may bring your things and have a seat in the jury box.
Juror #212, Debra Shepherd.
(WHEREUPON, Debra Shepherd, a white female, stood.)
THE CLERK: What says the State?
MS. SALISBURY: Please present Ms. Shepherd.
THE CLERK: What says the Defendants?
MR. SMITH: Swear the lady.
THE CLERK: You may bring your things and have a seat in the jury box.
Juror #2, Frederick Aho.
(WHEREUPON, Frederick Aho, a white male, stood.)
THE CLERK: What says the State?
MS. SALISBURY: Please present Mr. Aho.
THE CLERK: What says the Defendants?
MR. SMITH: Swear the gentleman.
THE CLERK: You may bring your things and have a seat

in the jury box.

Juror #168, Robert Miller.

(WHEREUPON, Robert Miller, a white male, stood.)

THE CLERK: What says the State?

MS. SALISBURY: Please present Mr. Miller.

THE CLERK: What says the Defendants?

MR. SMITH: Please swear Mr. Miller.

THE CLERK: Bring your things and have a seat in the jury box.

THE COURT: So we'll go with two alternates.

THE CLERK: Okay. What is the strikes? One and...

THE COURT: One and two on the alternates.

THE CLERK: One and two. Okay.

Juror #231, John Violano.

(WHEREUPON, John Violano, a white male, stood.)

THE CLERK: What says the State?

MS. SALISBURY: Please present Mr. Violano.

THE CLERK: What says the Defendants?

MR. SMITH: Swear the gentleman.

THE CLERK: You may bring your things and have a seat in the jury box.

Juror #181, Andrea Pajon.

(WHEREUPON, Andrea Pajon, a Hispanic female, stood.)

THE CLERK: What says the State?

MS. SALISBURY: Please present Ms. Pajon.

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THE CLERK: What says the Defendants?

MR. SMITH: Swear Ms. Pajon.

THE CLERK: You may bring your thing and have a seat in the jury box.

THE COURT: Any matters or motions related to the jury selection process, or the composition of the jury?

MS. SALISBURY: Nothing from the State, Your Honor.

THE COURT: From the Defense?

MR. SMITH: Nothing from the Defense, Your Honor.

MR. ROBINSON: Nothing.

THE COURT: All right. I find it complied with all statutory and Constitutional requirements.

All right. Ladies and gentlemen, if you'll just go back to the jury room for a minute. And the bailiff will show you where it is right across the hall.

Thank you very much.

(WHEREUPON, the jury was excused from open court at approximately 4:00 p.m.)

THE COURT: All right. And those of you who were not chosen, just, if you would, go back to the first floor to the jury assembly room. Ms. Olson will have further instructions for you.

Thank you for your patience and cooperation.

(WHEREUPON, the remaining jury panel members exited the courtroom.)

THE COURT: All right. Anything before we have the opening statements?

MS. SALISBURY: Nothing from the State, Your Honor.

I don't know how late you intend to go today. It will help me call witnesses if I need to get some officers here this afternoon.

THE COURT: Okay.

MR. SMITH: Can we start opening statements in the morning, Your Honor? I still have got to get some information from her, too.

MS. SALISBURY: I, certainly, don't have any objection to that. It'll help it feel [phonetic] a little bit disjointed, but I don't want to waste any of the Court's time.

THE COURT: I mean, my time is immaterial. I'm worried about the jurors time. I don't know. It's 4:00.

How long do we anticipate opening statements are going to last?

MS. SALISBURY: I expect mine to be extremely brief, Your Honor.

MR. SMITH: Mine no more than about 35 minutes, Your Honor.

THE COURT: 35 minutes?

MR. SMITH: Yeah.

MR. ROBINSON: I'm, certainly, not that long, Your

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Honor.

MR. SMITH: That's what they told us at the University of Virginia, Your Honor. So I don't know.

THE COURT: I don't think even Thomas Jefferson spoke that long.

MR. SMITH: Neither by land or by sea.

THE COURT: Well, I mean, if y'all want to do the openings in the morning, I don't have any problem with that.

MR. SMITH: Thank you, Your Honor.

THE COURT: I might go ahead and tell them the little opening thing I give them.

MR. SMITH: Yes, sir.

THE COURT: So we can kill some time.

MR. SMITH: Yes, sir.

THE COURT: We won't swear the jury.

MR. SMITH: Yes, sir.

THE COURT: Is that okay?

MR. SMITH: Yes, sir. It's okay with me, Your Honor.

THE COURT: Okay. Just bring them on in when you have a chance.

(WHEREUPON, the jury came into open court at approximately 4:06 p.m.)

INTRODUCTORY REMARKS

THE COURT: All right. Ladies and gentlemen, we're

going to, actually, begin this trial tomorrow morning. I'll just give you a few introductory remarks. And we'll have the opening statements of the lawyers and the presentation of evidence will begin tomorrow morning.

I want to, again, thank you for your service this week. I know you didn't come down here voluntarily this morning. And you probably groaned when you got the summons in the mail.

But you understand that you're here, in part, because you're either registered to vote, or licensed to drive, or you have some identification card from the State. But you may not be aware of why you were chosen on this particular case. And the reason you were chosen on this particular case is because all three of the parties, that is, the State, Mr. Maldonado, and Mr. Jackson believe you can be fair, and impartial, and you can decide this case without any kind of bias or prejudice whatsoever. So that's why you were chosen.

Any time we have a trial in circuit court with a jury, there are always two judges. There's the judge of the law, which is the role that I fulfill. And there's the judges of the facts, which is the role you fulfill. I'll tell you what my job entails first, because it's much easier than yours.

As the judge of the law, I have two main

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responsibilities during the trial. The first is to rule on the admissibility of evidence. If some objection is made during the course of the trial about whether evidence should be admitted and considered by you -- and don't hold it against the lawyers for making objections. That's their job, after all, and they have an ethical obligation to do so.

But if an objection is made, I will rule on it under the law and determine whether or not the evidence is something you can consider. If I overrule the objection, that just means the evidence is something you can consider in this case. If I sustain it, it means that particular piece of evidence cannot be considered in this particular case.

The second job I have, as the judge of the law, is I will instruct you on what the law is that applies to the facts of this case. And I'll do that at the end of the trial after you've heard all the evidence and arguments.

Now, you are the judges of the facts. And our Constitution prohibits me from making any comment on the facts during this trial. And I won't do that. And don't construe anything I do or say during this trial as any indication as to what I think your verdict should be, or what the facts are, because that's entirely up to you. Under our system of justice, you and you alone determine

what the facts are.

So how do you determine what the facts are? You do that by weighing and considering the evidence you're going to hear during this trial. Evidence consists of two sources. The first is the one you're most familiar with, and that is sworn witness testimony.

I know very little about this trial. That's just the way our system is set up. But I suspect we will have witnesses that are called that will come in and tell you things they know about and are relevant to this case. That's the first source or type of evidence you can use to determine what the facts are, sworn witness testimony.

The second type of evidence you can use is by way of an exhibit. An exhibit is simply a physical, tangible object. It might be a map, or photograph, or something of that nature. But you'll know it's an exhibit. And you'll know it's something you can use to determine the facts in this case, because it will be back in the jury room with you after we conclude the case. It will have a sticker that says "exhibit number" so and so. So bear in mind as we go through the trial that those are the only two things you may consider, sworn witness testimony and exhibits. Nothing else is evidence.

What the lawyers say -- while you should pay keen attention to it because they're trying to help you

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understand the evidence. But what they say is not in itself evidence, because they're not witnesses nor, unless things really go awry, will they be exhibits. So keep that in mind as we go through the trial.

Now, as I told you, a criminal trial has certain principles that apply to it that are very important and fundamental to our system of justice. The first is that the indictment is not evidence. It's simply an allegation. And I told you about that earlier today.

The second thing is that the Defendants are presumed innocent. That is, they don't have to prove themselves innocent, or prove themselves not guilty, nor do they have to offer any evidence or explanation whatsoever. The burden of proof is entirely on the State. And a Defendant in a criminal case can only be convicted if you are convinced that the State has proven each and every element of the crime beyond a reasonable doubt.

And that means, in this case, where there are two Defendants and multiple charges, you will have to do that weighing of the evidence as to each charge and as to each Defendant and not let your decision on one affect your decision as to the other charges. Each Defendant is entitled to independent and separate consideration of the evidence on every charge that has been alleged against them.

Now, I will just ask you to pay close attention during the trial. If you wish to take notes, you can take notes. But don't let your notes dominate your attention. Don't become so engrossed in them that you don't pay attention to the witnesses, because you are the judges of the facts.

And, by necessity, you'll have to determine the credibility of all the evidence. So for every witness who testifies and every exhibit that's admitted, you'll have to weigh and assess the believability of that evidence.

So in the case of a witness who testifies, there's some guidelines I can give you that you may or may not wish to use. First of all, you can consider what interest the witness has in the outcome of this case, whether they have some bias or prejudice towards someone or some issue in the case, or something to be gained from their testimony.

You may consider how well the witness had the opportunity to tell you -- or to see and observe the things they're here to tell you about. You may consider their demeanor on the stand. And you may consider how their evidence stacks up against the other evidence in the case. You, certainly, can use whatever you use in your day-to-day life to determine whether someone or some thing is believable. Because your common sense did not suddenly

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evaporate when you walked into the downstairs lobby.

Now, this trial, I've been told, will probably go into Wednesday. It may go a little farther than that. I don't know. It's hard to estimate with any kind of precision how long it will last.

But, regardless of how long or short it is, this trial is very important to the State, and to Mr. Jackson, and to Mr. Maldonado. This is their day in court. And they're entitled to your undivided attention, and your fair and impartial consideration, which I know that you will give to them.

But don't start talking about this case until you've heard all the evidence and you've heard the closing arguments of the lawyers. Because these trials are somewhat like jigsaw puzzles. They can often be like that. And you, certainly, wouldn't try to solve a puzzle until you had all the pieces in the box. And you're not going to have all the pieces until you've heard from all the witnesses, had all the exhibits admitted, and heard the closing arguments.

So don't do any outside investigation. It's only natural and human curiosity to be interested about things. Today, that means we go straight to the Internet and try to find out more about it. And you would not be in keeping with your job as a juror to do that. Because

you're supposed to confine your decision to the evidence.

And our adversarial system in the United States has been around a long time. And it's worked very well for hundreds of years. And it's set up for very good reasons to make a juries decision be confined to the evidence you hear during court and not from outside investigations and independent endeavors of jurors, or others. So keep that in mind as we go throughout the trial.

I just want to thank you for your attention to me.

And we'll start back up at 9:00 in the morning. Be back in the jury room at 9:00 a.m. And we'll, actually, start the -- have the opening statements and the presentation of evidence at that time.

Anything for the record?

MS. SALISBURY: No. Nothing from the State, Your Honor.

MR. SMITH: Nothing from us, Your Honor.

THE COURT: All right. Thank y'all very much.

Have a good evening.

(WHEREUPON, the jury was excused from open court at approximately 4:16 p.m.)

THE COURT: Anything before we recess?

MR. SMITH: Nothing, Your Honor.

She's going to get me my information. So I'm going to walk down to her office with her.

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MS. SALISBURY: Judge, should we discuss the custody status of Mr. Maldonado? I don't know if you -- it's the State's position, of course, at the beginning of trial that bond is satisfied.

THE COURT: Yes. I would agree that they don't have a bond anymore. So they will be in custody.

MS. SALISBURY: Okay. Thank you, Your Honor.

MR. SMITH: Your Honor, you instructed her to give me the information and I would like to get it before I leave.

MS. SALISBURY: That's fine. I've just got to handle these boxes.

THE COURT: Yes. I thought she was going to go get it.

MR. SMITH: Me, too. But I think she's going to do something different.

MS. SALISBURY: I'm just trying to handle the guns, Judge. Sorry.

THE COURT: Okay. Thank you.

(WHEREUPON, the proceedings were concluded at approximately 4:18 p.m., to be reconvened on Tuesday, August 23, 2016.)

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TUESDAY, AUGUST 23, 2016

THE COURT: Good morning.

Yes, sir, Mr. Smith.

MR. SMITH: Yes, sir, Your Honor.

May it please the Court.

Mr. Scaturro, would you stand up?

I found Mr. Scaturro last night over in the area where the crime was committed. He was the independent witness I had told the Court --

THE COURT: Yes.

MR. SMITH: -- about who's going to cast -- whatever witnesses that they put on, we want to make sure those witnesses if they say something different than what the independent witness, they're [inaudible] perjury. The fact is this is an independent witness who knows all these people who are victims in this case, who saw the actual car leave the scene.

He told the police officer about it during the course of this investigation. The police officer notes it. The police officer even showed him the video out at the scene that night.

I made the witness available to Ms. Katryna Salisbury so she could -- and she went out and met with him for a moment, but I don't think she was impressed with him. But the fact is it's in the file. And we want to make sure it

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gets on the record.

We're going to excuse him for right now, Your Honor, and allow him to come back at the time we need to put up our case in chief. But I think the Court should take this into consideration as the trial proceeds.

THE COURT: Well, I understand your comments.

Thank you, sir.

MR. SMITH: Yes, sir.

THE COURT: Anything before we bring the jury in?

MS. SALISBURY: Two issues very briefly, Your Honor. The first is I have a proposed order to have Ms. Zykeia Harper held overnight in the detention center.

THE COURT: Yes, ma'am.

MS. SALISBURY: But I'll secure the Court's approval to have her held from the Department of Corrections.

And the other issue is that as I understand the testimony -- and it may be much later in the case. But in the interest of bringing it up now so that maybe we can talk about it and resolve it, it's my understanding that some of the witnesses identified Mr. Jackson, in particular, by way of or in connection to the fact that he was wearing an ankle monitor at the time of this incident.

I shared with the Court before that Mr. Jackson was out on bond for an unrelated 2013 armed robbery at the time of this incident. And I can appreciate the Court is

sensitive to the jury hearing that kind of information.

So, to some extent, I just kind of want to get some guidance about what I might be able to tell those witnesses about the extent to which they can talk about that observation. I know it was critical as part of law enforcement's investigation in identifying Mr. Jackson that they confirmed that he was on house arrest. I'm just not sure how to navigate that issue.

THE COURT: Mr. Robinson.

MR. ROBINSON: May it please the Court.

Your Honor, I think the Court can -- I think an instruction that would not identify, specifically, an ankle monitor, something a little more moderate maybe. But I'm not sure exactly what else to call it. I didn't -- on the videotapes, I didn't hear any mention of an ankle monitor, but...

THE COURT: So how do you anticipate it coming up?

MS. SALISBURY: Well, at least, in -- I'm aware of the specific interview with Ms. Zykeia Harper, she asks Investigator Owens at one point during the conversation, Are those two -- referring to Mr. Jackson and Mr. Gantt -- on house arrest? And I believe at that point in the interview, Investigator Owens asks, Why do you ask that?

And she says, Because they -- those two were in the other car. They were wearing the ankle monitor.

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I, of course, will need an opportunity to instruct her whether she can say that. But it's part of how law enforcement identified them. So it may come out during Investigator Owens' testimony and, certainly, some of the co-defendants.

Again, as I shared yesterday, I've not had the luxury of speaking with all the co-defendants personally because they've been represented. So I don't know if the others might identify Mr. Jackson the same way, or if they might choose to recall that particular detail.

So it will either come up as part of how law enforcement identified Mr. Jackson and then, also, how some of the co-defendants -- it's sort of like an identifier, like a tattoo, or something unique about that person. It's a touchy subject. But it's, I think, critical to how law enforcement figured out that Mr. Jackson was the suspect, as opposed to some other random person.

MR. ROBINSON: May it please the Court.

I have a real issue with her talking to the co-defendants that have pled guilty asking them about the ankle monitor. Because, of course, they're going to say there was an ankle monitor because they've either got a deferred sentence or something else in this case.

I would ask that she not speak to them about that

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because they didn't talk about any ankle monitor at all in any of their interviews with law enforcement.

And this Zykeia Harper, it was -- in the first and second interviews, there was no mention of it. And the third, last interview, which was, I believe -- she pled, actually, in 2016.

But, Your Honor, she -- I'm not sure how law enforcement got her to do that -- to say that. But I don't think anybody else needs to know about that as far as putting in their mind about this indicator.

THE COURT: Well, what else did she use to identify him?

MS. SALISBURY: Well, in the third interview, she, actually, calls him by name. But it is, initially, that exchange between she and the investigator.

And, at this point, I don't have any intention of playing those interviews. I don't think that's necessary. Obviously, should it become relevant for impeachment purposes, we can explore how to best do that.

But to the extent that she used that as an identifier when speaking to the police, it came to mind that she may again today or tomorrow, during her testimony, use that as an identifier when describing who else was with her during this robbery.

So, again, I just wanted to figure out what -- how to

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talk about it.

Law enforcement took that information from her and then I believe -- I have some records in our case file that document both Mr. Gantt and Mr. Jackson being on house arrest. So I believe they took that information, followed up, verified to some extent that this was a person that did have -- that would have been wearing an ankle monitor to sort of verify and corroborate her statement. And that's powerful evidence as far as the State is concerned to suggest that she --

THE COURT: So you're intending to present that evidence; is that right?

MS. SALISBURY: Yes, sir.

I believe that it corroborates her statement. And it's entirely consistent with her account of who was present with her.

MR. ROBINSON: Your Honor, what's interesting is that in the videos that they gave to us, she says nothing about that one -- the first interview, the second interview. Then the third interview, you have that officer, you have Officer Weiner, I believe, with her, the grandmother, all these people in there.

They put -- they have a bunch of pictures on the wall. It's not a traditional six-person lineup. They're, basically, pointing around, and so forth. This is

extremely prejudicial to my client to have them be able to use the fact that he was on electronic monitoring at the time when it wasn't even mentioned in two different interviews that they gave in this case. And I believe it's extremely prejudicial for them to be able to use that.

THE COURT: Well, is this something we have to resolve before we have the opening statements?

MS. SALISBURY: No, sir. I don't believe so.

THE COURT: All right.

MR. SMITH: Your Honor, one other thing.

THE COURT: Yes, sir.

MR. SMITH: Last -- yesterday evening, my client was threatened by Quancey with death. And he said that he was going to make up stories to get a lighter sentence.

Zykeia, who's one of the defendants down there, who was in the jail, she was, actually, hollering out she was going to make up stories in order to get a lighter offense [sic].

And, at the point, I don't know which officer was down there. I'd like to have that officer here. This gets case more strange --

MS. SALISBURY: Your Honor, both of the Harpers have already been sentenced. So I don't know --

DEFENDANT MALDONADO: They're brother and sister.

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MR. SMITH: They're brother and sister.
THE COURT: Well --
DEFENDANT MALDONADO: They're sister --
THE COURT: -- sir, just let Mr. Smith talk on your behalf. He's a fine lawyer.
MR. SMITH: They're brother and sister, Your Honor. I think if they're making those kinds of comments down there saying they're going to lie when they get up here, whether they've been sentenced or not, it's kind of disturbing.
THE COURT: Well, I can only be concerned with what I have in here.
MR. SMITH: Yes, sir.
Would it be okay, Your Honor, if I could get the officer -- get his name at some point -- I don't know who was down there last night -- just to interview him about it? Because I might be able to impeach them during the trial with that.
THE COURT: I mean, I don't know who --
MR. SMITH: Yes, sir.
THE COURT: -- it is.
MR. SMITH: Yes, sir.
THE COURT: I'm sure the --
MR. SMITH: Thank you, Your Honor.
THE COURT: I mean, I don't have any way of knowing

that.

MR. SMITH: Yes, sir.

THE COURT: Okay. We'll bring the jury in.

(WHEREUPON, the jury came into open court at approximately 9:28 a.m.)

THE COURT: Good morning.

We're going to have the opening statements.

Before we do that, I'm going to ask the Clerk to swear you in. And bear in mind that the words in this oath have been around a long time. So listen to them closely.

And we'll have the swearing in, at this time, of the jury.

Yes, ma'am.

THE CLERK: Please stand and raise your right hand. And the correct response to the oath is "I will."

(WHEREUPON, the jury was sworn at approximately 9:30 a.m.)

THE CLERK: Thank you.

THE COURT: All right. Yes, ma'am, Ms. Salisbury.

OPENING STATEMENTS

MS. SALISBURY: May it please the Court, Your Honor.

Good morning, ladies and gentlemen.

As I was introduced to you yesterday, my name is Katryna Salisbury. And I prosecute criminal cases here in

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Greenville County.

Now, before we begin this trial, I want to very briefly tell you three things, what this case is about, what the State is required and intends to prove, and how we intend to prove it. At its core, this is a case about the lure, the appeal, the mere irresistible temptation of easy money.

On September 3rd, 2014, a crew of 10 people got together for one purpose, to force their way inside a home on East Parker Road here in Greenville, because they believed there was a safe inside.

On September 3rd, 2014, just after 8:00 in the evening, just after it got dark, this group of 10 people met up at the Citgo Corner Mart on East Parker Road. They had a brief discussion. And the two cars left together to travel to their target location. They parked a street over and approached the house on foot, faces covered, guns drawn.

The violent home invasion that happened next left two men seriously injured and a third shot several times. Over the course of this trial, you're going to hear exactly the role that each of these two Defendants played in that robbery.

Now, as you've heard from the Judge yesterday, each of these Defendants is charged with the same series of

crimes, each of them is charged with burglary in the first degree.

Now, to prove that a Defendant is guilty of burglary, the State has to prove three things, that without permission, they entered someone's home with the intent to commit a crime inside. Now, what makes that burglary a first degree burglary, the Judge will describe to you is a series of what the law calls aggravating circumstances. That they were armed with deadly weapons, that the entry occurred during the nighttime hours, that someone was injured during the burglary.

Each of these Defendants is, also, charged with armed robbery. To prove that someone is guilty of armed robbery, the State must prove that the Defendants took something of value by way of force, and that they were armed with a deadly weapon, in this case, guns.

Each of these two Defendants is charged with attempted murder, which is, basically, exactly what it sounds like, that the Defendants attempted to kill the victims with malice aforethought. We've heard that on TV before. What it, basically, means is a meanness, an ill will, an intent to do harm.

Each of these two Defendants is charged with assault and battery in the first degree, two counts. Because there were two victims that were injured. To prove that

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someone is guilty of assault and battery in the first degree, the State has to prove that there was an injury and, again, by way of aggravating circumstances that it occurred -- that injury occurred during a robbery, a burglary, a theft.

Each of these two Defendants is charged with conspiracy. The law says that someone is guilty of conspiracy if two or more people combine and agree to commit a crime together, they conspired.

And, finally, each of these two Defendants is charged with possession of a weapon during the commission of a violent crime. At the end of this trial, the Judge is going to instruct you that armed robbery, burglary in the first degree, attempted murder are each violent crimes, and that these Defendants were in possession of weapons during the commission of those violent crimes.

Now, you may be asking yourself, is it possible that each of these two Defendants -- each one of these 10 people that committed this crime had a gun, fired a shot, entered the victims home? No. I'll tell you now that's not what the evidence is going to show.

And the Judge is going to give you an instruction about a theory of law called accomplice liability. At the end of the trial, he's going to explain to you that it is the law in South Carolina that if two or more people

combine to commit a crime, they help one another, they assist one another, they lend aid to one another, then each one is guilty of all of the crimes that are a natural and reasonable consequence of that plan. It's sometimes said that the hand of one is the hand of all.

I like to think about it in the terms maybe of a bank robbery. Let's say two people agree to commit a bank robbery. One goes inside with a gun, the other stays in the car. Things go sideways inside the bank. And the one that goes inside ends up shooting the teller. She doesn't survive. The person driving that car is guilty of the robbery and he's guilty of the murder, based on the theory of the hand of one being the hand of all. Just something to keep in mind as we move through this trial.

Now, to prove that these two Defendants are guilty of all of those crimes, you're going to hear testimony from several witnesses. First, you're going to hear from the victims themselves. They're going to tell you exactly what they went through when several masked armed individuals approached them and forced their way inside their home on that September 3rd night.

You're going to hear from the deputies from the sheriff's office that responded that night, what they saw when they arrived, what they did, how they processed this scene.

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You'll hear from some of the forensic technicians that collected evidence. You'll have a chance to see what evidence was collected and how it connects to these two Defendants. You'll hear from the primary investigator on the case. And he'll tell you exactly how he put the pieces together and identified each one of the 10 that committed, planned, and executed this robbery.

In cases like this that are committed under the cover of darkness where everyone is masked, there's a sense of anonymity. Sometimes, it emboldens defendants to do things that they otherwise wouldn't do. They're covered. Their identity is concealed. And it's for that reason that cases like this are often only ever solved from the inside out.

And during this trial, you're going to hear from the inside. You're going to hear from the Defendants who stood beside these two as they tell you exactly what the plan was, exactly what they did, and exactly the role that these two Defendants played to make sure that the plan went as designed.

At the end of this trial, it is going to be apparent to everyone and you'll be convinced that a robbery occurred, a burglary occurred. This crime happened. And it happened largely as the victims say it did.

The only question for you to decide at the end of

this trial will be whether these two Defendants did exactly what the evidence shows they did. And at the end of this trial, I'll ask you to return verdicts that they're guilty of all the offenses with which they're charged.

Thank you.

THE COURT: Thank you, Ms. Salisbury.

Mr. Smith.

MR. SMITH: Thank you, Your Honor.

May it please the Court.

Members of the jury -- I did that one time and it all fell over.

All right. Members of the jury, I have the honor and privilege of representing Mr. Maldonado, Joseph Maldonado. His mother is seated in here and his wife. And they have two children. And he has been charged with --

Where are the indictments? May I see those, please?

THE CLERK: Do you want just his?

MR. SMITH: Yes, ma'am, just his.

He's been charged with attempted murder, robbery, burglary, possession of a weapon, attempted murder, two counts of assault and battery with intent to kill, and using a deadly weapon.

Members of the jury, we're going to prove to you that those are false charges. We're going to prove to you that

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at no time did Mr. Maldonado have a weapon, at no time did he go into any of these victims homes, at no time did he shoot Mr. Suttles, at no time did he pistol whip this man. The people who, actually, did those crimes have pled guilty in this case. And depending on what they do, they will get a lighter sentence. Because what we noted is they were facing 150 years of time. But they didn't get that for shooting, robbing, and attempting to murder these individuals back here.

Now, the other thing about it is this. Mr. Maldonado, as His Honor told you yesterday, is presumed innocent. And it's up to the State of South Carolina to prove his guilt beyond a reasonable doubt. And you must give that reasonable doubt to him throughout the course of this trial.

And, therefore, when you give him that reasonable doubt, and you're paying attention to the facts and circumstances of this case, or lack of facts and circumstances of this case, if you come to the conclusion that he's not guilty, then you must have the courage to say it.

Now, we have no burden of proof. We're going to prove to you that a number of individuals engaged in a criminal enterprise of terror. Not only did they engage in this enterprise of terror on September the 3rd, 2014,

but the night before, these same individuals, not with Mr. Maldonado being present, went into another home, kidnapped a woman, and beat --

MS. SALISBURY: Objection, Your Honor.

May we approach?

THE COURT: Yes.

(WHEREUPON, a bench conference was held.)

MR. SMITH: And so, therefore, there were two other incidents that these -- this criminal enterprise did that did not involve Mr. Maldonado. And we're going to demonstrate that to you. And you didn't hear that from the Prosecution's opening statement.

We're going to prove to you that Zykeia Harper, Damon Young-Gaines, Jakobe German, Quancey Harper, Malik Adams-Young all set up a deal prior to them meeting up with Mr. Maldonado.

So you say to yourself, how did Mr. Maldonado, a Hispanic, get involved with these -- this black gang, this black group? I'll tell you how. He was friends with a fellow by the name of Malik Young-Adams. Malik Young-Adams called him on September the -- September the 3rd, 2014, and told Mr. --

MS. SALISBURY: Objection, Your Honor. It's improper for the Defendant to offer evidence.

MR. SMITH: It's in the statement to the police.

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THE COURT: Well, it's just opening statements. We don't need argument right now, Mr. Smith.

MR. SMITH: Thank you, Your Honor.

We're going to prove to you, members of the jury, that being the good Samaritan and to try to take this individual to the hospital, who claimed that his mother was in the hospital, that Mr. Maldonado was duped by this individual. The police know it because he gave -- Mr. Maldonado cooperated a day or two after this incident happened and gave a statement without the benefit of legal counsel.

What Mr. Maldonado did not understand or did not know is these people had already --

MS. SALISBURY: Objection, Your Honor. The Defendant does not have to testify. It's inappropriate for his lawyer to offer his testimony during opening statements.

THE COURT: Yes, sir, Mr. Smith.

MR. SMITH: Yes, sir.

We will prove to you, members of the jury, that at no time did Mr. Maldonado conspire with any of these individuals to engage in any criminal act that would involve violence, or robbing, or anything of that nature. We will prove to you, members of the jury, that his friend Malik Young -- and we have pictures that we're going to show you of these individuals in this case where they put

on Facebook the weapons that they had. You will not find Mr. Maldonado in any of that whatsoever.

We're going to prove to you that these individuals went under the guise that they were cousins to these victims out there and had Mr. Maldonado to drive them to that incident location. They got out, went up to the residence, and robbed, beat, shot those people on East Parker Road.

When Mr. Maldonado -- we will prove to you from the statement he gave to police that when --

And the statement is in evidence, Your Honor. Because it was introduced into evidence during the course of time, I think.

THE COURT: I don't --

MR. SMITH: The video.

But we'll prove to you that Mr. Maldonado after -- when he heard shots, he left the scene. We will, also, prove to you that the people were angry at him and called him later on that night.

MS. SALISBURY: Objection, Your Honor. It's the same objection.

MR. SMITH: I can prove it.

THE COURT: Okay. He's laying out his -- what he intends to prove.

MR. SMITH: We're going to prove to you that this

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Malik Young called him later on that night because he was mad at Mr. Maldonado for leaving.

We're going to prove to you, too, because we have a man named Scaturro who -- and Mr. Scaturro, who we've subpoenaed in this case -- now, mind you, Mr. Maldonado was driving a CRV vehicle, a Jeep. Mr. Scaturro -- and we're going to present him because we found him last night. He's in the police record. He says the individuals that left the house got into a Honda Accord.

So any witness that gets up here and says they got in Mr. Maldonado's car after the shooting, the robbing, we believe that they're telling a lie. Members of the jury, most of this will be proved right from the Prosecution's own file.

We will, also, prove that Mr. Maldonado did not hook back up with them. He was not an accessory before or after the fact. And we will prove to you that at no time will any witness, I believe, say that Mr. Maldonado had a gun in his hand, that Mr. Maldonado shot anybody, that Mr. Maldonado pistol whipped this man back here, that Mr. Maldonado went into anybody's house. We will prove to you that Mr. Maldonado is not guilty of these charges.

Now, the fact is that the witnesses that you will hear -- we're going to insist that their statements be played. These people are sophisticated street people who

are liars. And I think during the course of the trial, you're going to see that. And the question is whether or not people who will lie over and over again can be credible enough in order to convict somebody of a crime that they didn't do.

There's one of the videos where the officer tells Ms. Zykeia that her lawyer -- even her own lawyer tells him she's a liar. And this fellow, Malik Young, who held a gun on one of these individuals there, instead of prosecuting him in big court, they let him go through the Family Court system. And he's one of the principle ones that engaged in violence out there that night.

We believe that the investigation in this case is incomplete as well. Because we believe that if you're going to prove that somebody has a complete relationship with people of this caliber, cell phone records, DNA, all those sorts of things should have been brought into play.

But it's very easy for a Hispanic youth, who had no valid contact with this black group, to be duped by his friend, who was involved in this criminal activity long before Mr. Maldonado came to try to give him a ride to the hospital.

We'll, also, prove to you that Zykeia almost admitted in one of her interviews with the police officers that Mr. Maldonado did, in fact, go to Saint Francis Hospital.

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And that is in one of the videos that will be played. And when she mentions Saint Francis Hospital, I want you to keep in mind that's where they told Mr. Maldonado they wanted him to go for Mr. Malik Young's mother.

Members of the jury, this is a difficult case in the sense that if you're with the wrong crowd, you can get into the mess that Mr. Maldonado -- but what balances against what the Prosecutor said, the hand of one is the hand of all is the idea in this state that mere presence -- and His Honor will probably instruct you at the end of this case that mere presence where a crime is being committed does not make you guilty of the crime. You have to intend to commit a criminal offense.

And we will prove to you in each instance that Mr. Maldonado never intended to commit any kind of crime. He never conspired with anyone. He never agreed. He was never an accomplice in any crime. And she has to prove that beyond a reasonable doubt.

And the fact is when you put lying witnesses on the stand -- when you put lying witnesses on the stand, there is a great deal of doubt and pause you must give to that testimony that the Court is going to instruct you about at the conclusion of this case.

When I get back up, I'll have an opportunity to discuss with you the law and the facts of this case at the

conclusion of this trial. And I believe that the facts and circumstances as we try to present them to you will demonstrate that Mr. Maldonado is not guilty of the charges that have been lodged against him.

Thank you very much.

THE COURT: Thank you, Mr. Smith.

MR. SMITH: Thank you, Your Honor.

THE COURT: Mr. Robinson.

MR. SMITH: Do you want to me to move this, Mr. Robinson?

MR. ROBINSON: I'll use it.

This is kind of like going after a rock star that's been on stage. I'm kind of going to have to shift my gears a little bit. I'm not as eloquent as Mr. Smith is.

But I can just tell you, as an attorney, it's my pleasure to be here today to represent my client, who is Lorenzo Jackson. I, also, have his family, his mother, his grandmother in the courtroom as well. They're sitting on the back row.

And we all appreciate y'all coming today, not voluntarily, but we appreciate y'all coming and listening to this case.

This case -- to add to Mr. Smith in this matter, I concur with what he talked about. But this case has a lot to do -- it's really motive is what you have to think

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about. What is the motive of the people that are coming to court -- the co-defendants in this case, what is their motive for testifying?

And as Mr. Smith eluded to in his opening statement, there were several different statements given, and so forth, in this matter. Mr. Jackson was never part -- or really had no relation to these people. They had a little gang that committed two or three different incidents before this that they are -- they were convicted of. He's not part of that group of people.

But look at the motive in this case when you review the evidence. Because, you know, you don't -- as the Judge said, I think, in his remarks to you, you don't really leave your common sense at the door when you come to court. You're supposed to use all the collective common sense that you have, and look at the motive and the motivation of the people that are testifying.

Look at the inconsistencies. Look at why they're testifying and what they're gaining from it, and so forth. You can tell when someone lies. You can tell when someone has a motive for lying, and so forth.

Mr. Smith and I trust that all of you will use your collective common sense and look at the motive in this case. Because when y'all came in today, like I did, you noticed the sky was blue. It's a blue sky, and so forth.

Well, let's say five or six people came in and said, no, the sky was green today. Does five people saying something or lying about something mean that it's true? It doesn't mean it's true. A lie is a lie.

Look at the motive. Look at the motivations of the people that are involved in this case. The co-defendants in this case have already been convicted in this matter. And if you do that, if you do that in this case, the verdict in this case -- and, you know, this is the thing, this is not an easy job that you're doing. No one said it's an easy job. They say this is the biggest thing outside of peace time -- in peace time you can do, being before -- 12 of you guys together making a decision that's going to affect someone's life.

But we chose you in this case. We chose all of you in this case. Because we believed that you could do that, that you could use your common sense, your collective wisdom, and you could see lies, and see why people lie, and motive.

If you use your common sense that all of you've gathered over the years, the verdict is one verdict. And that is that my client, Mr. Jackson, is not guilty.

Thank you.

THE COURT: Thank you, Mr. Robinson.

MR. ROBINSON: Thank you.

THE COURT: You may call your first witness.

MS. SALISBURY: Thank you, Your Honor.

May it please the Court.

The State calls Mr. Dean Suttles.

Mr. Suttles, if you'll come up and be sworn.

WHEREUPON,

HAROLD DEAN SUTTLES,

after first having been duly sworn, testified as follows:

THE CLERK: Please have a seat.

Will you state your full name for the record?

THE WITNESS: My name is Harold Dean Suttles.

DIRECT EXAMINATION

BY MS. SALISBURY:

Q Mr. Suttles, I'm going to stand way back here so I can be sure that I can hear you. That way, if I can hear, I know the jury can hear you. Okay.

A Okay.

Q All right, sir. Where do you live?

A [redacted] East Parker.

Q How long have you lived there?

A Almost five years now.

Q Were you living at that same residence back in September of 2014?

A Yes, ma'am. I can't forget it.

Q How long have you lived in Greenville?

A All my life.
Q Which is how long?
A 55 years.
Q All right. Now, what do you remember about September 3rd? Before this incident got started, what do you remember about that day?
A It was a nice, sunny day, and everything. And I was outside, you know, just enjoying it. And then, you know, of course, I talked to my mom. And then, you know, when it got dark, I went in. And I was supposed to have went to the VA hospital the next day.
Q Who else lives with you at that house?
A Mr. Grove, and his wife, Eusica [phonetic], Nathaniel Davis, and Tyshun Richardson.
Q Now, are they family of yours?
A Might as well be, been around 10 years.
Q Do you consider them close friends?
A Oh, yes, ma'am.
Q How long have they lived with you there at that East Parker house?
A They were there about two years before I was.
Q Do they all still live with you now?
A Yes, ma'am.
Q Who was there that day? When it got about evening on September 3rd, who was at the house?

A Myself, Nathaniel, and Tyshun.
Q Just the three of you?
A Yeah. Because Ms. Davis was -- had knee surgery.
Q Could you tell the jury a little about Mr. Nathaniel Davis?
A He's a good man, you know. He's 68. He's, you know -- he's Nathaniel. That's the best way you can put it. He goes to bed early. He gets up early. He doesn't bother nobody.
Q Is Mr. Davis able to live by himself?
A No, ma'am.
Q Do you --
A Not that I know of, no.
Q Do you assist him in his daily activities?
A The best I can.
Q All right. And, as you remember, he was there -- he was there that night?
A Yes, ma'am, he was.
Q Okay. Now, getting to be in the evening hours, what do you remember happening?
A I went in and was watching some TV. And I went outside to smoke my last cigarette for the night.
Q Do you remember whether it was dark out at that point?
A Yeah. It was dark. And we have a street light right

there by our fence. And the porch light was on. And I was smoking a cigarette and another guy came down. And, you know, I knew of him, and everything. And we were standing there. We was smoking.

And the next thing I know, boom, a guy sprung out of a vehicle. And with the nipple of the clip, he hit me across my forehead, put 15 stitches there. And then he hit me across my nose and put four. And right after that, I knew there was something bad going on, so I played dead.

I was in the military for 22 years, so I just -- boom. And I threw $22 down on the steps because he said, Give me the money, you know, MF.

(WHEREUPON, State's Exhibit Nos. 3, 4, 5, and 6 were marked for identification only.)

BY MS. SALISBURY:

Q Mr. Suttles, I'm going to show you State's Exhibit Nos. 3, 4, 5 and 6. And right now, I just want to ask you to take a look at them.

MR. SMITH: Your Honor, may I approach the witness? I haven't seen those.

THE COURT: Yes. Go ahead.

MR. SMITH: Thanks, Mr. Suttles.

BY MS. SALISBURY:

Q Do you recognize what's depicted in those images?

A Yeah. This is the residence where we was. And I was

standing right -- right before the steps.
Q And what about the other photos, do you recognize those?
A Yes, ma'am. I was standing right here. And that's my blood all over the steps, because that's the Suburban right there. Right here -- this is where I was standing, right here.
Q We'll have a chance to go over all those details. I just want to make sure you recognize those.
A Yes, ma'am. Those are my steps. And there's the money.
Q Is what's depicted in those photos an accurate representation of what your home looked like the night of this incident?
A Yes, ma'am.
MR. ROBINSON: No objection.
MS. SALISBURY: Your Honor, at this time, I'd offer State's Exhibit Nos. 3, 4, 5, and 6.
MR. SMITH: No objection. I've seen them.
THE COURT: All right. They're in evidence.
(WHEREUPON, State's Exhibit Nos. 3, 4, 5, and 6 were admitted into evidence.)
MS. SALISBURY: With the Court's permission, I'd like to publish these for the jury.
THE COURT: Yes, ma'am.

BY MS. SALISBURY:

Q Mr. Suttles, I'm going to show these pictures to you. We're going to go through them one at a time. Would you, please, describe for the jury what's depicted here in State's Exhibit No. 3, as best you can?

A Yeah. Right here is the house. You see the chair, the Suburban, the table, and, of course, the steps.

Q And, generally speaking, before you described that someone popped up on you, where were you standing?

A In the other picture, I can show you better. But where the steps are, there's a little stoop. And I was standing right there.

Q Okay. Well, let's move closer in State's Exhibit No. 4. Perhaps, that better depicts it.

A Yeah. I was right here on the little stoop.

Q And you mentioned you had a friend that walked up. Who was that?

A That was a guy, his name is Bobby, but he goes by B-O-B.

Q And how do you know Bobby?

A Just by meeting him, generally, in the neighborhood and everything, like, going to the store. He'd come down and smoke a cigarette, and stuff, you know. We'd just talk. He just introduced himself.

Q Do you consider him a friend?

A Well, kind of, yeah.
Q All right. Where was he standing when this happened?
A I'm here. He was standing right here about two feet from me, three feet.
Q Okay. And State's Exhibit No. 5, could you tell the jury what we see here in this picture?
A Yeah. Right here is where I was standing, and B-O-B was standing about right here, Bobby. And then that's after -- all the blood you see, that was after he hit me across here and across here. And then I turned and laid like this across these steps.
Q Okay. And, finally, State's Exhibit No. 6, what do we see in this picture?
A That was where I threw the money down. I know it only shows $2, but there was a 20 folded up in that one right there.
Q Okay. Now, we'll revisit those pictures in just a moment. But moving into the details of exactly what happened next, you described that you remember seeing someone pop up behind the Suburban; is that correct?
A Well, no. He came around the corner of the house and just jumped. And that's when he said -- he hit me across here. And he said, Give me the money, MF. And I just, boom, like this, because that's when he hit me across here. And then I went down.

Q Is he the only person you saw?
A I seen some other -- I know there was, like, some other -- four other people -- no. There was three on the sidewalk. One was behind him. And then two other ones come around. And, I mean, all this happened -- I know it was quick, but I seen all that before I was down.
Q So, as you recall, you saw five to six people?
A Close to it, yeah.
Q Okay. What could you tell about what those people looked like?
A Just, basically, like, a silhouette, you know, I mean, no pun intended against nobody. But one of them was chubby standing on the sidewalk. And the other one, I'm not going to say that it was a girl, a female or a male. But they had -- you know, you could tell by the way the hoodie was, they had, like, what you call dreadlocks.

And the one that shot me -- ended up shooting me -- I know they all had their masks on and hoodies up. But I remember him from yesterday. And like -- while I was laying there, the only thing I seen after that was the two people -- and I could only tell by the shoes.

They ran up. They had shot into the wall, shot through the storm door. That's when they proceeded to go in the house.
Q Okay. Before we get into them moving into the house,

you say you saw several people. Did all of them have their faces covered?

A They had bandanas, like, right around here and hoodies. And I could see it plain as day. One was standing right there next to the mailbox. And I'm pretty sure they didn't have a bandana, but I couldn't see the face. That's the one that I think was either -- I think it was a female. I'm not sure. I'm not positive.

Q Okay. What do you remember about them? Could you tell whether they were white, black, Hispanic, Asian?

A As far as I could tell, they were all African-Americans.

Q Okay. Now, you mentioned that when the first attacker came up to the home, they immediately struck you in the face?

A He did.

Q What happened immediately after that?

A Immediately after that, when I went down, I just kind of glanced back, because he wasn't looking at me. And he had the weapon pointed at me. And I went down and I laid -- but I laid where I could -- you know, when I wasn't thinking they were looking at me, I would open my eyes and I'd look back to see what was going on.

The main thing I could see all the time was the pistol. I mean, he was cussing. He was telling -- who, I

don't know. But he was telling two other people, Go in the house, get your -- in the house. And that's when the two ran up. So when they started to come, I closed my eyes.

Q How did they get inside the house?

A They ran up past me and forced their way in.

Q You mentioned there was a storm door?

A A storm door.

Q Is it a screen, or is it glass?

A No, it's glass. And there was, also, a wooden door. Because they shot -- when they shot through it, it went into the wood door.

Q Do you recall how many shots you heard before they went inside the house?

A A total of seven. That was the two, one that hit the wall, one that hit the door. And then I know there was about six more shots that went into me.

Q You mentioned you, I guess, sensed or saw --

A Two people run up.

Q Run up. What happened after that?

A That's when -- can I say his name?

Q If you believe you know someone's name, that's fine.

A That's when Mike Smalls was looking at me. And I closed my eyes. What they did inside the house, I have no idea. Because he had the weapon pointed at me, like, in

case I moved, whatever. I knew he was going to shoot me. I knew it.

Q Now, you mentioned you know his name. Let's talk a little bit about that. How do you -- do you know who Mike Smalls is?

A I heard from a friend of mine I know who said they had heard that it was him that did the shooting. And then we looked up on the GreenvilleCounty.org, and there was his picture, and everything. And it was showing he had been arrested September the 3rd, 2014, attempted murder, so on and so forth.

Q So after having seen his picture by way of the Internet, you recognized him?

A Even though with a bandana over his face, there's a look about somebody. And it had to be him, the height, the build, you know.

Q Now, at what point did whoever fired the shots, actually, shoot you?

A When the two guys went in and they came back out, he had asked them, What did you get?

And they said, Nothing. There ain't no safe.

And then right when they got down, they went past him. I closed my eyes again because I knew it was coming. And right then is when he dropped down and shot me in my leg.

Q Do you know how many times you were struck?
A By what the surgeon had told me, like, seven or eight. Because he shattered my bone in my right thigh. And I have a titanium rod now.
Q How close do you think the shooters were to you when they fired shots?
A He was no further than from me and this lady right here.
Q Okay. Now, you mentioned that you saw both the people that were immediately at the stairs and off in the distance. You said you saw silhouettes. Were you able to tell whether any of those people had guns?
A A hundred percent honest, no, ma'am. But I know the two standing on the sidewalk, they did. And then I don't know if that was the two that came running up. But there was another person that had a weapon besides the one that shot me.
Q Now, that's what happened to you. Were you able to see what happened to anyone else there inside the house?
A No, ma'am. Because I couldn't move. I didn't want to move. Because I didn't now if I made a move, or moan, or whatever, if he would kill me.
Q You mentioned that you heard someone say, What did you get? Did you hear anything else among these attackers?

