VOLUME I OF II

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

George M. McFadden, Jr., Circuit Court Judge

RECEIVED
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S.C. SUPREME COURT

Case No. 20018-001224

Reco Antonio Godbolt, Appellant

Vs.

State of South Carolina, Respondent,

APPENDIX

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STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF SUMTER)

THE STATE)
)
-vs-) TRANSCRIPT OF RECORD
) 2012-GS-43-00227
RECO ANTONIO GODBOLT,)
JAMAL HELTON) DECEMBER 3, 2012, 2012
SUMTER, SOUTH CAROLINA

DEFENDANTS.

(VOLUME I)

B E F O R E:

THE HONORABLE GEORGE C. JAMES, JUDGE. ; And a Jury.

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CIRCUIT COURT REPORTER

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(PROCEEDINGS, DECEMBER 3, 2012)

THE COURT: Okay.

MR. MEADORS: May it please the court, Your Honor, at this time the State would call the State of South Carolina versus Mr. Jamal Helton and Reco Godbolt.

Mr. Jamal Helton is represented by Mr. Jack Swerling.

Mr. Reco Godbolt is represented by Mr. Grant Smaldone.

Your Honor, the State would call 2012-GS-43-0227, a Sumter True Billed indictment for kidnapping, burglary first, attempted murder, armed robbery, possession of a weapon during the commission of a violent crime, and criminal conspiracy.

Also 2012-GS-43-1314, indictment for burglary in the second degree.

THE COURT: All right. Do we have some things that y'all want to resolve before we actually select a jury because calling the indictments would be an issue?

MR. MEADORS: Yes, sir. We thank you, judge, for your patience. I believe Mr. Swerling and Mr. Smaldone have a motion.

THE COURT: All right, Mr. Swerling.

MR. SWERLING: Judge, I have an objection on behalf of Mr. Helton about trying the two cases together.

One is on Canvasback, and that's the one that has the burglary first, which is I think the first one mentioned by Mr. Meadors with the Widgeon Way charges.

They are separate unrelated incidents, it would be our position. Even though they took place in the same neighborhood, it's my information that the one on Canvasback, it took place somewhere around 12:20, because when the incident report, as well as the victim in that case called the police with the 911 tape and -- my understanding is around 12:15 to 12:20.

The one on Wigeon Way, according to the incident report, the information we have is that the incident took place sometime between the hours of seven o'clock and 12:30.

THE COURT: A.m.?

MR. SWERLING: Yes.

That they -- it's not pinpointed in the incident report, I guess because the victims of that particular case were not home.

So it would be my position that these two cases should not be called together and they should not have to be tried together. Possibly the State might try to get it in under a Lyle theory later on, or a res gestae theory later on, if they meet the proper evidentiary standard, but not of the call of the cases together.

THE COURT: Just for my clarification, you

represent him on both of these folks?

MR. SWERLING: Yes, Your Honor.

THE COURT: Okay.

Mr. Meadors, you mentioned at one point that one of the defendants may have given a statement as to the time of the Widgeon Way?

MR. MEADORS: Yes, sir.

If it please the court, Mr. Reco Godbolt, after -- was arrested at the scene on Canvasback, which is the 0227 indictment. He gave a statement then at some point later talking about the facts and the incident at Canvasback.

He also talks about how prior to that -- he didn't give an exact time. He said prior to that, immediately prior to that, they had gone to Widgeon Way, which is the 1314 indictment, so inferentially it happened right after that.

Now, I haven't talked to the victims in the case, Sergeant and Master Sergeant Davis both back here in the courtroom, but his testimony they usually came and -- this day he came home for lunch around twelve. So it was I think circumstantially at least happened right before the other one.

Judge, I guess I'm just trying to --

THE COURT: Mr. Godbolt said immediately prior? Those were his words?

MR. MEADORS: No, sir, not immediately prior. Just --

MR. SWERLING: I don't see that at all.

THE COURT: The same day, though?

MR. MEADORS: Yes, sir.

At this point I don't want to mislead.

THE COURT: As far as any case law that allows you to try these together, or -- is this something that's just done as a matter of course?

MR. MEADORS: State v. Tucker, at 178 S.E. 2d 260, charges arise out of a single chain of circumstances proved by the same evidence or of the same general nature, no real right of the defendant is prejudiced. The case held they can be tried together.

I guess I'm just trying to --

THE COURT: That's a Sumter -- I think that's a Sumter County case.

MR. MEADORS: State v. Simmons, judge, 573 S.E. 2d 856 --

THE COURT: 856?

MR. MEADORS: Yes, sir.

That basically stands for the premise that, you know, the crime is necessary for a full presentation of the case. And that's all I'm trying to do. I'm just trying to --

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THE COURT: I think you made the point on the res gestae part of it, but maybe not trying both cases together. I'll just have to look at those two cases.

Either one of you have any copies?

MR. MEADORS: Judge, I don't. I'm sorry. I'll get them to you.

MR. SWERLING: Judge, I guess that's what I'm saying is he may be able to try and get it in under proper showing as res gestae, but that does not mean he can try the case together.

THE COURT: Mr. Smaldone, under the court's rules require that you if you want to join in or not join in a particular position taken by your co-defendant, you have to let me know.

What's your position?

MR. SMALDONE: I would joint in on Mr. Swerling's motion.

THE COURT: All right.

MR. MEADORS: Judge, I also cite State v. Sullivan, 282 S.E. 2d 831, when offenses charged on separate indictments are the same general nature involving connected transactions, plus related in time, place, and character, Your Honor has the discretion to order them tried together, as long as none of the defendant's rights are prejudiced.

Again, Your Honor, for the record, I'm just trying

to get the whole story out more than necessary to the charges, but I don't want --

THE COURT: You are asking them to try them both together?

MR. MEADORS: At this point, yes, because I don't know how to do it to ensure --

THE COURT: All right. Okay.

Anything else, Mr. Swerling or Mr. Smaldone?

MR. SWERLING: No, Your Honor, that would be it on this.

MR. SMALDONE: No, Your Honor.

THE COURT: All right.

MR. MEADORS: Judge, if I --

THE COURT: If you were to call them separately, which one would you call today?

MR. MEADORS: I would call 2012-0227.

THE COURT: All right. Okay.

I'm sorry, Mr. Meadors, did you want to say something?

MR. MEADORS: Yes, sir, there was a piece of evidence from Widgeon Way in the car that was found at Canvasback.

So what we would have is a co-defendant's redacted statement and a laptop that would be identified as Davis' in the car at Canvasback.

THE COURT: But the Bruton issues would be the same, Mr. Swerling? Does his statement cover both events?

MR. SWERLING: It covers several different events, and so we have to -- we would have to be real careful about the statements, redacting them. That's why I think Bruton may be an issue about and would be our basis for a severance motion, because I don't know if they could be adequately redacted to protect Mr. Helton's rights, especially if Mr. Godbolt does not take the stand.

THE COURT: Does the severance matter have to be addressed before we pick a jury?

MR. SWERLING: Can I consult with my --

(Off the record)

(Back on the record)

THE COURT: Mr. Meadors, you got 478 S.E. 2d 260, 573 S.E. 2d 856, and 282 S.E. 2nd 831?

MR. MEADORS: Yes, sir.

MR. SWERLING: 838.

MR. MEADORS: 838.

THE COURT: 838?

MR. MEADORS: Yes, sir.

MR. SWERLING: Judge, I think the Bruton issue probably -- we wouldn't get to the Bruton issue if the statement is suppressed.

THE COURT: Well, yeah, I'm trying to figure out

how to pick a jury. If we pick it for both defendants here, then when the jury is seated, we only got one of them sitting here. Sometimes the one who is remaining says that would make me look good if the other defendant is gone. So I just thought that I would toss that out.

All right, give me just a few minutes to -- I'm going to review -- I'm familiar with Tucker and Simmons. I haven't read State v. Sullivan, so give me a few minutes.

Anything else you want to bring to my attention before --

MR. MEADORS: Are we going to deal with the severance matter now? I have got some --

THE COURT: I don't know. I have to --

MR. SWERLING: All right. I just mentioned that. The severance would be an issue if the statement was not suppressed. It's not an issue if the statement were to be suppressed in a Jackson v. Denno. I have no standing on that.

THE COURT: Right. Okay.

Well, but your position on severance, you don't -- so we don't need to address that until I have a Jackson v. Denno Hearing?

MR. SWERLING: Correct. But, I mean, as far as whether or not Your Honor was going to sever them, I would agree with Your Honor there is some concern about calling

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the case together at this point, if later on he is severed out or we are severed out.

THE COURT: All right. So do y'all want me to hear that now?

Assuming that I don't grant the Jackson v. Denno, then we can -- I'll do it either way that you gentlemen want me to do it. We can do it before the jury is picked or after.

MR. MEADORS: I think we ought to respectfully do it now, but --

THE COURT: Mr. Swerling?

MR. SWERLING: Yes, sir, I agree, sir. I agree.

THE COURT: All right. I'll be glad to hear from you then.

MR. SWERLING: Well, judge, the Jackson v. Denno is not mine.

THE COURT: Well, I was going to do the severance.

MR. SWERLING: Oh, you were going to do the severance?

THE COURT: Yes, sir.

MR. SWERLING: Well, judge, as to the severance issue, I guess you are going to have to have a copy of the statement to see.

THE COURT: I don't have that.

MR. SWERLING: Let me see if I have got -- there

is actually two separate statements.

Do you know where -- are you proposing to get both of them in?

MR. MEADORS: I'm just going to combine to the first statement in these two instances.

THE COURT: If you would just get those marked, please.

(Two-Page Written Statement marked as Court's Exhibit No. 1 for identification)

(Three-Page Written Statement marked as Court's Exhibit No. 2 for identification)

THE COURT: And when I say I'll go ahead and do the severance now, we are just trying to make the best use of our time.

If we do the Jackson v. Denno and the severance, we might as well send the jury to lunch now.

MR. MEADORS: I don't --

THE COURT: I think it may be the best use of our time to do it this way.

MR. MEADORS: The Jackson v. Denno, those folks won't be here this afternoon. I think we are doing that this morning. I think we can summarize the statement to the meet for Your Honor -- enough information for Your Honor to make a decision on severance.

MR. SWERLING: There is two different statements,

Your Honor.

THE COURT: Mr. Meadors, Mr. Swerling and Mr. Smaldone, we can do one of two things. We can go ahead and get into this issue about the statements now. I can read the other cases that Mr. Meadors cited to me and we can have the jury panel come back at one, pick a jury then, whichever way we do it. I just don't want to keep them down there waiting inordinately long.

Can I just tell them to be back for jury selection at one o'clock?

MR. SWERLING: That's fine with me.

MR. MEADORS: Thank you, Your Honor.

MR. SMALDONE: That's fine with me.

THE COURT: And I can get Judge Cothran to tell them that.

Let's go ahead and make it -- let's go ahead and make it 1:30 so that everybody connected with this case can get some lunch and develop your plans with a little bit more time, okay? 1:30.

MR. MEADORS: Thank you.

THE COURT: Just tell them to be in courtroom number one at 1:30.

THE CLERK: Yes, sir.

THE COURT: All right, Mr. Swerling, I have got two statements marked as Court's Exhibits and I need those

back.

MR. SWERLING: Judge, apparently Mr. Meadors is going to try and introduce only one statement and that's the one -- that's the two-page statement dated October 31st, 2011.

THE COURT: That's Court's Exhibit 1.

MR. SWERLING: Okay.

Your Honor, in reading this statement, I mean, it's so -- Mr. Godbolt implicates Mr. Helton in this statement and it is so intertwined in the statement that to try and redact it is clearly going to give the impression that Mr. Helton is the other individual in here. And I don't see how -- I don't see how Mr. Meadors can redact that adequately to protect Mr. Helton's rights of confrontation under the Bruton issue.

So if you read it, I just -- it's just every sentence has to do with "Mall", which is Helton's nickname.

THE COURT: Jamal?

MR. SWERLING: Well, yeah, but the short, right, is "Mall". So basically every sentence has his name in it and so I would like to know how Mr. Meadors proposes to redact that to protect Mr. Helton's rights to a fair trial and his rights of confrontation.

THE COURT: All right. Mr. Meadors?

MR. MEADORS: May it please the court, Your Honor,

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as long as the statement on its face does not incriminate the defendant, it can be properly redacted. And I think that's the case of Richardson v. Morris, which is a similar case, 481 U.S. 200, a 1987 case.

I went through it last night in my head and was going to do it today. I didn't think we would get to this this afternoon, but actually I think you could put "another person", "another person" all the way through.

The most recent South Carolina case is a case out of Kershaw. I think State v. Cannon, I actually tried that case in front of Judge Cooper from Kershaw, where we had three co-defendants. One of the co-defendants testified -- excuse me, one of the co-defendants had given a statement against the other two, and we redacted that to say "another person and another person." That was upheld I believe by the Court of Appeals recently this past summer.

As to Bruton, as long as it doesn't incriminate on its face, I think the case law say that if it naturally is intertwined, you are weighing that against the cost to the State for separate trials. As long as it can be neutral on its face, I believe that's what the law requires, and I think we could redact that.

Even if the actual statement didn't go back there. Even if the officer just read it, I think there is several ways to -- because it would have to be whited out,

obviously, and "another person" put in there, but if Your Honor found that that was prejudicial, I think you could just read it and include "another person", and that would be neutral, would not incriminate on its face, and in joint trials I don't think there is any other way the State for me to do it.

THE COURT: All right. I see -- of course, the kind of small print and I haven't had time to read it in detail. The judge used -- Mr. Swerling is correct, does use the word "Mall", M-A-L-L, numerous times.

I think the problem with most of the time the prejudice comes in when the actual document comes in with all this stuff blacked out or whited out all over the place and the jury is -- the defendants argue that well, that logically makes the jury conclude that it is, in fact, the other defendant sitting at the table.

Mr. Swerling, do you have any response as to what Mr. Meadors has to say?

MR. SWERLING: Well, judge, I would say this. I think that it is incriminating on its face, the document itself, and the story in which Mr. Godbolt tells. And I do think that it's intertwined to the extent that it's going to leave the implication that it's Mr. Helton who is sitting next to Mr. Godbolt in the courtroom and that's the person he's referring to.

Clearly I think what Your Honor just said is that if the statement doesn't come in itself, the written statement, that might make it a little bit better if you allow in Mr. Godbolt's statement.

But I do believe that in a joint trial we have to protect not only Mr. Godbolt's interests and his rights of confrontation at a fair trial, but Mr. Helton's too. And I think when you have -- when you are trying these people individually and you are trying to get in Mr. Godbolt's statement where he clearly implicates himself in this thing, but also casts blame on the other individual more than his -- I mean, he's actually saying in here that Mr. Godbolt is the more culpable one than he is. He's passing off blame to Mr. Helton, so I do think that that's incriminating on its face and I don't believe that it can be redacted to the extent that it's going to give Mr. Helton a fair trial and his rights to confrontation, if they are tried together.

THE COURT: All right. Mr. Smaldone, do you have any position on this?

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

You know, obviously I think Mr. Helton is possibly the one that's more -- that this affects more so than Mr. Godbolt, so I don't have any position.

I think you could try them both fairly.

THE COURT: Okay. Anything else from the State?

MR. MEADORS: Your Honor, State v. Evans, 450 S.E. 2d 47, 1994 case, basically held to require the State to totally redact anything to be viewed in combination with other evidence is a reference or illusion to the defendant would unduly handcuff the government's ability to introduce admissible confessions and statements that are on trial. So I think it may -- I don't think the law requires totally --

THE COURT: Well, we are talking about severance more likely -- more than just --

MR. MEADORS: I'm more into the Bruton issue there.

THE COURT: Right.

All right, any other argument on your severance?

MR. SWERLING: No, Your Honor, I'm just -- and, I'm just -- again, I am just focusing on the Bruton issue here, if the court were to let in Mr. Godbolt's statement.

THE COURT: But no other issues on the severance that you want to bring up?

MR. SWERLING: No, there is no other issue that I think in this particular case that I could bring up on the severance issue. It would be only the Bruton issue.

THE COURT: Okay. All right. I'll take a few minutes, gentlemen.

And you don't want to get into the other statement? You would not be seeking to introduce that one,

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because that was -- that is the Widgeon Way matter?

MR. MEADORS: No, Widgeon Way is in this one, Your Honor.

THE COURT: Okay. How about the --

MR. MEADORS: I will keep it clean and not try to go into any of that.

THE COURT: All right, I'll take them both back there and y'all give me a few minutes and I'll be back out soon.

And take a look also, Mr. Meadors, at Mr. Swerling's voir dire and see if you have any objections to those so we can cover that as well. Thank you.

MR. MEADORS: Thank you.

(Whereupon, proceedings were recessed)

(Whereupon, proceedings were reconvened)

THE COURT: Okay, anything else before I make my ruling?

MR. MEADORS: Not from the State.

THE COURT: Mr. Swerling, Mr. Smaldone?

MR. SMALDONE: Nothing, Your Honor.

MR. SWERLING: Your Honor, just going over the statement again, I just reenforce my belief that it could not be adequately redacted to protect Mr. Helton's rights of confrontation in the case, because virtually everything that Mr. Godbolt is talking about is something that Mr. Helton

did, not what he did, but what Mr. Helton did.

THE COURT: Yeah, but what case law says -- and I know there is a line somewhere. Obviously that's what Bruton stands for. Bruton says that if it can't be redacted in such a way for the jury to have no other idea but it must be the other guy sitting at the table, which is Mr. Godbolt, then it has to be -- you are entitled to the relief that you have requested, but I'm going through this statement and whether you refer to him as "Mall" or Jamal, most of the time it says "him" and "he".

And you say even if -- even if he mentions Jamal by name one time, and exclusively thereafter he used the words "he" or "him", you say it's still too much?

MR. SWERLING: Well, I agree with you there is a lot of "he" and "him" in references.

THE COURT: Right.

MR. SWERLING: But there is also a lot of -- mostly references I believe to "Mall".

THE COURT: Right, but if you put --

All right, let's just go to the -- do you have the one that's it got underlined with "shortly after this?"

MR. SWERLING: Yes, sir.

THE COURT: Okay. It says "shortly after this Jamal helps him." Obviously if this was redacted it would say "shortly after this another person," or "another guy,"

however you chose to do it, "called me." I would probably take out 220 phone number, "and asked me to pick him up from the South Side. I told him I would and I met him at the South Side Gym." That's already using "him".

MR. SWERLING: Yes, sir.

THE COURT: If you uniformly said "him" throughout the statement, would your argument still be the same?

MR. SWERLING: Well, yes, sir, because I still think it points to the guy who is sitting at the table.

Richardson v. Morris and Parker v. Randolph, you know, are the leading -- and, of course, Bruton on the leading cases, and I still think that, you know, he has clothing descriptions in there. He has about where he ran when -- after I guess confronted by Dr. Funke. It's clearly pointing to the other guy here at the table, I think, or -- and I would submit that it does, even because it says "Mall." It doesn't say just "him". That would be one thing I guess my argument would not be as strong if it just said "him" without any further descriptions, but I still think you still have a severance issue or Bruton problem.

THE COURT: And, again, I think you are beating this dead horse, but are you talking about a physical form with all these physical redactions, or are you talking about just the heated reference to any other person, whether it's blacked out with a "him" put over it, or just the word "him"

already typed in it?

MR. SWERLING: Well, I think the statement itself is the problem, especially when you talk about physical descriptions or what people are wearing as well.

THE COURT: All right. Going back to the joint trial of the two indictments, I'm thinking about State v. Simmons, which is a 2002 Court of Appeals case, where two burglaries were tried together and they occurred at different places within the same geographic vicinity, within, you know, several minutes of one another, the trial judge allowed those to go forward during the same trial. And the points the trial judge has taken into account in exercising his or her discretion is the charges can be joined and tried together when they arise out of a single chain of circumstances or proved by the same evidence or the same general nature and no real right of the defendant has been prejudiced.

What is the right that's been prejudiced or rights that have been prejudiced, as far as Mr. Helton and Mr. Godbolt are concerned, if these two indictments are tried together?

MR. SWERLING: Well, I think that the cumulative effects of having two charges, indictments, going forward at the same time, that would be the impact of prejudice having two indictments, two separate charges going forward at the

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same time. So I think it's a cumulative type of prejudice.

THE COURT: Doesn't the same prejudice potentially arise if they are not tried together, but the first one comes in as part of the res gestae, if it comes in under that theory?

MR. SWERLING: Well, that's -- excuse me, to me that would be a separate evidentiary issue as to whether or not you would let it in as res gestae. That puts it on me to try anything.

THE COURT: But your prejudice argument would basically be the same?

MR. SWERLING: Well, I would certainly argue that it is prejudicial to allow it in under res gestae as well.

THE COURT: Okay. Of course, that is within my discretion.

I haven't frankly had a chance to read all of those cases that you gentlemen cited, but, Mr. Smaldone, do you join in all this, at least on the joint indictment?

MR. SMALDONE: On the joint indictment I do join, yes, Your Honor.

THE COURT: Anything else, Mr. Meadors?

MR. MEADORS: No, sir, Your Honor.

THE COURT: I guess the awkward thing for me is on the joining the indictments, I don't know -- I haven't heard any evidence about whether or not the evidence is going to

be introduced. In other words, the second element they have to be proved by these same evidence.

In this burglary case, the Simmons case, it's two different victims, two different MO's. One I think the door was kicked in. Another one was busted, but Judge Johnson, the trial judge, he let those be tried together and the Court of Appeals said that was fine, that it was in his discretion. He didn't abuse it.

So what's the evidence in general that would be submitted on Widgeon Way? Forced entry?

MR. MEADORS: Entry to the rear. Knocked out a rear window, which was consistent, I believe, with Canvasback.

It was entry to the rear. It was not the same entry as Canvasback.

Reco Godbolt's statement, a laptop from Widgeon Way was found in the vehicle that Reco Godbolt and we believe Jamal Helton fled from. A police officer saw two black males flee. In that vehicle was the laptop that Sergeant Davis have ID'd coming from that house, Your Honor.

Godbolt is caught. We believe Helton flees.

A do rag is found. I'm not exactly sure how far, sixty yards, or so, from the Canvasback house. That do rag was sent to SLED and DNA on the do rag does come back to Jamal Helton. So that clearly ties him to the Canvasback.

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The question then Widgeon Way is, you know better than I do. Just I think a -- not very far. A street or two over.

THE COURT: Not very far.

MR. MEADORS: So as far as Widgeon Way itself, it would be the statement of Reco Godbolt and the laptop that's found from Widgeon Way in the car I think thirty minutes less after the burglary.

Then Mr. Helton is tied in, I guess you would say, to both of them through the do rag that's found near Canvasback, Your Honor.

MR. SWERLING: Judge, just I want to correct that. I think the -- there is no evidence that Mr. Helton -- other than Mr. Godbolt's statement, there is no evidence that Mr. Helton broke into Widgeon Way. It would only be through Mr. Godbolt's statement.

THE COURT: Now, the do rag, what connection was that to -- Dr. Funke's identification said he had a do rag?

MR. MEADORS: Something tied on his head, yes, sir.

THE COURT: And a do rag was found?

MR. MEADORS: Yes, sir. And I think --

THE COURT: Nothing about a do rag in Widgeon Way?

MR. SWERLING: No, sir, because nobody was home. I mean, as I understand it, it was unoccupied at the time.

They didn't discover it until they came home at lunch.

MR. MEADORS: They think that they had just left when they came home.

THE COURT: All right. Here is my inclination. I'm going to read all this during lunch. My inclination is to not allow both indictments to be tried together, but I'll certainly hear testimony and evidence this afternoon about the res gestate or any Lyle evidence on the Widgeon Way.

Also my inclination at this point is not to grant a severance because the content of the statement, but certainly I'll read that in more detail, along with the Richardson case, and Parker case, and all the others just to make sure. I just want to give you kind of an idea where I'm heading. Of course, I may change my mind.

MR. SWERLING: Yes, sir.

THE COURT: Okay. If you gentlemen could be back at about 1:15 so we can cover any other basis we have.

MR. MEADORS: Thank you, Your Honor.

MR. SWERLING: Thank you, judge.

THE COURT: Mr. Meadors, have you had a chance to look at his voir dire yet?

MR. MEADORS: We did, Your Honor, and no objections.

Judge, the other thing I left off, the entry was at the rear of Canvasback, but nothing was broken. The

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window wasn't broken out, but other than that, that was it.

THE COURT: All right.

(Whereupon, proceedings were recessed)

(Whereupon, proceedings were reconvened

THE COURT: Okay, Mr. Meadors.

MR. MEADORS: May it please the court?

THE COURT: Yes, sir.

MR. MEADORS: Your Honor, at this time the State would call the State of South Carolina versus Jamal Helton and the State of South Carolina versus Reco Godbolt.

This is Sumter County True Billed Indictment 2012-GS-43-0227.

Mr. Helton is represented by Mr. Swerling.

Mr. Godbolt is represented by Mr. Smaldone.

This is an indictment of kidnapping, burglary first degree, attempted murder, armed robbery, possession of a weapon during the commission of a violent crime, and criminal conspiracy.

THE COURT: All right, ladies and gentlemen, let me have your attention please. We are going to now select a jury for the trial of the case of the State of South Carolina versus Reco Godbolt, Reco Antonio Godbolt, actually, and State versus Jamal DaJohn Helton.

The questions that I'm going to ask you are designed specifically to make sure that we impanel a jury

that will be fair and impartial and one which will base a verdict in this case solely on the evidence and the law and free from any improper motivation, any bias or prejudice, or anything outside the evidence in the law.

Please note that you are under oath. And if I do ask a question that applies to you, it really doesn't do any good for you to raise your hand, because I may not be able to see. If I do ask a question that applies to you, just stand up, and then I will either from where you stand or I'll ask you to come forward, I'll ask you some follow-up questions, but what I do not want you to do is just to stand up and start talking. That is not what I want you to do.

The first thing I'll need, of course, is your name. Then we go from there. And some questions, you know, a multiple of people may stand. We will handle that accordingly.

Also, if you do come up and give information to me up here, typically that's because to be on the safe side I don't know what you are going to say and I will just get it on the record up here, but if any of you do come forward, please do not share with any of your fellow jurors anything that we spoke about up here. And, likewise, don't ask any of your fellows jurors what was talked about up here.

All right. The fact, ladies and gentlemen, that someone is arrested or charged or indicted for any crime is

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not evidence of guilt. In this state, and in most states, the criminal proceedings begin by way of an indictment. That is simply an allegation or a set of allegations that the State is required to prove beyond a reasonable doubt.

Now, in criminal cases the defendants do not have any burden of proving or disproving anything.

A jury is the sole fact finder; in other words, the jury reaches a verdict, not the judge. So the fact that I may reference allegations made by the State when I read from these indictments is not intended to be a comment by me on the facts of the case, but I do have to let you know what the charges are about so that you can answer the first question, and that will be is there anyone who knows anything about this case.

First of all, the defendants are Reco Godbolt.

Mr. Godbolt, if you could please stand. Face the jury panel please, sir.

All right. You may have a seat.

And also Jamal Helton.

Mr. Helton, if you could stand, please, and face the jury panel.

Thank you, sir.

The defendants, according to the allegations of the State, on or about October 31, 2011, did commit several offenses. One of those was kidnapping, in that they did on

that date unlawfully seize or confine, so forth, one Bryan Funke.

If Bryan Funke would please stand and face the jury panel.

Thank you, sir.

Also the indictment alleges that on or about the same date the defendants did commit the crime of burglary, in that they entered his dwelling, the Funke dwelling, without consent at [redacted] without consent and with the intent to commit a crime therein; and that during the course of that one or both of these defendants were armed with a deadly weapon.

The third count says that on or about the same date the defendants committed the crime of attempted murder.

Also on that date the indictment alleges that the defendants did commit the offense of armed robbery.

And that they were in possession of a weapon during the commission of a violent crime.

And also that they did engage in a conspiracy to commit the crime of burglary in the first degree.

Now, ladies and gentlemen, is there anyone on this jury panel who knows anything about this case, and that is as follows: Basically by any stretch at all have you heard anything about it, read anything about it, listened to anything about it, or do you have any information whatsoever

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in your mind, other than what I have just referenced from reading the allegations in the indictment? If so, please stand.

All right, the record will show no one stood.

You have been introduced on a limited basis to Mr. Helton, Mr. Godbolt, and Bryan Funke.

If I use the term immediate family member as I go through these questions, that means you, your father, mother, brother, sister, or child, or anyone else you consider to be a close family member.

Is there anyone on this jury panel or anyone in your immediate family who, first of all, may be kin to, that's related by blood or marriage, to Jamal Helton, Reco Godbolt or Brian Funke? Related by blood or marriage? Some people just say kin.

Anybody? You or any member of your immediate family?

(No response)

THE COURT: All right. Is there anyone on this jury panel or, to your knowledge, anyone in your immediate family who has any, and that's any, connection or acquaintance, however slight, or association now or in the past with either Mr. Helton, that's Jamal Helton, Reco Godbolt, or Brian Funke? Do you know them in any way? And that could be very, very well, or just ever so slightly. If

so, please stand.

Your name, sir?

JUROR NUMBER 81: Darryl McElveen.

THE COURT: Mr. McElveen?

JUROR NUMBER 81: Yes.

THE COURT: And which individuals is it that you --

JUROR NUMBER 81: Probably both.

THE COURT: The defendants?

JUROR NUMBER 81: Yes, sir.

THE COURT: How long have you known them?

JUROR NUMBER 81: I'm a bondsman.

THE COURT: How long, sir?

JUROR NUMBER 81: I'm a bondsman.

THE COURT: Okay. All right.

All right, come on up, please.

(Juror Number 81 approached the bench for a bench conference)

THE COURT: The question is how long have you known them? How long have you known them?

JUROR NUMBER 81: Over several years. I think I bonded them out about '09, or something like that. I can't remember when.

THE COURT: Okay.

JUROR NUMBER 81: And we had -- you know, the

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family communicated with us.

THE COURT: All right. You can have a seat. Thank you, sir.

(Juror Number 81 returned to the jury venire panel)

THE COURT: All right. Any problems with that?

MR. SWERLING: I have a problem.

MR. FINNEY: They had to get out. I mean, they -- they said they had -- he has to get out. You have got to have a bondsman. Everybody knows that.

MR. SWERLING: That does give the connotation they have got a criminal history.

THE COURT: All right. We will just --

MR. FINNEY: Are you going to leave him on?

THE COURT: No.

MR. FINNEY: Okay.

(Whereupon, the bench conference was concluded)

THE COURT: All right. Anyone else?

(No response).

THE COURT: All right. The following, ladies and gentlemen, is a list of possible witnesses in this case and these are all potential witnesses. That doesn't mean that they will all be called, but they may.

If any of the witnesses are present, please stand and face the jury panel.

The question would be the same. Is there anyone on this panel or any member of your immediate family who would be kin the to any of these possible witnesses, or do you have any type of connection or acquaintance or association, however slight? It could be that you went to school with them, go to school with them, went to church with them, worked with them, so forth and so on, by whatever stretch.

James Allsbrook, Sumter Police Department.

Agent Catherine Leisy of SLED, also State Law Enforcement Division.

Lieutenant Truman Duggin of the Sumter Police Department.

Marie Hodge of the police department.

Detective Brian Christmas of the police department.

Detective Rick Morse of the police department.

Betty Butler, John Roberts and Hue Tang from SLED.

Dr. Bryan Funke, who has already stood.

Carol Funke, if you please.

MR. MEADORS: That should be Carolyn Funke, I'm sorry.

THE COURT: Carolyn Funke, please stand and face the jury panel. Thank you.

Detective William Lyons of the Sumter Police

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Department.

Also Robbie Richburg.

Detective Melton. John Melton, police department.

Detective J.B. Tallon. Trey Tallon of the Sumter Police Department.

Officer Nicholas Palumbo and Officer Caleb Miller of the police department.

Master Sergeant Michael Davis.

Sergeant Gretchen Davis.

Monyca Uecker.

Sue Johnson.

Officer Scott Bonner and Corporal Kevin Sergeant of the police department.

You can stay standing, if you would like. Thank you.

Shirlene Skiper, a 911 dispatcher.

Detective Johanna Aleck of the police department.

Ronnie Randolph, also known as Ronnie Richbourg.

Spencer Braxton.

Jessica Hodge.

Brittany Braxton.

David Lee Stevenson.

Diamond --

Are you Mr. Stevenson?

MR. STEVENSON: Yes, sir.

THE COURT: Okay, Mr. Stevenson is over to your left. Thank you, sir.

Diamond Young.

Detective Natalie Kelly of the police department.

Jason Lyons. He's with the police department, correct?

MR. MEADORS: Former.

THE COURT: Formerly, okay.

Officer Russell Brannon of the Sumter Police Department.

Again, the question is anyone kin to -- anyone on the panel or any member of your immediate family who is kin to any of these individuals or know them, acquainted with them, connected with them in any way at all?

Your name, please?

JUROR NUMBER 15: Joan Bonner.

THE COURT: All right, first of all, just give me the name of the potential witness. Just the name.

JUROR NUMBER 15: Scott Bonner.

THE COURT: Okay. And is he related to you?

JUROR NUMBER 15: My stepson.

THE COURT: Okay. I'll have you come forward in just a minute. Thank you, ma'am.

Do you know your juror number?

JUROR NUMBER 15: 15.

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THE COURT: Okay. Thank you.

Anyone else?

(No response)

THE COURT: All right, the defendant, Mr. Helton, is represented by Jack Swerling.

Mr. Swerling, you can stand and introduce yourself and anyone else who may be assisting you in this case.

MR. SWERLING: Good afternoon, ladies and gentlemen. My name is Jack Swerling and I'll be representing Mr. Helton in this matter.

THE COURT: Thank you.

Mr. Smaldone?

MR. SMALDONE: Good afternoon. My name is Grant Smaldone. I represent Mr. Godbolt in this matter.

THE COURT: And the State of South Carolina is represented by Mr. Meadors.

Mr. Meadors?

MR. MEADORS: May it please the court?

THE COURT: Yes, sir.

MR. MEADORS: John Meadors, assistant solicitor. I'm working with Chip Finney, III.

THE COURT: Thank you.

Anyone on this jury panel, or, to your knowledge, anyone in your immediate family, first of all, who may be related by blood or marriage to any of these attorneys?

Is anyone on the jury panel, or, to your knowledge, anyone in your immediate family who has any type of acquaintance, however slight, or connection or association with any of these lawyers?

(No response)

THE COURT: Is there anyone on this jury panel, or, to your knowledge, anyone in your immediate family who has ever been represented by any of these attorneys or anyone from their respective offices? If so, please stand.

All right, come on up, please, Mr. Noyes.

And Ms. Bonner, if you could come on up too, please.

(Juror Number 97 approached the bench for a bench conference)

THE COURT: You can just stand right there at the gate, Ms. Bonner.

Okay, what's your answer to that?

JUROR NUMBER 97: I have been represented by the solicitor's office in the case of my son.

THE COURT: Okay. And what was that case about?

JUROR NUMBER 97: Someone stole my son's sunglasses and beat him up.

THE COURT: Okay. That was over there on Ginyard?

JUROR NUMBER 97: Yeah.

THE COURT: Okay. Is that charge still pending?

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JUROR NUMBER 97: I have no idea.

THE COURT: Okay. All right. That was about two years ago?

JUROR NUMBER 97: Yeah.

THE COURT: Okay. All right. If you were a juror in this case, sitting on a jury in this box, first of all keeping in mind that the solicitor's office is prosecuting that case, could you be fair and impartial to the defendants?

JUROR NUMBER 97: I think so.

THE COURT: And are you sure about that, or --

JUROR NUMBER 97: I'm positive.

THE COURT: Okay. And tell the folks who are in the courtroom from time to time who may be familiar with what the situation with your son, but these two lawyers may not be, so why don't you just --

JUROR NUMBER 97: My son a couple years ago got accosted and beat up over a pair of sunglasses and a couple of hoodlums stole from him and I was involved with the solicitor's office for that, and that's my association.

THE COURT: Okay. Taking that into account, the fact that your son, who is about what, ten or eleven at the time?

JUROR NUMBER 97: He would have been probably twelve at that time.

THE COURT: If he was the victim of that type of offense, could you be fair and impartial in this type of case, where the allegations were what I just put on the record a few minutes ago?

JUROR NUMBER 97: Absolutely.

THE COURT: Okay. And while I have got you up here, have you ever been a victim yourself of any type of violent offense, such as, you know, including that, but limited to a burglary, or an assault, sexual assault, a murder, anything like that?

JUROR NUMBER 97: I have been a victim of a burglary too.

THE COURT: Okay. When was that?

JUROR NUMBER 97: A little over a year ago.

THE COURT: Okay. And you live on the corner of Tucson --

JUROR NUMBER 97: And Haynsworth.

THE COURT: -- and Haynsworth.

Do you know what happened?

JUROR NUMBER 97: Somebody broke in my house and tried to take my stuff.

THE COURT: Were you there?

JUROR NUMBER 97: No.

THE COURT: Okay. And keeping that in mind, could you be fair and impartial in this type of case, where it is

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alleged that these types of offenses occurred?

JUROR NUMBER 97: My judgment would be to the facts of this case.

THE COURT: Okay. Thank you.

All right, you can have a seat. Thank you, sir.

MR. SWERLING: What was your number?

JUROR NUMBER 97: 97.

THE COURT: Thank you.

(Juror Number 97 returned back to the jury venire panel)

THE COURT: All right, Ms. Bonner.

(Juror Number 15 approached the bench for a bench conference)

THE COURT: On the record again, what your answer to that question was?

JUROR NUMBER 15: Scott Bonner is my stepson.

THE COURT: Okay. And is he an officer?

MR. MEADORS: He would lead the dogs.

THE COURT: All right. If he were to testify in this case, could you be fair and impartial?

JUROR NUMBER 15: I don't know, I will be honest.

THE COURT: Okay. What I'm going to do is stand you aside for this trial.

JUROR NUMBER 15: Okay.

THE COURT: You don't have to stand up in response

to any more questions in this case.

JUROR NUMBER 15: Okay.

THE COURT: Okay?

JUROR NUMBER 15: And while I'm up here, I have a brother that's a judge, and another brother that's a cop too.

THE COURT: Okay.

JUROR NUMBER 15: And I'm with Mothers Against Drunk Drivers.

THE COURT: Okay. You don't need to answer any more questions in this case.

JUROR NUMBER 15: Thank you.

(Juror Number 15 returned back to jury venire panel)

(Whereupon, the bench conferences were concluded)

THE COURT: Are there anyone on the jury panel or anyone in your immediate family who is now employed by any law enforcement agency? That might be a city law enforcement agency, county, state or federal. These would include, but certainly not limited to, a police department, sheriff's department, SLED, highway patrolman, or perhaps a federal investigative body, such as the FBI.

(No response).

THE COURT: Is there anyone on the jury panel or anyone in your immediate family who is now in the United

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States Air Force? If so, please stand.

Your name, please?

JUROR NUMBER 16: Wanda Carney.

THE COURT: Wanda?

JUROR NUMBER 16: Carney.

THE COURT: All right, Ms. Carney, if -- what is your answer to that question, please?

JUROR NUMBER 16: My husband is in the National Guard.

THE COURT: How long has he been in the National Guard?

JUROR NUMBER 16: Somewhere around nineteen years.

THE COURT: Nineteen years?

JUROR NUMBER 16: Yes, sir.

THE COURT: All right. If there was testimony in this case from a member of the Armed Services or members of the Armed Services, could you be fair and impartial?

JUROR NUMBER 16: Yes, sir.

THE COURT: Could you base your verdict on the evidence as a whole and the law as I give it to you?

JUROR NUMBER 16: Yes, sir.

THE COURT: Thank you, ma'am.

Is there anyone on this jury panel or any member of your immediate family who is related to any member of the Third Circuit solicitor's office, that's Mr. Finney's

office, or related to any member or anyone employed by the South Carolina Attorney General's office? If so, please stand.

(No response)

THE COURT: Is anyone on the panel who is acquainted with anyone employed by the solicitor's office or the Attorney General's Office?

(No response)

THE COURT: Is there anyone on this panel, or, to your knowledge, is there anyone in your immediate family who is a member of or a contributor to any organization that has as its primary focus the promotion of law enforcement or the enforcement of victims rights, and these are included, but not limited to, Mothers Against Drunk Driving, Students Against Drunk Driving, Citizens Against Violent Crime, the South Carolina Law Enforcement Officers Association, the South Carolina Troopers Association, the Fraternal Order of Police, Palmetto Citizens Against Sexual Abuse, or any other type organizations, again, that deal with the promotion of law enforcement or the enforcement of victims rights? If so, please stand.

Come on up, please, sir.

(Juror Number 6 approached the bench for a bench conference)

THE CLERK: What's your name, sir?

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JUROR NUMBER 6: Joe Blas, number 6.

THE COURT: Yes, sir.

JUROR NUMBERT 6: I'm a current member of the Fraternal Order of Police.

THE COURT: Okay. How long have you been a member of that?

JUROR NUMBER 6: Six years, I think.

THE COURT: Obviously I had called out the names of some law enforcement officers who may testify. Taking that into account, and anything else involving your involvement in this organization, or, as a matter of fact, formerly being a reserve officer, could you be fair and impartial in this case and base a verdict on the evidence and the law?

JUROR NUMBER 6: Yes.

THE COURT: How long were you a law enforcement officer?

JUROR NUMBER 6: Five years.

THE COURT: And that was totally as a reserve?

JUROR NUMBER 6: Yes.

THE COURT: What did you do?

JUROR NUMBER 6: I was an active on the road officer.

THE COURT: And that was in Summerville?

JUROR NUMBER 6: In Summerville.

THE COURT: That's what you said up here earlier.

And could you base your verdict on the evidence in this case?

JUROR NUMBER 6: Yes, sir.

THE COURT: Thank you.

All right, thank you, sir.

(Juror Number 6 returned back to the jury venire panel).

MR. MEADORS: You haven't ask if anyone is a member of the ACLU.

THE COURT: You never asked that.

MR. MEADORS: Don't you consider that?

MR. SWERLING: What was the question?

MR. MEADORS: The American Civil Liberties Union, if you are a member. I just thought of it in my head.

THE COURT: All right.

(Whereupon, the bench conference was concluded).

THE COURT: Is there anyone on the panel who is a member of the American Civil Liberties Union, the ACLU?

(No response).

THE COURT: All right, is there anyone on the panel who has heard or seen or read anything about any of these -- any news accounts about this case at all?

All right, come on, please, ma'am.

(Juror Number 5 approached the bench for a bench

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conference)

THE COURT: You are juror number?

JUROR NUMBER 5: Benson.

THE COURT: Your number?

JUROR NUMBER 5: Number 5.

THE COURT: What's your answer to that?

JUROR NUMBER 5: I believe I do remember reading about that in the newspaper.

THE COURT: What did you read, do you remember?

JUROR NUMBER 5: Well, actually my house was burglarized.

THE COURT: And where is your house?

JUROR NUMBER 5: That summer, so I was real in tune to hearing about things like that. I remember reading --

THE COURT: I know, Ms. Benson.

Do you live in the subdivision across from Idlewild?

JUROR NUMBER 5: Uh-huh. I just remember hearing about it.

THE COURT: Okay. Is there anything -- do you remember what you read about or heard about?

JUROR NUMBER 5: Just -- I just remember that -- I think it's the same case. I just remember that this gentleman might have come home and seen a car. I'm not sure

if that's the same one, and saw the car and called 911. And I just remember reading that in the newspaper.

THE COURT: Based on anything that you may have read about or heard about, has any of that given you any type of predisposition as to whether these two people who were charged --

JUROR NUMBER 5: No.

THE COURT: -- would be guilty?

JUROR NUMBER 5: No. Not one thing about them, or --

THE COURT: And if you were on this jury, would you be inclined to substitute what you read or heard from what the evidence was that was introduced in this case, or could you base your verdict on the evidence introduced in this courtroom?

JUROR NUMBER 5: Absolutely.

THE COURT: Could you do that?

JUROR NUMBER 5: Absolutely.

THE COURT: And would you do that?

JUROR NUMBER 5: Absolutely.

THE COURT: Okay. If you were on this jury, would you -- of course, you would be instructed, but would you abide by the instruction that you could not discuss with the other jurors anything that you had read or heard anything about the case? Could you do that?

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JUROR NUMBER 5: Absolutely.

THE COURT: Okay.

JUROR NUMBER 5: I'm just saying it's the case, I remember reading about it.

THE COURT: Okay.

JUROR NUMBER 5: Because there was a case -- I don't know that it was -- when you said if we had read anything, I do remember reading that.

THE COURT: Okay. If it was or it wasn't, you would be charged that you would have to try this case according to the evidence and the law that you receive in the courtroom. Could you do that?

JUROR NUMBER 5: Absolutely.

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

(Juror Number 5 returned back to the jury venire panel)

MR. SWERLING: On my voir dire questions, for some reason I left out the subdivision. We had a question that we wanted to ask about did anybody live in that subdivision.

THE COURT: I'll do that.

MR. SWERLING: I apologize. I thought it was on there, but it's not.

THE COURT: Okay.

(Whereupon, the bench conference was concluded)

THE COURT: All right. Is there anyone on the

panel who lives in Idlewild -- or excuse me, anyone on the panel or member of your immediate family who resides in Idlewild Subdivision?

All right. No one stood.

Is there anyone on the jury panel or any member of your immediate family who has ever been the victim of, or claimed to be the victim of, or been accused of committing a crime involving violence? These include, but are not limited to, a murder, or attempted murder, an armed robbery, or a burglary, a sexual assault, or any other event that you would consider to be violent?

Anyone on the panel or any member of your immediate family who has ever been the victim of it, claimed to be the victim of it, or ever been accused of that. If so, please stand.

All right, if you could form a line in the center, please. And these would typically not include something such as breaking into your automobile, while certainly that is criminal offense, but that's not the type of thing that I'm referencing.

(Whereupon, the following were bench conference, including the attorneys)

(Juror Number 100 approached the bench for a bench conference)

THE COURT: All right.

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THE BAILIFF: Joe Pearson.

THE COURT: Mr. Pearson?

JUROR NUMBER 100: Yes, sir.

THE COURT: Yes, sir.

JUROR NUMBER 100: Yeah, I got a son that was locked up in the county eighteen months for some of those same charges that --

THE COURT: What is his name?

JUROR NUMBER 100: Emanuel Pearson.

THE COURT: Okay. He's been in the local jail for eighteen months?

JUROR NUMBER 100: Yeah, but he wasn't even in the house. He was an accessory to the crime. He was in the car.

THE COURT: Okay. What are the charges? Do you know what they are called?

JUROR NUMBER 100: I think it was a home invasion.

THE COURT: Okay. Whereabouts was it in the county, do you know?

JUROR NUMBER 100: This happened in Sumter.

THE COURT: I know, but whereabouts?

JUROR NUMBER 100: I don't even know.

THE COURT: Okay. If you were a juror on this case, could you be completely fair and impartial to the State of South Carolina and to the defendant?

JUROR NUMBER 100: I mean, I was really trying to get out of this jury because of what my son is going through.

THE COURT: All right.

JUROR NUMBER 100: It would be hard for me to kind of deal with.

THE COURT: My question is could you --

JUROR NUMBER 100: Yes, I could. I could.

THE COURT: Could you be fair if you were on a jury?

JUROR NUMBER 100: Yeah.

THE COURT: And that's to the State and to the defendant?

JUROR NUMBER 100: Yes, sir.

THE COURT: And could you base your verdict on the evidence and the law from this courtroom and not based on anything involved involving your son?

JUROR NUMBER 100: Yeah.

THE COURT: Thank you, Mr. Pearson.

(Juror Number 100 returned back to the jury venire panel).

THE BAILIFF: Contina Preston.

(Juror Number 107 approached the bench for a bench conference)

THE COURT: Yes, ma'am. Ms. Preston?

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JUROR NUMBER 107: Yes.

THE COURT: Yes, ma'am.

JUROR NUMBER 107: Is that part of magistrate court?

THE COURT: What happened? Were you the defendant, or somebody else?

JUROR NUMBER 107: Somebody else.

THE COURT: What was the charge, do you know?

JUROR NUMBER 107: Assault and battery third.

THE COURT: Okay. Were you the victim?

JUROR NUMBER 107: Uh-uh.

THE COURT: Who was?

JUROR NUMBER 107: Latoya Anthony.

THE COURT: Who was the defendant? You?

JUROR NUMBER 107: Yes.

THE COURT: How long ago was that?

JUROR NUMBER 107: It's just last week.

THE COURT: What?

JUROR NUMBER 107: Last week.

THE COURT: Last week.

And what happened with that?

JUROR NUMBER 107: I asked for a jury trial. She wanted to drop it, but I got up to the judge first before she even got to speak to me.

THE COURT: Okay. And did you get convicted?

JUROR NUMBER 107: No.

THE COURT: Okay. If you were on a jury in this case --

JUROR NUMBER 107: Uh-huh.

THE COURT: -- could you be fair and impartial?

JUROR NUMBER 107: Yes, sir.

THE COURT: And base your verdict on the evidence and the law?

JUROR NUMBER 107: Yes, sir.

THE COURT: Thank you.

(Juror Number 107 returned back to the jury venire panel)

THE BAILIFF: Cindy Benson.

(Juror Number 5 approached the bench for a bench conference)

THE COURT: Yes, ma'am.

JUROR NUMBER 5: Yeah.

THE COURT: The burglary charge?

JUROR NUMBER 5: Uh-huh.

THE COURT: When was that, do you know?

JUROR NUMBER 5: August, 2011.

THE COURT: Okay. And was anybody apprehended?

JUROR NUMBER 5: No.

THE COURT: Do you know how they got in the house?

JUROR NUMBER 5: Uh-huh.

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THE COURT: How?

JUROR NUMBER 5: Back door.

THE COURT: Okay. And was anybody hurt?

JUROR NUMBER 5: No.

THE COURT: Daytime or nighttime?

JUROR NUMBER 5: Day.

THE COURT: All right. And the police came?

JUROR NUMBER 5: Yes.

THE COURT: And nobody was ever apprehended?

JUROR NUMBER 5: Uh-uh.

THE COURT: Okay. If you were on the jury, taking that into account, could you be fair and impartial?

JUROR NUMBER 5: I could.

THE COURT: And base your verdict on the evidence and the law in this case?

JUROR NUMBER 5: I could.

THE COURT: Thank you.

(Juror Number 5 returned back to the jury venire panel)

THE BAILIFF: Number 13, Taylor Campbell.

(Juror Number 13 approached the bench for a bench conference)

THE COURT: Ms. Campbell?

JUROR NUMBER 13: Yes, sir.

THE COURT: Yes, ma'am.

JUROR NUMBER 13: I was here nine months ago. My brother.

THE COURT: Back up a little bit. She needs to get it in that microphone.

JUROR NUMBER 13: My brother was accused of something he didn't do.

THE COURT: What's his name?

JUROR NUMBER 13: Shawn Campbell.

THE COURT: Shawn Campbell?

JUROR NUMBER 13: Uh-huh.

THE COURT: What was he accused of?

JUROR NUMBER 13: Sexual contact with a minor, with our nieces.

THE COURT: Okay. Did he have a trial?

JUROR NUMBER 13: No, not yet.

THE COURT: Not yet. Okay.

If you were on this jury -- and, of course, you answered the question properly, because I did mention that particular range of offenses.

If you were on this jury, could you be fair and impartial to the State and to the defendants?

JUROR NUMBER 13: Uh-huh.

THE COURT: Ma'am?

JUROR NUMBER 13: Yes, sir.

THE COURT: Could you base your verdict on the

evidence and the law in this case?

JUROR NUMBER 13: Yes, sir.

THE COURT: All right. Thank you.

JUROR NUMBER 13: Yes.

(Juror Number 13 returned back to the jury venire panel)

THE BAILIFF: Number 46, Lillie Hancock.

(Juror Number 46 approached the bench for a bench conference)

THE COURT: Your last name again?

JUROR NUMBER 46: Hancock.

THE COURT: Yes, ma'am.

JUROR NUMBER 46: Someone broke into my home.

THE COURT: How long ago?

JUROR NUMBER 46: It was about five years ago.

THE COURT: And what street?

JUROR NUMBER 46: Clematis Trail.

THE COURT: Okay. That's over there in Sunray Hollows?

JUROR NUMBER 46: Uh-huh.

THE COURT: How long ago?

JUROR NUMBER 46: About five years.

THE COURT: Okay. Was anybody apprehended?

JUROR NUMBER 46: No.

THE COURT: Do you know how they got in?

JUROR NUMBER 46: Yes, they came through a window.

THE COURT: Okay. Did they take some things?

JUROR NUMBER 46: Yes.

THE COURT: And were you home?

JUROR NUMBER 46: No.

THE COURT: Was anyone home?

JUROR NUMBER 46: No.

THE COURT: Okay. If there is a trial in this case and you were on the jury, could you set aside completely what happened with you, if you were on this jury?

JUROR NUMBER 46: Yes.

THE COURT: And could you be fair and impartial to the State and to the two defendants?

JUROR NUMBER 46: Yes.

THE COURT: Could you base your verdict on the evidence --

JUROR NUMBER 46: Yes.

THE COURT: -- in this courtroom?

JUROR NUMBER 46: Yes.

THE COURT: Thank you, ma'am.

(Juror Number 46 returned back to the jury venire panel)

(Whereupon, the bench conferences were concluded)

THE COURT: Is there anyone on this panel who has by chance ever had any discussions with anyone else

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pertaining to whether or not these defendants are guilty or not guilty?

No one stood.

Is there anyone on the jury panel who has formed or expressed any opinion about any of the issues involved in this case, which would certainly include, but not limited to, whether or not either one or both of these defendants are guilty or not guilty?

(No response).

THE COURT: Is there anyone on the jury panel who is aware of any bias or prejudice that you might have for or against the State, for or against either defendant, any of the attorneys, or any of the witnesses in this case? That's a bias or a prejudice for or against any of these individuals.

(No response)

THE COURT: Is there anyone on the panel -- to the extent that you have not already imparted that information, is there anyone on this panel or any member of your immediate family who has ever had any official business with the Third Circuit solicitor's office or the South Carolina Attorney General's office? That's what you would consider to be the official business.

(No response)

THE COURT: Is there anyone on this panel or any

member of your immediate family who has served on the Circuit County grand jury this calendar year?

(No response)

THE COURT: Again, is there anyone who knows of any reason why you cannot be completely fair and impartial to the State and to Jamal Helton and to Reco Godbolt?

(No response)

THE COURT: Any additional questions from the State?

MR. MEADORS: No, sir.

THE COURT: Any from Mr. Helton?

MR. SWERLING: No, Your Honor.

THE COURT: Mr. Godbolt?

MR. SMALDONE: No, Your Honor.

THE COURT: All right. Could I see the lawyers up here for just a minute?

(Whereupon, the lawyers approached the bench for an off-the-record discussion)

THE COURT: All right. Ladies and gentlemen, the way the process works in General Sessions Court is if your name is called --

First of all, your names are in a computer. It used to be in little capsules and you put them into a little brass drum and you have to turn it around and names were selected individually. Now the process calls for a computer

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to juggle the names. The computer generates a list, which is printed, and Mr. Bradley and I will have a copy of that. The lawyers don't get a copy of that.

If your name is called, simply come forward toward these two microphones up here. You go to that point, stop and turn around. You don't have to say anything. All you have to do is just walk up here, stop and turn around and the jury will be selected at that time.

If you are selected, you will have a seat in the jury box, so make sure -- Mr. Bradley will tell you to bring anything that you have with you, like your purse or jacket or anything like.

All right, Mr. Bradley.

THE CLERK: All right, sir.

(Off the record)

(Back on the record)

THE COURT: As we typically are, we are at the mercy of a machine. Sometimes the machine doesn't work, so they are going down the hall to print the list.

(Off the record)

(Back on the record)

THE COURT: Could I see the lawyers up here for just a minute?

(Whereupon, the lawyers approached the bench for an off-the-record discussion)

THE COURT: All right, ladies and gentlemen, you probably can assume that the computer is not printing. You probably heard the beep. The integrity of the system is and any necessary repairs, or whatever you call it, have to be done through an office in Columbia and that's what they are doing now. If it's not fixed within the next few minutes, we are going to do it the old way and we are going to deal with strips of paper in a brass drum. I apologize for that.

And Mr. Bradley, if you could take a list of those present and start cutting out names. Find that brass drum or cigar box. Thank you.

Ladies and gentlemen on the jury, if you could be back in your seats in ten minutes. Of course, you can stay right where you are. But if you do leave the courtroom, please be back in your seats in ten minutes.

(Whereupon, proceedings were recessed)

(Whereupon, proceedings were reconvened)

THE CLERK: If it please the court, Your Honor?

THE COURT: Yes, sir.

THE CLERK: Ladies and gentlemen, when your name is called, please come through the double gate to your left, or the single gate on your right, which is most convenient. Come and stand in front of the bar facing back to the courtroom, please. Bring with you any personal belongings that you may have.

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Juror number 103, Kimberly Pollard.

What sayeth the State?

MR. MEADORS: Please present the juror.

THE CLERK: What sayeth the defendant?

MR. SMALDONE: Please seat the juror.

THE CLERK: Have a seat in the jury box, please, ma'am.

Juror number 73, William Lane, Jr..

What sayeth the State?

MR. MEADORS: Please present the juror.

THE CLERK: What sayeth the defendant?

MR. SMALDONE: Please seat the juror.

THE CLERK: Have a seat in the jury box, please, sir.

Juror number 100, Joe Pearson, Jr..

What sayeth the State?

MR. MEADORS: Please excuse the juror.

THE CLERK: Have a seat back with the panel. You have been excused from this trial, please, sir.

Juror number 36, Hazel Oletego.

What sayeth the State?

MR. MEADORS: Please present the juror.

THE CLERK: What sayeth the defendant?

MR. SMALDONE: Please excuse the juror.

THE CLERK: Have a seat back with the panel. You

have been excused from this trial, please, ma'am.

Juror number 49, George Hatfield.

What sayeth the State?

MR. MEADORS: Please present the juror.

THE CLERK: What sayeth the defendant?

MR. SMALDONE: Please seat the juror.

THE CLERK: Have a seat in the jury box, please, sir.

Juror number 143, Barbara Wigfall.

What sayeth the State?

MR. MEADORS: Please present the juror.

THE CLERK: What sayeth the defendant?

MR. SMALDONE: Please seat the juror.

THE CLERK: Have a seat in the jury box, please, ma'am.

Juror number 97, Charles B. Noyes.

What sayeth the State?

MR. MEADORS: Please present the juror.

THE CLERK: What sayeth the defendant?

MR. SMALDONE: Please excuse the juror.

THE CLERK: Have a seat back at the panel. You have been excused from this trial, please, sir.

Juror number 106, Mary Prescott.

What sayeth the state?

MR. MEADORS: Please present the juror.

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THE CLERK: What sayeth the defendant?

MR. SMALDONE: Please seat the juror.

THE CLERK: Have a seat in the jury box, please, ma'am.

Juror number 6, Joe Blas.

What sayeth the State?

MR. MEADORS: Please present the juror.

THE CLERK: What sayeth the defendant?

MR. SMALDONE: Please excuse the juror.

THE CLERK: Have a seat back with the panel. You have been excused from this trial, please, sir.

Juror number 17, Adelle Carter.

What sayeth the State?

MR. MEADORS: Please present the juror.

THE CLERK: What sayeth the defendant?

MR. SMALDONE: Please seat the juror.

THE CLERK: Have a seat in the jury box, please, ma'am.

Juror number 7, Randy Boston.

What sayeth the State?

MR. MEADORS: Please present the juror.

THE CLERK: What sayeth the defendant?

MR. SMALDONE: Please seat the juror.

THE CLERK: Have a seat in the jury box, please, sir.

Juror number 35, Lucky Fulwood.

What sayeth the state?

MR. MEADORS: Please present the juror.

THE CLERK: What sayeth the defendant?

MR. SMALDONE: Please seat the juror.

THE CLERK: Have a seat in the jury box, please, sir.

Juror number 82, Angelo McGainey.

What sayeth the State?

MR. MEADORS: Please seat the juror.

THE CLERK: What sayeth the defendant?

MR. SMALDONE: Please seat the juror.

THE CLERK: Have a seat in the jury box, please, sir.

Juror number 5, Cynthia Benson.

THE CLERK: What sayeth the State?

MR. MEADORS: Please present the juror.

THE CLERK: What sayeth the defendant?

MR. SMALDONE: Please excuse the juror.

THE CLERK: Have a seat back with the panel. You have been excused from this trial, please, ma'am.

Juror number 89, Asalene Morrison.

What sayeth the State?

MR. MEADORS: Please present the juror.

THE CLERK: What sayeth the defendant?

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MR. SMALDONE: Please seat the juror.

THE CLERK: Have a seat in the jury box, please, ma'am.

Juror number 131, Benjamin Vicczorek.

What sayeth the State?

MR. MEADORS: Please present the juror.

THE CLERK: What sayeth the defendant?

MR. SMALDONE: Please seat the juror.

THE CLERK: Have a seat in the jury box, please, sir.

Juror number 16, Wanda Carney.

What sayeth the State?

MR. MEADORS: Please present the juror.

THE CLERK: What sayeth the defendant?

MR. SMALDONE: Please excuse the juror.

THE CLERK: Have a seat back with the panel. You have been excused from this trial, please, ma'am.

Juror number 139, Billy Weidner.

What sayeth the State?

MR. MEADORS: Please present the juror.

THE CLERK: What sayeth the defendant?

MR. SMALDONE: Please seat the juror.

THE CLERK: Have a seat in the jury box, please, sir.

THE COURT: One and two on the alternate.

THE CLERK: Alternate juror, juror number 60, Richard Jackson.

What sayeth the State?

MR. MEADORS: Please excuse the juror.

THE CLERK: Have a seat back with the panel. You have been excused from this trial, please, sir.

Juror number 14, Lekeisha McMillan.

THE CLERK: What sayeth the State?

MR. MEADORS: Please present the juror.

THE CLERK: What sayeth the defendant?

MR. SMALDONE: Please seat the injure.

THE CLERK: Have a seat in the jury box, please, ma'am.

THE COURT: All right. Any motions or any other matters pertaining to jury selection, from the State?

MR. MEADORS: No, sir, Your Honor.

THE COURT: Mr. Swerling?

MR. SWERLING: No, Your Honor.

THE COURT: Mr. Smaldone?

MR. SMALDONE: No, Your Honor.

THE COURT: All right. Ladies and gentlemen of the jury, those of you who were just selected for the trial of this case, we are going to begin tomorrow morning. If you would go in just a moment with the bailiff, he will show you where to report tomorrow morning. I would like for you

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to be there at ten o'clock. We typically would start earlier than that, but I am supposed to have two hearings scheduled to start at nine. It won't take long, but just to be sure we don't keep you any longer than we have to.

Between now and then, as a matter of fact during the course of this trial, you may not discuss this case with anyone. That includes amongst yourselves. More than likely this is the only thing that the thirteen of you have in common, but you may not discuss it at all. You may not discuss any of the issues, any of the parties, the potential witnesses, even the lawyers. You can't talk about any of it.

Likewise, when you go on about your business today, you may go back to work, home, wherever you might go, you cannot talk to anyone on this earth about this case at all. You may have some people who are dying to know what you have been doing all day. The only thing you can tell them is that you have been participating in a jury selection. That's it. Don't talk to them about anything involving this case at all.

Likewise, I'm required to tell you by order of the chief justice that you are not permitted to do any type of research on your own in this case, whether that be reading anything, listening to anything, or gathering any information from any source at all, and that includes, but

is not limited to, the Internet, newspaper, magazines. Whatever you might gather information from you can't do it at all.

Also during the course of this trial you are not permitted to do what I assume people call blogging. You get on the computer and you type in there, or Facebook, and you are telling people what you have been doing all day. You can't do that at all.

I guarantee you that if you do any of that, it will probably come back to bite you, so don't do anything like that during the course of the trial.

You will be taking an oath to try this case and render a verdict according to the evidence and the law. You will get all of that right here in this courtroom and it would be terribly inappropriate for you to get any other information from any other source.

So I'll see you tomorrow morning at ten o'clock. I thank you for your patience today.

(The following takes place outside the presence of the jury panel)

THE COURT: Okay, ladies and gentlemen of the jury panel who were not selected as jurors for the trial of this case, it may be that Judge Cothran is prepared to select a jury in courtroom number two, so if you would kindly go down the hall to courtroom number two where you have been already

today, I believe. Well, if they are prepared to select a jury in that other case, he will do that in just a few minutes. If not, he will give you or the Clerk's office will give you some other instructions.

Thank you for your patience.

(Whereupon, the jury venire panel left the courtroom)

THE COURT: Could I see the lawyers up here for just a minute?

(Whereupon, the lawyers approached the bench for an off-the-record discussion)

(Off the record)

(Back on the record)

THE COURT: All right. First of all let me put on the record the rulings that I made earlier, specifically concerning Indictment 2012-GS-43-1314. I did not ever put it on the record, but I told the attorneys up here while the jury was in the courtroom that I would not permit the State to go forward in trying both indictments. In the second indictment, 1314, it dealt with the burglary of the Davis dwelling.

And I told the attorneys also that I would permit or would not sever the two defendants or require separate trials with the defendants. I believe that any Bruton issue can be resolved by redaction, and I will certainly allow the

lawyers to do what they need to do to protect themselves further on the record on that, but my reading of the cases that were cited on both of these issues are that even though arguably under the State v. Simmons, the two events did arise out of a single chain of circumstances and are of the same general nature.

I just don't see how they can be proven by the same evidence, and I know it's within my discretion to allow or not to allow the indictments to be tried together, but I'm going to make -- I believe that I'm correct in stating that they should not be tried together.

The redaction, I think if it's done properly, would be able to cure any problems with regard to any confrontation rights or hearsay issues that would arise, if Mr. Godbolt's statement is allowed into evidence and we will go forward in that fashion.

Could somebody give me perhaps a list of what issues we have to resolve this afternoon? I know we had a Jackson v. Denno matter. What else we have?

MR. SWERLING: Judge, can we approach?

THE COURT: Yes, sir.

(Whereupon, the lawyers approached the bench for an off-the-record discussion)

(Whereupon, proceedings were recessed)

(Whereupon, proceedings were reconvened)

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THE COURT: All right, Mr. Meadors.

MR. MEADORS: Beg the court's indulgence.

(Off the record)

(Back on the record)

THE COURT: All right, Mr. Meadors.

MR. MEADORS: Yes, sir, Your Honor.

As we packed up to leave, we were just trying to find this first statement.

THE COURT: We are going to go forward with the Denno matter today, and Mr. Swerling has absented himself from this proceedings. Anything that y'all want to put on the record on that?

MR. MEADORS: Your Honor --

(Off the record)

(Back on the record)

MR. MEADORS: Yes.

MR. SWERLING: Well, judge, we can't.

THE COURT: No, if you don't want to, that's fine. I just wanted to give you that opportunity.

MR. SWERLING: Just so I think everybody would feel better, Mr. Meadors and I have been negotiating on this and I think we have reached an agreement, a negotiated sentence. So with that in mind I'm just going to step back, if the court is okay with that, and Mr. Meadors and I will just finalize the details of it by tomorrow morning.

I understand the State doesn't want to do it until tomorrow morning. That's fine.

MR. MEADORS: We have some victims that requested to be here. Of course, if Your Honor doesn't mind taking the plea in the morning, we would appreciate it.

THE COURT: All right, we have the one motion, the Jackson v. Denno motion.

All right, Mr. Meadors, you can call your first witness.

MR. MEADORS: Your Honor, if I could just have this marked as State's 1 and 2 for ID.

(Miranda Rights Form marked as State's Exhibit No. 1 for identification)

(Statement of Reco Godbolt marked as State's Exhibit No. 2 for identification)

MR. MEADORS: Natalie Kelly.

THE CLERK: State your name, please.

THE WITNESS: Detective Natalie Kelly.

DETECTIVE Natalie Kelly, having been first duly sworn, testified as follows:

THE CLERK: Please state your full name and spell your last name for the record.

THE WITNESS: Natalie Kelly, K-E-L-L-Y.

DIRECT EXAMINATION BY MR. MEADORS:

Q. Good afternoon, detective.

I'm going to ask you some questions specifically about when you had the opportunity to talk with Reco Godbolt on October the 31st of 2011?

A. Uh-huh.

MR. MEADORS: May I approach, Your Honor?

THE COURT: Yes, sir.

What's that?

MR. MEADORS: I have had it marked State's 1 for ID.

THE COURT: State's 1, okay.

BY MR. MEADORS:

Q. I'm going to show you what's marked State's 1 for identification. Do you recognize that?

A. I do.

Q. What is that?

A. This is a Waiver of Rights.

Q. Please tell His Honor --

And what's the date of that?

A. October 31st, 2011.

Q. Did you have an occasion to meet with Reco Godbolt on October 31st, 2011?

A. I did.

Q. And where was that?

A. At the Sumter Police Department, in the interview room.
Q. And what time was that?
A. That was at 1:43 p.m..
Q. Who else were you with?
A. Detective Robbie Richburg.
Q. Were y'all both together when these rights were read?
A. That's correct.
Q. And actually Detective Richburg read these rights in this case, correct?
A. That's correct.
Q. But were you present?
A. I was.
Q. And read the rights as they were read to the defendant Reco Godbolt, please.
A. "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 or her with you during questioning.

"If you could not afford a lawyer, one would be appointed for you before any questions, if you wish.

"If you decide to answer any questions now without a lawyer present you will still have the right to stop answering at any time until you talk with a lawyer."

Q. Let me go back first.

Now, the first right that you read, "you have the right to remain silent."

Based on your training, experience, and just your observations on October 31st, 2011, did Reco Godbolt appear to understand that?

A. Yes, sir, he did.

Q. And did he indicate to you and/or Richburg that he understood that?

A. He did.

Q. How?

A. By initialing it.

Q. Did he also say "I understand it"?

A. Yes, he did.

Q. And as far as the right down on the list "anything you say can be used against you," did he initial that?

A. He did.

Q. Did he say he understood that?

A. He did.

Q. And number three, "you have the right to talk to a lawyer for advice." Did he initial that?

A. He did.

Q. Did he indicate orally he understood that?

A. He did.

Q. "If you cannot afford a lawyer, one will be appointed for you before any questioning." Did he indicate he

understood that?
A. He did.
Q. Orally and in writing?
A. He did.
Q. Were those his initials?
A. It is.
Q. Did you see him do them?
A. I did.
Q. Did y'all force him to do it?
A. No, sir.
Q. And finally, "if you decide to answer any questions now without a lawyer present, you will still have the right to stop answering at any time." Did he indicate he understood that?
A. He did.
Q. Did he indicate that orally and by initialing it?
A. He did.
Q. Detective, let me ask you, from the process of reading Mr. Godbolt his Miranda Rights, did he appear to be under the influence of any alcohol, drugs, or other intoxicants?
A. No, sir, he didn't.
Q. Did he have trouble understanding?
A. No, sir.
Q. Were his answers content and timely? In that, I mean as you are asking the question, did he say -- was it a

timely response?
A. It was.
Q. And was it content appropriate?
A. It was.
Q. And you could understand his words?
A. Yes, sir.
Q. Did he appear to understand your words?
A. Yes, sir.
Q. Or Richburg's when these were read to him?
A. Yes, sir.
Q. After that on there is what is referred to as the Waiver of Rights?
A. That's correct.
Q. And was that also read to Mr. Godbolt?
A. It was.
Q. And were you present when they were read?
A. Yes, sir.
Q. Please read them as they were read to Mr. Godbolt on October the 31st, 2011.
A. "Before any questioning I was furnished the above statement of my rights at 1:43 p.m. on October 31st, 2011, at Sumter Police Department by Officer Richburg of the Sumter Police Department. I have read or had read to me this statement of my rights. I understand what my rights are. I am willing to answer questions at this time without

a lawyer present. No promises or threats have been made to me and no pressure has been used against me."

Q. And were you present when that was read to the defendant?

A. Yes, sir, I was.

Q. And did he appear to understand that when the Waiver of Rights was read to him?

A. Yes, sir.

Q. And did he indicate he understood it?

A. He did.

Q. Did he indicate that orally?

A. He did.

Q. And did he also sign this?

A. Yes, sir, he did.

Q. And who else's signature is down here as a witness?

A. Myself and Detective Richburg.

Q. Is that your signature at the bottom?

A. It is.

Q. And did Mr. Godbolt sign here?

A. He did.

Q. At what time is his signature?

A. 1:43.

Q. And, again, at any time during the reading of the Miranda Rights or the reading of the Waiver of Rights did Mr. Godbolt say to you "detective, I don't want to talk to

you?"

A. No, sir, he didn't.

Q. Did he ever say "give me a lawyer?"

A. No, sir, he didn't.

Q. At any time during this process did you threaten, coerce, or hold out any hope of reward for Mr. Godbolt in exchange for this statement?

A. No, sir.

Q. Describe the room for the judge, the interview room.

A. It's a fairly small room. We have two chairs in there -- three chairs, I'm sorry. A table. There is a small window that you can't see from the other side. There is a small window to the door that you can see out and in.

Q. And it was you, Detective Richburg, and Mr. Godbolt?

A. That's correct.

Q. I don't know if he asked, but if he had asked for bathroom privileges, would you have given those to him?

A. Absolutely.

Q. Do you remember if he did, or do you know?

A. No, sir.

Q. All right. And if he had wanted something to drink, a beverage, or some sort of snack, would those have been made available to him, if he wanted those?

A. Yes, sir.

Q. After you had read the rights of --

I won't ask you to read it all, but did you get a statement from the defendant?

A. Yes, sir.

Q. This is State's 2 for identification.

A. Uh-huh.

Q. That's a page and a half, page and quarter? Maybe not quite a page and a quarter?

A. Uh-huh.

COURT REPORTER: Is that a yes?

A. Yes.

BY MR. MEADORS:

Q. And tell the judge after you read his rights, said he understood his rights, waived them, was this statement taken contemporaneously, or was the information taken typed later? How was that statement produced?

A. When he talked and told what was happening is when we wrote -- you know, typed the statement along with what he was saying.

Q. Okay. So as he's talking, the statement is being typed?

A. Uh-huh, yes, sir.

Q. And after this statement was completed, did Mr. Godbolt -- did y'all, you and Detective Richburg, go over this statement with him?

A. That's correct.

Q. Did you read over it with him?
A. That's correct.
Q. And did he sign the bottom of page one of State's 2 for ID?
A. He did.
Q. And he dated it?
A. He did.
Q. And page two, is his signature on there?
A. Yes, sir.
Q. And whose signature is below that?
A. Mine.
Q. That's your signature?
A. Yes, it is.
Q. At any time during the taking of this statement did he say "Natalie, I don't want to talk to you?"
A. No, sir.
Q. "Give me a lawyer, Natalie?"
A. No, sir.
Q. If he had done that, what would you have done?
A. Got him a lawyer or stop taking a statement.
Q. There is some background information on here. And just for communication ability, I guess, did he provide his address to you?
A. He did.
Q. His phone number?

A. He did.
Q. Social Security?
A. Yes, sir.
Q. Did he have any trouble giving you -- like the Social Security, did he have to think about it, or did he just kind of spit it off?
A. He spit it off.
Q. Okay. And you didn't have any trouble understanding him when he did that?
A. No, sir.
Q. And y'all actually wrote it down, correct?
A. That's correct.
Q. And is the person in the room that you took State's 2 for ID in the courtroom? Is he in the courtroom?
A. He is.
Q. Please point him out.
A. Over there.
Q. Mr. Godbolt?
A. Uh-huh.
Q. The red tie and white shirt?
A. That's correct.
Q. Was he placed under arrest after this, or at this point he was under arrest?
A. He was under arrest, yes, sir.
MR. MEADORS: Thank you, judge. That's all I

have.

THE COURT: Mr. Smaldone.

CROSS EXAMINATION BY MR. SMALDONE:

Q. Who is your employer? In what capacity were you? Is this for Sumter County, or the City of Sumter?

A. Sumter City Police Department.

Q. Sumter City.

Are y'all a pretty well funded organization, would you say?

A. I would say so.

Q. Okay. Do y'all have paper, plain paper there?

A. Plain paper?

Q. Yes, like -- do you have pens?

A. Yes.

Q. Well, you didn't have him write the statement, did you?

A. Repeat the question.

Q. Did you have him -- you didn't have him write the statement, did you?

A. No, sir.

Q. You used a typewriter?

A. Yes, sir.

Q. Do you have any video cameras or anything like that?

A. No, sir.

Q. You didn't record this interview, did you?

A. No, sir.

Q. So irrespective so what you typed it is what he said, correct?
A. That's correct, with him signing it to state that those are his words.
Q. And that's true, that he didn't have a chance to actually read it in his hands, did he? You just read it back to him, correct?
A. That's correct.
Q. So he never read it? You just read it to him?
A. No, he read it along with us reading it to him.
Q. Okay. Do you know who Jessica Hodge is?
A. Yes, sir.
Q. Jessica Hodge?
A. Uh-huh.
Q. Do you know who she is?
A. Uh-huh. Yes.
Q. Isn't it true that you told Mr. Godbolt that you would charge Jessica Hodge, who is his girlfriend, with a series of burglaries if he didn't cooperate?
A. That's not true.
Q. That's not true?
A. No, sir.
Q. Okay. Was Jessica Hodge charged with burglaries?
A. To my knowledge she was not.
Q. She's not.

And did Mr. Godbolt give the statement?

A. Yes, he gave a statement.

Q. Okay. Thank you.

MR. SMALDONE: That's all I have.

THE COURT: Redirect?

MR. MEADORS: No, sir. Thank you.

THE COURT: Okay. Thank you. You may step down.

Any other witnesses?

MR. MEADORS: No, sir.

THE COURT: Mr. Smaldone, do you have any witnesses?

MR. SMALDONE: Your Honor, I believe Mr. Godbolt would like to testify.

THE COURT: All right, if you would swear him in.

THE CLERK: Place your left hand on the Bible and raise your right hand.

State your name, please.

THE WITNESS: Reco Godbolt.

RECO ANTONIO GODBOLT, having been first duly sworn, testified as follows:

THE CLERK: Have a seat up here, please.

THE COURT: Ask him to spell his first name too.

THE CLERK: All right.

Please state your full name and spell your first and last name, please.

THE WITNESS: Reco Godbolt, R-E-C-O, G-O-D-B-O-L-T.

DIRECT EXAMINATION BY MR. SMALDONE:

Q. Good afternoon, Mr. Godbolt.

So did you ever give a statement to the Sumter County or Sumter City police --

A. Yes, sir.

Q. -- while you were there?

You did.

Describe the conditions when you gave that statement. Describe the room.

A. It was a small room. It was a small window.

Q. Okay.

A. You couldn't see out the window. There were three chairs and a table.

Q. All right. After you gave the statement did you have a chance to review it?

A. They read the statement over to me.

Q. Did you ever hold the statement in your hand to read it?

A. No, sir.

Q. You did not?

A. No, sir.

Q. Did they tell you -- did they hold out any promise of reward or punishment if you did not give the statement?

A. They said if I didn't give a statement, they were going to charge my girlfriend Jessica Hodge with more charges.

Q. Did they specify what charges those were?

A. Yes, sir.

Q. What were those charges?

A. Burglary charge.

Q. Burglary charge.

Did they explain the reason why they could charge her?

A. No, sir.

Q. No, sir. All right.

Who told you that?

A. Detective Kelly and Detective Richburg.

Q. Both of them?

A. Yes, sir.

Q. Were they both in the room together?

A. Yes, sir.

Q. And how long after they -- I'm sorry, let me back up.

Were you willing to give a statement when you first arrived to the --

A. No, sir.

Q. How long after you got into room did you make a statement?

A. Probably after like -- well, they hold me in the room for about thirty minutes still pacing in and out of the room. By that time I lost track of time, but I was in the

room a good minute. Probably like forty-five minutes.

Q. And after the forty-five minutes, is that when you started talking?

A. Yes, sir.

Q. Would you have talked if not for them threatening your girlfriend?

A. No, sir, I wouldn't talk.

Q. Did they threaten anyone else?

A. No, sir.

Q. And just to clarify, whose -- describe your relationship with Jessica Hodge.

A. She was my fiance. We are broken up now, but me and her have two children together, two daughters.

Q. All right.

MR. SMALDONE: I don't have any further questions.

THE COURT: Mr. Meadors?

MR. MEADORS: If it please the court.

CROSS EXAMINATION BY MR. MEADORS:

Q. Mr. Godbolt, how far did you go in school?

A. 12th grade.

Q. Graduated?

A. Yes, sir.

Q. Did you go on to do some education after that?

A. No, sir.

Q. You seem like a very intelligent young man. You can

read and write?
A. Yes, sir.
Q. And when Detective Richburg and I believe Ms. Kelly present read you your Miranda Rights, there is no question you understood --
MR. MEADORS: Do you mind if I approach?
A. No, sir.
MR. MEADORS: Judge, can I approach?
THE COURT: Yes.
BY MR. MEADORS:
Q. You understood these rights as they were read to you, right?
A. Yes, sir.
Q. I mean, you are smart?
A. Yes.
Q. You agree with me that you are smart?
A. Yes, sir.
Q. And "you have the right to remain silent," you understood what they were saying?
A. Yes, sir.
Q. And you signed your name there, your initials?
A. Yes, sir.
Q. And they didn't make you sign your name? I mean, they didn't force you to -- so that's your --
A. They didn't force me, I mean, but they --

Q. Is the same -- go ahead.

"Anything you say can be used against you in court." You understood that?

A. Yes, sir.

Q. And that's your initials there?

A. (No response).

Q. "You have the right to talk to a lawyer for your advice before we ask you any questions and to have him or her with you during the questioning," and you said that you understood that, correct?

A. Yes, sir.

Q. And you never asked for a lawyer?

A. No, sir.

Q. I mean, or you didn't. I'm not trying to --

"If you cannot afford a lawyer, one will be appointed for you before any questioning, if you wish," and you understood that, didn't you?

A. Yes, sir.

Q. And you signed your initials there.

"If you decide to answer any questions now without a lawyer present, you will still have the right to stop answering at any time until you talk to a lawyer." You understood what they said there?

A. Yes, sir.

Q. And you signed your initials there?

A. Yes, sir.
Q. And this Waiver of Rights, do you remember when they read that to you?
A. Yes, sir.
Q. Okay. "I have read or had read to me this statement of my rights. I understand what my rights are and I'm willing to answer questions at this time without a lawyer present. No promises or threats have been made to me and no pressure has been used against me." Do you remember when they read that to you?
A. Yes, sir.
Q. And you understand what that means. That means no threats were made against you, and you signed that underneath Reco Godbolt, right?
A. Yes, sir.
Q. And you understood that?
And that's Ms. Natalie. Do you remember when she signed.
A. I don't remember when she signed, but --
Q. She was there.
A. She was there.
Q. Okay. And you had been -- and I'm allowed to do it in this proceeding, you are familiar with law enforcement and the proceedings and all before? I mean, you have got two A&B convictions and discharging a firearm into a vehicle, so

you are familiar with the process and talking to police and what your Miranda Rights are, correct?

A. Yes, sir.

Q. And then this State's 2 for ID, do you -- you gave them all this information, right?

A. Yes, sir.

Q. I mean, they didn't know what time you got up that morning and where you took your girlfriend and what you and Jamal did that day, did they?

A. No, sir.

Q. I mean, you provided all that to them, right?

A. Yes.

Q. And this information is correct, isn't it?

A. No, sir, not all of it.

Q. Okay. But, I mean, it's what you gave to them, right?

A. Majority of it.

Q. Okay. And you signed at the bottom, right, Reco Godbolt?

A. Yes.

Q. And they read it back to you, didn't they?

A. Yes, sir.

Q. Okay. And you are sitting right there and you could hear them when they are reading it?

A. Yes, sir.

Q. Okay. And you signed that that was your statement,

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right?
A. Yes, sir.
Q. And on page two did you sign it also?
A. Yes, sir.
Q. And date it?
A. Yes, sir.
MR. MEADORS: Thank you. That's all.
THE COURT: Redirect?
REDIRECT EXAMINATION BY MR. SMALDONE:
Q. It's correct that you did sign that statement, right?
A. Yes, sir.
Q. What did you think would have happened if you didn't sign that statement?
A. My girlfriend would get charged with burglary.
MR. SMALDONE: Thank you. I have no further questions.
THE COURT: All right.
You may step down. Thank you, sir.
Any other witnesses, Mr. Smaldone?
MR. SMALDONE: No, sir.
THE COURT: Anything else from the State, as far as witnesses?
MR. MEADORS: No, sir.
THE COURT: Your position on the statement, Mr. Meadors?

MR. MEADORS: Your Honor, it's freely and voluntarily given, no threats or promises.

Based on detective's testimony, he clearly said he understood his rights, acknowledged that he signed and initialed, and said those were his words. He said maybe not all of it, but he admitted he told them what happened in that statement. Again, he signed his statement, Your Honor. I don't think we have any problem.

THE COURT: Mr. Smaldone?

MR. SMALDONE: Briefly, Your Honor.

The statement was -- we are supposed to trust a typewritten statement somehow from Mr. Godbolt, and he's testified there was -- they were threatening and coercion involved. You know, Ms. Hodge was charged with misprision of a felony. It's odd to me -- I know how the State likes to charge anyone they can. It's odd to me why she wasn't charged with burglary, so, I think, you know, the coercion --

THE COURT: It's odd that she was not charged?

MR. SMALDONE: It's odd that she was not charged. You know, I know the State likes to charge everyone they can with any sort of crime, but, you know, the fact -- and just his testimony saying that "look, I wouldn't have talked to the cops."

And then Mr. Meadors is right, he has had numerous

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times with the justice system. I think he's smart enough to know not to talk to the cops.

And, quite frankly, it's our position that the statement was influenced by coercion.

THE COURT: Could I see the two -- or the Miranda form and the waiver form? I don't know what numbers they are.

(Off the record)

(Back on the record)

THE COURT: They were shown to Mr. Godbolt during cross.

I think Mr. Meadors has them.

MR. MEADORS: I probably do. Give me a second.

THE COURT: All right.

(Off the record)

(Back on the record)

MR. MEADORS: I put them back in the folder.

THE COURT: Okay. It says State's No. 1 for ID is the Miranda form and the waiver form altogether.

No. 2 is the suspect's statement.

Anything else, Mr. Smaldone?

MR. SMALDONE: No, Your Honor.

THE COURT: All right. Of course, my findings -- in order for the statement not to be suppressed, I have to make these findings by the greater weight of the evidence.

And I do find by the greater weight of the evidence that before the alleged statement was obtained from the defendant, he was fully advised of his rights under the Fifth and Sixth Amendments to the Constitution and that he was specifically made aware of those safeguards as follows:

That he was advised prior to any questioning that he had the right to remain silent and that anything he said could be used against him in court.

He also was advised that he had the right to speak to a lawyer prior to any interrogation or questioning and the lawyer could be present during that time.

If he couldn't afford one, one would be appointed to represent him at no costs.

He was also advised that during the course of any questioning in any statements he made that he could stop answering the questions at any time until he did speak with an attorney.

According to the evidence he was in the room at 1:43 p.m..

There is no evidence that he was under the influence of alcohol, drugs, or other substances.

And he was not -- there is no evidence that he was -- or at least I find by the greater weight of the evidence that the statement was given freely and voluntarily, without duress, promise of favor or reward,

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without threat of injury, and without any compulsion or inducement of any kind.

And that all and all he's knowingly and intelligently waived his rights in the manner that I have indicated and the statement is admissible.

Of course, it would be up to the jury to determine as to whether or not they believe the statement was given; and if it was, whether it was given in the manner to comport with the Constitution.

All right, anything else from the State on that issue?

MR. MEADORS: No, sir.

THE COURT: Anything from Mr. Godbolt?

MR. SMALDONE: No, sir.

THE COURT: All right. Any other issues we have to resolve today?

MR. MEADORS: No, sir.

THE COURT: The statement -- of course, any Bruton issues that we discussed today would be irrelevant if Mr. Helton takes the action that's anticipated tomorrow.

If the lawyers could be here at 9:15. I have got two civil hearings starting at nine. Those should not take very long at all, and we will get back together at 9:15, and the jury would be coming in at ten.

All right, thank you.

MR. MEADORS: Thank you, judge.

MR. SMALDONE: Thank you.

THE COURT: Could I see the lawyers one more time and then I'll leave you alone.

(Whereupon, the lawyers approached the bench for an off-the-record discussion)

(Whereupon, proceedings were adjourned to December 4, 2012)

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STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF SUMTER)

THE STATE)
)
-vs-) TRANSCRIPT OF RECORD
) 2012-GS-43-00227
RECO ANTONIO GODBOLT,)
) DECEMBER 4, 2012
DEFENDANT. SUMTER, SOUTH CAROLINA

(VOLUME II)

B E F O R E:

THE HONORABLE GEORGE C. JAMES, JUDGE. ; And a Jury.

A P P E A R A N C E S:

JOHN MEADORS, ASSISTANT SOLICITOR
CHIP FINNEY, SOLICITOR
ATTORNEYS FOR THE STATE

GRANT SMALDONE, ASSISTANT PUBLIC DEFENDER
ATTORNEY FOR THE DEFENDANT

MICHAEL R. WATTS
CIRCUIT COURT REPORTER

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(PROCEEDINGS, DECEMBER 4, 2012)

THE COURT: We are back on the record.

This is the State of South Carolina versus Reco Godbolt. This is 2012-227.

The first thing I want to cover, gentleman, Mr. Meadors and Mr. Smaldone, what's your position on what, if any, to assist the jury about the fact that Mr. Helton is not here any more?

MR. MEADORS: I would look for Your Honor's guidance.

THE COURT: Mr. Smaldone?

It would be one of two things. I would say that the trial proceeding with Mr. Godbolt only and they are to draw no inference from that whatsoever as to anything involving Mr. Godbolt; or, I can tell them the truth, that Mr. Helton has entered pleas of guilty or has entered a guilty plea to this charge. I certainly wouldn't go into these other charges; or I could just not say anything.

I certainly -- if either of you -- if both of you agree on what I should say, I will do that. Otherwise, I'll just have to make a decision.

MR. SMALDONE: Your Honor, you could -- since he hasn't been sentenced yet, you could say we will resolve Mr. Helton's matter in the future.

THE COURT: I don't really like that, since he's

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already -- they were here and picked a jury on him.

I think the better thing to do would to either say that he's changed his plea to guilty; or, that you will notice that Mr. Helton is not present and that they are to draw no inference or conclusion from that whatsoever.

MR. MEADORS: I will by happy with either one.

MR. SMALDONE: I would almost rather you not say anything.

THE COURT: All right. I'll say the latter one and I'll note your objection.

What's the basis for that, just if you want to put it on the record?

MR. SMALDONE: Obviously it would pretty prejudicial for them to know that the co-defendant --

What was the latter one, I'm sorry?

THE COURT: The latter was that, ladies and gentlemen, you will note that Mr. Helton is no longer present in the courtroom. The trial is going to go forward as to Mr. Godbolt and they are to draw no inference from that in any way.

MR. SMALDONE: My only -- my -- my objection would be that they would probably conclude that Mr. Helton entered a plea of guilty on those charges and --

THE COURT: It seems to me you might not mind them knowing that. But, anyway, you know, there is all kinds of

things to go through their mind, but what I'm going to say is that the fact that Mr. Helton is not present is to be considered by them in no way at all and they are to draw no conclusions from it. All right, and I know you object to that.

MR. SMALDONE: Yes, sir.

THE COURT: Okay. All right, are you ready for the jury, Mr. Meadors?

MR. MEADORS: Yes, sir.

THE COURT: Mr. Smaldone?

MR. SMALDONE: Yes, sir.

THE COURT: Okay. Bring the jury in.

(The following takes place in the presence of the jury panel)

THE CLERK: Your Honor, we have all the jurors and the alternate present in the courtroom.

THE COURT: Thank you, sir.

All right, ladies and gentlemen, first of all I realize that you have been back in your jury room for quite sometime and I apologize for that, but certain things that were unavoidable, so please accept my apologies.

You will notice that Mr. Helton is no longer in the courtroom and the trial will proceed as to Mr. Godbolt. You are to draw no conclusions or inferences adverse to Mr. Godbolt in that regard. You are to weigh the evidence as I

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will discuss with you in a minute, without any regard to the fact that which, if any, defendant is or is not present in the courtroom. So what we are going to do now is get started with the trial.

The first order of business would be for you to be sworn, so if you please stand.

Mr. Bradley.

MR. SMALDONE: Your Honor, may we approach briefly?

THE COURT: Yes, sir.

(Whereupon, the lawyers approached the bench for an off-the-record discussion)

THE COURT: Thank you, Mr. Smaldone.

All right. Mr. Bradley?

THE CLERK: Ladies and gentlemen, please stand and raise your right hand.

In the State of South Carolina, County of Sumter, in the Court of General Sessions, Docket Number 2012-GS-43-0227, the State of South Carolina versus Reco Godbolt, you should well and truly try and in true deliverance make between the State of South Carolina and the defendant Reco Godbolt, whom you shall have in charge and a true verdict give according to the evidence, so help you God.

Please respond and say I will.

JURY PANEL: (Collectively said I will)

THE CLERK: Thank you. You may be seated.

THE COURT: All right, ladies and gentlemen, you now have been sworn as jurors in the case of the State of South Carolina versus Reco Godbolt.

I'm going to talk to you now about what your responsibilities are during the course of the trial.

How many of you have actually sat on a jury before, whether it's a civil case or a criminal case? How many of you have actually sat on a jury?

Some of you may have heard the remarks I going to make now.

Suffice it to say that during the course of the trial you and I will have different duties to perform, you are the judges of the facts. In other words, there is no one else in the world, other than you, who will be able to make the determinations of what the verdict you will do in the case. You are the only people who will be able to do that.

Now, as you know, the defendant has been charged with various criminal offenses and in a moment the lawyers are going to stand up and perhaps explain what those charges are.

Mr. Godbolt has entered pleas of not guilty to those charges. He is presumed innocent and the State has

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the sole burden of proving the elements of those crimes charged beyond a reasonable doubt. I will explain to you in detail at the end of the case what that means, what beyond a reasonable doubt means.

The fact -- as I mentioned to you during jury qualifications, the fact that a person is arrested or charged or indicted for any criminal offense is not evidence of anything. The indictment is simply a charging document. It's a piece of paper that walks the case into the courtroom, and the fact that he has been indicted is not evidence in any way that he is guilty.

Your responsibility is to be the finders of the facts, and there is no way that you can do that without paying very, very close attention to all of the evidence that is introduced. Now, that's going to be pretty easy this morning, but I can tell you, and you may already know, this, it becomes difficult as the case goes on, but these parties have selected you to be fair and impartial jurors. The only way that you can give them what you have just sworn to do is to give all the evidence due consideration. And obviously the way that you do that is to pay very close attention.

There will be several witnesses who testify. You have heard the names of possible witnesses. That doesn't mean they are all going to be here, but if they all do

testify, whether it's ten, twenty, thirty or forty, it's your responsibility to pay very close attention to everyone who testifies, because under the law, of course, the testimony of the first, or the fifth, tenth, fifteenth, or fiftieth witness is no more and no less important than the testimony of any other witness who testifies, so please make sure that you pay attention.

In the afternoon after you have had lunch, you may have a tendency to let your attention wander. It's going to be extremely important for you to keep your focus, and I'll remind you of that.

Evidence is going to come in in different ways. It's going to come in by way of testimony. It going to come in by way of exhibits. It's going to come in perhaps by way of stipulation. That last one is when the two lawyers stand up and agree that a certain fact is true. If there is a stipulation, the lawyers will let me know and either one of them or I will tell you what that stipulation is.

Now, with regard to witness testimony, since you are the judges of the facts, you have to determine whether or not you believe the witnesses who testify. Another word for believability is credibility. When you watch someone talk every day, more than likely, at least subconsciously, you are deciding whether or not you can believe what they have to say.

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In determining who to believe or what to believe when a witness testifies, use your common sense. We all come perhaps armed every day with that valuable tool and you are to use your common sense in determining that. You can believe every single word of what a witness has to say. You can disbelieve every word, or you can believe parts and disbelieve the rest. That's up to you.

You can take into account certain things. You are certainly not limited to this, in determining who to believe and what to believe. You can take into account demeanor; in other words, how does the witness appear on the stand. Was he or she hesitant or straightforward in answering questions.

You can also take into account what that witness' ability to know the facts that he or she claims to know.

Also you can take into account, if you would like, whether or not that witness has a bias or a prejudice for one particular result or party in this case.

You can also take into account whether or not that witness' testimony has been strengthened or weakened by other evidence that's in the record, and also whether or not the witness may have said something different or the same on a prior occasion. And, again, anything else that you think is appropriate. Now, that's witness testimony.

Exhibits will come in in different forms. They

might be a piece of paper. They might be a photograph. In some cases I have seen automobile tires, or even a whole automobile introduced as an exhibit. So those are examples of things that come in as exhibits.

And lastly the stipulations that I mentioned.

If evidence comes in, you can consider it.

During the course of the trial if I order a question or an answer or an exhibit not to be admissible, I will tell you that you can't consider it, and under your oath as trying this case, according to the law, you cannot consider what I tell you to disregard.

Now, at the end of the case you will be told this by me. You take your common sense view of the evidence and the law as I give it to you in the final jury charge, you put those two things together and you will reach unanimous verdicts which speak the truth. And, again, the only way that you can give what you have sworn to do is pay very close attention. I know you will do that.

Now, you are the judge of the facts.

Let's switch gears for a minute. I'm the judge of the law. For example, during the course of the trial it's likely that one or both of the attorneys at any given time will stand up and make an objection. They may object to a question or to an answer or to any proposed exhibit. Now, that's where I come in. In South Carolina we have the South

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Carolina Rules of Evidence. My copy is in this brown book. The small part of the book are the rules. The rest of it is interpretation.

From time to time the lawyers may have a difference of opinion as to whether or not something is admissible or properly asked and so forth. I'll make that ruling. Please don't keep score. Don't take from anything that I do or say during a ruling that hey, that judge thinks so and so, because I don't. My rulings are based on the law and not on anything else.

Likewise, don't hold it against the lawyer for making an objection. Don't think that the lawyer is trying to hide something that you ought to hear or see. That's not the way it works.

Also if a lawyer does ask a question that's objected to, don't think that that lawyer is trying to slip something in that you ought not see or hear. They have responsibilities, and their responsibility is to try the case according to the rules. And I also have a copy of the rules up here. That's in this purple book, and it's my responsibility to make sure that the case is tried according to the evidentiary rules and the procedural rules. Don't take from anything that I say or do that I favor one side over the other, because I don't. That's your responsibility to make the determinations of what the verdict in the end is

going to be.

The case itself will be tried in stages. In a minute the lawyers are going to stand up and give you an opening statement.

The State, through Mr. Meadors, does have the right to stand up and tell you what he believes the evidence will or will not prove. He doesn't have a right to argue during that. It would be an opening statement. It's designed to give you what he believes is a road map of the case.

Mr. Smaldone for Mr. Godbolt also has the right, even though he does not have to, to give an opening statement. Mr. Smaldone can wait until end of the State's case and give an opening statement, if he wants. He may go ahead and decide just to do it after Mr. Meadors does, or he may not give an opening statement at all. That's his right.

After the opening statements the State will present its case in chief and will do that by calling witnesses and offering other evidence. And, again, that's the State's case in chief.

After that the defendant, if he chooses, he does not have to, because he has no burden of proving or disproving anything. The defendant may, again if he chooses, present evidence as well. If he doesn't, that's his right, and I will explain all that to you in detail

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later.

After all the evidence is in, whether it's today, or tomorrow, or some other time, the lawyers will give a closing argument to you, and then I will give you a charge on the law, and then you will be released back to your jury room to deliberate.

You may not discuss this case amongst yourselves or with anyone else in the universe until I tell you that you can. That is because you will not be able to render a fair and impartial verdict on all the evidence until you have considered all the evidence. So it would be inappropriate for you to begin any discussions or deliberations until you have seen and heard everything. So please follow that instruction very, very carefully.

All right. Any objection to those remarks, Mr. Meadors?

MR. MEADORS: No, sir.

THE COURT: Mr. Smaldone?

MR. SMALDONE: No, sir.

THE COURT: All right, Mr. Meadors.

MR. MEADORS: Your Honor, can we approach briefly?

THE COURT: Yes, sir.

(Whereupon, the lawyers approached the bench for an off-the-record discussion)

THE COURT: One final thing that I just thought of

when they were walking up here. Sometimes if they make an objection I may have to send you out. Blame me for that because I don't know what they are going to tell me, and to be on the safe side sometimes I may send you out. And in lots of trials when they send you out, make a ruling, bring you back in and something else comes up and I have to send you right back out. Don't blame any of these parties. You can blame me for that.

And I haven't appointed a foreman yet, or foreperson. I will appoint one of you to act as the foreperson. That will be during the course of the trial sometime. I haven't done that yet.

All right, Mr. Meadors?

MR. MEADORS: May it please the court?

THE COURT: Yes, sir.

MR. MEADORS: "Please help me. Please help me." Those are the words of Bryan Funke. Bryan Funke to the 911 operator "please help me," as he's being chased from his residence across the yard, shots fired at him, as he will testify, as he's fleeing his own residence there are two males following, "please help me."

Ladies and gentlemen, good afternoon.

As I was introduced earlier, my name is John Meadors. I'm an assistant solicitor in the Third Judicial Circuit. I am working with Honorable Ernest A. Chip Finney,

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III, your elected official solicitor.

I'm here today representing the People of the State of South Carolina, the people of Sumter, against the defendant Mr. Reco Godbolt, who is represented by Mr. Grant Smaldone.

First of all, to echo His Honor, I want to thank you for being here. Thank you for being here. Thank you for the attention that I know that you will give the court, to the witnesses, all of us. Being a juror is not easy, but it is an important job. Without y'all the system can't function. Thank you for being here.

Mr. Campbell doesn't have a school to put you in, jury school, yesterday when you come; here is what you do to be a juror. Y'all are going through a crash course. But you have been going through a course your whole life to be a juror. It's just called living and every day common sense. It's the things that you have gathered throughout your life talking to people, evaluating people, and being with people. You bring those same abilities and skills in here with you as jurors as you listen and evaluate the testimony, and that's all we can ask you.