A No, ma'am.
Q Did they ask you for money?
A When he jumped and hit me across my forehead, yes, ma'am.
Q What did he say?
A He said, Give me the money.
Q Do you know whether Bobby, B-O-B, Mr. McClean, was injured as well?
A Before I went down, he went like this. And the guy was just barely tapping. That's what else I found out, too.
Q I'm sorry. Say that again.
A That's what else I had found out. Because when he -- before I went down -- I mean, all this happened real quick. And I seen it. And then I seen him go like this, don't kill me.
Q Now, with respect to Mr. Davis, do you know whether he was injured during this incident?
A I didn't find that out until the next day.
Q Well, after all this happens, they go inside the house, they shoot you several times, what did you do?
A I laid there.
Q Did you, actually, make the 911 call?
A No, ma'am. The way I understand, B-O-B did.
Q All right. And --

A And then the lady across the street.
Q About how many minutes do you feel like elapsed before police got on scene?
A The total incident, it seemed like all evening. But it was only about two, two and a half minutes, three tops.
Q And what happened when police arrived?
A I said a few choice words, because one of them grabbed me on my thigh and it was hurting. And then, you know, they told me they had found two spent shell casings. And the next thing I said is, Can I go now?
Q Were you transported to the hospital that night?
A Yes, ma'am.
Q And did, eventually, the police come and speak with you about what happened?
A Yeah. Mr. Owens -- Officer Owens there, he came with another guy. I don't remember his name. And they videoed me in the hospital. And -- because, of course, I couldn't walk.

(WHEREUPON, State's Exhibit Nos. 7, 8, 9, 10, and 11 were marked for identification only.)

BY MS. SALISBURY:
Q Mr. Suttles, I'm going to show you State's Exhibit Nos. 7 through 11. And at this point, I just want you to tell me if you recognize what's in each of those pictures. We can talk about the details in just a moment.

A Bullet hole, shattered glass. That's one -- two of the bullet holes. That's where they put the stitches in my nose. Man, it's ugly. And there's Nathaniel.

MR. SMITH: No objection, Your Honor.

THE COURT: All right.

BY MS. SALISBURY:

Q Mr. Suttles, is what's depicted in those photographs an accurate representation of what you remember the scene looking like that night?

A To a tee, yes, ma'am.

MR. ROBINSON: No objection.

MS. SALISBURY: Your Honor, at this point, I'd offer State's Exhibit Nos. 7 through 11.

THE COURT: They're in evidence.

(WHEREUPON, State's Exhibit Nos. 7, 8, 9, 10, and 11 were admitted into evidence.)

BY MS. SALISBURY:

Q And just like before, we'll go through these one at a time.

A Okay.

Q We'll start with State's Exhibit No. 7. Would you tell the jury what we can see in this picture?

A That's the first shot that they made before they went in the house, which is still there.

Q Now, with respect to State's Exhibit No. 3, where is

that particular bullet hole?
A Right there.
Q Okay. Now, State's Exhibit No. 8?
A That's where they shot through the storm door.
Q Okay. And State's Exhibit No. 9?
A Yeah. That's three of my bullet holes.
Q Is that your leg?
A Yes, ma'am.
Q And State's Exhibit No. 10?
A Yep. That was the first injury he gave me. That's 15 stitches, and then four across here.
Q And, finally, State's Exhibit No. 11?
A That's Nathaniel with his injury on his left forehead.
Q Okay. Now, once all this commotion subsides and everyone leaves, did you see which direction they left?
A They left and went back to Power Street.
Q Did you see that?
A I opened my eyes. After the shooting was over, I opened my eyes. And I seen them turn and go around. Like I said, I was laying like this, so I could see a little bit back there. And they turned and went up by our mailbox and went up.
Q Were you able to see whether they got into a car?
A Oh, no, ma'am. Because they were on foot.

MS. SALISBURY: All right. I don't believe I have any other questions. If you would answer any questions that Mr. Smith and Mr. Robinson have for you. Okay.

CROSS-EXAMINATION

BY MR. SMITH:

Q Thank you for coming today.

What branch of the service did you serve in?

A Five years Marine Corp., and 17 years Army.

Q All right. Thank you for your service to the country.

A I just did a job.

MR. SMITH: Yes, sir.

THE COURT: Mr. Robinson.

MR. ROBINSON: I have no questions, Your Honor.

THE COURT: All right. Thank you, Mr. Suttles.

You may call your next witness.

MS. SALISBURY: The State calls Mr. Tyshun Richardson.

Mr. Richardson, if you would, please, come up and be sworn.

WHEREUPON,

TYSHUN RICHARDSON,

after first having been duly sworn, testified as follows:

THE CLERK: Please have a seat.

Will you state your full name for the record?

THE WITNESS: Tyshun Richardson.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. SALISBURY:

Q Mr. Richardson, how old are you?

A 17.

Q So two years ago on September 3rd, you would have been?

A 15.

Q 15. Where were you living at that time?

A [redacted] East Parker Road.

Q Do you still live there?

A Yes.

Q How long, at that time, had you been living there?

A About seven years, I think.

Q Who else lived there with you?

A My mom, my dad, my uncle, and Dean.

Q All right. Now, the night of the incident that brings us to trial today, what do you remember about who was home?

A That night?

Q Yes, sir.

A Me, my uncle, and Dean.

Q All right. And what do you recall happening that night?

A I was in the bathroom and I heard gunshots. And then I heard the screen door shatter. And then my uncle was calling my name. And then I had took him back to the laundry room. And then we just sat in there until everything was over.
Q All right. What -- you said you responded to your uncle calling your name?
A Yes, ma'am.
Q Tell me who we're talking about.
A Nathaniel Davis.
Q What did you do when you heard him calling for you?
A I came out of the bathroom to see what was wrong with him. And he was bleeding. So I took him back to the laundry room to make sure he was okay. And we just sat there until everything was over with.
Q Did you ever see anybody inside the house?
A The only thing I seen was somebody come from the kitchen or living room area. And they ran out the door.
Q Now, was it someone that lived there?
A No.
Q What did you observe about them?
A They had, like, a box type of hair style. And they had a bandana around their face.
Q Could you tell anything else about them?
A They had a hoodie on, and black pants, and black

shoes. That's it.
Q Could you tell what race they were?
A Yes, African-American.
Q Okay. Did you hear any -- all total, how many gunshots do you think you heard?
A Probably about six or seven, I believe.
Q Do you remember whether you heard any shots after you went and took your uncle to safety?
A Yes. Outside the laundry room, I heard some shots. I think those were the last shots I heard, and then they left.
Q So you heard shots before, then your uncle calling for you, and then more shots later?
A Yes.
Q Okay. Did you ever go outside onto the front porch?
A After they left, I went outside to check on Dean. And he was on the porch. And then the ambulance came and took him.
Q About how long do you think it was before everyone left the house and police showed up?
A It was pretty quick, probably, at the most, maybe, like, four minutes.
Q Now, aside from this one person that you saw walking through the house, did you ever see anyone else?
A No.

Q Okay. Did you notice whether that person was carrying a gun?
A He was.
Q Did he ever point the gun at you or threaten you?
A No.
MS. SALISBURY: I don't believe I have any other questions. If you would answer any questions that Mr. Smith or Mr. Robinson has.
MR. SMITH: Thank you for coming today.
No questions.
THE COURT: Mr. Robinson.
MR. ROBINSON: I have no questions for this witness, Your Honor.
THE COURT: Thank you, Mr. Richardson.
MS. SALISBURY: Your Honor, could we approach very briefly?
THE COURT: Sure.
(WHEREUPON, a bench conference was held.)
THE COURT: Ladies and gentlemen, we'll take a short recess. Don't talk about the case. Continue to keep an open mind. And we'll resume the trial in just a few moments, probably about a 10 or 15-minute recess.
Thank you.
(WHEREUPON, the jury was excused from open court at approximately 10:25 a.m.)

THE COURT: Okay.

(WHEREUPON, a break was taken.)

THE COURT: Anything before we bring the jury back in?

MS. SALISBURY: No, sir.

THE COURT: All right. Yes, ma'am -- yes, sir.

(WHEREUPON, the jury came into open court at approximately 10:50 a.m.)

THE COURT: Yes, ma'am. Ms. Salisbury, you may call your next witness.

MS. SALISBURY: Thank you, Your Honor.

May it please the Court.

The State calls Deputy Parris.

THE CLERK: Put your hand -- raise your right hand.

WHEREUPON,

JONATHAN PARRIS,

after first having been duly sworn, testified as follows:

THE CLERK: Please have a seat.

Will you state your full name for the record?

THE WITNESS: Deputy Jonathan Parris.

DIRECT EXAMINATION

BY MS. SALISBURY:

Q Deputy, where do you work?

A Greenville County Sheriff's Office.

Q And how long have you been with the sheriff's office?

A A little over four years.
Q What's your current assignment?
A I'm assigned to uniform patrol, Delta Team.
Q Were you working in that same assignment back in September of 2014?
A Yes, ma'am.
Q Generally speaking, what are your responsibilities as a deputy on that uniform patrol?
A I respond to calls for service, serve the public's interest, take incident reports, and first guys to arrive on scene most of the time.
Q So any time somebody calls 911, it's uniform patrol that comes?
A Yes, ma'am.
Q Okay. Now, do you remember if you were working on the evening of September 3rd of 2014?
A I was.
Q Do you remember being dispatched to a call at [redacted] East Parker Road?
A Yes, ma'am.
Q Is that location inside Greenville County?
A Yes, ma'am, it is.
Q What was the information that you had about what was going on at that home?
A I was advised that there was a home invasion/armed

robbery-type incident that occurred. And that I had multiple wounded parties, one, actually, receiving gunshot wounds. That's the basic information I received at the time the call came out.

Q Okay. How long do you think it took you to arrive from wherever you were coming from to the East Parker house?

A I don't recall exactly. But I know I arrived somewhere around 8:30 p.m., 8:40 p.m., somewhere around in there, probably only eight -- I would say maybe 10 minutes. It's not far. Because I worked in the adjacent beat area. So it doesn't take long to get from one side of town to the other.

Q Were you the first officer on scene?

A I believe I was one of the first. There may have been a couple other deputies that were working in that immediate area that might have gotten there first. But I believe I was the first uniform patrol deputy on scene, yes.

Q What did you see when you got there?

A When I arrived, I saw one of the victims was on the porch laying on his side. I immediately noticed that he had received, at least, one gunshot wound to the right leg. He had an injury to his head.

Another individual who was, also, injured was

standing nearby to him in the front yard of the home. I, also, noticed, first off, there was some damage to the front door. That's pretty much the first thing I observed.

Q Now, any time that you respond to a call like this where there's been some injuries and some violence, what is your responsibility?

A First off is scene security, make sure that everyone that doesn't belong there -- any type of suspects or anything have fled. And then address that situation first and make sure there's no harm to the public or myself at that point.

Then after that, we start addressing the victims and treating them with, you know, basic first aid, rendering aid to their person. That way, we can, potentially, if it is life-threatening save their life there on scene. And then after that, once EMS is cleared and they arrive, it's all scene preservation at that point, and continuing on with the investigation.

Q Now, do you take any role in, actually, collecting any evidence on the scene?

A No, ma'am.

Q Whose job is that?

A Forensics responds after we've, you know, cleared them to arrive. Forensics comes in and does their

investigation, along with investigators and whatever they do once they arrive on scene.

Q Now, does uniform patrol in any way follow-up or investigate the case?

A In cases like this, we do not. We take the basic incident report, what happened. We contact investigators for that particular crime, and they continue on with the investigation after that.

Q Okay. So, in this particular instance, when you arrived and saw these injuries, what did you do?

A I addressed his injuries. I made sure that all the suspects had departed the residence. I got on the radio and let the dispatchers know that the scene was secure at this point, so the EMS could come in.

Then I began separating witnesses that were still on scene, speaking to them, collecting their vital information. That way, I could do a thorough basic incident report and describe what happened. That way, the investigators would have something to go with once they received that information.

I contact my supervisor, keep him aware of what's going on on scene. And most of the time, the supervisor will contact that said investigator. Due to us having so much to do at the moment, they contact them and let them know what's going on and give them a heads up.

Q Does your supervisor, also, let forensics know that they need to come?
A Uh-huh.
Q Okay. Now, what did you notice -- you mentioned that you noticed this one victim appeared to have some gunshots. What other injuries did you notice with respect to anybody else that was still there?
A I know one gentleman appeared to have a laceration to his head. And then after further investigation, I found one more witness inside the home that, also, had some type of injury to his head, I believe.
Q Okay. Now, did you collect any statements from witnesses at that point?
A I don't recall if I directly did. But I know I spoke to everyone that was at the residence.
Q Okay. So after getting that general information and preserving the crime scene, did you have anything else to do with the case?
A No, ma'am, not at that point.
Q Now, at some point -- well, let me start out with asking it this way. What information, generally, were the victims able to give you about the attackers that were responsible for this home invasion?
A From what I can recall -- I know it's all in my incident report, the descriptions and everything that they

gave me. But the basics was multiple individuals arrived at the home, that a -- you know, I can't really recall exactly what information, like suspect description type stuff that they gave me. I don't recall that information.

Q Were they able to give you any information that led you to follow-up with the convenience store up the street?

A Yes. They gave me some information that stated that some of the individuals -- I don't know if all of them or whatever. They just said people matching that description, they recognized them. They said they were at the convenience store a few minutes prior to this incident occurring.

Q What did you do to follow-up on that tip?

A I contacted another deputy and asked him to go to the convenience store up the street and speak to the clerk, and watch the video surveillance and then obtain a copy of that video. That way, we could have that for evidence reasons.

Q Are you familiar with the location of that particular convenience store?

A Yes, ma'am.

Q About how far away from the house is it?

A Oh, it's not far. You can -- you can see it.

Q You can see it from the house?

A I'm pretty sure if you look up the street, you know,

it's there. It's not very far at all. It's within walking distance.

(WHEREUPON, State's Exhibit No. 12 was marked for identification only.)

BY MS. SALISBURY:

Q I'm going to show you State's Exhibit No. 12. And just for right now, I'm going to ask you if you recognize what's depicted in that image?

A Yes, ma'am, I do.

MR. ROBINSON: No objection.

BY MS. SALISBURY:

Q Are you familiar with the general area of East Parker Road where this incident occurred?

A Yes, ma'am, I am.

Q And how long have you been working in that area of town?

A I started over in an adjacent beat area, but we commonly just run back and forth. I worked that side of town maybe two years, or so.

Q Now, is State's Exhibit No. 12 an accurate representation of the geographical area of this incident?

A Yes.

Q Okay. I'm going to put it up on the screen here behind you. And if you could, describe for the jury where the -- I guess relevant locations are. Do you see where

the convenience store is, to start with?
A Yes, ma'am, I do.
Q Let me give you this pointer. Could you point out for the jury where this convenience store is?
A Yeah. The convenience store is at the corner of East Parker. It runs this direction at Woodside Avenue, and that turns into Smythe Avenue and West Parker Road. That would be it right there.
Q Now, I know you don't usually patrol the area from overhead, but do you have a general idea of where the actual incident location is, [redacted] East Parker?
A Yes, ma'am. It's one of these residences right here between Power and, I think, it's Center, or something like that. I can't remember the actual street name, but it's one of these residences right in here, I believe.
Q Adjacent to Power Street?
A Yes, ma'am.
Q All right. Thank you, sir.
Now, did you ever review the surveillance video --
A No.
Q -- from the convenience store?
Okay. Did you ever show it to any of the witnesses?
A No.
Q Okay. So based on what you collected there that night and preserved evidence, did you do anything else for

purposes of advancing the investigation?
A I believe I spoke to the -- the only other thing I can recall is I spoke to the homeowner. I got him to sign a consent search warrant.
Q To search the home?
A Yes.
Q Did you search the home?
A I did not.
MS. SALISBURY: All right, sir. I don't have any additional questions. If you would, answer any questions that Mr. Smith or Mr. Robinson may have for you.
MR. SMITH: No further questions.
Thank you for coming today.
THE WITNESS: Yes, sir.
MR. ROBINSON: I have no questions.
THE COURT: All right. Thank you, Mr. Parris.
You can call your next witness.
MS. SALISBURY: The State calls Sergeant Devon Hoover.
Sergeant, if you would, please, come up and be sworn.
WHEREUPON,
DEVON HOOVER,
after first having been duly sworn, testified as follows:
THE CLERK: Have a seat, please.
Will you state your full name for the record?

THE WITNESS: Devon Hoover.

DIRECT EXAMINATION

BY MS. SALISBURY:

Q Sergeant, where are you employed?

A Greenville County Sheriff's Office.

Q How long have you been there?

A Between my tenth and eleventh year right now.

Q What's your current capacity -- your current assignment?

A I'm a sergeant in uniform patrol.

Q Were you working in that same capacity back in September of 2014?

A No, ma'am, I wasn't.

Q What was your assignment at that time?

A At that time, I was assigned to the armed robbery unit.

Q What were your general responsibilities as an armed robbery investigator?

A We were on a call rotation. And we would receive cases pretty much on a daily basis. And we worked violent crimes, mostly armed robberies, shootings, home invasions, things similar to the nature of this incident.

Q Do you remember whether you were on call the night of September 3rd of 2014?

A Yes, ma'am, I was.

Q What do you remember about your involvement in the case?
A It was -- we had a basic -- just so you have a basic understanding. In our office, we have a kind of a rolling and ongoing thing where if a home invasion comes out, no matter what, we always go out and, at least, take a look at it to see if it matches anything that we have ongoing. And the reason for doing that is the inherent violent nature of these types of incidents.

So if there's something to run with, we have someone there that can automatically start running with it. So out of more curiosity than anything, I went out and, at least, listened to what uniform patrol had to say about it, and checked on the victims at the hospital.

Q Did you end up following up as the assigned armed robbery investigator for the case?
A No, ma'am.
Q Why not?
A Generally, due to different case loads that certain individuals might have at a certain time, it might not be a good idea to bear them with more due to the nature of the in-depth type of investigation we have to do. So if somebody else doesn't have as many cases as somebody else, they'll step up and take that case.
Q So what is it that you did there on the scene that

night?
A I just went out there and really just looked at it, basically, and talked to uniform patrol. I was more concerned with getting to the hospital and checking on the victims. Since we did have a gunshot wound, I wanted to make sure that that person was, at least, going to make it through the incident. So that was my -- that was really my main reason for going.
Q At some point -- well, were you receiving information from the deputies on scene as the point person that night?
A Yeah, very basic at the time. We didn't have any suspects in hand. So the information we were getting was, at best, with half the people involved that were already at the hospital. So it was just kind of what we have at this time kind of scenario.
Q Based on what the victims were able to tell you and what uniform patrol was able to tell you there on scene, did you have any sense of where to even start for purposes of identifying suspects?
A No, not with the information that I had on hand. No, not at all.
Q Do you remember whether you looked at any video from the convenience store that's just up the street?
A I did later, but not that night. I just knew that there was a possibility of there being video. But by that

time, I believe I had already made it to the hospital at that point.
Q Since you didn't access it that night, do you remember ever showing that video to any witnesses?
A No, ma'am.
Q All right. At some point, did you get information that helped point you in the direction in any particular way?
A No, ma'am. I don't believe I did.
Q Okay. Do you remember having any interaction with a different deputy, Deputy Maltby?
A Yes. Yes, I do.
Q What information did you learn from Deputy Maltby that helped the investigation?
A He called me and said, Hey --
MR. ROBINSON: Your Honor, objection. Hearsay.
THE COURT: Sustained.
BY MS. SALISBURY:
Q Based on your conversation with Deputy Maltby, what did you do next?
A I asked him to send me an e-mail with the information that he had called me about.
Q Was he able to give you any identifying information about where to steer this investigation?
A Yes. It was, more or less, yeah, a name.

Q What name was that?
A I believe it was Jakobe German, if I'm remembering correctly.
Q Now, as the point person that night, did you ever do anything to follow-up on that particular tip, or that information?
A No. I believe I passed that on to the next investigator, who was, actually, going to work the case.
Q Now, with respect to this particular incident, after your involvement there on scene that night, did you do anything else to investigate these crimes?
A No, ma'am.
MS. SALISBURY: Sergeant, I don't have any additional questions. If you would answer any questions Mr. Smith or Mr. Robinson may have.

CROSS-EXAMINATION

BY MR. SMITH:
Q Sergeant, did you review those notes up there?
A Yes, sir.
Q Can I take a look at them, please?
A (Witness nodded.)
Q One moment.
Thanks for coming.
A Thank you, sir.
Q This one last page is just information.

Thank you.
A Yes, sir.
Q Officer, with regard to -- I think you do the investigation into gangs, and stuff like that?
A Sir?
Q You do investigations with gangs, home invasion gangs, and all that stuff?
A Yes, sir.
Q Was Maldonado brought up to you that night?
A Not that night, no, sir.
MR. SMITH: Thank you.
THE COURT: Mr. Robinson.
MR. ROBINSON: I have no questions, Your Honor.
THE COURT: Thank you, sir.
THE WITNESS: Thank you, Judge.
THE COURT: Yes, ma'am.
MS. SALISBURY: Your Honor, I'm waiting for a couple of witnesses.
THE COURT: Okay. No problem.
We're just going to take another recess, ladies and gentlemen. And don't talk about the case and continue to keep an open mind.
(WHEREUPON, the jury was excused from open court at approximately 11:08 a.m.)
THE COURT: Okay.

MS. SALISBURY: I'm so sorry, Judge. We have calls into everybody. And the moment they're here, we'll be ready to proceed.

THE COURT: Okay. Thank you.

Just let us know.

We'll take a short recess.

(WHEREUPON, a break was taken.)

THE COURT: Is everybody ready for the jury?

MS. SALISBURY: Yes, sir, Your Honor.

THE COURT: Okay.

(WHEREUPON, the jury came into open court at approximately 11:37 a.m.)

THE COURT: Yes, ma'am, Ms. Salisbury.

MS. SALISBURY: May it please the Court.

Your Honor, the State calls Deputy Bruce Emily.

WHEREUPON,

NATHANIEL BRUCE EMILY,

after first having been duly sworn, testified as follows:

THE CLERK: Please have a seat.

And will you state your full name for the record?

THE WITNESS: Nathaniel Bruce Emily.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. SALISBURY:

Q Deputy, where are you employed?

A Greenville County Sheriff's Office.
Q And how long have you been at the sheriff's office?
A I've been in Greenville for almost eight years.
Q What's your current assignment at the sheriff's office?
A Master deputy in uniform patrol.
Q Were you working in that capacity back in September of 2014?
A Yes, ma'am, I was.
Q Do you remember becoming involved in the incident that brings us here to trial today, an incident at [redacted] East Parker Road?
A Yes, ma'am, I do.
Q And what was your role on scene? What did you do that night?
A I -- the first thing I did that night was just come to the area to respond in case there was need of assistance. While I was there, I realized that I was in close proximity to the store, the Corner Mart on the corner of Parker and Woodside, Smythe where all that comes together. It's East Parker, Smythe, and Woodside, there's a store. I responded to the store to see if possibly that they would have any video moving -- of anything moving in that area.
Q Okay. Did you speak to the employees there at the

convenience store?
A The clerk that was working, yes, ma'am.
Q All right. Was he able to provide for you the store's surveillance footage from that --
A Yes, ma'am, he was.
Q -- range of time?
A Yes, ma'am.
Q What range of time did you ask him to record for you?
A I, honestly, don't recall at this moment, ma'am.
Q Was he able to deliver to you a CD that night?
A Yes, ma'am.
(WHEREUPON, State's Exhibit No. 13 was marked for identification only.)
BY MS. SALISBURY:
Q Let me show you State's Exhibit No. 13. And just for right now, I'd ask you, do you recognize that item?
A Yes, ma'am.
Q How do you recognize it?
A It's got my handwriting on the case number that's on the cover.
Q Is this the recording that you retrieved from the store surveillance system that night?
A It would be, yes, ma'am.
Q And what did you do with this disk after you got it?
A I took it to the law enforcement center to our

property and evidence section, tagged it, and notated on the document for property and evidence, and deposited it in the box.

Q Okay. We haven't heard a lot about property and evidence yet. Is that where evidence is stored in any particular case?

A Yes, ma'am.

Q Is it a secure facility?

A Oh, yes, ma'am.

Q Now, did you put your initials on this item to identify it as having come from you?

A It should have, ma'am.

Q Well, I'll let you take a look just to confirm.

A I don't have my glasses. I know that's -- yes, that would be my one item that I deposited.

Q Okay. And after -- at any point, did you review this recording?

A No, ma'am, I did not.

Q Have you seen any of the material that's on it?

A No, ma'am, I have not.

Q Did you review it with any of the witnesses in this case?

A No, ma'am.

Q All right. After dropping it into the evidence storage facility, have you ever had any interaction with

it since?
A No, ma'am.
Q Okay. After your involvement with this particular item, did you do anything else to assist with the investigation of this case?
A Not that I recall, ma'am.
MS. SALISBURY: Okay. I don't have any additional questions. Sir, if you would, answer any questions that Mr. Smith and Mr. Robinson may have.
MR. SMITH: Your Honor, I would like to publish that video right now, please.
MS. SALISBURY: It's not admitted yet.
MR. SMITH: Oh, you haven't? Well, I'd like to admit it.
Thank you.
MS. SALISBURY: Your Honor, I don't know that I've laid a foundation for its admissibility yet.
But if you're going to stipulate to --
MR. SMITH: We can stipulate a whole lot of stuff and save time, Your Honor.
THE COURT: Is there an agreement?
MR. SMITH: Is there an agreement?
MS. SALISBURY: I'm, certainly, willing to agree that that's an accurate recording from the Corner Mart surveillance system at East Parker Road from September

3rd.

MR. SMITH: Let's play it now.

THE COURT: Now, what -- so this is going to be a Defendant's Exhibit?

MR. SMITH: Yes, sir, Defendant's Exhibit No. 1.

THE COURT: Are you going to ask him questions about it?

MR. SMITH: Yes, sir, as soon as it starts playing. I'm going to let it play and see if that's the store and stuff, you know, stuff like that.

(WHEREUPON, State's Exhibit No. 13 was remarked as Defendant Maldonado's Exhibit No. 1 for identification and admitted into evidence.)

(WHEREUPON, Defendant Maldonado's Exhibit No. 1 was played in open court.)

MS. SALISBURY: That's it.

MR. SMITH: That's it.

CROSS-EXAMINATION

BY MR. SMITH:

Q Officer, were there any other videos that you picked up on any other occasion in this case?

A Related to this, no, sir, not in this case.

MR. SMITH: Thank you. Thank you for your service to the community.

THE WITNESS: Yes, sir.

THE COURT: Mr. Robinson.

MR. ROBINSON: I have no questions, Your Honor.

THE COURT: Thank you, sir.

Yes, ma'am.

MS. SALISBURY: The State calls Deputy Jonathan Bastoni.

Deputy, if you would come up and be sworn.

WHEREUPON,

JONATHAN PETER BASTONI,

after first having been duly sworn, testified as follows:

THE CLERK: Please have a seat.

Will you state your full name for the record?

THE WITNESS: Jonathan Peter Bastoni.

DIRECT EXAMINATION

BY MS. SALISBURY:

Q Deputy, where are you employed?

A Greenville County Sheriff's Office.

Q How long have you been there?

A About nine years, nine years and two weeks.

Q And what's your current assignment?

A I work with the directive patrol unit.

Q Were you working with the directive patrol unit back in September of 2014?

A I was.

Q All right. What's, generally, the role of the

directive patrol unit?
A We are a street-level vice and narcotics unit. And we do street-level drugs, prostitution, things like that.
Q Do you respond to 911 calls?
A Not normally.
Q All right. Do you remember how you became involved in the incident that brings us here to trial today on the night of September 3rd, 2014?
A I responded to an emergency call for assistance at a residence on Carly Drive. When I -- Sergeant Weiner had asked for assistance because he had a house full of subjects that he thought were connected with this.
When I got there, I took a position at the back of that residence, and we began to call people out. A number of subjects came out of that residence. I did a Terry frisk on each one as they came out to make sure they didn't have any weapons --
Q Well, before we get to that, let's go back to the day before. Do you remember responding to the actual scene at [redacted] East Parker Road on the night of September 3rd?
A No, I don't.
Q Okay. Well, since you don't remember that night, let's talk about what you did the next day.
A Okay.
Q You mentioned that you went to a residence on Carly

Drive?
A Correct.
Q And, generally speaking, did you assist with the search warrant at that house?
A I did not.
Q Okay.
A I stayed outside where we brought everyone out. And I did security on the people that were outside.
Q Okay. So you just assisted in the arrest of several people that were inside that house that day?
A Correct.
Q Okay. Now, any time that you become involved in a case responding in any capacity, whether it's to call for assistance like this or doing the business that the directive patrol unit does, do you prepare a report?
A I do.
Q And if you prepared a report, is it your reporting -- or your recollection of what you did that night?
A It is.
Q Okay. I'd like you to take a look at this report. Just read it to yourself very briefly.
A (Witness complied.)
Q Have you had a chance to take a look at that?
A I have.
Q Does that appear to be the report that you prepared?

A It is.
Q After having looked that over, does that refresh your memory about what you did that night?
A It does.
Q Okay. Could you tell us a little bit about what you now recall about the incident? Not necessarily reading from your report, but what you remember doing on the night of September 3rd.
A We were working in that area when this call came out. And I was one of the first to get there. And I encountered a subject outside this residence that was -- had multiple wounds and had stated he had been shot.
Q Now, did you -- were you the only deputy on scene at that time?
A No. There were a number of deputies on scene.
Q What role did you play there that night in terms of lending assistance to uniform patrol?
A Well, initially, what we did is we secured the scene, which is to make sure that there was no other dangers that -- any subjects that were involved in this had already left, and then to preserve the evidence to make sure that we weren't walking on or removing any evidence at all. So that's -- my primary role was to secure that.
We did clear the house to make sure there was no one in the house, other people that might be injured, or

suspects in this incident were not in the house. And then, again, I was there to preserve the evidence.

Q Now, do you recall, specifically, whether you saw any evidence that you thought might be valuable for this investigation?

A I did see a bullet fragment on the ground. I, also, saw bullet holes in the door.

Q Now, I'm going to show you what's already been admitted as State's Exhibit No. 5. Do you recall -- well, first of all, do you recognize what this image depicts?

A Yes. It's the side of the house that we were at. And it's, also, where we first encountered the subject with the wounds.

Q Do you remember, generally speaking, where you saw this bullet fragment?

A No, I do not.

Q Okay. Did you or any of the other deputies during the process of preserving this scene move any of those items?

A No. We don't do that.

Q Do you collect any of those items?

A No. We call for forensics to do that.

Q Do you, generally, leave everything exactly where it is until forensics gets there?

A Exactly where it is.

MS. SALISBURY: Okay. I don't believe I have any additional questions. If you would, answer any questions that Mr. Smith and Mr. Robinson may have for you.

CROSS-EXAMINATION

BY MR. SMITH:

Q Officer, I just need to look at that report right quick. I might not have any questions either.

I appreciate you coming today.

Oh, that's what I wanted to ask you. The next day when you made the arrest, who did you arrest?

A I didn't arrest anyone.

Q Okay.

A We detained a number of people. And I transported two of them.

Q Okay. Let's talk about who you detained the next day. Where did you go? Did you go to [redacted] Carly somewhere?

A Correct.

Q Right. And Mr. Maldonado wasn't there, was he?

A I didn't encounter him. I encountered two subjects.

Q And there were two black males; right? They were non-Hispanic, I mean --

A Mr. Young and Mr. Harper.

Q Mr. Young and Mr. Harper. Do you recall how many individuals were in that house?

A A number.

Q A number?
A Quite a few.
Q That's fine. I'm not going to hold you to that.
A I dealt with two.
MR. SMITH: Thank you, Officer.
I appreciate it.
THE COURT: Any questions?
MR. ROBINSON: May it please the Court.
I have no questions.
THE COURT: All right. Thank you, sir.
MS. SALISBURY: May it please the Court, Your Honor.
The State calls Sergeant Weiner.
Sergeant, if you'll, please, come up and be sworn.
THE CLERK: Place your left hand on the Bible and raise your right hand.
WHEREUPON,
DAVID WEINER,
after first having been duly sworn, testified as follows:
THE CLERK: Please have a seat.
Will you state your full name for the record?
THE WITNESS: David Weiner.
DIRECT EXAMINATION
BY MS. SALISBURY:
Q Sergeant, where are you employed?
A Greenville County Sheriff's Office.

Q How long have you been there?
A 16 years.
Q What's your current assignment?
A I am a sergeant supervising the violent crimes unit.
Q Were you working in that same capacity back in September of 2014?
A Yes, ma'am.
Q What is your role as the sergeant supervising the armed robbery investigators?
A In a situation like this, the report will be initiated by a responding deputy. It will be forwarded up to investigations. Generally, in cases like this, somebody will get called out to the scene due to the severity of the injuries.

The following morning, I'll get briefed on it. I'll read through the report. And I'll assign it to an investigator to continue to follow up with the investigation on it. And then just if they need guidance, help guide them, make sure they dot I's, cross T's, paperwork is done properly and that the investigation is done thoroughly.

Q Do you remember lending that kind of assistance in this investigation?
A Yes, ma'am.
Q Could you give the jury a general idea of what was

happening, and what you did to move this investigation forward?

A Yes, ma'am. I don't like to sit behind a desk. Investigator Owens had produced a video that showed several individuals possibly responsible for this incident on the surveillance. And we had gotten a Crime Stoppers tip, an anonymous tip to check a residence at [redacted] Carly Drive.

I responded out there. I think we had just eaten lunch and had split up. Investigator Owens went with somebody else in another direction and I went to check on Carly.

As I drove by the house -- it sits up on a hill. I didn't see anything out of the ordinary. I went and turned around. And as I was turning around, I saw four people exit the residence and start walking down street.

Q Was that significant in any way?

A Well, obviously, I knew these four people just came out of the residence. And I wanted to get a little closer look at them. As I did, I could see that one of them matched an individual that I had seen in the video surveillance earlier in the day.

Q So you had, actually, watched the surveillance video from the gas station?

A Yes, ma'am.

Q What was uniquely identifiable about this person that made you believe that the person you were seeing at Carly Drive was someone from the video?

A Well, it was a female. Obviously, I had seen her face in the video. And the video is pretty good, especially if you enlarge it, like the cash register view.

I think the view I had really seen was going down, like, a candy aisle, or something, and shoulder length, like, braids or dreads. And, like I said, it was a female. And I saw her walking down Carly Drive exiting the house.

Q Do you recall whether she was wearing similar clothing as she was in the video?

A I do not.

Q Okay. What happened next?

A I get out with the four of them. I identify myself. I drive up, blue Crown Victoria. I don't hide. Similarly, I would have had a bullet-resistant vest on.

And I approached them and three of them ran. And that one female stayed. I, actually, reached out to grab her as the three of them ran.

Q Ultimately, had you -- did you anticipate that there were multiple people inside? What was your plan as you approached that house?

A Just to drive by and take a look and see if I saw

anything that peaked my interest, was it worth knocking on the door, calling a few other people for help, maybe even see somebody mulling around in the yard.

Q Well, once you saw all these people run in several directions, what did you do?

A I used my radio, called for some emergency assistance. Obviously, we're dealing with a situation where they committed a robbery and shooting. It's fair to say that they are more than likely armed.

And so emergency assistance arrived within a couple of minutes. I just put her in handcuffs, sat her down on the ground, and kind of put her behind the car. And I got behind the car in case they tried to double back, or anything like that.

Q Ultimately, do you remember about how many people you located inside this Carly Drive residence?

A I documented seven individuals inside the house.

Q Were all seven of them suspects, or potential participants in this robbery?

A Six of the seven.

Q Do you know whether all of them were, ultimately, charged?

A Yes, ma'am.

Q Okay.

A Not all six of the seven.

Q At that point, did you decide that it would be prudent or helpful to the investigation to search that house?
A Absolutely. Not only based on the tip that it could be involved with the occupants. But, now, I had, actually, seen this female exit the residence that I knew was involved, based on the video surveillance just down the street with this crime.
So a search warrant -- I had asked that -- I, actually, typed up a search warrant for that residence to search for items related to this crime.
Q Did you participate in this search?
A The only participation I had was, again, typing up the search warrant and then overseeing -- I believe several members of the directive patrol unit, actually, conducted the search. They're very good, very thorough with that.
Q Like Deputy Bastoni that we just heard from?
A Correct. But there's 10 or 12 guys that are involved. They're very methodical, and they do a lot of them. They're very good at it.
Q Now, did you -- do you know of any evidence that was recovered from inside that house that was helpful to this investigation?
A There were several firearms retrieved from the

residence.
Q At this point -- well, before I get into that. Do you remember what time of day you were out at Carly Drive on September 4th?
A Yes, ma'am. I previously said that I think we just finished eating lunch. So without looking at, like, a CAD report, an automated report from our dispatch, I would say the 12:30, 1:00 range. It was pretty warm that day, I remember that. But it was broad daylight.
Q And what information did you have, at this point, about the robbery that had just occurred in terms of when and --
A The incident location, the previous night or early that morning, obviously, had, at least, one gunshot victim. There might have been two. There were multiple subjects involved. And that they were seen on video surveillance at a gas station up the street prior to this incident.
Q Is it your understanding then that you were out at Carly Drive just hours after this incident?
A Yes, ma'am.
Q Now, shifting gears a little bit, moving from Carly Drive. What other assistance did you lend to advance this investigation?
A I just tried to help. Again, not wanting to sit

behind a desk, help with any interrogations, or witness statements, or anything like that that Investigator Owens might need assistance with.

Q Based on your review of this surveillance video from the gas station, did you have any information about what cars these suspects might have used as part of the robbery?

A There were two cars. One was a Honda Accord, I believe. And the other one, I believe, was a Honda CRV, I think is what it was, or Toyota RAV4, a small SUV. I don't remember the exact make or model.

Q Now, generally speaking, when you have information about a car that might be involved in a crime or a person that might be involved in a crime, how do you get that information out so that everyone knows to be on the lookout for it?

A In a case like this, we will, actually, take the images from the gas station if the vehicles are on it and put them on a BOLO, be on the lookout. And it's distributed to every deputy, Greenville City police officers, anybody within the jurisdiction of Greenville County.

Q Do you remember whether you put out this information about the two cars that you believed may be involved?

A I don't believe I put out a standing BOLO like that,

no, ma'am.

Q Okay. Do you know whether that information was put out?

A As rapidly as this one progressed, it may not have been. It's possible it was. But when we get to slowing down enough and we're done chasing leads and we're like, all right, well, we've got these people, we have pictures, or a couple of pictures of a car, now, we're kind of grasping. This is the last stuff we've got. Let's go ahead and disseminate that, maybe see if the media will pick it up and put it on the news.

And that's how y'all get that -- if you watch Channel 4 or Fox Carolina, we're kind of at the last lead. All we've got is the car, or all we have is the picture of a masked individual. Maybe somebody will recognize the clothes, or their build, or their mannerisms. But we've extinguished every other lead we can think of. So, at this point, it may not have been put out at that point.

Q As this investigation progressed, did you assist your investigators with interviews and the other components of the investigation?

A Yes, ma'am.

MS. SALISBURY: I don't believe I have any additional questions right now. If you would, answer any questions Mr. Smith or Mr. Robinson may have.

MR. SMITH: Thank you, Your Honor.

THE WITNESS: Yes, ma'am.

CROSS-EXAMINATION

BY MR. SMITH:

Q Officer Weiner, thank you for appearing today.

The people that were arrested out there, was it James Gantt?

A Can I review it?

Q By all means, Brother.

A Thank you, sir.

I can give you a list, if that would help you out.

Q Yes.

A At least, as to what I documented. Zykeia Harper would have been the female I stopped.

Just bear with me one second.

Q Take your time. Take your time.

A All right. Zykeia Harper would have been the person I stopped. Damon Young-Gaines, Jamone Johnson, Tyler Hill were the individuals that -- some of the individuals inside that house.

Q Thank you.

A You're welcome.

Q And none of those are aliases for Mr. Joseph Maldonado, were they?

A No, sir.

Q The other thing, too, the cars -- I was just curious. These cars nowadays, they have computer systems in there where you can, actually, track where they go, and where they don't go, and all that stuff nowadays.

A What do you mean by "these cars"?

Q Certain cars, don't they have GPS systems inside where you can snatch out part of the computer system and find out the directions they've been and the locations they've been?

A To the best of my knowledge, that only works in two situations. One would be we, generally, see it, buy here, pay here used car lots. They'll put a GPS on the car because they want it back if you don't pay.

And the second place would be like a private investigator. Actually, even sometimes law enforcement will get involved in putting a tracker on a vehicle. But I know of no way where a vehicle can be tracked with GPS historically.

Q Yes, sir.

A If a vehicle gets stolen, OnStar is very useful to us. OnStar can locate a vehicle for us if it's taken.

Q So none of that was done in this case for these vehicles, was it?

A No, sir.

Q The other thing, too, cell phone teams. Did y'all

confiscate the cell phones of all these individuals, including Mr. Maldonado, at some point, and look for the cell phone calls with regard to each and every one of those individuals to and from each other?

A It is a general practice for us to seize cell phones because they can be a wealth of knowledge. I don't know. I'm not familiar with the results that Investigator Owens may have received from those.

Q Facebook pages, did you look at Facebook pages to see whether or not these people made a group of themselves?

A Again, a question, I think -- I can't answer that myself. Investigator Owens may have the answer.

Q Okay. I got you. I got you.

A Yes, sir.

Q And serial numbers on the guns, did y'all -- those guns that she was talking about, did y'all, actually, find out by the serial number who purchased the guns, or whether the guns were stolen or missing from somewhere?

A Any firearm that we seize will be checked through what we call NCIC, National Crime Information Center. It will just determine whether or not it is stolen or reported as lost.

So if that was the case in any of these firearms, that would have been discovered. I don't know the results of that. But we have to check that.

MR. SMITH: Thank you. Thank you, Officer.

THE WITNESS: Yes, sir.

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. ROBINSON:

Q Officer Weiner, as far as the video from the convenience store, who are the persons that you identified on that video -- or in that video?

A The only one I know for sure is Zykeia Harper.

Q Okay.

A I think there were several others -- I want to say there were two or three other individuals in the store with her. One, I believe, may have been her brother, Quancey Harper. But I don't know who the others were. But the recognizable one to me was Zykeia Harper.

MR. ROBINSON: Thank you.

MS. SALISBURY: Nothing on redirect, Your Honor.

THE COURT: Thank you.

THE WITNESS: Thank you, sir.

THE COURT: Yes, ma'am.

MS. SALISBURY: Your Honor, the State calls Investigator Jacob Walters.

Investigator, if you would, come up, please, and be sworn.

THE CLERK: Place your left hand on the Bible and

raise your right hand.

WHEREUPON,

JACOB WALTERS,

after first having been duly sworn, testified as follows:

THE CLERK: Okay. Please have a seat.

Will you state your full name for the record?

THE WITNESS: Jacob Walters.

DIRECT EXAMINATION

BY MS. SALISBURY:

Q Investigator, are you currently employed by the Greenville County Sheriff's Office?

A I am.

Q What capacity do you currently work at the sheriff's office?

A I'm currently an investigator in violent crimes.

Q Were you working in that same capacity back in September of 2014?

A I was, actually, working with the directive patrol unit back then.

Q Do you remember responding to this residence at Carly Drive that we've been talking about on September 4th of 2014?

A I do.

Q Okay. And what was your particular role there on scene that day?

A When I responded out there, it was in reference to a call on the radio, a call for emergency assistance. Dave Weiner -- Sergeant Weiner had requested emergency assistance. I responded out there to help him.

Q Did you participate in the apprehension of some subjects that were on scene?

A I did. We surrounded the house and called out to people who were inside the house to come out to us. And as they did, I helped to either provide cover or take them into custody.

Q Ultimately, did you end up assisting in the search of that house?

A I, also, did help in searching this residence.

Q What do you remember finding inside?

A In one of the bedrooms, I remember looking in an air vent and finding several firearms concealed there.

(WHEREUPON, State's Exhibit Nos. 14, 15, 16, 17, 18, 19, and 20 were marked for identification only.)

BY MS. SALISBURY:

Q Investigator, I'm going to show you State's Exhibit Nos. 14 through 20. And for right now, just tell me whether you recognize what's depicted in those photographs.

A In photograph #14, this is looking down in the air vent, and you can see a couple of firearms.

Q And we'll go through them one at a time in just a second, but --
A Okay.
Q -- generally, looking at all of them, do you recognize what's in those photos?
A Yeah. The air vent and the firearms.
Q Is that the air vent that's inside Carly Drive?
A It is.
MR. SMITH: No objection.
MR. ROBINSON: No objection.
THE COURT: All right. They're in evidence.
(WHEREUPON, State's Exhibit Nos. 14, 15, 16, 17, 18, 19, and 20 were admitted into evidence.)
BY MS. SALISBURY:
Q Investigator, are these photos an accurate representation of those firearms as you found them inside the Carly Drive house?
A Yes, they are.
Q Do you remember how many you found?
A I don't recall how many were in the vent.
Q Would they have all been photographed right there together?
A They would have.
Q Well, specifically, take a look at State's Exhibit No. 20, the last photograph?

A There are four firearms in this photograph.
Q If there were others found, would they have been depicted in that photo?
A They would have been included, also, yes.
MS. SALISBURY: Okay. With the Court's permission, I'd like to publish these for the jury.
THE COURT: Yes, ma'am.
BY MS. SALISBURY:
Q Starting with State's Exhibit No. 14, could you, please, describe to the jury what we see in this photo?
A It's difficult on the screen, but you're looking down the air vent. And down this direction, you can see --
Q There's a pointer right there in front of you, if that will help you.
A Okay. Right around here, you can see some of the handguns.
Q And this is State's Exhibit No. 15. Does that show any different perspective?
A Yes. I believe this is the other side of the air vent right down here. And you can see another one of the handguns.
Q Were those photographed before you touched them or retrieved them at all?
A Yes.
Q Okay. State's Exhibit No. 16, is that the same air

vent?
A That's the same air vent. And that's one of the handguns as I slid it out to get a better view of it.
Q So this is after you've moved it?
A Yes.
Q Now, moving to State's Exhibit No. 17. What do we see here?
A That is another one of the handguns that as -- I removed it from the air vent and photographed it.
Q So this gun was inside that air vent?
A This is, also, inside the air vent.
Q What about the gun that's in State's Exhibit No. 18?
A This would be another one that was in the air vent after we removed it and photographed it, also.
Q All right. State's Exhibit No. 19?
A The fourth one that was removed from the air vent and photographed.
Q All right. And, finally, State's Exhibit No. 20?
A Those are all four handguns together.
Q The magazines of those handguns have been removed. Were those guns functionally loaded with those magazines inside when you located them?
A Yes. I removed the magazine for safety purposes to transfer them to the other deputy scribing the search warrant.

Q And as you understand it, were these guns then packaged and placed into property and evidence after the search that day?
A Yes.
Q Okay. After looking at those particular items and assisting in the search of the rest of the house, did you have any other involvement in the investigation of the case?
A I had no other involvement in this case.
MS. SALISBURY: All right, sir. If you would, answer any questions Mr. Smith or Mr. Robinson have.
MR. SMITH: Thank you, Counsel.

CROSS-EXAMINATION

BY MR. SMITH:
Q To your knowledge, were the guns dusted for prints?
A I have no knowledge of that.
Q Okay. And I imagine you have no knowledge -- let me ask you this. The other officer that just got up here and --
A Yes, sir.
Q -- I think he just left.
A David Weiner.
MR. SMITH: And, Your Honor, we have no problem with them being excused whenever they leave.
THE COURT: Okay.

BY MR. SMITH:

Q The -- what was his name again?