In this case, like every other case, it's credibility and believability. What's the truth, and that's what you will have to figure out. Again, thank you for being here.

Very briefly, this is the opening statements, as His Honor said. It gives us a chance to give you an overview of what this case is about.

You heard that the defendant is charged with several counts, several charges. I'm going to go over those with you. It's a charging document. It's not evidence, as the judge has told you, and will tell you again. It's a part of the process, the indictment process.

The Sumter County Grand Jury did return an indictment against Mr. Godbolt and Mr. Helton for kidnapping, burglary in the first degree, attempted murder, armed robbery, armed robbery, possession of a firearm during the commission of a violent offense, and criminal conspiracy.

What are all those? Just old common sense. And what's kidnapping? You take, confine. They use a little word inveigle in there the judge will tell you, but you hold somebody against their will. You don't let them go. You physically take ahold of their body. You can't go. You are going to go here. That's what kidnapping is. That's what you are going to hear from Dr. Funke what happened to him on October 31st, Halloween afternoon, 2011.

Burglary first. Y'all know this is as good as I do. It's the unlawful entry to the dwelling of another. It's not your dwelling, and you enter without consent with

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the intent to commit a crime. In this case stealing. You enter a dwelling without consent with the intent to commit a crime.

And then there is different types of ways the law says burglary first can be shown. Burglary first can be shown by entering the dwelling in the nighttime.

Burglary first can be shown, proven to you, if the person is either armed or becomes armed with a deadly weapon while he's entering or exiting the dwelling, as the case we believe here will show, as Dr. Funke will testify to you what he saw and what he heard as he was being pursued.

Attempted murder. An attempt is an intent to do something. You take the step in that direction. Dr. Funke is going to tell you that as he's running away -- he's going to talk about his background in the military and his combat experience, that he hears a gunshot as he's running away. That's attempted murder. An attempt to commit a crime and take a step in that direction. The gun is fired. It doesn't matter who fired the gun, which of the defendants. Two people are pursuing him, a gun is fired, he hears it. "Please help me."

Armed robbery. Armed robbery, take from the person or presence of another by means or force -- by means or force or intimidation the goods or other items of another. It's not yours. You go up and take it. If you

didn't have a weapon, it's strong armed robbery. If you had a weapon, you are armed with a deadly weapon, it's armed robbery. That's Count IV of this indictment.

Possession of a weapon during the commission of a violent crime. It kind of speaks for itself.

Burglary first degree, you got a weapon on you, possession of a firearm during the commission of a violent crime.

And criminal conspiracy. Obviously two folks that gather together and have an agreement to commit a crime and they are going to do it together in concert, that's a criminal conspiracy. Two or more people, they are more successful when they do that, and that's what a criminal conspiracy is. It's an agreement between two or more people to commit a crime.

That's a bunch of charges. They are not complicated, but they are important. If these elements that I went through are what we have to prove to you.

And His Honor, he's the law. His Honor is the law. He's the judge of the law and the end of the case he's going to tell y'all this is the law, and he will have it right, and that's the law that you will have to take.

Now, you are also a judge. You are a judge of the facts. You will take the law His Honor gives you and you will apply it to the facts that you decide are the truth

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that come from this witness stand, that come from exhibits that this fine court reporter may mark, and we get into evidence. That's what you will decide the case on.

Well, what kind of evidence is it that you might ask? Well, there is direct evidence. You are going to hear from Dr. Funke in just a little bit. Direct evidence is evidence you gather with one of your senses; you see it, you hear it, you feel it, you touch it, and you come in here and take that stand and you say this is what I heard, ladies and gentlemen. This is what I felt, this is what I touched. That's direct evidence.

There is circumstantial evidence, and the judge will tell you the law gives no -- there is no greater weight given one to the other.

Circumstantial evidence is proof of facts that basically you can take in conjunction and that leads to the conclusion of another fact. If you went to bed that last and there wasn't snow on the ground and you got up today and it snowed, there was snow on the ground, you didn't see it, but you know it snowed. That's an example of circumstantial evidence. There is some of that in this case; documents, pictures, other types of evidence.

Statements. You are going to hear a statement from Detective Natalie Kelly, who is in the courtroom back here, took from the defendant. She's going to go through it

and tell you what rights were read to him, whether in her opinion he understood his rights. And you are going to be able to hear, perhaps see the statement, and see what the defendant Reco Godbolt said. He implicated himself in this. He implicated himself, along with Mr. Jamal Helton. You are going to hear what that statement says.

Ladies and gentlemen, what happened in this case? It is October 31st, a year ago. It is Halloween, not Valentine's, Halloween, 2011, Dr. Funke decides to come home. He's a medical doctor, military experience. He's going to get up and tell you about what he's done and what he's doing now. He decides he's just going to come to his house. He just wants to go home for lunch.

He's walking up and he sees a car that's not his car. It's not his wife's car. He says well, I don't know what that's all about. He's kind of walking up and then he looks in the car and the testimony will be I see my TV in there. I see my computer. The doctor knows then something is up.

He then decides I'm going to go in the house. He opens the door. He doesn't hear the dogs like he usually does. That's kind of suspected. What does he do then? He calls 911. He calls 911 and I think the words he uses were "I have a burglary in process," but you are going to be able to hear his voice. And the 911 operator does an excellent

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job, "do you know who it is?"

At first he says no.

"Do you know how many?

"No, I'm not sure."

He goes in, you hear the dogs barking.

And then you can hear him, he said "there are two, two black males. They are chasing me. They are chasing me.

"You what's going on?"

He starts to running and you can actually hear it picked up. He left the 911 on and put it in his pocket and he's running from his house. And you hear him say "I don't know where they are. I don't have your keys."

But what I didn't tell you about the car, when he first came up there, the evidence will show, when he saw this car, he had his keys in it, he took the keys out and he locked the car. He then threw the keys to the side of the house so it wouldn't damage it.

These two individuals, Reco Godbolt and Jamal Helton, the evidence will show, come out and try to get away in their car and they can't get in their car. Then they start chasing Bryan Funke, catch up with him. They fire a shot at him, "please help me." Tells the 911 "please help me." They catch him. They catch up with him. They grab him. They physically grabbed him. They take control of his body, and they take him and tell him where to go and march

him. That's what the evidence will show, over to an area where he tells them he threw the keys. They looked at him and they say there it is. There it is. That's the kidnapping we believe the evidence will show. He couldn't go anywhere else. They took control of his body.

They find the keys. They go back to the car. The car then tries to take off, but they run over some kind of little drainage or some kind of little ditch or telephone pole and they get stuck and they try to rock it back and forth. Bryan Funke will tell you what he saw.

But what's happened all this time? What's happened during this story? It's live, it real, right? Well, 911 was called. The police get a dispatch? You know what? The Sumter Police Department arrived while they are still in their car. They are still at the car.

You are going to hear from Rick Morse, Brian Christmas. They get there. They see it in action. Funke tells them they got a gun. Morse takes off after Godbolt. Christmas takes off after Helton.

They are going to testify and you are going to see that Reco Godbolt was caught closer to the scene, caught there not far from the house that he had just gone in, that he and Jamal Helton broke in.

Jamal Helton takes off, goes to the area, gets away and eventually is caught and arrested.

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Reco Godbolt was caught. He's brought back. They search his person. On his person we believe the evidence will show is the phone that Bryan Funke had used to call 911. He reached into his pockets and took all of it. That's going to be the goods for the armed robbery. Personal presence. He took his phone right there. It's in Rico Godbolt's pocket.

Reco Godbolt is taken down to law enforcement and meets with Natalie Kelly and another officer and was advised of his rights, implicates himself and Jamal Helton.

Jamal Helton was subsequently arrested and charged with these offenses also.

That's a short version of what we believe the evidence will show. All I can ask you as this is being presented to you, look at the witnesses, evaluate them, decide what the truth is, because that's what you got to decide. What is the truth that comes from this witness stand and only here in the evidence. That's what you have to -- that's how all cases are decided.

Ladies and gentlemen, I love this courtroom. I love my specialty. All deference to the judge, I like to call this my space, my little office. It's the judge's courtroom. We are here week in and week out. This is what we do because we love it. We are -- Mr. Smaldone, we all love it. We are all just trying to get justice. That's

what it it's about. What is justice? But as much as we love this and we love our jobs, it's almost like a basketball team, because this is no game, basketball game. We are here every week, week in and week out, but every week a star player comes in, an MVP, and usually decides the game. Now, you are like that star player that comes into the team because you will decide what happens. You will decide what's believable, what's true.

After the judge tells you the law, you will return to your jury room and then you will all start discussing the case.

I'm going to respectfully ask you now and I believe after you have heard the evidence and I'm going to respectfully ask you at the end to come back with a verdict. And verdict simply means to speak the truth, the verdict that says on October 31st, 2011, Reco Godbolt entered the dwelling of Bryan Funke with another individual, Jamal Helton, but Reco Godbolt entered the residence with the intent to commit a crime; chased after Bryan Funke; a shot was fired at Bryan Funke; took the stuff off his body, his phone; kidnapped him, took him over to where he throwed the keys of the car that was in his yard; that he agreed to do this with Helton; and that he's in possession of a firearm; and find him guilty of all counts. Thank you.

THE COURT: Thank you, Mr. Meadors.

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Mr. Smaldone, any opening statement?

MR. SWERLING: Yes, sir.

THE COURT: Yes, sir.

MR. SMALDONE: May it please the court.

I noticed that almost most of y'all have served on a jury in the past and you would probably would serve on a hundred juries before you hear a defense lawyer say what I'm about to say, and that is that Reco did it. I just blew your mind. That's Mr. Godbolt right there. Mr. Godbolt committed a burglary.

So you might ask why am I here? What am I doing here?

The problem is that what Mr. Godbolt is charged with isn't what happened. Mr. Godbolt -- the evidence will show Mr. Godbolt was involved with someone else. He drove the car to the scene of [redacted] I believe. And at that time Mr. Jamal Helton entered the residence, got the stuff from it.

And then Mr. Funke came home and there are two black males in his house that he didn't know, he had never seen them before, so he ran out. They both ran out. He called the police and the police showed up and that's all that happened.

The evidence will show that there is nothing about a gun. First of all, there is no gun. The evidence --

Mr. Godbolt has made a statement. You will hear it. You will hear the statement first. He's implicating himself. He says here is what happened, and you will see the statement. You will hear it. There is no gun. There is no kidnapping.

There is a person who came home early one day, terrified, someone was in his house during the day. There is no deadly weapon. There is no sort of kidnapping. There are no threats.

There was a chase and he said "give me my stuff back and I won't call the cops." Of course, he's a smart man. He had already called the cops. He was stalling for time. He stalled for time so he could show where the keys were. He knew the cops were on the way, and around that time the cops came, and that's the end of story, and that's why Reco is here right now, because he got caught, and he has admitted this. He said "look, I was involved in a burglary." And at the end of the day he knows he's going to pay the piper for what he did and he's ready to do that; or what he's not ready to do is to admit to a whole series of facts that never happened. So that's why --

I'm going to be brief today. I hope you won't hold it against me. My closing is a little bit longer than my opening, but real brief. I want you to weigh all the evidence. And now that we both -- I think both me and the

State has asked this, weigh all the evidence, turn it over in your mind. Like Mr. Meadors said, you have been going to jury school your whole life. Weigh the credibility, weigh the evidence, weigh the absence of evidence, and at the end of day you will come back with a verdict that said Mr. Godbolt was wrong, he messed up, but he didn't do every little thing that they could think of that never happened. That's why you come back with a verdict of not guilty of burglary first degree, not guilty on all the charges, but what he's guilty of a second degree burglary nonviolent.

Now, briefly what that means is when you enter the house with another, or involved with someone else to enter the house with another during the day, that's a second degree burglary. When there is no deadly weapon or there is no gun that, in this case the evidence will show it's imaginary, when it's a simple daytime break-in, it's a stupid thing to do, dumb, he knows that, he's not happy to be here, but what he's really not happy about is the fact that there is all these other things that he's accused of doing that just came out of thin air. And that's why I'm asking you to return a verdict of not guilty on all these charges except for what he freely admits to doing. Thank you.

THE COURT: Thank you, Mr. Smaldone.

Your first witness, Mr. Meadors.

MR. MEADORS: May it please the court, we call Bryan Funke.

THE CLERK: Place your left hand on the Bible and raise your right hand.

State your name, please.

THE WITNESS: Bryan Funke.

BRYAN FUNKE, having been first duly sworn, testified as follows:

THE CLERK: Please state your full name and spell your first and last name for us, please.

THE WITNESS: Yes, sir.

My name is Bryan Funke, F-U-N-K-E. First name is is B-R-Y-A-N.

DIRECT EXAMINATION BY MR. MEADORS:

Q. Good afternoon, Dr. Funke.

A. Good afternoon, sir.

Q. I would like for you to tell the ladies and gentlemen of this jury a little bit about yourself; where you are from, your background, kind of what you have been doing in your life, and what are you doing now?

A. Yes, sir.

My name is Bryan Funke, ladies and gentlemen of the jury. I grew up in California. And after high school I joined the military. I was in the Army for a year and then I went to the Air Force Academy in Colorado, where I was

commissioned a second lieutenant in the Air Force.

Then I went to medical school at the Uniform Services University in Washington D.C, and the School of Aerospace Medicine and became a flight surgeon in the Air Force. I served twenty-eight years in the Air Force.

My last assignments, I was deployed to Operation Iraqi and Enduring Freedom.

And following that assignment I came to Shaw Air Force Base where I was the command surgeon of Headquarters U.S. Air Force of Central Command where I was responsible for all the medical facilities that the Air Force has in Iraq and Afghanistan.

Q. You say command surgeon?

A. Yes, sir.

Q. Okay. And when did you come to Sumter?

A. I arrived in the summer of 2006, when the Air Force assigned me here.

I retired from the Air Force the 1st of February 2009.

My family and I, we found this a great community and nice place to raise our kids. Both my children attended Sumter High School and are now going to school at Clemson University.

It seemed like a nice place to settle. We initially had moved to another neighborhood, but we moved to the Idlewild neighborhood because we found that a nice diverse

neighborhood with children and a place that we wanted our kids to be raised.

Q. And your wife is?

A. My wife is Carolyn K. Funke. She's sitting in the blue jean jacket over there.

Q. Carolyn Funke right there.

Going back to your background, just very briefly, were you ever in combat situations?

A. Yes, sir, I served several times in the first Gulf War. I was deployed where I commanded a hospital at King Abdul Air Base.

And then as a command surgeon and also previously as the 4-SG, I worked directly for the commander of United States Air Force of Central Command, three star general. I was responsible for advising him on all health care matters and the daily operations of our health care facilities, our various E-meds and the hospitals, the biggest ones being Bahlad and Bahgram Air Bases.

Q. And have you fired weapons before?

A. Yes, sir. As a military officer I had to maintain qualification. I have been qualified in the M-16, the M-4 and the M-9 9 millimeter Baretta pistol.

Q. In your combat situations, have you experienced gunfire?

A. I have.

Q. Live, real?
A. Yes, sir.
Q. Let's go back on October 31st of last year, 2011, doctor. What was your job then?
A. I had retired from the Air Force and was working as a physician. At that time I was working for the base as a flight surgeon. I do family medicine and occupational medicine and aerospace medicine at Shaw Air Force Base.

I take care of the fliers and their families, as well as do occupational health exams, pre-employment physicals, a variety of work for the base clinic there at 20th Medical Group at Shaw, taking care of our military and their families, retirees, and the National Guard.

Q. Do you have an office on base?
A. Yes, sir.
Q. What is your routine during the week?

Well, back in October of 2011, what was your work routine?

A. I usually go to work between 6:30 and 7:00. And then I have sick call or, you know, airmen or soldiers that are ill or injured can come in without an appointment.

And then I have appointments in the morning, and then I take lunch from twelve to one.

Then I go back in the afternoon for more clinic.

Q. What time does your day usually end?

A. Usually I leave work in the afternoon to come home for the evening around 5:30.

Q. So your lunch typically would be around noonish?

A. Yes, sir.

Q. And on October 31st, 2011, what was your lunch plans?

A. On the day in question I drove -- I left the office at twelve o'clock and drove home, departing Shaw's main gate and heading out to 441 and then up to the Shell station on the corner of Loring Mill and made a right and then turned left into my neighborhood, which is Idlewild neighborhood. It's -- it's kind of between Rice Avenue and -- I forgot the name of the other street.

Q. Okay. Your address is [redacted]?

A. That's correct.

Q. And that's in Sumter County?

A. Yes, sir.

Q. Okay. Were you going home to eat, doctor?

A. Yes, sir.

Q. You are driving down your road, [redacted]. Tell the ladies and gentlemen of this jury what, if any -- not what, if anything, but what did you observe?

A. Yeah. Well, my house is situated in the back end of Idlewild where it abuts against the Deerfield neighborhood. There is a lake there, Idle Lake, and then there is a dam. Below that dam there is some woods. And then on the other

side of those woods is Second Mill Pond.

As I was driving up to my house I noticed that my wife's car was not in the driveway where it normally is when she's home. It's a 2005 Chevy Suburban.

There was another car in my driveway.

If you look at my house, the garage is oriented such that the garage doors are on the left side of the house, so they are not facing towards the street, and there was a late model Nissan Altima, that's gold in color, that was parked on my driveway up against the garage door. It didn't really strike me as anything unusual. I thought perhaps one of my wife's friends had come over and maybe she had gone out with them. At that point I didn't have any suspicions that anything was wrong yet.

MR. MEADORS: Beg the court's indulgence.

THE COURT: All right.

THE WITNESS: Do you want me to continue?

MR. MEADORS: No, sir. One second, I'm sorry.

(Car Keys marked as State's Exhibit No. 3 for identification)

(Cell Phone marked as State's Exhibit No. 4 for identification)

(Camera and Coins marked as State's Exhibit No. 5 for identification)

(Watering Wand marked as State's Exhibit No. 6 for

identification)

(Photograph marked as State Exhibit No. 7 for identification)

BY MR. MEADORS:

Q. I'll show you what's marked State's 7.

MR. MEADORS: Your Honor, can I approach?

THE COURT: Yes, sir.

BY MR. MEADORS:

Q. Just tell me if you recognize that and does it relate to your testimony?

A. Yes, sir.

Q. Just does it relate your testimony?

A. Yes, sir, that --

Q. That's fine.

MR. MEADORS: Your Honor, No. 7, I believe without objection.

THE COURT: All right, 7?

MR. SMALDONE: No objection.

THE COURT: All right, that's in.

(State's Exhibit No. 7 was entered into the record as evidence)

BY MR. MEADORS:

Q. What is No. 7?

You can tell us now.

A. Sir, that's a picture of my house looking at the garage

from the left side from my driveway.
Q. And when you pulled up to your drive, where was the car that you said wasn't usually there?
A. It was between the little flowered pot and the large green bush right in front of the right garage door.
Q. Would you point to that?
A. Yes, sir, it was parked right here.
MR. MEADORS: And he's pointing to the garage door on the right of State's No. 7.
BY MR. MEADORS:
Q. And what did you do after that? I mean, you saw this car that you didn't know.
A. I pulled my car into the driveway and I got out.
And as I was walking towards the house I noticed that there was a bunch of electronics in the back of that car, so I went up and took a closer look and I noticed that my television set was in there; the computer that I have in the kitchen of my house; my daughter's camera. There was a laptop, which I initially thought, because it's the same model as my son's, but it actually belonged to the Davis couple that are neighbors of mine.
Q. Did you realize something might be up at that point?
A. Yes. Yes, sir, at that point I knew something was wrong.
And I also noticed that the walk-in door to the garage

was open, so I took my cell phone and I called 911 and I reported to the dispatcher that I believe there was a burglary in progress at my house and that they may be in the house.

Q. Now, I'm going to show you State's 7 again. When you say walk-in door, what are you talking about?

A. It's the small door on the left. There is a -- to the left of the picture is a brick wall that separates my driveway from the backyard. And then this door -- the small door walks into the garage. And then on the other side of the garage there's another door into the house. Both those doors were open.

Q. Do you usually leave those open or closed?

A. No, sir, I never leave them open.

Q. Okay. You saw your TV and other electronics in the car. You see that door open. What did you do?

A. I called 911 and I reported a burglary in progress and that I believe they may be still in the house. And that --

I could not understand what the dispatcher was saying, so I left the phone alive. I left the connection to 911 on and I stuck the phone in my pocket.

I then proceeded into the house to investigate, because I have two dogs. I have approximately a seventy pound brown lab, an older dog, and I also have a Chesapeake Bay retriever, also about seventy, seventy-five pounds. It was

a rescue dog. Both those dogs are normally, you know, on alert. They come out to greet me.

Q. Do they usually greet you?

A. Yes, sir.

Q. When you went in this day did they greet you?

A. They did not, so I knew something was awry.

So I went into the house --

Q. Did you see anybody outside that house?

A. I did not see anybody outside the residence.

Q. And was there any bodies, anybody in the car?

A. No, the car had no occupants.

Q. You are going into your house now, what happened?

A. Well, before I go in the house I went back to the car and I noticed that there was -- the ignition keys were in the ignition. And I took the keys out of the ignition and then I locked the car and then I threw the keys into the wooded area to the east of my house adjacent to the left side of the Idle Lake dam and the woods between my home and Victor Jones' home.

Q. Why did you do that, doctor?

A. Well, in case something happened, I knew that if I could keep the car there, that would create evidence for y'all to use to help find the robbers.

Q. So did you -- you went in the house a little bit and then came back and did that, or did you do --

A. No, I did that before I entered the house.
The first thing I did was I called 911.
Then I took the keys and locked the car.
Then I entered the house.
When I entered the house, I noticed --
Q. Let me stop you.
A. Okay.
Q. I want you to look at what's marked as State's 3 and see if you can recognize that?
A. Yes, sir, that's the key chain that I removed from the suspects vehicle.
Q. And after you removed it, did you lock the car?
A. I did.
Q. How did you do that, remotely or with the keys?
A. I don't recall whether I used the remote or whether I used the lock button on the driver's door.
Q. But you locked it?
A. I did lock the car.
Q. And then --
MR. MEADORS: Your Honor, at this time State's 3 I believe without objection.
THE COURT: That's No. 3?
MR. SMALDONE: No objection.
THE COURT: All right, 3 is in, and that's a physical object, not a photograph?

MR. MEADORS: These are car keys, Your Honor.

(State's Exhibit No. 3 was entered into the record as evidence)

THE COURT: All right, go ahead.

BY MR. MEADORS:

Q. Dr. Funke, what did you do with the car keys?

A. I threw them in the woods to the east of my house adjacent to the Idle Lake dam, between my property and Victor Jones'.

Q. Victor Jones' property?

A. Yeah, he's my next door neighbor to the east.

I live on the end of a cul-de-sac.

Q. I'm going to show you a map in a minute.

You have thrown the keys, you have gone inside, you got 911 on the phone. What happens next?

A. I see that indeed my television is missing from its usual location and my computer in the kitchen.

And I hear some commotion upstairs. My dogs. They don't sound right. I don't know, but they are not greeting me, so I assumed there are strangers, or something, and I know that somebody is still in the house, so I become very fearful at this point.

Q. You were scared at this point?

A. Yes, sir.

MR. SMALDONE: Objection, leading.

THE COURT: Overruled. Go ahead.

A. I was scared.

BY MR. MEADORS:

Q. What happens next?

A. I decided to leave the house because I was scared and my best interests to leave and not confront a robber inside my quarters.

Q. How far did you get inside your quarters or your house?

A. I went into the house through the garage door into my kitchen. And next to the kitchen is the family room, and then I made a right and out the front door.

Q. Where did you hear noise coming from?

A. The noise I heard was upstairs.

Q. All right. Now, had you given permission for anyone -- well, specifically, had you given permission to Reco Godbolt to enter your house?

A. No, sir. And I may have actually -- when I left the house, I believe I said "hey robbers, I have called the police. Get out of my house."

Q. So you said "get out"?

A. Yes, sir.

Q. And what did you do --

And prior to this you didn't know Reco Godbolt or Jamal Helton, did you?

A. No, sir, I had never heard of them.

Q. And after you yelled "get out", what did you do after that?

A. At that point I went out my front door, I crossed the yard and I started looking for neighbors that were home. I figured since it was the middle of the day that some of my neighbors should be home, but it didn't appear that anybody was home, and I started running down the street looking for a neighbor.

Q. Did you have any idea where you were going? I mean, any neighbor --

A. Well, I just wanted to get away from my house to safety, and at that point I heard -- I was in front of the next house over and I heard a gunshot behind me, and I looked back and there was two black males chasing me and one of them yelled "we got a gun." The other one yelled "we are going to kill you."

Q. You have been in combat situations before?

A. Yes, sir.

Q. As part of your training, you have to get certified in weaponry, if you will.

You heard a gunshot?

A. Yes, sir.

Q. And did it appear or did you think it was coming in your direction?

A. I had no way of knowing that but, that was my

assumption. At that point I was very scared and began --

Q. Were you running?

A. Yes, sir.

Q. Were these two individuals running?

A. They were chasing me and I was running in kind of a zigzag pattern to avoid getting shot, because I was extremely scared, and I took the phone out of my pocket and I actually started pleading with the operator to get the police over here in hurry because I was under attack.

Q. And you were?

A. Yes, sir.

Q. And you said these two individuals said what?

A. They said "we've got a gun and we are going to kill you."

Q. Is there any way that you misunderstood those words?

A. No, sir.

Q. What happened next?

A. I continued to run. I briefly hesitated at the yard of Maureen Cox, who lives a couple of doors down, and she's an elderly woman. I figured she was home, but -- and I was yelling as I was running up the street for neighbors to help me, but nobody heard me.

And the next house down the road belonged to a retired police -- or, I'm sorry, a Sumter County sheriff, and his name is -- I'm sorry, I'm drawing a blank.

Q. That's okay.
A. But I was hoping he could help me. I figured he would be home and he would be armed and could come to my assistance, but I was very fearful at that point.
The -- Mr. Godbolt and Mr. Helton both caught up with me in Maureen Cox's front yard and they were carrying a blue pipe, a watering wand, that they had gotten from my backyard.
Q. I'm going to show you what's marked State's Exhibit 6. Is that the wand?
A. Yes, sir, it is. The --
Q. Hold on one second.
MR. MEADORS: Your Honor, State's 6 I believe without objection.
THE COURT: Any objection?
MR. SMALDONE: No, sir.
THE COURT: That's in.
(State's Exhibit No. 6 was entered into the record as evidence)
BY MR. MEADORS:
Q. Is this your watering wand?
A. Yes, sir.
Q. And where do you usually keep that?
A. I keep it in the backyard next to the water faucet. I use it to water the shrubs and bushes in the yard.

Q. So as you were being chased, did one of the individuals have this watering wand?

A. Yes, sir. Mr. Helton was holding this wand.

Q. And what, if anything, happened with that wand?

Did they finally catch up with you, doctor?

A. Yes, sir, they caught up with me and they tackled me to the ground.

At this time I was partially disabled. I had torn my bicep tendon on my left arm, which is my dominant arm, and I was under the care of Dr. Joseph Jackson, an orthopedic surgeon in Camden, and he had splinted my arm to prevent me from putting any stress on the tendon and allow it to heal. And Mr. Godbolt and Mr. Helton caught up to me and they tackled me to the ground and they began beating me with the wand, and then they ripped my splint off my arm, and it was a fiberglass custom-formed splint that I gotten over at Sumter Physical Therapy.

MR. MEADORS: Beg the court's indulgence.

(Photograph marked as State's Exhibit No. 8 for identification)

BY MR. MEADORS:

Q. I show you State's 8. Is that you with the splint that you were just describing?

A. Yes, sir.

MR. MEADORS: Your Honor, I believe without

objection.

THE COURT: 8?

MR. MEADORS: 8, yes, sir.

MR. SMALDONE: No objection.

THE COURT: All right.

(State's Exhibit No. 8 was entered into the record as evidence)

BY MR. MEADORS:

Q. State's 8, that's you, Dr. Bryan Funke, with the --

A. Yes, sir.

Q. You had that on prior to this?

A. Yes, sir, I had it on for approximately a month.

Q. Okay. And where were you being hit on your body with that blue watering wand?

A. On my injured arm, and they actually -- they hit me. I was probably -- because it was fiberglass, I was using it to defend myself from the blows of this metal pipe.

And then --

Q. And who was using that on you? Who was hitting you?

A. Defendant Helton was hitting me with that. He was wearing a bluish -- a bright blue or blue red -- a bluish reddish colored like athletic jacket, and Mr. Godbolt was wearing a gray sweat suit with a hoodie jacket.

Q. Are you on the ground when you are being hit with this blue stick?

A. They had knocked me to the ground and were hitting me with it, and they demanded that I tell them where the keys were, and I told them that I didn't know where the keys were. And --

Q. Did they do it like that? How did they say it? What was their tone and their volume when they said it?

A. They were yelling at me and they said "give me the keys or I'll kill you."

And then Mr. Godbolt produced a weapon. He showed me a gun in the -- may I demonstrate?

Q. With His Honor's permission, yes, sir.

THE COURT: Stand and step down, if you would like.

THE WITNESS: I'd just like to stand.

THE COURT: Mr. Smaldone, you can get to where you can see.

A. He had his hand in his pocket with his hoodie and he produced a large -- it was a handgun and it was a semiautomatic handgun with a large squared off slide. It was inside the hoodie.

MR. SMALDONE: Objection to the speculation to the object.

A. I could see the outline.

THE COURT: Overruled. Go ahead.

A. I could clearly see the outline of the gun. And he

told me it was a gun and he was going to kill me. He said "you see this? I'm going to kill you."

And the other defendant, Mr. Helton, said, quote, "kill that nigga."

BY MR. MEADORS:

Q. How far were you from who you said was Reco Godbolt when he was flashing that --

MR. MEADORS: I mean, can he step down for a second, judge?

THE COURT: Yes.

(Witness off the witness stand)

BY MR. MEADORS:

Q. Sir, let me be you, and where was Reco Godbolt when he showed you --

A. When he first showed me, he was on this side.

Q. Speak up so the court reporter can hear you.

A. He was to my right side and he was about this close. He was holding my arm and showed me this.

Q. Did he -- he is touching you?

A. They were physically -- quite physical with me, pushing me and shoving me, yes.

He brandished a weapon and showed it to me at about this range, two feet, maybe. He was right in my face.

Q. And what did he say?

A. He said "I'm going to kill you if you don't give me the

keys."

Q. And that -- he showed you that and that looked like what to you?

A. It looked like a handgun.

Q. Did you see the outline of it?

A. Yes, sir, I saw the outline of what appeared to be a semiautomatic handgun.

Q. And based on your experience and training, had you seen a gun like that before?

A. Oh, yes.

Q. And he told you "I had a gun?"

A. So I was very scared.

And then he came and reached in my pockets and they frisked me and they took my cell phone.

Q. Let's me -- who reached in your pockets?

A. It was Mr. Godbolt.

Q. Reach into my pocket like Reco Godbolt reached into your pocket.

A. He reached in, into my pocket, and pulled my phone out and then he stuck it -- I had left the phone on to transmit and he pushed the buttons, I assume, to turn off the phone and then he stuck it in his pocket.

Q. So he stuck it in his pocket?

A. Yes, sir.

Q. You saw him do this?

A. Yes, sir.
Q. And I won't keep you up here much longer, but where were the keys?
A. The keys were back at the house, and I told them I didn't know where they were, and they became very irritated, so then they each grabbed me by the arm on each side and they said they had a gun in my back and they said "march with us or else we are going to kill you."
Q. Did you feel something in your back when they were saying --
A. Yes, sir.
Q. -- "march with us or we are going to kill you?"
A. Yes, sir.
Q. And did they physically -- did they physically have you, doctor?
A. Yes, sir.
Q. What did they do with your body?
A. They basically grabbed me by each arm and walked me back about 150, 200 yards back to the wooded area next to my house.
Q. Did you want to go with them?
A. No, sir, I resisted. I told them that I was -- that I was injured and that I couldn't move real fast because I knew that time was my friend now. If -- without the police I felt I would probably not make it. I thought I was going

to get killed that day.

(Witness back on the witness stand)

A. So I was trying to stall for time. You know, I was walking slow, resisting as much as I could. I told them I was injured and I couldn't go real fast and they marched me back to my driveway.

BY MR. MEADORS:

Q. They took you back to your driveway, basically?

A. Yes, under gunpoint and threat of killing me.

Q. What happened when you got back?

Did you know exactly where the keys were?

A. I knew where I had thrown them, but in order to stall I told them that I couldn't remember where I had thrown them, and I said "they are just kind of over there in the woods."

And they got very irritated and very angry and started yelling and again threatening me and they said "show us or else."

So at that point I pointed in the direction where I had thrown them and they, you know, shoved me over that way and then one of the defendants let go of my arm and began searching.

Q. Say that again.

A. One of the defendants let go of my arm and began searching the ground for the keys, and in a few minutes he found the key ring and he yelled to his partner "let's get

out of here before the cops come."

At that point they got into the car and they put it in reverse and started squealing tires down the driveway. And my driveway has a little bit of a curve that they failed to negotiate and the car backed up on top of the cable box and the telephone box and the wheel was in the air and spinning wildly. And at that point one of them got out of the car and began rocking while the other one was trying to get the wheels to grab traction and drive out, but the car was stuck and it was just spinning furiously burning rubber on the cable box.

Q. They were trying to get away?

A. They were trying to get away.

And when they got into the car, I started running towards my neighbor Darrell Lowder who lives due north of my house.

Q. What's the name again?

A. Alden Lowder or Darrell Lowder. He's an accountant in town.

I didn't make it to very far. I got to the driveway of Jones' house, which is right next to mine, when an unmarked blue Sumter police cruiser with two officers arrived and the officers immediately drew weapons and ordered Mr. Godbolt and Mr. Helton to stop, and both of the defendants failed to yield to the officers commands and ran.

Mr. Godbolt ran due north between Lowder's house and the house to the right of theirs, and Mr. Helton ran due east into the woods between Idle Lake dam and Jones' house. There is a wooded area that's a little bit swampy that connects from there to Second Mill Pond.

Q. With His Honor's permission, would you step down for just a minute?

(Witness off the witness stand).

THE COURT: What's on there, has that been marked for ID, at least?

MR. MEADORS: I'm going to put something on here, Your Honor.

THE COURT: Okay.

(Aerial Map marked as State's Exhibit No. 9 for identification)

BY MR. MEADORS:

Q. Doctor, do you recognize this aerial map, what's marked 9, and do you see your house down here?

A. Yes, sir. That's an aerial map of the Idlewild Subdivision.

Q. And that's Idlewild?

A. Idlewild.

MR. MEADORS: Your Honor, State's 9 without objection.

MR. SMALDONE: No objection.

THE COURT: No. 9 is in.

(State's Exhibit No. 9 was entered into the record as evidence)

BY MR. MEADORS:

Q. I think your voice is strong enough, but if you would stand over here and face Madam Court Reporter.

Now again referring to State's 9, can you show the ladies and gentlemen of the jury where your house is, doctor?

A. Yes, my house is -- my yard is outlined in the yellow with the red outline, highlighted in yellow. It's -- Canvasback Cove is --

Q. Back up. Take a step back maybe so everybody can see it.

A. So, you know, this is Musckovy and Mallard, and Canvasback Cove comes off of Mallard Avenue and it's a cul-de-sac. Some maps actually show it as continuing to Deerfield, but this is actually a walking path between the two neighborhoods.

This is my house.

This is the Cox house where they caught up with me. I was trying to get to this house.

And this is where I ran off my front yard and down the street and I was trying to get neighbors to help me, and I ended up in Maureen Cox's house where the defendants, Mr.

Godbolt and Mr. Helton, caught up with me and beat me with the pipe and threatened me with the gun.

And then they marched me down the street here back to my house, and you can kind of see the outline of the house. It's sort of a rectangular shape and the garage doors are to the side.

This is the Idle Lake dam.

This is Victor Jones' house.

This is the wooded area where I threw the keys.

Mr. Helton -- when the police officers arrived and parked right here, Mr. Helton got out of the vehicle -- the vehicle ended up right there next to the mailboxes.

Q. Let me stop you now. You said you threw the keys. Where on State's 9?

A. The keys were -- this is the dam, and this is -- there is a brick wall that marks the end of my property, and then Jones' property is here. And kind of at the end of the dam right here there is a little wooded area with some trees and some shrubs.

Q. So, doctor, they marched you from where to where to get the keys?

A. From right here.

Q. Right -- and what's the address on that?

A. That is [redacted]

Q. Whose house is that?

A. That belongs to Maureen Cox.
Q. So they marched you from this house to where?
A. Down the street back to my driveway, and back to the driveway, and then over to the area where the keys were.
Q. And were they -- did they have you that whole way?
A. Yes, sir. They had me by each arm and told me that they had gun in my back and would kill me.
Q. Once --
A. Mr. Helton proceeded through the woods --
Q. Stop a minute.

Once they retrieved the keys, where was the car? Where was the car on State's 9?

A. The car was initially parked up against the house and they backed up and -- at the street --

It's not a simple cul-de-sac. It's actually an island here and it goes off this way and then dead ends right here, so there is this little island.

And the driveway makes a little bit of a curve and they missed that curve and ended up on top of the cable box and the telephone box.

MR. MEADORS: Beg the court's indulgence.

THE COURT: Yes, sir.

(Photograph marked as State's Exhibit No. 10 for identification)

(Photograph marked as State's Exhibit No. 11 for

identification)

BY MR. MEADORS:

Q. I'm going to show you what's been marked State's 10 and 11. Do these relate to what you were just talking about? You can just say yes or no.

A. Yes, sir.

MR. MEADORS: Your Honor, State's 10 and 11 without objection.

MR. SMALDONE: No objection.

THE COURT: Okay.

(State's Exhibit No. 10 was entered into the record as evidence)

(State's Exhibit No. 11 was entered into the record as evidence)

BY MR. MEADORS:

Q. State's 10, you described where -- this wasn't your car, right?

A. No, sir, that's the defendants vehicle that they used.

Q. In State's 10, it appears to be -- it's wrecks on something. Is that what you were describing when --

A. Yes, sir, the box on the left is the television, the Farmer's -- I'm sorry, telephone -- Farmer's telephone box.

And then the box on the right is the Time Warner cable box.

And then this is a pampas grass shrub that, you know,

obscures the vision of the boxes from the street just to make it look a little nicer. And behind that is a mailbox.

Q. Okay.

A. Oh, there is the mailbox right there.

Q. And that's State's 11?

A. Yes, sir.

Q. I'm just telling you that's State's 11.

A. Yes, sir.

Q. So did you observe this -- they basically backed out and got stuck trying to back out?

A. Yes, sir.

And then when the officers arrived they fled and --

Q. Do you know who was driving the vehicle?

A. (No response).

Q. If you don't, that's fine.

A. I can't say for sure.

Q. That's fine. I don't want you to say if you don't know.

What happened?

A. When the officers arrived and drew weapons and ordered them --

Q. What, if anything, did you tell the officers when they got there?

A. When I got there, I told the officers "be careful, they have a gun."

Q. You wanted them to know that?
A. Yes, sir.
Q. What did you observe next, using 9, State's 9?
A. State's 9?
Q. Excuse me, I apologize.
A. The -- Helton fled through the woods behind Jones' house and the dam.

This Second Mill Pond is in this white area over here on the other side of this house.

And then -- let's see, this -- this house belongs to Mindy Lowman, who is terminally ill.

And then this house belongs to Lowders.

And defendant Godbolt, he ran between Lowman's and Lowder's house and he couldn't get very far, because Second Mill Pond, you can see it here, it kind of extends along here. And these houses, their backyard is on Second Mill Pond.

Q. And you saw law enforcement go after Mr. Godbolt and one of them go after Mr. Helton?
A. One officer after each, yes, sir.

(Witness back on the witness stand)

THE COURT: Beg the court's indulgence.

(Off the record)

(Back on the record)

BY MR. MEADORS:

Q. State's -- I think you testified -- I think you testified earlier about your phone, correct?
A. Yes, sir.
Q. It was in what pocket on you?
A. It was in my front pocket of my trousers.
Q. It was in your pants pocket?
A. Yes, sir.
Q. Look at State's 4 and see if you recognize that.
A. Yes, sir, this is my cell phone. It's an LG.
Q. Were you there when law enforcement recovered this?
A. Yes, sir.
Q. Did you see where they recovered it from?
A. Yes, sir.
Q. Where?
A. They found it on Mr. Godbolt.
Q. Had you given this to him?
A. I didn't.
Q. Did you want him to take your phone?
A. No, sir, he took it under force.

MR. MEADORS: Your Honor, State's 4 without objection.

THE COURT: All right.

MR. SMALDONE: No objection.

THE COURT: It's in.

(State's Exhibit No. 4 was entered into the record

as evidence)

BY MR. MEADORS:

Q. I'm going to show you State's 5, Dr. Funke. Do you recognize what's in State's 5?

A. Yes, sir.

Q. Does it relate to this?

A. It does, because --

MR. MEADORS: Your Honor, State's 5 without objection, I believe.

MR. SMALDONE: Without objection.

THE COURT: 5 is in.

(State's Exhibit No. 5 was entered into the record as evidence)

BY MR. MEADORS:

Q. Go ahead.

A. The camera is a little pocket camera that belongs to my wife.

And the coins are some foreign money that we had collected in our travels.

Q. Work and travel and --

A. Yeah, being in the military for twenty-eight years we have traveled extensively around the world. We usually brought a few coins home as souvenirs.

Q. And do you usually keep these inside your house?

A. Yes, sir.

Q. Okay. Were you there when these were recovered by law enforcement?
A. I'm not sure.
MR. MEADORS: Beg the court's indulgence.
(Off the record)
(Back on the record)
(Cardboard Box Containing Clothing marked as State's Exhibit No. 12 for identification)
MR. MEADORS: Thank you, Your Honor.
May I approach again, judge?
THE COURT: Yes, sir.
BY MR. MEADORS:
Q. I'm going to show you what's marked State's 12. I believe you have described what Reco Godbolt was wearing earlier?
A. Yes, sir.
Q. If you look at State's 12, tell me does this -- do you recognize this?
A. Yes, sir.
Q. Tell the jury what this is.
A. That's the clothing that Mr. Godbolt was wearing when he assaulted me.
MR. MEADORS: Your Honor, State's 12 without objection.
THE COURT: Any objection?

MR. SMALDONE: No, sir.

(State's Exhibit No. 12 was entered into the record as evidence)

MR. MEADORS: Your Honor, just one second.

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

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

(Photograph marked as State's Exhibit No. 15 for identification)

MR. MEADORS: Your Honor, I just got a few more and we will be through.

THE COURT: All right.

BY MR. MEADORS:

Q. I'm going to show you what's marked State's 13, 14 and 15.

MR. MEADORS: Without objection, Your Honor.

THE COURT: 13, 14, 15, is that correct?

MR. SMALDONE: Yes, sir, no objection.

THE COURT: Okay. They are in.

(State's Exhibit No. 13 was entered into the record as evidence)

(State's Exhibit No. 14 was entered into the record as evidence)

(State's Exhibit No. 15 was entered into the

record as evidence)
BY MR. MEADORS:
Q. 15 is what?
A. No. 15 is a picture of Maureen Cox's front yard and the front of her house.
Q. And would 13 be another picture of that?
A. I believe that's another picture of Mrs. Cox's front yard.
Q. And in that front yard, State's 14, is what?
A. It's a picture of that blue pipe, the watering wand, that the defendants used to hit me.
Q. And whose wand was that?
A. It was my personal belonging.
Q. And you usually kept it where?
A. In my backyard behind the house. Next to my screened-in porch there is a water spigot and a hose reel box.
Q. Did you notice whether or not either one of these individuals had gloves on?
A. I don't recall. However, I did find a glove in my master bedroom.
Q. Where did you find the glove?
A. In the master bedroom.
When I went into the house after the detectives had finished processing my home, I noticed that they had rifled

through our belongings in the master bedroom and the drawers were pulled out.

And in my nightstand I keep -- I have some military patches from when I was in the Air Force. I saved the little patches and velcro. And one of the velcro patches, they are very sticky, had stuck to one of -- to a glove that the defendants had left behind that wasn't ours.

Q. Say that one more time. I apologize.

A. Well, I -- there was a glove left at the scene which had apparently gotten stuck to one of my patches that I keep in my nightstand top drawer.

Q. Doctor, I'm just going to show you just a couple of pictures of your bedroom.

MR. MEADORS: And if the court will allow, I'm about through.

I beg the court's indulgence.

(Photograph marked as State's Exhibit No. 16 for identification)

(Photograph marked as State's Exhibit No. 17 for identification)

(Photograph marked as State's Exhibit No. 18 for identification)

(Photograph marked as State's Exhibit No. 19 for identification)

(Photograph marked as State's Exhibit No. 20 for

identification)

MR. MEADORS: Your Honor, State's 16 through -- 16, 17, 18, 19, 20 are without objection.

THE COURT: All right, those are in.

(State's Exhibit No. 16 was entered into the record as evidence)

(State's Exhibit No. 17 was entered into the record as evidence)

(State's Exhibit No. 18 was entered into the record as evidence)

(State's Exhibit No. 19 was entered into the record as evidence)

(State's Exhibit No. 20 was entered into the record as evidence)

BY MR. MEADORS:

Q. 16 through 20, are -- let me just go --

Is it fair to say that you and your wife -- does your wife keep a neat bedroom? Not to pry, but --

A. Yes, sir.

Q. Doors closed in your dresser?

A. Normally, yes, sir.

Q. All right. State's 16, when you went in your bedroom, just -- you may have described it, but how did you find it? Was it in like you usually leave it?

A. No, sir, the room was quite disheveled with the drawers

opened and things pulled out and thrown about.

Q. And State's 16 shows the drawer open?

A. Yes, sir.

Q. All right. State's 17?

A. State's 17 shows my tall dresser, as well as my wife's dresser, again drawers open and items scattered on the floor.

Q. State's 18?

A. State's 18 shows our long dresser in our master bedroom with the drawers pulled open and items pulled out.

Q. And y'all hadn't left them like this?

A. No, sir.

Q. State's 19?

A. 19 shows -- could I see that again?

This is a picture on the left side, if you are looking at the headboard of our master bed, with my nightstand, telephone.

There are drawers opened and there is various items from that top drawer, military scarf, and that, and I believe that's the glove with the patch on it on the floor at the front of the photo.

Q. And that's not your glove?

A. No, sir, I don't own such a glove.

MR. MEADORS: And that was State's 19 for the record.

BY MR. MEADORS:

Q. And State's 20, what is that?

A. State's 20 is a picture in our kitchen showing the oven and the little work desk that normally has a computer with a computer missing, and the drawers pulled open on the work desk.

Q. So that's where your computer was?

A. Yes, sir.

Q. And had you seen that computer prior to going into your house that morning?

A. Yes, sir, that computer was in the back of the defendants vehicle.

(Off the record)

(Back on the record)

BY MR. MEADORS:

Q. Just a couple more questions and we appreciate you being here.

You got how close to Mr. Godbolt?

A. Face to face.

Q. Okay. This close?

A. Yes, sir.

Q. Now, what time of day was it?

A. It was approximately 12:15, so it was noon. It was the middle of the day. It was a cold rainy day.

Q. Could you see?

A. I could see clearly.
Q. It sounds crazy, but could you see?
A. Yes, I could see the defendant clearly.
Q. Was there anything obstructing your view when you said that you were face to face with Mr. Godbolt?
A. No, sir.
Q. Were you this close?
A. We were this close.
Q. Were you --
A. A foot from one another.
Q. Were you looking at each other?
A. Yes, sir.
Q. I mean, were you looking at him?
A. Yes, sir. In fact, I made a --

In front of Maureen Cox's house I was terrified. I thought I wasn't going to survive, but I said, you know, I want to remember this for just this day and I took a mental note of both Mr. Godbolt and Mr. Helton so I could later identify them.

Q. And how close were you to who you say it was Mr. Godbolt when he showed you the weapon in his jacket?
A. Again, we were face to face right in front of one another.
Q. How close were you to him when he said "we are going to kill you? We are going to shoot you?"

A. Again, face to face right in front of one another. It was terrifying.

Q. Based on that time, doctor, the time that -- the time that he decided that you were going to be with him, and based on the time that you were -- that confrontation, the initial confrontation, and based on the time that you were marched back down to look for the key, based on that time, is the person in this courtroom who showed you the gun, said "I'm going to kill you," who was one of the individuals running behind you when you heard the gunshots fired?

A. Yes, sir.

Q. He tackled you?

A. Yes, sir.

Q. Is that person in the courtroom?

A. Yes, sir.

Q. Would you please tell the ladies and gentlemen of this jury who that is?

A. Ladies and gentlemen, that person is the defendant, Mr. Reco Godbolt.

Q. Sitting by Mr. Smaldone?

A. Yes, sir.

Q. You did not give him permission to go in your house?

A. I did not give him permission.

Q. Did you give him permission to take your stuff?

A. I did not give him permission to take my belongings.

Q. Did you tell him to shoot at you?
A. I did not tell him to shoot at me.
(Photograph marked as State's Exhibit No. 21 for identification)
MR. MEADORS: Yes, sir, without objection, judge.
THE COURT: Is that right, Mr. Smaldone?
MR. SMALDONE: Yes, sir, no objection.
(State's Exhibit No. 21 was entered into the record as evidence)
BY MR. MEADORS:
Q. Is that the same individual that you saw that day? Is that Mr. Reco Godbolt?
A. Yes, that's Mr. Reco Godbolt.
Q. And is that the shirt jacket he was wearing?
A. That appears to be the gray sweatshirt that he was wearing.
Q. That man right there?
A. Yes, sir.
(Off the record)
(Back on the record)
(CD of 911 Call marked as State's Exhibit No. 22 for identification)
THE COURT: Everybody on the jury okay? All right.
MR. MEADORS: While we are waiting, the 911 phone

call I believe without objection.

THE COURT: No. 21?

MR. MEADORS: 22, Your Honor.

21 was the picture.

THE COURT: Any objection?

MR. SMALDONE: No, sir.

(State's Exhibit No. 22 was entered into the record as evidence)

MR. MEADORS: Your Honor, now we are going to present the 911 call, Dr. Funke's call to the 911 dispatch operator.

(Whereupon, the 911 Call was played to the jury panel)

BY MR. MEADORS:

Q. Was that you? Was that your voice?

A. That was my voice.

Q. And the "ch, ch, ch," I don't know how the court reporter can take down, but that sound was what?

A. Well, when I first called 911, I wasn't sure if they heard me because I couldn't understand the dispatcher, so I kept the connection alive. And as the defendants were chasing me, I hid the phone in my pocket and I pulled it out of my pocket and I urgently pleaded with them to hurry up to come save me. I was a terrified for my life.

Q. Were you running?

A. I was running.
Q. Okay. And at some point you said there was a gunshot, correct?
A. Yes, sir.
Q. And when was that in the process of you running? Do you hear it on there at the end?
A. I can't -- I can't tell from the audio recording in here, but --
Q. When were you shot at -- or when did you hear the gunshot?
A. That was when -- shortly after I left my residence and began going down the street, I was at the next house over and I heard that and I turned around and then I saw the defendants chasing me.

I'm just thankful that the police came so quickly.

Q. Dr. Funke, thank you.

MR. MEADORS: Judge, that's all I have.