A Sergeant Weiner.

Q Sergeant Weiner. Yeah, Sergeant Weiner. He was talking about, you know, when you do the serial numbers on the guns what kind of thing they go through now.

A NCIC.

Q NCIC, NCIC, NCIC. Now, did any of these guns go through NCIC?

A I did not check them on NCIC.

Q All right.

A Whoever I turned them over to would have checked them on NCIC.

Q Okay. So when you complete your part of the investigation, boom, you're out of here; right?

A Mostly, I assisted with the search and securing people on scene.

MR. SMITH: Okay. Good, good, good.

Thank you.

THE WITNESS: Yes, sir.

MR. ROBINSON: I have no questions, Your Honor.

THE COURT: All right. Thank you, sir.

MS. SALISBURY: Your Honor, with the Court's permission, I'd ask that Investigator Walters be excused.

THE COURT: Yes.

MR. SMITH: No objection.

THE COURT: All witnesses will be excused, unless somebody requests otherwise.

MR. SMITH: Thank you, Your Honor.

THE COURT: You don't have to ask.

All right. Yes, ma'am.

MS. SALISBURY: The State calls Sergeant Patrick Swift.

Sergeant, if you would, please, come up and be sworn.

THE CLERK: Place your left hand on the Bible and raise you right hand.

WHEREUPON,

PATRICK SWIFT,

after first having been duly sworn, testified as follows:

THE CLERK: Please have a seat.

And will you state your full name for the record?

THE WITNESS: Patrick Swift.

DIRECT EXAMINATION

BY MS. SALISBURY:

Q Sergeant, what's your current assignment at the sheriff's office?

A I'm a Sergeant at the Greenville County Sheriff's Office. I supervise the directive patrol unit.

Q And just to cut right to the chase. Did you and the directive patrol unit respond to this residence on Carly

Drive on September 4th, 2014?
A Yes, we did.
Q Okay. Do you remember assisting in the search of that house once all of the suspects inside were removed and arrested?
A I did. My primary role -- our unit has two cameras that we issue out to the master deputies. At the time, I was not the sergeant of that unit. I was master deputy. And I had one of the cameras. And my primary job was as people were finding different items that were to be seized, I would go around and photograph the items, much like the photographs you just saw.
Q So were you the one that took those photos of the gun?
A I was.
(WHEREUPON, State's Exhibit No. 21 was marked for identification only.)
BY MS. SALISBURY:
Q I'm going to show you State's Exhibit No. 21, and ask you if you recognize that particular item?
A Yes, I do.
MR. ROBINSON: No objection.
BY MS. SALISBURY:
Q What does this photograph depict?
A Basically, the best description I can give is it's a

Halloween mask of a skull that's kind of snarling.

Q Were those photographs taken of the items as they were located?

A Yes.

Q Do you remember, specifically, where this particular mask was located inside the house?

A It was located -- actually, while I was not taking pictures of the other items that people were finding in some of the bedrooms, I helped search the living room area of this trailer. And I found this item. I found a couple other items as well, drug paraphernalia-type items.

Q Okay. Was that -- is that photograph an accurate depiction then of the item, that Halloween mask as you found it in the house?

A Yes, ma'am.

MS. SALISBURY: At this time, the State offers State's Exhibit No. 21.

MR. SMITH: No objection.

MR. ROBINSON: No objection.

THE COURT: All right. It's in evidence.

(WHEREUPON, State's Exhibit No. 21 was admitted into evidence.)

MS. SALISBURY: I don't have any additional questions. If you would, answer any questions Mr. Smith or Mr. Robinson may have.

CROSS-EXAMINATION

BY MR. SMITH:

Q Thank you, Officer.

And when y'all do y'all's procedure and the searching -- the searches of the house, y'all, actually, have search warrants, don't you.

A Yes, sir, we do.

Q Right. So this right here is a search warrant; correct, for [redacted] Carly?

A Yes, sir. It's a copy.

Q And a judge has to sign that thing, don't he?

A Yes, sir.

Q And that gives y'all permission to go inside the house legally and make a search; is that correct?

A That is correct.

Q And that's what y'all did; correct?

A That's what we did, yes, sir.

Q And in order to inventory everything that you did inside the house, y'all have a return back there. And you give the home owner or legal resident a copy of the return of everything y'all confiscated; correct?

A That's right. And if we can't determine who the home owner is or the legal resident, then we just leave a copy at the house.

Q Right. Now, with regard to this mask, do you know

whether or not law enforcement, actually, took any DNA evidence off of it to see who owned the mask, or who didn't own the mask, or whatever?

A No, sir. I'm not aware. If that would have happened, it wouldn't have been at my request. It would have been at the request of the investigators.

MR. SMITH: Thank you, Officer.

I appreciate you coming.

THE WITNESS: Yes, sir.

MR. SMITH: No further questions.

MR. ROBINSON: May it please the Court.

CROSS-EXAMINATION

BY MR. ROBINSON:

Q Officer, as far as the people that came out of that house, do you recall the number of people coming out of that house?

A Yes, I do.

Q Do you have a copy of your report?

A I do not have a copy.

MR. ROBINSON: May I approach, Your Honor?

THE COURT: Sure.

BY MR. ROBINSON:

Q Officer, if you would identify this document.

A Yes, sir. This is Page 2 of my supplemental report.

Q And that's a report that you keep in the normal

course of business; correct?
A Yes, it is.
Q Okay. Can you tell the jury who the people that came out of that house were?
A Not off of this report. But if you give me Page 1, I'm pretty sure I listed all of the people that came out on Page 1.
Q Sure. Is that Page 1?
A Yes, sir, it is.
Q Please tell the jury who -- looking at your report, who came out of that house?
A Jakobe German, Malik Adams, Quanisha Herd, Tyler Hill, Quancey Harper, Damon Young, Jamone Johnson.
Q Nowhere in your report -- Lorenzo Jackson was not any of the persons that came out of that house; correct?
A Say that name again, sir.
Q Lorenzo Jackson is not on that list; correct?
A Not that I have documented here, no.
MR. ROBINSON: Okay. Thank you.
That's all I have.
THE COURT: Any redirect?
MS. SALISBURY: No additional questions.
THE COURT: Thank you, sir.
MS. SALISBURY: Your Honor, at this time, the State calls Deputy Investigator Jeremy Jones.

Deputy, if you would, please, come up and be sworn.

THE CLERK: Place your left hand on the Bible and raise your right hand.

WHEREUPON,

JEREMY JONES,

after first having been duly sworn, testified as follows:

THE CLERK: Please have a seat.

Will you state your full name for the record?

THE WITNESS: Master Deputy Jeremy Jones.

DIRECT EXAMINATION

BY MS. SALISBURY:

Q Deputy, are you employed by the sheriff's office?

A I am.

Q How long you been there?

A 12 years.

Q And what is your current assignment?

A I am the master deputy in uniform patrol for Echo Platoon.

Q Were you working in that same capacity back in September of 2014?

A No, ma'am. I was a deputy at that time.

Q But, nonetheless, still on uniform patrol?

A Yes, ma'am.

Q Okay. Do you remember becoming involved in the case that brings us to trial here today, this incident on East

Parker Road, in the days -- a short time thereafter, after the actual incident happened?

A Yes, ma'am, I do.

Q How is it that you recall becoming involved?

A I was -- I worked the west side of Greenville at that time. And I was, actually, employed by the Hunters Park Apartment Complex as a part-time duty. Due to high crime in that area, they hired us to try to curtail some of that stuff that was going on.

So I was working over in that area. Sergeant Weiner had called me and asked me to be on the lookout for a vehicle, a specific vehicle, and that it was possibly related to some recent crime activity -- criminal activity in the area.

Q Do you remember when you had that conversation with him?

A I believe it was that morning or at the beginning of that shift. We spoke frequently about, you know, tips and people that their unit was looking for. I spotted the vehicle -- or a vehicle similar to it turning into Hunters Park --

Q Now, what is the description that you had? What were you looking for?

A Without looking at my report, I want to say it was like a silver Honda, a spoiler with a sunroof.

Q Were there any other unique identifiers that he was able to give you?
A Not that I can recall.
Q Okay.
A I saw this vehicle turn into Hunters Park from the side entrance, as I was on Clark Drive. I immediately called him and turned in behind it.
Q "Him" being who?
A Sergeant Weiner.
Q Okay. I turned in behind the vehicle as it was going through the parking lot. It got over to B building and parked. And as I was turning the corner, I saw the two subjects getting out of the car, closing the doors, and walking away toward B building. I got out with them. One went to the right side of the building. The other one went to the left side of the building.

So I went to the left side. And I believe it was Lorenzo that I encountered there. I called him. He was in the breezeway. So I could only see him. And then the breezeway was out of my view.

I called him and asked him to come over to where I was standing. And he made a quick hand motion, such as this. And it was obvious that he was telling somebody else not to come over there where he was at.

I asked him who he was talking to, how he got to the

apartment complex, who was in the car with him, things of that nature. And he had replied, James. I asked him who was driving the car. He said, James.

And I said, Okay, what's James -- how do you know James?

He said, He's my cousin.

Well, what's James' last name?

I don't know.

Well, at that point, I'm beginning to get even more suspicious as to what they're doing. A few minutes later, James comes around the other side of the building. I asked him to come over there and stand with Lorenzo. It's the building, Lorenzo, then myself. And James was coming from the far side.

He, actually, walks past Lorenzo and seems to be trying to get behind me to put me in between them. And I cautioned him that he was putting himself in a bad position and to come back over there. He looked at me for a brief moment as though he was thinking about his decision and then he complied.

I asked him how he knew Lorenzo. And he said Lorenzo was his cousin. But he didn't know Lorenzo's last name either. I noticed that both subjects had ankle monitors on. Then I contacted Corporal Whitner at the detention center --

MR. ROBINSON: Objection, Your Honor.
BY MS. SALISBURY:
Q Well, before we get into those details --
THE COURT: All right. Sustained.
BY MS. SALISBURY:
Q Let's talk about what you saw immediately at the car. Based on what you could see, were there more than two people inside the car?
A No, ma'am. There were only two people in the car.
Q All right. Were you, ultimately, able -- after all of your conversations and all your investigation there on scene that day, were you able to identify both of the people that were inside that silver Accord?
A Yes, ma'am.
Q Okay. Who were they?
A James and Lorenzo.
Q Do you know their last names?
A One the last name is Grant, and other one is Jackson.
Q Okay. Do you recognize one of those individuals in the courtroom here today?
A No, ma'am.
Q Okay. So you identified Lorenzo and James as being in this car. Did you, ultimately, search that car?
A Master Deputy Sexton searched the car. I took possession of them and left the scene. And he remained

behind and inventoried the vehicle and had a tow truck pick it up. And he telephoned me while I was at the detention center --

Q Okay. That's okay. We'll talk to Investigator Sexton about what he found inside.

A Okay.

Q All right. But for purposes of what you did there that day, as far as you know, were both of those individuals taken into custody there that day on the morning of September 5th?

A Yes, ma'am.

MS. SALISBURY: Okay. I don't have any additional questions. Answer any questions Mr. Smith or Mr. Robinson may have.

CROSS-EXAMINATION

BY MR. SMITH:

Q Were they blacks or Hispanics?

A Black males.

MR. SMITH: Thank you.

CROSS-EXAMINATION

BY MR. ROBINSON:

Q Officer, this is three days after the incident took place; is that correct? It wasn't the day of the incident, it was, actually --

A It was on the 5th.

Q Two days later -- two or three days later; correct?
A Yes, sir.
MR. ROBINSON: That's all the questions I have.
Thank you.
MS. SALISBURY: No additional questions for the witness, Your Honor.
THE COURT: Thank you, sir.
THE WITNESS: Thank you.
THE COURT: Yes, ma'am.
MS. SALISBURY: Your Honor, I expect the next witnesses to be relatively lengthy. For scheduling purposes, I wanted to just revisit with the Court.
THE COURT: Well, how many minutes does lengthy mean?
MS. SALISBURY: Well, based on the witnesses available, I would expect to call Investigator Owens next. And easily, at least, the direct examination would be 45 minutes, if not an hour.
THE COURT: Okay. Well, we'll just go ahead and break for lunch.
And, ladies and gentlemen, be back in the jury room at 1:45. And we'll resume the trial then. Don't talk about the case. Continue to keep an open mind. Don't do any outside investigation. And we'll see you back at 1:45.
Have a nice lunch.

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(WHEREUPON, the jury was excused from open court at approximately 12:30 p.m.)

THE COURT: All right. 1:45.

(WHEREUPON, a lunch break was taken.)

THE COURT: Yes, sir, Mr. Robinson.

MR. ROBINSON: May it please the Court.

At this time, we'd make a motion for a mistrial, Your Honor. It's based on the officer that just testified that I objected to and you sustained it. He mentioned the monitors, the things on your leg, electronic monitors. I thought that we had spoken about that earlier before the jury came in as far as whether that information was going to come out or not.

I think it's extremely prejudicial to my client and indicates that he had a monitor on at the time. I think it tells the jury that that guy's got problems, or is in trouble, or something. I think it's prejudicial to me -- to my client.

THE COURT: All right. Thank you.

I deny the motion. I don't think it was such an extreme episode as to warrant a mistrial, which is a drastic measure and should be used only as a last resort.

There wasn't any fundamental unfairness in that being uttered. It appeared to me to be volunteered by the witness and not elicited by the State. And it was done in

passing. And I'm not sure what the jury knows about ankle monitors or what they signify, what distinct and concrete prejudice could arise from that isolated reference.

So I just don't think it warrants a mistrial. I'll be happy to instruct the jury to disregard it. But that's just a strategic decision you would have to decide on.

MR. ROBINSON: One second, Judge, while I confer with my co-counsel.

THE COURT: All right. Yes.

(Pause.)

MR. ROBINSON: Your Honor, after discussions with my fellow attorney, Mr. Smith, I'm going to not ask for a curative instruction.

THE COURT: Yes, sir.

So the point is brought up, though, about what we're going to do about this issue going forward.

So what is the State's position on that, Ms. Salisbury?

MS. SALISBURY: Well, Your Honor, to the extent that it's critical -- the issue of identification is necessarily critical to the State's case. And my estimation, based on what I've seen so far, the arguments that have been made that the Defense's position is that this Defendant wasn't on scene, wasn't arrested when the other co-defendants were arrested. Therefore, it follows

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that he was not involved and his identification only comes from an unreliable and untrustworthy source.

To the extent that the first identification by the first corroborating witness that spoke to police, specifically, refers to that ankle monitor, it's relevant to the issue of identification. I think that -- and what I would have said had we needed to discuss this issue with the mistrial is there's nothing inherent about someone wearing an ankle monitor that the jury necessarily infers that there is a pending charge pending, that someone is serving a sentence, or that there's any criminal association with it.

So from the State's perspective, to the extent that it is a very critical component of how the Defendant was identified, it's relevant.

THE COURT: So let me just ask, because I don't know. And I have to determine about what happened in terms of the description that included the perpetrator wearing an ankle monitor. And then, as I understand it, Investigator Owens was able to locate this Defendant as someone being on house arrest.

And then what happened?

MS. SALISBURY: I believe that the way the -- and these interviews are videotaped, if we need to review the actual exchange. But it's my understanding that during

one of the interviews with this particular witness, Investigator Owens asks her, now, I have here behind me on this bulletin board a series of photographs that are taped to photographs of cars. And he asks this witness, Do I have this right? Is this who was in each respective car?

And her response to that is, Are those two on house arrest?

And his response to that, as I recall from the video is, Why would you say that?

And she said, Because those are the two I remember wearing ankle monitors, something to that effect. They were in the other Honda. The Accord, is what she's referring to.

And at that point in the investigation -- and I believe this all happened at the same time as this conversation with Mr. Maldonado where he says to police, These two people yelling at me in the jail are upset with me. They believe I've given you some information, something to that effect.

I think it's at that stage of the investigation that we determine that James Gantt and Lorenzo Jackson, who we have the names of as potential suspects, we can corroborate that detail that they, also, are wearing ankle monitors as part of the conditions of bond.

So that is a detail that law enforcement corroborated

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from her statement that in my -- in the State's opinion lends credibility to her identification.

THE COURT: Well, what if you just picked up the identification at the picture stage? Does that cause a problem for the State?

MS. SALISBURY: Not for me, no. I'm happy to sidestep any of these -- those issues. My concern is how these Defendants are going to respond. Even if I am able to instruct them before their testimony that they should not mention that they recall seeing ankle monitors on these Defendants, I don't know how they're going to respond in cross-examination to the issue of whether they knew this person to be who they say it is.

And, again, I think it is extremely relevant to their ability to say, I know the two Defendants that were in the other car that were part of this robbery were wearing ankle monitors. And it just so happens that this Defendant is, as a matter of empirical data on house arrest.

THE COURT: All right. Thank you.

MR. ROBINSON: Your Honor, it's unusual -- it's hard for me to imagine that in the last -- there was three different videotapes. In the last videotape -- the first two doesn't mention anything about Mr. Jackson, nothing.

The last one, they talk about he's -- he has some

pictures on the wall, two pictures, three pictures of one car and other folks in the other car. I didn't hear anything about a house arrest monitor on him.

But, Judge, it would be hard to see that when -- they're supposedly sitting in the car, how would she see the monitors sitting in the car? It's not going to be something above them. It's going to be something in the car. How would she see something like that?

And then it's just -- I think the probative value far outweighs the -- is far outweighed by the prejudicial value of trying to introduce this kind of evidence in this case as well.

THE COURT: Mr. Smith.

MR. SMITH: I agree. I mean, I don't see how in the dark somebody can see an ankle monitor on someone's ankle with the pants covering it up. I mean, that is just incredible from my standpoint.

And it doesn't make sense to prejudice any criminal defendant, for that matter, by saying they saw something when we know that these people that are getting ready to testify live in a culture -- in a culture of lies and deceit. And, you know, they're not the First Baptist or even Episcopalian church-type people.

THE COURT: Well, okay. I understand that. But I thought I heard Ms. Salisbury to propose or be amenable to

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simply --

I suppose the witness you're talking about is Zykeia, is it?

MS. SALISBURY: Yes, sir, it's Zykeia.

THE COURT: Zykeia.

MS. SALISBURY: My concern, though, as I said at the beginning of the trial, stretches a little bit beyond her. I've not had the luxury of speaking to Mike Smalls, Demetrius Smalls, Quancey Harper. I don't know what they're going to say.

So when I ask them how they know these Defendants, how long they've known them, which, of course, is relevant to determining the extent to which they can make a credible identification, I'm not sure if they won't offer that. And I just haven't had the chance to instruct them to help them appreciate that that might be objectionable.

So I don't have any issue sidestepping it. I think it's relevant. But I respect the Court's position that it's a piece of evidence that's dangerous. But I don't have any meaningful control over how these Defendants are going to answer that question.

The only one I can say for certain is Zykeia. Because I've seen the video recorded statement of her interview. No one else has been given video recorded -- or given video recorded statements. So I just don't know.

MR. SMITH: Well, Your Honor, that is the crux of the matter. The Prosecution has a duty to understand what their witnesses are going to say before they get up there on the stand. I mean, you just can't willy-nilly put people up on the stand and not have some basis for understanding what they're going to say. And that is the whole problem in the case.

These people are going to come in here and the Prosecution -- I don't blame them for trying to protect herself, because she's a very honorable person. But these people are not honorable. And they're going to -- in my opinion, they've already lied in their statements, many of them. Zykeia and this Malik -- what it is? -- Malik Jones, they've already lied in their statements. And the police officer on the tape caught them in lies. He said, Look, this sounds like a lie to me. So they are not the most credible people.

And I would, actually, ask her to caution them before they get on the stand, at least, on that issue. And she might want to caution them not to be blurting out narratives. Because I don't want her to get up there and say, okay, what do you know about this incident on September the 3rd? And then they just go off like they're, you know, at NASCAR.

THE COURT: Okay. I've got you.

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MR. SMITH: Thank you, Your Honor.

THE COURT: But if -- and let me just try to organize this in my own mind. What I think Ms. Salisbury is saying is that with Zykeia, she can sidestep the whole ankle monitor thing by, basically, just not even bringing it up. She can, I suppose, talk to her to make sure she doesn't mention anything about it voluntarily.

And as to the other witnesses, you know, before they come to testify before the jury, you know, I don't mind admonishing them not to mention anything about an ankle monitor.

Now, I guess the rub is if the Defense starts attacking identification and they bring it up. But, at that point, I don't know if there's a -- that could be an open the door problem, obviously. But, again, I don't know -- and I think it's wise to be careful with this evidence.

But as far as it being so inflammatory and leading to a decision that the jury is going to make based on a motion or some other immaterial subject, that is what Rule 403 is talking about. I don't know if we're there yet, even if that did occur. But I'll be happy to do that. I'll be happy to tell each witness outside the presence of the jury not to refer to the ankle monitor under any circumstances.

MS. SALISBURY: That's suitable for the State, Your Honor.

MR. SMITH: It's suitable for this Defendant.

MR. ROBINSON: It's suitable.

THE COURT: You've got to tell me which ones you want me to --

MS. SALISBURY: All the ones in the jumpsuits, Your Honor.

MR. SMITH: Yes, sir, the jumping beans.

THE COURT: All right. Anything else before we bring the jury back out?

MS. SALISBURY: Nothing from the State, Your Honor.

MR. SMITH: Nothing from us.

(WHEREUPON, the jury came into open court at approximately 2:03 p.m.)

THE COURT: Ladies and gentlemen, I apologize for the delay. We had to take care of a matter out here that will, hopefully, expedite the trial out here.

So, Ms. Salisbury, you may call your next witness.

MS. SALISBURY: Thank you, Your Honor.

The State calls Adam Davis.

Mr. Davis, if you would, please, come up and be sworn.

THE CLERK: Raise your right hand and place your left hand on the Bible.

WHEREUPON,

ADAM PATRICK DAVIS,

after first having been duly sworn, testified as follows:

THE CLERK: Please have a seat.

And will you, please, state your full name for the record?

THE WITNESS: Yes, ma'am. It's Adam Patrick Davis.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. SALISBURY:

Q Mr. Davis, where do you currently work?

A I work for the United States Probation Office in Charleston, South Carolina.

Q How long have you been there?

A Since January.

Q Before you moved down to Charleston, where were you working?

A I was working for the Greenville County forensics division.

Q And back in September of 2014, were you working with the forensics division?

A Yes, ma'am.

Q Okay. Do you recall responding to an incident that brings us to trial today on September 3rd, 2014?

A Yes, ma'am.

Q Okay. What was your particular assignment? What is your role on scene in a case like this?
A So any forensics call is, basically, you're there to provide documentation and, possibly, evidence collection, should it be necessary.
Q Do you take photographs?
A Yes, ma'am.
Q Do you collect any evidence on scene?
A I do.
Q Do you collect fingerprints?
A Sometimes.
Q Do you sometimes swab for DNA?
A Yes, ma'am.
Q Now, in this particular case, do you remember -- what was going on when you got on scene?
A I made contact with Deputy Parris. And he told me an individual had been shot and, possibly, a residential burglary had taken place.
Q Was the shooting victim still there when you got on scene?
A No, ma'am, it had already been transported -- or he or she had already been transported.
Q Okay. How is it then that you know what to do when you get on a scene, where to look, and what to look for?
A So you're given a little bit of details from the

responding officer about what whoever was transported told them at the time. And that gives you a place to start looking. And then it's all about walking through the scene and trying to decide what may or may not be pertinent in reference to the information you've got, and whether that information verifies what you're told or not.

Q All right. Were you given information about the general area that this shooting took place?

A Yes, ma'am. From my understanding, what I was told is that it happened outside in the front yard.

Q Did you search that area for potential evidence?

A Yes, ma'am, I did.

Q Now, when you find something that you think may be valuable, what do you, actually, do?

A So, first of all, I'll take note of it. And then I'll take photographs of the area. And then I will put evidence placards down next to whatever I think is important that I'm going to collect as evidence. And then I take more photographs. And then that evidence is collected and packaged.

(WHEREUPON, State's Exhibit Nos. 22, 23, and 24 were marked for identification only.)

BY MS. SALISBURY:

Q I'm going to show you State's Exhibit Nos. 22, 23, and 24. And just for our purposes right now, do you

recognize what's in those images?
A Yes, ma'am.
Q Are those photographs you took?
A Yes, ma'am.
MR. SMITH: Yes, ma'am.
Thank you.
MR. ROBINSON: No objection.
BY MS. SALISBURY:
Q Are these accurate representations of the images they depict from the scene that night?
A Yes, ma'am.
MS. SALISBURY: With the Court's permission, I'd like to offer State's Exhibit Nos. 22, 23, and 24 into evidence at this time.
THE COURT: Yes, ma'am. They're in evidence. You may do so.
(WHEREUPON, State's Exhibit Nos. 22, 23, and 24 were admitted into evidence.)
MS. SALISBURY: May I publish them to the jury, Your Honor.
THE COURT: Yes, ma'am.
BY MS. SALISBURY:
Q Let's start with State's Exhibit No. 24. It's going to be on the screen there behind you. Can you tell the jury what we are seeing here in this image?

A So this is the side steps into the residence. And you'll see evidence placards one through eight.
Q If you need to refer to your report, that's fine. But can you tell the jury exactly what these items are now that they're marked with numbers?
A So item 1, 2, 3, 4, and 5 are shell casings. Item 6 is a metallic projectile. And then item 7 and 8 are two additional shell casings.
Q Now, forgive this stupid question. What's the difference between a shell casing and a projectile? Why would you label them differently?
A Okay. So when we talk about a round or ammunition, it's made up of different parts. The shell casing is exactly what it says. It's the outer shell casing. A bullet is referred to as a projectile. And then there's powder and a primer.

So when the gun is fired, the shell casing ejects and the projectile, or bullet, is dislodged down the barrel of the gun. So that's why they separate. That's why you refer to them as different items.

Q So some of those items are shell casings and one of those items is an actual bullet, for lack of a better word?
A Yes, ma'am.
Q Now, was there any additional items that you

collected from the scene that night?
A One more item inside. There was a suspected projectile jacket fragment, I believe -- or suspected metallic projectile fragment, yes, ma'am. And that's inside. It's from the entranceway floor.
Q Well, that brings us to State's Exhibit No. 22. Can you describe what we're looking at in that picture?
A So what we're looking at is the suspected projectile hole. It's about midway up in the middle of the screen. A projectile hole is usually perfectly circle. But due to the edge of this storm door, it's not perfectly circle. But that is a suspected projectile hole.
Q Do you remember the location of that particular item?
A I just remember it being on the side storm door frame.
Q So the door frame?
A Yes, ma'am.
Q Okay. And, finally, State's Exhibit No. 23?
A This is another suspected projectile hole. This is from the same side door, not the storm door, the actual side door. And it's on the edge of the door, like, the two or three-inch wide side of the door.
Q So is it then in this entranceway that you collected item 9, this additional fragment piece?
A Yes, ma'am.

Q Okay. Did you dust the house for fingerprints?
A I did. I processed both the exterior and interior side of the side storm door frame, the exterior and interior side of the side door, some kitchen cabinets, and a Rice Krispies box for prints.
Q Now, how is it that you go about looking for those prints and then preserving them? How does that happen?
A So prints are referred to as ridge detail. And what they really are is the oil in your skin leaving the impression that your fingerprints are on something.
So when we dust for fingerprints, the fingerprint powder sticks to the dust -- or sticks to the oil. So once that image comes up, we use transparent tape. And you're able to transfer a fingerprint on the tape to a latent card. And that would be sealed and turned into latent print examiners.
Q Now, in your capacity as the forensics technician that's on scene, do you compare those prints to anything?
A No, ma'am. I do not.
Q And did you collect DNA from anywhere inside the house?
A No, ma'am, I did not.
Q Why not?
A It was my understanding that there was some suspected blood inside the house, but that was all the victim's

blood -- or one of the victims, possibly, going back and forth when they had been shot trying to go to the bathroom to get first aid or care.

Q Okay. Aside from responding to the scene that night and collecting these items that you talked about -- actually, before I get into that, let me ask you this. Once you've collected any item of evidence, whether it's a shell casing or projectile or some object, what do you do with it?

A So it's transported. Once it's collected and packaged individually, sealed, then it's transported back to our office. And then it's kept in my evidence locker until I'm able to put that item in property and evidence.

(WHEREUPON, State's Exhibit No. 25 was marked for identification only.)

BY MS. SALISBURY:

Q I'm going to show you State's Exhibit No. 25. And just looking inside that box, can you tell me whether you recognize what it contains?

A Yes, ma'am. I recognize it.

Q How do you recognize it?

A It's the evidence item number with my initials, APD, and it's 139. And it's my signature over the evidence tape on the back.

Q So would you have taped these yourself and sealed

them with evidence tape?
A Yes, ma'am.
Q What is it that you do once you package these items with the evidence tape? What do you do with it next?
A Then it's transported to the Department of Probation -- not probation and parole. Excuse me. I'm getting confused here. Property and evidence. And then it's -- they take possession of that.
Q And do you turn it into property and evidence in this sealed condition?
A In the -- not in the box, but in the individual packaged bags, yes, ma'am.
Q Now, after turning in all the evidence in the case and processing the scene that night, is there anything else that you did in terms of the investigation of this case?
A Just the importation of the photos. I uploaded the photos and passed those. And my role is complete.
MS. SALISBURY: Thank you, sir.
If you would, answer any questions that Mr. Smith and Mr. Robinson may have for you.

CROSS-EXAMINATION

BY MR. SMITH:
Q Let me just ask a few little questions. Did you guys ever take any computers out of any of these homes?

A I did not.
Q And with regard to dusting for fingerprints, did you dust for fingerprints on a mask?
A I did not.
MR. SMITH: I know.
Thanks.
I appreciate it.
THE COURT: Mr. Robinson.
MR. ROBINSON: I have no questions, Your Honor.
THE COURT: All right. Thank you, Mr. Davis.
THE WITNESS: Thank you.
THE COURT: Yes, ma'am.
MS. SALISBURY: Your Honor, the State calls Investigator Matt Owens.
Investigator, if you would, please, come up to be sworn.
THE CLERK: Place your left hand on the Bible and raise your right hand.
WHEREUPON,
MATTHEW OWENS,
after first having been duly sworn, testified as follows:
THE CLERK: Please have a seat.
And will you, please, state your full name for the record?
THE WITNESS: Matthew Owens.

DIRECT EXAMINATION

BY MS. SALISBURY:

Q Investigator Owens, where are you employed?

A Greenville County Sheriff's Office.

Q In what capacity?

A I am currently a school resource officer.

Q Were you working in that capacity in September of 2014?

A I was not.

Q Where were you assigned at that time?

A I was assigned in the armed robbery unit.

Q Would you -- well, how long were you in armed robbery before you moved to the schools?

A About five years, roughly five years.

Q And how long total with the sheriff's office?

A 12.

Q As an investigator in the armed robbery division, how is it you become involved in any particular case?

A So there's a couple ways we get involved. If there's an incident that occurs during normal business hours, we will normally respond to -- you know, if it's a bank robbery or convenience store robbery, we would respond to that during normal business hours.

If there's an incident that happens after business hours, then we will get assigned a case the following day.

If it happens like on a Friday night or something like that, we will not get it until Monday morning.

Every six weeks, you will go on call. That means that if there is an incident that occurs after hours and uniform patrol need us to come out for something, really, if there's any type of violence, any type of gunshot victims, home invasion, such, therefore, we go out there.

On this particular incident, I was not on call. Sergeant Hoover was, actually, on call.

Q So when is it that the case became your responsibility?

A The following day, the next morning.

Q What information are you given at the outset of any investigation?

A So, basically, we are given the original report from the uniform patrol guys who go out there. They take the report and speak with victims, witnesses, so on and so forth.

In this particular case, Sergeant Hoover was able to give me some more information of what he learned during his time out on scene.

Q So what's the first thing you decided to do when this case was formally assigned to you?

A The -- when I received the case, I wanted to look at the video surveillance. That's the first thing I wanted

to do.
Q Why?
A Because it's going to show me who -- it's going to show me pictures of people, vehicles. You never know, I could be familiar with somebody. I want to see who I'm dealing with and get those pictures and those -- I'm sorry -- the people and the vehicles out to our guys as fast as possible. It's a time sensitive type thing. The faster we get it out, the faster we get something solved.
Q So did you look over the video that Deputy Emily said he had put in property and evidence?
A I did.
Q Did you see anything that was valuable to the investigation?
A Yes, ma'am. So there was four individuals who come inside the Citgo. I was able to get still images. Basically, I just play the video on my computer. And I just hit control, print. And that stopped and took a picture of what I was looking at. I took four still images to see who these people were, you know, blew them up a little bit to maybe see better details of the face.
Then if you go on the outside of the store or of the Corner Mart, you will see two vehicles that meet in the -- by the gas pumps. Multiple people are gathered around those vehicles. And to be exact, the four people inside

the store exit the store and then approach those two vehicles.

Q Were you able to tell who anybody might be?

A I had no idea who anybody was, no, ma'am.

Q Now, what information were you given at the outset of this investigation to make you think that the people around these cars were the same people involved in this robbery?

A I was told that a witness said that they saw --

MR. ROBINSON: Objection, Your Honor. Hearsay.

MS. SALISBURY: Your Honor, to the extent it's offered to show why police did what they did next.

THE COURT: Yes. Overruled.

THE WITNESS: So I was told that the individual responsible for this home invasion, so to speak, was seen at the Corner Mart minutes prior to this thing even happening.

BY MS. SALISBURY:

Q Did you have any sense after reviewing this video the kind of cars you might be looking for?

A Yes, ma'am. One car was a Honda CRV, and the other vehicle was a Honda Accord.

Q Did you have a sense of how many people you might be looking for?

A A lot. There was probably -- I remember seeing six

to seven people outside at one time. Now, there was some people who never exited the vehicles. So I don't know how many people were, actually, inside each vehicle. But there was approximately six to seven people standing around.

Q Now, was this video, for lack of a better word, complete?

A No. It stopped at the very -- when the vehicles started to leave, it stopped.

Q Did you go back and revisit with the convenience store about getting the rest of that --

A Yes, ma'am. I went back to obtain the rest of the DVD showing the vehicles leaving off camera view.

(WHEREUPON, State's Exhibit No. 26 was marked for identification only.)

BY MS. SALISBURY:

Q I'm going to show you State's Exhibit No. 26. Do you recognize that item?

A Yes, ma'am.

Q How do you recognize it?

A That is -- for one, that's my awful handwriting. And this is the one I received from the Citgo.

Q You mentioned that this is the CD you got from the Citgo?

A Yes.

Q When did you go back and retrieve this next piece of video?
A The following day, which was September 4th.
Q And how much did you determine of relevant action was missing from that first video?
A I mean, it showed the -- it showed both vehicles leave towards the direction of where this incident occurred, so pretty significant.
MS. SALISBURY: Your Honor, to the extent that we've stipulated with respect to the prior video, I'm prepared to offer this video, unless I need to call the manager from the store.
MR. SMITH: We don't have to do that, Your Honor. I've seen it. Mine, though, is in fast motion. I don't know if this one is in slow motion or not.
MR. ROBINSON: No objection.
THE COURT: It's in evidence.
(WHEREUPON, State's Exhibit No. 26 was admitted into evidence.)
MS. SALISBURY: Thank you, Your Honor.
With the Court's permission, I'd like to publish each of these videos respectively.
THE COURT: Yes, ma'am.
(WHEREUPON, State's Exhibit No. 26 was played in open court.)

(WHEREUPON, Defendant Maldonado's Exhibit No. 1 was played in open court.)

MS. SALISBURY: Your Honor, it appears that this computer is not really receptive to the formatting on this disk. I have a copy if we can agree to substitute this copy.

THE COURT: Any objection?

MR. SMITH: We haven't seen the copy.

MS. SALISBURY: Well, maybe it's not necessary.

MR. SMITH: If she makes the representation it's the right one, that's fine.

BY MS. SALISBURY:

Q Now, Investigator, with respect to this exhibit, is there any other action on this tape after the cars leave the gas station?

A No.

MR. SMITH: Well, it's going to be introduced and it's in evidence. I would like to see it, because the one that we got in the office wasn't as detailed. I'd like to see it along with the jury since it's in evidence.

THE COURT: Okay.

MR. SMITH: Your Honor, I want to make sure it's not going to last for eight hours, though. Can she just ask him how long this tape is going to last?

THE COURT: Sure.

THE WITNESS: I believe when that little thing right there gets to the end.

MR. SMITH: Okay. Got you.

BY MS. SALISBURY:

Q You mentioned that the first thing you did on the morning of September 4th was review that videotape?

A Yes, ma'am.

Q Now, were you able to determine from either of these videotapes license plates of any cars?

A No, ma'am. It was -- as you could tell, it was very blurry. You could not tell the numbers, letters, even state where it's from.

Q So other than a generic description of two cars and maybe some generic descriptions of people, did you have anything else to go on?

A I wouldn't say generic. The Honda Accord, you can see some significant damage to the rear-end. And it, also, had a spoiler on it. And I believe that you could see the sunroof, or moon roof, or however you want to call it.

Q So was that significant to you in passing along information to the other deputies out on the road about what kind of car it was?

A Oh, absolutely, yes, ma'am.

Q All right. Now, after looking over that video, what

did you decide to do next?

A So after the video, basically, I decided to go out on scene. Like I said before, Investigator Hoover -- I'm sorry. Sergeant Hoover went already -- had already been out there. When I get a case, I like to go see what I -- I'm looking at. I want to be able to testify on what I saw.

So I went out to the scene. I was trying to track down anybody, any type of witnesses, knocking on doors, talking with people, so on and so forth.

Q What's the general area that you knocked on these doors and canvassed?

A East Parker Road, you have -- there's -- I think it's Holiday Street. There's Power Street. There's Center Street. It's -- if you live around there, I came knocking on your door.

MS. SALISBURY: Your Honor, I believe I did not formally offer State's Exhibit No. 12. To the extent that a foundation has been laid, I'd like to go ahead and offer that now.

MR. SMITH: No objection.

MR. ROBINSON: No objection.

THE COURT: All right. It's in evidence.

(WHEREUPON, State's Exhibit No. 12 was admitted into evidence.)

BY MS. SALISBURY:
Q And I'll show you State's Exhibit No. 12. Another deputy has already talked about this. But do you recognize what this image depicts?
A Yes. That is the -- that's the Citgo right there, Smythe, Woodside, East Parker.
Q So in terms of where you went to locate possible witnesses, could you give the jury a sense of where on this map you went to?
A Basically, all around here. These houses all around here, that's where I went.
Q Did you learn anything that helped the investigation?
A Yes and no. I mean, people heard gunshots. They heard people running. Nobody could give me who, or what, or where, just generic, I heard this, I heard that. An individual saw a vehicle parked on Power Street. He said that he saw the -- two of the possible suspects running towards the vehicle.
Q Did any of that help you narrow down who your suspects might be?
A No, ma'am.
Q So at some point in the day on September 4th -- we've heard testimony from Sergeant Weiner about this happenstance running at Carly Drive. Did you get involved in what happened at Carly Drive?

A Not necessarily. I knew about it. I responded out to that general area, but I was not involved with what happened, actually, at Carly Drive. I was being advised due to the fact that -- you know, being the lead investigator, I was being advised what was going on. But I did not have anything to do with Carly.

Q Why not?

A I had my hands full with something else.

Q Related to the case?

A No, ma'am.

Q Now, at some point on September 4th, we heard testimony from Sergeant Weiner and some other deputies that several people were arrested at this Carly Drive residence?

A Yes, ma'am.

Q Did you participate in the interviews of any of those potential suspects?

A I did.

Q Based on your conversations with those witnesses, what did you do next as it relates to this investigation?

A I was able to sign multiple warrants on multiple Defendants.

If I can add, this is a very unusual situation that this happened. This happened so fast. Investigations do not happen this fast. Basically, what you do is you look

at any type of evidence you have right then. Then you talk to your victims. And then you move forward.

This was completely opposite, you know. Because it happened so fast, we, actually, talked -- spoke with the Defendants. And then later on when we had time, we spoke with the victims. And that was very unusual in this situation.

Q At that point in the investigation there on September 4th, did you have enough evidence to make charges on all 10 Defendants?

A No, ma'am.

Q Okay. What was left open?

A Like, who was left?

Q I'll ask it this way. Who were you able to charge right there that day?

A We charged Zykeia Harper, Quancey Harper, Damon Young-Gaines, I believe, yes, Tedrick or Malik Adams, Mike Smalls, Joseph Maldonado. And I believe that's it. I can check, but I think that's it.

Q Okay.

A Oh, I'm sorry. Jakobe German. There we go, yes, ma'am.

Q Now, we heard testimony from Sergeant Hoover earlier this morning about Jakobe German.

A Yes, ma'am.

Q Had you been given that information at the time that you spoke with the witnesses?
A Yes, ma'am. Investigator Hoover told me that the following day. He did give me the name. And then when I spoke with everybody from Carly, everything -- the puzzle started to come together, so to speak.
Q Now, at some point, did you have an opportunity to interview Joseph Maldonado?
A I did.
Q Before we get into the details of that interview --
A Yes, ma'am.
Q -- how is it that you became apprised of his involvement?
A Okay. So after speaking with some of the Defendants, we were able to determine that the Honda CRV was associated with Joseph Maldonado, not particularly -- it was not in his name. But we were able to determine through the Department of Motor Vehicles that he is associated with somebody who has that vehicle in Maldonado's last name.
Q What do you mean?
A His mother.
Q Okay. What did you do with that information?
A So based on the CRV and Maldonado's name, we actually -- I'm trying to think of what we -- I mean, we,

obviously, sought warrants on him. And then we were in contact with the Southside SRO.

Q "SRO" is?

A Oh, I'm sorry. School resource officer. My apologies.

I was advised by him that Mr. Maldonado and his mother were at the school, and they wanted to talk to me about this incident.

Q Did you talk to him that day?

A I did, yes.

Q Where?

A At the sheriff -- at my office at the sheriff's office.

Q I'm going to show you State's Exhibit No. 1. Do you recognize what that item is?

A I do.

Q What is it?

A It is the -- it's the waiver of rights, or Miranda rights for Mr. Maldonado.

Q Did you go over those rights with him?

A Yes, ma'am, I did.

Q Did he indicate to you that he could read?

A Yes, ma'am.

Q Did you have him read anything for you to demonstrate that he could, in fact, read?

A Yes, ma'am. The very last paragraph, I had him -- I asked him to read to me.
Q After reviewing that form and going over that with him, did you have Mr. Maldonado sign that form?
A I did.
Can I add something real quick?
MS. SALISBURY: Just give me just one second.
MR. SMITH: No objection.
MS. SALISBURY: Your Honor, at this time, I'd offer State's Exhibit No. 1.
THE COURT: Any objection?
MR. ROBINSON: No objection.
THE COURT: It's in evidence.
(WHEREUPON, State's Exhibit No. 1 was admitted into evidence.)
BY MS. SALISBURY:
Q Now, how is it that you reviewed that form with Mr. Maldonado?
A How do I do it?
Q Yes.
A So, basically, I have the form right in front of him. And I read each line out to him. And then I have him initial beside each line just saying that he understands what I just said. We do that all the way through.
And then at the very last part where it says "Waiver

of Rights," I asked him if he would, please, read that out loud to me. He, also, initials and then signs the form.

Q Now, I hate to belabor it, we've all probably heard it on TV. But would you mind going through each of the rights that you advised the Defendant of before asking him any questions?

A Sure. Before we ask you any questions, you must understand your rights. You have the right to remain silent. Anything you say can be used against you in court. You have the right to talk to a lawyer for advice before we ask you any questions, and to have him with you during questioning.

If you have no money to pay a lawyer's fee, the Court will appoint one to represent you without cost, if you wish. If you decide to answer questions now without a lawyer present, you will still have the right to stop answering at any time. You, also, have the right to stop answering at any time until you talk to a lawyer.

So those rights there, I read him each sentence. He initialed. I went on to the next one. And then the bottom where it is the waiver of rights, this is where Mr. Maldonado read this to me, I read this statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am

doing. No promises or threats have been made to me. And no pressure or coercion of any kind has been used against me.

I usually circle the word "coercion." It's a tricky word. And we -- I ask him if he understands what it is. If he doesn't, I explain it so everybody's on the same page what that word means.

Q Did Mr. Maldonado indicate to you that he understood all of those rights?

A Yes, ma'am.

Q Did he have any questions for you about what they meant?

A No, ma'am.

Q Did he tell you he was willing to answer your questions?

A Yes, ma'am.

Q Was anybody else in the room with you?

A I'm -- I would have to say yes. I'm sure there was probably another investigator. However, I don't know that for a fact -- well, besides me -- myself and Joseph, his mother was, also, in the room.

Q Did she indicate to you that she had any questions about this process?

A No, ma'am.

Q How long do you think your conversation with

Mr. Maldonado lasted?
A Half hour, somewhere around there.
Q At any point during that process, did he ask to go to the bathroom, or have any food or drink, or any breaks?
A I don't remember him ever asking any of those types of questions. If he had asked me, by all means, we would have -- if he needed to use the restroom, by all means, we would let him use the restroom, or give him some water, or whatever.
Q At any point during your conversation with him, did he tell you that he didn't want to answer your questions anymore?
A No, ma'am.
Q At any point during your interview, did he tell you that he wanted to stop until he spoke with a lawyer?
A No, ma'am.
Q Based on your experience at the sheriff's office, have you had an occasion to deal with individuals who are impaired by drugs, or alcohol, or any other substance?
A Absolutely.
Q Did Mr. Maldonado appear to you to be impaired or incapable of understanding what was going on?
A No, ma'am.
Q Did it seem to you that Mr. Maldonado understood your questions?

A Yes, ma'am.
Q Was he ever threatened or pressured in any way to answer your questions, or offered any promise of reward?
A No, ma'am.
Q Do you remember video recording the interview?
A Yes, ma'am.
Q Is that something that's set up, or is it internal in the room?
A It's just a little camcorder that we plug into the wall.
Q Like on a tripod?
A Yeah. And you're looking right at it.
Q Okay. I'm going to show you State's Exhibit No. 2.
A Yes, ma'am.
Q Do you recognize that item?
A I do.
Q How do you recognize it?
A That is my handwriting. And the CD I made for the interview.

MR. SMITH: No objection.

MR. ROBINSON: No objection.

MS. SALISBURY: Your Honor, at this time, I'd offer State's Exhibit No. 2.

THE COURT: All right. It's in evidence.

(WHEREUPON, State's Exhibit No. 2 was admitted into evidence.)

BY MS. SALISBURY:

Q Is that recording the entire exchange that you had with Mr. Maldonado on September 4th?

A Yes, ma'am.

Q What did he tell you?

A Basically, he was there. He admitted to driving the Honda CRV to the Citgo. He told me who was in the CRV, all the other Defendants. They drove to the -- on Power Street and parked. The other vehicle was there as well, the Honda Accord.

He said everybody got out of the vehicle. He stayed in the vehicle. He heard gunshots. He got scared and took off by himself.

Q You mentioned that he identified to you who else had been in his car?

A Yes, ma'am.

Q And who was in the other Honda?

A No. He didn't know the -- he didn't know all the names of the people in the Honda Accord. He could give me names about who was in the CRV, in his vehicle.

Q Do you remember, generally, how many people he named that he knew to have been in the cars?

A There was six, including himself.

Q In the CRV?

A In the CRV, yes.

Q Did he know how many people were in the Honda Accord?
A I want to -- I don't remember. I want to say he -- at least, two, possibly four. I don't know that for a fact. But I know, at least, two people in the Honda.
As you saw on the video, everybody gathered around and Mr. Maldonado was there with everybody, so.
Q But it was his testimony -- or not his testimony, rather, but in answering your questions, his version was he stayed in the car while the others got out to go, actually, commit the robbery?
A Yes, ma'am.
Q And his answers to you were that he drove away leaving people behind?
A Yes, ma'am.
Q Okay. Now, at some point after this investigation -- or this interview, this exchange is over, what do you do next?
A Once the interview is finished, I, basically -- I escorted Mr. Maldonado to the Greenville County Detention Center.
Q Do you recall the time you and Mr. Maldonado arrived at the detention center, this interview was complete, and he was under arrest at that point?
A It was in the afternoon. It was late afternoon. I don't remember exactly -- okay. So at the time he signed

the -- when I began the Miranda rights, it was 17:21. So 5:21 is when we started the interview. So if you -- I mean, if the interview lasted somewhere around a half hour or so, you can -- so right around 6:00.

Q In the evening?

A Yes, ma'am, somewhere around there.

Q And just so I'm clear, what is the date on that waiver?

A September 5th.

Q I apologize. I've been referring to it as the 4th. The interview, actually, happened on the 5th?

A Yes, ma'am.

Q Okay. Just to be clear.

Now, do you recall any significant instance at the actual detention center?

A Yes, ma'am. There was somewhat of an altercation while in the detention center, yes.

Q What did you hear?

A What did I hear?

Q Inside the detention center.

A Excuse my language. But I heard, Look at that bitch.

Q Okay. Do you know who was responsible for those comments?

A I have no clue.

Q All right. Did you speak to Mr. Maldonado about

those comments?
A I didn't.
Q All right. Now, after you had an opportunity to interview the Defendant, Mr. Maldonado, what happened next in the investigation?
A After our full discussions, I was able to, basically, have enough evidence to sign warrants on the remaining -- well, I'm sorry, on Mr. Jackson and Mr. Gantt. And I signed warrants on those two.
Q At that point, was there anything else left undone, unvisited in the investigation?
A Yeah. We had to find the Honda Accord. That was pretty vital. Yes, ma'am.
Q Were you apprised of when that happened?
A Was I surprised?
Q No, no, no. Were you notified? Did they tell you?
A Oh, yes, ma'am. I'm sorry. I was.
Q And after -- did you have an opportunity to speak to other witnesses in the case who gave you information about the details of how the robbery happened?
A Yes, ma'am, I did.
Q And you mentioned that this investigation was a little bit sped up?
A Yes.
Q So had you even met with the victims at this point?

A No, ma'am.
Q When did you, finally, have an opportunity to speak with them?
A I believe it was a couple days after everything kind of calmed down a little bit really. That's when I was able to, actually, speak with the victims and get their statements, and so on and so forth, so, yes.
Q And were they able to provide you any particular details that helped you identify, specifically, any suspect?
A No, ma'am.
Q As the investigation progressed, despite the fact that the suspects had been identified and arrested, did you continue to speak with witnesses who gave you information about this case?
A Absolutely, yes, ma'am.
Q Okay. And we've heard some testimony about some weapons --
A Yes, ma'am.
Q -- that were recovered from the search warrant at Carly Drive. As the lead investigator in the case, what is your role in terms of analyzing or doing any particular search for a piece of evidence.
A So, basically, any time there is weapons, cell phones, what have you, any type of evidence, as the lead

investigator, we decide whether or not we want to take fingerprints, DNA, phone records, so on and so forth.

In this particular case, we knew, obviously, firearms were used. The fact that the four firearms found at Carly Drive -- we did -- I did ask for DNA processing. However, it was never completed due to the fact that after thinking about the totality of the circumstances, the people that -- the individuals that came out of Carly Drive, their DNA, we don't know who moved those guns to the air vents.

So there is -- you guys heard testimony where there's two other people inside Carly who were not charged with this incident. So I felt that to be fair, I didn't want to say that, you know, finding their DNA on these guns -- because they moved these guns from point A to point B inside the residence, if that makes any sense. It wasn't going to prove who, actually, held the gun and shot the gun at East Parker whenever this incident occurred.

So I hope that kind of clarifies it and you understand that DNA, at the time, was not going to help. In fact, I'm trying to protect people. That's why I didn't -- the DNA was never completed.

Q So it was collected, but just not analyzed?

A Yes, ma'am.

Q Not compared to anybody?

A Sure, yes, ma'am.
Q What about fingerprints?
A So that's another curve ball. So you have fingerprints and DNA. If you do one, you, basically, ruin the chance of the other, you know. If I dust for fingerprints, the dust is going to get all over the place and could contaminate the DNA.
Again, going back to the same example of the DNA, why we didn't fully submit the DNA, same thing as with the fingerprints. It's going to show people inside that house moving those guns around. And, again, it's not going to show who had the gun at the time of the actual shooting.
Q There's been some testimony that some phones were collected?
A Yes, ma'am.
Q As the lead investigator on this case, is it your job -- your responsibility to decide how those get analyzed?
A Yes, ma'am.
Q Okay. What's the protocol on analyzing a phone? How does that work?
A Okay. So first thing is you need to obtain a search warrant. And then once you obtain a search warrant, you -- it's called a phone dump. Basically, they -- we take the phone to some of the guys at the sheriff's office

who specialize in analyzing cell phones. And they connect it to a computer and, basically, that computer just sucks up all the information from that phone and puts it into, like, a computer program for us. We did that. I did that for this incident.

Q About how many cell phones do you think you got?

A It was a lot, seven, I think, somewhere around there. Again, I'd have to check, but it was a lot. Some of them -- sometimes, when you do that, if you have a pass code, it will -- the program will not let you break that pass code, so you can't get into that phone. Some phones just weren't working.

Q Well, of the phones that were operable --

A Yes, ma'am.

Q -- and the program could access, did they generate a report about the content of what was stored on those phones?

A Yes, ma'am.

Q Did the content of those reports advance the investigation?

A No, ma'am.

Q Why not?

A To be honest, I couldn't tell you whose phone belonged to who. There was phone numbers there that I don't know who it belonged to. Unfortunately, in real

life -- you know, TV is something different. But in real life, we don't have all these gadgets, and computers, and technology that we can just put some stuff in and, boom, magically, something appears. It just doesn't work that way.

And in this situation, there was nothing on those phones that I could directly relate whose phone it belonged to, or the connection between any of them.

Q Were you able to identify even who the owners were of any one of these particular phones?

A No, ma'am.

Q Now, you mentioned that you made inquiry into this -- into the CRV?

A Yes, ma'am.

Q Did you ever go find the CRV?

A So the -- backing up. So the day that the school resource officer from Southside called me and told me that Mr. Maldonado's mother was there, I said to make sure they bring that CRV to my office. However, that never happened.

So after -- I believe it was the 10th, I, finally, had time to go find it. And, yes, I did find the vehicle at Mr. Maldonado's residence.

Q Did you search it?

A No, ma'am. Nobody was home at the residence, you

know. I could see inside of it. I didn't see any type of evidentiary items that would be beneficial to this case.

Q Did you video record the process of looking at this vehicle?

A I did, yes, ma'am.

(WHEREUPON, State's Exhibit No. 27 was marked for identification only.)

BY MS. SALISBURY:

Q I'm going to show you State's Exhibit No. 27. Do you recognize that item?

A I do.

Q What is it?

A That is the DVD that I made for videotaping the Honda CRV.

Q How do you know?

A Because that is my handwriting.

MR. SMITH: No objection.

MR. ROBINSON: No objection.

MS. SALISBURY: Your Honor, at this time, I would offer State's Exhibit No. 27.

THE COURT: All right. It's in evidence.

(WHEREUPON, State's Exhibit No. 27 was admitted into evidence.)

BY MS. SALISBURY:

Q Now, in each of these instances where you had an

occasion to speak with a co-defendant, someone who was, also, charged with being involved in this robbery, were those interviews recorded as well?

A Yes, ma'am.

(WHEREUPON, State's Exhibit Nos. 28 and 29 were marked for identification only.)

BY MS. SALISBURY:

Q Now, we heard some testimony just before lunch about this Honda Accord. Deputy Jones testified that he was given some information about a uniquely identifiable Honda Accord and on September 5th, he located it. Did you participate in the search of that car?

A No.

Q Were you given details, as the lead investigator, about what was uncovered?

A Yes, ma'am.

Q I've got State's Exhibit Nos. 26 and 27. Do you recognize those items?

A State's Exhibit Nos. 28 and 29.

Q I'm sorry. It's State's Exhibit Nos. 28 and 29. I apologize.

A Yes, I do.

MR. SMITH: No objection.

MR. ROBINSON: No objection.

BY MS. SALISBURY:

Q Based on your understanding of what was transpiring with respect to Mr. Jackson's arrest in this car, were you given information about when it was searched and what was found inside?

A Yes, ma'am.

Q What did you learn?

A I learned that there was a weapon -- from what I remember, an old, like, brown revolver that was located in a bag that was, I believe, in the passenger side of the vehicle. There was a South Carolina identification card of Mr. Gantt. And then there was some blood that was on the passenger side. I believe it was, like, the door -- somewhere on the door on the passenger side of the vehicle.

Q So do State's Exhibit Nos. 28 and 29 reflect what was discovered there during the search of that car?

A Yes, ma'am.

MS. SALISBURY: Your Honor, I'd offer State's Exhibit Nos. 28 and 29.

MR. SMITH: No objection.

MR. ROBINSON: No objection, Your Honor.

THE COURT: All right. They're in evidence.

(WHEREUPON, State's Exhibit Nos. 28 and 29 were admitted into evidence.)

MS. SALISBURY: Investigator, I don't believe I have any additional questions. If you would answer any questions Mr. Smith and Mr. Robinson may have.

CROSS-EXAMINATION

BY MR. SMITH:

Q Officer --

A Yes, sir.

Q -- do you remember in my opening statement, I said Mr. Maldonado said he responded to a guy named Malik, who called him to take his mom to the hospital -- I mean, to go see his mom at the hospital?

A Yeah, I believe -- Malik?

Q Yes, sir.

A Okay. Yes, sir.

Q So that was true, wasn't it? He told you that in his interview, didn't he?

A He did tell me that, yes.

Q And he said he picked them up at Grove Estates, and other people that were with Malik got into the car; correct?

A Yes, sir.

Q He stated that Malik asked him to take him to Saint Francis Hospital; correct?

A Yes, sir.

Q And Malik asked Joseph to turn into a gas station;

correct?
A I believe so.
Q Now, Mr. Maldonado, where did he live?
A I would have to look it up.
Q Go ahead and look it up. We've got time. We've got time. Go ahead and look it up. You're the lead investigator.
A Pelzer.
Q Pelzer. And so Pelzer is over there by Anderson County, over in that area; right?
A Sure.
Q Right. So he would hit that area around where that Citgo would be before he would hit the Saint Francis Hospital in the way the geography is in Greenville; isn't that correct?
A (There was no response.)
Q You don't know where Saint Francis is?
A I know where Saint Francis is.
Q You know where Pelzer is?
A I'm somewhat familiar with Pelzer.
Q So you say Pelzer, then Woodside, Citgo, and then you'd have Saint Francis over here?
A Well, is Pelzer off of 85?
Q No.
A No?

Q No, sir.
A Okay.
Q Well, I guess it could be. I'm thinking Saint Francis Avenue. But whatever it is, it's over in Anderson County; right?
A Right.
Q Fair enough?
A Yes, sir.
Q Now, so he says Joseph told him to stop at a gas station to put some gas in his Jeep [sic]. There wasn't no gas put in that Jeep, was there?
A It did not look like it.
Q Joseph asked the driver in the other car what was going on several times. He told you that, too, didn't he?
A Yes, sir.
Q He told you they told him to get back in the F-ing car, didn't he?
A Yes, sir.
Q Malik told him they were going to get some money from his mom. That's what he told you, didn't he?
A Yes, sir.
Q So, first, he tells him they're going to Saint Francis. And then he's telling him he's going to get some money from his mom; correct?
A From Malik's mom?

Q From Malik's mom.
A Yes.
Q And Malik's mom was supposed to be the one in the hospital; correct?
A I believe so, yes.
Q All right. Now, he, also, told you that there were people in the other car; correct?
A Yes, sir.
Q And he told you he stayed in his car when they got to that area where the robbery was taking place?
A Yes, sir.
Q And he, also, told you that when he heard gunshots, he got scared and he drives off and leaves. Didn't he tell you that?
A Yes, sir.
Q He claims that Malik called him to come back at some period in the night; correct?
A Yes, sir.
Q Now, when you looked at that cell phone -- you never asked him about his cell phone number, did you?
A Did I ask who?
Q Mr. Maldonado.
A I don't believe I ever asked him about his cell phone number.
Q Right. And if you had asked him for the number,

would that have assisted you in your investigation with regard to the issue that it was his phone?
A Whose phone?
Q Mr. Maldonado had a phone. He told you in the investigation --
A That's true.
Q Right.
A The issue that I had is the phones that were recovered, I had no idea who the phones belonged to.
Q I understand. But all you had to do was call that number?
A Call what number?
Q Malik's number. You know Malik had a cell phone?
A I don't know he had a cell phone.
Q Well, okay. Lead investigator, Mr. Malik gave you a statement, didn't he? He gave you a statement?
A Malik?
Q Malik. Okay. Let's call him Malik. Malik gave you a statement, didn't he?
A Yes.
Q Now, when he gave you that statement, did you say, now, Mr. Malik you have a cell phone, don't you? Correct? You could have asked him that, couldn't you?
A Sure. Yes, sir.
Q You didn't ask him that, though, did you?

A When he was arrested, he did not have a cell phone on him.
Q That isn't my question. I'll saying when you got that videotape on him, when you got him inside custody there, you could have asked him to say, Mr. Malik, what is your phone number?
A Yes, sir.
Q You could have asked him about his cell phone, too, couldn't you?
A Sure.
Q Right. But you didn't do that, did you?
A Apparently not.
Q And here is a message coming into Mr. Maldonado at 6:58 for 12 seconds --
MS. SALISBURY: Objection, Your Honor. I don't believe the foundation has been laid for that.
MR. SMITH: That's fine. That's fine.
THE COURT: All right. Sustained.
BY MR. SMITH:
Q Do you know anything about this document?
A Sir, there is nothing on the document.
Q Okay. Now, I'm going to show you a series of pictures, too. Did you get any of these pictures off the Facebook thing? Did you take any pictures off of Facebook with any of these Defendants?

A Oh, sure. Yes, sir.
Q All right. Oh, before I get to these guys. With regard to the NCIC or whatever that thing that guy was talking about earlier.
A For the weapons?
Q Yeah, the weapons. Did you do the serial number check?
A No, sir.
Q Right.
A Like I said, the information from Carly, I was not part of that -- what they were doing at Carly, I was not part -- I was handling something different.
Q Okay. But this is the key. The key is you're the lead investigator?
A Sure.
Q Right. If this is a key piece of evidence to find out who owned those guns, wouldn't you want to know the serial numbers on those guns and have it traced back where these folks got the gun?
A Well, unfortunately, in South Carolina, we don't -- I can't do that. I can't track a gun back to somebody. Even if it's -- if it's on NCIC -- okay -- that's going to say the gun is stolen. That's what it's going to tell me. It's not going to say Matt Owens owns this gun. It's not going to tell me that.

Q Okay, okay.
A That would not help.
Q It's not going to help?
A No.
Q It would have helped you because you could have found out whether the guns were stolen or not. But you didn't do that either, did you?
A The guns, no matter what -- if I don't do it, the guns are going to be checked on NCIC. We can't put something into our property and evidence without verifying and checking them. Because if we release a gun, we have to make sure that they've cleared NCIC before we can release a gun.
Q Okay.
A If that makes sense.
Q Okay. Whatever, whatever. Now, these guys right here --

MR. SMITH: I'm going to have this marked as Defendant's Exhibit No. 1 for identification -- no, Defendant's Exhibit No. 2, I think it is.

(WHEREUPON, Defendant Maldonado's Exhibit No. 2 was marked for identification only.)

BY MR. SMITH:
Q I show you what has been marked Defendant's Exhibit No. 2 for identification. Do you know any of those

individuals on this, Defendant's Exhibit No. 2?
A Do I know them?
Q Yes, sir.
A I'm familiar with them, yes.
Q Who are they?
A One, I believe, is Jakobe German. I believe that's Quancey Harper. The other two, I don't know.
Q Okay. Who's got the gun?
A I believe that's Quancey.
Q Quancey?
A Yes, sir.
MR. SMITH: Have this one marked as Plaintiff's Exhibit -- I mean, I'm a Plaintiff, usually, but I'm a Defendant this time. Defendant's Exhibit No. 3.
(WHEREUPON, Defendant Maldonado's Exhibit No. 3 was marked for identification only.)
BY MR. SMITH:
Q I'll show you what's been marked Defendant's Exhibit No. 3 for identification. Do you see the two individuals on that?
A I do.
Q Who are they?
A That's Quancey Harper. And I don't know who the other guy is.
Q You don't know him. Who's got the gun?

A Quancey Harper.

MR. SMITH: Defendant's Exhibit No. 4.

(WHEREUPON, Defendant Maldonado's Exhibit No. 4 was marked for identification only.)

BY MR. SMITH:

Q Now, in this case, did old Quancey have a gun the night of September 3rd?

A Apparently, everybody had a gun.

Q Except Mr. Maldonado?

A Correct.

Q He didn't have no gun. You agree with that; right?

A No.

Q Now, who are these guys on Defendant's Exhibit No. 4?

A So, again, that's Quancey. I can't tell who the other guys are.

Q That's fine, that's fine. Just identify who you can for me.

A That's Quancey. The other guys, I don't know.

MR. SMITH: Defendant's Exhibit No. 5. And then you can make that Defendant's Exhibit No. 6 so we can speed it up. I don't want to belabor the point.

(WHEREUPON, Defendant Maldonado's Exhibit Nos. 5, 6, and 7 were marked for identification only.)

BY MR. SMITH:

Q All right, Officer. And I'm not picking on you. I

just want you to understand I'm just trying to get to the truth. Okay.

A Yes, sir.

Q All right. These guys right here, can you identify those two?

A That's Damon, and I believe that's Jakobe.

Q Okay. Who's got the gun?

A Both of them.

Q Both of them, yeah. These two guys right here, Defendant's Exhibit -- is that six down there at the bottom, Officer?

A I'm sure it is.

Q Okay.

A That's Malik. And the hat is pulled down on the other gentleman. So I --

Q And in that picture, Malik doesn't have a gun in his hand, does he?

A No, sir.

Q All right. This fellow right here in the picture?

A That is Mike Smalls.

Q Mike Smalls. What does he got in his hand?

A A gun.

Q A gun. And Mike Smalls is alleged to have been at the scene that night; right?

A Yes, sir.

Q Now, when you checked the stores, the gun stores, and all that stuff around there, did you ever find that Mr. Maldonado ever bought a gun out of any store anywhere in South Carolina, or anywhere else in the world?
A I have no clue if he owns a gun or not, sir.
Q Right. As a matter of fact, when you did the investigation of him, he didn't have no criminal record, did he?
A I don't know --
MS. SALISBURY: Objection, Your Honor.
MR. SMITH: If I made a mistake, Your Honor, I'll just back it on up, just back it on up. If I made a mistake, I apologize. But he was -- he was the one taking the statement from my client.
Now, I would like to have that statement played in full that's on the TV. Can we have that that we just had marked into evidence so the jury can hear it?
BY MR. SMITH:
Q Now, he did curse on that CD a little bit.
A Are you asking me?
Q Yes, sir.
A I mean, I don't know. If he did, he did.
Q All right. Did he ever show my remorse, or anything like that?
A Yeah. He started crying.

(Pause.)
BY MR. SMITH:
Q While she's doing that, Officer, his mother worked at the Greenville -- she works as a maid out at Southside High?
A Sir, I don't know.
Q You don't know. But she was coming from Southside, based on your testimony earlier?
A Yes, sir.
Q Because they talked to the resource officer out there, based on your testimony; correct?
A Yes, sir.
Q And he was 17 at the time, too, right; Officer?
A Sir?
Q He was 17 at the time?
A If you say he was. I would have to --
Q It's in your record.
A Again, I would have to check.
THE COURT: I'll tell you what, let's take a short recess while we're setting this up.
Ladies and gentlemen, don't talk about the case. Continue to keep an open mind.
And if you would, select someone to be the Foreperson of the jury. And if you would just write their name down and give it to one of the bailiffs, please.

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Thank you.

(WHEREUPON, the jury was excused from open court at approximately 3:22 p.m.)

THE COURT: How long is this?

MR. SMITH: I think it's about 30 minutes.

Isn't it, Officer?

MS. SALISBURY: 40 minutes.

THE WITNESS: 40 minutes and 27 seconds.

THE COURT: Are you going to play the whole thing?

MR. SMITH: I might have to, Your Honor, just to get to some of the areas where he was talking about.

THE COURT: All right. We'll take about a 15-minute break.

Thank you.

(WHEREUPON, a break was taken.)

MR. SMITH: Your Honor, out of an abundance of caution, I was going to review it overnight.

THE COURT: All right.

MR. SMITH: And then I can play it tomorrow. I don't really need to have the officer up to play it. I'm going to complete my cross -- well, I might need him. But I want to make sure we don't have a Bruton problem.

THE COURT: Right. You're going to have to go to his house to sign for it.

All right. So you can continue with your

cross-examination.

MR. SMITH: Those pictures, I was going to try to introduce pictures if the State didn't have any objection.

MS. SALISBURY: No objection from us. But I'll wait until we're on the record in front of the jury, if you like.

THE COURT: All right. Anything further before we bring the jury in?

MS. SALISBURY: Nothing from the State.

THE COURT: Okay.

THE BAILIFF: Are you ready?

THE COURT: Yes, sir.

(WHEREUPON, the jury came into open court at approximately 3:45 p.m.)

THE COURT: All right. Mr. -- is it Gist?

JUROR #88, DEONTE GIST: Yes, sir.

THE COURT: Mr. Gist, you've been selected as the Foreperson of the jury. So you'll preside over the deliberations. If you or any other member of the jury needs to contact me, I can only communicate with you out here on the record, or by way of a written note that's made part of the record. Hopefully, you won't have to contact me. But if you do, that's the protocol.

So, with that, we'll continue with the cross-examination.

Mr. Smith, yes, sir.

MR. SMITH: Thank you, Your Honor.

At this time, we'd like to introduce into evidence Defendant's Exhibit Nos. 2, 3, 4, 5, 6, and 7 that have already previously been marked for identification.

MS. SALISBURY: No objection from the State, Your Honor.

THE COURT: Defendant's Exhibit Nos. 2 through 7 are in evidence.

(WHEREUPON, Defendant Maldonado's Exhibit Nos. 2, 3, 4, 5, 6, and 7 were admitted into evidence.)

MR. SMITH: Your Honor, may I pass it to the Foreman?

THE COURT: Yes, sir.

MR. SMITH: I'll let it circulate around.

(Pause.)

MR. SMITH: Thank you.

BY MR. SMITH:

Q Officer, the evidence will show that Mr. Maldonado never shot this man, Mr. Suttles; correct?

A Yes, sir.

Q Never threatened Mr. Suttles with a gun; correct?

A Correct.

Q Never struck Mr. Suttles upside the head with a gun either, did he?

A Correct.

Q Never left him down there to die or have serious injury, did he?
A Correct.
Q The evidence will, also, show that this man right here was never hit by Mr. Maldonado or pistol whipped by him either; right?
A Correct.
Q And he never threatened this young man right here either; right?
A Correct.
Q These victims?
A Correct.
Q The evidence that your investigation shows is that Mr. Maldonado never entered their house; correct?
A That is correct.
Q And those bullets that were in the evidence that she showed earlier at this residence and that the forensics man testified to, Mr. Maldonado didn't shoot those into that residence either, did he?
A Correct.
Q Your evidence shows that Mr. Maldonado stayed in the car, even with the people who allegedly are going to testify against him; correct?
A Yes, sir.
MR. SMITH: Thank you, Officer.

THE WITNESS: Yes, sir.

THE COURT: Mr. Robinson.

CROSS-EXAMINATION

BY MR. ROBINSON:

Q Let me get situated, Officer, real quick.

A Take your time, sir.

Q Officer Owens, you would agree with me that the persons on the video at the convenience store, none of those people were Lorenzo Gantt? You would agree with that; correct? Lorenzo Jackson, excuse me.

A Who were standing outside?

Q No. There's a video --

A Oh, inside. Oh, I'm sorry.

Q No. In the video, none of those were Mr. Jackson; correct?

A Correct.

Q Okay. Regarding Carly Road, all the people in that building that came out, none of those were Mr. Jackson; correct?

A Correct.

Q Okay. And regarding -- you talked about witnesses in this case. Would you agree with me that there are no witnesses outside the Defendants -- other Defendants in this case? You would agree with me there's no other witnesses regarding Mr. Jackson? You'd agree with me

about that, wouldn't you?
A Yes, sir.
Q So your case against Mr. Jackson and Mr. Maldonado rises and falls on the co-defendants; isn't that correct?
A Yes and no.
Q Okay. Tell -- but you agree -- let me ask you this. You'd agree with me -- and we belabored this point both through Mr. Smith and the Prosecutor. There's no physical evidence like DNA, or fingerprints, or all that kind of stuff. You'd agree with me; correct?
A Yes, sir.
Q So we've got none of that in this case that points to Mr. Jackson; correct?
A Sure. Yes, sir.
Q And the witnesses that you talk about -- I want to make sure -- it was kind of confusing to me. And I want to make sure the jury understands. The witnesses that you're talking about are the co-defendants; correct?
A As far as -- pertaining to what?
Q Pertaining to Mr. Jackson.
A Yes.
Q Okay. None of the victims in this case, which would be Mr. -- the two or three victims we saw this morning, none of them identified Mr. Jackson as being the person at that scene; correct?

A Correct.
Q And none of these -- like, you've got several pictures, and so forth on here. Mr. Smith introduced Defendant Maldonado's Exhibit Nos. 7 through -- 2 through 7, I believe. You just saw these; correct?
A I did.
Q And you would agree with me that none of the people in these pictures is Mr. Jackson; correct?
A Well, there's some of them that I can't really see their faces real well, so.
Q Okay. But to your knowledge --
A But from the ones I can see, they were not Mr. Jackson.
Q And none of the guns that you recovered, you can't link these guns to Mr. Jackson by fingerprints or some sort of analysis, can you?
A No, sir.
Q And you have no idea -- or you have no evidence to present to this jury that any of these bullet holes or bullet fragments are attributed to Mr. Jackson; correct?
A No, sir.
Q And did you ever get a chance to look at Mr. Jackson's cell phone? Did you ever find his cell phone?
A No, sir. I never had a -- I don't know where it's

at.
Q So there's no evidence or anything like that regarding cell phone information that you can show this jury; correct?
A Correct.
Q Okay. How about Facebook? Mr. Smith talked about Facebook a minute ago. Anything on Facebook that links Mr. Jackson to these individuals?
A I can't remember as far as Facebook. I don't know if he has a Facebook account. I have no idea.
Q But, to your knowledge, no is the answer; correct?
A Correct. That would be --
MR. ROBINSON: Okay. I beg the Court's indulgence.
THE COURT: Sure.
(Pause.)
MR. ROBINSON: Thank you, Officer.
No more questions.
THE WITNESS: Yes, sir.
MS. SALISBURY: Very brief redirect, Your Honor.

REDIRECT EXAMINATION

BY MS. SALISBURY:
Q With respect to the surveillance video and who can be seen at the scene, are you able to see inside that Honda Accord to figure out who or how many people are inside?
A No, ma'am. No.

Q So are you able to determine with any certainty whether Mr. Lorenzo Jackson was at that gas station?
A Correct.
Q Is it your understanding that Lorenzo Jackson was in a Honda Accord that was uniquely identifiable as you saw on that video two days later on September 5th?
A Yes.
MR. ROBINSON: Objection, Your Honor. Leading.
THE COURT: Sustained.
BY MS. SALISBURY:
Q What's your understanding of what was going on when Mr. Jackson was arrested on September 5th?
A He was -- as far as what the --
Q We heard the circumstances of it. But what is your understanding of the kind of car he was in at the time of his arrest on September 5th?
A He was in a silver Honda Accord that had a bungee-type rope around the trunk, that had the damage in the rear-end, and had the sunroof, which was identical to the vehicle that was seen in the video surveillance at the Citgo.
Q Now, to clear up this issue with NCIC. Tell me what it is that you can access when it comes to information about any gun, in particular? What can you learn about a gun?

A So NCIC -- I guess I should have said this before. It stands for National Crime Information Center. Basically, if a gun is stolen, the uniform patrol deputies or the officers will put the serial number in the report. They will put the make, the model, the caliber. And that information will be sent to our dispatchers. And they will, actually, put the weapon on our computer-based system.

So you could be in Chicago and, you know, if an officer in Chicago runs that serial number, it will come back as a hit. And it will say it was stolen out of the Greenville County Sheriff's Office jurisdiction. Basically, the only information that it is is just a serial number, and then the name of the person who reported it stolen.

Q If a gun is not stolen, is there any information available to you?

A No, ma'am. No.

Q Does South Carolina require gun owners to register their guns?

A No, ma'am.

Q With a serial number and, perhaps, even a gun in your possession, can you learn any information about who might own it?

A No, ma'am.

Q All right. And, finally, we talked a little bit about Mr. Maldonado's interview and the circumstances by which he described what happened. How is it that he described he knew these co-defendants?

A A couple of things is he says that he knew Malik, that he had been friends with Malik. And that he would drive them around if they -- you know, if they needed a ride, they'd call him and he would drive them around.

In fact, the day of -- I believe it was the 5th before he came in, he said he went to Malik's mother's residence to see what was going on.

Q Did he indicate to you whether he knew if any of those co-defendants were members of a street gang?

A Yes, he did.

Q What street gang?

A They call themselves the Cross Track.

Q So was it his statement to you that day during that interview that he knew these people to be gang members?

A Yes, ma'am.

MS. SALISBURY: I don't have any additional questions.

RECROSS-EXAMINATION

BY MR. SMITH:

Q Let me ask you this, Officer. The -- you know a lot of gang members, don't you, Officer?

A Yes and no.
Q But that doesn't make you a member of a gang, does it, just because you know them?
A Correct.
Q Okay. I just wanted to get that out. The thing about it, too, is I thought that if you got a terrorist act -- say we got a terrorist act in here and there was guns that were bought legally, do you mean to tell me that you and the FBI can't get together and find out what's going on with them guns and who owned the guns just because South Carolina law is out there?
A Well, as far as -- I don't know what the FBI can and cannot do. I know what my capabilities are. And I cannot track a pistol just by a serial number.
Q And don't y'all have a joint task force that y'all run with the federal government with regard to gangs with the sheriff's department?
A Yes, we do.
MR. SMITH: All right then.
THE COURT: Yes, sir, Mr. Robinson.
MR. ROBINSON: Just to follow-up.

RECROSS-EXAMINATION

BY MR. ROBINSON:
Q Let me ask you something. This is regarding Mr. Jackson. You would agree that they saw him in the

car, this Accord, three days later; correct?
A Yes, sir.
Q That's where they found him; correct?
A Yes, sir.
Q Three days after this event occurred. And you would agree with me that if you look at the tape in this case, it doesn't indicate -- the tape as far as from the convenience store, it does not show Mr. Jackson being in that car, does it?
A You cannot -- no. You cannot see inside that vehicle.
Q Right. And just because someone is in a car or riding in a car three days after an incident that you don't know he's even connected to doesn't mean they're part of this, does it?
A You're right. But, at the same time, after putting everything together, it was very obvious that he was, in fact, in that Honda during -- the Honda Accord during this time. Once the pieces, so to speak, came together, there's not a shadow of a doubt in my mind that he was inside that vehicle.
Q But, Officer, again -- and I asked you this question beforehand. And I'm glad you took the opportunity to say that. But the fact remains that you're getting this information not independently from people that witnessed

this, you're getting it from the co-defendants in this case, aren't you?

A Yes, sir.

MR. ROBINSON: Okay. That's all I wanted to know. Thank you.

MS. SALISBURY: Nothing else from the State, Your Honor.

THE COURT: Thank you, sir.

MS. SALISBURY: The State calls Kara Bennick.

Ms. Bennick, if you would, please, come up and be sworn.

(WHEREUPON, State's Exhibit Nos. 30, 31, 32, and 33 were marked for identification only.)

WHEREUPON,

KARA BENNICK,

after first having been duly sworn, testified as follows:

THE CLERK: Please have a seat.

And will you state your full name for the record?

THE WITNESS: Kara Bennick.

DIRECT EXAMINATION

BY MS. SALISBURY:

Q Ms. Bennick, where do you work?

A The Greenville County Department of Public Safety at the property and evidence section.

Q And what is your role there at the property and

evidence section?
A I'm the supervisor of the evidence room.
Q Could you give the jury a general idea of what property and evidence is?
A Property and evidence takes in all the evidence and any property related to anything that goes on in Greenville County or Greenville City, and we store it.
Q Is it a secure location?
A It is a secure location.
Q Who has access?
A Only the five people that work in that unit at the time.
Q Do you keep evidence indefinitely?
A Yes.
Q How is it that evidence comes to property and evidence?
A It depends on the circumstances of the case. But a lot of the time, it comes through the counter during business hours when we're open. During after hours, it goes into the secure locker or dropbox section. And only the P&E clerks can empty that section.
Q Do you have some policies about how evidence needs to be packaged and sealed before you will accept it?
A We do, based on the type of evidence it is.
Q What -- with respect to -- let's start with shell

casings. What is the protocol with respect to how you would require someone to deliver shell casings for secure storage?

A It would depend on the type of case. But 99 percent of the time, shell casings are going to be sealed. And they're going to be opened by lab services when it is requested to be worked on in the lab.

Q Do you have a tracking system, so to speak, to figure out where evidence is and what's going on with it at any particular time?

A We do. Everything that comes in comes in with a property and evidence report. That report is then entered into a bar code system. And it is all tracked on the system from that point forward.

Q Okay. I'm going to show you State's Exhibit No. 25, and ask if you, generally, recognize that packaging and what's inside?

A I do.

Q How do you recognize it?

A The bar codes, and the locations, and the case number on it are our labels.

Q Are those bar codes assigned to those items by property and evidence?

A Yes.

Q And is there a tracking sheet that goes with those

bar codes to document exactly where that item goes?
A Yes. Each item has its own chain of custody that travels with it.
Q Now, what does that chain of custody reflect?
A That chain of custody will catalog all movements that relate to that piece of property.
Q Will it note who put that item into evidence initially?
A It will.
Q Will it note who may have taken it out for any reason?
A Yes.
Q Now, State's Exhibit No. 25 contains several items inside. Will you take a look and see if you can tell the jury exactly what appears to be packaged inside there?
A On the labels, you can see the descriptions of what's packaged inside of everything. They're all marked with a number.
Q Now, were those items sealed when they came to you?
A They were.
Q Are you able to determine by way of any of that material whether those items have been sealed exactly as they were when you received them?
A I mean, I can, generally, look at the package and tell you who sealed them, based on the initials and dates

on there. If they were opened, they would be initialed and dated again.

Q Okay. So with respect to State's Exhibit No. 25 containing those shell casings, have they been kept in a secure facility ever since you received them?

A Yes, ma'am.

Q I'm going to move on to State's Exhibit Nos. 30, 31, 32, and 33. Do you recognize the packaging on those items?

A I do.

Q And, likewise, would those items have been received by property and evidence in a sealed condition?

A They would have been in the box. Whether they were sealed at the time of intake, we'd have to look at the paperwork to reflect. But they were, ultimately, sealed by us. We always verify firearms are unloaded, so we will open them, regardless, and verify them, and then close them up.

Q Okay. What happens if an item comes to you that's not sealed?

A It depends on what the item is. Not all items are required to be sealed, but all have to be contained in some type of packaging.

Q Okay. If an item that is required to be sealed, like these casings or those weapons, comes to you and is not

sealed, what do you do?
A It will be logged, but it will be held aside in a staging area for the officer to come back and correctly fix everything.
Q So the officer has to come back and seal it?
A Yes. He has to start, basically, all over.
Q Well, with respect to State's Exhibit Nos. 30, 31, 32, and 33, are you able to determine that those weapons have been maintained in a sealed condition at property and evidence since you received them?
A Yes, ma'am.
MS. SALISBURY: I don't believe I have any additional questions. If you would answer Mr. Smith and Mr. Robinson's questions.
MR. SMITH: Thank you.
MR. ROBINSON: I have no questions.
THE COURT: All right. Thank you.
Thank you, Ms. Bennick.
MS. SALISBURY: May it please the Court.
Your Honor, the State calls Mr. James Armstrong.
Mr. Armstrong, if you would, please, come up and be sworn.
WHEREUPON,
JAMES WILLIAM ARMSTRONG,
after first having been duly sworn, testified as follows:

THE CLERK: Please have a seat.

Will you state your full name for the record?

THE WITNESS: James William Armstrong.

DIRECT EXAMINATION

BY MS. SALISBURY:

Q Mr. Armstrong, where do you work?

A I'm employed with the Greenville County Department of Public Safety forensics division crime laboratory.

Q And, generally, what are your responsibilities at the crime lab?

A I'm employed as a criminalist where I have a twofold responsibility as a forensic chemist and a forensic firearm examiner.

Q With respect to the firearms examination, what kind of training have you undertaken over the course of your employment?

A I've attended 14 firearm manufacturing facilities to see how firearms are manufactured from raw material to finished product. I've trained in the area of firearm identification approximately two years in an apprenticeship-style training under a retired firearm examiner from Philadelphia PD. I've attended five different Armour schools to learn how to work on various firearms and find any abnormalities and how to repair them. I have been through four different ammunition

assembly plants to see how the ammunition is assembled. And I've testified in federal and state court, at least, 50 times as an expert in the area of firearm identification.

Q Now, aside from that training, what's your general education background?

A I have a Bachelor of Science in Chemistry for Erskine College --

MR. SMITH: Your Honor, we'll certify he's well qualified to talk about firearms if she's going to introduce him as an expert witness. He's tough.

MS. SALISBURY: Without objection, Judge, I'd ask the Court to qualify him as an expert in firearms and tool mark analysis.

THE COURT: All right. He's qualified.

Ladies and gentlemen, usually witnesses can only testify about things they observe through their senses. There is an exception in the law for people who by reason of their training, education, and experience have achieved expertise in their given field. These witnesses, if qualified as expert witnesses, may testify about their opinions they've drawn from observing things. So that's the difference.

However, all witnesses, including expert witnesses, must have their credibility judged by you, the jury.

Yes, ma'am. You may proceed.

MS. SALISBURY: Thank you, Your Honor.

BY MS. SALISBURY:

Q Mr. Armstrong, when you're asked to perform this firearms analysis, what is your general practice?

A The general practice is I go down to our property and evidence room, and retrieve the items that are given to me by the officer's request. And then I do an examination by looking at the fired components and comparing them to a firearm. And by doing the comparison with a firearm, I have to take a firearm and test fire it myself and collect my own specimens to do a side-by-side comparison under a comparison microscope to make my findings.

Q Now, based on that analysis, are you able to determine whether a particular projectile was fired from a particular weapon?

A Yes, ma'am, I can.

Q How?

A By the markings that are left behind from the firearm that are transferred to the projectile and/or fired cartridge casings. They're like fingerprints of the weapon or the tool, so to speak. They are transferred to that piece of metal or the fired cartridge case and projectile just like a fingerprint is from a human. And then we can reproduce that by taking our own test fire and

then do a comparison.
Q What exactly are you looking for when you're trying to make a comparison?
A We're looking for overwhelming agreement of what's called striations, the markings or imperfections that were transferred to the piece of evidence.
Q Is every gun unique?
A Yes, ma'am.
Q Is it possible that there is sufficient similarity among guns that you may have -- you may be unable to perform an opinion with any certainty?
A There are some that we cannot, actually, identify. We have indications in our reports that say there are similarities, but insufficient microscopic marks to remit identification to those items.
Q Now, what are these microscopic marks? Where do they come from?
A They come from the manufacturing process of the firearm. They're imperfections where the tools that were made -- are used to make the firearm. They're transferred, once the firearm is fired, to the piece of evidence.
Q Now, do you recall whether you were asked to analyze any guns in this case?
A Yes, ma'am, I was.

Q All right. You mentioned that you retrieved these guns at the request of the officer. How were you notified that these needed to be compared?

A The property and evidence has a system called file and cue that they put a list of what is waiting for me to be -- to work on. So I then look at that list and then go down to property and evidence and retrieve it.

Q Do you go retrieve these guns?

A Yes, ma'am, I do.

Q Okay. We'll start one at a time with State's Exhibit No. 30. Could you tell the jury what that item is?

A This is my item number MO-11. It's a Romarm model 95 semi-automatic pistol with serial number [redacted], caliber of 380 auto, made in Romania. It was imported by CAI located in Vermont.

Q Did you test fire that gun?

A Yes, ma'am, I did.

Q Is it operable?

A Yes, ma'am, it is.

Q Did you compare it to the shell casings that were collected from this crime scene?

A Yes, ma'am, I did.

Q Did you determine whether that gun fired any of the casings on scene?

A Give me one moment, please.

According to my report, none of the fired cartridges were fired from that firearm.

Q Was there a 380 casing on scene that you compared to that gun?

A Yes, ma'am, there was.

Q Were you able to determine whether that particular 380 fired that casing?

A It was not fired from this firearm.

Q Now, before we go any further, just so we're all on the same page, can you explain a little bit how it is we end up with these casings on scene?

A When a semi-automatic firearm is fired, once the trigger is pulled, the firing pin pulls and it has what they call a little shock sensitive explosion that takes place. The powder burns and it causes pressure to build up in the chamber of the firearm and the barrel. As that pressure builds up, the projectile is then pushed down the barrel.

During that process, the gas then affect the firearm and pushes the slide to a rearward position. There's is then what's called an extractor, which grabs the cartridge case and pulls it out of the barrel and then ejects to a sight. And that's why it's left behind usually when a semi-automatic is fired.

Q So unless someone is to go and pick up all these

casings, if they fired a gun, the casings get left behind?
A That's correct.
Q Is that the same with respect to a revolver-type of firearm?
A With a revolver, they usually stay with a firearm unless someone is reloading and they dump the fired cartridge casings out.
Q So would you expect to find any casings that come from a revolver?
A It's not, typically, on the scene.
Q Okay. Now, let's move on to State's Exhibit No. 31. Can you determine from looking at that item whether you analyzed that item?
A Yes, ma'am, I can.
Q Could you describe for the jury what it is?
A This is my item number MO-13. It is a SCCY, which is a S-C-C-Y, Industries model CPX-1 semi-automatic pistol with serial number 131-549, caliber nine-millimeter Luger.
Q Did you compare that nine-millimeter to any nine-millimeter shell casings that were collected from the scene?
A Yes, ma'am, I did.
Q Did you determine whether that nine-millimeter fired any of the casings on scene?
A It did not.

Q Okay. Let's move to State's Exhibit No. 32. Do you recognize that firearm?
A Yes, ma'am, I do.
Q Did you test fire that firearm?
A Yes, ma'am, I did.
Q Did you determine whether it was operable?
A Yes, ma'am, it is.
Q Could you tell the jury what it is?
A State's Exhibit No. 32 is my item MO-14. It's a High Point model C semi-automatic pistol with serial number 802004, caliber nine-millimeter Luger.
Q Did you compare the test fired casings that you fired from that particular item to the nine-millimeter shell casings that were collected from the scene?
A Yes, ma'am, I did.
Q Did you determine whether that nine-millimeter fired any shell casings collected from the scene?
A Yes, ma'am, I did. And the item is my item APD-5. It was fired in the item MO-14 pistol.
Q Now, how many nine-millimeter casings were delivered to you for analysis?
A Six nine-millimeter fired cartridge casings.
Q And is it your testimony that you determined exactly one of those was fired from that particular nine-millimeter?

A That's correct.
Q Were you able to determine with any certainty whether the other nine-millimeters must have been fired from a different nine-millimeter?
A That's correct.
Q And, finally, we move on to State's Exhibit No. 33. Do you recognize that firearm?
A Yes, ma'am, I do.
Q Did you test fire that firearm?
A Yes, ma'am, I did.
Q Was it operable?
A Yes, ma'am, it is.
Q Would you tell the jury what it is?
A This is my item MO-12, a Taurus model TT-145 Pro, a semi-automatic pistol. It's caliber 45 auto with serial number NVV60181.
Q Were you able to determine whether that gun was capable of firing any of the casings left on scene?
A It did not. It was not used in firing any of the fired cartridge casings.
MS. SALISBURY: Your Honor, at this time, I'd offer State's Exhibit Nos. 30, 31, 32, and 33.
THE COURT: Any objection?
MR. SMITH: Well, she ain't proven that the other two guns -- I don't have a problem with the cartridges -- I

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don't care. Let it in.

MR. ROBINSON: I have no objection.

THE COURT: All right. They're in evidence.

(WHEREUPON, State's Exhibit Nos. 30, 31, 32, and 33 were admitted into evidence.)

MS. SALISBURY: Mr. Armstrong, I don't believe I have any additional questions. If you would, answer any questions that Mr. Smith or Mr. Robinson may have.

MR. SMITH: Thanks for coming today, Mr. Armstrong.

THE COURT: Mr. Robinson.

MR. ROBINSON: I don't have any questions.

THE COURT: Thanks, Mr. Armstrong.

MS. SALISBURY: Your Honor, the State's next series of witnesses are in custody. I don't know whether they're here, but I'm prepared to proceed.

THE COURT: All right. Are they --

(Pause.)

MS. SALISBURY: It's my understanding after speaking with Sergeant McCall that because of some concerns, they're transporting them separately.

THE COURT: Okay. So they're -- how far away are they? Do we know?

MS. SALISBURY: I think we're learning that information, Judge.

THE COURT: While they're looking at that, just a

note. We have a firearm protocol for the safe handling of firearms during trials. And these firearms have been checked and they are not operable, just for your information. They've been disabled.

Do we need to take a break, or do we have somebody on the way?

MS. SALISBURY: It's my understanding that he's on his way up. But if you want to take a break for purposes of giving some instruction.

THE COURT: Oh, yes. Well, okay.

We'll take a short recess, ladies and gentlemen. Don't talk about the case. Continue to keep an open mind.

Thank you.

(WHEREUPON, the jury was excused from open court at approximately 4:21 p.m.)

THE COURT: Ms. Salisbury.

MS. SALISBURY: It's my understanding that he's refusing to come upstairs. I don't know whether we're going to drag him up, or not. I'm trying to get Mr. DeLoach on the phone to see if that will help.

THE COURT: All right. We'll just take a recess.

(WHEREUPON, a break was taken.)