THE COURT: All right, ladies and gentlemen, what we are going to do now is take a recess for lunch. We are going to break now.

If you would please be back --

Stay right there, please.

If you would please be back in your jury room at two o'clock. That's a little bit less than an hour and a half from now. That will give you time to get lunch and get

back without rushing too much.

Obviously, in accordance with my earlier instruction, you may not discuss this case at all amongst yourselves or with anyone else.

Also do not read anything about it, listen to anything about it, or obtain any information about it at all. Should you be in a setting where that is a possibility, just remove yourself from that that, and we will see you back at two o'clock this afternoon.

Thank you very much for your patience.

(The following takes place outside the presence of the jury panel)

THE COURT: All right, Dr. Funke, you may not know this, but during the lunch recess you may not discuss your testimony with anyone, and that includes Mr. Meadors. It includes your wife. You can't talk to any officers about it. In short, you can't discuss it with anyone at all. Do you understand that?

THE WITNESS: Yes, Your Honor.

THE COURT: Okay. Thank you. You can step down.

Mr. Smaldone, you said there was something that you wanted to put on the record, and you did this at a bench conference before the jury was sworn. I would let you do that now.

MR. SMALDONE: Thank you, Your Honor.

I wanted to move -- and I don't know if it's technically a mistrial, because the trial hadn't started at that point, but I guess for lack of a better term a mistrial.

As the record may or may not reflect during the qualification of the jury, when panel was in here, someone stood up and you asked how long he had known the defendants and instead of answering your question, he explained that he was their bondsman, that he bonded them out some months ago.

THE COURT: That's fairly accurate.

Actually what I said is is there anyone who knows any -- and I said either Mr. Godbolt, Mr. Helton, or Dr. Funke, and a gentleman stood up and I said which one do you know, and that's when he said well, I'm a bondsman. I know both of the defendants.

MR. SMALDONE: Right.

THE COURT: And that's -- and obviously he was not following my instructions, but you are asking for a mistrial?

MR. SMALDONE: Yes, sir, I think the jury -- the whole jury pool was tainted.

You know, obviously the defense lawyers, the solicitors, and the judges, you know, in here as a bondsman but, you know, I don't think that the jury pool can understand the concept of that. I think that when they hear

they have got a bondsman, he's already guilty. He's already in jail, because obviously he's got a bond and he's in jail, so that's why I move for a mistrial.

THE COURT: Mr. Meadors?

MR. MEADORS: Judge, I don't think it's prejudicial at all. Clearly he didn't respond to your instructions, but I don't think it was intentional. Your Honor, there is testimony that they had been arrested. Bonding is part of the process, and I don't think he went beyond that. I would respectfully ask you not to grant a mistrial.

THE COURT: All right. Anything else, Mr. Smaldone?

MR. SMALDONE: No, sir.

THE COURT: All right. First of all, whether or not it was inadvertent or not, he did say it. I don't think it unduly prejudices Mr. Godbolt.

In any event, I would certainly entertain a request from you, if you want one, an instruction to the jury that they not consider anything that's occurred outside the immediate confines of the presentation of evidence; that means beginning with Dr. Funke through the end.

If you want me to specifically mention that exchange, I would, but if you want me to just -- as part of my general charge I will tell the jury that nothing but the

evidence that has been presented in this trial is what they should consider. And that may help here, but in any event, I'm going to deny your motion for either a mistrial or quashing the panel. And you turn that over and if you think there is something you want me to present, either specifically or generally, I'll certainly consider it.

MR. SMALDONE: I'll let you know, Your Honor.

THE COURT: Thank you.

If the lawyers could be back at ten minutes until two. And all of the parties who are pertinent to the case can be back at ten minutes until two, just in case there is anything you need to put on the record beforehand.

Of course, have Mr. Godbolt out at about ten minutes to two also.

All right, thank you.

MR. SMALDONE: Thank you, Your Honor.

(Whereupon, proceedings were recessed)

(Whereupon, proceedings were reconvened)

THE COURT: Are you ready for the jury.

(Whereupon, proceedings were recessed).

(Whereupon, proceedings were reconvened)

(Photograph marked as State's Exhibit No. 23 for identification)

(Photograph marked as State's Exhibit No. 24 for identification)

(Photograph marked as State's Exhibit No. 25 for identification)

(Photograph marked as State's Exhibit No. 26 for identification)

(Photograph marked as State's Exhibit No. 27 for identification)

(Photograph marked as State's Exhibit No. 28 for identification)

THE COURT: Are you ready for the jury?

MR. MEADORS: Just for the record, State's Exhibit No. 23, 24, 25, 26, 27, and 28 are being offered and there is no objection.

THE COURT: Is that right?

MR. SMALDONE: Yes, sir.

THE COURT: Number 25 through what?

MR. MEADORS: 23 through 28.

THE COURT: Okay.

(State's Exhibit No. 23 was entered into the record as evidence)

(State's Exhibit No. 24 was entered into the record as evidence)

(State's Exhibit No. 25 was entered into the record as evidence)

(State's Exhibit No. 26 was entered into the record as evidence)

(State's Exhibit No. 27 was entered into the record as evidence)

(State's Exhibit No. 28 was entered into the record as evidence)

MR. MEADORS: Pictures of the three -- just for the record, 28 is where the car got stuck underneath and they removed the car what it was stuck on.

THE COURT: All right.

MR. MEADORS: 27 is the inside of the car when they were searching it. It shows the camera from the door's bedroom.

26, 25 and 24 -- 24, 25 and 26 are of the do rag which Johanna Aleck recovered.

And 23 is just another picture of where the car got stuck.

THE COURT: All right.

MR. MEADORS: Thank you.

THE COURT: Okay, Mr. Smaldone, are you ready?

MR. SMALDONE: Yes, sir.

THE COURT: All right, you can bring in the jury.

THE CLERK: Your Honor, we have all the jurors present in the courtroom)

(The following takes place in the presence of the jury panel)

THE COURT: Thank you, sir.

All right, ladies and gentlemen, we are ready to continue.

Mr. Smaldone, you can cross-examine the witness.

MR. SMALDONE: Thank you, judge.

CROSS EXAMINATION BY MR. SMALDONE:

Q. Good afternoon, doctor.

A. Good afternoon.

Q. It is afternoon, okay.

It was your testimony that you saw Mr. Godbolt and Mr. Helton around your house, correct?

A. That's correct.

Q. Okay. And what was Mr. Godbolt wearing?

A. Mr. Godbolt was wearing a gray sweat suit.

Q. Okay. And was your testimony that you thought Mr. Godbolt had a gun?

A. That's correct.

Q. What made you think that?

A. He showed me the gun in the pocket of the sweatshirt. I could clearly see from the outline that it was a --

Q. Are you sure?

A. Yes.

Q. Are you sure it was a gun?

A. I believed it was a gun and I was fearful for my life. I was scared to death.

Q. All right.

A. He told me he was going to kill me with it.
Q. All right. You described the gun as possibly a semiautomatic, is that right?
A. It wasn't a revolver. It was a semiautomatic style of handgun.
Q. Semiautomatic style of handgun.
Now, what is the difference between a semiautomatic handgun and a revolver? How do you know that?
A. I served in the military.
A revolver is just that, it has a barrel with chambers in it and it spins around, whereas a semiautomatic has a magazine and a slide.
Q. So is it fair to say that the revolver is, for lack of a better comparison, almost like an old west cowboy type gun?
A. If you will, counselor.
Q. What -- with a semiautomatic handgun -- well, let me back up.
Did you see any other guns?
A. That was the only gun that I saw.
Q. Okay. Now, this semiautomatic gun, I don't know a whole lot about guns, is there -- there is not a lever or anything? You just pull the trigger to fire it, right?
A. I think you should defer that to a weapons expert.
Q. Okay. I mean, you testified earlier you were in the

military and you are not a weapons expert?
A. I didn't say that. You did.
Q. So you don't know what kind of gun it was?
A. I told you what it looked like.
Q. Okay. Well, you explained it was a semiautomatic, correct?
A. That's what it appeared to be.
Q. Okay. Did it have a lever?
A. What's a lever?
Q. A lever is on like -- let's say like a 30/30 rifle, you pull it, pull the trigger, cock it back like the old BB guns?
A. I did not see that.
Q. Okay. What happened with the semiautomatic gun when it's shot? You pull the trigger and what happens?
A. It loads the next round.
Q. What happened to the old round?
A. It's ejected.
Q. Okay. Is there a --
It's true that you say that one of the main differences between a revolver and semiautomatic is a revolver does not eject a round, correct?
A. That's correct.
Q. All right.
MR. SMALDONE: Beg the court's indulgence for just

one minute.

THE COURT: All right.

(Off the record)

(Back on the record)

BY MR. SMALDONE:

Q. You testified that you heard a gunshot?

A. I did.

Q. How many gunshots did you hear?

A. I heard one.

Q. Where were you when you heard the gunshot?

A. Running away from my house.

Q. Were you running-- where were the -- where was Mr. Godbolt and Mr. Helton?

A. They were coming around from the side of the house where the garage is towards the front yard.

Q. Is it fair to say they were behind you?

A. That's correct.

Q. Did you see the gun either immediately before, during, or immediately after it was fired?

A. I did not.

Q. Can you tell which direction they were firing?

A. I cannot tell you that.

Q. So you don't know if they were firing at you or the air, right?

A. That's correct.

Q. Okay. And this -- what time of day was all this?
A. It was approximately 12:15 p.m..
Q. And now -- is it fair to say it was daylight?
A. It was an overcast rainy day.
Q. Was it nighttime?
A. It was daytime.
Q. Okay. How long did this whole -- I know -- I'll forgive you if you don't remember, but kind of fuzzy, but how long do you think this whole ordeal --

From the time that you first laid eyes on Jamal and Reco until the end of the whole incident, how long do you think that took?

A. It's hard to say because when you are terrified by somebody and you are scared, things often seem temporarily distorted, but my best guess is fifteen minutes.
Q. Okay. Fifteen minutes from --

Let's say the end -- if you have the same answer, that's fine. Let's say the end is when the cops arrived. Is that still fifteen minutes?

I just didn't give you a really good end point for what I meant by the incident ending, and I apologize.

From the time that you laid eyes on Reco and Jamal until the cops arrived, how long was that?

A. You could check the transcripts to be sure.

MR. SMALDONE: Read it back for me, please.

A. No, I'm talking about the police --

BY MR. SMALDONE:

Q. Oh, I'm sorry --

A. -- records.

Q. Okay. Now, when you said fifteen minutes, what did you mean earlier? What did you think I meant by the end of the incident?

A. I don't understand what are getting at, counselor.

Q. When you said fifteen minutes is how long the whole ordeal lasted.

A. That's an approximation of the time involved from when I first entered my house until the police arrived and rescued me.

Q. Okay. Why didn't you answer that when I asked you the second time?

A. You weren't clear about that, counselor.

Q. I apologize.

Let's see.

MR. SMALDONE: Beg the court's indulgence.

THE COURT: All right.

(Off the record)

(Back on the record)

BY MR. SMALDONE:

Q. So you know for a fact that it was the fellow in the gray sweatshirt that had the gun, right?

A. That's correct.
Q. Did you ever see him give the gun to Jamal Helton?
A. No.
Q. So it's your belief that he had the gun the whole time?
A. I saw the outline of the weapon through the pocket of the sweatshirt when they were attacking me.
Q. And you are pretty sure that it wasn't this number, right? It wasn't the hand in a pocket?
A. No, he pointed it out and said "you see this? I'm going to kill you."

And what the -- when the defendant fled from the police and escaped behind Lowery's yard, he had plenty of opportunity to dispose of any weapon that he may have been carrying, because there is a lake there and there is bushes there.

Q. All right, you said it had a square shaped handle?
A. That's what it appeared to be.
Q. How big do you think it was?
A. It was your average semiautomatic handgun.
Q. About the size of a -- I mean, there is -- what do you find as an average a semiautomatic handgun?
A. Well, they're seven, eight inches long, usually along the slide.
Q. Okay. All right.

MR. SMALDONE: I don't have any further questions.

THE COURT: All right.

Redirect?

MR. MEADORS: Very briefly.

REDIRECT EXAMINATION BY MR. MEADORS:

Q. Did you hear a gunshot?

A. Yes, sir.

Q. Did you tell the officers they had a gun?

A. Yes, sir.

Q. Did you tell your wife he had a gun and you were shot at?

A. After the officers responded to the scene, a neighbor came to help me out. I made a phone call to my wife and I told her I had been shot at.

Q. Did you see an outline of the gun in Mr. Reco Godbolt's jacket?

A. Yes, sir.

Q. Did he point it out to you?

A. Yes, sir.

Q. Did he represent to you that it was a firearm?

A. Yes, sir.

Q. Did he say "I have got a gun?"

A. I don't recall the exact words, but he pointed it out and said "see this?"

Q. Did it look like a gun to you?

A. Yes, sir.

Q. Thank you.

THE COURT: All right. You can step down. Thank you.

THE WITNESS: Thank you, Your Honor.

THE COURT: Next witness.

MR. MEADORS: Ricky Morse.

THE CLERK: Place your left hand on the Bible and raise your right hand.

State your name, please.

THE WITNESS: Ricky Morse.

DETECTIVE RICKY MORSE, having been first duly sworn, testified as follows:

THE CLERK: Have a seat up here, please. Watch your step coming up.

Please state your full name and spell your first and last name for the record.

THE WITNESS: Ricky Lee Morse.

First name is R-I-C-K-Y. Last name is M-O-R-S-E.

DIRECT EXAMINATION BY MR. MEADORS:

Q. Can you pronounce your last name?

A. Morse.

Q. Morse.

A. Yes, sir.

Q. Detective, will you please tell the ladies and gentlemen of this jury a little bit about yourself,

specifically where you were born and raised, your education, and in particular your education in law enforcement?

A. Yes, sir.

Originally from California, where I entered the Air Force. I spent twenty years in the Air Force.

My wife and I came here in the nineties. We left and actually came back here, retired here in 2007, and at that point I obtained a job with the Sumter Police Department.

I went to the police academy.

After the police academy I was assigned to the patrol division.

And then in 2010 I made detective and was assigned to Investigative Services Division, and assigned to the property crimes unit where I'm currently assigned.

Q. How long have you been in property crimes?

A. I have been there since October of 2010.

Q. And you are there today?

A. Yes, sir.

Q. What shift do y'all -- do y'all rotate shifts?

A. Well, we typically run a day shift with -- there is a detective that works sort of a night shirt, the two to ten shift. We rotate that, and we rotate an on-call schedule where you can be called out at night at any time.

Q. Let's go back to October of last year, specifically Halloween of 2011. Where were you working?

A. We were actually on day shift. My partner Brian Christmas and I, we had left the law enforcement center in order to go out and canvass neighborhoods due to the fact that we had had --

Q. You were patrolling neighborhoods?

A. Yes, sir.

Q. And were you actually near this incident location when this happened?

A. Yes, sir, we were actually just turned into the Timberline Meadows Subdivision, which is across the street on Loring Mill and just down more towards Wise Drive area, so we weren't too far away at all.

Q. And did you receive a call to respond to [redacted]?

A. Yes, sir, dispatch had put out a basic call to all city units stating that there was a burglary in progress on Canvasback and we responded.

Q. And when you hear a burglary in progress, this is real time? You might roll up on it --

A. Yes, sir.

Q. -- in progress --

A. Yes, sir.

Q. -- right?

A. Yes, sir.

Q. Who was driving your police unit?

A. Detective Christmas was driving.
Q. That's Detective Christmas right back here?
A. Yes, sir.
Q. And you were with him?
A. Yes, sir.
Q. And approximately what time was this, detective?
A. It was around noontime.
Q. Please tell the ladies and gentlemen of the jury as you are heading to [redacted], what were observations as you are rolling up on [redacted]?
A. As we were rolling up the scene, we had come around onto Canvasback. I observed a gold in color Altima. It seemed to be high centered on either a bush or one of the power boxes, whether it be a cable box or -- I'm not sure which kind of box it was.

I observed two black males. They seemed to be struggling to move the car. Kind of one of them -- the passenger, I believe, he was kind of in and out of the vehicle. The door was open, you know what I'm saying, and he's kind of stepped out of it in a position -- it seemed like they were kind of like rocking it on the passenger side and that was actually our defendant here today, Mr. Godbolt.
Q. Okay. So it appeared to you they were rocking the vehicle?
A. Yeah, they were definitely trying to flee the scene.

MR. MEADORS: Beg the court's indulgence.

(Off the record)

(Back on the record)

BY MR. MEADORS:

Q. I'll show you what's marked State's 10. Do you recognize that, detective?

A. Yes, sir, I do. That would be the defendant's vehicle.

Q. It was in progress. You arrived at [redacted]. You see the vehicle was there, appeared to be rocking the vehicle. What do you do next? What do you observe next?

A. As we get closer, I exit the vehicle. As I exit the vehicle, right there as I am exiting, or shortly there within seconds after, we actually hear the victim states that "he's got a gun." At the same time -- all this is happening at the same time, the two defendants are running away from the scene.

Mr. Godbolt runs -- it's a cove. He runs across the pavement in between two other homes, and the other suspect ran into the woods. I chased after -- yes, sir.

Q. You said a minute ago you heard the victim say -- is this who you are talking about, Dr. Funke?

A. Yes, sir, he was standing more towards -- I guess towards the front of the vehicle and I remember him distinctly saying --

MR. SMALDONE: Objection?

A. -- "they have a gun."

THE COURT: Yes, sir?

MR. SMALDONE: Hearsay, Your Honor.

THE COURT: Mr. Meadors?

MR. MEADORS: Your Honor, it's a spontaneous utterance when the police get there.

THE COURT: The objection is overruled.

BY MR. MEADORS:

Q. You hear him say "he's got a gun?"

A. Yes, I do.

Q. Now, is that information as a law enforcement when you are responding to a burglary in progress, do you want to know?

A. Oh, absolutely.

Q. And I interrupted you earlier. If you would go back to that?

A. Yes, sir.

Q. Please proceed. What did these individuals do?

A. They run away from the scene.

Q. Okay. And what did you do?

A. I chased after Mr. Godbolt.

Q. And you say Mr. Godbolt got out of which side?

A. He was on the passenger's side of the vehicle.

Q. Tell the jury what happened after that.

A. We chased him -- or I should say I chased him across the pavement and behind some houses. And then there is water behind the house. And at one point there was just nowhere else for him to go and he was apprehended.

Q. I'm going to ask you just to briefly step down, please.

A. Oh, yes, sir.

Q. With His Honor's permission, if you will just --

(Witness off the witness stand)

THE COURT: If you will just please keep your voice up for our court reporter.

Stand off to the side, please.

Mr. Smaldone, you can get wherever you need to be.

BY MR. MEADORS:

Q. This is State's 9, detective?

A. Yes, sir.

Q. Again, if you will just speak up so the court reporter and everybody can hear you.

Can you show the jury kind of where you and Detective Christmas drove up?

A. Oh, absolutely. This is the house at [redacted]. We had actually come in -- we come in through here.

As we turn into Canvasback Cove, it's kind of hard to see because of the trees and things here, and then the road comes around just like that. This is a little cul-de-sac.

Mr. Godbolt exited -- you know, as he -- like I said,

he's kind inside and out of the vehicle. He leaves the vehicle and runs across this pavement. And you will see that there is bushes and things here. He runs in between these bushes and this house. And as he runs this way towards this water in this direction here, he runs -- there is -- this is actually I guess you would call it a landscaping island. You know, landscapers put, you know, pine straw down and bushes and things like that. At that point he runs past that and more down towards this water, and that is the point where I believe he just realized he had nowhere else to go and I ordered him to the ground. Again, I had to order him to the ground. We had already ordered him out when we exited our vehicles, and, of course, they fled. I ordered him to the ground at that point and then put handcuffs on him.

Q. So when you first ordered him to stop or get on the ground, they fled?

A. Originally when we got out, I mean, we came out with our weapons drawn and ordered them to the ground. They did not go to the ground. They fled the scene.

Q. They ran?

A. Yes, sir.

Q. Okay. And then a short distance later is when you caught him?

A. Yes, sir.

Q. Are there places out there, based on you being out there yourself, where an object could be thrown?

A. Yes, sir, all these bushes that he ran by, this island here, as well the water.

Q. How long -- well, you caught him?

A. Yes, sir.

Q. You tell him to stop?

A. Yes, sir.

Q. Go get on the ground?

A. Yes, sir.

Q. What did you do next?

A. I put handcuffs on him. I rolled him over to get him back up, and we then walked back pretty much the same path that he ran and we come back around.

By that time marked patrol units have arrived. I walked him to one of the patrol units and at that point a search was conducted on this person.

Q. I do not mean this bad.

A. No.

Q. Don't take bad what I'm fixing to ask you. He is a little younger than you are?

A. Yes.

Q. Perhaps faster than you are?

A. Oh, absolutely.

Q. It took you a while -- I don't mean to --

A. No, no. I -- it took us -- of course, I'm more slower and he is, and for other reasons I won't -- but, yeah, I mean, he was ahead of me.

Q. Okay. That was my question. He was ahead of you and you had to catch up to him?

A. That's correct.

Q. He had plenty of opportunity to pull himself away from you?

A. Yes, sir.

Q. How far a distance is that when you --

Go back and I'll take care of it.

A. Okay.

(Witness back on the witness stand)

BY MR. MEADORS:

Q. Can you give us an approximate from how far Mr. Godbolt exited the vehicle to where you finally apprehended him?

A. It was a few hundred yards.

Q. What did you do with him then? You got him handcuffed?

A. We walked -- I walked him back, back around the same path that we had run back to the house. But, like I said, by that time patrol units had arrived. I walked him over to one of the patrol cars and at that point a search was conducted.

Q. You have been around, and I don't mean that in a bad way, but you have been in law enforcement, you are now a

detective, is that what you do when you arrest somebody, you then search them?

A. Absolutely.

Q. Search incident to arrest?

A. Yes, sir.

Q. And what, if anything, did you find on the defendant Reco Godbolt when you searched him?

A. I pulled out a cell phone, camera, and I believe some coins.

Q. This has already been entered as State's 4. Do you recognize that?

A. Yes, sir, absolutely. That was the cell phone that was taken off of him.

Q. And do you remember where you took it off Mr. Godbolt?

A. It was in a pocket, but I do not remember which pocket it was in.

Q. Okay. And State's 5, do you recognize these?

A. Yes, sir, they appear to be the same foreign coins that were taken, and the camera -- I do recognize the camera as well.

Q. And you got these from where?

A. From him.

Q. From his body?

A. Yes, sir.

Q. Person?

A. Yes, sir.
Q. After you had searched him, him being Reco Godbolt, excuse me, what did you do next with him?
A. He was placed in a patrol car to be secured.
MR. MEADORS: Beg the court's indulgence.
(Off the record)
(Back on the record)
BY MR. MEADORS:
Q. Can you describe Dr. Funke's demeanor when you first got there?
A. Very, for lack of a better term, excitable, scared. Definitely -- you know, he was scared.
Q. And I will show you what's State's 21. Do you recognize that?
A. Yes, sir, I do.
Q. And is that what Reco Godbolt was wearing the day that you arrested him?
A. Yes, sir.
Q. And is the person that you chased, the person that you ultimately caught, the person that you got the cell phone, State's 4, and the coins and the digital camera, State's 5, is that person in this courtroom?
A. Yes, sir.
Q. Would you please point him out for these ladies and gentlemen?

A. Yes, sir. Mr. Godbolt, right there.
Q. With the red tie next to Mr. Smaldone?
A. Yes, sir.
MR. MEADORS: We would like the record to so reflect.
BY MR. MEADORS:
Q. I do have a couple other things I forgot.
You had mentioned the car was -- they were kind of rocking it?
A. Yes, sir.
Q. Do you recognize State's 23 and 28, which are already in evidence?
A. Yes, sir, that appears to be the cable or electrical boxes, as well as the bush or grass that the car was on.
Q. Is that what the car got stuck on?
A. Yes.
Q. You did not search the vehicle itself?
A. No, sir.
MR. MEADORS: Beg the court's indulgence.
(Off the record)
(Back on the record)
BY MR. MEADORS:
Q. Thank you, sir.
MR. MEADORS: Judge, that's all the questions.
THE COURT: Cross-examination.

CROSS EXAMINATION BY MR. SMALDONE:

Q. Good afternoon.

A. Good afternoon.

Q. How far away were you from Mr. Godbolt when the chase -- well, let's say when it started?

A. Maybe our car stopped probably from me to I guess where the -- I guess to where the gate is right there, maybe that far at the most.

Q. Okay. So about, I guess for the court reporter, maybe thirty feet, or so?

A. Right, yeah.

Q. I don't know if she has right to write that down or not but, I try to help.

How many times did you lose sight of him?

A. I didn't really -- he went around the house, maybe for a split second. There was -- and at that point he had gone around some bushes. I didn't lose complete sight of him, meaning I could see part of his body through the bushes, but not complete -- I did not lose complete sight.

Q. All right. And when you found him, you didn't find a gun on him, did you?

A. No, sir, I didn't find a gun on him.

Q. Did you check the area for a gun?

A. The area was checked for a gun.

Q. Did you find one?

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A. Not during my search I did not find one.

Q. Was the area checked for any spent shell casings?

A. I can't say that -- I didn't check for any spent casings, so I'm not sure what the officers did back at the house.

Q. Okay.

MR. SMALDONE: I don't think I have any further questions for you. Thank you.

THE COURT: Redirect?

MR. MEADORS: No, sir, thank you.

THE COURT: Thank you, sir. You can step down.

THE WITNESS: Thank you, sir.

THE COURT: Mr. Meadors?

MR. MEADORS: Detective Brian Christmas.

THE CLERK: Place your left hand on the Bible and raise your right hand.

State your name, please?

THE WITNESS: Brian Christmas.

DETECTIVE BRIAN CHRISTMAS, having been first duly sworn, testified as follows:

THE CLERK: Have a seat up here, please.

Please state your full name and spell your first name and last name for the record.

THE WITNESS: Brian Christmas. B-R-I-A-N, C-H-R-I-S-T-M-A-S.

THE COURT: Go ahead, Mr. Meadors.

MR. MEADORS: Thank you, sir.

DIRECT EXAMINATION BY MR. MEADORS:

Q. Detective, please tell these ladies and gentlemen of this jury about you, Brian Christmas, where you are from, your background, your education and your training, particularly your training in law enforcement.

A. Yes, sir.

I was born and raised in Sumter, South Carolina, and in 1991 joined the U.S. Air Force. I moved to Florida for four years in the Air Force as a firefighter.

Once I finished my four years I got out and came back to Sumter and pursued the firefighter career.

Again, I was hired at the fire department in 1997, and they offered a public safety training, which was through the law enforcement in 2000.

So in 2000, I actually went through the police academy and became a certified police officer and started working for the Sumter Police Department.

2001, I was assigned to the detective division in the property crimes division of investigative services division.

Since 2001, I have been a detective with the police department and have worked in property crimes work and, you know, car break-ins. Also do fire investigations and stuff from the fire department side.

And, you know, other education, I have had a couple years of college. I have been to Francis Marion for two years, and also I went to Central Carolina for a year, and graduated from Sumter High School, and I have been back here since '97 -- '95 is actually when I moved back to Sumter.

Q. Thank you.

And in October the last year, 2011, your job was a detective for the Sumter Police Department?

A. Yes, sir.

Q. Okay. And on October 31st, 2011, that afternoon were you with Detective Morse on patrol, as you say?

A. Detective Morse and I were out patrolling.

Q. Did y'all receive a message from dispatch to respond to [redacted] for a burglary in progress?

A. Yes, sir, we had a -- dispatch came over and said there was an active burglary on -- at [redacted] and we were in that area.

Q. You were driving?

A. Yes, sir, I was driving.

Q. As you pull up to [redacted], and y'all have seen a picture of it now, what were your observations, either heard, saw, as soon as you got there?

A. As we turned the corner, seen a gold Altima with two black males near the car. One of them was on the driver's side down like in the car. The other one was on the

passenger's side kind of in and out of the car.

It appeared that the car was stuck where it had bottomed out and it was kind of rocking. It looked like they were trying to get it unstuck. I know it was right around a telephone box and some other -- and there was bushes there. It seemed like it was close to the mailbox, but they were trying to move it, you know, as we -- as we pulled up, I see them and I see a white male standing, you know, kind of off to the side in front of the car.

Q. Would that be Dr. Bryan Funke?

A. Yes, sir, that would have been Mr. Funke.

Q. Did you hear anything when you got there?

A. I heard Mr. Funke stated that they had -- "they have a gun."

Q. He said that when he got out, "they got a gun?"

A. Yeah, he said "they have a gun," which immediately, you know, puts us thinking, well, we got to watch out if we go and if we chase after them, so we need to be careful. Not that we wouldn't be careful anyway, because we don't -- you know, most of the time we assume that they have one, regardless if we know that, but when he said that, that kind of raised our elevation to where we was being a little more careful.

Q. So you arrive and you see two suspects at a car that looks like it's stuck?

A. That's correct.

Q. Did you tell them to stop, or you are under arrest, or do you --

A. Yeah, we tell them to stop, but they pretty much paid no attention to us, you know, as we got out of the car and told them to stop. Both of them fled the scene.

Mr. Godbolt is the one that was wearing the gray sweat suit actually was on the passenger's side of the vehicle when we pulled up. He immediately took off across the cul-de-sac across the roadway and ran between two houses. Of course, Detective Morse took off after him.

The other individual took off running away. He was on the opposite side of the car from us. He took off running straight behind that down into the right of another house, and as he ran down, he kind of went down into a wooded area, so I had to secure the car so I didn't want to leave it open, so I got my keys, so it was a little bit of delay for me to go behind him.

I chased behind him and I ran as far as the back of that house, which was, you know, a pretty good run, but once I got there, I noticed in the backyard that they had, you know, a lot of trees and like stepping stones going back through like a greenscape area. So when I seen that, there was a lot of places he could have hid, you know, and Mr. Funke had said he had a gun. So at that point I decided it

would have been safer for me to pull back, so I backed back up and I went back towards the car and went to find Detective Morse to see where he was at to make sure he was okay.

Q. Could you show us on here where you ran on State's 9?

A. Yes, sir.

MR. MEADORS: With the court's permission?

THE COURT: All right.

(Witness off the witness stand)

BY MR. MEADORS:

Q. Detective, I know you will, but keep your voice up for the court reporter and the ladies and gentlemen can hear you.

MR. MEADORS: This is State's 9 for the record.

BY MR. MEADORS:

Q. Point to the ladies and gentlemen, first of all, where you and Detective Morse arrived.

A. We pulled into here. This is the little cul-de-sac here. We actually turned into here.

Their vehicle is right in this area.

Whenever they run, Mr. Godbolt, the one in the gray sweat suit, actually runs across here. I watched him as I'm securing the car. I see him running this way.

The other individual runs straight back through a house here. Once he goes behind the property, I believe it's this

house here. He went to the right of this house. He goes back into kind of it's like a little stream running back there, but I didn't -- I only went as deep as here to the back of the house just because of what Mr. Funke had said that they had had a gun, and I didn't have a vest on at the time, because we don't typically wear it, you know, when we are riding around. So we kind of a, you know -- so I decided it would be a better option for me to just go ahead and wait and hang in there because of the canine.

Q. So when you got to this point, the second suspect, you don't know where he went?

A. I don't know where he went from there.

Q. And describe this area up in here.

A. It's a -- there is a wooded area in here. You know, when you get back in here there was like, I said, there was stepping stones kind of came around through like a greenscape area and there is water over this way.

Q. What type of water?

A. Actually the end of this pond comes down here. To the left here there is a pond.

Q. Okay.

A. You know, later on as I went through the woods, when we were going with the canine, we come back through here there is a branch of woods through here maybe about sixty yards from where we were at here. And then there is a house back

here with more wooded area. We come up to the back of that house and the water kind of goes all the way back up to that house.

Q. So at this point you didn't know where the other suspect had gone?

A. No, I didn't know where he had gone.

Q. And if this other suspect had thrown a weapon around, you wouldn't have known where it was at?

A. I would not.

Q. Either in the pond or in the woods?

A. No. No, sir.

Q. You mentioned about going back out there. Did you subsequently go back out there?

A. Yeah, after -- after I came back and checked on Detective Morse, we ended up getting a canine out there. Once the canine got on the scene, I actually went myself and Detective Melton and patrolman -- or Corporal Bonner. He's the one that -- the canine handler. He actually came and we actually tracked through the woods with the canine tracking.

Q. And how far did you track?

A. If I could have guessed, maybe two or three miles that we tracked. It was a pretty good ways through the woods.

Q. And was this the same day?

A. That was the same day.

Q. Later on that day, obviously?

A. Yes, sir.
Q. And describe the conditions as you were tracking the three of y'all, the dogs.
A. It was a lot of briers going through the woods. Pretty much -- not shoes. Probably all the way up at least like that tracking through the woods.
Q. And this pond, how far does this bond go around?
A. This pond actually comes on around and it kind of branches back this way. I think it runs all the way back out. If I'm not mistaken, it runs kind of parallel to Loring Mills going back down.
Q. This young lady right here, Detective Aleck, did she come back to there and help?
A. She did.

As we were going through here, we went behind this house. Before we got there, there is another house about right here which happened to be a guy that I know. We come up just before we got to the back of his house in the woods, which is probably about sixty or seventy yards from where we started over here. We actually come across a blue bandana in the wooded area kind of hanging up on a limb. And when we come to that, we actually stopped and we called on the radio and said that we needed a forensic person out here and Detective Aleck actually responded and we stayed with it until she arrived.

Q. So y'all stayed there until she arrived and does whatever she does with it?
A. That's correct.
Q. Is that also known as a do rag?
A. Yes, sir, a do rag, yes, sir.
Q. Is that when the search ended?
A. No, sir, we continued on.
Q. And how much longer did y'all search?
A. We went on for a ways. We actually came all the way -- almost back out to Loring Mill, which would be -- I guess this here is Loring Mill here.
Q. I apologize for the map.
A. Back here, but we actually come almost back out to Loring Mill on --

I think this would be the driveway that goes to that house. The house would be up here. This is the driveway, so we come back up here and we actually cut all the way back down through -- all the way to where it paves at. It actually crosses over I think on the road there in the cove.

Q. You never found anybody that day as a result of your search?
A. No, sir.
Q. Thank you.

(Witness back on the witness stand)

BY MR. MEADORS:

Q. When you came back to the -- after the first time you went out after this second suspect, when you came back to the car, this is when you stopped for the search for the dog, did you come back and did you see Mr. Godbolt was back at the police car?

A. Yes, sir, Detective Morse had detained Mr. Godbolt and I did see him when I came back.

(Off the record)

(Back on the record)

BY MR. MEADORS:

Q. Detective Christmas, thank you.

MR. MEADORS: That's all I have.

A. Thank you.

THE COURT: Cross?

CROSS EXAMINATION BY MR. SMALDONE:

Q. So you said -- I'm going to keep it brief.

You said that you went for a few miles of woods and whatnot, correct?

A. That's correct.

Q. And you never found a gun?

A. At the time when we were going through we were not specifically looking for a gun. We were worried more about, you know, coming up on him with a gun and shooting at us.

Q. You never found a gun?

A. No, we never found a gun.

Q. All right. Did you -- were you -- I'm trying to figure out who was in charge of the canvassing of the area directly around the house. Was that you?

A. No, sir.

Q. Okay.

MR. SMALDONE: That's all. Thank you.

THE COURT: Redirect?

MR. MEADORS: No, sir, thank you.

THE COURT: Thank you, sir.

THE WITNESS: Thank you.

MR. MEADORS: Detective Aleck.

THE CLERK: Put your left hand on the Bible and raise your right hand.

State your name, please.

THE WITNESS: Detective Johanna Aleck.

DETECTIVE JOHANNA ALECK, having been first duly sworn, testified as follows:

THE CLERK: Thank you. Have a seat, please. Watch your step coming up.

Please state your full name and spell your first and last name for the record.

THE WITNESS: Johanna, J-O-H-A-N-N-A, Aleck, A-L-E-C-K.

(Do Rag marked as State's Exhibit No. 29 for identification)

MR. MEADORS: May it please the court?

THE COURT: Yes, sir.

DIRECT EXAMINATION BY MR. MEADORS:

Q. Good afternoon, detective.

A. Good afternoon.

Q. You know what I'm going to ask you. Tell these folks about yourself, where you are from -- where you were born, where you are from, background, education, and in particularly your education in law enforcement, please.

A. I'm from Kansas.

I joined the Air Force after graduating from high school and a year of college.

I traveled the world for twenty-one years and I retired from Shaw Air Force Base.

I liked the community, decided to stay here and decided I wanted to be a police officer.

After retirement I went to the academy. After graduation from the academy I worked the roads for awhile. I worked mounted patrol for four years, and then I was assigned to the detective division as a crime scene detective and evidence technician, where I'm currently assigned.

Q. How long have you been there?

A. About three and a half years.

Q. Now, did you respond to Canvasback, [redacted], on

October 31st of 2011?

A. I did. I was there for a short while when a call came out for another burglary and then I went to that burglary.

Q. And did you later go back to Canvasback?

A. I did, after nearly -- at the end of the processing of the scene.

Q. So that wasn't your seen initially?

A. Not initially.

Q. And you went back after the dogs had been out there, is that fair to say?

A. Right. When I was coming up the burglary, the other burglary that I went to, the dogs were on the track and they found something on the track and they called me to that area.

Q. Unrelated to this, obviously, you went somewhere else in your job and then you came back to this particular incident, correct?

A. Correct.

Q. Did you have an occasion to go out and were you shown where a potential item of evidence might have been located by the dog trackers?

A. Yes.

Q. And once you did that, did you take a picture of it?

A. Yes, I did.

Q. And I want to show you -- it's actually 24, 25, and 26.

Look at them and tell me do they -- do you recognize them and does it relate to your testimony?

A. Yes, that's the item I photographed.

Q. 26, 25 and 24?

A. Yes.

Q. And before you had had -- before you pick something up, what are you taught to do?

A. Photograph it. We also document its location.

Q. So you could show, like we are doing real time right now, where you found it before you touched it, right?

A. Yes, sir.

Q. And is that what you did?

A. Yes, sir.

Q. After you did that, did you collect it?

A. Yes, sir.

Q. And I'm showing you what's marked State's 29.

MR. MEADORS: Without objection, Your Honor.

THE COURT: Any objection?

MR. SMALDONE: No, Your Honor.

THE COURT: 29 in is the next number, correct?

COURT REPORTER: Yes.

THE COURT: All right.

(State's Exhibit No. 29 was entered into the record as evidence)

BY MR. MEADORS:

Q. Can you tell what this is?
A. That's my handwriting. It says a do rag. That's what I collected.
Q. And I know you write it in your handwriting, but if you look in here, is it, in fact, the do rag?
A. Okay. It's sealed, but that is my handwriting there.
Q. And does it actually say do, you can see through there and the rag inside?
A. It says do rag, yes.
Q. After you collected this, what did you do with it?
A. I placed it in a clean bag for DNA purposes and then we took it back to the lab where I packaged it to send to SLED.
Q. And you sent it to SLED for analysis, correct?
A. Yes, sir.

MR. MEADORS: And I believe without objection, Your Honor, for saving a couple of witnesses.

BY MR. MEADORS:

Q. Was that actually sent to SLED and Mr. Jamal Helton's DNA was discovered on that do rag?
A. Yes, sir.

MR. MEADORS: And, Your Honor, I discussed that previously before I asked the question and there is no objection to that.

THE COURT: All right.

MR. SMALDONE: No, sir.

THE COURT: Thank you.

MR. MEADORS: And, Your Honor, may we approach?

THE COURT: Yes, sir.

(Whereupon, the lawyers approached the bench for an off-the-record discussion)

BY MR. MEADORS:

Q. Did you collect any of the items from the car at the scene, the suspects car?

A. A TV from what I -- when I returned back to the scene, there was a TV that had been pulled out of the car. It had a tarp over it. I did process the TV.

Q. And were you able to discover prints or anything?

A. There -- I didn't have -- I had collected ridge detail off of that, but that was turned over to our fingerprinting expert and it was not useable.

Q. Not useable for identification?

A. That's correct.

Q. But you tried?

A. I tried.

I also DNA'd it, but that turned out that it was not suitable.

Q. You also DNA'd it?

A. I swabbed it, yes.

Q. And that --

A. It's not suitable.

Q. That did not turn --
A. No human DNA.
MR. MEADORS: Beg the court's indulgence.
(Off the record)
(Back on the record)
BY MR. MEADORS:
Q. Detective, that's all I have. Thank you.
THE COURT: Mr. Smaldone?
CROSS EXAMINATION BY MR. SMALDONE:
Q. Can you describe what --
Basically, you know, there are some police at the scene. What were you in charge of?
A. Like I said, I responded to the scene. And right after I got to the scene I was called away to another burglary, so I -- I worked very little of that scene.
Q. Okay. But did you search the car?
A. No, sir.
Q. Okay. So you didn't find a gun anywhere, correct?
A. No, sir.
Q. All right. Thank you.
MR. SMALDONE: That's all I have.
THE COURT: Redirect?
MR. MEADORS: No redirect.
THE COURT: Ma'am, you can step down. Thank you.
All right, ladies and gentlemen, we are going to

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take a recess. We typically do at some point in the afternoon.

If you would do a couple of things for me. The only person that can't be the foreperson of this jury will be Ms. McMillan, but what I would like for the other twelve of you to do -- of course, you can join in that too, if you would like, is discuss amongst who of you might be the foreperson of this jury. I'm going to let you pick your own foreperson.

To give you a little idea of what that is, it will be someone who is basically in charge of conducting the deliberations at the conclusion of the case; also is responsible for relaying any messages to a bailiff or to the court; and also would be responsible for completing the verdict form after making sure that the verdict is unanimous. So talk about that amongst yourselves.

And also if you would like some refreshments that aren't in your jury room, tap on the door and let the bailiff know what you might need. I think what they basically have here is Coca Colas and Diet Cokes, right?

THE CLERK: Yes, sir.

THE COURT: And when you do come back out, you can bring that with you, if you would like.

All right. You may not discuss the case during this break in any manner whatsoever. And thank you for your

patience. We will take about a fifteen minute break.

(The following takes place outside the presence of the jury panel)

THE COURT: All right, we will take a recess.

And, Mr. Meadors, if you are ready to go in fifteen minutes, let me know. Make sure Mr. Godbolt is back out. Of course, Mr. Smaldone, if you need to speak with him, you certainly will have access to him. Thank you.

MR. SMALDONE: Thank you.

(Photograph marked as State's Exhibit No. 30 for identification)

(Photograph marked as State's Exhibit No. 31 for identification)

(Photograph marked as State's Exhibit No. 32 for identification)

(Photograph marked as State's Exhibit No. 33 for identification)

(Photograph marked as State's Exhibit No. 34 for identification)

(Photograph marked as State's Exhibit No. 35 for identification)

(Photograph marked as State's Exhibit No. 36 for identification)

(Photograph marked as State's Exhibit No. 37 for identification)

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(Screwdriver marked as State's Exhibit No. 38 for identification)

(Whereupon, proceedings were recessed)

(Whereupon, proceedings were reconvened)

(Whereupon, the lawyers approached the bench for an off-the-record discussion)

THE COURT: Is the State ready for the jury?

MR. MEADORS: Yes, sir.

THE COURT: Is the defendant?

MR. SMALDONE: Yes, sir.

THE COURT: Your Honor, while we are -- during the break Mr. Smaldone reviewed State's 30, 31, 32, 33, 34, 35, 36, and 37 without objection.

THE COURT: 30 through 37?

MR. MEADORS: Yes, sir.

THE COURT: Is that right, Mr. Smaldone?

MR. SMALDONE: Yes, sir.

MR. MEADORS: And 38 without objection, the screwdriver.

THE COURT: Is that right, Mr. Smaldone?

MR. SMALDONE: Yes, sir.

THE COURT: Okay.

(State's Exhibit No. 30 was entered into the record as evidence)

(State's Exhibit No. 31 was entered into the

record as evidence)

(State's Exhibit No. 32 was entered into the record as evidence)

(State's Exhibit No. 33 was entered into the record as evidence)

(State's Exhibit No. 34 was entered into the record as evidence)

(State's Exhibit No. 35 was entered into the record as evidence)

(State's Exhibit No. 36 was entered into the record as evidence)

(State's Exhibit No. 37 was entered into the record as evidence)

(State's Exhibit No. 38 was entered into the record as evidence)

(The following takes place in the presence of the jury panel)

THE CLERK: Your Honor, we have all the jurors present in the courtroom.

THE COURT: Mr. Hatfield, I understand that you have been selected to be the foreperson of the jury. I will talk with you later, of course, along with the rest of the jury about your responsibilities.

In many other counties -- most other counties, the foreman just sits anywhere, but in Sumter and a good many

other counties the bailiffs like to have you in that chair so they will know which one you are. And the alternate, of course, you have an assigned seat too.

We are ready to continue.

Mr. Meadors, you can call your next witness.

MR. MEADORS: May it please the court, the State calls James Trey Tallon.

THE CLERK: Place your left hand on the Bible and raise your right hand.

State your name, please.

THE WITNESS: James Tallon.

JAMES TALLON, III, having been first duly sworn, testified as follows:

THE CLERK: Have a seat up here, please. Watch your step.

Please state your full name and spell your first and last name for the record.

THE WITNESS: James Bradley Tallon, III. James, J-A-M-E-S. Tallon, T-A-L-L-O-N.

DIRECT EXAMINATION BY MR. MEADORS:

Q. You go by Trey?

A. Yes, sir.

Q. And you are a detective?

A. Yes, sir.

Q. Would you please tell the ladies and gentlemen of this

jury about James Trey Tallon, III, where you were born, where you were raised, your background, your education, your training, and in particular your training in the field of law enforcement, please?

A. Yes, sir.

I was born and raised in Lee County, and graduated from high school.

I went to the Savannah College of Art and Design, obtained a Bachelors of Fine Arts Degree in Visual Effects. I left there, worked for myself for a few years. Then I began to get into law enforcement. My whole family is law enforcement, so it was inevitable.

I got into law enforcement in 2009. I have been with the City of Sumter ever since. Was originally assigned to patrol. Made forensic technician in March of 2011, and made detective just a few days prior to this incident in October 2011.

Q. And currently your job at the Sumter Police Department is what?

A. Crime scene detective.

Q. Let's go back to Halloween of last year, 2011, detective. Did you have an occasion to respond to this scene, [redacted]?

A. Yes, sir, I did.

Q. And when you arrived there what was your observations?

A. Once I arrived on the scene, patrol had already had control of the scene, keep it secure, had already wrapped it off with crime scene tape, at which time I became the lead detective on the scene. I was the first one there out of our forensic unit.

When I got there, I talked with Mr. Funke and got a quick overview of what had happened and made sure that the other officers that were there, made sure that they had -- two officers had cleared the house. And that other than that, no one else had been in the residence, except for me, when I go in to process the scene.

The car was still outside teetering on that phone box, electrical box area, and no one had been in it. We did take a tarp and put over the television, because as Mr. Funke stated, it was raining and overcast that day.

Q. Do you like to find out a little bit or general background? You said you talked to Dr. Funke about what happened, generally, so you can -- it might help you with what you are particularly looking for?

A. Very much so.

Q. And is a part of that preserving or investigating the crime scene taking pictures?

A. Yes, sir.

Q. And who took the pictures at [redacted]?

A. I took some and Lieutenant Duggin also took some.

Q. That's Trooper Duggin?
A. Correct.
Q. And y'all work together?
A. Yes, sir.
Q. Now, specifically tell the ladies and gentlemen of the jury did you have an occasion to look at the car that was in the driveway, State's 11?
A. Yes, sir.
Q. And that's what you said was teetering?
A. Correct.
Q. Did you have an occasion to take some pictures inside the car?
A. Yes, sir.
Q. And State's 30, do you recognize that?
A. Yes, sir.
Q. What's that?
A. That is the Nikon D-3000 camera that was in the back seat.
Q. And through the course of your investigation was it discovered that was the Funkes?
A. Yes, sir, it was.
Q. State's 31?
A. That is the keyboard that was also in the back seat of the vehicle and was also identified as the Funkes.
Q. Funke stuff in this vehicle?

A. Correct.
Q. State's 32?
A. Sir, that is some twist ties and a mouse that matched the keyboard that was also identified as the Funkes.
Q. Now, so you can eventually return some of this property to the victims, is that another reason that you take pictures, so that we can do like we are doing right now, be showing these folks what was taken?
A. Yes, sir, it is.
Q. After you took the pictures of the car and the -- I guess did you inventory or take pictures of these other items that were actually in evidence here, the gun -- excuse me, the phone in State's 4 that was taken off Mr. Godbolt?
A. Yes, sir, after the scene was already secured and we returned back to our lab.
Q. State's 5, the camera which has CF, which has been identified as Carolyn Funke?
A. Correct, yes, sir.
Q. And these coins?
A. Yes, sir.
Q. Do you actually take these back to your department?
A. I did not turn those into the department. Detective Morse turned those in after he collected them from Mr. Godbolt.
Q. What else did you do with the car?

A. The car was towed to our secure impound area, at which time we obtained a search warrant for the vehicle and I executed the search warrant on the vehicle to get all the items out of the vehicle.

Q. And you did that before you take them out, right?

A. Correct.

Q. Took a picture of them and then you executed a search warrant so you could go in and retrieve them?

A. Correct.

Q. And you knew at this point, or did you, that the suspects were at the scene and one of them was actually caught at the scene, correct?

A. I did know that one of them had been caught at the scene.

Q. And, in fact, from their investigation, this vehicle come back to Mr. Godbolt's girlfriend?

A. I believe it did, yes, sir.

Q. What processing did you do to the car once you had it, wherever you had it?

A. We it at our secure impound. And once we executed the search warrant on it, we fingerprinted the vehicle and also collected all the items inside, but the fingerprinting showed no results.

Q. Okay. So you tried, but you didn't get any results?

A. Correct.

Q. Even though you found the person who was in the car at the scene?

A. Yes, sir. That is standard practice.

Q. But negative results on the fingerprints?

A. Correct.

Q. And was that unusual?

A. No, sir, it's not.

Q. Why? Tell the ladies and gentlemen.

A. Well, there is several different reasons. One, we -- by Mr. Funke's statement, he said that there was gloves at the scene. They could have been wearing the gloves at the time. If you are wearing those type of gloves, especially the type of gloves that he mentioned, you are not going to leave fingerprints with those.

Also it had been raining. If your hand is really wet and you slide across it, instead of actually placing your fingers down, you are not going to leave a fingerprint.

Q. So you processed the car, took pictures of it.

Let's go back to [redacted], okay?

What did you do there in your job as a detective and the scene?

A. I secured the area, made sure that no one, other than the previous officers who secured, and cleared the residence. Had gone in and that I was the only one allowed into the residence.

I went in myself, collected DNA swabs from several different items.

Also I fingerprinted areas in which could have been touched by the suspects, like drawers when they pull out the drawers, things like that.

I did collect one of the gloves, the actual glove that Mr. Funke was talking about, I did collect that.

And I took overall photos at the scene, tried to determine a point of entry, and also used what we commonly use as a magnetic fingerprint powder. It uses a very strong magnet to pick the dust up and go around the floor looking for shoe impressions and things of that sort.