THE COURT: So, just for the record, with the lawyers consent, the bailiffs were requested to just instruct the jury to come back at 9:00 in the morning. And we're going

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to take care of one matter here.

(Pause.)

THE COURT: Okay. This is a deferred sentencing, too, or --

MS. SALISBURY: If you'd prefer that, I'm willing to do that.

MR. SMITH: I'm ready to go on and give me my medicine now, and, you know.

(Pause.)

MR. SMITH: We'll defer.

THE CLERK: So you're deferring --

MS. SALISBURY: Uh-huh.

THE CLERK: Is he going to come up?

MR. SMITH: Come on up.

THE CLERK: Your Honor, this is 2014-GS-23-11795, Joseph Colon Maldonado, indicted for conspiracy, pleading to the same. And it is a true bill.

2014-GS-23-11798, indicted for armed robbery, pleading to strong armed robbery. And it is a true bill.

Raise your right hand.

WHEREUPON,

JOSEPH COLON MALDONADO,

after first having been duly sworn, testified as follows:

THE COURT: All right. Mr. Maldonado, good afternoon, sir.

You're 19; is that right?

DEFENDANT MALDONADO: Yes, Your Honor.

THE COURT: How far did you go in school?

DEFENDANT MALDONADO: High school and college.

THE COURT: Okay. And what kind of work do you do, sir?

DEFENDANT MALDONADO: A good bit of everything, cars, everything.

THE COURT: All right. And are you under the influence of any alcohol, drugs, or medication, sir?

DEFENDANT MALDONADO: No, sir.

THE COURT: Do you have any physical, mental, or emotional condition that might keep you from understanding what's happening here today?

DEFENDANT MALDONADO: No, sir.

THE COURT: And are you satisfied with Mr. Smith's services as your lawyer?

DEFENDANT MALDONADO: Yes.

THE COURT: Do you understand the maximum sentence for these crimes, and the elements of each crime the State would have to prove beyond a reasonable doubt to convict you?

DEFENDANT MALDONADO: Yes.

THE COURT: Are you pleading guilty because you are guilty, sir?

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DEFENDANT MALDONADO: Yes.

THE COURT: Has anyone threatened you or put any pressure on you to enter your plea?

DEFENDANT MALDONADO: No.

THE COURT: You're doing so of your own free choice and will?

DEFENDANT MALDONADO: Yes, sir.

THE COURT: And you understand you have the right to a jury trial?

DEFENDANT MALDONADO: Yes, sir.

THE COURT: Which we're in the midst of. But, nevertheless, you have the right to take it to conclusion and have the jury decide whether you're guilty or not guilty.

And, at the trial, as you've seen, you will be and have been presumed innocent. And you wouldn't have to prove anything or offer any evidence or testimony. You could testify, of course, if you wanted to and offer evidence and any defenses you might have. But nobody could force you to do anything during this trial.

And you could remain silent. And the Court would tell the jury you have the absolute right to remain silent. And they could not hold that against you or take that into account whatsoever in determining whether you were guilty or not guilty.

Do you understand that?

DEFENDANT MALDONADO: Yes, sir.

THE COURT: And, as you've seen, you could confront the evidence as your lawyer has been doing by cross-examination, and otherwise. And you could use the subpoena power of the Court to bring witnesses in to testify. And you could challenge the State's case, as you and your lawyer have been doing and any statements you might have made or searches that were made or testing that was done or should have been done.

But if you want to plead guilty, you have to give up all of those rights and you no longer will have the opportunity to exercise those rights in front of the jury.

Do you understand that?

DEFENDANT MALDONADO: Yes, sir.

THE COURT: And understanding that, do you still want to give up those rights and plead guilty?

DEFENDANT MALDONADO: Yes, sir.

THE COURT: All right. And has any -- have you understood all of my questions, sir?

DEFENDANT MALDONADO: Yes, sir.

THE COURT: Okay. I'm going to ask Ms. Salisbury to briefly summarize the facts supporting the pleas, and any plea agreement.

Yes, ma'am.

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MS. SALISBURY: Yes, sir. With respect to the allegations. On September 3rd, 2014, police responded to a shooting and home invasion at [redacted] East Parker Road in Greenville County. Based on the course of their investigation, police learned that this Defendant was the driver of one of the two vehicles used to effectuate the robbery.

The Defendant assisted in the planning of the robbery, knew that a robbery was going to be committed by the co-defendants, including Malik Adams-Young, Jakobe German, Damon Young-Gaines, Quancey Harper, Zykeia Harper, Demetrius Smalls, Mike Smalls, James Gantt, and Lorenzo Jackson. The Defendant provided transportation, as I mentioned, to these co-defendants to the scene and then away from the scene thereafter.

As I understand it, the Defendant, also, shared with police that he was, specifically, accused by Lorenzo Jackson at the detention center of having spoken to police about the details of the crime.

Those are the facts that the State would present at trial with respect to these particular offenses.

Obviously, the charge of armed robbery is being reduced to strong armed robbery as part of the Defendant's agreement to plead guilty, acknowledge his responsibility, and identify and implicate his co-defendants.

The Defendant has agreed to plead, also, to conspiracy. The conspirators are those that I defined in the facts. And the other charges of burglary in the first degree, attempted murder, two counts of assault and battery in the first degree, and possession of a weapon during the commission of a violent crime are being dismissed as part of the Defendant's plea.

The State is making no formal recommendation with respect to sentencing.

THE COURT: All right. Thank you, ma'am.

Is that the entire agreement, Mr. Smith?

MR. SMITH: Yes, Your Honor.

THE COURT: And Mr. Maldonado?

DEFENDANT MALDONADO: Yes.

THE COURT: All right. And is that what happened?

DEFENDANT MALDONADO: Yes.

THE COURT: All right. I find there's a factual basis for the plea. It's been entered into freely and voluntarily with the assistance of a skilled lawyer.

And sentencing will be at a later date.

Is there something else we're dealing with?

MS. SALISBURY: No, sir. I don't think it's necessary at this stage.

THE COURT: Okay. Thank you.

Yes, sir.

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MR. SMITH: Can I be dismissed now?

THE COURT: Yes.

MR. SMITH: Okay. Thank you, Your Honor.

DEFENDANT MALDONADO: Thank you, Your Honor.

MS. SALISBURY: Your Honor, I've spoken with the transport and I believe that we'll be prepared to proceed with the testifying co-defendants in the morning.

THE COURT: Okay. We'll resume in the morning at 9:00 a.m.

Thank you.

(WHEREUPON, the proceedings were concluded at approximately 5:02 p.m., to be reconvened on Wednesday, August 24, 2016.)

WEDNESDAY, AUGUST 24, 2016

THE COURT: Yes, ma'am.

THE CLERK: Your Honor, this is 2014-GS-23-11839, Lorenzo Azia Jackson indicted for attempted murder and possession of a weapon during the commission of a violent crime, pleading to attempted murder. And it is a true bill.

2014-GS-23-11843, indicted for armed robbery, pleading to the same. And it is a true bill.

2013-GS-23-11802, indicted for burglary first degree, pleading to the same. And it is a waiver.

And 2014-GS-23-11837, indicted for possession of a firearm by a person convicted of a crime of violence, pleading to the same. And it is a true bill.

Will you raise your right hand?

WHEREUPON,

LORENZO AZIA JACKSON,

after first having been duly sworn, testified as follows:

THE CLERK: Thank you.

THE COURT: Let's see. I guess Mr. Jackson will need to initial this waiver.

Which one is a waiver?

THE CLERK: She couldn't find the indictment. Is it a true bill or is it --

MS. SALISBURY: It may very well be a waiver. It's

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11802, Your Honor.

(Pause.)

MR. ROBINSON: Here you go.

THE CLERK: Thank you.

THE COURT: All right. Good morning.

You're Lorenzo Azia Jackson?

DEFENDANT JACKSON: Yes, sir.

THE COURT: And how far did you go in school, sir?

DEFENDANT JACKSON: I got my GED.

THE COURT: And are you under the influence of any alcohol, drugs, or medication, sir?

DEFENDANT JACKSON: Under the influence, no.

THE COURT: Okay. Do you know of any reason why you could not be able to understand what's happening here today?

DEFENDANT JACKSON: I don't understand what you're saying.

THE COURT: I'm not sure I made that very clear.

Are you under -- you told me you weren't under the influence of anything, but I'm just trying to make sure -- you don't have any physical, mental, or emotional condition that would keep you from understanding what's happening here today, do you?

DEFENDANT JACKSON: No, sir.

THE COURT: And, Mr. Jackson, have you had enough

time to talk to Mr. Robinson about your case?

DEFENDANT JACKSON: Yes, sir.

THE COURT: And you're satisfied with his services?

DEFENDANT JACKSON: Yes, sir.

THE COURT: And I'll ask Ms. Salisbury just to summarize the maximum sentences for these crimes, and any minimum mandatory sentences as well.

MS. SALISBURY: Yes, sir, Your Honor.

With respect to the burglary in the first degree, it carries a mandatory minimum of 15 years with a possible maximum sentence of life. The armed robbery, a mandatory minimum of 10 years, maximum 30 years. The possession of a weapon by a person convicted -- convicted of a crime of violence carries up to five years. And the attempted murder, up to 30 years.

THE COURT: All right. Thank you.

And, Mr. Jackson, do you understand those --

DEFENDANT JACKSON: Yes, sir.

THE COURT: -- sentencing ranges, and any minimum sentences, mandatory sentences, and maximum sentences?

DEFENDANT JACKSON: Yes, sir.

THE COURT: All right, sir. And do you understand all the elements of each crime that the State would be required to prove beyond a reasonable doubt to convict you at a trial?

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DEFENDANT JACKSON: Yes, sir.

THE COURT: Okay. And has anyone threatened you or put any pressure on you to get you to enter this plea?

DEFENDANT JACKSON: No, sir.

THE COURT: You're doing so of your own free choice and will?

DEFENDANT JACKSON: Yes, sir.

THE COURT: And, as you know, we're in the midst of a jury trial concerning some of these charges. And you, certainly, could see that to conclusion and let the jury determine whether you were guilty or not guilty of those charges that you're on trial for right now.

But you have indicated you wish to plead guilty. And I just need to make sure you understand the rights you would have at a jury trial, which you've already exercised in part.

And that would include the right to be presumed innocent, the right to have a unanimous verdict of the 12-person jury, and the right to have the State bear the burden of proof to prove guilt beyond a reasonable doubt as to each element of each crime. And the right you have to assert any defenses you may have, or challenge the State's case, the right to testify at your own trial, the right to use the subpoena power of the Court to bring witnesses in, the right to confront the State's evidence.

Do you understand all those rights you would have at a jury trial?

DEFENDANT JACKSON: Yes, sir.

THE COURT: All right. And you could, also, remain silent. Nobody could force you to testify or say or do anything during your trial.

And if you chose to remain silent, the Court would tell the jury you have the absolute right to do so guaranteed by the Constitution. And they could not hold that against you or take it into account whatsoever in determining whether you were guilty or not guilty.

Do you understand that, sir?

DEFENDANT JACKSON: Yes, sir.

THE COURT: All right. Now, understanding all those rights you would have at a jury trial and understanding further you must give them up here today in order to plead guilty, do you still want to plead guilty?

DEFENDANT JACKSON: Yes, sir.

THE COURT: And, Mr. Jackson, some of these crimes -- well, all of them, except the possession of a firearm by a person convicted of a crime of violence are classified as violent and most serious, that is the armed robberies -- armed robbery, attempted murder, and burglary first degree. They're all classified as violent and most serious.

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Do you understand the consequences of pleading to such an offense?

DEFENDANT JACKSON: Yes, sir.

THE COURT: Do you understand the two strikes and three strikes law?

DEFENDANT JACKSON: No.

THE COURT: All right. So --

MR. ROBINSON: We've spoken about that, Your Honor. But -- you go ahead.

THE COURT: Okay. So if I accept your plea, you will be pleading to three most serious offenses. And that means that if you're ever convicted again of a serious or most serious offense, you could be subject to a mandatory life sentence without any possibility or hope of parole.

Do you understand that?

DEFENDANT JACKSON: Yes, sir.

THE COURT: And knowing that, do you still wish to plead guilty to these most serious offenses?

DEFENDANT JACKSON: Yes, sir.

THE COURT: Has anyone predicted or promised you when you might be paroled, or eligible for parole, sir?

DEFENDANT JACKSON: No, sir.

THE COURT: And have you understood all my questions?

DEFENDANT JACKSON: Yes, sir.

THE COURT: Do you have any questions of me?

DEFENDANT JACKSON: No, sir.

THE COURT: All right. Thank you.

And listen carefully. The State is going to set forth a summary of the facts and any plea agreement.

Yes, ma'am.

MS. SALISBURY: May it please the Court, Your Honor.

With respect to the allegations as to the burglary in the first degree. On October 22nd of 2013, an officer with the sheriff's office responded to a reported robbery at an apartment on Furman Hall Road in Greenville County, Boulder Creek Apartments, City Heights Apartments.

The female victim described that she and the male victim were returning home to her apartment with her five-year-old son when two masked black men forced their way into the victim's apartment. One of the attackers, who each of the two adult victims identified as this Defendant, held a gun to the female victim's head and ordered the three victims to the ground.

The attackers went through the victims pockets and became frustrated that the victims did not have items of value. This Defendant then struck the female victim in the face with the gun. The Defendant and an unknown co-defendant fled the apartment with cash, and the victim's purse, and cell phones. The co-defendant remains unidentified.

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Then, Your Honor, the subject of this trial. September 3rd of 2014, you've heard the details of the violent home invasion that happened during the evening hours. Statements from the co-defendants reveal that this Defendant identified the home on East Parker Road as a possible ticket house inside of which Defendants would find a safe, and enlisted the assistance of James Gantt, Zykeia and Quancey Harper, Demetrius and Mike Smalls, Malik Adams-Young, Jakobe German, and Damon Young-Gaines.

The group met up at that gas station that we've seen video from. Gantt was driving that silver Honda Accord. And Joseph Maldonado was driving the Honda CRV. The Defendants used those cars to get to and then flee from the incident location. As the State's eluded to throughout the course of this trial, it's the State's position and we would present evidence that the robbery was gang related.

Then, Your Honor, two days later, on September 5th, an officer with the sheriff's office testified during this trial that he stopped a silver Honda matching the description of the one involved in the robbery on East Parker on Cedar Lane Road in Greenville County. After the Defendant was arrested, police searched that car and located a handgun in the passenger floorboard where this Defendant had been seated.

Those are the facts as they would have been presented at trial.

I'll note that the crime of violence which makes that possession of a firearm unlawful is a 2010 conviction for robbery.

The State's agreed to dismiss a number of charges as part of the Defendant's plea to these four charges, including three counts of assault and battery in the first degree, unlawful carrying, three counts of kidnapping, two counts of possession of a weapon during the commission of a violent crime, additional burglary in the first degree, two counts of armed robbery, and two counts of conspiracy.

As the Court's noted, these are most serious strikes. Should these cases have been tried separately, the Defendant would be eligible for a sentence of life without the possibility of parole. By way of resolving all of these charges in the global plea here today, the State has agreed not to seek a sentence of life without the possibility of parole. That's the total plea agreement.

MR. ROBINSON: And --

MS. SALISBURY: I apologize. I apologize.

And the State's going to ask the Court for a cap of 20 years as part of the sentence.

THE COURT: Okay. Thank you.

Is that the entire agreement and what happened in the

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cases?

MR. ROBINSON: It is, Your Honor.

DEFENDANT JACKSON: Yes, sir.

THE COURT: Okay. I find there's a factual basis for the plea. It's been entered into freely and voluntarily with the assistance of competent counsel.

Yes, sir, Mr. Robinson.

MR. ROBINSON: May it please the Court.

Your Honor, I've had an opportunity to work a good bit with Lorenzo on his case. We've met lots of times about this case. I have never had a nicer client in the world as far as meeting him at the jail, and stuff. He's just a really good person outside of being connected with some of these people, and being around the wrong people, drinking, things of that nature.

But he's got a good family. His mother, Evelyn, is here today with me. His grandmother is with me today, brother. Other family members are here as well that would like to talk on his behalf, if the Court sees fit.

THE COURT: Sure.

MR. ROBINSON: But, Judge, in this case, it was a -- it was a difficult case in a lot of respects. But I think him coming forward and doing this today, I think that saved a lot of time. The jury doesn't have to hear the rest of this case today. It saves the Court time. The

fact that he's come forward and been contrite and remorseful in this case.

Judge, we're going to ask, obviously, for a suspended sentence on the 20 years. Obviously, the minimum he can get is 15 years. But we're going to ask for a suspended sentence on the 20.

And he, also -- according to Ms. Salisbury, he is entitled to 755 jail days. And, also, I would ask for the time that he served on house arrest with Sentinel. And according to my client -- I don't have the exact number of days. But, according to my client, it was about a year that he was on the house arrest. And we would like the Court to allow him to get time for that.

But, Judge, his family would like to speak. I think Ms. -- his mother, Evelyn Jackson --

THE COURT: Yes, ma'am.

MS. EVELYN JACKSON: Good morning.

THE COURT: Good morning.

MS. EVELYN JACKSON: My son, Lorenzo, he's got good potential. He attend ECPI College. He was taking [inaudible]. He's a church-going person. He do a lot of volunteer. He play sports.

And the only thing it is that he would just -- it was just negative people. He always have been good. He's good hearted. I mean, he tries to guide his brother in

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the right direction. I mean, he really is a good person.

THE COURT: Thank you, ma'am.

MR. DEMETRIUS SINGLETON: I'm Lorenzo's brother.

I think Lorenzo a good person. He always try to keep me on the right path. Because I'm -- I'm one of the hard headed ones, you'd say. But I always looked up to Lorenzo. I always been the closest to Lorenzo. And he helped my momma get me where I am today. I think he a pretty cool person.

THE COURT: Mr. Jackson, what's your full name?

MR. DEMETRIUS SINGLETON: Oh, my name is Demetrius.

THE COURT: Okay. Thank you.

MR. DEMETRIUS SINGLETON: Demetrius. Singleton is my last name --

THE COURT: Oh, all right.

Thank you, sir. Thank you for being here.

MR. JOHN BARNETT: I'm John Barnett.

THE COURT: Mr. Barnett.

MR. JOHN BARNETT: I'm Lorenzo's father.

THE COURT: Yes, sir.

MR. BARNETT: Yes, sir. He's a good person. He was just with the wrong crowd. You know what I'm saying? Like he said, he helped with his brother, his two sisters. You know what I'm saying? And he -- he a good fellow. You know what I'm saying? Like I say, he just got in the

wrong crowd.

THE COURT: All right. Thank you, sir.

THE DEFENDANT'S BROTHER: My name is [inaudible]. I'm Lorenzo Jackson's brother.

He's a good guy. I mean, he likes to have fun. I love my brother.

THE COURT: Yes, sir.

Thank you.

MS. JONES: My name is [inaudible] Jones. I'm the grandmother of all of them.

And the only thing I like to say, I try to keep them on the right track, try to keep their heads straight. And hanging around with the wrong people -- I really don't have too much to say.

THE COURT: Okay, ma'am.

Thank you.

MS. JONES: Uh-huh.

MR. ROBINSON: Do you want to say something?

THE COURT: Yes, sir.

DEFENDANT JACKSON: Yes. I would like to apologize to the Court and to the victims within the cases for the part I had took place in. And I just pray that things will get better with them, and they continue really just -- just to move on.

And I just pray that in the future that I'm able just

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to head down a better positive -- a better -- how can I say it?

MR. ROBINSON: A better path.

DEFENDANT JACKSON: A better path. You know what I'm saying? Because the two years I've been sitting in the county, I've really just been thinking and really just trying to better myself while I've been in there. And that's what I wanted to say.

MR. ROBINSON: Your Honor, as the Court's aware, as she mentioned, he was going to ECPI. And he did get his GED, which a lot of guys his age don't do. And -- but, Judge, again, we would ask for a suspended sentence in this case.

But -- thank you.

THE COURT: Thank you.

MS. SALISBURY: Your Honor, if I could add two things very briefly.

THE COURT: Yes, ma'am.

MS. SALISBURY: One, I'm not sure that any of these sentences can be suspended with the exception of the attempted murder.

But as to the more important point. We've heard testimony throughout the course of the trial and we've discussed at length the fact that this Defendant was wearing an ankle monitor at the time of this September 3rd

incident that brings us to trial.

So to the extent that he be considered or that you entertain the possibility of awarding him credit while he was on house arrest, it's the State's position that he's demonstrated a continuing, ongoing danger to the community while on house arrest. And, perhaps, he's not entitled to credit for being on particularly good behavior during that time.

THE COURT: Thank you.

All right. Well, thank y'all for being here and for your words.

It is significant that you have such family support, Mr. Jackson. And it's, also, significant what you told me. Because nobody else in this case has said what you did. And I'm taking that into account. And I'm taking into account that you are accepting responsibility. And you're still a very young man. You still will be a young man when you get past all this. And I hope that you'll use the opportunities you'll have for your benefit and your families benefit. Because they're going to need you when you do get past it.

And so the sentence is on -- and I would point out that none of these sentences are suspendible, at least, the ones that are mandatory minimums.

I mean, you understand that, don't you?

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DEFENDANT JACKSON: (Defendant Jackson nodded.)

THE COURT: Sir?

DEFENDANT JACKSON: Yes, sir.

SENTENCING

THE COURT: Okay. So the sentence is on the attempted murder you be committed to the Department of Corrections for a period of 18 years. You get credit for time served.

On the armed robbery, it's 18 years. Credit for time served. Concurrent.

18 years on the burglary first. Concurrent.

And 18 -- well, excuse me. Five on the possession of a firearm.

All right. Good luck, sir.

**********END OF TRANSCRIPT OF RECORD**********

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CERTIFICATE OF REPORTER

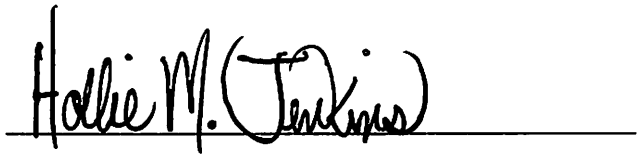
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 22nd, 23rd, and 24th days of August, 2016.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

June 10, 2018



Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

FORM 5

STATE OF SOUTH CAROLINA)
)
COUNTY OF McCORMICK)

LORENZO JACKSON # 344829)
Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2016-CP-23- 07620

APPLICATION FOR

POST-CONVICTION RELIEF

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL D. WICENSIMER
2016 DEC 28 PM 4 26

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention ____ McCORMICK CORR. INST.
2. Name and location of Court which imposed sentence ____ GREENVILLE COUNTY
3. Name(s) of co-defendant(s) (if any) ____ N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed: N/A
   (a) ____
   (b) ____
   (c) ____
5. The date upon which sentence was imposed and the terms of the sentence:
   (a) ____ SENTENCED AUGUST 25 2016
   (b) ____ TERM OF SENTENCE 18 years

Revised 3/2003

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty ✓

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?
NO

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. _____

ii. _____

iii. _____ N/A

(b) the result in each such Court to which you appealed:

i. _____

ii. _____

iii. _____ N/A

(c) the date of each such result:

i. _____

ii. _____

iii. _____ N/A

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. _____

ii. _____

iii. _____ N/A

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) _____ Counsel failed to APPEAL.

(b) _____

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: INEFFECTIVE ASSISTANCE OF COUNSEL, Counsel provided Ettonous advice which prompt plea.

(a) ____ COUNSEL FAILED TO do the necessary Factual Investigations
(b) ____ on my behalf.
(c) ____ COUNSEL FAILED TO call Witness on my behalf Which would have proven my innocence.

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) ____ Counsel negleted the necessary investigation and preparation
(b) ____ of my case.
(c) ____ Counsel failed to Fuaction as the counsel that the Constitution's Sixth Amendment Guarantees.

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? NO

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO

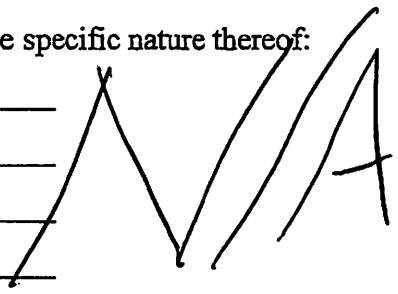
(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO

(d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. ____
ii. ____
iii. ____
iv. ____



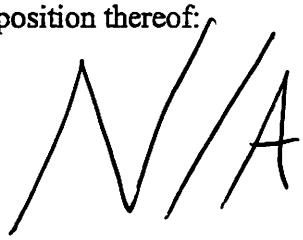
(b) the name and location of the Court in which each was filed:

i. ____
ii. ____
iii. ____
iv. ____



(c) the disposition thereof:

i. ____
ii. ____
iii. ____



iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

N/A

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

N/A

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

N/A

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

N/A

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented: CANNOT RAISE INEFFECTIVE ASSISTANCE

(a) _____ ON APPEAL, COUNSEL, failed to appeal

(b) _____ my conviction.

(c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? yes

(b) your trial, if any? _____

(c) your sentencing? _____

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. SCOTT Robinson's Law Firm.

ii. _____

iii. _____

(b) the proceedings at which each such attorney represented you:

i. SCOTT Robinson Plea Counsel

ii. _____

iii. _____

19. State clearly the relief you seek in filing this application:

NEW TRIAL

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA)
) VERIFICATION
County of McCormick)

LORENZO JACKSON #344829

I, , being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

SWORN to and subscribed before me this 6th day of December, 2016

Michael Carnes (L.S.)
Notary Public

My Commission Expires: July 09, 2026

APPLICATION TO PROCEED WITHOUT PAYMENT OF COSTS AND AFFIDAVIT IN SUPPORT THEREOF

LORENZO JACKSON #344829

I, , hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

(1) I am the applicant in this action and I believe I am entitled to redress.

(2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Applicant

SWORN or affirmed to and subscribed before me this 6th day of December, 2016

Michael Camara

Notary Public

My Commission Expires: July 09, 2026

Revised 3/2003

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	)	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT
Lorenzo A. Jackson, #344829, Applicant,	)	2016-CP-23-7631
v.	)	**RETURN AND MOTION FOR MORE DEFINITE STATEMENT**
State of South Carolina, Respondent.	)	

Respondent, making its Return to the Application for Post-Conviction Relief ("PCR") filed on December 28, 2016, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court. In March 2016, the Greenville County Grand Jury indicted Applicant for possession of a firearm by a person convicted of a crime of violence (2014-GS-23-11837), attempted murder (2014-GS-23-11839), possession of a weapon during the commission of a violent offense (2014-GS-23-11839) and armed robbery (2014-GS-23-11843). Applicant waived presentment to the grand jury on burglary, first degree (2013-GS-23-11802). Scott D. Robinson, Esquire represented Applicant. Assistant Solicitor Katryna B. Salisbury, Esquire prosecuted the case. On August 24, 2016, Applicant pleaded guilty before the Honorable D. Garrison Hill. Judge Hill sentenced Applicant to imprisonment for concurrent terms of eighteen years for burglary first degree, five years for possession of a firearm by a person convicted of a crime of violence, eighteen years for attempted murder, and eighteen years for burglary, first degree. Applicant's possession of a weapon during the commission of a violent offense was dismissed. Applicant did not appeal his conviction or sentence.

Attached to this Return and incorporated by reference are the records of the Greenville

County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, and the plea transcript. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his application for post-conviction relief, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel"
    a. "Counsel provided erroneous advice with prompted plea."
    b. "Counsel failed to do the necessary factual investigations on [applicant's] behalf."
    c. "Counsel failed to call witnesses which would have proven [applicant's] innocence."
    d. "Counsel neglected the necessary investigation and preparation of the case."
    e. "Counsel failed to function as the counsel that the Constitution's Sixth Amendment guarantees."

III.

Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland v. Washington, 466 U.S. 668. First, Applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting

Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625

Respondent submits Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCP. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCP.

V.

Respondent also hereby moves for a more definite statement. Applicant has failed to set forth any facts to "support each ground" or to explain with any specificity whatsoever the facts upon which his claims are based. The Uniform Post-Conviction Procedure Act requires the Applicant to "*specifically set forth the grounds upon which the application is based.*" S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Respondent respectfully submits that it is incumbent upon Applicant, through counsel, to amend his application to set forth specific facts upon which his allegations are based so that Respondent may adequately prepare for an evidentiary hearing. Therefore, Respondent requests that Applicant be required to amend his application to set forth specifically the grounds on which his claims are based.

VI.

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this Return is hereby denied.

VII.

WHEREFORE, Respondent requests that an evidentiary hearing be held on the claims of ineffective assistance of plea counsel.

[Signature Block on Following Page]

Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT BOLCHOZ
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

DESHAWN H. MITCHELL
Assistant Attorney General

By: _____
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

June 22, , 2017

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE LORENZO A. JACKSON, 344829 Applicant, vs STATE OF SOUTH CAROLINA, Respondent.	IN THE COURT OF COMMON PLEAS 2016-CP-23-7620 AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.

2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.

3. I have this day served a copy of the **Return and Motion for a More Definite Statement** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Susannah C. Ross, Esquire
Ross & Enderlin, PA
330 East Coffee Street
Greenville SC 29601

DATED this 22nd day of June, 2017.

Judy A. C. Carey, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	)	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT
LORENZO A. JACKSON, APPLICANT. v.	)	SUPPLEMENTAL APPLICATION
THE STATE OF SOUTH CAROLINA, RESPONDENT.	)	CASE # 2016-CP-23-7620

FILED-CLERK OF COURT
PAM B. WICKENSIMER
GREENVILLE COUNTY SC
2017 SEP 12 PM 1:55

ENTERED COMPUTER

This matter comes before the Court by way of application of post conviction relief filed December 28, 2016, alleging ineffective assistance of trial counsel. A Return was made on June 22, 2017, requesting a hearing on the allegation of ineffective assistance of counsel and a motion for a more definite statement. This application is intended to incorporate the application and with the additions of the following allegations:

1. Ineffective assistance of trial counsel for

   (a) failure to contact alibi witness,

   (b) failure to give State proper notice of alibi witness prior to trial,

   (c) failing to communicate with Applicant prior to trial/plea,

   (d) failure to investigate victim's statement.

Respectfully submitted,

Susannah Ross
Attorney for the Applicant
330 E. Coffee St,
Greenville, SC 29601
(864) 242-0029

Greenville, South Carolina
This 12 day of September, 2017

FILED

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE LORENZO A. JACKSON, APPLICANT, vs. STATE OF SOUTH CAROLINA, RESPONDENT.	COURT OF COMMON PLEAS 2016-CP-23-07620 TRANSCRIPT OF RECORD ORIGINAL

April 16, 2019
Greenville, South Carolina

B E F O R E:

THE HONORABLE ALEX KINLAW, JR., JUDGE.

A P P E A R A N C E S:

RICHARD H. WARDER, ESQ.
Attorney for the Applicant

TAYLOR Z. SMITH, ESQ.
Assistant Attorney General

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(AW) - Denotes Applicant's Witness
(RW) - Denotes Respondent's Witness

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All Exhibits were retained by the Clerk of Court for Greenville County.

P R O C E E D I N G S

THE COURT: Is the State ready to proceed.

MR. SMITH: We are, Your Honor.

THE COURT: Okay. Mr. Warder, is the Applicant ready to proceed?

MR. WARDER: Yes, Your Honor.

THE COURT: All right. Go ahead.

MR. SMITH: May it please the Court.

This is the case of Lorenzo A. Jackson v. State. It is case 2016-CP-23-7620. Mr. Jackson is here today and he is represented by Richard H. Warder.

During its March 2016 term, the Greenville County Grand Jury indicted Applicant for possession of a firearm by a person convicted of a crime of violence, case 2014-GS-23-11837; indicted him for attempted murder, case 2014-GS-23-11839; for possession of a weapon during the commission of a violent crime, case 2014-GS-23-11839; and armed robbery, 2014-GS-23-11843. Scott D. Robinson represented Applicant on those charges.

On August 24, 2016, the Applicant appeared before the Honorable D. Garrison Hill and pleaded guilty as indicted to possession of a firearm by a person convicted of a crime of violence, attempted murder, and armed robbery. The charge of possession of a weapon during the commission of a violent crime was dismissed. The Applicant, also,

waived presentment to the Grand Jury for and pleaded guilty to one count of first degree burglary. Judge Hill sentenced Applicant to a term of imprisonment of 18 years for first degree burglary, five years for the weapons charge, 18 years for attempted murder, and 18 years for armed robbery. The sentences were to run concurrent.

The Applicant did not appeal his plea or sentences. I'll, also, note for the record that the Applicant pleaded guilty after proceeding to a day or so of trial. So he pled -- pled during trial.

On December 28th, 2016, the Applicant filed an application for post-conviction relief in which he alleged a few claims of ineffective assistance of counsel. And on September 12th, 2017, the Applicant amended his application to include some additional grounds.

And before we begin, I would like for Applicant's Counsel to clarify for the record the claims that Applicant will proceed on today.

THE COURT: All right. Mr. Warder.

MR. WARDER: Your Honor, he's pleading under his general count of ineffective assistance. He set -- set forth, I think, in his amended several things. But he -- he alleges -- we're going to plead that there was inadequate pre-trial, that investigation -- that he failed to investigate the defense of alibi. He failed to talk to

potential witnesses. That -- that he didn't help prepare the Defense.

THE COURT: All right.

MR. WARDER: And that...

THE COURT: And I'm assuming that those grounds are the ones that are set forth in the supplemental application of his file back in September of 2017 by his previous attorney.

MR. WARDER: That's right.

THE COURT: All right. Is that right?

MR. WARDER: That's it.

THE COURT: All right. So the Applicant's ready to call his first witness. Are you ready to proceed?

MR. WARDER: I am, Your Honor.

THE COURT: All right. Call your first witness.

MR. WARDER: Your Honor, if it'd please the Court, I'd call the Applicant in this case.

THE COURT: All right. Mr. Jackson, would you come around?

THE CLERK: Mr. Jackson, please place your left hand on the Bible and raise your right hand.

WHEREUPON,

LORENZO A. JACKSON,

after first having been duly sworn, testified as follows:

THE CLERK: Thank you.

You may be seated.

Please state your full name for the record.

THE WITNESS: Lorenzo Jackson.

DIRECT EXAMINATION

BY MR. WARDER:

Q Mr. Jackson, we've went over and you understand what we're here today for?

A Yes, sir.

Q And are you still in Lee Correctional Institution?

A Leiber. I'm at Leiber.

Q Okay. And how long have you been down there?

A Like, a year and some change now, probably, like, a year and about three or four months.

Q Okay. And you're not eligible for release until, what, 2029?

A Yes, sir.

Q Now, you're down there because you entered a guilty plea to the charges up here that the Attorney General announced?

A Yes, sir.

Q And that happened on the third day of a -- a trial that had already began?

A Uh-huh.

THE COURT: Make sure you say, "yes, sir."

THE WITNESS: Yes, sir.

BY MR. WARDER:
Q Okay. Were you familiar with the procedure of how a trial would go when you went to that first trial?
A Yes, sir. Yes, I was.
Q Okay. Did you talk to your attorney about -- about the trial and when it'd go?
A I mean, it was -- it was like -- it was like I was already scheduled for trial. It was like we never really just got to communicate about it, or nothing like that. It's not like we prepared for trial, or nothing. It was like I was just automatically just scheduled to go to trial. I wanted to go to trial because it's something I needed to do just to prove my innocence.
Q Okay. Now, by background, you -- you knew that -- when this event happened; is that right?
A Yes, sir.
Q Okay. How did you know about this event?
A I mean, for one, like, they surrounded the whole area, like, where we stay at. The crime didn't take -- it took place, like, a couple blocks down the street. So it was obvious that something took place.
Q Okay. So you saw when a -- when the -- the police came and when -- and shortly after it happened in your neighborhood?
A Yes, sir.

Q And where were you when that happened?
A At home.
Q Whose house were you at?
A Oh, I was staying with my grandmother at the time.
Q Okay. You were living there?
A Yes, sir.
Q Okay. Did -- when did you first see the -- the cars and the commotion in the neighborhood?
A I'd say like -- okay. I was at Bobby's house. I'd say like a -- like a few -- like, an hour or so before. And when he left -- I mean, he walked me to the house. And when he left and went -- went down the street, I'd say, like -- I'd say, like, 30 or 45 minutes, or probably even more. It was, like, a whole bunch of polices got to flying up and down the street and locked everything down.
Q Okay. You said you were at Bobby's house prior to that?
A Yes, sir.
Q And who's -- who's Bobby?
A He's one of the victims.
Q Okay. So you were at one of the victim's house?
A Yes, sir.
Q Is Bobby here in the courtroom?
A Yes, sir.
Q Is that him seated back there on the row?

A Yes, sir.
Q Okay. And you were down at his house before this happened?
A Yes, sir.
Q And you -- at the time it happened, you were where?
A I was home then.
Q You were home?
A Yes, sir.
Q And that would have been your grandmother's house?
A Yes, sir. I was living with her at the time, so it was my home.
Q Okay. Did -- is your grandmother here today?
A Yes, sir. She's right there.
Q Okay. And your grandmother is Ollie Jones?
A Yes, sir.
Q Okay. And did you tell your attorney that -- about the one -- the one victim who you'd been with just prior to that?
A Yes, sir, I did. I did. I told him. He was supposed to testify on my behalf when it came to trial. But my lawyer, basically, told me it was irrelevant, his statement was -- was irrelevant. And I didn't feel like that was right, I mean, because at the end of the day, he's a victim. And you're denying him his rights at -- at the same time.

Q You're saying your lawyer said that a statement from him would be irrelevant?
A Yes, sir.
Q What about testimony from him?
A Testimony as well.
Q Okay. Did your lawyer go out and talk to Bobby?
A No, sir. He didn't do no investigation when it came to anything with my trial to talk to anybody. I mean, like, people was trying to reach out to him. But they couldn't get in touch with him. It was always something.
Q Did he talk to your grandmother, who you were with at the time of it?
A Did he talk to her?
Q Yes, sir.
A No. No, sir. He did not talk to her.
Q But you told him that both of them would be favorable witnesses?
A Yes, sir.
Q Now, did you want him to talk to your brother, Demetrius?
A Yes. I wanted him to talk to everybody that knew my whereabouts. That -- they could help him as far as, like, dealing with my case.
Q Okay. Demetrius, did you tell him that he was there and would be an alibi witness?

A Yes, I did.
Q Okay. Now, you went to trial. Why did you go to trial?
A Because I knew I was like -- I knew I was innocent. And, like I said, like, it was like -- it was already scheduled for me to -- to go to trial. It wasn't no -- it wasn't no plea, or nothing that came about, or nothing like that right there. I never really got to talk to nobody. So trial -- trial was the only choice that I had to -- to go forward with.
Q Well, tell me a little bit about the preparation. Did there come a time before the trial when Mr. Robinson came down, and seen you, and went over the discovery with you?
A I mean, no. Like, the discovery was just like -- it was blacked out. There was nothing really to go over. Then every time he come down, he was like -- the couple times I did see him, he was like it was nothing. It was like -- I was like, Have you heard anything?
He was like, I haven't heard nothing. They have nothing on you. I haven't heard anything. I haven't heard nothing.
Q How many times did you talk to him?
A Probably four times, probably four times.
Q Okay. Now, we're talking about a two-year period,

aren't we?
A Yeah.
Q Okay. This case started off and it was two years before you went to trial?
A Uh-huh.
THE COURT: Make sure you say "yes" or "no."
THE WITNESS: Yes, sir.
BY MR. WARDER:
Q Okay. Now, you pled guilty on the third day of the trial?
A Yes, sir.
Q Was there something that happened the first day when -- did you hear some evidence that was -- made you plead -- want to plead guilty?
A No, sir. There was never no evidence. There was never no evidence there. They put me into another crime. Like I said, like, on the third day, I came up. And, like, in the holding cell they have in the back, he came in there. He was like -- he was like -- he was like, You need to plea out or you're going to get life without parole.
So I'm like, I'm going to get life without parole. And I'm like -- I mean, I'm confused because, I'm like, there's no evidence. There's nothing putting me in no crime. Okay. So what about my -- my alibi witnesses, the

individuals that was going to testify on my behalf?

And that's when he told me again, It's irrelevant. And he was like, okay, give me a second. I'll be right back. So he left out. And he come back with a piece of paper. And he was like, Sign this piece of paper. Like, this piece of paper is not -- it's not saying that you're guilty, or nothing like that. It's dismissing, like, your charges, some of your charges, and stuff like that. So I'm like, Okay. So he leaves out.

And they called me to the courtroom. And I come out and my momma, she's sitting right there. And my grandmother, and my brother, they're all on the front row. And they're like, Lorenzo, go ahead and plead out. He's saying you're going to get life. And I'm not -- I'm not understanding.

Q Okay. Had -- had you thought about or had anybody discussed pleading guilty the first day of the trial?

A No.

Q Had anybody discussed pleading guilty the second day of the trial?

A No.

Q The morning of the third day was the first time anybody discussed pleading guilty?

A Yes, sir.

Q And at that time, your witnesses -- your alibi

witnesses were there?
A Yes. They were there.
Q That -- and they never got talked to?
A He never spoke with them.
Q And your lawyer told you that their testimony didn't make any difference, that it was irrelevant?
A Yeah, irrelevant.
Q You pled guilty solely on the -- the -- the advice that you'd get life?
A Yes, sir. It's like -- yeah, that too. And my mother -- you know what I'm saying? -- she was scared. I was scared, too. Because it was like, what am I going to do? It's like I'm in a lose-lose situation. Like -- it's, like, it's 20 or it's life. I mean, it's not like they prove it, or nothing like that. It's, like, 20 or life. I have to do something. I have to make a decision. I have to do something.

And I still wanted to go through with it, but I didn't know how. I didn't know what I -- what I could do to fight the case. Because I didn't know no legal terms, or nothing about the law, or nothing like that. So I did what my lawyer told me to do, and that was take a plea.
Q Okay. Now, you listened to the complete second day of the trial?
A Uh-huh.

THE COURT: Make sure you say "yes" or "no."
BY MR. WARDER:
Q That was the day --
THE WITNESS: Yes, sir.
BY MR. WARDER:
Q -- the testimony -- the police testified?
A Can you say that again?
Q That was the day that the police officers testified?
A I mean, yeah. Yeah. The police officers testified, I think, the first day and the second day. That's when they did forensics, and stuff like that.
Q Okay. And did they have any fingerprints, any photographs, any scientific evidence?
A No, sir.
Q The forensic people had already testified and there wasn't none of your fingerprints?
A No, sir.
Q The gun expert testified and there wasn't no gun tied [phonetic] to you?
A No, sir.
Q And had the -- the third day was the day you were going to testify; is that right?
A I -- I thought the third day was just going to go -- I didn't know what the third day was going to bring, to be honest.

Q Okay. And the morning of the third day was when all this happened about pleading guilty?
A Yes, sir.
Q How long did you have to deliberate?
A Not that long. I was in the cell getting ready to come in the courtroom.
Q Okay. Was it one of those cells out here --
A Yes.
Q -- or was it one downstairs?
A The one right outside of the courtroom.
Q So you were first confronted with the proposition that you were going to get life and you needed to plead guilty in that cell --
A Yes, sir.
Q -- prior to coming through the courtroom door?
A Yes, sir.
Q And how much time were you given to deliberate?
A About -- I want to say, like, five minutes.
Q Okay. And up until that day, you thought you were going to take the stand and testify and it was going to be a trial?
A Yes, sir. I thought everybody was going to testify. I thought my people was going to. Because I seen like -- I seen the Solicitor, she -- she put her witnesses up. The lawyer that was next to it, they put their witnesses up.

But my witnesses were never able to get put up on the stand. So, yeah, I'm thinking, like, mine was going to come. But I -- I really didn't know what the third day was going to bring.

Q All right. Now, I want to clarify. You said that you'd seen your lawyer four times?

A Uh-huh.

THE COURT: "Yes" or "no"?

THE WITNESS: Yes, sir.

BY MR. WARDER:

Q Did other people from his office come and see you and -- and -- and bring you messages?

A Yes, sir, the secretary.

Q Okay. How many times did his secretary visit you?

A She came and brought me like -- she came and brought me the motion.

Q Okay. When you say that she brought your motion, she brought you some papers that -- that -- the police report, and things like that?

A Yes, sir.

Q Did she go over them with you?

A No, sir.

Q Was there anybody else, his investigator, or anybody like that that came to the office -- came to the jail, I mean? Pardon me.

A No, sir.
Q So you had had pre-trial four visits in the jail and -- by a lawyer and one by a secretary; is that right?
A Yes, sir.
Q And all of your visits with your lawyer, he had talked about the trial?
A No, sir. He never talked about no trial at no visits.
Q Well, did he talk about a guilty plea?
A He didn't talk about no plea. I hadn't heard nothing about no plea. All I heard was, they have -- have nothing on you.
Q What did you talk about?
A Like, I asked him -- like, I said, like, I think, like, the first couple of times, I kept asking him about my affidavit. Because I had an affidavit, like, the second month that I was in the -- that I was -- that I was in the county. And I kept asking him about it. I kept asking him about. You know what I'm saying? Because I didn't have no plea and I was asking him about that. I was like, why -- well, not no plea, but I didn't have no bond.

So I'm like that's like -- that's change of circumstances right there for me to get a -- to get a bond, and stuff like that. And he kept saying, I ain't

seen no -- I ain't seen no -- no affidavit, or nothing like that. He hadn't seen the affidavit. But the affidavit came and it was there.

So I really didn't understand what was going on. But other than that, that's the only thing we talked about really. The other couple of times, I asked him, like, have you heard anything?

I haven't heard nothing.

But I was getting my family members to try to call or go down. And they said they couldn't never contact him.

Q Did you -- did you have long enough notice before trial that you could get your clothes down here and dressed -- you know, the family could provide them? Or how'd that happen?

A When trial came about -- like, I heard it from my family. Like, I think I heard it from my momma, as a matter of fact, when it came to trial. And they was like -- I said, like, at the beginning -- I think, like, at the beginning of the -- or the -- I had a call to the courthouse. I said -- I think it was, like, the beginning of that month.

MR. WARDER: Okay. Will you answer any questions that the Attorney General might have, please?

THE COURT: Yes, sir. Cross-examination.

MR. SMITH: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. SMITH:

Q Hello, Mr. Jackson.

A How you doing?

Q So even though you, ultimately, pled guilty, you did have a couple of days of trial first?

A Yes, sir.

Q Two days of trial?

A Three -- well, two. You could say -- well, you could say two full days, but the third one was like -- it was short. That's when I pled out, the third day.

Q Okay. You pled on the third. Let's talk about the time leading up to trial. Did you have any other attorneys before Mr. Robinson?

A No, sir.

Q Okay. And about how much time passed between when you hired him and when you went to trial?

A Like -- like I said, I got Mr. Scott Robinson, like, a month within the first -- when I first got locked up, like, a month after I got locked up. So there was like -- like, two years. It was, like, two years. I mean, because I stayed in the county two years and some change. So it was, like, two years.

Q So he was your attorney two years before trial?

A Yes, sir.

Q Okay. And you testified earlier -- and correct me if I'm wrong -- that you're saying you met with him about four times before trial?
A (There was no verbal response.)
Q Okay --
THE COURT: You've got to answer out loud.
THE WITNESS: Yes, sir.
BY MR. SMITH:
Q All right. And when you would meet him about -- during these -- these meetings, how long would they last?
A Not that long, not that long, like, a couple of minutes --
Q Just --
A -- I mean, it was really -- it was really --
Q A couple meaning two --
A -- like, brief. It was nothing really just -- too much to say. There was nothing too much to say.
Q Well, how many minutes? You said a couple? Do you mean two?
A I'd say -- I'd give him about 10 minutes. I'd give him 10 minutes.
Q So he met you 10 minutes four times?
A (There was no verbal response.)
Q Okay.
THE COURT: Is that a "yes"?

THE WITNESS: Yes, sir.
BY MR. SMITH:
Q Okay. Did you ever send letters or get letters from Mr. Robinson during that time period?
A I wrote him.
Q Okay.
A I wrote him.
Q Do you know how many letters you sent to him?
A I sent him like -- I sent him -- I think I sent him, like, two, two letters. I sent him, like, two letters.
Q Okay. Did he ever send any letters to you?
A No, sir.
Q All right. Did you ever exchange letters with anyone else at his office?
A No, sir.
Q Okay. And that's -- you didn't get any, and you didn't send any?
A I sent some. I sent some to him.
Q Okay. But to no one else in his office?
A No, sir.
Q Okay. Did you ever -- other than these four meetings, did you ever talk with Mr. Robinson on the phone during that time period?
A No, sir.
Q Okay. What about -- did you talk to anyone else in

his -- his office?
A I mean, I just asked if he in, if that's what you mean. Like, I called and asked his secretary is he in the office, and stuff like that. He was never there. He'd be out sick, or vacation, or, you know, just in the courtroom, period. And I'd never be able to catch him.
Q Okay. So there were no updates or anything from anyone in his office?
A No, sir.
Q Okay. Before your trial -- and you're testifying you only met Mr. Robinson four times. During those four visits, did he explain the charges that were against you?
A Yeah. Yes, sir, he did.
Q He did. Okay. Did he tell you about what kind of sentences you could face?
A No, sir.
Q Well, you testified a minute ago that he was telling you that you could get life without parole?
A That was back there in the cell.
Q Okay. So he never mentioned life without parole --
A No, sir.
Q -- as a possibility until that morning of --
A Yes, sir.
Q -- is that what you're saying? Okay. So that's the first time you heard about that.

Okay. During those visits, did he talk about the evidence that the State had?
A He kept saying they didn't have any.
Q Okay. And so he told you they didn't have any evidence. Was there -- what was the point at which he said, oh, they've got evidence?
A He never did. There was never no point to where he said they've got evidence.
Q Well, I mean, if he -- if he was telling you that you had to plead or you'd get life without parole, he didn't tell you that was because they had some evidence?
A No. I -- I heard all the evidence they had.
Q Well, you didn't hear all the evidence because you pled before trial was over; right?
A Exactly. But before, like, the -- I'd say the police officers, the forensics, and all of that there, yeah. As far as that, no, it was no evidence.
Q Okay. Did he ever show you any documents, or videos, or anything like that?
A Yeah.
Q Okay. What kind of documents and videos?
A I mean, I seen -- I seen a video of, like, the store. I seen, like, a video of the store.
Q From the Citgo?
A Yeah. I seen it. And that's about it.

Q All right. So you didn't see any documents, but you did see a store video?
A Uh-huh.
THE COURT: Is that a "yes"? Was that a "yes" answer?
THE WITNESS: Yes, sir.
BY MR. SMITH:
Q Okay. And -- you know, and just answer clearly because we're just trying to keep the record good.
The video he showed you, was that of the surveillance camera from the Citgo store that the officers testified about at trial?
A Yes, sir.
Q Okay. Did he ever discuss with you potential defenses in your case?
A No, sir.
Q Okay. Now, you've got in your application -- you bring up that you -- you had an alibi or alibi witnesses?
A Yes, sir.
Q And you testified earlier that you had talked about those with him. But he never suggested defenses to you that, oh, this could be a defense for you?
A No, sir.
Q Okay. So it was all on your side, you were bringing this information to him?

A Yes, sir.
Q All right. Other than your alibi, did you ever give any other evidence to him and say, you know, use this to defend me?
A No, sir. I really didn't know too much about how the court system and stuff like that worked.
Q Okay. So the alibi is the big -- the big thing to you?
A Yes, sir.
Q That was what was important?
A Yes, sir.
Q Okay. And so we -- we heard a couple of names mentioned as far as alibi witnesses. And -- and so let's see. I heard about Bobby.
A Uh-huh. Yes, sir.
Q What's Bobby's last name?
A McClean.
Q McClean. Okay. And I believe you testified that he was a victim?
A Yes, sir.
Q Okay. Of -- of what incident?
A The incident that I -- that took place the day -- well, the incident that took place, the one that I was on trial for.
Q Okay. Does Bobby go by any other name, for instance,

Robert?
A No, not that I know of.
Q Okay. Was he a victim that was mentioned at trial? Did you hear testimony about Bobby?
A I'm trying to think. I think so. Yes, I did hear his name. I did hear his name.
Q Okay. In -- in what context?
A As far as the Solicitor was giving the name of the people that was victims, and stuff like that.
Q Okay.
MR. SMITH: I beg the Court's indulgence for just a second.
THE COURT: All right.
(Pause.)
BY MR. SMITH:
Q And, Mr. Jackson, earlier you, also, talked about your grandmother. What's her name again?
A Ollie -- Ollie Jones.
Q Okay. How do you spell that?
A O-L-L-I-E.
Q Jones. Okay. And you, also, mentioned Demetrius?
A Yes, sir.
Q Is that your brother?
A Yes.
Q Okay. What's his last name?

A Singleton.
Q Singleton?
A (There was no verbal response.)
Q Okay. So on the night in question, just walk me through who you were with at that time. Just help me understand that.
A Okay. That day -- all right. Bobby was having a cookout. So I was at his house. I'm always going to his cookouts. So --
Q And let me -- and I'm sorry. Let me stop you there. Tell me how you know Bobby.
A Like, he stay -- we -- we became good friends. Because when I was going to school, and stuff like that, I used to go over there and he would talk to me and stuff. And he just encouraged me to continue doing my school work and continue to stay in school. So we got real close. Then he moved down the street. He stayed, like, across the street from the Citgo.

So he had a cookout that day. So I went to his house. I was at his house earlier that day. We was drinking, playing cards, and stuff like that like we usually do. So I said -- like, later on that day, he walked me to -- like, I got a little too drunk so he walked me to the house. But I supposed to been going back down there. And I --

Q He walked you to which house?
A My house, my grandmother's.
Q Okay.
A So after that, I'd say like -- I'd say, like, after he walked me home, I give him, like, 45 minutes. I give him 45 minutes. And the police was just swarming the whole area.
Q Okay. Do you know what street Bobby lives on?
A I can't give you the -- I mean, I don't know. I just know where he stayed. I don't know the street name.
Q But it's across from the Citgo. Do you know what street the Citgo is on?
A (There was no verbal response.)
THE COURT: Is that a "yes" or "no"?
THE WITNESS: No, sir.
BY MR. SMITH:
Q Okay. And so he -- so you went back to his house at that point -- or your grandmother's house?
A When? Are you talking about when he walked me home? I was at home.
Q Okay. So you're home now. What street does your grandmother live on?
A [redacted] West Morgan.
Q Okay. And who else was there at your grandmother's house?

A My brother.
Q Okay. Anybody else?
A I mean, I had cousins there, too, at that point in time. But, I mean, I didn't think to really just bring them in --
Q Well --
A -- but they were there --
Q -- who were the cousins?
A My cousin, Patrick. He stayed with us. Patrick, and he stayed with us and --
Q What's Patrick's last name?
A Gantt.
Q Gantt. Okay.
A He stayed with us. I think his -- I think his -- his old lady was there. But I don't know if she was there or if she was at work. But she was staying there, too.
Q Who was that?
A Tosha [phonetic].
Q Tosha?
A I don't know her last name, though.
Q All right. How do you know Tosha?
A That's my cousin's girlfriend.
Q Okay. Your cousin Patrick's girlfriend?
A Uh-huh.
Q All right. Who else was there?

A I really can't recall, to be honest with you.
Q All right. Did you go anywhere else that night?
A No, sir.
Q Okay. Did you see any other -- so you said there was a party at Bobby's house?
A Yeah. He was having a cookout.
Q A cookout. Were there a lot of people there?
A Yes.
Q All right. What did he -- what was he cooking at the cookout?
A I mean, like, steak, hot dogs, hamburgers, stuff like that.
Q All the good stuff?
(WHEREUPON, there was laughter in the courtroom.)
THE COURT: Hold on. Hold on. Hold on.
All right. Y'all -- excuse those two -- two -- who -- who -- who --
Bailiff, will you pay attention. Who -- which two of these individuals was laughing? They're going to have to excuse themselves.
UNIDENTIFIED FEMALE: Me?
THE COURT: Whoever laughed. I couldn't -- I didn't know who it was.
UNIDENTIFIED FEMALE: I had my bracelet up like this.
THE COURT: Excuse me. I heard some laughter.

THE BAILIFF: Laughter. It was in that corner.
THE COURT: All right. You can't behave that way in the courtroom, ma'am. You have to excuse -- you have to wait outside.
(WHEREUPON, an unidentified female exited the courtroom.)
THE COURT: All right. Anyone else?
(WHEREUPON, there was no response.)
THE COURT: Any outbursts or any laughter, you have to be excused. You can't behave that way in the courtroom. This is not how you behave in the courtroom.
Do you understand that?
(WHEREUPON, there was no response.)
THE COURT: All right. Go ahead.
MR. SMITH: Okay.
BY MR. SMITH:
Q All right. Well, Mr. Jackson, have you ever lived in a state other than South Carolina?
A In North Carolina.
Q North Carolina. Okay. When did you live in North Carolina?
A I can't remember. I really don't know the date.
Q Can you tell me what year it would have been?
A Around, like, 2008, around in there, like, 2005 -- from 2005 probably to 2008, around in that area.

Q Okay. Have you ever lived in New York?
A No, sir.
Q Okay. Have you ever used an alternate name or an alias?
A No, sir.
Q Okay. So everyone who's ever known you, they know you by Lorenzo Jackson?
A Yes, sir.
Q Okay. You've never had a job under a different name?
A No, sir.
Q Okay. So when you were in North Carolina, everybody there knew you were Lorenzo?
A Yes, sir.
Q Okay. Did anybody from North Carolina want to testify at your trial?
A No, sir.
Q Okay.
A I'm not aware of that.
Q Did you feel like you knew anybody in North Carolina that would have been helpful to your defense at trial?
A I mean, why would they? I mean...
Q Well, I'm asking you. So you're saying no?
A No, sir.
Q Okay. So when this case was coming up for trial, you did have co-defendants, didn't you?

A Yes, sir.
Q Okay. And those were other people that were charged with the same crimes?
A Yes, sir.
Q All right. And I'm going to read some names and you confirm with me that these are the people. Malik Adams-Young?
A Yes, sir.
Q Quancey Harper?
A Yes, sir.
Q Zykeia Harper?
A Yes, sir.
Q Demetrius Smalls?
A Yes, sir.
Q Mike Smalls?
A Yes, sir.
Q James Gantt?
A Yes, sir.
Q Joseph Maldonado?
A Yes, sir.
Q Did I miss any of them? Was that everybody?
A I think so. I think you got everybody.
Q Okay. Except for Mr. Maldonado, all of those people pleaded guilty before your trial started, though, didn't they?

A Yes, sir, I think. Yes, sir, I think. I think we all -- I think everybody pleaded guilty right around when the trial started. When the trial started, I think everybody pleaded guilty then.
Q Okay. But you wanted -- you wanted a trial the whole time?
A Yes, sir.
Q Okay. And you told -- told Mr. Robinson you wanted to go to trial?
A I wanted to continue the trial, yes. I wanted -- I wanted to go to trial. Yeah, I wanted to go to trial.
Q Okay. And he knew that because you told him?
A I mean, he -- yes.
Q All right. Before that, did you ever discuss plea deals with him about should I take this or take that?
A No, sir.
Q So you were clear you wanted a trial the whole time?
A Yes, sir.
Q Okay. Well, at first, you and Mr. Maldonado -- he wanted a trial, too, didn't he?
A Yes, sir.
Q Okay. And you were both being tried together?
A Yes, sir.
Q All right. When you were at trial, did you sit on the same side of the courtroom?

A Yes, we did.
Q Okay. Well, let's talk about some of the evidence at trial. When you were at trial, didn't deputy -- do you remember one of the deputies testifying that he had collected that video from the Citgo?
A Yes, sir.
Q Okay. And that's the same video that you had seen?
A Yes, sir.
Q All right. And they testified that that scene showed some people at the Citgo right around the time of the robbery?
A Yes, sir.
Q Okay. And one of the deputies there testified at your trial that from that videotape that they had identified a Honda Accord in the tape?
A Yes, sir.
Q All right. And they believed that to be a suspicious vehicle or involved in the crime in some way?
A Yes, sir.
Q Okay. So -- and he testified that they believed that was a vehicle they needed to follow-up on?
A Yes, sir.
Q Okay. Didn't one of the officers testify that he recognized one of those co-defendants, Zykeia, from the tape?

A Yes, sir.
Q Okay. And she was one of the co-defendants who was -- had pleaded guilty already?
A Yes, sir.
Q Okay. And I believe there were two officers that testified to recognizing a Honda Accord in the video?
A I don't -- I remember Owens saying it. I remember Officer Owens -- that's who you're talking about.
Q Okay. You don't remember when Sergeant David Weiner, also, testified to that same fact?
A Nah. I don't remember that, but he probably did.
Q Okay. Do you remember when one of the officers testified that -- that -- that the sergeant had told them to be on the lookout for this silver Accord?
A Yes, sir.
Q Because they thought it was related to the crime?
A Yes, sir.
Q All right. On the day you were arrested, you were the passenger in a car; right?
A Yes, sir.
Q What kind of car was that?
A It was my cousin -- like, the car you're talking about is my cousin's car.
Q Okay. What kind of car was it?
A It was a Honda.

Q Okay.
A It was a Honda. They supposedly said it was in the crime and stuff -- had something to do with crime. See, when I got locked up, I didn't have no choices [phonetic]. I got placed under investigation.
Q All right. Well, let me ask you about the car. You said it was a Honda. What kind of Honda?
A It was a Honda Accord.
Q A Honda Accord. All right. At the time of the robbery in question, were you wearing an ankle monitor?
A Yes, sir, I was.
Q Okay. And will you tell us about that? How did you come to have that ankle monitor? I'm not necessarily asking you about what you were charged with. But just how -- did a judge order you to wear the monitor?
A It was part of like -- it was part of, like, a-- yeah, you could say that. Because it was part of my bond, or something like that.
Q Okay. Were you under any travel restrictions at that time?
A No, sir. What you mean?
Q Well, you had an ankle monitor. So they were wanting to know where you were; right?
A Yes, sir.
Q Did you have a place you couldn't go?

A No, not really, I mean.
Q So would it go off if you went a certain place or went a certain distance from home?
A Nah. Like, I got a certain time I can be out of the house.
Q All right. And so there was no travel restriction. It was just a time restriction?
A Yeah, just a time.
Q It was a curfew?
A Yeah.
Q Okay. Well, you testified earlier that you heard the State's evidence at day one and day two of trial?
A Uh-huh.
THE COURT: Is that a "yes" or "no"?
THE WITNESS: Yes, sir.
BY MR. SMITH:
Q Okay. And you realize at that point, though, that the State hadn't rested its case yet?
A (There was no response.)
Q In other words, it was still the State's turn to present evidence.
A Yes, sir.
Q Okay. And they still had more to come; right?
A I mean, I don't know. Like I said, I don't know what the third day was going to bring.

Q You don't. Okay. You weren't in the courtroom when the attorneys were discussing having your co-defendants testify on day three?
A Testify, I mean -- no.
Q You weren't in the courtroom?
A I mean, I didn't hear them say they were going to have my co-defendants testify. But I knew they was going to testify sooner or later. But I didn't know it was going to be on day three.
Q Okay. Were you present in the courtroom before trial started when your attorney had a hearing to verify that your co-defendants had, in fact, identified you? You don't remember that pre-trial hearing?
A I think so.
Q Okay. You remember that. Okay. So you did know that identification of you by your co-defendants was going to come up?
A Yes. But I still had my -- I had my witnesses, too. I had my alibi witnesses. And I had -- I had the victims that were going to testify on my behalf. And I wanted to testify, too.
Q Okay. But your co-defendants weren't testifying for you; right? You weren't calling them as witnesses?
A No.
Q The State was calling them?

A No -- I mean, yes. Yes, sir.
Q Okay. And that was -- that hadn't happened yet at that point, though. So day one or two, those co-defendants didn't testify?
A No, sir.
Q Is that right?
A (There was no response.)
Q Well --
A They were given -- I mean, but they was given -- they was given pleas to testify.
Q Okay. Well, Mr. -- Mr. Maldonado, at that point, decided to plead guilty; right?
A Yes, sir.
Q Okay. And he decided after the second day?
A If they gave him a YOA.
Q Okay. And that was after the second day, though; right?
A Yes, sir.
Q Before the State's witnesses -- the co-defendants testified?
A Yeah.
Q Okay. And up until that point, Mr. Maldonado had been a co-defendant with you at the trial. All right. Weren't you worried that he would testify against you on day three of the trial?

A No, not really. Because -- okay. When we was on trial and stuff like right there, Officer Owens got on the stand. And he was talking. And I forgot how it got took. But he told -- he was like, Joseph, you're the one that said Lorenzo wasn't in the crime. He isn't the one that did it.

And he was like, No, I didn't. You made me say it.

You know what I'm saying? So my lawyer was right there. And my lawyer was like, Your Honor, we'd like to call Joseph to the stand. Then he turned around and said, Never mind, Your Honor. Then right after that, they offered him a plea to testify with -- with a YOA.

Q Okay. So you did think that he might testify against you now at that point?

A I mean, I didn't -- like, when he did that -- when he said that, no, I didn't. But I didn't know they were going to offer him a YOA, or a plea, or nothing like that. I just like -- that just came out of nowhere.

Q So at the end of day two was the first time that you had really discussed a plea deal with Mr. Robinson?

A Yes, sir.

Q Okay. Did he meet with you at the end of day two of trial?

A No.

Q Okay.

A No, sir.
Q He met with you at the beginning of day three --
A Yes.
Q -- to talk about taking a plea deal?
A Yes, sir. Because I wasn't -- like after -- after -- after I did take the plea, after everything was over with, I said I wanted to talk to him some more. And he -- he didn't come talk to me then.
Q Okay. Well, when you decided to plead guilty on day three, didn't you tell Judge Hill that you'd had enough time to talk about your case with Mr. Robinson?
A Yes, I did. I told him that. And, to be honest, I was scared. I didn't know what to do. You know what I'm saying? Like, I didn't know if I would have continued on to try to fight this case, that I knew how to fight it, or how to really go about presenting my innocence, and stuff like that. I really don't know nothing about that. I didn't know anything about that. I didn't know about no legal challenge like I know about now. So I just did what I was told to do and say yes.
Q Mr. Jackson, I'm not asking you about legal terms. I'm asking you -- Judge -- while you were under oath, Judge Hill asked you had you met with Mr. Robinson and were you satisfied that you had met with him enough times to discuss your case. And you told him you had. That's

not a legal question.
A I said, yes. He told me -- I did what I was told to do. I said, yes, to everything that the Judge asked.
Q He told you, just say "yes" to that?
A He told me to say "yes" to everything.
Q Okay. Did he -- did he force you to tell the Judge that you were satisfied with his services?
A You said did he force me to tell him that?
Q Yeah.
A He said to say "yes" to everything.
Q So all of this -- everything you told the Judge, you were just telling because -- because Mr. Robinson was making you tell him?
A Because I was scared. And I -- and he was telling me -- I was -- like I said, I was forced to really just -- it -- it -- how can it put it? It was like I was in a lose-lose situation. You know what I'm saying?
Q Well, what --
A It was like I was in a lose-lose situation. Okay. My -- like -- like, when I told you he came in the -- like, in the cell and told me as far as, like, the life without parole or the 20 years, I'm not understanding it. No, because there is no -- wasn't no evidence presented. You know what I'm saying?
My alibi witnesses is not being able to get up on the

stand or the victims are not able to get up on the stand and testify on my behalf. So I'm put in a place to where I'm scared. I don't know what to do. I don't want no -- I don't want life. And I don't want 20. But it's like that's the only route that I have to take.

Q Well, Mr. Jackson, so what -- it sounds like what you're telling me is you're scared of the possibility of life without parole?

A I was scared of the whole thing, to be honest.

Q Okay.

A But I just had to -- I had to make a choice. And I was forced to -- to plea.

Q Okay. Well, I'm not asking you to tell me about what you and Mr. Warder talked about.

A Nah. It's like --

Q But it's my understanding that if you prevail, life without parole could be back on the table. Do you understand --

A I mean, I understand as far as PCR. With PCR, the -- the -- what I was facing before, it'd be back on the table. But in this case, I don't feel like it'd apply to me.

Q Well, it scared you so bad the first time. Are you not scared of life without parole anymore?

A No, sir. Because I didn't know -- I didn't know the

things that I know now.
Q Okay. Well, let me keep asking you about when you were talking with Judge Hill. Do you remember the State gave a factual summary of what the State said had happened and what they believed they could prove?
A Yes, sir.
Q You remember that. Okay. When the State was going through that, didn't they say that their witnesses had identified you, your co-defendants?
A I mean, yes. I mean, that's what they said. I mean, yes, I mean.
Q Okay.
A But they, also, got to believe it. That's the thing.
Q Okay. You know, now that -- the State pointed out that at the time of these crimes that they say you did that you were wearing an ankle monitor. Do you remember when they said that?
A Okay. I understand.
Q All right. And when Judge Hill asked you -- he said, You heard what the State said. Is that what happened? And you told him, Yes. Do you remember telling him yes?
A I remember saying yes to everything. I mean, because that's what I was told to do.
Q Okay. When he asked you if anyone had threatened you or pressured you into pleading guilty, you told him no;

right?
A Yes, sir. That's what I said. And going back to what I told you, I mean, I didn't -- I couldn't -- I don't know how to fight. I didn't know how to fight -- I didn't know how to fight my case, period. So --
Q And Judge Hill, he, specifically, asked you was anyone forcing you into --
A I understand. I understand. I understand what you're saying. I know he asked me that. But it's different. I mean, it's -- I can't really just explain, like, the feeling and all that when I was going through it.
Q Do you remember when Judge Hill said, If you plead guilty, you're giving away rights to a trial. He told you your trial rights, that you were waiving those if you wanted to plead guilty. And you told him you understood?
A Yes, sir. That's what I said.
Q And you said you wanted to plead guilty anyway?
A I mean, what else could I do? I mean, I --
Q Well, you could have said no; right?
A I could have said no. But what else would I have done?
Q But you didn't say no?
A I didn't.
Q Okay.

A I went along with it.

MR. SMITH: All right. Thank you.

Judge, I have no more questions.

THE COURT: I just got -- I just got one question.

Could you give him a copy of -- does he have a copy of the transcript?

Because I'm going to refer to Page 15 of the transcript. It's a little short.

MR. SMITH: Yes, Your Honor. The short transcript is just from the guilty plea part of the trial. The longer covers the first two days.

THE COURT: Yeah. That's what I want to ask him.

MR. SMITH: Okay.

THE COURT: I'm going to -- and he can look at my copy of it. But I just --

MR. SMITH: I have another copy of it.

THE COURT: Just show him. I want to ask him a question about -- turn to Page 15.

MR. WARDER: 50?

THE COURT: 15. 15 of the short one, the short transcript.

EXAMINATION

BY THE COURT:

Q Before I ask you that question, I think your -- I'm listening to you, Mr. Jackson. Your -- your defense was

that you -- that you weren't there and you knew nothing about any of this; is that right?

A (There was no verbal response.)

Q Is that -- was that -- is that a "yes" or "no"? Is that what your defense was?

A Yes, sir.

Q All right. Go down to Line 20 on Page 15 and -- well, let's back up to Line 18.

A Okay.

Q It says, Mr. Robinson, do you want to say something?

The Court said, Yes, sir.

And Defendant Jackson, that being you; is that correct?

A Yes, sir.

Q All right. I'm going to read into the record what you said, Yes. I would like to apologize to the Court and to the victims within the cases for the part I had took place in. And I just pray that things will get better with them, and they continue to move on.

So in this transcript, you apologize to the Court and the victims for the part that I took place in. What does that mean?

A Okay. Your Honor...

Q But you said you had nothing to do with it. I'm -- I just want -- want the record to be clear. And I want to

hear you --
A Okay.
Q -- but I, also, want to find out what that meant.
A Okay. I was -- I was -- I was like -- I was seeking some type of relief. I was trying to get some type of relief when it came down to the case. And I thought by me apologizing for taking -- like, taking, like, my part in the case, and stuff like that right there.
Q So you did have a part in the case?
A No. I didn't have no part --
Q So this --
A -- but I felt like I did.
Q So this is not true what you just said?
A No.
Q What I just read is not true?
A No, sir.
Q You just --
A I mean, I said it. But I didn't have no part in it. I had no part in it. And I had nothing to do with what took place. I felt --
Q Well, why --
A -- like I did.
Q Well, why would you say this?
A I felt like I was guilty because of the position that I was put in to where I couldn't really just get out of

it, or not even just get out -- the way things took place and the -- the position that I was put in. Like, it made me feel like I was guilty. So that's why I did what I did. And I was seeking some type of relief when I apologized to the Judge.

THE COURT: All right. I don't have any other questions.

Anything else, Mr. Warder?

MR. WARDER: Yes, sir.

REDIRECT EXAMINATION

BY MR. WARDER:

Q And you told us that you wanted to talk to Mr. Robinson after the -- the plea was over and you'd asked him?

A Yes, sir.

Q Was that -- did that have to do with an appeal?

A Okay. Well, no. So when I got to prison, I had my mother -- my mother -- I told my mother to contact him about an appeal --

Q Okay. So you didn't make any effort --

A I couldn't get in contact --

Q -- until you got to prison --

THE COURT: Hold on. Wait until he finishes.

Go ahead.

THE WITNESS: Now, what did you say?

BY MR. WARDER:

Q Well, you -- you didn't talk to him about an appeal until you got to prison?

A Yeah. That's when I found out about everything. I didn't know nothing until I got to prison.

Q Okay. Was that within 10 -- 10 days of the -- of when you were convicted?

A Yes, sir.

Q And you thought you were going to get an appeal?

A Yes, but I didn't. I mean, it -- I mean, it -- it's not a surprise. It's not a surprise --

MR. SMITH: Objection, Your Honor. His failure to file an appeal is not one of the claims presented by the Applicant.

THE COURT: All right.

MR. WARDER: It is one of the claims --

THE WITNESS: Yes, it is --

THE COURT: Well, hold on a second.

And I asked you, I guess, at the beginning, Mr. Warder, whether or not the supplemental application that was filed with the Court back on September 12th, 2017, by Ms. Ross, the prior attorney, was the allegations that he was proceeding on. And I don't see failure to file an appeal on here.

Is that --

MR. WARDER: Yes, sir.

THE COURT: Did you file an amended one different than what I've got in my hand? I've got a supplemental application that has all the grounds. Is it something different than --

MR. WARDER: No, sir. That's the one they filed to -- to notify -- to clarify the issues.

THE COURT: Right. And these were -- I'm looking at it. And Counsel has a copy of it. And it doesn't say anything in here about a failure to file an appeal.

It says, Failure to contact alibi witnesses, failure to give State proper notice of alibi witnesses prior to trial, failure to communicate with Applicant prior to trial or a plea, and failure to investigate the victim's statement. That's what I have.

MR. WARDER: Yes, sir. That's -- that's where they were set forth.

THE COURT: All right. So there's nothing -- you agree that there's nothing in here about an appeal -- failure to file an appeal?

MR. WARDER: Yes, sir. That's one of the grounds that was in the -- the reply -- the amended.

THE COURT: I just read the supplemental application. And I don't -- was that in the original application? I didn't see it.

MR. SMITH: I -- I have a copy of the supplemental application. And I -- I don't see that as a ground. I believe it's in the packet, too.

THE COURT: Right. And I -- that's what I just read to him.

MR. SMITH: And just as part of that, we would, also, move to strike any questions or testimony about that. I think there were -- have been a couple of questions right at the end.

THE COURT: Mr. Warder, do you see anything any different?

(WHEREUPON, there was no response.)

THE COURT: Do you see anything any different?

MR. WARDER: No, sir.

THE COURT: All right. So we'll -- any questions regarding that will be struck from the record.

MR. SMITH: Thank you.

THE COURT: Objection sustained.

All right. Any other questions of this witness?

MR. WARDER: That'd be all we have.

THE COURT: No other questions?

MR. WARDER: No.

THE COURT: All right. You -- you can step down.

Any other witnesses for the Applicant, Mr. Warder?

MR. WARDER: Yes, sir.

THE COURT: All right. Call your next witness.

MR. WARDER: We call Bobby McClean.

THE CLERK: Mr. McClean, will you, please, place your left hand on the Bible and raise your right hand, if you can.

WHEREUPON,

BOBBY LUCAS MCCLEAN,

after first having been duly sworn, testified as follows:

THE CLERK: Thank you.

You may be seated.

THE WITNESS: Thank you.

Good morning, Your Honor.

THE COURT: Good morning.

THE CLERK: And please state your full name for the record.

THE WITNESS: Bobby Lucas McClean.

THE COURT: Yes, sir.

DIRECT EXAMINATION

BY MR. WARDER:

Q Mr. McClean, where do you live, sir?

A Currently I live at [redacted] Monroe Street in Greenville North Carolina -- I mean South Carolina. But at the time of this occurrence, I was at -- right across the street from the Citgo. It was [redacted] -- what is -- Smith Street. It's directly across from the Citgo.

Q Okay. And how far -- well, I guess we -- we ought start off -- how far was that from where Lorenzo was staying?
A Maybe two blocks.
Q Okay. And you knew -- you knew where Lorenzo was staying back then?
A Oh, yes, sir.
Q And he was staying where?
A With his grandmother.
Q Okay. Did you see Lorenzo the day this happened?
A Yes, yes.
Q What time of the day did you first see Lorenzo?
A Oh, earlier that morning. And then he came back that afternoon and was enjoying the barbecue with us.
Q Okay. Now, this barbecue -- you cook barbecue; is that right?
A Excuse me, sir.
Q You cooked the barbecue?
A Yes, yes.
Q You had a grill or something out back?
A I had two grills going.
Q Okay. And did you have some kind of gathering at your house that day?
A Just a regular barbecue. I barbecue, like, three times out of the week.

Q Okay. And was Lorenzo down there?
A Yes, sir.
Q What time did that -- did the barbecue break up?
A Oh, it was maybe 11:30, 12:00 that night. But I walked him home personally. He had to be home by 6:00 because of the ankle monitor he had on. I personally walked him home.
Q Okay. So -- so when it approached 6:00, you and him walked back to his grandmother's house?
A Yes, sir.
Q Because that's where the box was that he --
A Yes, two blocks away.
Q Okay. And were you down -- were you aware that the -- the robbery had taken place when all the police came to the neighborhood?
A I could tell you the whole story.

Because we seen all the kids when they came to the store, Your Honor.

Because -- because when they went to the store, we were siting on my porch directly across the street. And they went in there. The kid that worked in the store ran out of the store. And then they came out about five minutes later.

Q Okay. Was Lorenzo with that group?
A I didn't see him there at all. All these kids

that -- that I seen came out of there were very tall kids, very tall. I'm only 5'7". So a lot of people are tall to me.

Q And when's the next time you saw Lorenzo after --

A Oh, when I was told I had to come to court. Because he had got arrested about this case, or whatever the case may be.

And if I may, Your Honor, if I may.

They took two video statements from me three days in a row. They took me downstairs and took video testimonies from me. And I never heard anything else after that, other than his court dates and when to come.

Q Okay. So this -- this video statement that you recorded that -- the police are the ones that got it?

A Yes, sir.

Q And it would have been consistent with your testimony here today?

A Yes, sir. Yes, sir.

Q And you told them that you saw the men that -- that did it and Lorenzo wasn't one of them?

A I did not see him there. We seen about a pack of maybe eight to 10 individuals [inaudible] the store come out, walk down a block. A half hour later, I went down the block. I went and got two beers from the store, went down the block to where all this took place.

Because I was pistol whipped and beaten. My eye got jammed up. I had to go to the hospital, and everything. The other guy, God bless his soul, he's dead now. He got shot numerous times. I'm the one that picked him up and put him on the wall. I was right there. When I turned around, all I met was pistols, punches, and stomps. And that was it.

Q And Lorenzo wasn't there?

A No, sir. I cannot put him there. They had on ski masks and bandannas over their faces with their hat -- hoodies.

Q And they were all a different size than Lorenzo?

A These kids were tall. These kids were six feet and over.

Q Okay. And you were ready for trial and you would have been a witness?

A I was ready. I had moved back to New York because my mother-in-law had got sick. So when I got the phone call -- because I stayed in contact with the family and let them know whenever it's time for me to testify, I'll come on down.

Q Okay. And you'd come down --

A I wasn't given notice.

Q -- to give your testimony?

A No, sir. I was never given notice. And from what I

told -- everything I told them was just disregarded.
Q Did you ever talk to Mr. Robinson?
A Who's this? The lawyer?
Q Scott Robinson, Lorenzo's attorney.
A The first attorney, yes, sir, yes, sir.
Q You talked to him?
A Everything I'm telling you right now, I told him. It should have been all on -- on record, everything from the video testimony to just he and I interacting. Everything I'm saying now is what I said then.
Q This statement, was -- was Mr. Robinson present when it was given?
A Yes. Yes, sir, yes, sir. The cop was right there.
Q Okay. How about his -- Lorenzo's lawyer, was he right there?
A He was there, also. This is what I'm saying. I -- everything I'm telling you right now was told on two videotapes and then by a stenographer as well. But I've -- never was I told to testify in court. I was just appearing in court waiting to testify. It never happened.
Q Who did you think was going to call you as a witness?
A I assumed his lawyer, or -- or even the -- the State.
Q His lawyer is seated back here in the courtroom. Is that the man that was there when you gave a statement?
A No, sir, no, sir. No.

MR. WARDER: Thank you.

That's all the questions I have.

MR. SMITH: Your Honor, I --

THE COURT: Just for the record, let me ask you this. Who was his lawyer before --

THE WITNESS: This is --

THE COURT: Hold on. I'm not asking you.

Who was his lawyer before Mr. Robinson?

MR. SMITH: Your Honor, it's my understanding he didn't have one. But his -- he -- his co-defendant did have a different attorney at trial. I'm --

THE COURT: That was Fletcher Smith?

MR. SMITH: That's correct.

MR. WARDER: My client only had one -- one -- one attorney at trial, and that was Mr. Robinson.

THE COURT: Was -- was -- was Fletcher Smith the one -- was this a black lawyer or a white one?

THE WITNESS: No. It's a white lawyer. But he was an elderly man.

MR. SCOTT ROBINSON: Your Honor, it was Sarah Henry prior to me. Sarah Henry.

THE COURT: All right. Sarah Henry with the Public Defender's Office?

MR. SCOTT ROBINSON: Yes, sir.

THE COURT: Or appointed through the Public

Defender's Office?

MR. SCOTT ROBINSON: She was his first lawyer.

THE COURT: Was -- the lawyer there was a female?

THE WITNESS: No, sir. It was an elderly man. I don't know.

THE COURT: All right.

THE WITNESS: I don't remember him at all.

THE COURT: All right. Cross -- cross-examination.

MR. SMITH: Okay. Yeah. Yes, Your Honor. I have a few questions.

CROSS-EXAMINATION

BY MR. SMITH:

Q So you said the man you talked to was an elderly man?

A Yes, sir.

Q Is he in this courtroom?

A No.

Q Okay.

A I've seen his face before, but I've never spoken to him.

Q Okay. You said that your address is [redacted] Smith Street?

A Yeah, back then.

Q Okay. Is that here in Greenville?

A Yes, sir. Directly across the street from the Citgo.

Q Okay. Have you ever lived on East Parker Street?

A No, sir.
Q Do you know someone named Harold Dean Suttles?
A Harold Dean, yeah. That's the guy that got shot.
Q Okay. How do -- how do you know him? Personally -- do you know him from hearing his name or do you know him personally?
A No, no, no. No, sir. Me and Dean were friends. That's who I was going to see. We sat down and were having a couple of beers. And about 10 -- about 10, 15 minutes later, we got bum rushed.
MR. SMITH: Okay. Your Honor, may I have just a moment?
THE COURT: Yes.
(Pause.)
BY MR. SMITH:
Q Okay. So you mentioned that Mr. Jackson was at your house at the barbecue?
A Yes, sir.
Q When -- when you were at this barbecue, were you with -- were you -- you mentioned you were cooking, too?
A Yes, sir, my wife and myself.
Q Okay. When you were cooking the barbecue, were you standing over a grill or --
A Yes, sir, two grills.
Q Two grills. Okay.

A Yes. Because I keep them separate.
Q All right. And you mentioned that you walked Mr. Jackson home at about 6:00?
A It was about maybe five, 10 minutes to 6:00. Because he had to be home by 6:00. Because I kept stressing that to him that -- that evening.
Q Do you remember the date of this barbecue?
A No, sir. You're talking three, four years ago.
Q Do you remember what month it was in?
A No, sir.
Q Okay. About how much of the time when you were at this party cooking were you standing over the grill?
A Maybe half.
Q Okay. Was there anyone else watching the grill or you don't trust anybody else --
A Yes, yes, yes. Yes, of course.
Q Okay. And you, also, testified that you saw people at the Citgo across the street?
A Yes.
Q All right. About what time was that?
A It was in the evening. I would have to say maybe 8:00, 8:30.
Q Okay. How many cars did you see that were associated with this group?
A Just one car.

Q Just one car. What kind of car was that?
A I think it was a little Dodge, like a Charger, or something like that. A little -- it was a little car.
Q So you said eight or 10 people. Did all those eight or 10 people fit in that Dodge Charger?
A Well, yeah.
Q They did?
A It was, like, about six or seven people that got out of that car.
Q Okay. Were --
A And then there were other people that walked into the store as well.
Q Okay. Well, earlier you said eight or 10.
A Yes, yes, yes, sir.
Q But you just said six or seven?
A Eight -- eight or -- yeah, eight people.
Q So between six and 10 people were in this car?
A Pardon me, sir?
Q Between six to 10 people were in this car?
A Six to eight.
Q Six to eight?
A Yes, sir.
Q And they all fit in that Dodge Charger?
A I seen them -- I seen, at least, five people get out of the car. And there were other people that congregated

with the -- with the group going into the store --
Q Could you tell if --
A -- more on foot.
Q -- there were people -- I'm sorry.
A They were on foot, sir.
Q Okay. Could you tell if there were people in the car who didn't get out?
A No, sir.
Q Okay. Does that mean you couldn't tell or you could and there weren't any other people in the car?
A There weren't any more people in the car --
Q Okay. So you had a --
A -- once they exited the car.
Q -- good view into the car?
A Yes. Like, from here to the door.
Q All right. So you never saw a Honda CRV at the Citgo?
A I can't recall seeing that car, sir.
Q You don't?
A No, sir.
Q Okay. Do you remember seeing a Honda Accord?
A No, sir.
Q Okay. And how long were those people that you saw at the Citgo?
A They stayed in maybe five minutes.

Q Okay.
A Because the worker himself ran out of the store.
Q Well, you noticed these people drive up. Would you have noticed if other people had driven up?
A Yeah. People that drove up went -- went to the store and turned around.
Q Okay.
A That's why we knew something was going on in there. They were ransacking in there.
Q Well, where were you at your home when you saw these people at the Citgo?
A I was on my front porch.
Q Okay. Is that where your grill is?
A Yes. Both grills are on the side of the house in the front.
Q Okay. The group of people, could you estimate age ranges, or were they too far away for that?
A They seemed like teenagers to me. They -- young kids.
Q Okay. Were they -- were they all men?
A I couldn't tell you that. That I couldn't tell you. They dressed -- you know, how these girls nowadays, they dress like boys and...
Q Well, what about hair styles? Could you tell if anybody had a particular hair style?

A No, sir, no, sir.
Q You couldn't tell that. Okay. And you mentioned that this gentleman back here, you've never talked with this man before?
A No.
MR. SMITH: All right. Well, thank you.
I have no more questions, Your Honor.
THE COURT: All right. Anything else, Mr. Warder?
MR. WARDER: No, sir.
THE COURT: All right. I have no questions.
Thank you, sir.
You can step down.
THE WITNESS: You're welcome, Your Honor. Have a good day, sir.
THE COURT: All right. We're going to take about a 10-minute break and then resume. All right. We'll be down about 10 minutes.
(WHEREUPON, a break was taken.)
THE COURT: Mr. Warder, any other witnesses for the Applicant?
MR. WARDER: Yes, Your Honor.
THE COURT: All right. You've got another witness.
MR. WARDER: Your Honor, if it please the Court, I'd -- I'd call Ollie Jones.
THE CLERK: Ms. Jones, please place your left hand on

the Bible and raise your right hand.

WHEREUPON,

OLLIE G. JONES,

after first having been duly sworn, testified as follows:

THE CLERK: Thank you.

You may be seated.

Please state your full name for the record.

THE WITNESS: Ollie G. Jones.

THE COURT: Spell Ollie, Ms. Jones.

THE WITNESS: Sir?

THE COURT: How do you spell Ollie?

THE WITNESS: O-L-L-I-E.

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

DIRECT EXAMINATION

BY MR. WARDER:

Q Ms. -- Ms. Jones, where do you live at?

A (There was no response.)

Q I can't hear anything either. So it's...

THE COURT: Well, y'all have got to get close -- close and personal.

BY MR. WARDER:

Q Where do you live at?

A I was staying at [redacted] West Morgan Street.

Q When this happened, is that where you lived?

A Yes, sir.

Q Did your grandson live with you?
A Yes, sir.
Q When I say "your grandson," we're talking about --
A Lorenzo Jackson.
Q Okay. And was Lorenzo on an electronic monitoring device?
A Yes, sir. It was attached to my phone.
Q Okay. That was the one that's -- you have to have a landline phone when they put it in?
A Yes, sir.
Q Okay. And that keeps track and notifies some people whenever you leave out of the house?
A Yes, sir.
Q And under his monitor, he could be off during certain hours of the daytime?
A Yes, sir.
Q And he had a curfew to be in the house?
A Yes, sir, he did.
Q And that was at 6:00?
A Yes, sir.
Q And if he wasn't in the house at 6:00 --
A They'd call.
Q Okay. It notifies them. They call the people that monitor it and keep a record of it?
A Yes, sir.

Q And if he leaves after he comes in, that monitor tells them that he leaves?
A Right.
Q And there's a record kept somewhere of that?
A Right.
Q Do you remember the night that this happened when all the police cars came?
A Yes, sir, I do.
Q Okay. When -- when all that was happening, where was your grandson?
A Sitting on the porch. He had his hand up on the roof, like, he was sitting -- looking at the police -- all the police going by.
Q Okay. He was -- and that's in his monitoring range, the porch?
A Right. He could go to the front porch, but he can't go off of it.
Q Okay. And if -- if he'd left the house --
A It would have went off, went straight to the police. They would have came and got him.
Q Okay. He was there all -- all night?
A Yes, sir.
Q Okay. And did you talk to anybody about -- about that -- the information you have, the alibi you're furnishing for him?

A No, sir. I didn't talk to nobody about it. Because I know where he was. There wasn't no need for me to talk to nobody.
Q Okay. When this case came up -- this trial came up, did you talk to anybody?
A Yes, sir. I talked to Scott Robinson.
Q Okay. His -- that's the -- the lawyer back here?
A Scott Robinson back there with the glasses on.
Q Well, did you tell him your grandson was home?
A Sir?
Q Did you tell him your grandson was home that night?
A Yes, sir, I did.
Q Did -- did he and you discuss the monitor?
A I told Scott everything. I told him he was home, about the monitor. And I told him he was at home. Scott wrote everything down. He -- that's what I thought he was doing. I really don't know. I wasn't there. I just -- just talked to him. I really don't know what he was doing.
Q Well, you were right next to him, weren't you, when -- in the room when you talked to him?
A He was in his office. He -- he had a desk. He was behind the desk and we was in front of the desk. And he was writing stuff down. When we went -- when I went up -- when we went -- me and my daughter went up there to talk

to him and tell him everything that was going down, he was writing it down.

Q Okay. So you went down to his office so you could talk to him?

A Yes, sir.

Q And you told him that there was an electronic monitor on your grandson?

A Yes, sir. He knowed [sic] about it, yes, sir.

Q And that somebody was, actually, monitoring him that night?

A Yes, sir.

Q And you can vouch -- you saw Lorenzo in your house that whole evening?

A Yes, sir.

MR. WARDER: Thank you.

THE WITNESS: You're welcome.

THE COURT: Cross-examination.

MR. SMITH: Your Honor, just a few questions, Your Honor.

CROSS-EXAMINATION

BY MR. SMITH:

Q Ms. Jones, I've got just a few questions for you. Can you tell me again what street you live on?

A Huh?

Q Can you tell me what street you live on?

A Me?
Q Yes, ma'am.
A [redacted] West Morgan Street.
Q Okay. Market?
A Morgan.
Q Morgan. Okay. The -- do you remember the date of the night of the robbery, the night we're talking about?
A Yes, sir.
Q Okay. What date was that?
A Well, not exactly the whole date. But I remember when it happened, when it went on. Lorenzo was sitting on the porch. He was standing on the porch. We was looking at all the police going up and down the street, riding up and down the road. We didn't know what was going on.
Q Do you remember who was at your house that night?
A Who was at my house? Yeah.
Q Well, who was there that night?
A Me, Lorenzo, and Demetrius, his brother.
Q Okay. And there was no one else there at the time?
A No, sir.
Q Okay. Do you know what time you went to bed that night?
A Lorenzo went to bed about -- I go to bed before they do. So Lorenzo had to be -- he probably went to bed about 11:00. Because he couldn't go back out of the house.

Q No. I'm asking about you. What time did you go to bed?
A What time did I go to bed?
Q Yes, ma'am.
A I go to bed at 10:00, 10:10, 10:30, 11:00.
Q All right. And you said before you had met Mr. Robinson and you told him what happened that night?
A Yes, sir.
Q All right. How many times did you talk to him about that?
A Mr. Robinson?
Q Yes, ma'am.
A I talked to Mr. Robinson about -- oh, about 10 -- about six to seven times -- somewhere between --
Q Okay. And on -- how many of those times did you talk about the fact that your son [sic] was with you that night?
A How many -- what?
Q How many -- so you said you met him all those times?
A Yes, sir.
Q But how many of those times did you talk about where your son was that night?
A I talked to him all the time about it.
Q Okay. And you said he took notes about what you told him?

A Yes.

MR. SMITH: Okay. Well, thank you.