Q. Where did you do that?

A. The shoe impressions? That was at the back door where I tried to do that.

The garage door --

There is two possible points of entry on the residence. One was the back door, which Ms. Funke says it very well could have been unlocked, because she may not have locked it.

The other would have been through that garage area; or, it could have been the exact opposite, where the suspects could have come in through the back and exited the garage door while they were toting stuff to the car, because it would have been easier to just go straight to the car that

way.

Q. I'll show you what is State's 37. Do you recognize that?

A. Yes, sir, that is a door at the garage.

Q. Anything, based on your training and expertise and just your good old eyes looking at it, that made you notice it?

A. Yes, sir, the reason why I took the picture of this is because there are pry marks on this top part here that are consistent with someone trying to pry open a door.

Q. Would that be consistent with an unauthorized entry?

A. Very much so.

Q. And you saw it and took a picture of it?

A. Yes, sir.

Q. Let me show you this. State's 33, 34, 35 and 36, and if you will read out before you say which one it is, the number is, but what is that? What are those a picture of?

A. A screwdriver.

Q. Okay. And where was that screwdriver in relationship to 37?

A. That was at the -- the screwdriver was located at the front of the residence in the direction that Mr. Funke stated that he was being chased.

Q. This screwdriver could have made those marks?

A. Yes, sir.

Q. Is that why you took a picture of it?

A. Yes, sir.
Q. Did you photograph the inside of the house?
A. Yes, sir.
Q. And we have got pictures over here about drawers taken out and things in disarray. You took all those pictures?
A. Yes, sir.
Q. I think you mentioned the glove earlier. Were there two gloves that were found?
A. There were two gloves that were found. One of the gloves was found where Mr. Funke stated.

The other one was found I believe it was in the driver's side floorboard of the vehicle.

(Glove marked as State's Exhibit No. 39 for identification)

(Glove marked as State's Exhibit No. 40 for identification)

BY MR. MEADORS:
Q. Are these those gloves what's marked State's 39 and 40?
A. Yes, sir, those are the boxes that I placed them in and sent them to SLED and they are sealed by SLED's tape.

MR. MEADORS: Without objection, Your Honor, 39 and 40.

MR. SMALDONE: No objection, sir.

THE COURT: Okay, 39 and 40.

(State's Exhibit No. 39 was entered into the

record as evidence)

(State's Exhibit No. 40 was entered into the record as evidence)

BY MR. MEADORS:

Q. What, if anything, or information did you learn about whether or not the suspects had a weapon?

A. I was told at the scene that a shot was fired and that Mr. Funke had stated that one of the subjects had a weapon.

Q. And what did you do as an investigator to attempt to either locate that or any potential evidence? What did you do. Tell us that.

A. Well, first we did a visual examination of the yard, tried to determine the possible path in which the suspects would have run to chase after Mr. Funke.

Q. Did you know where they would have fired that shot?

A. I would not have, no, sir.

Q. Could Mr. Funke tell you exactly where they fired it?

A. No, sir, he could not.

Q. What did you do after you learned that there was a gun involved?

A. We started with a visual examination of the yard looking for any type of signs, shell casings, or even a possible gun, if they would have maybe tossed it in the front yard.

Like I said, the yard and the residence was my scene,

so I visually examined the front yard looking for shell casings. And also we then went and got a metal detector and came back and tried to go across the yard looking for shell casings, or even a firearm.

Q. And how far did you go back? Did you -- as the agent who investigated this case, the documents, you did you learn where either one of the subjects, the directions they may have run?

A. Yes, sir.

Q. Did you do anything to follow up on that to help you with your part of this investigation?

A. Yes, sir, I then walked those paths. I did not go as far as Detective Christmas went with the canine unit, but we went down a little piece of that path.

And we also followed Mr. Godbolt's path through -- between the woods and the pond.

Q. And you say a pond. How large is the pond?

A. It was pretty good size.

Q. And at this point did you know if there was one gun or two guns?

A. No, sir.

Q. Did you know who had the gun?

A. No, sir.

Q. But did you check both paths that both suspects had left in attempt to try to find a gun?

A. Yes, sir.
Q. And was the pond close enough to the path where something could have than thrown in it?
A. Yes, sir. As a matter of fact, I almost slipped in it and fell in it myself.
Q. You did not go where the do rag was?
A. No, sir, I did not follow that far.
MR. MEADORS: Beg court's indulgence.
(Off the record)
(Back on the record)
BY MR. MEADORS:
Q. I don't think I have asked you this. If I have, I apologize to everybody, but did you process the inside of the house?
A. Yes, sir.
Q. Okay. And how did you do that?
A. We fingerprinted certain areas, took DNA swabs from where they tried to take the TV, and they took the cable connectors loose from the back of the television.
Also fingerprinted all the areas in which the suspects may have touched while they were trying to pull the drawers out.
Q. And did you find any identifiable prints or any --
A. No, sir.
Q. Any other forensic evidence there?

A. No, sir.

I did lift a fingerprint off of a laptop that was located in the front bedroom, but the fingerprint came back not AFIS quality, which means that it did not have enough detail in it to be able to submit to the FBI.

Q. So nothing identifiable?

A. No, sir.

Q. But you tried?

A. Yes, sir.

(Photograph marked as State's Exhibit No. 41 for identification)

MR. MEADORS: State's 41 without objection, Your Honor.

MR. SMALDONE: No objection.

(State's Exhibit No. 41 was entered into the record as evidence)

BY MR. MEADORS:

Q. Do you recognize that?

A. Yes, sir, that's where the television would have been.

Q. So it's just gone, right?

A. Yes, sir.

Q. Thank you, detective.

MR. MEADORS: That's all I have.

THE COURT: Mr. Smaldone?

CROSS EXAMINATION BY MR. SMALDONE:

Q. Good afternoon, sir.

A. Good afternoon.

Q. As I have asked before, what were you -- when you are at the -- when you were at the scene, what were you in charge of? What was your mission at the house, at [redacted]?

A. Collect and preserve evidence.

Q. Okay. Was part of that evidence possibly a firearm?

A. Yes, sir.

Q. Did you find a firearm?

A. No, sir.

Q. Did you find any shell casing?

A. No, sir.

Q. And could you explain to the jury what a shell casing is? I don't know if they know anything about guns or not.

A. Sure. When you fire a weapon, especially if it's a semiautomatic weapon, when you fire the weapon, the slide comes back and will eject the spent cartridge, which means it's just a cartridge. Obviously the bullet has traveled its path, and the cartridge will either fall to the ground or possibly even get stove piped into the weapon and not fall out at all.

Q. How often in your experience do they get stove piped?

A. Around Sumter, pretty good.

Q. All right. You did not find a gun at the scene?
A. No, sir.
Q. Did you look for one?
A. Yes, sir.
Q. And you didn't find it?
A. No, sir.
Q. Or shell casing.

MR. SMALDONE: That's all I have.

THE COURT: Redirect?

MR. MEADORS: Nothing.

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

Next witness.

MR. MEADORS: Judge, I need to mark these, please?

THE COURT: Yes, sir.

(Miranda Waiver Form marked as State's Exhibit No. 42 for identification)

(Written Statement of Reco Godbolt marked as State's Exhibit No. 43 for identification)

MR. MEADORS: Your Honor, at this time the State would call Natalie Kelly.

THE COURT: All right, Ms. Kelly.

THE CLERK: Put your left hand on the Bible and raise your right hand.

State your name, please.

THE WITNESS: Detective Natalie Kelly.

DETECTIVE NATALIE KELLY, having been first duly sworn, testified as follows:

THE CLERK: Watch your step.

State your full name and spell your first and last name for the record, please.

THE WITNESS: Natalie Kelly. N-A-T-A-L-I-E. K-E-L-L-Y.

DIRECT EXAMINATION BY MR. MEADORS:

Q. Good afternoon, detective.

A. Good afternoon.

Q. Would you please tell the -- please tell these members of this jury about Natalie Kelly, where you are from, where you were born, if you don't mind.

A. Sure.

Q. Your educational training and tell them about --

A. Natalie Kelly. I was born and raised here in Sumter. I went to the school Sumter -- I'm sorry, St. Leo University for a period of four years, in which I obtained an Associates Degree, and I'm still working on my Bachelors at this time.

I'm in law enforcement for a period of thirteen years, in which two and a half years I have served as a detective.

I was first assigned to the Property Crime Division. I'm now assigned to the Violent Crime Division.

Q. On October 31st you were in what division, of last

year?
A. Property crime.
Q. Did you have an occasion to come in contact and talk with Reco Godbolt?
A. I did.
Q. And was that on October 31st of last year?
A. It was.
Q. And was that at approximately 1:40'ish?
A. It was.
Q. And tell the ladies and gentlemen of this jury where you spoke with Mr. Godbolt.
A. He was transported from the scene of Canvasback Cove to the law enforcement division. I took him -- myself and Detective Robbie Richburg, we took him into the interview room and that's where we talked to him at the law enforcement center.
Q. Are we talking about right across the street?
A. That's correct.
Q. And describe the interview room to these ladies and gentlemen.
A. It's a smaller room. We have the table, three chairs. It has a small window, in which one of the windows you can't see out of. It also had a window in the door where you can see in and out.
Q. And at this time Mr. Godbolt, you were going to place

him under arrest, correct?
A. That's correct.
Q. And prior to doing that, did you have an occasion to read Mr. Godbolt what is known as his Miranda Rights?
THE COURT: I'm sorry, the jury is having trouble hearing.
MR. MEADORS: I'm sorry.
THE COURT: You can stand there. That's fine.
BY MR. MEADORS:
Q. Did you have an occasion to read the Miranda -- what is known as Miranda Rights to Reco Godbolt?
A. I did.
Q. Or were you present when they were read?
A. Yes, sir.
Q. Which? Did you read them to him or were you present?
A. It was Detective Robbie Richburg, but I was in the room with him the entire time.
Q. And so you were present when they were read to him?
A. That's correct.
Q. And I will show you what's marked State's 42.
MR. MEADORS: Without objection?
MR. SMALDONE: Without objection.
THE COURT: All right, 42 is in.
(State's Exhibit No. 42 was entered into the record as evidence)

BY MR. MEADORS:

Q. And --

MR. MEADORS: May I approach, judge?

THE COURT: Yes, sir.

BY MR. MEADORS:

Q. This is State's 42. What is this, madam?

A. This is the Miranda Right form.

Q. And at the top does it have Sumter Police Department?

A. It does.

Q. And then interview form?

A. It does.

Q. "And before we ask you any questions, you must understand your rights." Is that kind of bold print?

A. That's correct.

Q. And tell the ladies and gentlemen of this jury --

MR. MEADORS: Beg the court's indulgence.

(Off the record)

(Back on the record)

MR. MEADORS: Your Honor, we are going to try a new technology. It would be just one second.

THE COURT: All right.

(Off the record)

(Back on the record)

MR. MEADORS: Your Honor, can you see that?

THE COURT: As long as the witness can see it, I

think that's fine.

BY MR. MEADORS:

Q. I think you have the actual document.

A. Uh-huh.

Q. Which is State's what? 42?

A. 42.

Q. What is that? That's for ID there, but that's the same document.

State's 42, what is that?

A. This is a Miranda form.

Q. And is this the document that you used prior to interviewing the suspect?

A. Yes, sir.

Q. And at the top, I think we have already testified this is in bold "before we ask you any questions, you must understand your rights?"

A. That's correct.

Q. And the -- let's just get back to real time now.

You are across the street, okay. So it's you and another detective and Mr. Godbolt, correct?

A. Uh-huh.

Q. In the interview room?

A. That's correct.

Q. Do you read him these rights?

A. That's correct.

Q. Okay. What's the first right that you read him?
A. "You have the right to remain silent."
Q. And when you are reading him this right, did he indicate to you that he understood it?
A. He did.
Q. How did you indicate that he understood?
A. He initialed it.
Q. And did he orally tell you "I understood it?"
A. That's correct.
Q. Okay. And then you said he initialed it. Is this what this is right here, an RG, are those his initials?
A. That's correct.
Q. What's the next thing that you read to him?
A. "Anything you say can be used against you in court."
Q. And when you read him that right, did he appear to understand that?
A. Yes, he did.
Q. Did he tell you that he understood it?
A. He did.
Q. When the right was read to him by Detective Richburg, you were present?
A. That's correct.
Q. And did he indicate by signing his initials that he understood it?
A. He did.

Q. What's the next right that you read to him?
A. "You have the right to talk to a lawyer for advice before we ask you any questions and to have him or her with you during questioning."
Q. When that was read to Mr. Godbolt, did he appear to understand it?
A. He did.
Q. Did he tell you he did and did he initial it?
A. He did.
Q. Are these his initials, RG?
A. That's correct.
Q. What's the next right that you read to him?
A. "If you cannot afford a lawyer, one will be appointed for you before any questioning, if you wish."
Q. Did he indicate to you that had been read to him and that he understood it?
A. That's correct.
Q. Did he tell you too he understood it?
A. That's correct.
Q. What's the next right that you read him?
A. "If you decide to answer any questions now without a lawyer present, you will still have the right to stop answering at any time until you talk with a lawyer."
Q. And when you read him that, or after it was read to him by Detective Richburg, did he appear to you to understand

it?
A. He did.
Q. Did he sign his initials that he understood that right?
A. He did.
Q. And did he orally tell you "I understand?"
A. He did.
Q. Did he appear, based on your training and expertise and just being right there in the room with him, Natalie, did he appear to understand it?
A. He did.
Q. Okay. Now, next is what's referred to on State's 42 on the Miranda Rights as the Waiver of Rights, correct?
A. That's correct.
Q. Tell the jury about that. Was the Waiver of Rights read to defendant Reco Godbolt?
A. It was.
Q. And please read it as it was read that day to defendant Reco Godbolt.
A. "Before any questioning I was furnished the above statement of my rights at 1:43 p.m. on 10-31-2011 at Sumter P.D.," which is, which is Sumter Police Department, "by Officer Richburg of the Sumter Police Department."
Q. And you were present?
A. That's correct.
Q. Go ahead.

A. "I have read or had read to me this statement of my rights. I understand that my rights are; I am willing to answer questions at this time without a lawyer present, no promises or threats have been made to me, and no pressure has been used against me."

Q. And did he appear to understand the Waiver of Rights as were read to him on October 31st?

A. Yes, sir, he did.

Q. And did he indicate to you and/or Detective Richburg that he understood the Waiver of Rights?

A. Yes, sir, he did.

Q. And how did he indicate to you that he understood that?

A. He signed it.

Q. Did he tell you "I understand it" too?

A. Yes, sir.

Q. And whose signature is this right here?

A. That's mine.

Q. Okay. And that's Reco Godbolt?

A. That's correct.

Q. And who is this?

A. That's Detective Robbie Richburg.

Q. At any time during the reading of these rights, either the Miranda Rights or the Waiver of Rights, did he say "Detective Kelly, I don't want to talk to you?"

A. No, sir, he didn't.

Q. Did he say "I want a lawyer?"
A. No, sir, he didn't.
Q. If he had done that, what would you have done?
A. We would have stopped talking to him at that time.
Q. Did he, he being Reco Godbolt, appear to be under the influence of alcohol, drugs, or any other substance or intoxicant, in your opinion?
A. No, sir, he didn't.
Q. Did you smell anything on him?
A. No, sir.
Q. Did he appear to understand the questions as you read him and did you understand his answers when he gave them to you?
A. Yes, sir.
Q. And at this point in time, I mean, if you asked him a question, did he respond in a timely manner, just based on -- did he respond timely?
A. Yes, sir, he did.
Q. And were they -- were his responses appropriate in content?
A. Yes, sir.
Q. On the subject?
A. Uh-huh, yes, sir.
Q. In response to your questions?
A. Uh-huh.

Q. At any time during the reading of these rights, Detective Natalie Kelly, or the reading of his Waiver of Rights, did you threaten, coerce, hold out any hope of reward to Mr. Godbolt in exchange for him talking to you?
A. No, sir.
Q. And it's your opinion, based on your training and experience, based primarily on the time that you spent with Mr. Godbolt that he understood those rights?
A. Yes, sir.
Q. And did he agree to talk to you?
A. Yes, sir.
Q. Now -- if you will use that.
Now I'm going to show you what's marked State's 43. Is that your signature?
A. Yes, sir.
Q. And Mr. Godbolt's?
A. Yes, sir.
MR. MEADORS: If I haven't already, Your Honor, I offer 43 without objection, I think.
THE COURT: 43 is in, is that correct?
MR. SMALDONE: Yes, sir, no objection.
THE COURT: All right, 43 is in without objection.
(State's Exhibit No. 43 was admitted into the record as evidence)
BY MR. MEADORS:

Q. This is 43. You got another copy, but this is the original?

A. Uh-huh, yes, sir.

Q. Okay. State's 43.

Now, after you had read the rights and waiver of rights, did you talk to Mr. Godbolt?

A. Yes, sir.

Q. Now, explain this process to the jury. Were you and Detective Richburg, as you talked to him and then filled out the statement, or was this statement produced as he was talking to you?

A. It was produced as he was talking to us.

Q. Okay. And would you -- let me just start.

At the top you have got Reco Antonio Godbolt, Apollo Road, Litchfield, date of birth, social, phone numbers, okay?

A. Uh-huh.

Q. Did he provide that information to you?

A. He did.

Q. And did you have any trouble understanding what he provided?

A. No, sir.

Q. Like his Social Security Number, did he have any trouble remembering it and reciting it to you?

A. No, sir.

THE COURT: Did you decide to object to that being redacted from that copy?

MR. MEADORS: We so ask. I apologize.

THE COURT: That's okay.

MR. MEADORS: Thank you.

BY MR. MEADORS:

Q. After you had taken the statement from him, and I'll get back to it in a minute, did you go over it with him again?

A. Yes, sir, we did.

Q. And after you went over it, did Mr. Godbolt sign on the back?

A. Yes, sir, he did.

Q. And you did?

A. Yes, sir.

Q. And on the front page did he sign his name at the bottom?

A. He did.

Q. Now, would you publish this to the jury?

A. "On today, 10-31-2011, I woke up about seven o'clock a.m.. I got dressed and caught a ride with my friend Shanika, unknown last name, who drives a black Maxima to my girlfriend and my baby momma mother house Jessica Hodge, unknown address, in Maysville. I got to Jessica's house around 7:30 a.m.. I rode with Jessica in her 2006 gold

Nissan Altima to drop my daughter off to Ruby J. Johnson School in Sumter. We then dropped her other baby off to her mother's house on Madden Avenue. We left there and I took Jessica to Goldkist to orientation. This is around 8:15 a.m.. Shortly after this Jamal Helton," in parenthesis -- in quotation there is "Mall" is what he calls him, "called me from a 220 phone number and asked me to pick him up from Southside. I told him I would and I met him at Southside Gym. "Mall" got in the car with me wearing a black sweatshirt, unknown shoes, and a black stocking cap covering his hair. Me and "Mall" just drove around at first. "Mall" told me that he had something set up and all I had to do was drop him off and he would pay me. He told me to give him a price, but I didn't give him an amount. "Mall" was giving me directions to drive. We ended up in Idlewild Subdivision and "Mall" told me to drop him off. I dropped him off near a house with a black SUV parked in the roadway and I circled around the area. "Mall" called me to pick him up about twenty minutes later. When I picked "Mall" up he was walking down the road. He was still in Idlewild Subdivision. "Mall" had something under his hoodie sweatshirt. When "Mall" got into the car he pulled a laptop from under his sweater and put in the back seat of the car. I told "Mall" I was about to ride because I had to pick my girlfriend up. "Mall" told me that he needed to make one

more stop. "Mall" pointed me in the direction to go and we ended up at a house where the police got me. When we got to the house "Mall" went into the backyard of the house. "Mall" came back and told me to lock the screen door to the back door so he could, quote, let the dogs dogs out. I got out of the car and went and locked the screen door. "Mall" was in the house by the time I locked the screen door. Then "Mall" yelled to me lock the other screen door to the back porch. There was two screen doors on the back across from each other. I left back" -- I'm sorry, "I left back out of the screen door because I didn't want to lock myself in. I yelled to "Mall" and told him that I wasn't locking myself inside the screen door, so "Mall" told me never mind, just put something on the screen door to keep it closed. By this time I heard a car door shut and the homeowner was yelling get out of my house. I didn't see him. I just heard him. I yelled back to the man that I wasn't in his house. That is when I heard the man come out of the front door. I walked around the side of the house and I saw "Mall" running behind the man. "Mall" was telling the man to come here. Then "Mall" and the man stopped like they were talking. Then I saw "Mall" and the man walking back towards the house where I was. I was telling "Mall" when he was chasing the man stop, don't do that. I walked back to my girlfriend Jessica's car and I got in, but I realized the keys were

missing from it, so I was screaming where is my keys, where is my keys. Then "Mall" asked the guy where my keys were and the man said that he threw them. Then the man pointed where he threw the keys at. Then "Mall" got the keys which were by some bushes on the side of the house. At this point I had my back turned to "Mall" and the man because I was taking the man's stuff out of the car that was in the back seat, a TV and a computer monitor. That is when "Mall" jumped in the driver's side, cranked the car and tried to spin off backwards. I thought he was trying to leave me because I wasn't in the car yet. "Mall" backed my girlfriend's car into something in the driveway. "Mall" was still trying to hit the gas after hitting something in the driveway. I was yelling at "Mall" saying he wrecked my girlfriend's car. I was trying to look under the car but by that time I saw a black car pulled up like the police. That's when I looked back, "Mall" was running towards the woods. That's when I tried to run but can't because I was shot in my right leg back in March, so I jogged a little bit and then I threw my hands in the air and gave up. I don't know exactly when "Mall" put all the stuff in the car, but I guess it was when I was on the back porch trying to lock the screen door. I saw that "Mall" was wearing a pair of gloves when he was in the house. About four months ago I dropped Javan Pearson and Jamal Helton off in Twin Lakes Subdivision

on Treadmore Circle. They told me that they were going to give me money if I dropped them off. They gave me $50 when I dropped them off. They called me about an hour later and told me to come and get them from Twin Lakes Subdivision. They were near the same area I dropped them off at. When I picked them up --"

Q. Hold on a second, detective.

Okay.

A. "-- they had a laptop and some jewelry on them. The stuff was stashed by some bushes. When I pulled up Javan got the laptop out of the bushes. I don't know exactly which house they hit, but I knew where I dropped them off at and it was on Treadmore Circle. When they got into the car I asked them where is my money and Javan handed me $50. I took the both of them on Southside and dropped them off by Southside Gym and then I left."

Q. And, again, this is on page two of State's 43.

At this time did you initial that?

A. Myself and --

Q. That's you?

A. Uh-huh.

Q. And Reco Godbolt?

A. That's Reco Godbolt.

Q. Now, and on the bottom of page one of State's 43, whose signature is that?

A. That's Reco Godbolt's.
Q. And after the statement was typed, did you and/or Detective Richburg go back over this statement with Mr. Godbolt?
A. Yes, sir, we did.
Q. And it's after that that he signed the front and the back and you signed it?
A. Yes, sir.
Q. At any time during the taking of this statement, Detective Natalie Kelly, the statement itself now after the rights and the Waiver of Rights, at any time during the taking of this statement did he say "I don't want to talk to you, Natalie?"
A. No, sir.
Q. "Quit asking me questions?"
A. No, sir.
Q. "Give me a lawyer?"
A. No, sir.
Q. If he had, would you have done, that you would have stop?
A. Yes.
Q. You would have stopped talking to him, correct?
A. Yes, sir.
Q. He was caught at the scene, wasn't he?
A. Yes, sir.

Q. And this statement, does he basically just puts himself at the scene, right?
A. Yes, sir.
Q. As far as his contact up close and personal with Dr. Bryan Funke, based on your training and experience, would you say he was minimizing that with this statement?
A. Yes, sir.
Q. And, as a matter of fact, it distances himself from Dr. Funke, correct?
A. Yes, sir.
Q. Actually he says that it was "Jamal that went with him up there and I stayed back," right?
A. Yes, sir.
Q. So he admits he's at the scene?
A. Yes, sir.
Q. And tries to implicate Jamal as the bigger player, correct?
A. Correct.
MR. SMALDONE: I'm going to object at this point. We are getting into leading, I think.
THE COURT: Sustained.
BY MR. MEADORS:
Q. Is it fair to say you felt he was minimizing?
A. Yes, sir.
MR. SMALDONE: Objection.

THE COURT: Sustained.

MR. MEADORS: Just one second?

THE COURT: Yes, sir.

MR. MEADORS: One second.

THE COURT: Do you need Mr. Smaldone?

MR. MEADORS: No, sir.

THE COURT: All right, you can move it.

(Off the record)

(Back on the record)

MR. MEADORS: Beg the court's indulgence for one second.

THE COURT: Yes, sir.

(Off the record)

(Back on the record)

BY MR. MEADORS:

Q. Do you -- is the person that gave you -- is the person that you read the rights to and waived his rights and the person who gave you that statement in this courtroom?

A. Yes, sir.

Q. Would you please point him out?

A. That's Reco Godbolt.

Q. Mr. Reco Godbolt next to Mr. Grant Smaldone --

A. That's correct.

Q. -- in the red tie?

MR. MEADORS: We would like the record to so

reflect, please.

Judge, I think that's we have. Thank you.

THE COURT: Okay. Mr. Smaldone?

CROSS EXAMINATION BY MR. SMALDONE:

Q. Good afternoon, Ms. -- I didn't get your last name. What was it?

A. Kelly.

Q. What was it?

A. Kelly.

Q. Kelly.

And are you a detective, or investigator, or what is your --

A. Detective.

Q. Detective. I'll call you Detective Kelly.

Good afternoon, Detective Kelly.

A. Good afternoon.

Q. When you took Mr. Godbolt's statement, how long did it take for him to start processing and giving the statement from the time where you -- I assume there is a debriefing and whatnot, explain the rights.

After he signed the rights form, how long did it take for him to give a statement?

A. It was immediately thereafter.

Q. Immediately thereafter?

A. Uh-huh.

Q. Now, you didn't coerce him at all?
A. No, sir.
Q. All right. So he freely gave the statement?
A. Yes, sir.
Q. Did he have -- so he didn't have a lot of time to think about it first?
A. He could have said no if he wanted to.
Q. He could have said no?
A. Yeah, he was advised.
Q. But instead he didn't say it, did he?
A. He did.
Q. Is it fair to say the statement doesn't say anything about a gun, does it?
A. No, sir, it doesn't.
Q. It doesn't say anything about kidnapping?
A. No, sir, it doesn't.
Q. But it does put himself culpable for the burglary, does it not?
A. It does place him at the scene, yes, sir.
Q. All right.

MR. SMALDONE: No further questions.

THE COURT: Redirect?

MR. SMALDONE: Oh.

THE COURT: Go ahead.

BY MR. SMALDONE:

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Q. One last thing. I apologize.

What else occurred -- did anything else occur when you were in the room with Mr. Godbolt, any sort of testing or anything like that?

A. Testing?

Q. Testing, maybe DNA swabs, GSR?

A. He was photographed.

Q. He was photographed?

A. Uh-huh.

Q. Did you conduct a GSR test, or did Mr. Richburg conduct a GSR test in your presence?

A. If memory serves me correct, it was Detective Richburg.

Q. It was Detective Richburg that conducted the test?

A. Yes, sir.

Q. And the test came back negative for gunshot residue, didn't it?

A. I'm unsure about that.

Q. Okay.

MR. SMALDONE: I have no further questions.

THE COURT: Redirect?

MR. MEADORS: No, sir. Thank you.

THE COURT: Okay. Thank you, ma'am. You can step down.

Let me see the lawyers up here for just a minute.

(Whereupon, the lawyers approached the bench for

an off-the-record discussion)

THE COURT: Okay, ladies and gentlemen, we are going to stop for the day. We are going to use some time this afternoon to go over with the lawyers some points of the jury charge that I will give to minimize the time of a break I will have to take tomorrow, so we are going to stop for the day.

If you would please be back in your jury room tomorrow morning at ten o'clock.

You know what I'm going to tell you next. You cannot talk about this case with anyone.

Likewise, you may not read anything about it, listen to anything about it, or undertake on your own to gather any information about it whatsoever, whether it be Internet, periodicals, newspapers, so forth and so on.

If you find yourself in a situation were there may be some information immediately there that has any reference to this case, don't look at it, don't read it, don't discuss it. Please don't allow yourself to be in any setting where anything about this case is discussed at all. I'm going to rely on your good faith and honor in that instruction, because I know you understand how important it is to base your verdict on the evidence that's received in this courtroom and from no other source.

So I will see you tomorrow morning at ten o'clock.

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Thank you.

(The following takes place outside the presence of the jury panel)

THE COURT: All right, Mr. Meadors, you indicated that you would like to make a proffer?

MR. MEADORS: Yes, sir. Carolyn Funke.

THE COURT: Does anybody need to take a break before we do that? Just raise your hand if you do.

(No response).

THE COURT: Okay. All right. Come on up, please, ma'am.

MR. MEADORS: Carolyn Funke.

THE CLERK: Place your left hand on the Bible and raise your right hand.

State your name, please.

THE WITNESS: Carolyn Funke.

CAROLYN FUNKE, having been first duly sworn, testified as follows:

THE CLERK: Have a seat. Watch your step coming up.

Please state your full name and spell your first and last name for the record.

THE WITNESS: Carolyn Funke. It's C-A-R-O-L-Y-N, F-U-N-K-E.

DIRECT EXAMINATION BY MR. MEADORS:

Q. Good afternoon, Ms. Funke.

I want to take you right to October 31st, 2011.

Where were you, as best you can tell, when this incident was happening?

A. Wal-Mart.

Q. Okay. And which Wal-Mart?

A. Sumter.

Q. Okay. And when is the first that you heard about it?

A. I received a phone call from Bryan.

Q. And that would be Dr. Bryan Funke?

A. Yes.

Q. He is your husband?

A. Yes.

Q. And where were you when you received that phone call?

A. Like pushing my cart by the frozen food section.

Q. Can you describe Dr. Funke --

Of course, you know his voice.

How long have y'all been together?

A. Since -- like we were married in 1989.

Q. Okay. Do you know his voice on the phone?

A. Yes.

Q. When you answered the phone when you were pushing your cart on October 31st, 2011, describe to the judge how your husband sounded.

A. It was just really bizarre. It -- it was not his voice. It was almost like someone was playing a joke on me and I at first did not really think that what he was telling me was really happening.

Q. Had you ever heard him sound that way before?

A. No, never.

Q. Okay. What did he say to you?

A. Okay. I don't -- it was like "I have been shot," and I'm like "what?" He said "we've been robbed and I have been shot." And I said what -- and then like the connection went dead.

And then I started like trying to dial my home number and nobody picked up. I tried to dial his cell phone and nobody picked up and the phone rang again and it was him on a number I didn't know. And then he said "I have been shot."

And I'm like "where are you," and he says "I'm at home."

I'm like "okay."

He's like "you need to come home."

I said "okay."

So I started walking through Wal-Mart and I got to the parking lot and I got in my car and then I was like, okay --

Well, first I called my friend Robin. I said "Robin, Bryan has been shot," because I knew just lived around the

corner really close. And I said "can you please run over there and see what's going on?"

So she grabbed my cousin and they ran over and they got there before I did.

And then as I'm in the parking lot still I called 911 and I said who I was and why I was calling.

Q. Was that right after you talked to your husband?

A. Yeah, it was like I left Wal-Mart. I'm sure I called Robin first --

Q. Okay.

A. -- and then I called 911 to see what was going on and where I should go, because I'm not --

Q. You told them on 911. I think it's the next call that your husband had been shot?

A. Right.

Q. And then they called you back and said "he hadn't been shot," and you said "well, he must have said shot at."

A. Right.

Q. That's basically the summary of the 911?

A. Right, yeah, because the phone just kept clicking out.

Q. Going back to the original call from the doctor to you --

A. Uh-huh.

Q. -- his voice and his demeanor, was he excited?

A. Yeah.

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Q. How would you describe him?
A. It was just like -- it wasn't his normal voice. It wasn't how he sounded. It was just -- it was like -- it wasn't him.
Q. And that's when he told you what you thought he said "I have been shot?"
A. Yes.
Q. Were you concerned?
A. Well, yeah.
Q. And you may have talked to Robin and right after that is when you called 911?
A. Right, I think that's the sequence of events.
MR. MEADORS: That's it, judge. That would be the proffer.
THE COURT: Are you going to proffer the 911 also?
MR. MEADORS: I would like to, if -- yes.
(Off the record)
(Back on the record)
THE COURT: This is number what, just for the record?
MR. MEADORS: Your Honor, it is still the same CD as the other.
THE COURT: Okay.
MR. MEADORS: And it is --
COURT REPORTER: It's 22.

THE COURT: 22?

COURT REPORTER: In the brown envelope, 22.

THE COURT: Okay.

MR. MEADORS: Beg your patience one more time, Your Honor, to set this up?

THE COURT: Yes, sir.

(Off the record)

(Back on the record)

(Whereupon, the 911 tape was played).

MR. MEADORS: And that was -- you called them, then they --

THE WITNESS: They called me back.

MR. MEADORS: They called you back.

And in that back they were asking about how excited you were about that you -- that he said that he hadn't been shot, correct?

THE WITNESS: Correct.

MR. MEADORS: Judge, I think that's the full proffer.

THE COURT: Mr. Smaldone, any questions at this point before any argument about the testimony?

MR. SMALDONE: No, I don't have any questions.

THE COURT: All right. Thank you, ma'am, you can step down.

Your objection, Mr. Smaldone?

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MR. SMALDONE: I'm confused. Are you trying to get in the tape?

MR. MEADORS: I'm trying to get in the call first that Dr. Funke gave to Ms. Funke. It would be -- we would argue an excited utterance, which she talked -- he said he had been shot; said she had never heard him sound like that before.

THE COURT: Will you be seeking to introduce that recording too?

MR. MEADORS: I would like to have it all.

THE COURT: All right. Well, what's your --

First of all on the issue about Dr. Funke's statement to his wife, what's your position on that?

MR. SMALDONE: Well, I don't think it's an excited utterance. He called his wife.

I think an excited utterance is "my god, he's got a gun."

You know an excited utterance is not --

THE COURT: What about "I had been shot," or "I had been shot at?"

MR. SMALDONE: And there is no indication of the length of time, and then he gets his phone out, dials his wife and then calls her. I think that's a significant delay, so it's not an excited --

Just because be yelled something I don't think

makes it an excited utterance. I think there is a significant -- it's not -- I think the Rules of Evidence are designed to keep stuff like this out. It's not a spontaneous declaration, "my god, he's got a gun." It's a premeditated phone call and also it's not true. So --

THE COURT: Well, it's not true that he was shot, but let's just assume that -- let's assume for the purposes of argument it was a misunderstanding about what she heard or what he actually said. Assume that at least for right now. Is there any evidence right now, Mr. Meadors, about how -- there is no temporal proximity that's required for excited utterance. I think that's what the case law says, but is there any evidence right now from Dr. Funke as to when he actually called his wife?

MR. MEADORS: I think it was right after the police got there. And I think the misunderstanding from her to him kind of adds to the argument how excited he was. It's just he was in the state, he was excited. He conveyed to his loved one after he had called 911 said "hey, this is about as real as it get. I have been shot at," I think is what he said. She took it to mean shot. She described his condition. I think this is -- because of what the rule is supposed to. It's supposed to envision, respectively.

THE COURT: All right. Anything else, Mr. Smaldone?

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MR. SMALDONE: And, again, I just -- and this is just for her testimony saying --

THE COURT: For right now.

MR. SMALDONE: We are --

THE COURT: We are going to the next part about the tape in just a minute.

MR. SMALDONE: I mean, it's I guess speculation. I don't really know is the relevant word, but, I mean, he wasn't shot, and there is so much premeditation, it's just -- we haven't heard him say it, so we just have someone else saying, so it's triple, double hearsay. I lose track of the degree of hearsay.

MR. MEADORS: Okay. He did say he was shot.

THE COURT: Well, it's not double hearsay. It's just single hearsay, if at all, right now, in case there is something different.

MR. MEADORS: With the exception of excited utterance, obviously -- but I think his testimony was he did think he was shot and there was a shot.

MR. SMALDONE: Shot at.

MR. MEADORS: Correct, I believe that's what he conveyed to us and she just misunderstood. As soon as the police get there "they got a gun."

MR. SMALDONE: I think he already testified that he called his wife, so I would stipulate there was a phone

call. I mean, I don't see what she adds to anything. He already testified to it.

THE COURT: Well, the overall problem with it is not -- well, to me -- let me back up.

In the old days, and what I call the old days, until the mid-eighties, to get this type of statement in it had to be a present sense impression and excited utterance. It's called the res gestae back then. But now the Rules of Evidence have divided those things into two, kind of defined it.

803(1) is a present sense impression.

803(2) is an excited utterance.

And it says that "the following are not excluded by the hearsay rule, even though the declarant," Dr. Funke, "is available as a witness.

"An excited utterance is a statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition."

That one moved the component of temporal proximity, which number one has, which is a present sense impression, which said it had to be while under -- while perceiving the event or immediately thereafter. I'm pretty sure the case law says for an excited utterance it doesn't have to be within minutes. I don't --

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I don't -- I think based on this witness' testimony that he sounded like he had never sounded before, and it was just obvious from the context of all of this that this phone call was made at or -- just before or at the time the police had arrived, especially since he made one call from his phone, which I thought Mr. Godbolt had, or number two, from somebody else's phone. I think that I'm satisfied that it was an excited utterance. He may have had another cell phone, I don't know, but, in any event, I think that does qualify as an excited utterance.

Conceivably you would have some cross-examination fodder for that about "I have been shot," but aside from that I think it will come in as an exception.

So we will move to the 911 recording itself, and that's where the second tier of hearsay comes in.

How about that, Mr. Meadors? He's already -- Mr. Smaldone has already touched on that, where the 911 operator says well -- she doesn't say who she got the information from, but "he hasn't been shot." And then Mrs. Funke says "well, maybe he said shot at and I misunderstood him."

Did the 911 operator say "he wasn't shot. He's been shot at," or did she just say "he hasn't been shot."

MR. MEADORS: My memory and my ears I think it's "he was not shot. He's okay."

THE COURT: If the 911 operator says on there that

"he was not shot, but he was shot at," you have got a point. But I don't see any --

The only thing the 911 operator says is "your husband is okay. He hasn't been shot," which is true. He had not been shot.

MR. SMALDONE: So I don't see any relevance to it.

THE COURT: Okay. I'll think about that, but I think that's what it boils down to is putting it all more in context and I think it may be relevant and may not be. I'll study that.

MR. SMALDONE: There is relevance. There is the hearsay issue. They just want to put it in so the jury could hear, you know, her emotions and whatnot, play on that.

MR. MEADORS: That is not true. I mean, I think it's a legitimate excited utterance. I think, respectfully, is an exception to the hearsay rule.

THE COURT: Okay.

MR. SMALDONE: Well, as far as the 911 tape, the triple, quintuple, whatever hearsay is. I mean, I think it's -- I mean -- I mean, are they just putting in to prove that he hasn't gotten shot?

THE COURT: Okay, let me hear that part of the -- did Mr. Brown leave?

MR. MEADORS: Yes, sir, but I think we can do

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this. He's got it.

THE COURT: I just want to hear it one more time and then I'll think about it.

But I will allow Mrs. Funke to testify over your objection as to what her husband said, or what she thought he said.

(Off the record)

(Back on the record)

(Whereupon, the 911 tape was played)

THE COURT: Anything else, Mr. Smaldone?

MR. SMALDONE: I have made all of my objections.

THE COURT: Well, the biggest issue, Mr. Meadors, that I can see is the 403 issue that --

What would this recording tend to prove to the jury? What -- what would it prove? It proves that she's understandably in distress. I understand that, but what would it --

MR. MEADORS: You mean both consecutive call to 911 and the 911 call back?

THE COURT: Right, both of them, what would these recordings tend to prove to the jury?

MR. MEADORS: Judge, I --

Wait a second.

(Off the record)

(Back on the record)

MR. MEADORS: State of mind would be one.

I also -- I think he's called into question the doctor's testimony about a gunshot, maybe.

THE COURT: Well, that's -- her testimony --

MR. MEADORS: More so would be with hers with that.

Judge, I think it clarifies the whole first excited utterance, I guess, to when -- just to explain the whole scenario to the jury, okay, he wasn't shot and then she at the end -- unless, I'm crazy, I think at the end she's the one that said "well, maybe he said shot at and not shot," Ms. Carolyn Funke saying that, not the 911 dispatcher. So she does say that at the end, which I think is relevant to the excited utterance.

He clearly wasn't shot, but he was shot at, and he told her that in the first excited utterance, that she's clarifying that. That's being clarified with the 911 operator.

THE COURT: How about Mr. Smaldone's argument that the way he put ti was well, the real reason you want to get this in is to show the jury that she was extremely upset and that would prompt some sympathy. That's a 403 issue, even though the evidence might be relevant if its introduction would tend to mislead or confuse the jury or make them dwell on things that aren't relevant to the overall proof of the

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elements of this crime.

MR. MEADORS: Yes, I think --

THE COURT: That's the biggest danger.

MR. MEADORS: I don't -- her excitement in all this, I'm not trying to get that in so they would be prejudiced by how she felt at all.

THE COURT: I understand that, but they are going to hear that --

MR. MEADORS: Right.

THE COURT: -- and there is a danger of that.

MR. MEADORS: I understand, and I think it's more probative to the fact that her husband had told her shot at, and he testified that -- he testified that there was a shot as he was running away. He testified that this defendant said "I'm going to kill you" and pointed a gun at him. That's being called into question on cross by Mr. Smaldone as to whether or not he was shot at all, whether a gunshot were there, whether a gun was even involved in it. That's his whole defense. He's going for burglary second because we simply can't prove a weapon.

If this case is -- first call to his wife, or second call after 911 "I have been shot at," she thinks shot, but I think clearly his state of mind then, his excited utterance is hey, I was shot. This is real. Like Your Honor said, she never heard him sound like that. Her

two phone calls clarify that.

THE COURT: I'm going to let -- I'm going to let --

MR. MEADORS: I understand.

THE COURT: I'm going to let her testimony in.

MR. MEADORS: Yes, sir.

THE COURT: I'm talking about the recording.

MR. MEADORS: And I'm long winded trying to get to that.

I think the recording clarifies what he told her. I think it clarifies what he told his wife, which would make a clearer picture to the jury that this is what -- and it's the only thing that makes sense.

THE COURT: Okay.

MR. MEADORS: That's the only thing that makes sense, because he wasn't shot, and that's -- that really makes it more real to me, and it's because this was pertinent and I'll more question it this way, it makes sense. He was excited, I was excited, I thought shot, but shot at, that's what he immediately conveyed to her.

THE COURT: But obviously a jury could conclude that in his state of mind he was even embellishing that to his wife and said "I have been shot." The jury could believe that, unless -- the jury could believe that he said that. Do you agree with that?

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MR. MEADORS: I -- I would disagree. I would think more than he would know being a doctor whether he was actually shot. So I don't mean that -- I think -- I think he really was conveying shot at and in his excited state to her excited state, I think the at got missing.

THE COURT: All right, I'll give you the last word on that.

MR. SMALDONE: I don't think there is anything that the tape or the DVD or CD can show that she can't on the stand. I'm not going -- I'm not going to call her a liar and say her husband -- "you did call 911." I'm not -- I'll stipulate to that. I just don't think the jury needs to hear that 911 tape of a crime by the wife who wasn't at the scene.

THE COURT: Okay. All right.

What I will do is I will review 403, and I think it's going to down to whether or not the defendant has established that the probative value of the recording is substantially outweighed by the danger of unfair prejudice or confusion of the issues and the other points under 403.

MR. MEADORS: Thank you.

THE COURT: All right, if you would be back promptly at 9:30 with the defendant in the courtroom, keeping in mind that he is towards the end of his case. Please speak to your client about the details I'll cover

with him as to whether or not he will or will not testify, the Fifth Amendment considerations, so that he can have all of that education between now and then, so we can move pretty promptly on with the case.

MR. MEADORS: And a followup on that, just say we have moved pretty quick, you would want to go right into closings?

THE COURT: Well, no, we will have to stop and talk about the charge, but --

MR. MEADORS: But I mean --

THE COURT: -- I hope to do that between 9:30 and ten tomorrow.

And your other witness may be Mr. Melton?

MR. MEADORS: Yes.

THE COURT: How long would you anticipate he would take?

MR. MEADORS: Not long.

THE COURT: All right.

MR. MEADORS: I think we will finish -- even if both of them testified relatively, I don't think it would take that long.

THE COURT: Okay. All right. Thank you.

If you need me, I will be back in my office.

MR. MEADORS: Thank you, judge.

MR. SMALDONE: Thank you, Your Honor.

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(Whereupon, proceedings were adjourned to December 5, 2012)

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF SUMTER)

THE STATE)
)
-vs-) TRANSCRIPT OF RECORD
) 2012-GS-43-00227
RECO ANTONIO GODBOLT,)
) DECEMBER 5, 2012
DEFENDANT. SUMTER, SOUTH CAROLINA

(VOLUME III)

B E F O R E:

THE HONORABLE GEORGE C. JAMES, JUDGE. ; And a Jury.

A P P E A R A N C E S:

JOHN MEADORS, ASSISTANT SOLICITOR
CHIP FINNEY, SOLICITOR
ATTORNEYS FOR THE STATE

GRANT SMALDONE, ASSISTANT PUBLIC DEFENDER
ATTORNEY FOR THE DEFENDANT

MICHAEL R. WATTS
CIRCUIT COURT REPORTER

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(PROCEEDING, DECEMBER 5, 2012)

THE COURT: All right, Mr. Meadors, Mr. Smaldone, I know that when I came in here about 9:30 you indicated that you had something that you wanted to try to work out amongst yourselves, as far as a stipulation is concerned?

MR. MEADORS: Yes, sir, judge.

I think we had -- she's on her way too, she being Catherine Leisy of SLED, so either way -- if she gets here in time I may present her testimony. If not, he's agreed to stipulate it.

Basically -- obviously it's already entered about the do rag DNA belonging to the co-defendant Mr. Helton.

This is Agent Leisy's report and it's specifically dealing with State's 40, which is a glove from the car, and State's 39, which is a knit glove from inside.

THE COURT: 39 and 40 you said?

MR. MEADORS: Yes, sir, 39 from the inside of the residence. 40 is from the vehicle.

Her testimony would be her findings were that the DNA profile that was developed from 14.1, which is the house, is a mixture of at least four individuals. Reco Godbolt cannot be excluded as a possible contributor to this mixture.

The probability of randomly selecting an unrelated individual who could have contributed to this mixture is

approximately one in four.

And then she goes on to say no conclusive statement can be made regarding to inclusion or exclusion of Carolyn Funke, Bryan Funke, Jessica Hodge as possible contributors. Those were just some other samples they had, judge.

It goes on to say Jamal Helton and two other individuals, who aren't involved in any testimony, are excluded as possible mixtures.

THE COURT: All right.

MR. MEADORS: And then the other one is 15.1, basically it says no conclusive statement can be made regarding the inclusion or exclusion of Jamal Helton or Reco Godbolt.

That's basically it.

And, like I say, she's on her way. If not, he's willing to stipulate to that.

THE COURT: As far as the final points of the stipulation are concerned, typically a lawyer would publish it, if it's agreed upon, or actually read it, or I would do it.

I think that under these circumstances it probably would not be appropriate for me to read it, unless it's something was typed, so I would file it up.

So, Mr. Smaldone, you have heard what he said. Is

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that the essence of the stipulation?

MR. SMALDONE: Yes, sir, that's the stipulation in its entirety. What I don't want is to say is it was probably, you know, Mr. Godbolt, because I think that kind of draws --

THE COURT: Well --

MR. SMALDONE: -- too much from it.

THE COURT: That's why the stipulation as presented has to be perfectly agreed upon, so that if he stands up and tells the jury what it is, you don't stand up and say no, that's not what it is. So --

MR. SMALDONE: If that's what it is, then I'm completely okay with that.

THE COURT: Okay.

MR. MEADORS: And further I guess these other -- there are other witnesses that were like girlfriends. The samples were all sent to SLED. Is it okay if -- clearly there is no evidence they were in the house. Just none whatsoever. They weren't there. They just got samples -- you know how they do, they send them all over there. And in her report she includes all the swabs that she got, basically, the profile of their swab.

I could keep it clean and just leave them out and just do Mr. Godbolt and Mr. Helton, which is factually correct, and I think he's okay with that, and that would be

the only change I would make to this report.

THE COURT: If there is going to be a stipulation, then that's what y'all have to agree on. I won't get involved in that.

Now, let's go to the points yesterday about Mrs. Funke's testimony, if we can.

The objection to her testimony from the stand from Mr. Smaldone was that her statement as to what her husband told her was hearsay, and I hadn't gotten to the recording yet. Of course, hearsay is defined as an out-of-court statement and it's offered to prove the truth of the matter asserted.

It's probably not hearsay for two reasons. One is is that it's not being offered to prove that he was shot, obviously, because the State is not trying to prove that. They are trying to prove that he was shot at. It's being offered to prove that at least at some point while he was in a heightened emotional state, or otherwise, he told his wife at least that there was a shot. In other words, the inference to be derived from that.

Under 801, prior consistent statement can come in and it's not even hearsay. If you want, I can go over that, the gist of the rule. A prior statement is not hearsay if the declarant testifies and is subject to cross-examination concerning the statement and it's consistent with his

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testimony and offered to rebut an express or implied charge of recent fabrication or improper influence or motive. Provided, however, that statement had to have been made before the alleged improper influence or motive arose.

I think it comes in -- it's not hearsay for that reason. If it is hearsay, there is certainly an exception, and no doubt in my mind about that. If it is hearsay, it's an excited utterance under 803(2), because it was a statement relating to a startling event made while he was under the stress of excitement caused by these events. There is absolutely no doubt in my mind about that, so it's going to come in one way or the other.

Now, as far as the recording of what she told the 911 operator, in my view that's not relevant. It doesn't tend to prove anything, and I just don't think it's relevant.

If it is relevant, I believe that the probative value of that statement is substantially outweighed by the danger of unfair prejudice, because if I were sitting here listening to it, first of all, if anything in this case, his home, it's her hysterical state talking to that 911 operator, and I can -- and I -- she turns right out of Wal-Mart. She's going down the highway, turns left at Bull Motor Company, and says this is where I am and she's understandably about to go to pieces. And especially the

911 operator calling her back and saying "he's okay, he has not been shot," to me that will have an untenable tendency to make the jury go off and say "good grief, we have to do something. This lady was thinking in that small window of time that her life was destroyed," and I just don't think that the case has anything to do with that, so that's my ruling.

Certainly, Mr. Meadors, if you have any additional points you want to put on the record to protect that finding.

Mr. Smaldone, the other ruling, if you have any, that's fine as well.

MR. SMALDONE: Thank you, sir.

THE COURT: When you get to the stipulation, let met know if it's something that you want to get your office to type and I can read it, that's fine.

If you both know what it is and you have confidence in him broadcasting it to the jury, that's fine too. It doesn't matter.

MR. MEADORS: Thank you, judge.

THE COURT: Okay.

Is everybody here?

THE CLERK: Yes, sir.

THE COURT: I know it's -- well, I don't know what time that clock says. I never have -- it's probably a

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little bit slow.