I have no more questions, Your Honor.

THE COURT: All right. I just got one question.

EXAMINATION

BY THE COURT:

Q When Lorenzo was on the witness stand, he said that his lawyer -- after he met with his lawyer, whatever timeframe he said, he said that his lawyer told him that he needed to plead guilty. And he said -- I think the other question was, who else told him he needed to plead guilty? Did you ever tell him he needed to plead guilty?

A When his lawyer told him that he might as well plead guilty or if he go to jury trial that he'd get life in prison. And I said, Life in prison. I said, Yes, go ahead and plead guilty. Yes, I did tell him that.

THE COURT: All right. That's all I have.

Anything else from either side?

THE WITNESS: I can step down now?

THE COURT: No. Hold on.

MR. WARDER: Your Honor, can I --

THE COURT: Yes, sir.

MR. WARDER: -- ask a follow-up question?

THE WITNESS: Can I go?

THE COURT: No. He's got another question.

THE WITNESS: Oh, okay.

REDIRECT EXAMINATION

BY MR. WARDER:

Q You hired Mr. Robinson?

A No, I did not.

Q Okay. Well, what I was going -- going to ask is, did you ever discuss with Mr. Robinson him -- your son -- grandson pleading guilty before the third day of trial? Did you ever have a conversation --

A No, sir. I never tell him -- the only time I told him was up here in this courtroom when he told us that Lorenzo might as well go ahead and plead guilty. If he don't, he get life in prison. That's what he told us.

Q Okay. On any of the five or six other occasions you talked to the lawyer, did he ever tell you that your grand -- grandson would --

A No, sir.

Q -- get life imprisonment --

A No, sir.

Q -- and he should plead guilty?

A No, sir. The only time he told us was in here in the courtroom.

Q Did he tell you that your son was going to trial on those five or six times?

A He didn't say nothing about trial. He -- when it

came up -- I think Lorenzo called us to let us know that he had to go to trial.

MR. SMITH: Objection, Your Honor.

THE WITNESS: That's the only thing I know about --

THE COURT: Hold on.

MR. SMITH: I believe this is hearsay testimony.

THE COURT: All right. I'm going to go ahead and sustain the objection.

Any other questions, Mr. Warder?

MR. WARDER: No, sir.

THE COURT: All right. I've just got one last question and I'm going to let you go.

THE WITNESS: Yes, sir.

EXAMINATION

BY THE COURT:

Q Have you talked to any other lawyer on your son's [sic] behalf, other than Mr. Robinson?

A No, sir.

Q You haven't talked to anybody?

A No, sir.

Q Nobody's called you?

A No, sir.

Q The only lawyer that you ever dealt with was Mr. Robinson?

A Yes, sir.

Q All right. And you -- and that's Mr. Robinson back in the courtroom?
A Yeah. I know Mr. Robinson real good. That's him sitting back there with the glasses on --
Q Thank you, ma'am.
A -- with the little thing.
THE COURT: Thank you, ma'am.
All right. You can step down.
THE WITNESS: Okay. Thank you.
THE COURT: All right. Any other witnesses for the Applicant, Mr. Warder?
MR. WARDER: Demetrius.
THE COURT: Come on around, Demetrius.
What's your last name?
MR. DEMETRIUS SINGLETON: Singleton.
THE COURT: Singleton. All right.
MR. DEMETRIUS SINGLETON: Yes, sir.
THE OFFICER: Step up here to the Bible, sir.
THE COURT: All right. The Clerk's going to get you --
THE CLERK: Excuse me. I lost my pen.
Raise your right hand.
WHEREUPON,
DEMETRIUS OSHAWN SINGLETON,
after first having been duly sworn, testified as follows:

THE CLERK: Thank you.

You may be seated.

THE WITNESS: How you doing today, Your Honor?

THE COURT: I'm doing wonderful. How about yourself?

THE WITNESS: I'm doing okay.

THE CLERK: Please state your full name for the record.

THE WITNESS: Demetrius Oshawn Singleton.

THE COURT: Spell Oshawn for me.

THE WITNESS: O-S-H-A-W-N.

THE COURT: All right. Yes, sir.

DIRECT EXAMINATION

BY MR. WARDER:

Q Demetrius, where do you live at?

A [redacted] West Morgan Street.

Q Who do you live with?

A My grandmother.

Q When all this happened, were you living with your grandma?

A When all this took place, yes, that was my residence, but I was in Columbia -- well, I came from Columbia that day. When all this took place, my momma drove two hours to come get me from Columbia. When we got back from Columbia, I was with my mother for a while. She went to -- and got clothes, and stuff.

At around 6:00, something to 6:00 -- I hadn't seen Lorenzo in a while. So I was on the porch talking to him. He was drunk, of course. But he had beer on the porch. He was drinking. And we was talking for a while, for a good while.

And then all I know is I seen Tahoes, burgundy unmarked cars, blue unmarked cars. I would say it was about -- not -- not overexaggerating, I would say, at least, 13 to 15 police cars that drove up and stopped in front of the house. And he was sitting on the porch drinking his beer when they stopped in front of the house. After they stopped, they drove off.

Q Now, did Lorenzo -- was -- he was at his grandmother's house?

A Yes, sir.

Q And you first got there -- it was about what time?

A When I got to my grandmother's house, it was a little bit after 6:00. Because I was with my momma all day.

Q Okay. And you stayed there until after the police cars had come?

A Yes, sir.

Q And all that time, he was there, he hadn't left?

A Yes, sir.

Q Now, are you familiar that he had an electronic bracelet on?

A Yes, sir. Before I left, he had a monitor on his leg.
Q Okay. And that monitor was one that -- that would notify the authorities if he left the house?
A I would believe -- but I know it was a house -- it wasn't a GPS monitor. It was a house arrest monitor.
Q Okay. So it'd tell if he left the home?
A Yes, sir.
Q Did anybody ever talk to you about this case?
A I went with my grandmother and my mom a couple of times when we talked to Scott Robinson. And, yes, he stated every time we talked to him that they didn't have nothing on him. He stated that -- he was supposed to get the two videos from the law enforcement that Mr. McClean -- Mr. McClean had made.

And he would always tell -- he would always -- that that was -- most -- every time we talked to him, that's what he would say, Oh, they don't have nothing. They don't have nothing every time we talked to him. He was supposed to get these videos. He was supposed -- that's -- that's what he was talking about.

Q Okay. You told him that you were an alibi witness as to where --
A Yes, sir. And I told him when -- I, also, talked to him about when Mr. McClean moved to New York and was they

going to bring him back for trial? And they were supposed to bring him back for trial. But the investigators or the Solicitor one called Mr. McClean and told him that they didn't need him in trial.

The day -- when trial -- I was here at trial all three days. The last day, we was right outside in those little rooms. Mr. Scott Robinson said -- he -- he said that, They're trying to give him --

MR. SMITH: Objection. Hearsay.

THE COURT: All right. Sustained.

THE WITNESS: They're trying --

THE COURT: Hold on.

MR. WARDER: Well, it's -- I would submit that this hearsay's admissible not for the truth, but for the state of mind that people were in, the state of mind my client was in.

THE COURT: That -- that's the exception you're trying to assert, Mr. Warder?

MR. WARDER: Huh?

THE COURT: That's the exception of the rule you're trying to assert --

MR. WARDER: Yes, sir.

THE COURT: -- the state of mind of your client?

MR. WARDER: Yes, sir. It's not hearsay because it's not offered for the purpose of the truth --

THE COURT: I'm not -- that's -- that's -- no, Mr. Warder. I don't -- I don't think so.

All right. Sir, you can't repeat what he said.

All right. I'm going to sustain the objection.

Go ahead to your next question, Mr. Warder.

BY MR. WARDER:

Q Was all your conversations about guilty plea or trial?

A Scott Robinson never said nothing about no guilty plea. So, therefore, it leads me to -- to know -- I mean, it's obvious. If you're not talking about no guilty plea, then it's trial.

MR. WARDER: Okay. That'd be all the questions I have.

THE COURT: Cross-examination.

MR. SMITH: Just a few questions, Your Honor.

CROSS-EXAMINATION

BY MR. SMITH:

Q Mr. Singleton --

A Yes, sir.

Q -- do you remember the date of the night of this robbery?

A Yes, sir. I remember the day. It was September the 3rd. That's the day that I came back from Columbia.

Q Okay. And you said you spent some time with your

momma, Ms. Jones?
A No. My -- Ms. Jones is my grandmother.
Q Your grandma. I'm sorry.
A My mother is Evelyn.
Q What time did you get to your grandma's house that day?
A I would say I got -- I got to my grandma's house a little after 6:00. I had been with my mother all day. She had bought me clothes, and stuff.
Q Was it dark yet when you got home?
A It was -- the sun was going down.
Q Okay. So it was getting dark?
A Yeah. It was getting dark.
Q Was your brother already there -- "your brother" meaning Lorenzo. Was he already there when you got there?
A Yes, sir. When I -- when I got there, he was there. He was drinking beer on the front porch.
Q Okay. Who else was there at the house at that time?
A It was me, my grandmother, and Lorenzo.
Q Okay. Did you go to bed before Lorenzo, or did he go to bed first?
A After -- after all that took place, I went with my momma.
Q Okay. So you -- you didn't sleep there that night?
A No. I did not sleep there that night.

MR. SMITH: Okay. I have -- I have no more questions.

Thank you.

THE COURT: All right. And I have no questions.

Anything else on redirect, Mr. Warder?

MR. WARDER: No, sir.

THE COURT: All right. Sir, you can step down.

THE WITNESS: Thank you.

THE COURT: All right. Any other witnesses on behalf of the Applicant, Mr. Warder?

MR. WARDER: Your Honor, that would be the Applicant's case.

Thank you, Your Honor.

THE COURT: Is the State ready to proceed?

MR. SMITH: We are, Your Honor.

THE COURT: All right. Call your first witness.

MR. SMITH: Okay. Your Honor, we call Mr. Scott Robinson.

THE CLERK: Please raise your right hand.

WHEREUPON,

SCOTT DAVID ROBINSON,

after first having been duly sworn, testified as follows:

THE CLERK: Thank you.

You may be seated.

THE WITNESS: Thank you.

THE CLERK: State your full name for the record.

THE WITNESS: Sure. Scott David Robinson.

DIRECT EXAMINATION

BY MR. SMITH:

Q Okay. Mr. Robinson, thank you for coming today.

And I see you've got a stack of documents there. Would you describe what you've brought as your case file?

A This is the trial notebook.

Q Okay.

A This is about -- about 200 pages.

Q Okay.

A And I've got the -- the record from the -- Sentinel, the house arrest people.

Q Okay.

A The contract that we signed, the discovery document as far as my Rule 5 request. And I've got all the letters that I sent to Mr. Jackson regarding the -- all the discovery, the notice of the trial, which was -- I gave that to him July 26th of -- I gave him about a month's notice of the trial so he could get his stuff together, and so forth.

Q Okay. Well, during your testimony, we may refer to some of those documents or take a look at them.

A Sure.

Q You represented Mr. Lorenzo Jackson; correct?

A I did.
Q Do you remember when your representation of him began?
A I do.
Q Okay. Can you tell me when that was?
A Yes, I can. He retained me on -- let's see. Excuse me. Let me find the contract. It was 10/10/2014.
Q Okay. How long have you been practicing law, Mr. Robinson?
A 20 years -- a little over 20 years, I'd say.
Q And are you in private practice, or do you work for the Public Defender's Office?
A Private practice.
Q Now, I believe there was some confusion about this earlier. So describe how you came to be retained. Who hired you? Who hired you? Had there been any attorneys working on the case before you, that kind of thing?
A To answer your question, as far as who hired me -- let's see. It was either the grandmother or the mother that hired me. I can give you an exact name if you give me a second.
It would have been Ms. Simpson.
Q Okay. Do you have a first name? Is it Evelyn?
A It could have been. It looks like -- it's hard to read.

Q Okay. Was there another attorney working for Mr. Jackson before you were hired?
A There was. He had a public defender named Sarah Henry. And Sarah Henry had gotten him a bond prior to my representation.
Q Okay. How long after Mr. Jackson was arrested did your representation begin?
A As far as when he was arrested -- I'm not sure exactly when he was -- the actual arrest took place. I can look at the warrants.
Q Well, and I can rephrase it this way --
A It looks like -- it looks like the warrants have 98 -- or 9/7/2014. So I was retained around October of 2014, maybe a month or so.
Q So about a month. Okay.
A A little over a month.
Q Okay. And you indicated that you have some discovery there. So I'm supposing -- and correct me if I'm wrong -- that you did file a Rule 5 motion?
A Yes.
Q And a Brady motion?
A Yes.
Q Okay. And did you receive discovery from the State?
A I did.
Q Okay. What kinds of things did you get in your

discovery motion?
A Written discovery, which is the incident reports, police reports, statements, things like that. Then we got the videos in this case. You have the -- the store -- the video that -- of the Honda Accord. And you've got the statements by Mr. McClean, Bobby McClean.
Q Okay.
A That was it. That's -- and those were -- he got copies. I've got -- I've got copies here of every time he received the discovery that was sent to him. He got everything that I had.
Q Okay. And you're saying you have copies?
A I do.
Q Okay. Those are letters?
A Yeah. Letters and he signs for them. He signs for this. I, actually, go over there with him and go over the stuff, yes.
Q Do you mind if I take a look at those now?
A Sure.
Q Just these two.
A Yeah. He may have already had discovery from the other attorney.
Q Okay. Well, I'm going to show you -- this is a letter dated October 31st, 2014. Would you briefly describe the details of this letter, like, who it's from,

who it's to, the date --

A This is a letter from -- it's a -- it's a -- I would go down to the jail to see him. It was October 31st, 2014. This is a -- basically, a letter to him about the discovery we received. He would sign that he received it.

THE COURT: All right. Mr. Robinson, if you would -- Mr. Warder has a hearing problem and --

THE WITNESS: Okay.

THE COURT: -- the court reporter needs to take down what you say.

THE WITNESS: Okay.

THE COURT: So I'm going to ask you, if you would, just so Mr. Warder can hear you, put that microphone a little closer to your mouth. Speak a little louder so he will be able to hear what you're saying, as well as the court reporter.

THE WITNESS: Is that better?

THE COURT: That's much better.

THE WITNESS: Okay.

BY MR. SMITH:

Q And this is the second letter dated March 30, 2015. Would you, please, just refer to the same details on that one?

A It's just the same thing, a letter that he signed for the discovery.

Q Okay. And did you have any discovery at that time that you did not include with that letter?
A Anything that I got, he got.
Q Okay.
A I mean, that's -- that's my policy. When we got the videos, I would go down and show him the videos that we got in the case.
Q Okay.
A But everything he's got -- that I had, he got.
Q These two letters that we were just discussing, Mr. Robinson --
A Yes.
MR. SMITH: I'm going to as, that they be marked as Respondent's Exhibit Nos. 1 and 2. With No. 1 being the letter dated October 3rd -- 31st, 2014. And No. 2 being the March letter. I'm sorry. I think I said that backwards. The first is the 2014 letter. Yes. I'm sorry.
And I would, at this time, move these into evidence as Respondent's Exhibit Nos. 1 and 2.
THE COURT: All right. Any objection?
MR. WARDER: No objection, Your Honor.
THE COURT: All right. Without objection, it'll be Respondent's Exhibit Nos. 1 and 2, so admitted.
(WHEREUPON, Respondent's Exhibit Nos. 1 and 2 were marked for identification and admitted into evidence.)

BY MR. SMITH:

Q All right. And, Mr. Robinson, did you get any further discovery, other than what you supplied to Mr. Jackson in these two letters?

A No. He had everything -- he has everything -- or had everything that I got.

Q Okay. And you reviewed it with him, of course?

A Yes.

Q Did you do any kind of investigation on your own, other than filing these discovery motions?

A Yes.

Q Okay. Did -- did Mr. Jackson request that you do any specific kind of investigation? In other words, did he provide a lead to you --

A Yeah.

Q -- or a potential witness?

A We -- we -- this alibi notion that he talks about, it -- it kind of evolved a little bit. At first, it was that he was in New York working. That was the first route that we went -- went to. And what he had advised me was that he was up in New York working with his dad at this time. And that he couldn't have been there when this happened.

So we go on this wild goose chase to find out about the -- about how he was up there, what he was doing. But

the problem arose when he gave a -- a fictitious name. The name he used when he was up there was a different name. So there was nothing that would indicate he was up there. We had no proof he was up there. So that wound up being a sink hole, if you will.

And, two, he was on HIP from the original consent bond order. So --

Q Okay. So just tell us what HIP means, please.

A Home incarceration program.

Q Okay. And -- and that's why he was wearing the ankle monitor?

A Yes.

Q Correct?

A Yes.

Q All right.

A And that's -- and then the next -- that was the thread that we looked at was he said, well, I was on the monitor and the monitor would show that I was not there at the time. So it changed. It went from being -- working in New York with his dad. And then it changed to -- when that didn't work because there was a monitor -- the HIP going on through Sentinel, then we looked to Sentinel.

So I subpoenaed the Sentinel records. And that was not very good for him. It wasn't very good for him at all.

Q Okay. Do you have anything in your case file about those monitoring records?
A I do. I have the record that indicates exactly where he was.
MR. SMITH: All right. I would ask that this be marked as Respondent's Exhibit No. 3 for identification.
(WHEREUPON, Respondent's Exhibit No. 3 was marked for identification only.)
BY MR. SMITH:
Q All right. Mr. Robinson, this document that we've marked Respondent's Exhibit No. 3, would you tell me what this document is?
A This is the -- this is the record from Sentinel. This is the monitoring -- when he has that box on him --
Q Right.
A -- that tells them exactly where he is at certain times. And this indicates -- unfortunately, this indicates that he left after a certain -- at nighttime. He left -- this occurred -- the incidents occurred in the morning of September 4th. It wasn't -- it didn't occur during the day.
Q "In the morning," you mean the early morning?
A The early morning, yes. He left at around 12:25, unapproved leave. And he didn't come back until just around 2:00.

Q Okay. And "left" means he left his grandmother's home?
A Yes.
MR. SMITH: Okay. And at this time, I would move this into evidence.
THE COURT: Any objection?
MR. WARDER: Just one minute.
(Pause.)
MR. WARDER: No objection.
THE COURT: Without objection, it'll be Respondent's Exhibit No. 3; is that right?
MR. SMITH: That's correct.
(WHEREUPON, Respondent's Exhibit No. 3 was admitted into evidence.)
BY MR. SMITH:
Q And so when you were investigating Mr. Jackson's alibi, what did this document tell you about his claims to you that he was in New York at the time?
A It was false.
Q Okay. So why would that be false? Would it have set off an alarm if he had been in New York at the time?
A He can't go to New York. I mean, he's -- he's going to have a problem --
Q Right.
A -- when you leave the state and get out of the -- get

out of the jurisdiction. He'd be pulled back to South Carolina.

Q Okay.

A That's what -- that's my understanding of what would happen. I don't think -- I don't see -- I don't see many people on electronic monitoring that are leaving the state without getting revoked or being put back into jail.

Q Right. Okay. Now, the type of ankle monitor he had, was it the kind that if it was outside of the designated area at a specific time, there would be an alert, or was he tracked continuously?

A I don't know that. I just -- all I know is from this document, it shows that he had left in the morning at some point.

Q Okay.

A And it doesn't show that he was -- it has -- he could -- I listened to the testimony. He could be at his grandmother's all day or could be at Mr. Bobby McClean's all day. But that's not when this happened. This happened later in the -- in the early morning. It didn't happen at that time.

Q Okay. And he, also, discussed about being in New York with his father?

A Right.

Q What kinds of things did you look for from New York

that would have proven his alibi?
A Bus tickets, pay stubs, things that would indicate -- like, rental, like, if he rented a place. Or just like your common things, paying -- paying, like, a light bill, paying, like, a phone bill, or something like that that would indicate where you were at that time, like, something that said, you know, X, Y, Z Park Avenue in New York City, or something.
Q Right.
A I never had that. And -- and the reason was, he gave a fake name. That was the problem. If -- if he was up there, which I don't think he was. But if he was up there and he didn't give the right name, there'd be no record of him ever being in New York. And as far as the father, he -- he never was very cooperative with me.
Q Did he tell you what the name was that he was using when he was --
A He did at one point, but I forgot what that name is.
Q Okay.
A It -- it was kind of a -- it was a different name. Because I remember going down to the jail just kind of -- you know, just a little bit disappointed in that. Because I thought, you know, you told me all this stuff about New York and I'm trying to find anything under your name, Lorenzo Jackson. But now I've learned that you've used an

assumed name, a fake name. And now I don't -- now, what am I going to do, so.

Q Okay. And you mentioned, also, that he told you he was there with his father?

A Yes.

Q Did you ever try to contact his father?

A I did. I tried. I tried. I didn't get him.

Q Okay. And when you say you "tried," did you look up his number on your own, or did you use a number Lorenzo gave you?

A A number -- a number they gave me. Someone gave me a number, I think.

Q Okay.

A I don't know if it was Lorenzo or not.

Q Did Mr. Jackson ever give you information that you found helpful to his alibi?

A He couldn't -- he couldn't state where he was when all this stuff happened. He couldn't do it. He couldn't -- he's never stated -- he said, Well, I was at Bobby -- Bobby McClean's during the day at a barbecue. But he couldn't say at -- in the nighttime when all this stuffed happened, he couldn't say where he was. He just said he was at his mother's, or grandmother's, or something like that.

I, actually, wanted to use his grandmother, anyone

that could give me an alibi, or something that would say where he was. I would have loved that. But it didn't work out that way.

Q Okay. Well, and you've mentioned that you heard Mr. McClean testify. Did you meet with him prior to trial?

A I don't think I've ever meet Mr. McClean.

Q Okay. Did Mr. Jackson ever suggest his name as a potential witness?

A He may have, but I don't recall. I know I put him on my witness list just to be on the safe side.

Q Okay. And I believe you, also, testified that there was an affidavit in the discovery from Mr. McClean?

A There was. He, actually, went to the prosecutor's office and did a statement where he didn't want to be connected with this case, you know, signed an affidavit not to prosecute, that kind of thing.

Because in his statement to the police, he never saw the person -- the people. They were -- had these masks on -- masks on. He got hit in the right or left side of his face by a gun. But he never saw the person.

And this all happened later on. It didn't happen during the day when they were having their barbecue. I mean, if -- if it happened during the day, we would be all clear. He'd have an alibi. But when it was -- when it

was -- he wasn't there during the day when he was somewhere at nighttime -- no one knows where he went at nighttime -- then there was a problem.

Q And just to be clear, were there any of the victims that could make a positive identification of any of the attackers?

A No. But, you know, the -- the interesting thing in this case -- the interesting twist in this case is that it was -- these were all home invasions and break-ins, things like that. But the majority of these guys got caught. There were -- there were, like, five or six of them. Let's see.

They, actually, got caught coming out of a house, or something, you know. And that's how they first got all involved -- these guys that were all his co-defendants got involved with this case.

Q Okay. So other than Mr. McClean, did Mr. Jackson give you any other witnesses he wanted you to talk to?

A Other than the -- the people that came to my office were going to be Demetrius, his brother, his mom came, and his grandmother came.

Q Did any of them provide alibi -- an alibi defense to you?

A It wasn't -- if -- if there had been an alibi in this case that I could use, I would have -- I would have

immediately given that to the Prosecutor, at least, within 10 days, which I'm -- according to the rules. But when we got the report on where he was -- everyone said, well, he was with us during the day. We -- I went to bed at 11:00 at night or 10:00 at night. But no one could say where he was after 12:00 midnight on that -- the date this all happened. And that was what the problem was.

Q Okay. So you didn't find their -- their testimony helpful in that?

A They're great. They're nice people. I mean, they're great people. But, unfortunately, it didn't help us with that respect.

Q Okay. Well, other than those names you've given me and this potential alibi of living in New York, did Mr. Jackson give you any other exculpatory information that you could --

A Nothing exculpatory. I mean, it would have been -- it would have been wonderful. Because as far as the physical evidence goes, there is -- there is no physical evidence from -- indicating that Mr. Jackson did this crime. There's not physical -- there's not, like, a fingerprint or, like, something found at his house, or something like that. There's nothing like that.

I would add, though, that this Honda Accord that was on the video, he and Mr. Gantt were found driving this

Honda Accord the day after the incident. And that was kind of -- that was kind of unusual in this case.

But coming up to the trial, on the trial docket were all six of the people. Besides him, there was Mr. Maldonado and all the other folks that were involved in this. All of them pled, except for Mr. Maldonado and Mr. Jackson.

Q Right.

A And Mr. Maldonado -- now, we went into this with Fletcher Smith thinking we were on the same team. Because Mr. Maldonado had been saying, I didn't mean to say that. Because what he said was that he had -- he was the one who identified Lorenzo Jackson as being in this group of people that did these home invasions. And it was something at the detention center where he looked -- he looked and saw Lorenzo Jackson in the holding cell, or something. And he identified that that's the guy that's -- that was with us when we did these crimes. And he had heard Mr. Jackson -- he had heard that Mr. Jackson was the shooter. And that's what he -- that's what Mr. Maldonado said.

But, you know, going into that trial, he didn't go that way. He didn't -- he didn't -- he was going to be -- he was talking to -- talking to us saying, you know, I was lying, blah, blah, blah, and so forth. But two -- either

two or three days into it, everything changed. That's when the Solicitor offered him a YOA sentence. Then he changed everything.

Q Well, as -- as far as Mr. Jackson's options here, did you talk to him about what the charges were, what he was facing in terms of sentences?

A Oh, yeah.

Q Okay.

A Oh, yeah.

Q Did he understand that?

A He's a -- he's a smart guy, yes, absolutely.

Q Okay. Did he ever say, you know, maybe I want to plead to this, or was he insisting on a trial?

A I think he wanted to go to trial. Because, you know, there -- there really was no physical evidence. But to -- you know, this whole idea -- I think he was thinking, well, I'm going to go and I'm going to let Mr. Robinson cross-examine these co-defendants.

MR. WARDER: Your Honor, I think I'm going to object to what he thinks my client might have been thinking.

THE COURT: I'm going to sustain that objection.

THE WITNESS: Okay. But, you know, we never received an offer in this case. But the facts of the case when you have five or six co-defendants that are going to testify against you, then you're -- the supposed person that

you're on trial with is turning against you, that's when everything changed. That's when everything changed at that point.

BY MR. SMITH:

Q Can you discuss your trial strategy on this case?

A Well, I think that -- you know, it was -- it was tough because there really were no alibis that could say where he was. Now, as far as with the -- with the Sentinel, which is Exhibit No. 3, I was going to attack that in terms of it doesn't really say where he was, he could have been any place, and so forth. He would probably have to testify and say, well, I didn't do this. I was here or there at that point.

And then attack all the co-defendants for the bias that they would have. Because they all got deals, and so forth like that. Can they be trusted? And we go into all the -- all their backgrounds, and all that kind of stuff.

Q What was the most -- from your point of view as Mr. Jackson's attorney, what was the most hurtful evidence against him at trial?

A We hadn't gotten to our part of the case yet. It was just the State's case. The State -- we had not even reached -- they had not rested yet, I don't think. He was -- we present -- Mr. Maldonado presented no evidence yet, nor did Mr. -- Mr. Jackson.

Q Okay. I'm going to draw your attention to Page 270 of the trial transcript.
A I don't have a copy of that, so I can't --
Q I'm going to supply one here.
A Sure.
Q And this is Page 270. Okay. And beginning at this point, you are -- you are cross-examining one of the deputies in this case.
A Yes. That was Deputy Owens.
Q Okay. Beginning with about Line 19 -- no. Sorry. Beginning with about Line 21 through Line 12 of Page 273, isn't that where you make the case that the State didn't have really any evidence, other than the co-defendants testimony?
A Yes.
Q Okay. And at that part of the trial, that testimony had not been put up yet; right?
A Yes. They had not gotten to the -- all the co-defendants at that point.
Q Okay. Up until that point, had Mr. Jackson been comfortable proceeding with trial?
A I think so. I think so. I think he -- you know, he -- he listened to the testimony from the officers. And he listened to the cross-examination of -- of deputy -- of Officer Owens. So he knew that they couldn't identify him

as -- there was no -- the only evidence that they had were the co-defendants.

Q Okay.

A That's what he thought.

Q All right. So --

A Let me -- let me go back. I don't know what he thought. But that's what we had. We had presented cross-examine -- through cross-examination that they had no physical evidence. That they had -- that they -- their main evidence was the co-defendants.

Q Okay. So what -- what happened between day two and three? Because you were at trial and then Mr. Jackson pleads. What was -- what was the tipping point?

A It was Mr. Maldonado. That was the tipping point. That's when -- that's when everything changed. Because when he decided to plead -- because we had gone back in chambers with Judge Hill about this. That's when everything changed. That's when I -- that's when everything changed.

It kind of changed it from being -- because the jury had the -- two of these co-defendants trying the case. Then you have one co-defendant all the sudden who's going to testify against him and say -- and identifying him as the person who -- who was with them when this all happened. Because Maldonado was, also, with them, one of

the -- one of the co-defendants. That changed everything, I think.

Q Okay. At that point, did Mr. Jackson tell you he wanted to plead, or did you suggest it to him? How did the decision to plead come about?

A I have a conversation with clients. I don't -- I don't tell them to do anything. I say -- basically, say, here's what we've got. Okay. You've got X, Y, Z. Okay. Here are your choices. This is what may happen or could happen, two or three different directions to go to.

And as far as this LWOP talk we're talking about, what they were talking about was there were some other outstanding charges, too, that they could have brought up, not just these, like kidnapping, things of that nature. And if they -- we can't -- if -- if -- you know, he could be eligible. He wasn't eligible at the trial. But I think we had to talk about everything in this case.

As far as the LWOP, we just -- it really -- I just don't think in this case they would have -- they have to notice him first before they do that. I don't think they could have done it at this point as far as the LWOP goes.

Q Okay. But it's between day two and three, so do you tell Mr. Jackson, hey, this -- your case got worse? So what -- so tell me how the conversation went that he decided to plead guilty between day two and three.

A I don't know what was going through his mind. All I could do is give him his options. If -- if he goes to trial and he loses, the Judge is going to be inclined -- I thought -- most judges are inclined to do -- to sentence you to more time if you're -- if you're convicted. And they get to hear all the evidence. They would have heard evidence -- he would have heard evidence from the co-defendants, including Mr. Maldonado, all that stuff.

I mean, he would have -- he could have testified. He could put up -- we were -- could have put up our case. And he would have to testify probably in this case. But you go through all those options with him, I mean, as far as what could happen, what may -- you know, I -- I can't tell anyone to plead. I can say what I think, what may happen.

But then he also -- we, also, made sure he could talk to his family as well. It wasn't a question like, you're going to get this. He was not eligible at that point for an LWOP during the trial. Okay. Because he had certain charges. But they -- as I said, they had to -- they would have to notice him for that first. They never noticed him with that.

Q Okay. So tell me if -- tell me if I'm summarizing this correctly. What was different about your discussion of the evidence and his case at that point from days

previous was that Mr. Maldonado could now be a witness for the State?

A Up to that point, he was going to -- this is -- these are conversations we had with his -- his attorney. He was going to -- he was going to get up there and say, no, I never saw him. It was a lie. I was forced into talking to the police like that. That's what he was -- that's what he was telling us and his attorney was telling us. Okay.

Then we go back in to talk to Judge Hill and then the Prosecutor offers him this YOA sentence in return for pleading guilty and testifying against Mr. Jackson. That's where the problem came in, I think, is because all the sudden -- whereas before he would say, well, the police threatened me, told me all this kind of stuff.

That could have helped us, not just with Mr. Maldonado, but with the other defendants -- other co-defendants when they testified. Because that would indicate that the police were -- were forcing people to -- to cooperate. But when Mr. Maldonado decided to do what he did, it -- it changed the flavor of this case, I think.

Q Okay. Well, when Mr. Jackson decided to plead on day three, did you explain to him what the consequences would be?

A We had -- we -- the way we worked it out with the

Judge and the Solicitor, it was a cap of 20 years. Okay. They wouldn't thereafter proceed with an LWOP with the -- with the other charges against him. A number of charges would be dismissed against him that were not included in our plea. It was a 20-year cap. That's what it was. And Judge Hill sentenced him to 18.

Q Okay. Is it your understanding that Mr. Jackson may be eligible for LWOP again if he -- if he is victorious in his PCR application?

A He could. I mean, I don't know what -- I can't tell you what the future is going to be. But, yes, he could potentially -- because what'll -- what would happen is that all the charges come back. Okay. And you've got all the co-defendants coming back. You've got -- everybody comes back. The -- the Sentinel report comes back. Everything comes back.

Then you've got the kidnapping. Then you've got the -- the burglary first. You get two or more of those and you're going to wind up having some problems. So, yes, they could -- they could potentially -- if they wanted to if he were to be successful, they could do that.

Q So all of that was part of the plea deal that the State would not pursue that or --

A They got rid of his other -- any other charges he would face.

Q Okay. Did Mr. Jackson understand that?
A He did.
Q Okay. Did you explain to him his Constitutional rights, that he could continue with the trial and you could put up your own case?
A Oh, yeah. We -- we were -- I was ready. We were trial ready, absolutely. We didn't -- I didn't -- as he said, there was never any talk of a plea. Okay. There never was talk of a plea.
Q Well, in -- when he decided to plead on day three, did he understand that the State had not yet rested its case?
A If you're asking me as far as what's in his head, I can't tell you that.
Q Okay.
A All I know is he was sitting there the entire time. And the State -- I don't believe the State had rested at that point.
Q Did he give you any indication that he believed the State had already rested its case?
A I don't remember him doing that. I don't -- I don't...
Q Okay. Was Mr. Jackson present in the courtroom when it was discussed that the State would put up the co-defendants?

A I don't remember -- I don't remember where he was when this -- this happened. I just know that that was part of their deal with the co-defendant, Mr. Maldonado.
Q Okay. Did you make it aware to him that they would testify against him, though?
A I think he would have known that. Because I think that there would be really no other reason for Mr. Maldonado to enter a plea to YOA without getting a benefit like that.
Q Did he ever tell you that he didn't understand something that you failed to explain to him?
A No. He's -- he's -- Lorenzo is a pretty smart guy. He -- he -- he's very smart. And I made sure that everything -- it was nothing like we were in a hurry. Okay. We could have kept going and going. And he could have decided he wanted to take a plea at some point.
Q Okay.
A But I think that -- if I could use the expression. I think that when Mr. Maldonado turned like he did, I think it took the wind out of his sails. That's what I would use as a...
Q And you mentioned that things weren't rushed.
A Uh-huh.
Q Did you give Mr. Jackson notice that the trial was coming?

A Yes.
Q So it wasn't a surprise to him?
A I sent him a letter on the 26th of July -- or excuse me. Probably about a month before, I sent him a letter. I had just seen this a second ago. It was in the file.
Q And while you're looking for that, I'll ask you another question, too.
A Sure. Go ahead.
Q At that time between day two and three -- or at the beginning of day three of trial, did you ever witness Mr. Jackson's mother tell him that she thought he should plead guilty?
A I didn't. I don't -- that's between him and his mother. I don't try to listen to stuff like that.
Yeah. Here you go.
Q Okay. Mr. Robinson, you have handed me a document that appears to be a letter. And it is dated July 26, 2016. Would you, please, confirm the sender and recipient of this letter?
A The sender -- the sender would be me. The recipient would be Mr. Jackson.
Q Okay. And will you, please, describe the content of that letter?
A It's just a -- basically, an e-mail from -- it was an e-mail from the Solicitor saying when the trial was.

It -- what -- what Greenville does is they send, like, a docket out, different things, an e-mail with a docket on it. And this had -- this had the trial beginning August 22nd. And this date just kind of gives him notice of that, and tells him to see if he can get his mom to get him some clothes for court.

MR. SMITH: Okay. Thank you.

At this time, we would ask to move this into evidence as Respondent's No. 4.

THE COURT: All right. Any objection?

MR. WARDER: No objection, Your Honor.

THE COURT: All right. Respondent's Exhibit No. 4 is so admitted.

(WHEREUPON, Respondent's Exhibit No. 4 was marked for identification and admitted into evidence.)

BY MR. SMITH:

Q Mr. Robinson, whose decision was it to plead guilty?

A It was Mr. Jackson's decision.

Q Did you tell him to plead guilty?

A No.

Q Okay.

A No. I -- I -- no. I can -- I can only tell him -- it's his case. It's his life. And he has to -- he has to make the choice, no one else. He had the opportunity to speak with his family about this. And he made the

decision himself.
Q Okay. Now, when Mr. Jackson was testifying in front of Judge Hill when he was offering his plea, Judge Hill asked him questions about, you know, did he understand he was waiving rights? Did he understand the consequences of the plea? Was he, in fact, guilty? Did you instruct Mr. Jackson to say "yes" to those questions?
A No. That would be impossible.
Q Okay. You didn't coerce him in any way?
A No.
Q So he answered those questions voluntarily?
A That's his -- those are his -- his answers, not mine.
MR. SMITH: Okay. Just one moment, Your Honor.
THE COURT: All right.
(Pause.)
MR. SMITH: All right. Thank you, Mr. Robinson.
THE WITNESS: Sure.
MR. SMITH: No more questions.
THE COURT: All right. We're going to -- we're going to break for lunch. And we're going to reconvene at 2:15.
(WHEREUPON, a lunch break was taken.)
THE COURT: We're back on the record.
Mr. Warder.
The State rested, haven't you?
MR. SMITH: Well --

THE COURT: You've got another --

Well, go ahead. Go ahead, Mr. Warder.

MR. SMITH: And I -- I was just going to say did we need to address the issue that we brought up at the end of --

MR. WARDER: The answer is that I'm definitely going to ask His Honor to change his ruling on that.

THE COURT: Do you want to do that now or --

MR. SMITH: I -- I think it would be best --

THE COURT: Okay.

MR. SMITH: -- just so that we can figure out what we're doing with the witnesses.

MR. WARDER: Different direction, Your Honor. You previously ruled that -- that the failure to appeal would not be an issue because it wasn't raised in the -- and I'd like to visit that with you again.

THE COURT: Okay.

MR. WARDER: Okay. This is a pro se application the Applicant filed. And in paragraph nine --

THE COURT: Of the application?

MR. WARDER: Of the application -- the original application.

THE COURT: The original application. Okay.

MR. WARDER: The -- the -- my client filed, Counsel failed to appeal. And that referred to question seven

really that did you appeal? My client, again, raised it in his pro se application in paragraph 60.

THE COURT: All right.

MR. WARDER: In there he says, ineffect -- cannot raise ineffective assistance on appeal. Counsel failed to appeal my conviction.

THE COURT: All right.

MR. WARDER: Now, the supplemental application, if you read it, doesn't replace the allegation. But it says in it that this application -- in the last sentence of the first paragraph, it says, This application is intended to incorporate the application --

THE COURT: With the additional following.

MR. WARDER: -- with the additional following.

Your Honor, it -- it isn't raised in the specific things. But I think when you take the application as a whole, it gives reasonable notice that that's one of the allegations. And I think with a pro se defendant, our court would -- would interpret that to be notice that that was going to be -- so I would ask you only to -- when you consider what you're going to do with all the testimony you have today that you put that back in the basket of things you'll consider.

THE COURT: All right. And, Counsel, I'll be glad to hear from you. What's your position?

I think -- I think that probably the appellate courts would probably side with Mr. Warder on that. So you can tell me -- but I don't want to take your steam out of your argument.

MR. SMITH: No, Your Honor. We will say although Mr. Warder did not list that when we asked him to delineate the issues at the beginning of the hearing, after consultation with him during the break, the State will admit that that is in the application, although maybe not, specifically, raised an issue. And if there's testimony that needs to be presented on that -- that issue, we'll be fine with that.

We would, also, ask, though, that even though the State has rested on Mr. Robinson that we get a chance to follow-up with a few questions regarding that.

THE COURT: All right. And would that, also, allow Mr. Warder to put Mr. Jackson back up on that issue?

MR. SMITH: If that's -- if he feels that's necessary, we'd be fine with that regarding that specific issue.

THE COURT: Okay. That's fine.

MR. SMITH: But we would ask that since Mr. Robinson is on the stand, I can ask questions about that at this time.

THE COURT: Yes, sir. All right.

Thank you, Mr. Warder.

Okay. Go ahead.

CONTINUED DIRECT EXAMINATION

BY MR. SMITH:

Q Well, Mr. Robinson, I sort of rested a moment ago. But I only have a few more questions.

Did Mr. Jackson ever ask you to file an appeal in his case?

A I have no recollection of that.

Q Okay.

A I don't.

Q Did he ever ask you questions about how to appeal?

A No.

Q Have you ever gotten a letter from him instructing you to appeal?

A Not that I recall, no.

Q Do you think there are any -- at the time, did you think there were any meritorious issues that could be raised on appeal?

A No, I didn't.

Q Okay. What would you have done if he had told you he wanted to appeal his case?

A Filed an appeal.

Q Okay. Did any of his family members ever ask you --

A I don't recall that. The mother said that she did.

But I don't recall that. I could be wrong.
Q Okay. Is there anything in your notes that you know of that says that he wanted to appeal?
A No. I went through my notes, no.
MR. SMITH: Okay. Thank you.
I have no further questions, Your Honor.
THE COURT: All right. Mr. Warder.

CROSS-EXAMINATION

BY MR. WARDER:
Q Did -- do you recall Mr. Jackson telling you that -- that he would like to talk to you after the sentence?
A I can't recall that. I can't recall that, no.
Q Do you recall conversations with his mother after the sentence?
A She may have talked to me. But I don't recall the substance of the conversation, I don't. I maybe -- I'll tell you what, I have a pretty good memory. But, you know, going back two years, or something like that, it's hard for me to remember everything. Okay.
So I see people shaking their heads back there, you know. It's -- it's -- I do the best I can. But I can't independently recall that, no.
Q And -- and I guess the point is, and you've made it, is that when you can't remember something, you just can't remember something. And so when you don't recall

something, you really don't know?
A Right. Okay.
Q Okay. And this would be one of those things that you have no recollection of?
A That is correct.
MR. WARDER: Thank you.
MR. SMITH: No further questions, Your Honor.
THE COURT: All right. And I -- I have no questions. Thank you, Mr. Robinson.
THE WITNESS: Thank you, Judge.
I think he's -- is he going to cross-examine --
MR. WARDER: Regular cross-examination.
THE COURT: Yeah.
BY MR. WARDER:
Q As I understand it, the pivotal point in this case was the start of the third day. And that's why we ended up with a plea?
A The pivotal part, I think, in my opinion, everything changed when Mr. Maldonado turned on him. That's what changed. Because I think going into this trial, Mr. Maldonado -- this is coming from his attorney -- was going to retract his prior statement he made to the police in this matter. That he saw -- and his prior statement was that he was getting taken to the detention center. He saw Mr. Jackson and a Mr. Gantt in the holding cell. One

of them cried the "B" word, B-I-T-C-H. And he looked and he said, The guy that was at -- in this group with me was that guy. And that was Mr. Jackson. That's who he pointed out.

Q And he was -- originally, he told you he was going to say that was a lie?

A Yeah. That's -- that's the way the whole thing was going. Everything -- everything he -- he kind of -- that's what he did. But I think when he got this deal -- got this deal from the Prosecutor, I think he turned.

Q Okay. And so everything -- that -- everything changed when the Prosecutor said that he could have a YOA; is that right?

A The Prosecutor back in chambers with Judge Hill put the offer out there that if his client pled -- if Mr. Smith's client pled that he would get a YOA sentence.

Q Okay. And you were faced after that meeting with telling your client what happened?

A Oh, yeah.

Q And you told us that you didn't say anything influencing, you just put out the options in kind of a neutral form and let him choose; is that right?

A That's all I can do. I can't tell him to do anything. He's -- he's an articulate young man. I can give him the options that he has and what the Prosecutor

has said that she will do. If -- if he were to keep going and he got convicted, she was going to -- this is from her -- she was saying that she was going to seek life without parole. That would require a notice to him.

As -- as you know, Mr. Warder, as a defense attorney, notice to him that puts him on notice that we are seeking life without parole and it gets served on him. That's what she was going to do she said. And that's kind of what we -- that's what we were facing. We were facing -- it was a couple different options there.

Q Okay. You're not saying -- or do you -- strike that.

She would had to have done that before the case?

A This -- this wasn't -- this -- if he had been convicted on this case, these charges at that time, she had not served us with notice of life without parole. So the Judge couldn't have sentenced him to life without parole. He could have sentenced him to life possibly, if he stacked everything together possibly. But I don't think the charges themselves would carry that much time at his age to give him life.

Q So, in reality, it wasn't a possibility that he could get life without parole in this case?

A Not at -- not at that time. At that time, if he had pled guilty -- if he had been found guilty, he could -- he would not get life without parole. They had not served

anything on him seeking life without parole.

If he had continued on and been found guilty, she was going to file new charges on him, new stuff -- or about the same thing, kidnapping, things of that nature. And then she was going to seek life without -- life without parole. Then she was going to notice him.

Q And you, specifically, deny that you told my client or his family that he would get life without parole?

A That's not -- that's not what I said. What I said was that if he pleads guilty -- if he is found guilty, these are what the charges carry. These are what -- the charges he had -- what is it? -- I believe -- what are the -- what do these charges carry? That's what he would get.

If convicted -- he were convicted, she had said if he doesn't plead in this case, she was going -- if he was found guilty, she was going to notice him with life without parole after that.

Q Okay. Now, you would deny that you told my client or his family that in this case if he didn't plead guilty, he would get life without parole or could get life without parole?

A He couldn't get -- I don't think he could -- he couldn't get life without parole with these -- with these two charges, I don't -- he could not get life without

parole.
Q Okay. My question is --
A You've got apples and oranges here. You've got one thing -- if I'm telling them if he is convicted, she has advised that if he does not plead, he will -- that she will seek life without parole. That's different than telling someone they're going to get life. And that was never told to him.
Q Okay. So you -- you -- you affirmatively state that you never told him that or his family that he could get life without parole if he didn't plead guilty?
A Not in that case. Again, if he were found guilty in that case, no. Do you want --
Q Okay. And it's not whether --
A Go ahead.
Q -- I'm asking if you said that --
A Not to these charge. Not to these charges, Mr. Warder.
Q And do you give opinions as to what jury outcomes would be to your clients, whether they'll be convicted?
A I have no idea -- I have no idea what a jury is going to do. No one does. How would -- how would you know what a jury -- you don't know what a jury is going to do.
Q I understand.
A They can look at the jury. They can tell what the

jury is thinking -- I have no idea.
Q So you don't give an opinion as to whether something will result in a conviction or won't result in a conviction --
A I can't. Just like the objection made as far as Mr. Jackson's -- what Mr. Jackson felt, I have no idea what a jury thinks. I can pick a jury, which we did in this case with Mr. Smith. But I have no idea what they're going to do.
Q I didn't say you know -- I'm trying to say, do you give opinions --
A No, of course not, of course not.
MR. WARDER: That's the first time I've ever heard a lawyer that didn't do it.
Thank you very much.
MR. SMITH: Yes, Your Honor. I just have a few -- few more questions.