THE CLERK: Yes, sir. I got a couple minutes after ten.

THE COURT: 10:01.

Okay, is the State ready?

MR. MEADORS: Yes, sir.

THE COURT: Defendant?

MR. SMALDONE: Yes, sir.

THE COURT: Okay. You can bring in the jury.

(The following takes place in the presence of the jury panel)

THE CLERK: Your Honor, I have all the jurors and the alternate present in the courtroom.

THE COURT: Okay. Thank you, ladies and gentlemen, for being here on time. We are ready to move forward.

The State is still calling witnesses, presenting evidence.

Mr. Meadors, you can call your next witness.

MR. MEADORS: If it please the court, Your Honor?

THE COURT: Yes, sir.

MR. MEADORS: At this time, Your Honor, I would now call Ms. Carolyn Funke.

THE CLERK: Place your left hand on the Bible and raise your right hand.

State your name, please.

THE WITNESS: Carolyn Funke.

CAROLYN FUNKE, having been first duly sworn, testified as follows:

THE CLERK: Have a seat up here, please. Watch your step coming up.

Please state your full name and spell your first and last name for the record.

THE WITNESS: Carolyn Funke, C-A-R-O-L-Y-N F-U-N-K-E.

DIRECT EXAMINATION BY MR. MEADORS:

Q. Good morning, Ms. Funke.

Please tell the ladies and gentlemen of this jury about Ms. Carolyn Funke, please; where were you born and raised and a little bit about your background.

A. I was born in Dayton, Ohio, and graduated from the University of Dayton.

I met my husband in 1988. We were married in '89, and here we are.

Q. Do you have any children?

A. We have three children; [redacted].

Q. And when did you and your husband come to Sumter?

A. In 2006.

Q. And he's a physician?

A. Yes.

Q. And specifically in October, 2011, where was his practice? What was he doing?
A. He was a flight surgeon at Shaw Air Force Base.
Q. Okay. And have y'all moved around a fair amount?
A. Yes.
Q. Where are some of the different places that you have lived?
A. Misawa, Japan; Clarke Air Base, the Philippines; Las Vegas, Nevada.
Q. Slow down a little bit, if you would.
A. Oh, I'm sorry. Clarke Air Base in the Philippines; Misawa, Japan; Las Vegas, Nevada; Hampton, Virginia; Columbus, Mississippi. And there are some more.
Q. But once you came to Sumter, you have been here for ten years?
A. Yes.
Q. Now, I want to take you back to specifically Halloween, October 31st, 2011. Do you remember that day?
A. Yes.
Q. And midday, approximately, 12-ish, do you remember where you were?
A. Yes.
Q. And where were you? Where were you?
A. Like -- at Wal-Mart?
Q. Yeah. Where were you?

You were at Wal-Mart?

A. Yes.

Q. Shopping?

A. Yes.

Q. Did you and your husband -- does he eat his lunch sometime at home?

A. Yes.

Q. And sometimes other places?

A. Yes.

Q. Okay. You were at Wal-Mart at twelve o'clock, did you receive a phone call?

A. Yes, I did.

Q. And was it your husband?

A. Yes, it was.

Q. And can you describe to this jury, the best you can remember, how he sounded?

A. It was pretty surreal. He wasn't like -- there was this person on the other end of the phone that -- I didn't know the phone number when it came up, and so I really didn't who it was, and so this person was saying -- which it was him, but it was just this really bizarre voice saying "we have been robbed. I have been shot. You need to come home," or -- I mean, it was just like really bizarre and then the phone went dead. And I thought well, what's that about.

Q. So he didn't sound like he usually did?
A. No. I thought well, somebody like got the wrong number, or, you know, something weird, and that -- okay. And then it rang again. It was almost the same thing and then the phone goes dead.
And then I'm trying to call the house phone and I'm trying to call his cell phone and nothing is going through. And I can't remember if I got another phone call or if there -- I don't remember if I had two phone calls or if I had three phone calls. I have no clue.
I just remember like pushing my cart through Wal-Mart going okay, I think I better leave now, and so I kind of left my cart and I got to my car.
Q. So I guess you said -- did the voice -- it was your husband?
A. It was.
Q. Okay.
A. I mean -- yeah, I mean, it definitely was, but it was just really bizarre.
Q. And you said what you heard was he -- you had been robbed and he had been shot?
A. Uh-huh.
MR. SMALDONE: Objection, counsel is testifying.
THE COURT: Overruled.
BY MR. MEADORS:

Q. And that's what you thought it was?
A. That's what I thought at first.
Q. And based on that did you -- did you call 911?
A. Yes, I did.
Q. And as a result of that did you -- did you subsequently learn that he hadn't actually been shot?
A. That is true.
MR. SMALDONE: Objection, Your Honor. Counsel is testifying.
THE COURT: Overruled.
MR. MEADORS: Can we approach?
THE COURT: Yes, sir.
(Whereupon, the lawyers approached the bench for an off-the-record discussion)
THE COURT: You can continue.
BY MR. MEADORS:
Q. Where did you go after that?
A. Home.
Q. I guess is it fair to say when you first heard him on the phone, you thought he had been shot?
A. I did.
Q. I'm going to show you what's marked State's 5 and just ask --
MR. MEADORS: Can I approach, judge?
THE COURT: Yes.

That's already in, right?

MR. MEADORS: Yes, sir.

THE COURT: Okay.

BY MR. MEADORS:

Q. Did you recognize this?

A. Yes.

Q. And it's got CF on it. Who is that?

A. That is me, because I have to put my initials on most everything or my kids will take it from me.

Q. But that's Carolyn Funke?

A. Yes.

Q. Where was this usually kept?

A. It was probably in the kitchen. I mean, it might have been in the family room on the coffee table, but it's usually, you know, right in that area.

Q. And also was your daughter's camera taken?

A. Yes.

Q. And where was that usually kept?

A. That was probably on the kitchen table.

Q. And there are pictures in here of your bedroom and house with drawers open and things in disarray. Is that how you left the house that morning?

A. No. I mean, I did have a big pile of clothes on the bed, but that was about it.

Q. State's 16?

A. No, I don't know if I left it that like that. Maybe.
Q. The drawers. I mean State's --
A. No, that was not -- I did not do that.
Q. So you didn't leave these drawers like this?
A. No.
Q. And did you give anyone permission to enter your house that day --
A. No.
Q. -- or go through your things and steal them?
A. No.

MR. MEADORS: Beg the court's indulgence?

THE COURT: All right.

(Off the record)

(Back on the record)

MR. MEADORS: Nothing further.

THE COURT: Mr. Smaldone?

MR. SMALDONE: I don't have any questions.

THE COURT: Thank you, ma'am. You can step down.

MR. MEADORS: John Melton.

THE COURT: All right, come on up, please.

THE CLERK: Place your left hand on the Bible and raise your right hand.

State your name, please.

THE WITNESS: John Melton.

DETECTIVE JOHN MELTON, having been first duly

sworn, testified as follows:

THE CLERK: Have a seat up there, please.

Please state your full name and spell your first and last name for the record.

THE WITNESS: John Melton. J-O-H-N, M-E-L-T-O-N.

DIRECT EXAMINATION BY MR. MEADORS:

Q. Good morning, investigator.

A. Good morning.

Q. Please acquaint yourself with this jury, please. Tell them about John Melton, where you were born, where you were raised, your background, your education, your training, and in particular your training in the field of law enforcement, please.

A. I was born in Norfolk, Virginia.

I kind of moved all over, ended up graduating high school in Tennessee.

I joined the military in 2001. I did a four year tour of duty. I finished that in 2005.

I became a police officer and went to the police academy. I graduated in January of 2006.

I was on patrol for several years, then got assigned in 2010 to Investigative Services Division as a detective.

I have been through the detective course with the South Carolina Criminal Justice Academy.

Also I have attended and do attend St. Leo University.

I do have an Associates Degree in the Arts, as well as an Associates Degree in Applied Sciences, which I obtained from the Air Force.

Q. Your position now with the police department is what?

A. I am a detective. I am currently assigned to the Fraud and Forgeries Division.

Q. Let's go back in time to October the 31st, 2011, investigator. What was your position then?

A. At the time I was assigned to the Property Crimes Division and my specific task was the burglary area.

Q. Did you have an occasion -- did you respond to [redacted] -- how do you pronounce this street?

A. Canvasback.

Q. Canvasback?

A. Yes, sir.

Q. Did you have an occasion to respond to Canvasback Cove?

A. I did.

Q. And approximately what time was that?

A. It was -- we left the department as soon as the call had begun to come out. I responded on the scene when everything was still sort of in chaos.

Q. What are your observations when you get to the scene?

A. When I got to the scene I saw patrol officers, as well Detective Morse, putting somebody in a car. I didn't really pay attention who the person was.

I then walked past Detective Morse's car. Our car was parked right behind his and I did observe the suspect vehicle in the driveway. At that point I observed Mr. Funke pulling some items from the vehicle. I told him to stop pulling the items from the vehicle, step back from the car.

Q. Did you observe Dr. Funke pulling items from what vehicle?

A. From the suspect vehicle, sir.

Q. What were they?

A. It was the television, to be specific. There is a television that was removed from the car. He was just pulling it out. And I didn't want to disturb any type of potential evidence that might have been on the TV, so I told him to stop messing with the car.

Q. Dr. Funke was trying to get his TV back?

A. Yes, sir.

Q. And so he just went and took it?

A. Yes, sir.

Q. And you told him to stop?

A. Yes, sir.

Q. And subsequently was it in the driveway?

A. It was sitting kind of on like the little grassy edge.

Q. Go ahead.

A. I then -- my next thought was to make sure everybody was all right.

Detective Christmas had said that one of the suspects had ran and had gotten away, so I then asked him what way they had run, got the canine on the scene. And because of the information we had, that the suspects were armed, I did go to Detective Christmas's car. I did get the shotgun out of his car and I told Detective Christmas to get his vest. And then -- we put the dog on the ground just as soon as we possibly could.

Q. Did you participate in the canine search?

A. I did.

Q. Tell the ladies and gentlemen about that.

A. We left out, went down behind the house and behind the next door neighbor's house.

We went through a swamp. It was full of briers and weeds. They are probably about waist high in some places. The briers and other places were literally above my chest and we kind of would have to crawl little tunnels.

We ran for a long, long way with the dog. We run through swamp, woods, brier patches, thickets.

We ended up a couple of times coming up on ponds.

At one point we even ran past the little wooden dock behind a house.

It was so bad I remember that my shoe came off in the mud in one place. The mud on my pants was about knee high and I actually -- for whatever reason -- my favorite neck

tie I had on was ruined by the briers running through the brier patch. I had to throw it away. And my shoes that day were so muddy and stuff I threw them away and my pants. They were tore up real bad so I threw them away as well.

Q. Y'all did not apprehend anybody as a result of that search?

A. No, sir, we didn't.

Q. Did you find any potential items that potentially might be relevant to this case as a result of that canine search?

A. We did.

Q. What was that?

A. We found a skull cap. The skull cap was hanging in a brier patch on a vine in the swamp that was kind of adjacent to the house.

When you go behind the neighbor's house, it drops off in a swamp and it's like between two lake areas. There is a real thick brier patch in there and the briers were in places chest high, or better, and hanging on a brier limb was a skull cap.

Q. That's what I -- it's already been testified to that Detective Aleck collected?

A. That's correct, sir.

Q. And is that skull cap that came back with the DNA on it to a Mr. Jamal Helton?

A. That is, sir.

Q. Who was apprehended at the scene?

A. Reco Godbolt.

Q. And at what point was --

We heard testimony yesterday Mr. Godbolt gave a statement?

A. He did.

Q. As a result of that, what, if anything, was done with Mr. Helton? Was he arrested?

A. He was arrested.

Q. What did you do next in your investigation, just for this case?

A. For this case, I was -- I was assigned the case. I was I guess what you could call the lead investigator on it. I compiled all the statements that were obtained by other officers, as well as all the case information.

Every time we enter a piece of evidence, we do chains of custody. All the documents basically associated with the case. I compiled it. I then used that information to obtain search warrants that are irrelevant to this case at this point today, but we did then go through the process of trying unravel other criminal acts.

Q. Let me just state I want to focus on this car, if you will.

Were you able to determine the ownership of the car that was stuck at [redacted]?

A. Yes, I was.
Q. Who did that come back to?
A. Jessica Hodge.
Q. And were you able to develop through the investigation of whether or not there was a connection between Ms. Hodge and Reco Godbolt?
A. Yes. In fact, I was.
Q. What was that?
A. The connection was that Mr. Godbolt and Ms. Hodge were in what would be considered a cohabitating relationship and they did have children in common.
Q. And that car was registered to her?
A. That's correct.
Q. And were there any other identifying items in the car pertaining to Mr. Godbolt?
A. I would have to look back at the pictures. I could not answer at this time. I would have to look back at the pictures.
Q. Was his license recovered.
A. There was a license in the vehicle.
I know for a fact that Jamal Helton's license was in there. I'm not sure about Mr. Godbolt's.
MR. MEADORS: Beg the court's indulgence.
THE COURT: All right.
(Off the record)

(Back on the record).

(Photograph marked as State's Exhibit No. 44 for identification)

BY MR. MEADORS:

Q. I'm going to show you what's marked State's 44. Do you recognize that? Does that pertain to the --

A. I do.

Q. What's that?

A. That's the TV that Mr. Funke removed from his vehicle.

MR. MEADORS: Without objection, Your Honor.

MR. SMALDONE: No objection.

THE COURT: That's in.

(State's Exhibit No. 44 was entered into the record as evidence).

MR. MEADORS: Judge, I'm approaching, if that's okay?

THE COURT: All right.

BY MR. MEADORS:

Q. State's 44, what is it?

A. That's the television that Mr. Funke removed from his vehicle.

Q. And why is it in the yard?

A. It was in the car. Mr. Funke, when I came up, was literally pulling it out.

Q. And so then it was just left in the yard?

A. I just told them to stop right there and that's right where it was left.

MR. MEADORS: Beg the the court's indulgence.

(Off the record)

(Back on the record)

(Cardboard Box Containing Jamal Helton's Clothing marked as State's Exhibit No. 45 for identification)

BY MR. MEADORS:

Q. How did you get Jamal Helton's clothes?

A. Through the process of investigation we were able to locate or identify that Jamal Helton was likely at 11 Williams Street in the City of Sumter. We did go there. We made contact with the resident there, a Ms. Richbourg, and --

Q. Ronnie Richbourg?

A. Yes. In fact, we made contact with another resident there named Diamond Young. They were both there.

COURT REPORTER: The name again?

THE WITNESS: Diamond Young.

COURT REPORTER: Thank you.

A. When we knocked on the door, we did, in fact, say we were here looking for Jamal Helton. And when we did, Ms. Young opened the door wide open and said "there he is," and we saw him dash into a side room.

The hallway, just so I could describe it, is very long.

It goes down the entire length of the house. It's probably about I would say eight feet wide and it's probably from myself to about where Detective Sims is sitting back there in the courtroom.

BY MR. MEADORS:

Q. You got consent to search?

A. We did.

Q. Did you locate Jamal Helton's clothes in that residence?

A. We did.

Q. Where?

A. There was like a mop bucket that was inside the house. It was being used as a trash can, and the clothing was up underneath the trash inside this mop bucket. We were told they were there by Ms. Richbourg.

Q. What were your observations, just from your own eyes, looking at those clothes?

A. When we recovered them, the most notable thing was there was like a -- like a dirt line or something on them about right here in this area, which I thought was significant because of the swamp we had run through and all the big large areas of water, you know, the big ponds, or lakes, or whatever you want to call them that we run up to.

Q. Where you messed up your tie?

A. Uh-huh.

Q. Your own clothes?
A. That's correct.
Q. I'm going to show you what's State's --
MR. MEADORS: State's 45, without objection, judge.
THE COURT: Okay.
All right, Mr. Smaldone?
MR. SMALDONE: No objection.
(State's Exhibit No. 45 was entered into the record as evidence)
BY MR. MEADORS:
Q. What is State's 45?
A. It is Gucci pants, the Gucci hoodie, and a tank top, and these are the clothes that we recovered from 11 Williams Street.
Q. And these were also sent to SLED?
A. They were.
Q. And did they come back with results thereto forensically that those clothes belonged to Jamal Helton?
A. That is correct.
Q. And was through DNA?
A. That is correct.
MR. MEADORS: And, Your Honor, I had previously discussed that. That was with agreement with Mr. Smaldone.
THE COURT: All right.

BY MR. MEADORS:

Q. When you are going to search with the dogs, describe the area to the jurors when you were leaving Canvass Cove -- Canvasback Cove.

A. When we left, Dr. Funke's house would be like here. There is a little road that goes like this, and there is another house that sits over here, and behind his house is a pond.

And there is like a wooded area that drops off behind the house next door. It drops off kind of gradually into a bottom. In fact, his neighbors had like lemon trees and stuff and I had never seen that, so I thought that was kind of interesting later on when we tried to come back.

We dropped off into a swamp area and there was a bridge that led from I guess what would be considered the neighbor's yard into the swamp.

When we hit the swamp, it was very thick. At times you literally could not even see the ground in the swamp. And then there were periods of mud that you would be in mud up to here. And there was brier patches that were just ridiculous in the swamp.

Then we come up out of the swamp and we come up behind what I later discovered to be a fireman's house. And we went past the fireman's house and then we made a left turn. Now we would be like parallel to Loring Mill Road.

When we made left turn we went back into like a wooded area that dropped off into like a marshy bottom. And we come up out of that wooded area on this red clay bank into a subdivision. It was like a newer subdivision. There wasn't hardly any houses in it. I think there was like one.

And we come over the red cliff bank, there was like a -- I don't know whether it was a logging road, or what it was, but we went across that, went through another thicket, and this thicket was so thick that you couldn't see from me to y'all in most of the places, and it was inside some pine trees.

And we kept coming around and then we come up where you could actually see Loring Mill Road really well, like we were like maybe thirty yards from it, forty yards in the woods, but there would be jacks in the trees where you could see it.

We ran back into what was like the start of a new subdivision, a paved road. We hit the paved road. We went across the paved road. There is like a little retaining pond. We made a left at the retaining pond and we went straight back toward what I think is called Mill Pond, or it's the lake that runs out on Liberty Street. We went back that way and then we made a left back and paralleled that back for probably another quarter of a mile.

It was -- it was a long, long trek and it was just

muddy, tons of weeds and vines and grass and briers and swamp. I don't know any other way to describe it, except it just -- it was not pleasant at all.

Q. Let me ask you a couple more questions and I'm about through.

After Mr. Godbolt was arrested, were samples taken from his hands for gunshot residue?

A. They were.

Q. And were you able to do that for Mr. Helton?

A. Was not able to do that for Mr. Helton.

Q. And was that because of the time factor?

A. It was.

MR. MEADORS: Beg your indulgence just one more time, Your Honor, and I think we are through.

(Off the record)

(Back on the record)

MR. MEADORS: Judge, I think that's all I have at this time. Thank you.

THE COURT: Mr. Smaldone?

CROSS EXAMINATION BY MR. SMALDONE:

Q. Good morning.

A. Good morning.

Q. I'll be brief.

You traveled through the woods and never found a gun?

A. No.

Q. Never found a shell casing?
A. No.
Q. And now -- they didn't seem to mention this. When --
MR. MEADORS: Your Honor --
THE COURT: Sustained. You can't comment about how he asked the questions.
Just ask questions.
MR. SMALDONE: Apologize, withdrawn.
BY MR. SMALDONE:
Q. When the gunshot residue analysis was taken from Reco Godbolt, what were the results?
MR. MEADORS: Your Honor, I have no objection if he wants to offer that document which he's trying into evidence, I have no objection.
THE COURT: Well --
MR. SMALDONE: This is --
THE COURT: He's questioning the witness, not you. You can ask him that question as currently framed.
BY MR. SMALDONE:
Q. What were the results of the gunshot residue analysis?
A. They came back negative.
Q. Thank you.
MR. SMALDONE: No further questions.
THE COURT: All right, redirect?
MR. MEADORS: No, sir.

THE COURT: Step down.

Let me see the lawyers up here for just a minute.

(Whereupon, the lawyers approached the bench for an off-the-record discussion)

THE COURT: All right, ladies and gentlemen, we are going to take a brief recess right now. You may go to your jury room.

Obviously you may not discuss the case at all. We will have you back out shortly. If you need anything that's not in the jury room, just tap on the door, Mr. Foreman, and let the bailiff know. Okay?

(The following takes place outside the presence of the jury panel)

THE COURT: Mr. Meadors, how long do you think we need to firm all that up?

MR. MEADORS: Ten minutes.

THE COURT: Okay.

MR. MEADORS: Please.

THE COURT: Yes, sir.

(Whereupon, proceedings were recessed)

(Whereupon, proceedings were reconvened)

THE COURT: Anything that you want to put on the record about what it actually is before we do it, or is there any --

MR. MEADORS: Please, sir.

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Judge, swabs from State's 40 and 39, two knit gloves, one found from the driver's -- the vehicle in question. State's 41 was found from inside the residence at [redacted]. 39 was found inside.

40 was found in the vehicle.

Knit gloves were obtained by law enforcement and sent to SLED. The stipulation would be that they were swabs from inside and out of each glove. These were sent to analyst Catherine Leisy, who quite frankly I think it would benefit us to say if she was here to testify, some miscommunication, it would take an hour to get here, so I think that's another reason that the defendant is stipulating. It would be her results of those two gloves, and I was going to read them and we have gone over it and read them word for word, so there won't be any -- we won't change them at all.

THE COURT: All right. What I will do then is I will allow you to put the stipulation on the record and I'll ask Mr. Smaldone when he's done that, if that's correct. And if it is, let me know. If it's not, let me know. I just want to make sure we don't reach this point in the trial and something is inadvertently said that might result in us having to do this again. Okay?

MR. MEADORS: Thank you, sir.

THE COURT: Are we clear on that?

MR. SMALDONE: Yes, sir, thank you.

THE COURT: All right.

MR. MEADORS: We have looked over the document and both parties do stipulate without question. It's directly from her SLED report word for word.

THE COURT: All right.

Are we ready for the jury?

MR. MEADORS: Yes, sir.

MR. SMALDONE: Yes, sir.

(The following takes place in the presence of the jury panel)

THE CLERK: We have all the jurors present in the courtroom.

THE COURT: Thank you.

All right, Mr. Meadors?

MR. MEADORS: May it please the court, Your Honor, the State of South Carolina would call Special Agent Hue Tang to the stand.

THE CLERK: Place your left hand on the Bible and raise your right hand.

State your name, please.

THE WITNESS: Hue Tang.

SLED AGENT HUE TANG, having been first duly sworn, testified as follows:

THE CLERK: Have a seat up here, please.

Please state your full name and spell your first and last name for the record.

THE WITNESS: Hue Tang. First name is spelled H-U-E, last name T-A-N-G.

DIRECT EXAMINATION BY MR. MEADORS:

Q. And you are Special Agent Hue Tang, correct?

A. Yes, sir.

Q. I do this with all my witnesses, Special Agent.

Would you please, if you listen to me please, sir, tell the jury a little bit about Hue Tang; your background, where you are from, where you were born, but particularly your background and education in the field of expertise that I'm going to ask you to testify about here today, please, sir.

A. Yes. My name is Hue Tang.

Where I born?

Q. Tell us all, please.

A. Sure. I was born and raised in Viet Nam. I arrived here in the state in 1980.

I received a Bachelors of Science with a Major in Chemistry from the University of South Carolina. And I received training in various discipline in trace evidence, from gunshot residue, arson, paint, glass analysis, explosive, bank dye, duct tape.

Q. Specifically trace, and more specifically gunshot residue, what's your background and training in that?

A. I complete in-house training with SLED, and I received additional training by attending various seminars sponsored by the American Academy of Forensic Science and other committee.

Q. And specifically gunshot residue, what is that generally?

A. Gunshot residue is the vaporous cloud of metallic matter when a gun discharge.

Q. And does that stay on somebody forever?

A. No, sir.

Q. And how can gunshot residue, if it is on the hands -- well, let me go back.

Have you been offered as an expert in the courts of record in this state in the field of trace evidence and gunshot residue before today?

A. Yes, sir, I have.

Q. How many tests have you done or how many gunshot examinations have you done regarding gunshot residue?

A. A few hundred.

Q. A few hundred?

A. I don't have an exact number.

Q. How about trace evidence in general?

A. Trace evidence, over a thousand cases.

MR. MEADORS: Your Honor, at this time we would offer Special Agent Hue Tang as an expert in the field of

trace evidence and specifically gunshot residue.

THE COURT: Any questions of the witness at this point?

MR. SMALDONE: No, Your Honor.

THE COURT: Any objection to him being qualified?

MR. SMALDONE: No, Your Honor.

THE COURT: All right. Ladies and gentlemen, let me have your attention for a few minutes.

Typically under the Rules of Evidence that I mentioned to you earlier in the week a witness cannot give an opinion. In other words, a witness can typically say what they know from what they saw or heard or things of that nature. There is an exception in the rules for what we call an expert witness. If a witness is qualified by reason of education or training or experience as an expert in a particular field, or art, or science, that person can give opinions and that person can also give reasons for those opinions. That does not mean that you are bound by the opinion given by an expert. In other words, you use your common sense and you give it the weight that you believe it deserves.

I'll instruct you later on about that, but this witness is qualified as an expert in trace evidence analysis and gunshot residue analysis.

Mr. Meadors.

MR. MEADORS: If it please the court.

BY MR. MEADORS:

Q. Let me ask you specifically about your involvement in this case.

Do you know Agent John D. Roberts?

A. Yes, sir, I do.

Q. Who is he?

A. He's my co-worker. He's another trace analyst at SLED.

Q. And did he actually perform the examination on the gunshot residue kit involving one Reco Godbolt?

A. Yes, sir, he did.

Q. Is a part of what -- you are accredited, correct, you being SLED?

A. Yes, sir.

Q. As a part of that in your field of expertise are examinations conducted by you and your fellow special agents peer reviewed?

A. That's right.

Q. And is that what you did in this case, peer reviewed the examinations and the results that John Roberts got from his examination of the gunshot residue kit of one Reco Godbolt?

A. That's right.

Q. Okay. You basically looked at what he did and said this was done properly?

A. That's correct.
Q. And that's what peer review is, correct?
A. Correct.
Q. And so you have actually seen his work in this case and evaluated, agree with it, and he's actually in a detective school this week, correct?
A. That's correct.
Q. Okay. So you are here today?
A. On his behalf.
Q. Okay. On his behalf.
But you have seen these items, correct?
A. Yes, sir.
Q. Now, specifically, did you have an occasion --
And what's a gunshot residue kit, Agent Tang?
A. Gunshot residue kit contains the tubing and the cotton tip swab and solution, diluted natural acid, and particle lifts. And what they do is the officer take the particle lift off the hand and after that he use solution with a cotton tip swab and wipe and clean the hand -- I mean swipe the hand from the palm, the back of each hand.
Q. If you don't mind, and if the judge doesn't mind me getting close to you, so do you mind touching me? Show me how these swabs would be done.
THE COURT: Maybe back up so all the jurors can see.

MR. MEADORS: I'm sorry.

A. The solution -- the cotton tip swab put in the solution and then you swipe the hand, the back and the palm off each hand, and you place it in the tubing.

BY MR. MEADORS:

Q. Are they packaged separately?

A. They are put in one package.

Q. Okay. Each one of those samples for an individual is then packaged and they sent to you at SLED, or y'all at SLED, correct?

A. That's correct.

Q. And that's what happened in this case?

A. That's right.

Q. And is there a time limit where SLED won't -- when samples are taken that y'all won't test?

A. Any sample from the time of the shooting to the time of collection is anything above six hours we do not accept.

Q. Tell them why. Why is that?

A. Based on study the gunshot residue, we will -- the amount will reduce as time go on. And as I indicated, beyond six hours that no gunshot residue probative evidence for the case.

Q. Over six hours you won't test it?

A. That's right.

Q. So y'all have a threshold level you have, Special Agent

Tang, that has to be above a certain amount before you will say whether there was or was not gunshot residue?

A. That's correct.

Q. And after six hours you just won't test a sample that's been collected, correct?

A. That's correct.

Q. Okay. Now, in this particular case you examined the gunshot residue kit, did you not, of the local police that was sent to y'all? You peer reviewed it?

A. That's right.

Q. I'm sorry. You peer reviewed it.

And was it -- were there any -- what were your -- what were your results? What were John Roberts results that you peer reviewed?

A. The results of the item No. 8, right palm, right back, left palm, left back, the result was quantity of metal did not indicate the presence of gunshot residue.

Q. All right. And let me talk to you about that a little bit.

And do you know what time that the samples were taken from Mr. Godbolt?

A. The information from the gunshot residue analysis information form, the collection date is October 31st, 2011. The time is 2:56 p.m..

Q. So if this happened roughly a little after twelve, that

would be 2:45 hours after a potential gunshot, correct?

A. Yeah, nearly three hours.

Q. Okay. What are ways that if one had shot a gun that there would not be gunshot residue on him?

A. It's possible that you can wash your hand and you can wipe your hand off.

And other activities from the time that you discharged the weapon to the time that the GSR kit were collected, you could remove some or all of the gunshot residue from your hand.

Q. By wiping your hand?

A. Wiping your hand and --

Q. What if you just rubbed it like that?

A. Yes, sir, you could remove it.

Q. Putting your hand in your pocket?

A. Yes, sir.

Q. Putting your hand in and out of your pocket?

A. Yes, sir.

Q. Could that remove any potential gunshot residue?

A. Yes, sir.

Q. Let me ask you something else. If you wore gloves, would you expect to find gunshot residue on your hands?

A. Oh, no, sir, since your hands were protected from the gunshot residue.

Q. It may sound crazy, but if weren't the shooter and

somebody else shot, would you expect to find gunshot residue?

A. No, sir.

Q. So gunshot -- assuming there was a shot, gunshot residue can be removed any time by the person who shot just if they rubbed themselves?

A. By activity from the time of discharge to the time it was collected.

Q. If somebody was dead and then fired a weapon, how long would the gunshot residue stay on a dead person's hand?

A. It stay on until somebody removed it.

Q. And why is that?

A. Because you are dead, you don't -- any activity from the time the shooting to the time collected.

Q. And that's my point. If you are living and blood is still going on, will sweat take off gunshot residue?

A. Yes, sir.

Q. Running, sweating could take off gunshot residue?

A. Yes, sir.

Q. And that's why y'all have your time limit?

A. That's correct.

Q. You mentioned washing earlier. Would rain potentially take any --

MR. SMALDONE: May we approach?

THE COURT: Yes, sir. Come on up.

(Whereupon, the lawyers approached the bench for an off-the-record discussion)

BY MR. MEADORS:

Q. Could rain potentially take gunshot residue off?

A. Yes, sir, if it come in contact with your hand.

Q. Agent Tang, thank you for coming here.

A. That's okay.

THE COURT: Cross-examination?

MR. SMALDONE: I don't have any questions for you. Thank you for coming down.

THE COURT: Thank you, sir. You can step down.

MR. MEADORS: Beg the court's indulgence.

(Off the record)

(Back on the record)

MR. MEADORS: Your Honor, permission for Special Agent Tang to leave?

THE COURT: Thank you, sir, you can leave, if you would like, or you can stay, whichever you want to do.

MR. MEADORS: Thank Your Honor for one second.

(Off the record)

(Back on the record)

MR. MEADORS: I'll go over here and talk to the court reporter briefly.

THE COURT: Okay. All right.

(Off the record)

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(Back on the record)

MR. MEADORS: May it please the court?

THE COURT: Yes, sir.

MR. MEADORS: Your Honor, there is a stipulation I would like to publish.

THE COURT: All right, ladies and gentlemen, as I mentioned to you, evidence can come to you in different ways; testimony, exhibits, and another way is by stipulation.

Mr. Meadors is going to publish, which means read or made known to you, a stipulation that he and the defendant through Mr. Smaldone have agreed upon.

Mr. Meadors, you can go ahead.

MR. MEADORS: Thank you. May it please the court?

THE COURT: And this is evidence which you can weigh, just like any other evidence. Give it the weight you believes it deserves.

MR. MEADORS: Your Honor, there is a stipulation between the State of South Carolina, by Assistant Solicitor John Meadors, and a stipulation with the defendant Reco Godbolt, through his attorney Mr. Grant Smaldone, that evidence, State's Exhibit No. 39 and State's Exhibit No. 40, were sent to SLED. A sample was obtained from inside and out of the glove by swab. It was then sent to Catherine Leisy, a forensic scientist at SLED, and her results of her

examination are as follows:

The DNA profile developed from Item 14.1, which is State's 39, is a mixture of at least four individuals. Reco Godbolt cannot be excluded as a possible contributor to this mixture.

The probability of randomly selecting an unrelated individual who could have contributed to this mixture is approximately one in four.

No conclusive statement can be made regarding the inclusion or exclusion of Carolyn Funke, Bryan Funke and Jessica Hodge as possible contributors to this mixture.

Jamal Helton, Spencer Braxton and Brittany Braxton are excluded as possible contributors to this mixture.

The DNA profile developed from Item 15.1, which is State's 40, is a mixture of at least four individuals.

No conclusive statement can be made regarding inclusion or exclusion of Jamal Helton, Reco Godbolt, Jessica Hodge, Spencer Braxton, and Brittany Braxton as possible contributors to this mixture.

Carolyn Funke and Bryan Funke are excluded as possible contributors to this mixture.

That concludes the stipulation designed between the State of South Carolina and Reco Godbolt.

THE COURT: Is that correct Mr. Smaldone?

MR. SMALDONE: Yes, Your Honor.

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THE COURT: All right.

Any other witnesses, Mr. Meadors?

(Off the record)

(Back on the record)

MR. MEADORS: The State of South Carolina rests.

THE COURT: All right, thank you.

All right, ladies and gentlemen, the rules require us to take a recess at this time to take -- it requires us to take a recess between the State's presentation of evidence and the next stage of the trial. So what I'm going to ask you to do at this point is please go to your jury room. This will not be an extended recess. You may not discuss the case. We will have you back out momentarily. Thank you.

(The following takes place outside the presence of the jury panel)

THE COURT: All right, Mr. Smaldone, any motions at this time?

MR. SMALDONE: Yes, Your Honor.

First I move for a directed verdict on the attempted murder charge.

There is nothing in the record to show that -- even if the State's version of the facts taken as true, but there is nothing in the record to show any indication where a gunshot was fired, who it was fired at, whether or not it

was fired in the ground, whether or not it was a blank round. And, furthermore, there was no gun recovered, nor a shell casing recovered.

THE COURT: All right. Do you want to address these one at a time, Mr. Meadors?

MR. MEADORS: Your Honor, he said he thought he was shot at. He was running away, guns coming after him. I don't know how much more evidence we could produce.

THE COURT: What's the -- what was the evidence of -- was Dr. Funke's testimony about him seeing the outline of the gun in that jacket, that was after the gunshot was fired, is that correct?

MR. MEADORS: I think inferentially that would be -- yes, sir, that's correct.

THE COURT: What do you think the law says about an attempted murder charge when you hear a gunshot, because I have to accept the evidence as true at this point that there was a gunshot, but there is no indication that the round was fired at the victim.

MR. MEADORS: Well, first of all, we have -- I think Your Honor can consider what happened. We don't know exactly when the gunshot happened, but can consider what happened then and contemporaneously. I think we have got direct evidence that they said they were going to kill him. "I'm going to kill you." I don't know exactly when --

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THE COURT: Which was afterwards?

MR. MEADORS: Right, but, I mean, that -- I think you can take that, respectfully, into consideration that he heard a gunshot before, he's running away from them, they are committing a home invasion. He thinks they shot at him. He tells his wife "I have been shot at" right after it happened, and then they are yelling at him "we are going to kill you. We are going to kill you," and get up and then show a gun. So I think circumstantially that gun, or a gun Mr. Helton had, fired that shot. They -- the sounds, he thinks he shot at and they expressed "we are going to kill. We will kill you." I don't know that -- the evidence is what it is.

THE COURT: All right. Anything else on this, Mr. Smaldone?

MR. SMALDONE: Yes, Your Honor.

Dr. Funke testified he had no idea where the gunshot was -- where it was going. I would ask for the record.

THE COURT: All right.

MR. SMALDONE: Any acts --

THE COURT: Next motion.

Well, go ahead.

MR. SMALDONE: I was going to say any acts afterwards are irrelevant, because the State has pled the

attempted murder happened when the gunshot --

MR. MEADORS: But he also got hit with the garden hose, judge, and I just -- for whatever it's worth.

THE COURT: Well, what's the indictment say?

I don't think you can go to the jury on the garden -- on the wand, because the indictment reads --

MR. MEADORS: I agree.

THE COURT: Okay.

Anything else, Mr. Smaldone, on the attempted murder?

MR. SMALDONE: On the attempted murder, I mean --

Beg the court's indulgence to make sure I'm not leaving anything out.

I guess just basically in conclusion stating he doesn't know where the gunshot is coming from.

And, again, even if all the facts are true, the presented a -- they never said "we are going to kill you." Well, I'll leave that out, because it's afterwards, but at the time of the alleged attempted murder he had no idea where the bullet was going or if it was bullet. It could have been a blank.

THE COURT: Okay. Next count, or any other counts?

MR. SMALDONE: Yes, Your Honor.

We move for a directed verdict on the possession

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of a weapon during a violent crime. I don't think there is anything more than a scintilla of evidence to indicate that there was, in fact, a weapon.

THE COURT: Okay.

MR. SMALDONE: I believe it's just the outline of the weapon. And, of course, it's in the court's discretion, but I don't think that that is enough to be a possession of a weapon. It could have been --

Well, I'll leave it at that.

THE COURT: All right. Next one?

MR. SMALDONE: I think that's -- that's all I needed to address right now, Your Honor.

THE COURT: Okay. All right, of course, as you both know I'm to be concerned only about the existence of evidence and not the weight. I don't want to intrude on the jury's province. If there is any direct or substantial circumstantial evidence that reasonably tends to prove guilt, the directed verdict motion has to be denied.

I deny your motion for a directed verdict on possession of a weapon during a violent crime. There is more than a scintilla. Dr. Funke said the defendant, Mr. Godbolt, held out his jacket and he could see the outline of what appeared to be a weapon. He says he heard a gunshot. There is no evidence that anybody else in the neighborhood is firing weapons and that shows that either Mr. Godbolt or

Mr. Helton had the weapon. It was an accomplice issue. They are running after him together, if you take the evidence in the light most favorable to the State, which I must do, so there is plenty of evidence upon which a jury could base a conclusion beyond a reasonable doubt that he was in possession of a weapon during a violent crime.

Attempted murder is a closer question. I was thinking about that from the beginning of the case.

I believe the elements of the crime are such that a jury could circumstantially conclude that there was an attempt made on Dr. Funke's life. And I do believe the jury could consider what he allegedly said after the shot was fired and they caught him, so I'm going to deny that motion as well. The jury may resolve it differently, but I think there is enough to go to the jury.

All right, any other motions at this point?

MR. SMALDONE: No, Your Honor.

THE COURT: If your client could come on up, please, and be sworn.

MR. SMALDONE: Sure.

THE CLERK: Place your left hand on the Bible and raise your right hand.

State your name, please.

THE WITNESS: Reco Godbolt.

RECO GODBOLT, having been first duly sworn,

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testified as follows:

THE COURT: All right, Mr. Godbolt, we have reached the stage of the trial now which the State has rested. This is the stage of the trial during which you may present your own defense. In that regard that includes the fact that you can testify.

Specifically the United States Constitution states, in pertinent part, in the Fifth Amendment that no person in any criminal case shall be compelled to be a witness against himself. That means that no one can make you testify.

THE DEFENDANT: Yes, sir.

THE COURT: As an example, Mr. Meadors can't call you to the stand against your will. I cannot, nor can even your own lawyer call you to the stand without you consenting. The reason for that is that the right that you have under the Fifth Amendment is a personal right. Since it's a personal right no one can give it up except for you.

What I'm going to do right now is make sure that you understand that, and any decision that you make whether or not you do or do not testify is made by you freely and voluntarily, with full knowledge of your rights under the Fifth Amendment and the consequences of your decision to testify.

If you testify, you will be subject to the same

basic rules that govern the direct and cross-examination of any other witness who testifies.

If you have a record of any convictions where you were released from confinement or the conviction occurred, or you were released from confinement within the last ten years and the crime was a crime of dishonesty or false statement, that conviction can be introduced to the jury for it to evaluate as to whether or not they believe you. That would be the sole reason it could be introduced.

Likewise, if you have been convicted of a crime that does not involve dishonesty or false statement, but the possible punishment was more than one year, depending on the circumstances, I have to weigh five factors under a string of cases, that conviction could also be introduced to the jury solely for the purpose of whether or not they decide to believe you. Do you understand that?

I don't know whether or not there are any such convictions either way, but that is -- that is something that perhaps you could evaluate with your attorney.

If you decide not to testify, I will tell the jury very specifically that they cannot consider that at all. In other words, I tell the jury that the fact that you did not testify is something they cannot think about, they cannot discuss it, and it cannot enter into their decision in any way whatsoever. Do you understand that?

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THE DEFENDANT: Yes, sir.

THE COURT: Likewise, I tell the jury that if you do decide to testify, the fact that you did testify does not mean that you have assumed or taken on the burden of proving or disproving anything. Do you understand that?

THE WITNESS: Yes, sir.

THE COURT: In other words, the burden at all times remains on the State.

In the end the decision is yours whether or not you do or don't testify. You can discuss it further, if you haven't already, with your attorney and anyone else that you think is appropriate to discuss that with, but in the end the decision will be yours.

Is all of this clear to you?

THE DEEFENDANT: Yes, sir.

THE COURT: Do you understand everything that I said?

THE DEFENDANT: Yes, sir.

THE COURT: Do you have any questions at all about what we have just been over?

THE DEFENDANT: No, sir.

THE COURT: Have you made your decision?

THE DEFENDANT: Yes, sir, I made my decision.

THE COURT: And what is that decision?

THE DEFENDANT: Not to testify.

THE COURT: Not to testify?

THE DEFENDANT: Yes, sir.

THE COURT: Has anyone used any force, threats or intimidation to get you to make that decision?

THE DEFENDANT: No, sir.

THE COURT: And you made that decision freely and voluntarily?

THE DEFENDANT: Yes, sir.

THE COURT: And has Mr. Smaldone explained to you the in's and out's of whether or not you will or will not or should or should not testify?

THE DEFENDANT: Yes, sir.

THE COURT: Are you comfortable with your decision?

THE DEFENDANT: Yes, sir.

THE COURT: All right. In just a few minutes --

And, by the way, Mr. Smaldone, will you be calling any other witnesses?

MR. SMALDONE: No, sir.

THE COURT: In just a few minutes the jury is going to come in and I'm going to excuse them for lunch. We are going to take an early lunch so we can do the --

Does that suit you Mr. Meadors and Mr. Smaldone?

MR. MEADORS: Yes, sir.

MR. SMALDONE: Yes, sir.

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THE COURT: We will probably take about an hour, or so, for a lunch break.

When the jury comes in I'm going to ask Mr. Smaldone will the defendant be calling any witnesses, and he's going to answer that question. Based on what you said right now it's going to be no and then all the evidence will be in.

If while from the time you turn around and walk to that table and the jury starts coming in, if you change your mind and decide well, maybe at least I want to talk to my lawyer more about it, or I do want to testify, you need to let him know. He can come up here and let me know there has been a change and then we can go forward. Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: Okay. All right. Again, have you understood everything that I have said to you?

THE DEFENDANT: Yes, sir.

THE COURT: Okay. You can have a seat.

THE DEFENDANT: Thank you.

MR. SMALDONE: Your Honor, just for clarification, did you say I would rest after lunch or before lunch?

THE COURT: Well, if we are going to break for lunch now, I want you to rest now.

Do you need to make any decisions?

MR. SMALDONE: No, I was just -- it was just for scheduling. I didn't want to look sloppy.

THE COURT: Well, what I plan to do, unless you want to do your arguments now --

MR. MEADORS: I will do whatever you want to do. Lunch is fine with me.

THE COURT: Well, what we -- I would rather make use of thirty minutes time going over the jury charge instead of the jury sitting back there for thirty minutes and then we start the arguments at a quarter to twelve.

MR. MEADORS: That's fine.

THE COURT: That suits you?

MR. SMALDONE: Yes, sir.

THE COURT: But, again, if Mr. -- if you need more time to talk to Mr. Godbolt, that's fine.

MR. SMALDONE: I think we are pretty settled on whether he will testify or not.

THE COURT: Okay. Thank you.

Now, do you think I have covered everything properly with your client?

MR. SMALDONE: Yes, Your Honor.

THE COURT: Mr. Meadors, do you think I have covered everything?

MR. MEADORS: Without question, thank you.

THE COURT: All right. You can have a seat.

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You can bring in the jury.

(The following takes place in the presence of the jury panel)

THE CLERK: Your Honor, we have all the jurors back in the courtroom.

THE COURT: All right. Thank you, sir.

All right, Mr. Smaldone, will the defense be calling any witnesses?

MR. SMALDONE: No, Your Honor, the defense rests.

THE COURT: All right. Ladies and gentlemen, that basically means that all the evidence that is going to be introduced in this case has been introduced. So, in other words, all the evidence is in.

The lawyers indicated that -- when Mr. Smaldone indicated that to me just a few minutes ago, the rules would require us at this point to take another recess to go over the jury charge that I will be giving to you at the conclusion of the arguments. That usually takes -- me discussing all that with the lawyers usually takes about thirty minutes. Sometimes more, sometimes less. So you won't be back in your jury room waiting for that to begin and then we begin the arguments at noon and butt up to whatever time we would butt up to, I'm going to go ahead and stop early for lunch and we will get -- we will get back together, at least on the record, at 1:15. That will do a

couple of things. That will get you on or about your way to get lunch. Also I will have the opportunity to talk to the lawyers about what I will be charging, and then everybody in the courtroom can take their lunch that they may need. So that gives everybody plenty of time. So if you would please be back in your jury room at 1:15.

Now, guess what? You can't talk about the case yet. It's coming. It will be here this afternoon. You cannot think about it or you cannot begin making up your mind about anything yet. Don't discuss it with anybody. Don't read anything about it. Don't listen to anything about it, and don't undertake to do any research about any issue, parties, or anything remotely involving this case. Be back at 1:15 and we will move forward at that time. Thank you.

(The following takes place outside the presence of the jury panel)

THE COURT: All right, Mr. Smaldone, would you like for the record to note that you have restated your motions for a directed verdict on attempted murder and possession of a weapon during a violent crime?

MR. SMALDONE: Yes, Your Honor, I would renew my motions for a directed verdict.

THE COURT: Anything else you want to put on the record about those?

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MR. SMALDONE: No, Your Honor.

THE COURT: Okay. I respectfully deny your motions.

Can we talk about the charge for a few minutes?

MR. SMALDONE: Yes, sir.

THE COURT: Do either of you have any written charges that you want to hand up?

MR. SMALDONE: I don't.

MR. MEADORS: Judge, the armed robbery charge, I'm not sure if I have seen one of Your Honor's before, but I just would like to review that language with you.

THE COURT: All right. It says this, and I'll give you a copy of it, it says the defendant is charged with armed robbery.

In order to prove this offense, the State -- and I'm going to paraphrase, the State must first prove -- and all of this is beyond a reasonable doubt, that the defendant took personal property from the person or presence of another person, and I define what property is in the presence of a person.

The State must also prove the defendant carried the property away intending to permanently deprive the owner of the property, so forth and so on.

Possession of the property even for an instant by the defendant is sufficient to show the taking and carrying

away.

Y'all want to use the word asportation you can, but nobody really knows what that means.

The taking and carrying away of the property must have been done with violence or by putting the owner of the property in fear of violence.

And the State must prove beyond a reasonable doubt that the defendant was armed with a deadly weapon during the robbery, and I'll define a deadly weapon.

Is that pretty much what you expected?

MR. MEADORS: Well, also the -- like even the --

THE COURT: The appearance?

MR. MEADORS: The appearance.

And even if there isn't a gun, if they believed there was a gun, there is some -- I would like to maybe get some of that handed to you for consideration.

THE COURT: That's fine.

MR. SMALDONE: What's the charge on burglary first that I have got here?

THE COURT: Well, the one -- the element presented that makes this a burglary first, if the jury concludes, is that being armed with a deadly weapon while in the dwelling or when fleeing the defendant or and an accomplice was armed with a deadly weapon or explosives. I'm not going to talk about explosives, and I'll define a deadly weapon again.

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But as far as from the beginning, first must prove the defendant entered a dwelling without consent. I'll define a dwelling. I don't think anybody really disputes this was a dwelling.

In order to prove the defendant entered the dwelling, the State does not have to show that his entire -- a defendant's entire body entered. The smallest entry is sufficient. It may be any part of the body, such as a hand or foot, or even an instrument.

Then the State must prove that the defendant intended to commit a crime, either a felony or a misdemeanor. I usually don't use those words, because the jury doesn't know, intended to commit a crime at the time of the entry.

The mere entry into a dwelling without consent is not burglary.

If the intent to commit a crime is formed after the entry it is not burglary.

If the defendant intended to commit a crime at the time of entry, it's burglary, even if that intent was abandoned after entry.

It does not matter that the intended crime was not completed.

The only other element that I would charge on burglary in the first degree, the State must prove beyond a

reasonable doubt that the defendant or an accomplice, while in or while fleeing, became armed with a deadly weapon.

That's the only thing that makes this a burglary first, right?

MR. MEADORS: This may be outdated. Is armed with a deadly weapon or causes physical injury to a nonparticipant?

THE COURT: Well, that's -- that's interesting, because --

MR. MEADORS: Or threatens the use of a deadly instrument?

THE COURT: That was after exit from the building. Yes, sir.

MR. SMALDONE: And, Your Honor, I -- respectfully I -- I don't have a copy of the indictments, but I believe that the only thing the indictment puts me on notice of is the deadly weapon.

THE COURT: Yeah, that's -- that's the only component alleged, and I think that -- I think that the firing the shot after they had exited the dwelling and grabbing his injured biceps area, which I don't doubt hurt pretty bad, if you accept the State's evidence on that, which I have to do at this stage, he was injured or he was threatened with death, but I think that was after the burglary -- or, excuse me, after the entry into the dwelling

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was over. They were -- they had left.

MR. MEADORS: Maybe my overview of this old book I have had, I thought it was whether while they were entering or leaving.

THE COURT: Well, I can check on that during lunch and if you would do the same.

MR. MEADORS: I think -- okay.

MR. SMALDONE: And, Your Honor, my -- even if the rule is while fleeing, I believe the indictment only mentions that the weapon, it doesn't put me on notice about any of the other.

THE COURT: I think he's correct about that.

All right. Does either side want a copy of my full charge? It's going to be unedited, and I don't read it, per say, or word for word, and I don't give the jury a copy.

MR. MEADORS: I would like it, if you don't mind.

THE COURT: All right.

MR. MEADORS: So we know, it's just as indicted?

THE COURT: I think the fairly recent case that came out that says I have to go on what is in the --

MR. MEADORS: No, no, no, I wasn't talking -- I was talking there are no other -- you are just charging the offenses in the indictment?

THE COURT: Lesser included?

MR. MEADORS: Nobody has mentioned that. That's what I'm trying --

THE COURT: That's what I was going to get to next.

MR. MEADORS: Okay, I'm sorry.

MR. SMALDONE: I mean, obviously I kind of have to ask for a lesser included.

THE COURT: Well, you mentioned to the jury that your client is guilty of burglary in the second degree --

MR. SMALDONE: Yes, sir.

THE COURT: -- which is entering into a dwelling, in this case, without consent and with the intent to commit a crime therein, and that there was no additional factors that makes it a burglary first, such as possession of a weapon, a deadly weapon.

What does the State say about that?

It's a double-edged sword for both of you, I guess.

MR. MEADORS: I don't know what evidence came in that he wasn't armed.

THE COURT: Well, in the statement he said --

MR. MEADORS: He just doesn't mention it.

THE COURT: He doesn't mention it.

The only thing that really challenges that is the cross-examination and the absence of reference to a gun in

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the statement that was introduced.

What's the -- he wants a lesser included on burglary second, nonviolent. What does the State say?

MR. MEADORS: Beg the court's indulgence.

(Off the record)

(Back on the record)

MR. MEADORS: Judge, is he going to ask for -- I just thought of this. Is he going to ask for a lesser included of strong armed?

THE COURT: All right, I don't know.

MR. MEADORS: I mean, I wouldn't -- I wouldn't -- if I won't agree, or concede, or whatever, I just want to be -- I want to be consistent.

THE COURT: The jury doesn't have to be consistent.

MR. MEADORS: I understand.

THE COURT: We all know that, but I guess we have to be.

I'm just -- right now I'm just trying to find out --

Well, do you want a strong armed lesser included? All the elements apply, except there was not a deadly weapon.

You guys can certainly think about that and let me know. I have got it in my charge, because I put everything

in. It's easier to take out than scramble around trying to find things to put back in.

MR. SMALDONE: I guess for both of us it's kind of going all in, so we''ll -- well, for me more so.

MR. MEADORS: If I agree to one, I wouldn't want one in if the other wasn't in, I guess. I think that's what --

THE COURT: Now, there are no other lesser includeds, because the way the intent to murder count is phrased at firing a gunshot, so there is no lesser included of --

MR. SMALDONE: Assault.

THE COURT: -- ABHAN, or anything like that.

And I think from what Mr. Godbolt said in his statement, that he was hollering at Mr. Helton to stop. Okay.

So you gentlemen can think about what your final position would be on the lesser included. That will obviously go into how we complete the verdict form.

MR. MEADORS: What time do you want to know that by?

THE COURT: What time did I tell the jury to come back?

MR. MEADORS: 1:15.

THE COURT: Why don't you just let me know -- if

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everybody could be back in the courtroom by a little bit before one.

I wouldn't look at that clock.

MR. MEADORS: Well, that's going to mess me up.

THE COURT: Maybe when we get moved into the new courthouse we will get a new clock.

Any -- just for your information, I don't -- when I talk to the jury I don't make them feel like that they and I are on the same team. I think that was specifically ruled inappropriate about two weeks ago.

I will talk to them about direct and circumstantial evidence.

Credibility.

MR. MEADORS: Does that come out of Florence?

THE COURT: Yes, sir.

Presumption of innocence.

Reasonable doubt.

I'll give an expert witness charge.

The essence of my reasonable doubt charge is that proof beyond a reasonable doubt is proof that leaves you firmly convinced of a defendant's guilt. There are very few things we know with absolute certainty and the law does not require the State to present proof that overcomes every possible doubt.

If you are firmly convinced the defendant is

guilty, you must find him guilty.

If, on the other hand, you are not firmly convinced that he is guilty, you must give him the benefit of the doubt and find him not guilty.

I tell them that their verdict on one count does not control their verdict on another one.

I guess the unusual thing about criminal cases is that they could conceivably find him not guilty of burglary first but guilty of armed robbery. They can do that, even though we would think logically they couldn't, or vice versa. They could find him guilty of armed robbery and not guilty of possession of a weapon during a violent crime.

I'm going to tell them that their verdict on one does not control the verdict on the other. They examine the law separately as far as each count.

Certainly I'll talk to them about criminal intent.

Does the State want a hand of one charge?

MR. MEADORS: Please, sir.

THE COURT: Any objection to that? I think it's appropriate.

MR. SMALDONE: No, objection.

THE COURT: All right. No charge needed on any criminal record of anyone.

We have got the kidnapping statute, first degree burglary, attempted murder, armed robbery, possession of a

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weapon during the commission of a violent crime, conspiracy, and the backup -- if the lesser includeds are in, I'll put the lesser includeds right after the principle one.

And the verdict form, I think you have got it. My clerk hasn't completed and he will make -- it would be a very rough copy for you to look at. It may not be the final form, but it would be outline of it.

Anything else that you can think of from the State?

MR. MEADORS: No, sir.

THE COURT: From the defense?

MR. SMALDONE: No, sir.

THE COURT: Not to hold you to it.

It would help me out that even though we are not going to be back on the record until one, if you let me know something -- if you got something in writing or if you want to scribble something down, just -- if I'm not in my office and the door is shut, just slide it under the door.

MR. MEADORS: When would we be able to review?

THE COURT: He's going to make a copy of this now.

MR. MEADORS: Okay.

THE COURT: All right.

MR. MEADORS: Just for the armed robbery, it may be in there, that's what I'm talking about. That's all I'm --

THE COURT: I know what you are talking about, but I don't know if it is or not.

Okay, anything else?

MR. MEADORS: No, sir.

THE COURT: Before you leave, if you would help the court reporter out by making sure that you check the desk that you don't have a picture or a piece of paper on your desk that has an exhibit sticker on it.

All right, we will be off the record until about one o'clock.

MR. MEADORS: Thank you.

(Whereupon, proceedings were recessed)

(Whereupon, proceedings were reconvened)

THE COURT: Okay. Mr. Meadors handed to my clerk. I guess he gave it to Mr. Smaldone --

MR. MEADORS: I did.

THE COURT: -- the charge on armed robbery, which is a more complete version of the statute. It does come straight from the statute.

Do you have any disagreement with that, Mr. Smaldone?

MR. SMALDONE: No, sir.

THE COURT: All right. As far as the other one that the defendant had an issue, with burglary in the first degree, the indictment is limited to the deadly weapon

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scenario. No physical injury is alleged in the indictment, so we will just go with being armed with a deadly weapon.

Does the State agree or disagree with that?

MR. MEADORS: I don't disagree with that. It's not in there, but I would still like to go forward on all of them, coupled with all of them, anyway. I understand.

THE COURT: All right. State's position on lesser included?

MR. MEADORS: Judge, I don't think there is any evidence that he did not have a gun.

THE COURT: Okay. Well, there is evidence from the statement you put in that he wasn't involved in that part, armed robbery. In other words, he said he was back at the house and saw Dr. Funke going down the street and Mr. Helton following after him and at some point he said they came back. So there is evidence from that respect. Maybe not a lesser included, but evidence that he didn't play any part in that, at least as a direct actor.

How about that, Mr. Smaldone? What is the evidence that would support giving a charge on the lesser included of strong armed robbery?

MR. SMALDONE: I don't think there is any evidence that he didn't have a gun.

THE COURT: That he did?

MR. SMALDONE: That he did have a gun.

THE COURT: Dr. Funke says he had a gun. He saw a gun -- outline of a gun in his pocket. That's -- there is -- how is there not evidence, though?

MR. SMALDONE: When he's caught red handed at the scene and no gun was found on him or recovered in the area, I think that weighs to the credibility of -- that's a jury question as to weather or not they want to believe Dr. Funke.

THE COURT: Exactly.

One of the questions that comes to my mind is if he had the gun in his pocket and showed it to him, where did it go from there? That's a matter for the jury to determine, but I'm talking about lesser included.

I know you are talking about there is no evidence he had a gun at all, or at least no credible evidence, you say.

Where is the evidence that will allow me to charge the jury or that the jury could conclude well, he participated in the robbery, but he did not have a weapon?

MR. SMALDONE: I mean -- I'm sorry, I --

THE COURT: In order to support a lesser included charge there has to be evidence in the record.

For example, if a witness, whether it be your client or somebody else, were to take the stand and say yes, there was a robbery, but there was no gun.

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If your client had said in his statement yes, I believe Mr. Helton did rob him, but neither of us had a gun, that would be in evidence, but what's in evidence now that would support a strong armed robbery?

MR. SMALDONE: Well, there is no statement and he didn't say neither of us had a gun, I don't believe. I -- I don't have the statement.

THE COURT: No, he didn't.

MR. SMALDONE: He didn't say anything about a gun, though. So --

I mean, if they don't want -- I don't really have too much of a position on it --

THE COURT: Strong armed robbery?

MR. SMALDONE: -- to be honest.

THE COURT: How about the other, burglary second degree?

MR. MEADORS: That's what I initially was talking about, that I didn't think there was evidence that there wasn't a gun, as far as the burglary first degree, for a lesser included. That's really what I was addressing to Your Honor. Depending on that, I was going to move onto the second one a little bit.

THE COURT: Well, he doesn't -- so you are not necessarily asking for a strong armed robbery?

MR. SMALDONE: Not strong armed, no.

THE COURT: Okay.

How about the burglary second degree, Mr. Meadors? There was -- you say there is no evidence there was no gun?

MR. MEADORS: I think there is only -- there is evidence, it was either a burglary first or nothing in the record.

THE COURT: All right.

Mr. Smaldone, what's your position again?

MR. SMALDONE: Well, since his statement doesn't say anything about a gun, like I mentioned before, there is no -- obviously there was no gun found, I don't understand why there wouldn't be a second charge.

He entered the dwelling of another without consent with the intent to commit a crime. Whether or not there was a gun, my whole position is that, so I think that's a jury question.

THE COURT: All right.

MR. SMALDONE: And the indictment says with a gun. It the doesn't even mention the -- I think the whole finger in the pocket thing.

THE COURT: Well, we are talking about the robbery now.

Burglary in the first degree is entering into a dwelling without consent with the intent to commit a crime therein.

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And this part, the relevant part, while in the dwelling or while fleeing armed with a deadly weapon.

And the State's argument is that there is no evidence in the record that either he or Mr. Helton as the hand of one situation didn't have a gun.

And your -- what you are saying, I take it, is that, well, they didn't find one when they looked and there wasn't one on him, so that's evidence that there was no gun.

MR. SMALDONE: Right. And not to sound too focusy, but I think the absence of a gun is evidence of not a gun. For example, if I was to break into a house and they were to charge me with burglary first [redacted] they would say, oh, there is no evidence there wasn't a gun, if that makes sense, how can I -- what would I argue, just in the hypothetical?

THE COURT: A witness saying there wasn't a gun. That's how typically it happens.

In other words, the jury cannot just conclude, well, we don't believe parts of what this witness said and that supports a lesser included.

I agree with you that there is some relevant pause the jury might give to the fact that they didn't find one on Mr. Godbolt, but if you have a hand of one hand of all scenario, one of the people flees and they don't find him for an extended time, there is -- it's muddled, I

understand. I'll give you that.

Mr. Meadors, Dr. Funke says that Mr. Godbolt had the gun, is that right?

MR. MEADORS: That's the one that showed it to him.

THE COURT: Right.

Then within a very few minutes the police arrived, Mr. Godbolt was apprehended, and Mr. Helton fled. Where is the evidence that if Mr. Godbolt had the gun within the immediate time frame of making Dr. Funke look for the keys but didn't have it when they got back, where did it go?

MR. MEADORS: Judge, I don't think there is one of the things that we can answer. I think it's either in the pond; I think it's in the woods; I think Jamal Helton took it. He ran faster. I think those are things that we could never answer, but I think, respectfully, that there is nothing in this record saying they didn't have a gun, or that he is saying I didn't have a gun, or any witness. The only thing in the record is that there was a gun.

THE COURT: Of course, if the jury doesn't believe there was a gun, then he will be not guilty on burglary and there will be no chance on a burglary second, violent. That's the double-edged sword for the State in not at least asking for a lesser included.

All right, anything else on that?

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MR. SMALDONE: I think I have made all my points.

THE COURT: Okay. All right, we will get started in a few minutes and I'll make my decision then. I think it's about time for the jury to get here.

Anything else before we start?

Mr. Meadors, you might -- he's asking for something else.

MR. SMALDONE: I thought about it. I don't think -- I think I'm all right.

THE COURT: We will be back in a few minutes.

(Whereupon, proceedings were recessed)

(Whereupon, proceedings were reconvened).

THE COURT: After I have considered the points both sides have made, I think that -- I don't really have any doubt that burglary second would be appropriate for a charge as a lesser included.

The armed robbery and strong armed robbery is a much closer question, but I believe that based on the evidence in this case, it's a bit unusual as far as that debate is concerned, I'm going to charge the lesser included of strong armed robbery too, unless the defendant is not requesting it. If the defendant is not requesting it, I won't charge it, even though I think I could, even if neither side requested it.

MR. MEADORS: If you are going to do burglary

second, we would request strong armed.

THE COURT: I think the facts would fit it, so I'm going to charge both of those as lesser included.

Also just to make clear, Mr. Smaldone, Mr. Meadors, I will charge the part of the armed robbery statute that uses that language that was examined in State v. Jones and the other case. In other words, I'm going to charge what the statute is. It's not in what is printed for you, but it does come from 16-11-330 and it will say -- I will say the State must prove beyond a reasonable doubt, so forth and so on, and that the defendant was armed with a deadly weapon, or by alleging either by actions or words that he was armed while using a representation of a deadly weapon, or any object which if the person present during the commission of the robbery reasonably believed to be a deadly weapon. So that's what I'll say.

MR. MEADORS: Thank you.

THE COURT: It's the kind of clumsy language, but I can't alter it. I'm going to charge what it says.

All right. Is the State going to open on the law or waive opening, or how are you going to approach that?

MR. SMALDONE: Your Honor, I'm going to move that --

THE COURT: That's right, he goes last anyway. I'm sorry.

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MR. SMALDONE: I don't know if I need to move for that or not.

THE COURT: I'm sorry.

MR. SMALDONE: I would like the record to reflect that I officially am not requesting a strong armed charge.

THE COURT: Your exception is noted.

Okay.

MR. MEADORS: Judge, Mr. Smaldone and I have been providing information to each other, discovery. He's had everything and I want the record to reflect that.

He disclosed to me while --

Well, why don't you put it on the record.

He may attempt to -- something in his closing which I would like to address with Your Honor. I don't know if we need to approach, or I can just do it right here on the record.

THE COURT: Right here is fine on the record.

MR. SMALDONE: Sure, I was thinking about -- I had decided against it and --

MR. MEADORS: Well, I didn't know you decided --

MR. SMALDONE: I'll bring it to Your Honor's attention. It is in the record that Mr. Godbolt has a wound to his leg. It's in his statement that he was shot and he cannot -- he says he cannot run. My --

THE COURT: Well, he didn't say that in his

statement. Did he say that in his statement that -- I haven't read it in detail. Maybe he did say it, I don't know.

You are not going to ask him to run in the courtroom, are you?

MR. MEADORS: Because my objection is anything like that should have been done before he rested.

THE COURT: In other words, a demonstration?

MR. MEADORS: Yes, sir. I think that would have been the time that he wanted to do something.

THE COURT: All right. So what is in the statement?

MR. MEADORS: "That's when I tried run but I can't because I was shot in my right leg back in March."

THE COURT: I think you can refer to that, but I'm not going to let you present any evidence to that, unless the State doesn't object.

MR. SMALDONE: I would say that it would be the same -- it would be the same type of demonstrative display as something like a chart, because he's -- say if he had no hand. I wouldn't really need to move for that.

THE COURT: Okay. Well, why don't you proffer to me what you would have him do during your closing. Let me see what you would do.

MR. SMALDONE: Sure, I would just have him stand

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up with --

THE COURT: All right. Well, let's do it. Let's just go ahead and do it.

Stand up.

All right, then what would you do?

MR. SMALDONE: Not to give away too much of my closing --

THE COURT: No, I'm making you proffer it.

MR. SMALDONE: Sure.

THE COURT: I might not let you do it at all.

MR. SMALDONE: That's understandable.

I would say -- I'm on the spot here.

That the victim's statement says the two men ran after him, but -- honestly I'm probably not going to do this, but --

THE COURT: If you are not going to do it, then we don't need to go through this exercise.

MR. SMALDONE: I'm just not -- it's --

THE COURT: Okay.

MR. SMALDONE: Let's just not do it. I wasn't going to --

THE COURT: Okay. So that's a moot point.

You can have a seat. Thank you Mr. Godbolt.

It's certainly a relevant point for you to argue, should the jury conclude that that is -- that he can't run

because he was shot in the leg.

All right, anything else before we start?

MR. MEADORS: Your Honor, I plan on just starting and ending with the 911 tape, so I think we have it ready. The solicitor, my boss, tells me he can do it. I'm certainly not going to question him, so --

THE COURT: He's over forty. He may not be able to handle it.

Okay. And how long do you think that you will take?

MR. MEADORS: I have no idea.

THE COURT: Okay.

MR. MEADORS: I don't think it will be that long.

THE COURT: That's fine. I will reserve the right to perhaps recess after one argument, two arguments, or either, based on my view of the jury.

How long do you think that you will take, Mr. Smaldone?

MR. SMALDONE: You know, I really don't know. Time is kind of --

MR. MEADORS: I don't think this is going to be a long one.

THE COURT: Well, I'm not going to -- I'm not going to tap my knuckles or anything. I'll let you go as long as you want. I'm just trying to get a general idea.

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Okay. We will move forward.

I do have a verdict form, one with -- the verdict form I will use will have the lesser includeds on it.

You may refer to the verdict form, if you would like, but you cannot do a mock completion of the form for the jury. In other words, don't put it up on the screen and have it completed for them.

MR. MEADORS: I have never seen that done.

THE COURT: I have. It's not a good thing.

MR. MEADORS: I wouldn't do that.

MR. SMALDONE: And one last thing I just want to clarify. I'm sure he wouldn't do it, but I just want -- when the beginning -- I assume the beginning of his closing is going to be on the law.

THE COURT: It doesn't have to be.

MR. SMALDONE: Since it's the whole thing, obviously it doesn't have to be. I don't want to -- I just don't want the law to be different than the charge, especially on the burglary first.

THE COURT: Well, I'll tell the jury that if a lawyer says something about the law that's different from what I charge, then totally disregard what you say.

MR. SMALDONE: Not that -- I wasn't saying that he would misinterpret the law, or anything like that. I was saying that I didn't want all the elements of burglary first

in there, since the indictment only alleges --

THE COURT: The only one that I'm going to read is -- the only aggravated one I'm going to read is being armed with a -- I guess it's a firearm while in or fleeing the premises.

MR. MEADORS: I certainly will not do others. We have talked about that.

THE COURT: All right.

MR. MEADORS: Do you have the indictment I could just hold while --

THE COURT: I think it's in my office. I think I left in it my office. I will go get it. My office is locked.

(Off the record)

(Back on the record)

THE COURT: Here you go, Mr. Meadors.

MR. MEADORS: Thank you.

THE COURT: Okay. Is the State ready?

MR. MEADORS: Yes, sir.

THE COURT: Defendant?

MR. SMALDONE: Yes, sir.

THE COURT: All right. You can bring in the jury.

(The following takes place in the presence of the jury panel)

THE CLERK: Your Honor, we have all the jurors

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present in the courtroom.

THE COURT: Thank you, sir.

All right, ladies and gentlemen, as I mentioned before lunch, we are going to move forward now through the closing arguments of the attorneys to you. Under the rules the State will present the first argument, and then after the defendant will present the last argument.

Please note that this is an extremely important part of this trial, so it's important that you pay very close attention.

Having said that, keep in mind that the attorneys are not witnesses, so what they tell you during the course of their arguments, of course, is not evidence, but they are permitted and certainly they have a responsibility to make these arguments. And in doing that, they may refer to evidence that has been introduced. They will not purposefully mischaracterize it, but if what they say to you as a summary or a recitation to something that's in evidence, if that does not correspond with what your collective memories of what the evidence actually was, of course, you go with your memories.

Likewise, they are permitted to incorporate in their argument points of law that we have been discussing before lunch and after lunch that I will be telling you about after they finish. Again, they are allowed to refer

to that, those legal points, those legal charges. A charge on the law means I tell you what it is. If they say something different about the law than what I tell you it is, you go with what I tell you it is. Again, they won't do that on purpose, but keep in mind that you go with the facts and evidence as you have interpreted them and evaluated them and the law as I give it to you.

Please give the lawyers your undivided attention. I will never set a time limit for argument. I think that's not for me to do. They do need and they all deserve your undivided attention, because the State and the defendant certainly expect and they are entitled to that fair and impartial verdict and this is a very important part of the trial.

All right, Mr. Meadors.

MR. MEADORS: May it please the court?

THE COURT: Yes, sir.

(Whereupon, the 911 audiotape was played to the jury panel)

MR. MEADORS: "They are chasing after me. They are chasing after me. Which way are they going? They are chasing after me. Please help me."

Good afternoon, ladies and gentlemen. I want to thank y'all for being here and thank you for the attention that you have given to myself and Mr. Smaldone.

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These are not going to be that long of closing arguments. This is the time now for the lawyers to argue to you the facts and the reasonable inferences of those facts, and that's all we are about to do. The 24, 26, or 24 when you get back there ears are all that matters. That's what y'all have heard, what your eyes have seen. That's all that counts. It's a great system, isn't it? That's what y'all will decide based on what all of you have heard and what you decide the facts are. Take the law as the judge is going to give you in just a little bit. Apply the facts as you have heard them from this witness stand, the exhibits that our fine court reporter has been marked and you will decide the truth. That's all any of us can ask you to do. It's really a beautiful system. We are looking for justice. I represent the State of South Carolina, the people, and we are looking for justice, what's right based on the evidence, and you took the oath that you would do that.

Criminal conspiracy is an agreement, an agreement between two or more folks to commit a criminal act. Reco Godbolt and Jamal Helton.

Now, the agreement doesn't have to be a formed contract. You don't have to write and sign it; "Halloween of October the 31st of 2011, we are going to go out and go rob doctor and Ms. Funke's house." It doesn't have to be executed that way. It doesn't have to be a formal contract.

It can be inferred from the actions and going and robbing and doing the deed. And he admits in his statement that's what's going to happen. They were going there to rob the place. That's why they went over there. They got a car full of goods over there. There is no question about the criminal conspiracy between two or more folks to commit a criminal act. So that was the plan. It doesn't have to be planned out in advance. It can be planned at the moment, just were there and two or more people acting in concert together to commit a criminal act. That's called criminal conspiracy.

Well, what did they conspire to do? To break into Dr. Funke's house.

The judge will tell you what's a burglary. A burglary is the unlawful entry into the dwelling. He will define dwelling. It's just common sense. A dwelling is where somebody lives or resides, and we all own a dwelling.

Unlawful entry into a dwelling without consent. And we have to go over these elements. Without consent of the homeowner. You heard both of them say, doctor and Ms. Funke, I didn't give anybody consent to come into my house and open the drawers and violate us by looking through our personal stuff and going in my drawers and taking coins and stuff and a camera.

Entering a dwelling without consent with the

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intent to commit a crime.

Now, intent is something that the law is very important. His Honor is going to talk a good bit about intent. Intent can be proven by your actions, your words, the surrounding circumstances, both before and after an incident. That's how you prove intent.

Their intent was to go into his house without consent to steal stuff. You can't open somebody's mind and look around at their brain with a machine to see it in there, but you look at it and you determine intent based on their actions, their words, the surrounding circumstances. There is no question here about the intent. It's what the evidence showed.

To enter a dwelling without consent with the intent to commit a crime. Larceny, stealing stuff that didn't belong to them.

And then the judge will charge you, and it's something that you will have to decide, for burglary first, there are several ways that you can get burglary first. The one that's alleged here in the indictment is that while entering the house, and/or while in the house, and/or after fleeing the house one or more of the defendants were armed with a deadly weapon; burglary first degree.

I'm going to talk about it and show you. What did Dr. Funke tell you, and I'm going to go over it again later.

"They said they had a gun. Rico Godbolt showed me a gun right here. It looked like the outline of it." He had the gun as he was coming out." He shows the doctor. They are angry because they can't find their car keys because he threw them over there.

Burglary in the first degree. It is what it is.

Now, the judge will charge you, and you will have the option to come back with burglary second. That's entering a dwelling without consent while you are not armed. That's y'all's decision.

I submit to you there is no evidence in this case that's the appropriate charge, respectfully. The evidence is when they came out they were armed with a gun. They showed it. They talked about it. They told him, said "I'm going to kill you." I submit to you that's what the only reasonable evidence will show, but you will have the right to consider burglary second.

Mr. Smaldone in his opening has already gotten up here and said "I bet you will never hear a lawyer say this before; I'm guilty." Well, that's part of the defense that was started by Reco Godbolt on October 31st, 2011. It's called the gentle arm of confessing error; "well, I'm caught at the scene. I will give up what I have to. Appear, I'm red handed, but I'll give it all up." And that's continued, respectfully, through this day through Mr. Smaldone. "Yeah,

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I was there. I'm caught, but they will have to give you that, they will have to take it from me. And that's what this is. They are trying to get you to go there. See through that, and that's what good defense attorneys do. He's a fine defense attorney and that's what he's trying to do. Convict him of burglary second, not burglary first. It's as simple as that what he's trying to tell you.

The only evidence is there is a gun. The only evidence -- and I'm going to go over this some more. He said he had a gun and he saw the outline of the gun and he was telling us about it. That's what the evidence is.

I was going to go through the indictment with you.

What else is he charged with? Criminal conspiracy, burglary in the first degree, possession of a firearm during the commission of a violent offense, if he was convicted.

He told you there was a gun, that I heard it, saw the outline of it.

Armed robbery. Armed robbery the judge will tell you is you take from the person or presence of another the goods of that person by either force or intimidation while armed with a deadly weapon. A firearm. That's how close the person is in this case.

Without consent, take the goods or money from someone else while armed with a deadly weapon. I want you

to listen to what the judge charges you too. The law, the law that he will charge you about armed robbery. The State could meet the elements of armed robbery by saying okay, present direct evidence, there was a gun. We did that. That's direct evidence.

Direct evidence; Dr. Funke, "yeah, he said he had a gun. He said I'm going to kill you. He showed it to me. I have been in the military and I know what a gun looks like."

The judge will also tell you the State may prove armed robbery if the direct testimony or if the defendant alleges, the suspect alleges that somebody tells them "I got a gun," and the person who he tells that to believes it. Even if they didn't have a gun, if he says "I got a gun," that's enough to prove armed robbery.

If you go into a bank, it's the classic example. If you go up to the teller like this and you don't have a gun and you say "give me your money" and it turned out you only had your finger, the law says that's an armed robbery. Doesn't that make sense? You are there behind the teller, the bank teller thinks there is a gun and the teller reasonably believes there is a gun. You go up there and say "I have a gun" and the witness says a gun, the law says that's a gun, it's a gun. It's what the victim reasonably believed.

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There was a gun in this case. He saw it and he told everybody about it. I'm going to go through that in a minute. He says he told me there was a gun. He saw the outline of the gun, said "I'm going to kill you." He said "I'm going to kill you." He heard the shot. He hears the shot. Do you think he knows what a shot is? Listen to that 911 tape. I don't know if you hear it on there or not, but I tell you he heard the shot.

What does he do when the police come up? What's the first thing he tells them? "They got a gun." They had a gun. He saw the outline. He told them.

Who does he call next? He called his wife. He says "I have been shot." Well, no, you just misunderstood I have been shot at, but the fact is they had a gun. "He's got a gun." She clears up the 911, shot at. Thank God he wasn't hit. The judge will tell you you will have the right to consider.

Strong armed robbery. That's a robbery from a person by means or force or intimidation taking goods or money when you don't have a gun. I bet you that's what they want. I say come back not guilty before you give them that, because that's not what the evidence shows, but you will have the right to consider that and that's your decision.

Criminal conspiracy, possession of a firearm during the commission of a crime, burglary first degree,

armed robbery. Criminal conspiracy.

He didn't forget it. He didn't forget it. He got up here and told you about kidnapping. He got up here and told you.

What is kidnapping? That's taking control of somebody's body moving to where they go. They got several words for it, inveigle, convey, but the minute you get somebody's body against their will and you take them and you hold them when they don't want to.

I'm going to give this case an example of kidnapping from now on, because they grabbed Dr. Funke when they can't get the keys. And he gets up there, grab me, let me touch him. He touched me and both of them. I don't know, took him and marched him back to the car where he gets the car keys. Kidnapping, control of his body, his movements.

There's one other body of law and one other charge that I want to go over with you. It's called the hand of one is the hand of all. The act of one is the act of all.

The classic example is the two folks -- I'm sorry, I move. I can't help it. That's what I do.

Two folks go to rob a place. One is driving, one is going to go in. The person who is going to rob it goes in and robs the cashier, has a gun and kills him. The person driving the car is just as guilty of the robbery and

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the murder as the person who did that, even if they didn't know they were going to shoot, because the law says it's a natural consequence of the potential act or felony or crime, you are just as guilty driving as the person who did it. It's called the hand of one is the hand of all. The act of one is the act of all. It's a beautiful pure law. When two folks get together with an agreement to do something, they are both responsible for all the results that lead to these crimes and the crimes that develop, which leads me to the final charge, attempted murder.

Attempted murder is the attempt to -- attempt is an intent to do something. You take a step in that direction. You fire a gun. You fire a gun at somebody you don't even know, at somebody's house you didn't know. You just fire a gun. You don't know them. They didn't do anything to you. You just fire a gun at them. And it doesn't matter if they could have fired it. It doesn't matter if it was Mr. Helton. It doesn't matter if it's Mr. Godbolt, because they are acting together. The hand of one is the hand of all, the act of one is the act of all. I don't know who fired it. I know somebody fired. He heard the shot. He told people about it. He told them he had a gun. We don't have to show who actually did it. The hand of one is the hand of all. The act of one is the act of all. Is that trying to kill somebody, shooting at you when

you are running away? He heard the shot.

So what do we have to show for that? Some malicious, malicious, meanness, evilness, wickedness. Is there anything meaner or wicked than shooting at somebody you don't know if they running away and you don't know them?

And how do you show malice? Again, you can't open the head. You look at it from the facts and circumstances. Shooting at somebody with a gun.

We are allowed to argue that also you can infer malice sometimes -- I started to say we don't have express malice, but we do. You can show malice two ways. Inferred from the use of a deadly weapon is the natural consequence of that bullet, the gun if it hits somebody it might kill them. That's malice.

Or you can show malice, the State can, by direct evidence or words, and we have that. We have it. "I will kill you. Show us where the car keys are or we're going to kill you." It doesn't matter who said it, "I'm going to kill. I'm going to kill you. Here is the gun." That's direct evidence.

Ladies and gentlemen, His Honor is going to charge you. His Honor is smart and he knows the law. He can do it without reading books. He's going to charge you the law, but what he says is the law.

He's all going to tell you about reasonable doubt,

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and that's our burden as we talk about, beyond a reasonable doubt. It's not beyond all doubt. If that was the burden, Mr. Campbell would stop building the courthouse, because you could never prove that. It's beyond a reasonable doubt. It's beyond a doubt that makes reasonable folks hesitate to act.

We are not required, and the judge will tell you, you can't prove anything beyond all doubt. That's not the burden. It's beyond a doubt that would make reasonable folks hesitate to act. I respectfully submit there is no reasonable doubt in this case. I suspect we have proven beyond all doubt, but that's not our burden.

There is another beautiful law which I love called presumption of innocence. Everyone is presumed innocent, unless and until, unless and until, the State proves them guilty beyond a reasonable doubt. And the judge will tell you that presumption stays with you. It stays with you. The right stays with you, stays with you after you get to the jury room, and it stays there until you jurors start going over the evidence, evaluating the evidence, listening to stuff, seeing whatever you want, and you start taking the presumption. Strip the presumption of innocence. And that's what you do when you find there is evidence to prove the defendant is guilty beyond a reasonable doubt, and that's where you take it off. That's beautiful. I will

come back to that.

What's our job? We have got a boat full of evidence. It starts out there at [redacted]. Investigation. We get it and we bring it in here to court. Mr. Smaldone's job is to put holes in the boat and I submit he's still floating. It's for you all to take it back there and pull the evidence out.

You know, what are some of the holes that he's tried to poke in or put in this boat to try to get you, quite frankly, to burglary second, strong armed, if it comes down to that? I mean, that's coming down. He's trying to say there is not enough evidence. There was a gun. There is plenty of evidence. There is direct evidence. You heard it. You saw it. It was intimidating with it right there. That's what it boils down to, ladies and gentlemen.

So what's he going to argue? There's no gun. Well, the only direct evidence you heard was there was a gun and I saw it, it was right here.

Now, you got all these fine guns in question? No, sir. No, ma'am. Could the gun be in the woods? Could the gun be in the pond? It's not a reasonable doubt that there was a gun. He's going to try to argue to you there is. Could just Mr. Jamal Helton have taken the gun that was in the car and put it in the woods or taken it somewhere else? You don't always find a gun. The State doesn't have to

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answer everything. That's one of those things if you believe all the other facts, there is nothing to argue about. That's like you give, but it's not a reasonable doubt that there wasn't a gun, when Dr. Funke was only a few feet from him and I see the outline of it and I heard the shot. See through that.

Shell casing is the other thing that I think he may mention. Shell casing. You heard it might have stuck, I don't know. Could they have picked it up? I don't know. Could it have been kicked around and done everything else? They tried.

I guarantee you if they found the shell casing, they would have gone, now, you know what? That came from that gun. You know, that doesn't mean anything. That's a shell casing. It could have been anything, but they tried.

The fact that there is a shell casing doesn't mean it didn't happen. He could get up here and argue it didn't happen because they didn't find anything, that's not a reasonable doubt. They tried. They looked. You don't have to answer every question.

I don't know, I'm getting old, but sometime in my life I would like sometime questions are just questions. You can't answer every question. And in trial those questions are questions. It doesn't mean a reasonable doubt. A question is a question and he can't answer every

one. We don't want everything they didn't find. I know he said he got fired at and he saw a gun and they tried. It was either picked up, kicked around, stomped on. I don't know, but it's not a reasonable doubt there wasn't a gun.

Finally, I think the other thing and I'll get on with the facts, is gunshot residue. We saw Special Agent Hue Tang come in here. I have known him for a while. He loves his job. He was peer reviewing the GSR kit on the defendant.

First of all, I don't know who fired it. He didn't have to fire it. Helton could have fired it. I know it was fired by someone.

Number two, I believe he testified it was three hours after. It was at least two hours since he had been charged after the swabs were taken, based on his report.

And is it always going to be on there? No. Well, what cases would it not be? We brought that witness up.

I asked the officer before that did you do a GSR kit? We weren't trying to hide it. I came in the courtroom. We brought it all in, stuff that helped us, stuff that might hurt us. If it hurt us, he's going to argue it did.

How can you explain that if you can't fire the gun, Agent Tang? Well, you can do this. You can do this. Elements can take it off, the rain. You can do this. What

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about if you are wearing gloves? That would have done it. It wouldn't be on there then.

What about if you wash your hands? It would be gone.

What about if he didn't fire it? What about if the other suspect fired it? It wouldn't be on the hands. And that's the only way he can explain that. And we brought him in and explained it. It's not a reasonable doubt that there wasn't gunshot residue. Dr. Funke saw -- of course, he heard and saw the gun. That's what he's going to try to get you to do is put a hole in that, but keep the boat floating.

What happens? Dr. Funke comes home for lunch. He's got a right to come to his home for lunch. And he goes in and he sees a car that's not there usually. First doesn't know what the deal is, but he goes up. He knows something up when he sees his computer in the car, knows something up then. He continues into his house. His dogs don't bark. And when you evaluate his credibility and believability and testimony, that's pretty real stuff, isn't it? I come in, my dogs usually greet me. They are not there, so he knows something has happened to his dogs. He comes in and he hears folks upstairs. He hears them upstairs.

What else does he do? And I want to tell you all

something. State's 4, when you go back there, I want y'all to see State's 4 when you go. State's 4, kind of a side step. Was does he do? He takes State's 4, which is his phone, and he calls 911. Pretty smart, but that's what you do.

Still going in the house and then he hears -- I'm going to play it one more time. If you want to hear it when you go back there, I think the judge will say you have to come out, but hear it as many times as you want to, but the judge is will say that, but you can send out a note. He calls 911, burglary in process I think he says. And he just starts -- you get to hear it. This is real stuff. This is a burglary in process -- progress. You get to hear it.

"What's going on?

"I think I'm being robbed.

"Who is it?

"I'm not sure" at first and then he says two black males.

"What are they doing?

"Taking our money. Taking our money," not distancing himself, like he is that in that statement. I'm going to go over that statement with you. I guarantee you that. Not distancing himself like he is in that statement.

"They are running at me."

She responds, "they are? Which way are they

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going?"

So that's what she heard and thought, they are coming at him, and he does. He takes his phone -- he takes the phone.

Sorry. And I'll keep back here, Madam Court Reporter.

He takes the phone from State's 4, after he's dialed 911, and he doesn't turn it off. He puts it in his pocket. He puts it in his pocket and he's running. You can actually hear him running. If you decide you can listen to it. And they are coming after him. "I don't have your car keys."

You see, they went to the car. You remember he said he locked the car doors? He locked the car doors. They went and checked real quick. He didn't get in here and sit down and look for these keys, like he said he did. That's one of the inconsistencies. "I don't have your car keys." Listen to it.

Shots fired. He said he had been shot. Then they grabbed him, "no, help, help me, please. Help me. Help me 911."

At some point, at some point, State's 4, I don't know which pocket. I got a hole in my pocket. It might drop out of there. At some point right here he said he got it in his pocket. And this is -- I put it in this side

right here. At some point -- this is key, ladies and gentlemen, in my opinion, the evidence has shown, he's confronted by the two. Not one, like he said in his statement. "They both come up and grabbed me." And this isn't in here. This isn't in here. This isn't in here.

He comes up, he being Reco Godbolt, comes up from Ms. Cox's house, they are over there grabbing him, and he reaches his hand -- do you remember I had him reach in my pocket. He reaches his hand into Dr. Funke's pants. They all knew then it was personal. You don't do that. You don't reach into another man's, but I did it up here wanting you to see that's up close and personal. He reached in and he gets Dr. Funke's phone. Right there is private. That's up close and personal. And why that's important is Dr. Funke says "how close were you to him? I'm this close to him." Well, he had to be close to get that phone out of his pocket.

And what's he telling him?

"That's when he showed me the gun.

"Can you see the outline of it?

"Yeah, I can see." It looks like a -- it looks likes a semi, but what did he say? "I'm going to kill you. I'm going to kill you." I don't know you, never seen you, we go in your house without permission, I'm going to kill you. Is that malice? Is that meanness?

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And guess what? When he's arrested he has Dr. Funke's phone on him. That's pretty good evidence. That's pretty good evidence. It's up close and personal. Well, that's not in here. No, sir, he stayed back at the car to start with. He even says "oh, no, you shouldn't be, you shouldn't be chasing him." Are you kidding me? "You shouldn't be chasing the doctor. This isn't in here. And you know what? It's not in here, because that puts him where the doctor said he was. And that puts him where the doctor said he is, and he can't tell you that. He can't put himself over there where the doctor is and where he reaches in his pants, because that put him where he was when the doctor said he was showed him his gun, and that put him where the doctor said he and Jamal Helton took him back to his house, took him back to the car to get the gun. It's not in here. State's 4.

They come back to the house, and I don't know if the doctor did a good thing doing this or not, but he gets there and he sees their car parked. It worked. He gets the car keys and he says he locked it. And I said -- do remember the question, "did you use the keys or is it automatic?

"I don't know if I did or I locked the car and then I threw the keys.

"Why did you do that?"

I guess he didn't want them to get away. I mean, what about the acts of the people in his house? Nothing wrong with doing that.

What do they do when they are in the house? And again, credibility and believability is the evidence you heard. You saw Dr. Funke. You listened to him. Don't get mad. 911 said don't do that. This is real stuff here, come to his house and people -- when I said --

And do you remember what the faces were? He says "I remember. I didn't know if this was going to be it or not." You can't make it up, "but I was looking at the face. I know it was them. I know who it was. I didn't know if this would be my last day," then he dialed 911. This is real.

He puts in here -- you have got to evaluate the credibility, but he got inside the car. And the reason I say that to you he couldn't have because the car doors was locked.

This is a made up story to minimize his involvement. Caught at the scene. Okay, I was at the scene. I wasn't the main player. Oh, it was somebody else. No, he did all the stuff. No, he did all the stuff. I came back out to the car, but he couldn't have gotten in the car, and that's the kind of inconsistency. He couldn't have. The phone is not in here. He couldn't have got in that car.

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He stayed back here, didn't go, Mall was chasing him. "Mall, don't do that, don't chase the man." If you read it like this, "no, sir. No, ma'am." He said they were both there, they both marched him back, they both grabbed him. Somebody has hit him with this, whatever you call this thing, this shower arm. I don't know who hit him on his arms. It's got a -- I'm sorry, with the arm that's got his thing on it, but they hit him. It doesn't matter who hit him. The hand of one is the hand of all. This shower hand is the hand of hand off all, one shower bar. They hit the man. He's got his arm in a sling after they fired a shot at him. That's what this case is about. That ain't right.

And it says in there in the statement "Jamal had the gloves on." No, sir. No, ma'am. Is that the reason why we don't have gunshot residue? Did he go up and look at one of these gloves. The only mixture on one of them is any of them is a mixture is on him, and I submit to you it's the one that's found in the house up in the bedroom. That's the one that's got his DNA on it. Guess who is excluded? Jamal. Again, minimizing saying "I just stood outside. I didn't do much, but Jamal did it all." The glove says otherwise. That's your DNA on them, swab inside and outside. It doesn't have Jamal's. The other glove is in the car. That's Reco's stuff. Minimizing. And I don't mean this bad. I'm just trying to present the facts to you.

This is bad. It's in there.

How about this? And that's the stipulation we read into the record. 14.1, that's the one found in the house. Somebody testified it had some little velcro or something stuck to it. I don't know, it's in the picture in here. Reco Godbolt cannot be excluded. Jamal Helton is. Did he wear that glove? That's good circumstantial evidence, glove in the house. No, he did all that. Minimizing, minimizing, minimizing.

We were going to use this projector but I -- and I'll sum it up. Is there any doubt there was a burglary? And that's State's 19, in one's home, where one keeps their personal stuff, their private stuff, his private stuff. Jewelry, coins. Anything more intrusive than breaking into your home when you are not supposed to, going through your stuff? That's what this case is about. Number 18 for that, for the record.

One other thing. In his statement he said that -- I think this is -- in his statement he says -- after he said "oh, don't do that, don't chase him, I started taking stuff out of the car and putting it back. I started taking stuff out of the car and putting it back." And this is State's 44. You talk about minimizing.

What did the others say? And I just -- the doctor just -- the doctor come, takes the TV out of the car to take

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back in the house. No, sir, it doesn't. You can't do that. And they took a picture of it out there. I think somebody said they put a blue tarp over it, the testimony. Do you remember? I can't remember. It was raining. They -- no, sir. He took his own TV out. Doctor in his own -- he just figured they took his TV, he would take it back, but in here he's conveying to the police and the officer well, I was trying to take the stuff back in the house. No, sir. No, ma'am. You didn't. Just like he did not. He put it here and you didn't. You didn't get in the car because it was locked. That's a lie. You have got to decide the believability of Dr. Funke, this statement.

Jamal had gloves, but it shows you had gloves. And you had the phone. He put it in here.

And, finally, just the other evidence that's in the car to show the evidence they stole them, what the intent was. That's the malice. Here is the daughter's camera. The mouse was number -- just for the record -- I apologize, the TV was 44, the mouse was 32, and this is 30. That's the daughter's camera that was taken without her permission in the back of the car.

Ladies and gentlemen, on behalf of Solicitor Finney, the sheriff's office -- excuse me, the Sumter Police Department and the Funkes I want to thank y'all for being here. Thank you for your attention.

He will tell you there are plenty of places to put that gun in the pond, if you would. He will tell you he wasn't caught right at the scene.

Ladies and gentlemen, when you go back to start reviewing the evidence, take that robe of righteousness off, which we believe the evidence has done, respectfully, and say and come back in here with your guilty verdicts. Put it on Carolyn Funke, kind of add back to some of these drawers so they can say more and get some of that comfort back for being violated in their home. Keep them warm at night when they are back in their home. Save that robe. Give it back to the people, but what was taken to them perhaps forever, the peace, the tranquility, but that's what justice is about.

"Please help me. Please help me. Please help me."

(Whereupon, the 911 tape was played to the jury panel)

MR. MEADORS: Thank you.

THE COURT: Mr. Meadors.

Mr. Smaldone?

MR. SMALDONE: Ladies and gentlemen of the jury, thank y'all for paying close attention to this case.

As I said before, two days ago, maybe it was yesterday, this case boils down to one thing and that's

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whether or not you can believe the words of a hysterical person who is, quite frankly, pretty mad that his house was broken into, and understandably so.

The State has shown a lot of evidence. They got this table here. I don't know if y'all can see. They got a table. They got all this stuff. I believe there is forty-five exhibits that -- I think forty-five exhibits they have. They got pictures, gloves, and it's all very convincing. It's all very convincing that there was a burglary, and that's it. All this has to do with burglary.

What they're trying to do, and they're trying to play on emotions to say that the burglary he's a bad guy, he must have done it, but the State has the burden to prove beyond a reasonable doubt that all this stuff occurred.

So where is the evidence? If all this occurred about noon in a neighborhood like this, Dr. Funke said it lasted about fifteen minutes, where are the witnesses?

And he's right, you know, Mr. Meadors is right, he said, oh, they are going to talk about the gun and they are going to try to trick you. Dang right I'm going to talk about the gun, because there wasn't one.

The victim in this case said he clearly saw what he believed to be a semiautomatic. He gave details, a semiautomatic pistol in Reco Godbolt's pocket, not Jamal Helton. Definitely Reco Godbolt. He's right there. He saw

the gun, a semiautomatic.

And then they are talking about the lakes and the rivers and the geography. That was where -- that was where Jamal Helton went through. Reco Godbolt was caught after a short chase at the scene, and you heard one of the fine police officers say he never lost sight of his whole body. He may have lost sight of parts of him for a split second, but he never lost sight of his whole body. That's important. The reason that's important is because if you are saying that he's definitely the one with the gun, where is it? Things don't disappear, I don't think. I don't -- I haven't heard that guns disappear. There is a lot of technology these days, but not disappearing guns. So -- and the reason for that is --

And he gave you a brief description about the law. And remember what I tell you about the law is not the law. That's the law right there in the chair. So he'll be very clear with this, but the law is, and again he'll clarify it, that a burglary in the first degree -- and that's kind of another way of saying first and second, burglary plus. You know, it's like a batting (phonetic) burglary.

A burglary in the first degree is when you are armed with a deadly weapon. What deadly weapon? They got this table here. He said in the house there was a deadly weapon. Again, there's no deadly weapon.

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And they are saying, oh, he gave it to Jamal. There is allegedly supposedly this giant grand chase and they are trading guns and whatnot? Now, there are no guns. They are scared. They are probably just as scared as he was, to be honest. They didn't have a right to be as scared as he did. They probably just stood there and they are doing something really stupid and an angry white guy comes home, yeah, they are pretty upset, they are pretty scared too. So they are trying to give this smoke screen, oh, the co-defendant might have had it, that Jamal Helton might have had the gun. No evidence to indicate that.

And then there is the gunshot residue, and they kind of brought up that -- and he talked about minimizing in his statement. That witness was another example of minimizing. He was getting up there say, oh, well, you know, if he washed his hands, and you heard him. You remember what he said, all that stuff. When did he do all that stuff? He is running. He was caught at the scene.

And, you know, I might not be able to find it right away, my organizational skills are sub-par, but y'all saw a picture of him in his gray sweatshirt. What else do you see? Handcuffs. So he's handcuffed at the scene. He was arrested. I assume he was handcuffed. Where do you --

MR. MEADORS: I object. There is no evidence of that whatsoever, a handcuff, or a picture being in the

handcuffs.

THE COURT: Sustained.

MR. SMALDONE: I believe -- okay.

All right. He's at the scene. Where does he have a chance to wash off gunshot residue? There is none. They are saying -- again, they caught up in this phantom figure, Jamal Helton, no, he did everything that we can't -- they are saying that Jamal did everything and we can't prove he did it. And that's -- that's what it comes down to. And the reason they are doing that is because there is no evidence we did any of this.

Now, there is evidence that a burglary occurred and he was dumb enough to do it. Well, like I said at the beginning, you know, he is probably going to pay the piper for that, and he -- he's accepted that. He deserves to. But what he doesn't deserve is to just get every little thing that there is no evidence to prove thrown at him. So -- and that's this burglary in the first degree. That's -- that's where the dang weapon comes in.

And also possession of a weapon during a violent crime, where's the gun? Again, it's the same thing. He's right, I do care about the gun.

And, you know, this -- another -- attempted murder charge? There wasn't a gun. They didn't find a gun. They didn't find gunshot residue. And, quite frankly, he heard a

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sound and he says he thought it was a gunshot. He had no idea what it was.

He asked the police that -- to prove any gunshot, and understanding that experience, chasing him - if there was a gun, which there wasn't, but he even if there was, no casing where that bullet go, shot in the air, shot in the ground, but I maintain there wasn't a gun.

Armed robbery. Armed with what?

So, yeah, he said I'm going to talk to you about the gun. It is important. I am talking about the gun.

He said it was a semiautomatic gun. As some of y'all might know, to shoot a semiautomatic gun a shell casing comes out. You know, you might have seen in the movies, you know, you shoot guns, it pops out the side. It kind of flips out. That wasn't there. They looked for it and that wasn't there.

So, the only thing that really happened is this burglary charge, which he did. He's stupid. He shouldn't have done it. He admits that. And that's all -- well, that's what all this is about, burglary.

So they are trying to throw -- and they got a lot of stuff, this massive pool of evidence on here, but it's all about the same thing. It's all about this burglary. There is just no evidence of anything else.

Supposedly a kidnapping occurred. There is

nothing to show it. Sorry.

And do I think the victim -- is the victim lying? I don't know. Was he a little hysterical at the time? Yes. He said when you are under -- when you are that scared and that terrified, things become temporarily distorted. What does that mean? And I agree. I think that he was so hysterical, no idea, because the evidence, quite frankly, doesn't support anything. The evidence on that table was a burglary.

And remember, it's not the burglary in the first degree that he's charged with. That's a burglary with a gun, this -- this magic gun. The burglary he committed, and excuse him for committing, he was wrong for committing, but it's called a burglary second. Burglary second, nonviolent is the type of burglary, technically it was, and that is -- and, again, the judge is the judge on the law. I'm just telling you you defer to him if you have any question, but that is a daytime burglary.

It's suited. It's done. It's what happened, and that's why I'm going to ask you, all of you, to use your common sense, to use your experience that you have with your jury school, as people call it, your whole life, and that is to find him guilty of what the evidence shows happened; burglary. Something stupid to do.

The evidence doesn't show anything else because it

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didn't happen. That's why I'm asking you to find a just verdict, a true verdict, and not guilty of all this other unfounded stuff.

Thank y'all for your time.