REDIRECT EXAMINATION

BY MR. SMITH:
Q Mr. Robinson, when you discussed life without parole with your client, were you telling him that -- what could happen in this case, or just what could happen, generally, if he was convicted in this case?
A If he was convicted -- it -- it was -- this is what the Prosecutor -- when we talked about this, a cap of 20

years. She dismissed a number of charges. She would not seek life without parole. That's what -- that's what the -- the agreement was, basically. That's what she said, that if he pled, that's what would happen.

She would dismiss -- I think the transcript -- I was looking for it in here. I think she talks about -- let's see -- what she is planning on doing in this case. I'm trying to find the page number that it was at.

Q So what you're saying is the plea deal may have had implications that were broader than just the charges --

A Yes.

Q -- at issue in this case. Okay.

MR. WARDER: Objection. He's leading.

THE COURT: I'm going to sustain the objection.

MR. SMITH: Okay.

BY MR. SMITH:

Q Mr. Robinson, will you, please, explain your understanding of the State's offer and how that impacted the information that Mr. Jackson had to go on?

A This -- I think it's on Page 311. I think she starts talking about what she is going to dismiss in this case. And she says -- this is beginning on Page 211.

Q 211.

A Line 6. And she starts going through what she's going to dismiss as part of his plea to these four

charges. Then she notes on Page 311, Line 13 about these charges being most serious strikes. And should these cases have been tried separately, the Defendant will be eligible for a sentence of life without parole -- the possibility of parole. By way of resolving all these charges in a global plea today, the State has agreed not to seek a sentence of life without -- life without parole.

Q Okay.

A That's the total plea agreement.

Q Okay. And in your experience, have you ever come across plea agreements like this that deal with uncharged --

A It's pretty common, pretty -- it's -- it's not unusual.

Q Okay. Did you explain to Mr. Robinson [sic] that these were not --

A Mr. Jackson?

Q I'm sorry. Mr. Jackson that these were not charges in this case?

A Yes.

Q Okay. Did he give you any indication that he did not understand that?

A As I said before, he's a smart guy. No, he didn't.

Q Okay.

A He listened just like I listened to what the

Prosecutor said.

Q Did you -- did you give him any -- did you tell him that you thought the jury would return a certain verdict?

A No. We hadn't even gotten to that point yet. We had gotten -- we had not even gotten to the point of either -- none of the Defendants, Maldonado or him, presenting a case.

Q Okay. So you testified when you were discussing this with him, you didn't tell him what the jury would do. Did you tell him what the Solicitor was saying that she would do if he took this plea agreement in terms of not charging him with these other offenses?

A Yes. I think I just answered that question a second ago, but, yeah. I think you can see that on Page 311, Lines 6 to -- also, she talks about the cap of 20 years as well, which is on Line 22.

MR. SMITH: Okay. Just one moment, please, Your Honor.

(Pause.)

MR. SMITH: Thank you, Mr. Robinson.

THE COURT: I just got one question.

EXAMINATION

BY THE COURT:

Q Let me ask you this, Mr. Robinson. All these other charges, if the State had agreed to dismiss -- these

charges predated the -- the charges that he was on trial for?

A I am not sure, Your Honor. I'm not sure off the top of my head. I know they were -- I know they were -- she had talked about these particular charges when she was talking. But she said kidnapping --

Q But since he was on electronic monitoring, he -- that was part of his bond. Was that a part of his bond on the charges that he was on trial for, or part of the bond on these other charges?

A I think I have the bond -- the original consent bond I can show you.

Q No. I don't need to see that.

But I was just -- I was just wondering -- the only reason I was asking is if these charges predated the charges he was on trial for, then whether or not the conditions of his bond on these charges was electronic monitoring or the conditions of the bond on the charges that he went to court on was electronic monitoring. That's -- that's all I was asking.

A Okay.

Q Because this seems like a lot of -- this is a significant amount of charges that the State was agreeing to -- to dismiss. I mean, these are some serious charges the State was going to dismiss, but -- three counts of

assault and battery, unlawful carrying, three counts of kidnapping, two counts of possession of a weapon, an additional burglary, two counts of armed robbery, another two counts of conspiracy. So the State was willing to dismiss all of these charges?

A Uh-huh. And we also -- we also -- excuse me. We, also, got the cap of 20 in this case, you know. And he'd already been serving two years in this matter. It wasn't -- it wasn't perfect, but it -- they did dismiss a lot of charges in this case.

Q Was Sarah Henry representing him on all these other charges?

A No. She -- she was -- she was -- I was substituted as counsel in the case --

Q Just on the case you handled; right?

A The case I handled.

Q So you don't -- you don't know if he had a lawyer on these other charges. You don't know if he had a lawyer on these charges and you don't know whether these charges predated the charges you had?

A I don't know that. I thought I had all the charges. But I don't know about the predated part of them, no.

THE COURT: Okay. Any other questions?

MR. SMITH: No, Your Honor.

THE COURT: Mr. Warder, any other questions?

MR. WARDER: No, sir.
THE COURT: All right. Mr. Robinson, thank you.
You can step down.
THE WITNESS: Thank you, Judge.
THE COURT: While he's doing that, Mr. Warder, do you want to -- do you want to put your client back up on the issue of appeal or -- or not?
MR. WARDER: I want to call his mother first. And that's both in reply and to the appeal.
THE COURT: Okay. Good.
MR. SMITH: Your Honor, may Mr. Robinson be excused?
THE COURT: Any objection?
MR. WARDER: No, Your Honor.
THE COURT: All right. Thank you, sir.
You're excused, Mr. Robinson.
THE WITNESS: Thank you, Judge.
THE COURT: All right. Mr. Warder.
THE COURTROOM OFFICER: Right up here, ma'am.
THE CLERK: Ma'am, please place your left hand on the Bible and raise your right hand.
WHEREUPON,
EVELYN GANTT BARNETT,
after first having been duly sworn, testified as follows:
THE CLERK: Thank you.
You may be seated.

And please state your full name for the record.

THE WITNESS: Hey. How are you?

THE COURT: All right.

THE WITNESS: My name is Evelyn Gantt Barnett.

THE COURT: Barnett, B-A-R-N-E-T-T?

THE WITNESS: Yes.

THE COURT: All right.

DIRECT EXAMINATION

BY MR. WARDER:

Q Ms. Barnett, you're Lorenzo's mother?

A Yes, sir.

Q And did you come to his first trial?

A Yes. I was --

Q His only trial?

A I came to every last one of them.

Q Okay. And were you here -- there the day that he pled guilty?

A Yes. To -- to tell you the truth, he did it because of me. It's because Mr. Robinson took me outside of that little side courtroom because he wanted to talk to Lorenzo first. He asked Lorenzo to plead to 20 years to life, or something like that. Lorenzo wouldn't accept it.

So he came out -- he took me out to the little side room. He asked me to tell Lorenzo to plead for that. And he didn't -- he didn't want to do it. He did it because I

said it. And I feel guilty of -- I feel real bad for doing it --

MR. SMITH: Objection.

THE COURT: Yes, sir.

MR. SMITH: Your Honor, it's my understanding that Ms. Barnett was here solely to talk about the appeal issue, and not to go into whether --

MR. WARDER: No, sir. I've got a reply to Mr. -- Mr. Robinson.

THE COURT: I'll let him get into it.

Go ahead.

BY MR. WARDER:

Q Go ahead with -- why did you -- you -- you tell your son to plead guilty?

A Because I was afraid that they were going to give him life, that I wouldn't be able to see him again.

Q Okay. Why did you think that?

A Because Mr. Robinson told me. They didn't say that in the courtroom. They didn't say none of that. All this was took place outside the -- in the side room.

Q Okay. The little -- what we consider the conference room --

A Yes.

Q -- between the door and the courtroom?

A Yes.

Q Okay. And what did he tell you about your son getting life?
A He said -- all I know -- he said, Your son needs to plead guilty to 20 years. If not, he going to -- if he goes for a trial or something like that, they're going to give him life.
Q Okay. And did he ask you to take that message to your son?
A Yes, he did. And I took it --
MR. SMITH: Objection --
THE COURT: Hold on.
MR. SMITH: This is hearsay testimony, Your Honor.
THE COURT: I'm going to sustain that objection. Rephrase your question.
MR. WARDER: Okay.
BY MR. WARDER:
Q As a result of Mr. Robinson telling you that, did you take a message to your son?
A Yes. We -- I told him right in the courtroom right inside the courtroom -- when we came from that little side room, we came right in here. Lorenzo was, like, sitting where he at now. And I was behind him. And I told him what Scott Robinson told me.
Q And that was that he would get life if he didn't plead --

A Yeah. And that's when everything -- he signed the paper. That's when everything took place --

MR. SMITH: Objection, Your Honor. It's, also, hearsay.

MR. WARDER: Your Honor, it's reply testimony to -- Counsel got up there and said he didn't say that. He said he didn't say it to my client --

THE COURT: I'm going to -- I'm going to allow it.

Go ahead. Go ahead.

Overruled.

BY MR. WARDER:

Q Okay. And after you told that to your son, how long was it before the plea?

A Oh, they did it right then.

Q And he wasn't going to take it. And that's why he went --

A Yeah. He wasn't going to take it. He -- he told me he wasn't. But I begged him, I did. It was because of me.

Q And that's because you believed what you were told?

A Yes.

Q Now, a different issue. Did you -- did your son ask you to do anything in regards to his appeal with contacting Mr. Robinson?

A Well, he didn't -- I mean, he used to ask -- call me

and ask about his case, you know. He wanted to know what's going on. I mean, I went to Scott Robinson's office more than -- I mean, numerous times from the old office to the new. I even talked to his wife. And, I mean, he never told me nothing, nothing.

Q Did you -- did you take a message about an appeal from your son to Scott Robinson?

A Well, yes, what he used to tell me, you know, when -- when is his court date, or what --

Q Did he do anything with regard to appeal? We're not asking about if -- you transmitting information back on the status of his case. After the conviction, did you take anything or did you give any message to Scott Robinson?

A No. Because -- no.

MR. WARDER: Thank you.

Answer any questions the State may have.

THE COURT: Any questions?

MR. SMITH: No questions, Your Honor.

THE COURT: All right. And I have none.

Thank you, ma'am.

You can step down.

THE WITNESS: Thank you.

THE COURT: All right. You said you have one other witness, Mr. Warder?

MR. WARDER: That was it. That was my reply witness

and my --

THE COURT: Anything further from either side?

MR. SMITH: Nothing, Your Honor.

MR. WARDER: Nothing from the Applicant, Your Honor.

THE COURT: All right. I'm going to give both sides 45 days to submit me a proposed order with respect to their positions.

Okay. Do you need more time than that, Mr. Warder?

MR. WARDER: Huh?

THE COURT: Do you need more time than that?

MR. WARDER: If I do, I'll -- I mean, I'll try to comply. And if not, I might ask Your Honor -- but I will certainly --

THE COURT: Counsel on the other side, he's pretty generous in terms of agreeing to an extension. So, hopefully, you won't need any more than 45 days to get that to me.

All right. Thank y'all.

MR. SMITH: Thank you.

THE COURT: Try to be as detailed as you possibly can in your proposed order. That would be very helpful.

MR. WARDER: Yes, sir.

MR. SMITH: Yes, Your Honor.

THE COURT: All right.

**********END OF TRANSCRIPT OF RECORD**********

CERTIFICATE OF REPORTER

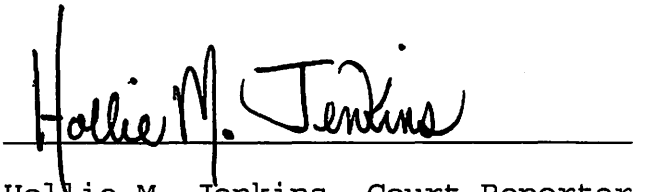
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 16th day of April, 2019.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

February 28, 2020



Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

SCOTT D. ROBINSON LAW FIRM, LLC
ATTORNEY AT LAW

October 31, 2014

Lorenzo Jackson

RE: State vs. Lorenzo Jackson

Dear Lorenzo

Please find enclosed the discovery material I received from the Solicitor's Office in reference to your case. Please take time to review and make any notes on questions you may have. I will meet with you to discuss this soon. Also, please sign and return the enclosed copy of this letter acknowledging that you have received this material.

I look forward to hearing from you soon. Should you have any questions, please call my office.

Sincerely,

Scott D. Robinson

SDR/lmi

Enclosures

AFFIDAVIT OF SERVICE

I, Lorenzo Jackson, have received the Discovery Material from the Scott D. Robinson Law Firm.

Date: 11/06/14 X _____
Lorenzo Jackson

EXHIBIT
Resp. 1 #5
4/11/19

9 EAST AVENUE, GREENVILLE, SC 29601
P.O. BOX 10042, FEDERAL STATION, GREENVILLE, SC 29603
PHONE: (864) 271-6940 • FAX: (864) 271-6941 • EMAIL: SCOTTDROBINSON@BELLSOUTH.NET

SCOTT D. ROBINSON LAW FIRM, LLC
ATTORNEY AT LAW

March 30, 2015

Lorenzo Jackson

RE: State vs. Lorenzo Jackson

Dear Lorenzo Jackson:

Please find enclosed the discovery material I received from the Solicitor's Office in reference to your case. Please take time to review and make any notes on questions you may have. I will meet with you to discuss this soon. Also, please sign and return the enclosed copy of this letter acknowledging that you have received this material.

I look forward to hearing from you soon. Should you have any questions, please call my office.

Sincerely,

Scott D. Robinson

SDR/lmi

Enclosures

AFFIDAVIT OF SERVICE

I, Lorenzo Jackson, have received the Discovery Material from the Scott D. Robinson Law Firm.

Date: 3/31/15

X _____
Lorenzo Jackson

EXHIBIT
Resp. 2
4/16/16

9 EAST AVENUE, GREENVILLE, SC 29601
P.O. BOX 10042, FEDERAL STATION, GREENVILLE, SC 29603
PHONE: 864.271.6940 • FAX: 864.271.6941 • EMAIL: SCOTTDROBINSON@BELLSOUTH.NET

EXHIBIT 477
Resp. 3
4/16/19

ALL ACTIVITY REPORT
JACKSON, LORENZO ID366654
FROM: 09/03/14 00:00 to 09/04/14 23:59

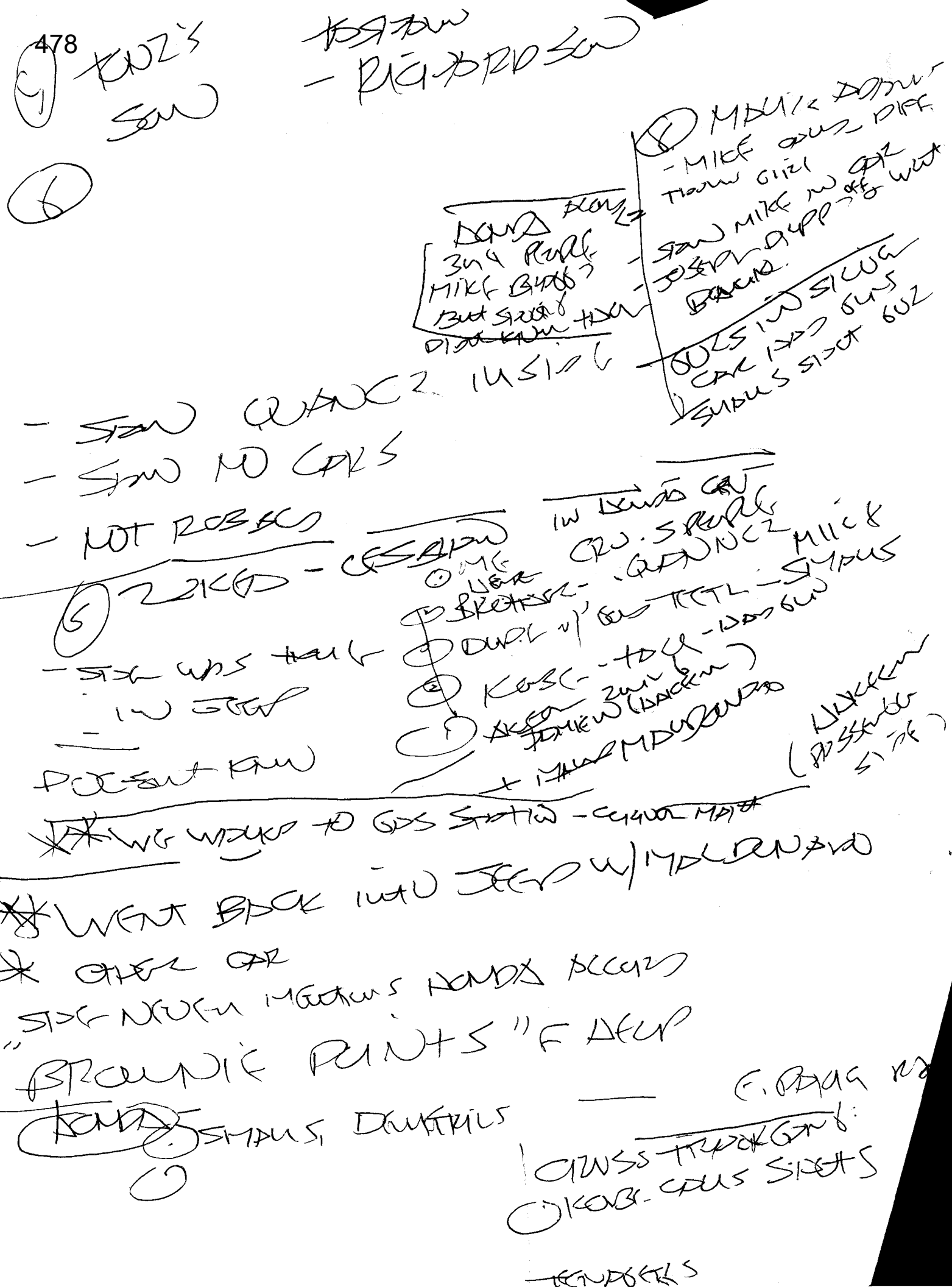
201 Technology Drive
Irvine, Ca 92618

POSTED	EVENTTIME	EVENT	COMMENTS
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09/03/2014 11:44:58	09/03/2014 11:43:00	Monitor Check In	
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09/03/2014 12:46:09	09/03/2014 12:42:27	No Connection	
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09/03/2014 14:31:17	09/03/2014 14:23:15	Leave	
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09/04/2014 00:33:56	09/04/2014 00:25:52 12:12 Sat	UNAPPROVED LEAVE	
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- where? what location?

Incident occured 9/3/2014 @ 20:15.

9/3/2014 - 19:32 - Monitor Check in Delayed.
9/3/2014 - 19:33 - NO Connection
9/3/2014 - 20:45 - Enter.
9/4/2014 - 00:25 - Unapproved leave.



SCOTT D. ROBINSON LAW FIRM, LLC

ATTORNEY AND COUNSELOR AT LAW

819 EAST NORTH STREET, 29601
P.O. BOX 10042, FEDERAL STATION,
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EMAIL: SCOTTDROBINSON@BELLSOUTH.NET

ATTORNEY CLIENT COMMUNCATION

July 26, 2016

Lorenzo Jackson
GREENVILLE COUNTY DETENTION CENTER
20 MCGEE STREET
GREENVILLE, SC 29601

Re: Letter and Status

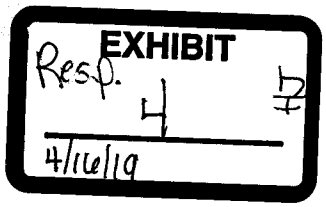
Dear Lorenzo,

Enclosed please find the email I received from the Assistant Solicitor along with the trial schedule in your case. The trial begins August 22, 2016. You will need to have your mom get you some clothes for court.

I will see you next week to start preparing for trial.

Very truly yours,

Scott D Robinson



480

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	IN THE COURT OF COMMON PLEAS FOR THE THIRTEENTH JUDICIAL CIRCUIT
Lorenzo A. Jackson, #344829 Applicant, v. State of South Carolina, Respondent.	Case No. 2016-CP-23-7620 ORDER OF DISMISSAL

RECEIVED
AUG 12 2019
SC Court of Appeals

FILED-CLERK OF COURT
2019 JUL 23 AM 11:06

This matter comes before this Court by way of an Application for Post-Conviction filed on December 28, 2016, by Lorenzo Jackson (Applicant). The State (Respondent) filed its Return and Motion for More Definite Statement on July 17, 2017. Applicant filed a Supplemental Application on September 12, 2017. An evidentiary hearing in the matter was held before the Honorable Alex Kinlaw, Jr., on April 16, 2019, at the Greenville County Courthouse. Applicant was present and was represented by Richard H. Warder, Esquire. Respondent was represented by Assistant Attorney General Taylor Z. Smith of the South Carolina Attorney General's Office. At the hearing, Applicant, Bobby McLain, Applicant's grandmother, Applicant's brother, and Applicant's mother testified on Applicant's behalf, and Scott D. Robinson, Esquire, (Counsel) testified on behalf of Respondent. Following a thorough review of the record in its entirety and the testimony and evidence presented at the evidentiary hearing, this Court finds that Applicant has failed to meet his requisite burden of proof and denies this application.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court. During its March of 2016 term, the Greenville County Grand Jury indicted Applicant for possession of a firearm by a

JUL 26 2019

person convicted of a crime of violence (2014-GS-23-11837), attempted murder (2014-GS-23-11839), possession of a weapon during the commission of a violent crime (2014-GS-23-11839), and armed robbery (2014-GS-23-11843). Counsel represented Applicant and Assistant Solicitor Katryna B. Salisbury prosecuted the case on behalf of the Thirteenth Circuit Solicitor's Office. On August 22-23, 2016, Applicant proceeded to trial before a jury with the Honorable D. Garrison Hill, presiding. On August 24, 2016, before the trial had ended, Applicant pleaded guilty to first-degree burglary (2013-GS-23-11802), possession of a firearm by a person convicted of a crime of violence (2014-GS-23-11837), attempted murder (2014-GS-23-11839), and armed robbery (2014-GS-23-11843). Applicant was sentenced to eighteen years for first-degree burglary, eighteen years for attempted murder, eighteen years for armed robbery, and five years for possession of a firearm for a person convicted of a crime of violence. On August 25, 2019, the Solicitor's Office dismissed the indictment for possession of a weapon during a violent crime (2014-GS-23-11839). Applicant did not appeal his pleas or sentences.

CURRENT PROCEEDING

On December 28, 2016, Applicant filed an Application for Post-Conviction Relief, in which he made the following allegations:

1. Counsel provided erroneous advice with prompted plea;
2. Counsel failed to do the necessary factual investigations on Applicant's behalf;
3. Counsel failed to call witnesses that would have proven Applicant's innocence;
4. Counsel neglected to do the necessary investigation and preparation of the case; and
5. Counsel failed to function as the counsel that the Constitution's Sixth Amendment guarantees.

On September 12, 2017, Applicant filed a Supplemental Application, in which he made the following allegations:

1. Counsel was ineffective for failing to contact alibi witness;
2. Counsel was ineffective for failing to give the State proper notice of Applicant's alibi witnesses prior to trial;
3. Counsel was ineffective for failing to communicate with Applicant prior to trial/plea; and
4. Counsel was ineffective for failing to investigate the victim's statement.

At the start of the evidentiary hearing, Respondent requested that Applicant specify for the record the grounds upon which Applicant would move forward at the hearing. Applicant specified that he would be moving forward at the hearing solely upon the grounds in the Supplemental Application. Later, during the evidentiary hearing, Applicant alleged through testimony that Counsel failed to file a Notice of Appeal at Applicant's request, and this Court allowed Applicant to also proceed upon that allegations. Because these are the only grounds for relief upon which Applicant proceeded at the evidentiary hearing, all over grounds are deemed to be waived and will not be addressed in this Order.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has thoroughly reviewed the record in its entirety. Additionally, this Court heard the testimony presented at the evidentiary hearing and was able to observe the witnesses presented at the evidentiary hearing, which allowed the Court to scrutinize the credibility of all witnesses presented. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

Applicant, like all other defendants, has a right to the assistance of effective counsel as provided by the Sixth Amendment to the United States Constitution. U.S. Const. amend. VI; Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008). Applicant has the burden of proving the allegations in his post-conviction relief action, and when alleging that trial counsel was constitutionally ineffective, he must prove that

"counsel's conduct so undermined the proper functioning of the adversarial process that it cannot be relied upon as having produced a just result." Strickland, 466 U.S. at 686

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, Applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced Petitioner such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985). The "prejudice prong ordinarily requires more than simply a defendant's assertion that but for counsel's deficient performance he would not have pled but would have gone to trial." Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 595 (2009).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. A court need not

first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Strickland, 466 U.S. 668.

Moreover, Strickland does not require a finding of ineffectiveness merely for deviation from some rigid rule of representation. Rather, Strickland requires the post-conviction relief applicant to prove "counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." Id. at 697. Therefore, the function of the post-conviction relief court is to determine if "in light of all the circumstances, the identified acts or omissions were outside the wide range of professional competent assistance" required of a criminal defense attorney." Id. at 690.

"A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed." Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 74 (1977)). "Indeed, where a thorough colloquy is conducted, courts must exercise caution in setting aside the guilty plea." Garren v. State, 423 S.C. 1, 12, 813 S.E.2d 704, 712 (2018); see Jamison v. State, 410 S.C. 456, 469-71, 765 S.E.2d 123, 129-30 (2014) (observing that "guilty plea[s] must be treated as final in the vast majority of cases" and instructing that caution must be exercised so as not to "undermine the solemn nature of a guilty plea and the finality that generally attaches to a guilty plea").

Based on this standard set forth above, this Court finds Applicant has failed to meet his requisite burden of establishing any constitutional ineffectiveness of counsel. The allegations are addressed fully below:

Counsel was ineffective for failing to communicate with Applicant prior to trial/plea.

The basis of this allegation is that Applicant was alleging at the evidentiary hearing that Counsel communicated with him about Applicant's case very little during the representation.

Applicant testified that he did not have a defense attorney before Counsel was retained. He testified that he hired Counsel within a month of his arrest. He testified that he talked with Counsel about how the trial would go. He testified that he saw Counsel on only four occasions over the two-year period before his case came up for trial. He testified that the meetings between them were short in duration, lasting only for about ten minutes each. He testified that he wrote a couple of letters to Counsel but that Counsel did not send any letters to him. He testified that he also saw Counsel's secretary or assistant. He testified that he never spoke with Counsel on the phone because Counsel was always absent from the office whenever Applicant called. He testified that, during these calls to Counsel's office, he was only able to speak with Counsel's secretary or assistant. He testified that he heard from his mother and not from Counsel that his case was headed to trial. He testified that Counsel did not explain the charges against Applicant or the potential sentences that he was facing. He testified that Counsel told him that the State did not have any evidence against Applicant. He testified that Counsel showed him the security camera video from the convenience store, which police believed showed the individuals who perpetrated the robbery. He testified that he told Counsel that he wanted a trial and that he always made it clear to Counsel that he wanted a trial. He testified that Counsel did not meet with him at the conclusion of the second day of trial. When confronted with the fact that he had affirmed to Judge Hill on the third day of Applicant's trial that he had had adequate time to talk with Counsel, Applicant testified at the evidentiary hearing that Counsel had told him to answer

affirmatively to all of Judge Hill's questions and that he did as Counsel had told him because Applicant was scared.

Counsel testified that he has been practicing law for over twenty years. He testified that he is currently engaged in private practice. He testified that he was retained in October of 2014 when one of Applicant's family members, either Applicant's mother or grandmother, hired Counsel. He testified that he was hired about one month after Applicant's arrest. He testified that another attorney had initially been Applicant's public defender, and had the public defender helped Applicant get bond before Counsel was retained. He testified that he gave copies of everything he received in discovery to Applicant and reviewed it all with Applicant. He testified that he requires his clients to sign for discovery whenever he gives them copies. He presented two letters showing that he provided discovery to Applicant. These letters were admitted into evidence at the hearing as Respondent's Exhibit 1 and Respondent's Exhibit 2. He testified that he discussed potential defenses with Applicant, and performed an independent investigation into the viability of an alibi defense based on those discussions. He testified that he gave Applicant one month's notice of Applicant's trial date. He testified that he and Applicant discussed their trial strategy and the options available to Applicant following the decision of Mr. Maldonado, Applicant's codefendant, to plead guilty after the second day of the joint trial. He testified that he did not tell Applicant to do anything.

This Court finds that Counsel was not constitutionally ineffective for failing to communicate with Applicant. This Court finds that Applicant's allegation that he met with Counsel for only forty minutes during the entire course of Counsel's representation of him lacks credibility and is without merit in light of Counsel's testimony and the transcript from Applicant's plea hearing. Respondent's Exhibits 1 and 2 directly refute Applicant's testimony

that he never corresponded with Counsel by letter. Counsel met with Applicant on multiple occasions and adequately discussed the case with him. Counsel's meetings with Applicant were of sufficient quantity and quality that Counsel was able to conduct an independent investigation into a potential alibi defense for Applicant. Counsel met with Applicant during trial to discuss the trial strategy and the affect thereon of Mr. Maldonado's decision to plead guilty, and Applicant's options due thereto. Applicant affirmed to Judge Hill during Applicant's plea hearing that he was satisfied with Counsel's services and that he had had enough time to discuss the case with Counsel. This Court finds that Applicant has failed to show how any additional time spent in meetings or discussions with Counsel would have been beneficial to his case. Because Applicant has not satisfied his burden of proof in establishing that Counsel was constitutionally ineffective for failing communicate with Applicant, this allegation is denied and dismissed with prejudice.

Counsel was constitutionally ineffective for failing to contact alibi witnesses. Counsel was ineffective for failing to investigate the victim's statement. Counsel was constitutionally ineffective for failing to give the State proper notice of Applicant's alibi witnesses prior to trial.

The basis of these allegations is that Applicant was alleging that some of his family members could have been alibi witnesses but that Counsel did not meet with them about Applicant's alibi, notify the State that they would be alibi witnesses, or call them as witnesses at trial, and that Bobby McClain, one of the victims of the robbery, would have testified that Applicant was not a participant in the armed robbery, but that Counsel did not meet with Mr. McClain about this fact or investigate his statement to that effect.

Applicant testified that, earlier on the day of the robbery, he was at the home of Bobby McClain, one of the victims in the robbery. He testified that Mr. McClain was hosting a cookout,

that Applicant had overindulged in alcohol at the cookout and become intoxicated, and that Mr. McClain then walked him to his grandmother's house. He testified that he did not leave his grandmother's home again on the night of the robbery after arriving back after the cookout. He testified that, at the time of the robbery, he was at his grandmother's home. He testified that he told Counsel that he was with Mr. McClain earlier in the day on the day of the robbery. He testified that Counsel told him that Mr. McClain's statement was irrelevant to the case. He testified that Counsel did not speak with Mr. McClain or investigate the case. He testified that Counsel did not speak to Applicant's grandmother. He testified that his family did not contact Counsel. He testified that Counsel did not discuss potential defenses with him in preparation for trial. He testified that Counsel never told him that alibi could be a defense. He testified that he did not give any other information or potential leads to Counsel other than the potential alibi witnesses since that was the biggest defense in his case.

Applicant testified that he lived in North Carolina around the years of 2005 or 2008, and that he had never lived in New York. He testified that he has only ever been known as "Lorenzo Jackson", and that he has never been employed under a different name. He testified that no one from North Carolina wanted to testify on his behalf at his trial. He testified that he was wearing an ankle monitor at the time of the robbery as a condition of bond from another case, and that he was not under any travel restrictions, and had curfew restrictions only.

Bobby McLain testified that he was living about two blocks from Applicant's grandmother's home at the time of the robbery. He testified Applicant was living with Applicant's grandmother in her home at the time of the robbery. He testified that Applicant had been at his home earlier on the day of the robbery for a barbeque. He testified that Applicant had to be back at his grandmother's home by 6:00pm because he was under a curfew and was

wearing an ankle monitor. He testified that Applicant was not one of the participants in the armed robbery and that Applicant was not present during the robbery. He testified that the perpetrators of the robbery were wearing ski masks and bandanas over their faces. He testified that he had seen the perpetrators while they were at the convenience store, during which time they were recorded on security cameras, because his home at the time was across the street from the store. He testified that he saw eight to ten people at the convenience store and a single car, a Dodge Charger or a car similarly small. He testified that he saw six or seven people get out of the car. On cross-examination, Mr. McClain testified that he saw eight people car, and that he saw at least five people get out of the car, and saw others on foot around the car. He testified that he could not tell whether there were others still in the car. He testified that the perpetrators were at the convenience store for approximately five minutes and that they looked like young men, but that he could not see their hairstyles. He testified he spoke to Applicant's defense attorney during the case and told the attorney the same things to which Mr. McClain testified at the evidentiary hearing. He testified that he gave recorded statements and one statement recorded by stenographer during the case and that Applicant's defense attorney was present at that time. He testified he was waiting to be called to testify at Applicant's trial but was never called as a witness. On cross-examination for more information about the individual with whom he shared information about his belief that Applicant was not one of the participants of the robbery and that he did not see Applicant there, the individual whom Mr. McClain believed to have been Applicant's defense attorney, Mr. McClain testified that he did not see that defense attorney present in the courtroom during the evidentiary hearing, although Counsel was present in the courtroom at the time. Mr. McClain did not identify Counsel as the individual with whom he

spoke. Mr. McClain testified that he had never spoken with Counsel. Mr. McClain could not remember the date of the barbeque or the month.

Ollie Jones testified that she is Applicant's grandmother. She testified that Applicant lived with her in her home at the time of the robbery. She testified that Applicant was required to wear an ankle monitor at that time. She testified that she saw Applicant in her home on the night of the robbery. She testified she had seen Applicant sitting on her porch. She testified that she went to bed at approximately 11:00pm on the night of the robbery, and that she usually goes to bed between 10:00pm and 11:00om. She testified that she did talk with Counsel during the case, and that she met with him on six or seven occasions. She testified that she met with Counsel at Counsel's office. She testified that she told Counsel that Applicant was at home with her on the night of the robbery. She testified that she begged Applicant to plead guilty based upon Counsel's statement that Applicant could be sentenced to life in prison if he continued with trial.

Demetrius Singleton testified that he is Applicant's brother, and that he was living with Applicant at their grandmother's home during the time of the robbery. He testified that Applicant was wearing an ankle monitor at the time, and that the ankle monitor would have gone off if Applicant had left the house. He testified that he arrived at his grandmother's home a little after 6:00pm on the night of the robbery and that Applicant was already there when he arrived. He testified that Applicant and others were sitting on their grandmother's porch that night and drinking beer. He testified that the sun was doing down when he arrived at his grandmother's home. He testified that he met with Counsel and that Counsel told him and his family that the State did not have any evidence against Applicant. He testified that Counsel told him that he would be an alibi witness at Applicant's trial.

MH #11

Counsel testified that he discussed potential defenses with Applicant, and that Applicant initially told him that Applicant was working in New York at the time of the robbery and that he was not present at the crime scene at the time. He testified his investigation revealed that Applicant was going by different names during his alleged time in New York and his time in South Carolina, and that Counsel was not able to find alibi witnesses in New York for Applicant. He testified that he believed that Applicant's claim to have been in New York was false based on Counsel's search for alibi witnesses in New York and the fact of Applicant's wearing an ankle monitor at the time. He testified Applicant would have run into legal trouble if he had left the jurisdiction of South Carolina at the time and that he would have been brought back to South Carolina. He testified he did not know whether the State or ankle monitor would have been alerted had Applicant left South Carolina while wearing the monitor. He testified he searched for bus tickets, bill, receipts, and anything that could have been used to show that Applicant was in New York at the time of the robbery but that he was unsuccessful, and he testified he believes he was unsuccessful because Applicant had given him a fake name.

Counsel testified Applicant also told him that he was at Applicant's grandmother's home during the time of the robbery. He testified he subpoenaed records from Applicant's ankle monitor in an attempt to corroborate Applicant's alibi, but he testified the records were not helpful to Applicant's defense because they showed Applicant was not at his grandmother's home between 12:25 and 2:00am, during which time the robbery occurred. He presented the ankle monitoring records and they were admitted into evidence at the hearing as Respondent's Exhibit 3. He testified the records could not have been used as evidence that Applicant was at his grandmother's home and therefore would not have been helpful in an alibi defense. He testified the records may have supported an alibi defense if the robbery had occurred during the day time.

He testified Applicant did not give him any helpful evidence of information that could have been used to show that Applicant could not have participated in the robbery.

He testified that none of Applicant's family members, including Applicant's brother, mother, and grandmother, could provide an alibi for Applicant. He testified no one was able to testify as to Applicant's location during the time of the robbery. Counsel testified he received a statement from Mr. McClain in the discovery from the State. He testified Applicant may have mentioned the name of Mr. McClain was a potential witness, but that he never met with Mr. McClain. He testified that Mr. McClain's statements to police and his affidavit indicated that he did not want to be involved in the case, did not want to prosecute, and did not want to speak to anyone about the case. Counsel testified that there was no witness he had discovered or that Applicant had provided to him that could have testified as to Applicant's location during the time of the robbery. He testified he would have given notice to the State of alibi witnesses if Applicant had had an alibi defense that could have been presented at trial.

Counsel testified that his trial strategy, since Applicant did not have a viable alibi defense, was to attack the credibility of Applicant's codefendants, who would have testified against Applicant on the third day of his trial, by claiming that they were lying in order to get plea deals from the State. Counsel testified that all of Applicant's codefendants, except for Joseph Colon Maldonado, with whom Applicant was being tried jointly, had pleaded guilty. He testified he had cross-examined the investigators and deputies in the case in order to establish that the State did not have any evidence, including physical evidence, of Applicant's guilt apart from the testimony that the codefendants were expected to give on the third day of Applicant's trial. He testified that this strategy was a common strategy between Applicant and Mr. Maldonado and that both defense attorneys put this strategy into practice during the trial.

Counsel testified that Mr. Maldonado changed his story and decided to plead guilty two days into trial. Counsel testified that everything changed when Mr. Maldonado decided to plead guilty because he and Applicant now expected Mr. Maldonado to testify against Applicant. Counsel testified that everything changed because Applicant would have had five or six codefendants testify against him at his trial. Counsel testified that this was the tipping point in Applicant's case because the jury would have seen one codefendant who had been tried with Applicant for two days of trial turning against him as a witness on the third day of trial. Counsel testified that Applicant told him then that he wanted to plead guilty. Counsel testified that he discussed the matter with Applicant and presented to him the choices available. Counsel testified that he did not tell Applicant that he had to do anything, but that he left the decision about whether to continue with trial or to plead guilty to Applicant. Counsel testified he discussed all of Applicant's options and explained the potential sentences that Applicant could face after trial. Counsel testified that Applicant could have been eligible for a sentence of life without parole based on the charges against him, but that he would not have been exposed to it after the trial because the State had not noticed him that they were seeking the sentence in this particular case. Counsel testified that Applicant discussed his options with his family, too, but he testified that he did not tell Applicant's family that Applicant would be exposed to the potential sentence of life without parole in this particular case. Counsel testified that Applicant decided to plead guilty because Mr. Maldonado had become a witness for the State, whereas originally he would have provided testimony helpful to Applicant's defense.

This Court finds that Counsel conducted a reasonable investigation as to a potential alibi witness for Applicant in the case. As part of his investigation, Counsel attempted to find alibi

witness in New York who could corroborate Applicant's assertion that he was working in New York at the time of the robbery, but was unsuccessful in his search.

This Court finds that Mr. McClain did tell Counsel that Applicant was not one of the participants of the robbery. Applicant alleged at the evidentiary hearing that Counsel never contacted Mr. McClain and that Mr. McClain had valuable testimony that could have been used in his defense at trial. Although Mr. McClain testified at the evidentiary hearing that he had spoken with Applicant's defense attorney about the matter, he testified that Counsel was not the man with which he spoke, even though Counsel was present in the courtroom during the course of Mr. McClain's testimony. Counsel also testified that he had never spoken with Mr. McClain. Since Applicant, Mr. McClain, and Counsel agree on this point, it is undisputed that Counsel and Mr. McClain never spoke about the case.

This Court finds that Counsel was not constitutionally ineffective for failing to meet with Mr. McClain or investigate Mr. McClain's statement, or failing to call Mr. McClain as a witness at Applicant's trial. Mr. McClain's statements to police and his affidavit indicated that he did not want to be involved in the case, did not want to prosecute, and did not want to speak to anyone about the case. Mr. McClain therefore would have presented as an unwilling witness at Applicant's trial. Counsel made a strategic decision that Mr. McClain would not have been a helpful witness at trial. For these reasons, Counsel's performance as to Mr. McClain was within the range of competence required of defense attorneys. On the merits of Mr. McClain's testimony at the evidentiary hearing, this Court finds that his testimony lacked credibility. Mr. McClain blatantly contradicted himself about the number of individuals he saw in a car or around a car at the convenience store across from his home before the robbery, even going so far as to indicate that there may have been eight to ten people in a single, small car, and then

adjusting this number downward when confronted on the matter. Additionally, Mr. McClain testified that he was sure that Applicant was not among the individuals he saw at the convenience store, although he also testified that the individuals were too far away for him to be able to identify their hairstyles; this further detracts from the credibility of Mr. McClain's testimony. As such, Counsel's failure to speak to Mr. McClain or call him as a witness at Applicant's trial did not prejudice Applicant. The Court also notes that Applicant affirmed to Judge Hill during the plea colloquy that he understood his trial rights, which included the right to call witnesses and challenge the State's evidence, and that Applicant waived those rights and pleaded guilty.

The Court finds that Counsel was not constitutionally ineffective for failing to contact or call alibi witnesses. Applicant presented only his grandmother and brother as potential alibi witnesses at his evidentiary hearing. Counsel spoke to Applicant's family members, including Applicant's grandmother and brother, and they would not have been helpful alibi witnesses for Applicant at trial. This Court finds that the testimony of Applicant's grandmother and brother on Applicant's alibi are without merit and lack credibility in light of the testimony of Counsel. At the evidentiary hearing, Applicant's brother and grandmother were unable to offer a complete alibi for Applicant, and Counsel reasonably concluded that they would not have been helpful alibi witnesses at Applicant's trial. Additionally, Counsel was relying on Applicant's ankle monitor records when evaluating the merits of any alibi for Applicant. Applicant presented two conflicting potential alibis to Counsel during the case, and Counsel conducted a reasonable investigation into both. When both potential alibis proved to be without merit, Counsel adopted the trial strategy of accusing Applicant's codefendants of lying about Applicant's involvement. Applicant's own testimony at the evidentiary hearing about his contention that all of Applicant's codefendants were lying about his involvement in the robbery indicates that Applicant agrees

with Counsel that this was a valid issue to raise at trial. This Court finds that Counsel was attempting to employ the trial strategy of attacking the veracity of the harmful testimony expected to come from Applicant's codefendants. Throughout the State's case, Counsel, through cross-examination, pointed out the lack of physical evidence in the case against Applicant, and was attempting to show that the testimony from Applicant's codefendants, which was expected to come on the third day of Applicant's trial, was the only evidence against applicant, and that that testimony was false. This Court finds that, upon the guilty plea of Mr. Maldonado, Applicant decided to plead guilty because he believed that the trial strategy would no longer be viable with the addition of Mr. Maldonado's harmful testimony to the State's case. The decision of Mr. Maldonado to plead guilty and the expectation that he would testify against Applicant was the turning point in Applicant's estimation of his case.

This Court finds that Counsel did not coerce Applicant into pleading guilty and that Counsel did not tell Applicant that he would be sentenced to life in prison if he did not plead guilty. Applicant affirmed to Judge Hill during his plea colloquy that he was pleading guilty of his own free will because he was guilty, and then Applicant apologized for his conduct during the commission of the crimes. Applicant affirmed his satisfaction with Counsel's performance and affirmed that he was pleading guilty because he was guilty. Applicant's decision to plead guilty was his own and not based upon any alleged ineffective performance or advice from Counsel.

Counsel was ineffective for failing to file a Notice of Appeal.

Applicant testified that, following his guilty pleas on the third day of trial, he asked his mother to tell Counsel that he wished to appeal the pleas and sentences. Evelyn Bennett testified that she is Applicant's mother, and she testified that Applicant did not ask her to relay a message

to Counsel that Applicant wished to appeal his pleas or sentences. Counsel testified that he never received a request for Applicant to appeal his pleas or sentences. Counsel testified that he does not recall Applicant's wanting to talk to him after Applicant pleaded guilty. Counsel testified that he did not recall whether or not Applicant's mother asked to see him after the plea hearing. Counsel testified that there were no meritorious issues that could have been appealed. This Court finds that Applicant's allegation that requested that Counsel file a Notice of Appeal on his behalf is without merit and lacks credibility because it is contradicted by the testimony of Applicant's own mother. Applicant has not alleged that he was unaware of his right to an appeal; furthermore, even if he had alleged that through testimony, Applicant's testimony at the evidentiary hearing that he asked for an appeal immediately after the plea hearing indicates that he was aware of that right, and would have undermined any allegation that he was unaware of the right to appeal. Because he has not satisfied his burden of proof in establishing that Counsel was constitutionally ineffective for failing to file a Notice of Appeal by showing either deficiency or resulting prejudice in Counsel's performance, or shown that he did not knowingly and voluntarily waive his right to a direct appeal, this allegation is denied and dismissed with prejudice.

CONCLUSION

Based on all the foregoing, this Court finds Applicant has not established any constitutional violations or deprivations that would require this Court to grant her Application for Post-conviction Relief. Therefore, this application is denied and dismissed with prejudice.

This Court notes Applicant must file and serve a notice of appeal within thirty days from the receipt of this Order by counsel of record to secure the appropriate appellate review. See Rule 203 and 243, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an applicant has a

right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. This application for post-conviction relief is denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the State within the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 19th day of July, 2019.

ALEX KINLAW, JR.
Presiding Judge
Thirteenth Judicial Circuit

Greenville, South Carolina

Copy mailed to
Attorney general / Dick Warder
on 7/23/2019.

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
BURGLARY FIRST DEGREE

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

That LORENZO AZIA JACKSON did in Greenville County, on or about the 22nd day of October 2013, willfully and unlawfully enter the dwelling of Jessica Woods located at [redacted] Furman Hall Rd., Apt # [redacted] Greenville, South Carolina, without consent and with the intent to commit a crime therein, and the burglary was accompanied by circumstances of aggravation, to wit: the entering or remaining occurred during the nighttime hours and the defendant was armed with a deadly weapon. This is in violation of §16-11-0311 of the South Carolina Code of Laws (1976) as amended.

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

SOLICITOR

WITNESSES

Matthew Owens

Greenville County Sheriffs Office

10/25/2013

ARREST WARRANT NUMBER
2013A2330209169

ACTION OF GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2013-GS-23- 011802
ASC

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

TERM 2013

THE STATE

vs.

LORENZO AZIA JACKSON

✓
0079

Indictment for

BURGLARY FIRST DEGREE

VIOLATION § 16-11-0311

A Certified Copy
Paul B. Wilkins
Clerk of Court C.P. & G.S.
Greenville County, SC
Dated 8-17-16

FILED
DEC 27 2013
Clerk of Court
Greenville County

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