THE COURT: Thank you, Mr. Smaldone.

All right, ladies and gentlemen, we'll take one more brief recess and have you back out in just a few minutes. I'll give you the charge on the law. My charge probably will take thirty minutes, or more, and you will have to bear with me on that.

You may not discuss the case yet. That time is coming very shortly. Thank you.

If you need anything inside the jury room, just let the bailiff know.

All right, we will take just a few minutes. Thank you.

(Whereupon, proceedings were recessed)

(Whereupon, proceedings were reconvened)

THE COURT: If you gentlemen would like to have a copy of the verdict form, Ben will bring you one.

On the possession of a weapon during commission of a violent crime, I will tell the jury that the following are violent crimes: Burglary in the first degree, kidnapping, and armed robbery.

In the context of the lesser included in this

case, burglary second would not be, because it doesn't have any of the components of violence.

All right. Does that suit the State?

MR. MEADORS: It does, I understand.

Your Honor, I'm going to call to just see if the solicitor is here, if that's okay.

THE COURT: He was in my office a minute ago talking about the jury, so he may be in a small courtroom.

MR. MEADORS: I'll see if he -- give me one second.

THE COURT: Talking about -- just to make sure Mr. Godbolt understands, when I say the jury, it's the jury panel who is not involved in this case.

(Off the record)

(Back on the record)

THE COURT: Is the State ready for the jury?

MR. MEADORS: Yes, sir.

THE COURT: Defendant?

MR. SMALDONE: Yes, sir.

(The following takes place in the presence of the jury panel)

THE CLERK: Judge, all the jurors are present and in the courtroom.

THE COURT: All right.

Thank you, ladies and gentlemen. We are now going

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to go forward to the last portion of the trial, short of your deliberations, and this is called the jury charge or a charge on the law.

This is an opportunity that I take, and I'm certainly required by law to do this, to explain to you what the law is.

You have come into the courtroom armed with your common sense, and what you are to do, as I mentioned to you before, is you take your common sense view of the evidence that has been introduced, in addition to the charge on the law, and you put those things together and you reach verdicts that speak the truth.

Your deliberations will end with your foreperson's completion of this verdict form, and it has six basic inquiries on it. There's a little bit more to it than that, and I'll go through it with you in detail, but when I give you this charge on the law, it's all going to be aimed at you completing this verdict form in a manner that speaks the truth.

It may have been mentioned to you the word verdict does come from the Latin word which literally means speak the truth, and that's what your verdicts must do.

And, by the way, I will tell you at the end of this charge your verdicts in the case must be unanimous. That means all of you have to agree. This is not going to

be a proposition where it's 7 to 5, or 8 to 4, or 10 to 2, or even an 11 to 1 vote. It's got to be all twelve on the jury agree with what the verdicts are.

Now, obviously, ladies and gentlemen, during the course of this charge I'm going to be talking to you about many different things. This is not a time for you to sit back and try to memorize what I tell you about the law. What you are to do is accept the law as I give it to you. And, by the way, you have to accept it exactly as I give it to you and you can't substitute what you think the law is. Don't try to memorize things. I'll guarantee you one thing I can tell you right now, I bet you a million dollars, I will repeat myself.

I will be talking to you about the burden of proof, the presumption of innocence. I'll talk to you about criminal intent, direct and circumstantial evidence. I'll talk to you about the elements of kidnapping, the elements of burglary, and the elements of the other offenses at issue in this case, and I will repeat myself. And the reason for that is that in many instances a principle of law that I will discuss with you at the beginning is going to apply to everything else that I talk about. So if I do repeat myself, please bear with me. It doesn't mean I have lost my place or -- I hope it doesn't mean that I don't know what I'm talking about. It's simply I have to repeat myself to

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remind you how these legal principles do sometimes intertwine with one another.

Now, first of all it's obvious to you by now more than likely that you and I have had certain duties to perform during this trial. You are the judges of the facts and I'm the judge of the law.

Two examples of you being the judges of the facts. All of the testimony that was introduced was introduced to you. These witnesses were testifying to you, not to me. The exhibits that have been introduced were introduced to you. For the most part, unless I caught a glance at one, I have not even seen them at all. I haven't seen the first photograph. I haven't seen the first document. The reason for that is it does not matter what I think about it. The lawyers know, but it doesn't matter what weight I might give to a particular exhibit. It's for you.

Another example of how you are the judge of the facts and I'm the judge of the law is when you go to deliberate in that jury room and you will be the one reaching the verdict, I'm not going to go with you. The lawyers don't. There is no microphone, no camera, no court reporter. There is nothing in there but the jurors who are deliberating and that's because you are the ones who make a difference insofar as to what the verdict is going to be.

Now, I do have the duty to charge you the law. As

I mentioned, you have to accept it exactly as I give it to you. You may come into the case with a preconceived notion of what you think it is, or what you think the law ought to be, but you have to put that out of your mind. You have to accept the law exactly as I give it to you.

Likewise, if I have instructed you -- perhaps I don't know if I have, but if I have instructed you to disregard a question, or answer, or some other evidence that may have been an issue, you have to, under your oath, disregard what I have told you to disregard.

What you are permitted to do is you are entitled to base your decision on evidence that has been introduced. In other words, if evidence has come in, you can consider it.

Now, the evidence that's come in, again, by stipulation, testimony, and exhibits.

It's your duty to determine the effect and the weight and the value to be given to evidence, if any, during the course of this trial.

Now, ladies and gentlemen, if I have said or done anything that makes you think I favor one side over the other, you can put that out of your mind, because I don't. I had a juror one time ask me "well, why were you writing things down at certain times?" Well, I write down times; what time was Exhibit 20 introduced; what time did witness

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so and so take the stand; what time did cross-examination start. That's just in case you want to hear any of that again. I make a note, and hopefully mine and the court reporter's notes correspond with those times, but I'm not taking notes because I think something is important. I'm creating a timeline and that that's why I write those things down.

Now, in the indictment, ladies and gentlemen, there are six different offenses alleged. And, as I will mention, the State will have the burden, does have the burden of proving the elements of those offenses beyond a reasonable doubt.

As I mentioned, the fact that a person was arrested or charged or indicted for any criminal offense, literally from A to Z, is not evidence of guilt. The case has to get into the courtroom somehow and it gets into the courtroom by way of the indictment process. So the indictment doesn't create any evidence of guilt or any inference of guilt. It's simply a formal written instrument. It's a charging document.

All right. Now, you know -- I think I spent some time on this when we began the trial. You decide the credibility of witnesses as one of the things that you do as the fact finder. You can believe every word, nary a word, or believe parts and reject the rest the rest when the

witness is testifying. That's entirely up to you.

Also you can take into account anything that you think is appropriate in determining whether to believe that witness or not.

Was their testimony consistent or inconsistent with other evidence?

What was their demeanor? How did they appear; hesitant, or straightforward in answering questions.

What was their ability to know what they claim to know?

Did they say something the same or different on a prior occasion?

Does that witness have a bias or interest or a prejudice in favor of one particular outcome or another?

You can take those things into account, along with anything else you think is appropriate, in determining that.

You can believe one witness over several, several over one, however you want to do it.

Now, as I mentioned, there are different ways evidence comes in; testimony, exhibits, and stipulations.

A little bit of a different point on that. There are two types of evidence that typically come in; direct evidence and circumstantial evidence.

Direct evidence is evidence that immediately establishes the main fact to be proved.

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For example, the testimony of a person who claims to have actual knowledge of a fact. An example of that might be an eyewitness; I heard this, I saw this, I smelled this, I touched this. Those are examples of direct evidence.

If you believe a witness who says I saw heard, heard, touched, or smelled, if you believe the witness in your evaluation of credibility, that certainly speaks for itself.

Now, circumstantial evidence, on the other hand, is proof of a chain of facts and circumstances that indicate the existence of a fact.

Circumstantial evidence is evidence that immediately establishes collateral facts from which the main fact may be inferred. So it's based on inference. It's not based on direct knowledge or observation.

Now, ladies and gentlemen, the law makes no distinction at all between the weight or value that you are to give to either direct or circumstantial evidence, nor is there a greater degree of certainty required of circumstantial evidence than of direct evidence.

In other words, you weigh all the evidence in the case. And after weighing all this evidence, if you are not convinced of the defendant's guilt beyond a reasonable doubt as to the charge you are considering at that time, you must

find him not guilty.

If, on the other hand, after weighing all that evidence if you are convinced of the defendant's guilt beyond a reasonable doubt, you must find him guilty of the charge that you are considering at that time.

I went over this briefly. This is probably self-explanatory. The Rules of Evidence, as I mentioned earlier today, ordinarily do not permit witnesses to give opinion or conclusions. Those witnesses can just say what they saw or what they observed. They cannot give opinions.

There is an exception in our rules for expert witnesses, and those are people who by education, training or experience have become an expert in a particular art, or science, or profession. They can give opinions and give the reasons for those opinions. That does not mean that you are bound by the expert's opinion just because it comes from an expert. You consider it, just as you would the testimony of any other witness, and give that expert's opinion the weight that you believe it deserves.

If you believe that the expert's opinion is not based on sufficient education or training or experience, or if you believe or conclude that the reasons given in support of that opinion are not sufficient, or if that opinion is outweighed by other evidence, you can disregard the opinion entirely. In other words, you don't give that opinion any

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greater weight just because it comes from an expert. You take into account all the facts and circumstances and give it the weight you believe it deserves.

All right. Now, ladies and gentlemen, I instruct you and I emphasize that the fact that the defendant did not testify in this case is not a factor to be considered by you in any way in your deliberations or in your consideration of the question of guilt or nonguilt of the defendant. The fact that the defendant did not testify is something you may not think about, you may not discuss it at all, and it cannot be considered by you in any manner whatsoever.

So under your oath I repeat that you are to draw no conclusion whatsoever from the fact that the defendant did not the testify. The burden of proof is on the State of South Carolina, and the defendant is not required to prove or disprove anything. And, again, the burden remains on the State to prove guilt beyond a reasonable doubt.

Now, ladies and gentlemen, the defendant has entered pleas of not guilty to all of the counts in the indictment, and those not guilty pleas puts the burden on the State to prove him guilty; again, beyond a reasonable doubt.

A person who is charged with a crime, no matter what the crime is, is never required to prove himself innocent.

And I charge you it is a very important rule of law that the defendant in a criminal trial, no matter what the charge, is always presumed to be innocent of the crime for which the indictment was issued, unless guilt has been established by proof satisfying you of guilt beyond a reasonable doubt.

Now, that presumption of innocence does not end in just a few minutes when you get up and go to that jury room. The presumption of innocence stays with the defendant, unless and until that presumption has been stripped away by evidence that satisfies you of guilt beyond a reasonable doubt.

So, in closing on that point, the presumption of innocence is not a mere legal theory or a catchphrase that we casually toss around. The presumption of innocence is a substantial right to which every defendant is entitled, unless you, the jury, are satisfied from the evidence of guilt beyond a reasonable doubt.

Now, I mentioned the words -- so far I mentioned the words reasonable doubt so far probably twenty or thirty times. I'm going to talk to you about that now.

You may ask well, what's a reasonable doubt? Well, a reasonable doubt in the law is the kind of doubt that would cause a reasonable, honest, and conscientious person hesitate to take action.

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As I mentioned, the State does have the burden of proving the elements of the crimes charged beyond a reasonable doubt. If during the course of this charge I say the State has to prove something, the State must prove what I say they have to prove beyond that reasonable doubt.

Now, some of you may have served as jurors in a civil case. I know some of you raised your hands at the beginning. Typically in a civil case the party who has the burden of proof has to tip imaginary scales ever so slightly in that person's favor. In other words, they have the burden of proving something by the greater weight of the evidence. In other words, they have to prove that a fact is more likely true than not true.

Now, in criminal cases the State's burden is more powerful than that. The State must present proof beyond a reasonable doubt. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt.

Now, obviously there are not many things that we know on this earth with absolute certainty and the law does not require the State to present proof that overcomes every possible doubt.

Based on your view of all the evidence, if you are firmly convinced of the defendant's guilt of the crime that you are considering at that time, you must find him guilty.

If, on the other hand, you are not firmly

convinced of the defendant's guilt as to that particular charge, you must give him the benefit of the doubt and find him not guilty.

All right. Now, ladies and gentlemen, there are multiple counts in this indictment. I'll just read them in order: Kidnapping, burglary in the first degree, attempted murder, armed robbery, possession of a weapon during the commission of a violent crime, and criminal conspiracy.

Each one of these counts carries a separate and distinct offense. You decide the issues of guilt or nonguilt separately on the evidence and your decision as to one count is to be dealt with in your mind and considered separately.

In other words, the defendant, based on your view of the evidence, may be found guilty of all, may be found not guilty of all, guilty of some, not guilty of others. In other words, your verdict on one count does not control your verdict on another count. And you will be asked -- and you will see it when you see your verdict form, you will be asked to write a separate verdict of guilty or not guilty as to each particular charge.

I'm going to get more specific now. I'm going to talk to you about the specific charges in the indictment and I will begin with telling you this, ladies and gentlemen. If a crime is committed by two or more people who are acting

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together in committing a crime, the act of one is the act of all. A person who joins with another to commit an unlawful act is criminally responsible for everything done by the other person which happens as a probable or natural consequence of the acts done in carrying out the common plan and purpose.

For example, two people can be guilty of doing a certain thing when only one of them had the instrument that did it. In other words, in any given case if two or more people are acting together, the law says that the hand of one is the hand of all; that is, when two or more people are together, acting together, assisting each other and committing the offense. Again, the hand of one is the hand of all.

I further charge you, ladies and gentlemen, that prior knowledge that a crime is going to be committed, without more, is not sufficient to make a person guilty of that crime. Mere knowledge that another person is going to commit a crime, even if the defendant is present when the crime is committed, is not sufficient to convict the defendant as a principal.

Guilt as a principal is shown by actual or constructive presence at the scene as a result of a prior arrangement. And, therefore, a finding of prior arranged plan or common scheme is necessary for finding of guilt as a

principal.

The State must prove beyond a reasonable doubt by competent evidence the theory of the hand of one is the hand of all.

Now, a principal, as I just mentioned in a crime, is one who either actually commits the crime or who is present aiding, abetting, or assisting in committing the crime. When a person does an act in the presence of and with the assistance of another, the act is done by both.

Where two or more people acting with a common plan or intent are present at the commission of a crime, it does not matter who actually commits the crime. All are guilty. And, again, the hand of one is the hand of all.

To be present at the commission of a crime means to be sufficiently near to aid, abet, and assist in the commission of the crime. However, mere presence at the scene is not sufficient to convict one as a principal on the theory of aiding and abetting.

Now, intent, as I will tell you in a few minutes in more detail, intent is also a necessary element, for there must have been a common design or intent to commit the crime and the crime must have been committed pursuant to that common design with the person aiding and abetting by some overt act.

The word intent means intending the result that

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actually occurs, not accidentally or involuntarily.

Intent, as I will tell you in more detail, may be shown by acts and conduct of the defendant and other circumstances from which you may naturally and reasonably infer intent. And, again, the State must prove that beyond a reasonable doubt.

I'm going to take these in no particular order. I'm just going to go in the order of the indictment.

First of all the defendant is charged with kidnapping.

The State must prove beyond a reasonable doubt that the defendant knowingly and unlawfully seized, confined, inveigled, decoyed, kidnapped, abducted, or carried away another person without authority of law.

To do something unlawfully means to do it willfully against the law.

The word knowingly means with knowledge and consciously and not accidentally.

The word seize means to take hold of suddenly or forcibly.

The word confined means to limit, restrict, or enclose, or shut in, or keep in.

To kidnap is to remove a person against his will by unlawful force.

The word abduct means to carry off secretly, or by

force, or for an illegal purpose.

The word carry away means to remove.

Now, the State does not have to prove that the defendant did all of those things. Instead, the State has to prove that the defendant did at least one of those things. And, of course, the State has to prove that beyond a reasonable doubt.

And something, ladies and gentlemen, that is done without authority of law is something which the law does not sanction, permit, or provide justification for.

And a kidnapping does not have to be for any personal or monetary gain, for any illegal purpose, but may be for any reason whatsoever.

The defendant is also charged with first degree burglary. It's also called burglary in the first degree. Those things -- those terms mean the same thing.

The State must prove beyond a reasonable doubt, first, that the defendant entered a dwelling without consent.

A dwelling is defined as a building, or a portion of a building, in which a person ordinarily sleeps.

A building can be a dwelling even if the residents are temporarily absent from the building.

In order to prove that the defendant entered the dwelling, the State does not have to show that the

defendant's entire body entered the dwelling. The smallest entry is sufficient. It may be any part of the body, such as a hand or a foot, or even an instrument, such as a hook or any other type instrument.

In addition, ladies and gentlemen, the State does not have to prove that the entry into the building or dwelling was gained by force.

Next, the State must prove beyond a reasonable doubt that the defendant intended to commit a crime at the time of the entry.

The mere entry into a dwelling, without consent, is not burglary. If the intent to commit a crime was formed after the entry, it is not burglary.

On the other hand, if the defendant intended to commit a crime at the time of the entry, it is a burglary, even if the intent was abandoned after the entry. And it does not matter that the intended crime was not completed.

As I mentioned to you before, and as I will mention it again, intent in the context of what I have been charging you may be shown by acts and conduct of the defendant and other circumstances from which you may naturally and reasonably infer intent.

Also in the context of burglary in the first degree, the State must prove beyond a reasonable doubt that when entering, or while in the dwelling, or when fleeing the

dwelling the defendant or an accomplice was armed with a deadly weapon.

And a deadly weapon is any article, instrument or substance which is likely to cause death or great bodily harm.

And the following are examples of instruments which may be deadly weapons: Pistol, shotgun, knife, rifle, brass knuckles, slingshot, gasoline, razor, Molotov Cocktail.

And a gun may be a deadly weapon even if not operating.

Now, ladies and gentlemen, I perhaps should have mentioned this before. There is a doctrine in the law called a lesser included offense. And I charge you, and it's on this verdict form, if you find that the State has not proven beyond a reasonable doubt that the defendant is guilty of burglary in the first degree, you must determine whether the State has proven the defendant is guilty of burglary in the second degree.

And I'll say that again in case I misspoke. If you find the State has not proven beyond a reasonable doubt that the defendant is guilty of burglary in the first degree, you must consider whether the State has proven him guilty of burglary in the second degree.

Burglary in the second degree has all of the

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elements of burglary in the first degree, except for the element that the defendant or accomplice was armed with a deadly weapon while entering, while in, or while fleeing the dwelling.

All right, ladies and gentlemen, the defendant is also charged with attempted murder.

In order to prove this offense, the State must prove beyond a reasonable doubt that the defendant attempted to kill another person with malice aforethought, either expressed or implied.

Malice is hatred, ill will, or hostility towards another person. It is the intentional doing of a wrongful act without just cause and with an intent to inflict injury, or under circumstances that the law will infer an evil intent.

Malice aforethought does not require that malice exists for any particular time before the act is committed, but malice must exist in the mind of the defendant just before and at the time the act is committed. Therefore, there must be a combination of the previous evil intent and the act.

Malice aforethought can be express or it can be inferred. These terms express and inferred don't mean different kinds of malice, but merely means the manner in which the malice may be shown to exist, and that's either by

direct evidence or by circumstantial evidence.

Express malice is shown when a person speaks words which express hatred or ill will for another, or when the person prepared beforehand to do the act that was later accomplished.

Malice may be inferred from conduct showing total disregard for human life.

Inferred malice may also arise when the deed is done with a deadly weapon.

And as I mentioned to you earlier, a deadly weapon is any article, instrument, or substance which is likely to cause death or great bodily harm, and the following, again, are examples which may be deadly weapons: Pistol, shotgun, rifle, knife, slingshot, metal knuckles, firebomb, Molotov Cocktail, razor, gasoline.

Now, ladies and gentlemen, if facts are proved beyond a reasonable doubt sufficient to raise an inference of malice to your satisfaction, this inference would be simply an evidentiary fact to be considered by you, along with other evidence in the case, and you may give it the weight you decide it should receive.

And, ladies and gentlemen, a specific intent to kill is not an element of attempted murder, but there must be a general intent to commit serious bodily injury.

Now, ladies and gentlemen, also the defendant is

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charged with armed robbery.

In order to prove this offense the State must first prove beyond a reasonable doubt that the defendant took personal property from the person or presence of another person.

Property is in the presence of a person if it is within the person's reach, inspection, observation or control that the person could, if not overcome with violence or prevented by fear, keep possession of the property.

The State must also prove beyond a reasonable doubt that the defendant carried the property away intending to permanently deprive the owner of the property and to keep the property for the defendant's own use.

The slightest removal of the property or the complete possession of the property, even for an instant, by the defendant is sufficient to show a taking and carrying away of the property.

The taking and carrying away of the property must have been done with violence or by putting the owner of the property in fear of violence.

The State must prove beyond a reasonable doubt that the defendant was armed with a deadly weapon during the robbery, or while alleging, either by actions or words, that he was armed while using a representation of a deadly weapon or any object which a person present during the commission

of the robbery reasonably believed to be a deadly weapon.

And as I mentioned to you before, a deadly weapon is any article, instrument, or substance which is likely to cause death or great bodily harm.

And the following are examples which may be deadly weapons: Pistol, shotgun, rifle, knife, slingshot, brass knuckles, razor, gasoline, or firebomb.

Now, ladies and gentlemen, on the verdict form there is also reference to a lesser included offense of armed robbery.

If you find that the State has failed to prove that the defendant is guilty of armed robbery, you must consider whether or not the State has proven the defendant guilty of the lesser offense of strong armed robbery.

In order to prove robbery, the State must prove beyond a reasonable doubt all of the elements of armed robbery, except that the defendant was armed with a deadly weapon.

The defendant is also charged with possession of a weapon during the commission of or attempt to commit a violent crime.

The State must prove beyond a reasonable doubt that the defendant was in possession of a firearm during the commission of a violent crime.

And a firearm means a machine gun, automatic

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rifle, revolver, pistol, or any other weapon that is designed to or may readily be converted to expel a projectile.

Now, in order to find the defendant guilty of possession of a weapon during the commission of a violent crime, you must first find the defendant guilty of either committing a violent crime or attempting to commit a violent crime.

Attempted murder is a violent crime.

Kidnapping is violent crime.

Armed robbery is a violent crime.

Burglary in the first degree is a violent crime.

Now, lastly the defendant is charged with conspiracy.

The State must prove beyond a reasonable doubt that the defendant combined with one or more persons for the purpose of committing an unlawful act, or of committing a lawful act by unlawful means. There must be a mutual understanding, agreement, or common intention and plan.

Mere passive knowledge of or consent to the criminal conduct of another is not enough to make that person a conspirator. There must be guilty knowledge and participation.

And, similarly, the mere fact that the defendant may have associated with another person or met with another

person and discussed common names and interests does not necessarily establish proof of the existence of a conspiracy or that the defendant was involved in a conspiracy.

On the other hand, it's not necessary that the agreement be a formal agreement, or that it has to be in writing, or that the persons hold a meeting and expressly state the terms of the common plan, and it's not necessary that the agreement be stated in the words between them. The agreement of a criminal conspiracy may come into being through an implied mutual understanding.

The willful, intentional, and knowing adoption by two or more people of a common plan is sufficient.

No overt acts need be established to show a conspiracy.

A conspiracy may be proven by circumstantial evidence and the conduct of the parties.

In order to convict a defendant of conspiracy, the State has to prove beyond a reasonable doubt not only that the defendant knew of the unlawful conduct, but that the defendant agreed to combine with the other person for the purpose of accomplishing that unlawful conduct.

Now, ladies and gentlemen, the last thing I will talk to you about before I get to the verdict form is criminal intent.

In order to establish criminal liability, whatever

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the charge is, whatever the count is, whether it's a greater or lesser included offense, in order to establish criminal liability, criminal intent is required.

The State must prove criminal intent beyond a reasonable doubt.

Criminal intent is always a matter that must be determined by a jury from the facts and circumstances surrounding the situation.

There is no way that medical science can take our brains and dissect our brains and look in the brain and decide what, if anything, we intended to do at any given time, so the law says that criminal intent may be inferred from circumstances shown to have existed.

It's not necessary to establish criminal intent by direct evidence, but criminal intent may be established by inference, in the same way as any other facts, by taking into consideration the actions of the parties and all of the facts and circumstances of the case.

So, in essence, criminal intent is the mental state, the conscious wrongdoing, and it's up to you to determine what, if anything, the defendant intended to do based on the circumstances shown to have existed.

Now, ladies and gentlemen, you will have several things in the jury room with you. First of all, you will have your collective memories of the testimony. You will

also have your common sense. You will have your exhibits, and you will have this verdict form, and, of course, your recollections of what the charge on the law is that I have given to you.

You don't have to take these in any particular order on the verdict form. But, again, Mr. Foreman, your verdict must be unanimous. The only way that you can give these parties what you have sworn to give them is to give these issues a complete and sincere and honest discussion that they deserve. So your job is just, again, I'm not concerned about what your verdicts are going to be, but I do want to make sure that you understand that this is extremely important and perhaps the most important part of the trial is when you make your decisions in that jury room. You will have all the time that you need. And what you are to do is to go through these counts as noted on the verdict form. And just by way of illustration, I will go through these one by one.

Number one deals with kidnapping.

As to that charge, "we unanimously find the defendant," and you will have two choices; not guilty, guilty. Whatever your unanimous verdict is, you put a check or an X in that particular space.

Number two talks about burglary in the first degree; not guilty, guilty.

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There is -- in bold print it says "if you have found the defendant not guilty of burglary in the first degree," you go to sub-question A, which deals with the lesser offense of burglary in the second degree.

"If you have found him guilty of burglary in the first degree," you go to question three, which talks about attempted murder.

And then you move from there to number four, which is armed robbery. And that one also says "if you have found the defendant not guilty of armed robbery," then you go to sub-question A, which deals with the lesser offense of strong armed robbery.

Then you go to five, which is possession of a weapon during the commission of a violent crime.

And number six, criminal conspiracy.

Now, during the course of your deliberations if you have any questions, you just write the question down on the note pad in there, tap on the door and let the bailiff know that you have a question. The law dictates if and how I can respond.

You will not be receiving any more evidence. No other evidence is going to be introduced.

Once you have reached a verdict on all of these counts and have completed the verdict form and signed it and dated it, you tap on the door and let the bailiff know that

you have reached a verdict.

If someone needs to leave the jury room, first of all you got to get my permission. If you do leave the jury room, then the rest of you have to stop your deliberations.

Also if someone does excuse himself or herself to use the restroom, wait until that person comes back into the deliberation area.

Now, in evidence are the exhibits that you have noted. Also there is a -- I guess it's called a -- I just call it a compact disc. If you want to listen to what's on that disc, just let us know and we will have you come back out and that will be played for you as many times as you want it played.

All right. Your responsibilities are to lay any outside influences, or motives, or passions, or prejudices, or desires aside. Lay all that aside and reach verdicts in these cases which speak the truth. I know that you will do that, and the parties are certainly counting on you to abide by your oath in that regard.

What I'm going to do now, ladies and gentlemen, is let you go to your jury room with this one final instruction. You cannot begin talking about the case yet, because the rules that we have require me to inquire of the attorneys if I have said anything incorrectly or if I have left anything out, so please bear with me.

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Your signal to deliberate will be when the bailiff comes to your door with all these exhibits, and that will take a few minutes to gather those, along with the verdict form and he tells you that you can start. Otherwise if you have to come back out for additional instructions, I'll certainly take care of that.

All right. Thank you for your attention and you may go to your jury room.

(Whereupon, at 3:19 p.m., the jury went to the jury room, awaiting instructions to begin deliberations)

THE COURT: All right, any exceptions or additions from the State?

MR. MEADORS: No, sir.

THE COURT: Any from the defendant?

MR. SMALDONE: No, Your Honor.

THE COURT: All right, what's the State position on how I handle the alternate?

If you would ask her to step outside. Is it Ms. Cannon or McMillan-Cannon?

MR. MEADORS: Besides the gentleman on the second who looks like he's sick, I think the rest of them feel healthy and I think --

THE COURT: I couldn't tell whether he was about to cough, about to get sick, but I think he just didn't want to cough on anybody.

MR. MEADORS: I think that's all it was, too. No, I'm fine with you letting her go.

THE COURT: All right. Mr. Smaldone?

MR. SMALDONE: No problem.

THE COURT: The way I interpret the statute is once the jury is released to deliberate I have to release the alternate, so I'll do that.

If you will have her come in.

(Whereupon, Alternate Juror No. 14 was brought into the courtroom)

THE COURT: Ms. Cannon or McMillan?

ALTERNATE JUROR: McMillan.

THE COURT: Okay, you are free to go.

ALTERNATE JUROR: Okay.

THE COURT: Only twelve can deliberate. And if somebody fell by the wayside, you would have stepped in.

Thank you for your attention.

Do you have any questions about anything?

ALTERNATE JUROR: No.

THE COURT: You don't have to come back this week.

ALTERNATE JUROR: Good.

THE COURT: You are finished.

Do you need a work excuse?

ALTERNATE JUROR: Uh-huh.

THE COURT: Mr. Bradley can help you take care of

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that. And if you have any questions, I'll be happy to answer those for you outside.

One final thing. Don't talk about the case until the week is over.

ALTERNATE JUROR: I won't.

THE COURT: But after that you can talk about it all you want.

ALTERNATE JUROR: Okay.

THE COURT: Thank you.

ALTERNATE JUROR: Thank you.

(Whereupon, the alternate juror was discharged)

THE COURT: All right. It's 3:25.

Mr. Meadors, let your people know that -- I will certainly tell them now. I'll wait for a reasonable time for them to come back if the jury has a question or verdict, but not inordinately long.

MR. MEADORS: I will go ask them not to leave.

THE COURT: Okay. And if either of you happen to leave the building -- or anybody leaves the building after five, note that the door will lock behind them. Okay. In many instances people have been banging on the door trying to get back in.

Okay, thank you.

MR. MEADORS: Thank you, sir.

THE COURT: Did y'all get with the court reporter

and make sure all the exhibits are in order?

(Off the record)

(Back on the record)

(Whereupon, at 3:23 p.m., the jury panel was instructed to begin deliberations)

(Whereupon, at 3:23 p.m., proceedings were recessed, pending the verdict of the jury panel).

(Whereupon, at 4:02 p.m., proceedings were reconvened)

(Jury Note marked as Court's Exhibit No. 3 for identification)

THE COURT: All right, we do have three inquiries, I guess you would call it, not necessarily questions.

Number one says clarification for kidnapping.

Second one says clarification for first degree burglary.

Third one says transcript of Dr. Funke's testimony.

Of course, I can handle the first two very easily. I can just say what do you need clarified? Would you like for me to charge the whole thing, and they can say well, yes, or no, what we are talking about is such and such.

Dr. Funke, now I'm going by that back clock, but by the back clock he started testimony yesterday at 11:24. I don't note what time we stopped for lunch, but it was some

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time shortly afternoon. And then the jury came back in at 2:05 and cross was for about ten minutes. So does either side have any particular input on clarification of kidnapping and first degree burglary?

MR. MEADORS: I should have explained it a little more.

I mean, just that Your Honor recharge them, if they want. I don't know what else to say about that.

THE COURT: Mr. Smaldone?

MR. SMALDONE: I agree.

THE COURT: If they want a transcript of Dr. Funke's testimony, they are not going to get a written transcript.

MR. MEADORS: Are you going to offer to replay the testimony?

THE COURT: That's only thing we can do and that's -- I can't remember -- how long did you have for him on direct? Roughly an hour?

COURT REPORTER: I think so.

THE COURT: An hour on direct, ten minutes on cross. If they want to hear it, they certainly have the right to hear it.

Does either side have any input on whether or not I try to refine that inquiry? Do they want a particular part played, or do they want the whole thing played? I

would like to -- I would like to clarify that with them, because if they only want to hear the cross, then we can play the cross. If they want to hear the direct testimony -- well, I don't know how to divide it up, quite frankly.

Anybody have any input on that?

MR. MEADORS: I think we ought to address that after their response to Your Honor saying there is no transcript, and if they want to hear all, or a part of it -- or if they want to hear it, they will have to hear it from the court reporter and then see what response is to that maybe and we could narrow it down.

THE COURT: Mr. Smaldone, do you agree with that?

MR. SMALDONE: That sounds good to me.

THE COURT: But tell me how you would handle that? We would have to go off the record so she can tell me.

(Off the record)

(Back on the record).

THE COURT: All right, are you ready for the jury, Mr. Meadors?

MR. MEADORS: Yes, sir.

THE COURT: Mr. Smaldone?

MR. SMALDONE: Yes, sir.

THE COURT: Okay.

(Whereupon, at 4:24 p.m., the jury was brought

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back into the courtroom)

THE CLERK: All right, ladies and gentlemen, thank you for your patience. I wanted to lay some groundwork before you came out to address these inquiries that you have sent out. I'm going to go over those very briefly.

The first one says clarification for kidnapping.

Second, clarification for first degree burglary.

Third, transcript of Dr. Funke's testimony.

All right. Am I correct in assuming that what you are wanting for is for me to charge you on the law on kidnapping again?

JURY FOREMAN: Just clarify the specifics on the law.

THE COURT: And the clarification for first degree burglary, the same thing?

JURY FOREMAN: Yes.

THE COURT: Would you also want me to go into the lesser included part of that too?

JURY FOREMAN: Yes, sir.

THE COURT: And the last -- and that's -- I can do that, certainly.

The transcript of Dr. Funke's testimony, there will not be a written transcript given to you.

JURY FOREMAN: Yes, sir.

THE COURT: But the testimony can be played back,

and that's what we were trying to corral that.

The direct examination was roughly an hour and two minutes, and the cross was roughly ten minutes or so. Is that what -- you are wanting to hear all that again?

JURY FOREMAN: Would you like for a specific part?

THE COURT: I guess what I'm saying is I don't want to give you any less than what you are asking for, but if you don't want anything more than a certain part, I wanted to certainly refine that so that you would not get any more than you were asking for.

JURY FOREMAN: Would you like for me to specify that to you now?

THE COURT: Do you know what it is?

JURY FOREMAN: Yes, sir, they would like the testimony on the part of him actually seeing the weapon.

THE COURT: Okay. All right.

Well, here is what we are going to do.

Let me ask you this. Which one would you like first? Would you like to hear that testimony first, or to me recharge the kidnapping and the burglary first? Would you like me to do it altogether?

JURY FOREMAN: Actually let's do it altogether.

THE COURT: Okay. So you want me to charge you first on those two legal points and then go into that specific part of his testimony?

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JURY FOREMAN: Yes, sir.

THE COURT: Okay.

Could I see the lawyers up here for just a minute?

(Whereupon, the lawyers approached the bench for an off-the-record discussion)

THE COURT: All right, ladies and gentlemen, what I'm going to do is I'm going to -- this equipment -- the testimony can be located. As a matter of fact, she's already located the whole hour and ten minutes.

To get to the point that you want to hear, we will have to go ahead and find that, and that will involve you going back to your jury room until we find it. It's not hard to do, but we just have to do it. Then everybody has to say yeah, that's where he testified to so and so and so and so. It will take a few minutes to do that. The court reporter can't do it while I'm recharging you on kidnapping and burglary, because she has to take down what I say, so she can't stop what she's doing.

So what I'm going to do is go ahead and charge you on kidnapping and burglary, send you back out. We can find that testimony you have asked to hear and we will take it from there. How about that?

Okay. Now, ladies and gentlemen, I'm not going to repeat it except in general terms that your -- the indictment in this case does allege various criminal

offenses. You have heard me charge the law on all six, including the lesser offenses on the burglary and the armed robbery.

With regard to kidnapping -- of course, the defendant is charged with kidnapping. In that regard the State must prove beyond a reasonable doubt that the defendant knowingly and unlawfully seized, confined, inveigled, decoyed, kidnapped, abducted, or carried away another person without authority of law.

To do something unlawfully is to do it willfully against the law.

Knowingly -- that word knowingly means with knowledge and consciously and not accidentally.

The word seize means to take ahold of suddenly or forcibly.

Confine means to limit, restrict, or enclose within bounds, or imprison, or shut, or keep in.

Inveigle means to lure, entice, or lead astray by false representation, promises, or other deceitful means.

Decoy means to lure by, or as if by a decoy.

Kidnap is to remove a person against his will by unlawful force or by fraud.

The word abduct means to carry off secretly or by force for an illegal purpose.

The words carry away mean to remove.

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The State does not have -- in the context of kidnapping, the State does not have to prove the defendant did all of those things. Instead, if you find beyond a reasonable doubt that the defendant did any of those things, you may find the defendant guilty of kidnapping.

Something that is done without authority of law is something which the law does not sanction, permit, allow, condone, or provide justification for.

The kidnapping does not have to be for any personal or monetary gain for any illegal purpose, but may be for any reason whatsoever.

Now, I'll move on to burglary in the first degree, which I told you is the same thing as first degree burglary.

The defendant is charged with first degree burglary.

The State must first prove beyond a reasonable doubt that the defendant entered a dwelling without consent.

A dwelling is any building or portion of a building in which a person ordinarily sleeps.

A dwelling is a dwelling even if the residents are temporarily absent from the building.

In order to prove the defendant entered the dwelling, the State does not have to show that the defendant's entire body entered the dwelling. The smallest entry is sufficient. It may be any part of the body, such

as a hand, or a foot, or even an instrument, such as a hook or other instrument.

And the State does not have to prove that force was used to gain entry.

The State must also prove beyond a reasonable doubt that the defendant intended to commit a crime at the time of the entry.

The mere entry into a dwelling without consent is not burglary.

If the intent to commit a crime is formed after the entry it is not burglary.

On the other hand, if the defendant intended to commit a crime at the time of the entry, it is a burglary, even if the intent was abandoned after the entry. It does not matter that the intended crime was not completed.

Intent, which I will go over in just a few minutes, it may be shown by acts and conduct of the defendant and other circumstances from which you may naturally and reasonably infer intent.

Finally, in first degree burglary the State must prove beyond a reasonable doubt that when entering, while in the dwelling, or when fleeing from the dwelling the defendant or an accomplice was armed with a deadly weapon.

A deadly weapon is any article, instrument or substance which is likely to cause death or great bodily

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harm.

And whether an instrument is used as a deadly weapon depends on the facts and circumstances of each case.

The following are examples of instruments which may be deadly weapons: A pistol, shotgun, rifle, knife, slingshot, brass knuckles, razor, gasoline, or a firebomb.

A gun may be a deadly weapon even if it is not operating.

Now, if you find that the State has not proven beyond a reasonable doubt that the defendant committed first degree burglary, you must determine whether the State has proven beyond a reasonable doubt that the defendant has committed second degree burglary, also, of course, known as burglary in the second degree.

Second degree burglary contains all of the elements of first degree burglary, except for the element that the defendant was armed with a deadly weapon when entering, or while in, or while fleeing from the dwelling.

Now, that takes care of those two, I believe. Of course, if you need any clarification, you can certainly let me know.

Now, as I mentioned to you, since you have asked for a clarification of those two things, the instructions that I gave on criminal intent also apply, because that element applies to every crime charged.

And as I mentioned, I charged you before, in order to establish criminal liability, crime intent is required.

The State must prove criminal intent beyond a reasonable doubt. That's always a matter that a jury must determine from the circumstances surrounding the situation.

The illustration I gave you is that medical science cannot dissect a person's brain and inspect it and determine what, if anything, somebody intended to do at any given time, so the law does say that criminal intent may be inferred from circumstances shown to have existed.

It's not necessary to establish criminal intent by direct evidence, but it may be established by circumstantial evidence, in the same way as any other fact, by taking into consideration the acts of the parties and the facts and circumstances of the case.

Criminal intent is a mental state. It's a conscious wrongdoing.

It's up to you to determine what, if anything, the defendant intended to do based on the circumstances shown to have existed.

And also -- you have not requested it, but the other charges that would deal with all of the crimes charged would also apply, such as burden of proof beyond a reasonable doubt, the presumption of innocence, and the hand of one being the hand of all.

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Now, if you would, please, ladies and gentlemen, go to your jury room. We can accomplish a couple of things in this break. She's going to pinpoint perhaps what you are looking for with that testimony.

And also while you are in there, you can discuss amongst yourselves whether or not you need any more clarification of kidnapping, burglary in the first degree, or anything else. Okay. Thank you.

(Whereupon, at 4:35 p.m., the jury returned to the jury room to continue deliberations)

THE COURT: All right, first of all, any objections to those comments, Mr. Meadors?

MR. MEADORS: Judge, when Your Honor was defining seize means to take over suddenly or forcibly, and then confine means to limit, restrict, or enclose within bounds, imprison, or shut, or -- you didn't -- and then I know you won't get mad at me. I thought I heard you say to limit, restrict, to enclose within, imprison, to shut. I didn't hear or, and if you said it, I apologize.

THE COURT: Or?

MR. MEADORS: I didn't hear you say or on those. I thought you said too. Maybe I'm wrong.

THE COURT: I may have said or to shut or keep in.

MR. MEADORS: Okay, maybe I just heard the too and it wasn't, but --

THE COURT: In the context of this case, this is a kidnapping, it's a limiting, restricting, or seizing.

MR. MEADORS: Correct.

THE COURT: The other one kind of surpluses, but we are required to charge it all, but I think -- I think I covered it adequately.

Anything else?

MR. MEADORS: No, sir.

THE COURT: Mr. Smaldone?

MR. SMALDONE: No, sir.

THE COURT: All right. Well, let's let the -- we will go off the record and let her try to pinpoint that part of either the burned CD, or otherwise.

(Off the record)

(Back on the record)

THE COURT: In the meantime, once we go back on the record, the jury has got two more questions.

All right, Mr. Godbolt, you can have a seat.

Mr. Smaldone, why don't y'all come up here and look at those while she's getting all of it situated.

(Whereupon, the lawyers approached the bench for an off-the-record discussion)

(Off the record)

(Back on the record).

(Jury Note marked as Court's Exhibit No. 4 for

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identification)

THE COURT: All right, in case we got lost in the shuffle, I think the testimony has been pinpointed. That can be played.

The jury has also sent out another note that would be the next Court's Exhibit. They want clarification of armed robbery and they want clarification for possession of a weapon during a violent crime.

I'll follow the same procedure I did earlier.

Any objection to that from the State?

MR. MEADORS: No, sir.

MR. SMALDONE: No, sir.

THE COURT: All right, I'll ask them also which one they want to hear first, the testimony or the recharge.

So you can bring out the jury.

(Whereupon, at 5:10 p.m., the jury panel returned back to open court)

THE CLERK: All the jurors are back in the courtroom.

THE COURT: Thank you, sir.

All right, we have narrowed the recording down and have the testimony ready to play that you wanted and we will do that in just a moment.

I also got your other question about clarification of armed robbery and clarification of possession of a weapon

during the commission of a violent crime.

Would you like to hear the testimony first or would you like to hear the recharge first?

JURY FOREMAN: Recharge -- well, do the testimony first.

THE COURT: All right. Some of the audio will be -- it will be played at the appropriate spot that you requested, so please listen carefully, because some of the audio sometimes those questions are not as audible, so please pay very, very close attention.

All right.

(Whereupon, the requested testimony was replayed to the jury panel)

THE COURT: All right, ladies and gentlemen, if that does not satisfactory your inquiry, certainly let us know.

I will go forward now with the request or fulfill the request that you have for clarification of armed robbery and possession of a weapon during the commission of a violent crime.

I mention from the other request that you had, I take it you would like for me to recharge you on this point?

JURY FOREMAN: Yes, sir.

THE COURT: So with regard to armed robbery, I will do that. And, of course, included within that was the

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lesser included of strong armed robbery.

The defendant in the case is charged with armed robbery.

In order to prove this offense, the State must first prove beyond a reasonable doubt that the defendant took personal property from the person or presence of another person.

Property is in the presence of a person if it is within that person's reach, inspection, observation, or control so that the person could have, if not overcome by violence or prevented by fear, keep possession of the property.

The State must also prove beyond a reasonable doubt that the defendant carried the property away intending to permanently deprive the owner of the property and keep the property for the defendant's own use.

The slightest removal of the property or the complete possession of the property even for an instant by the defendant is sufficient to show a taking and carrying away of the property.

The taking and carrying away of the property must have been done with violence or by putting the owner of the property in fear of violence.

Finally, the State must prove beyond a reasonable doubt that defendant was armed with a deadly weapon during

the robbery; or, while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which the person present during the commission of the robbery reasonably believed to be a deadly weapon.

A deadly weapon is any article, instrument, or substance which is likely to cause death or great bodily harm, and the following are examples of instruments which may be deadly weapons: Pistol, shotgun, rifle, knife, slingshot, metal knuckles, razor, gasoline, or firebomb.

A gun may be a deadly weapon even if it is not operating.

If you find -- ladies and gentlemen, on that count of armed robbery if you find the State has failed to prove that the defendant is guilty of armed robbery, you must consider whether the State has proven beyond a reasonable doubt that the defendant committed the lesser offense of strong armed robbery.

In order to prove strong armed robbery, the State must prove beyond a reasonable doubt all of the elements that I just explained to you, except that the defendant was armed with a deadly weapon.

The defendant is also charged with possession of a weapon during the commission of or attempt to commit a violent crime.

The State must prove beyond a reasonable doubt

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that the defendant was in possession of a firearm or visibly displayed what appeared to be a firearm during the commission of a violent crime.

A firearm means any machine gun, automatic rifle, revolver, pistol, or any weapon which will, is designed to, or may be readily converted to expel a projectile.

In order to find the defendant guilty of possession of a weapon during the commission of a violent crime, you must first find the defendant guilty of either committing a violent crime or attempting to commit a violent crime.

I charge you that attempted murder is a violent crime.

Kidnapping is a violent crime.

Armed robbery is a violent crime.

And burglary in the first degree is a violent crime.

As also mentioned, ladies and gentlemen, earlier, and I will now, in order to establish criminal liability, or for any charge, the State must prove criminal intent beyond a reasonable doubt.

Criminal intent is a matter that must be determined by the jury from the circumstances surrounding the situation. And as I illustrated, the law does not -- excuse me, science cannot dissect a person's brain, look at

it and evaluate or tell what someone intended to do, if anything, so the law does say that criminal intent may be inferred from the circumstances shown to have existed.

It is not necessary for the State to establish intent by direct evidence, but it may be established by circumstantial evidence, in the same way as any other facts, by taking into consideration the actions of the parties and all the facts and circumstances.

Criminal intent is a mental state, a conscious wrongdoing, and it's up to you to determine what, if anything, the defendant intended to do based on the circumstances shown to have existed.

As I mentioned to you earlier, the other parts I charged that I did not specifically mention would apply, and that is the presumption of innocence, the burden of proof being beyond a reasonable doubt, and that the theory of the hand of one is the hand of all.

If you need any further clarification or any explanation, let me know, and you may continue your deliberations.

(Whereupon, at 5:24 p.m., the jury panel returned to the jury room to continue deliberations)

THE COURT: Any exceptions from the State?

MR. MEADORS: No, sir.

THE COURT: Any from the defendant?

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MR. SMALDONE: No, sir.

THE COURT: All right. It's 5:25 and we will continue to wait on the jury.

(Whereupon, at 5:25 p.m., proceedings were recessed pending the verdict of the jury panel)

(Whereupon, at 5:31 p.m., proceedings were reconvened)

THE COURT: Okay, I understand the jury has reached a verdict.

Ladies and gentlemen, of course, the lawyers know this. Those of you who aren't familiar with the procedure, whether you are pleased or disappointed with the verdict, there is not to be any, any, anything audible or visible about anybody's reaction. I understand that this is an extremely tense situation, but I don't want there to be any elation or dismay at all shown about the verdict. We will receive it in just a few minutes.

The jury is ready?

THE CLERK: Yes, sir.

THE COURT: Okay. You can bring in the jury.

(Whereupon, at 5:34 p.m., the jury panel returned to open court to report its verdict)

THE CLERK: All the jurors are present in the courtroom.

THE COURT: All right. Thank you, sir.

All right, Mr. Foreman, have you reached a verdict?

JURY FOREMAN: Yes, sir, we have.

THE COURT: And are all the verdicts unanimous?

JURY FOREMAN: Yes, sir, they are.

THE COURT: You can hand the form to Mr. Bradley.

Mr. Godbolt, you can please stand.

All right, Mr. Bradley, you can publish it.

THE CLERK: Yes, sir.

For the State of South Carolina, County of Sumter, in the Court of General Sessions, Docket Number 2012-GS-43-0227, State of South Carolina versus Reco Antonio Godbolt, defendant.

As to number one, as to the charge of kidnapping, "we, the jury, unanimously find the defendant guilty."

As to the charge of burglary first degree, "we, the jury, unanimously find the defendant guilty."

As to the charge of attempted murder, "we, the jury, unanimously find the defendant not guilty."

As to the charge of armed robbery, "we, the jury, unanimously find the defendant guilty."

As to the charge of possession of a weapon during the commission of a violent crime, "we, the jury, unanimously find the defendant guilty."

As to the charge of criminal conspiracy, "we, the

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jury, unanimously find the defendant guilty."

Signed by George R.W. Hatfield, foreperson, dated 12-5-2012.

Ladies and gentlemen of the jury, if this your verdict, so you all by raising your right hand.

Thank you.

THE COURT: All right, the record will show that all twelve jurors did raise their right hand.

You can have a seat.

Mr. Smaldone and Mr. Godbolt, may I accept the verdict form, please?

MR. MEADORS: Oh, yes, sir.

THE COURT: Anything from the State before the jury is dismissed?

MR. MEADORS: No, sir. Thank you.

THE COURT: Anything from the defendant before the jury is dismissed?

MR. SMALDONE: No, sir.

THE COURT: All right. Ladies and gentlemen, that does conclude your service in this case and I do thank you for your attention and your conscientious efforts in this case.

No one can quarrel with your verdict. You did examine the evidence, you considered it and you based your verdict on what you considered the evidence to be.

You are now released, obviously, from this case and also for the rest of the week. Your jury service is over.

A couple of things. If there is anyone who needs a work excuse, that would be right outside in the hall.

Number two, if any of you need any assistance in getting to your car, all you have to do is let one of the bailiffs know and those arrangements will be made.

Is it raining outside? Is it raining? It's not raining? Okay. I thought I had heard it might rain today.

Also, you can talk about this case now all that you want. This might be the last thing that you want to talk about, but you can talk about it, if you want to.

However, my final instruction to you that you not do that with anyone, other than amongst yourselves, while you are on the courthouse grounds as you leave today. That will allow you to get to your cars without anyone coming up to you wanting to talk to you.

In the future if someone wants to talk to you about the case and you want to, you can do that.

If someone wants to talk to you about the case and you don't want to, tell the person that. If they don't abide by your direction, you get that person's name, call Mr. Campbell's office, the Clerk of Court, tell Mr. Campbell who that person is and then I'll deal with that. No one

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should quarrel with your verdict and you have done your civic duty in all respects, as far as this case is and your service this week is concerned.

You are free to go. Thank you again for your service.

If you do need that work excuse, please speak to Mr. Bradley or Mr. Jones out in the hall.

Thank you very much.

(Whereupon, at 5:39 p.m., the jury panel was discharged)

THE COURT: All right, Mr. Meadors, Mr. Smaldone, does either side have any objection to sentencing taking place sometime tomorrow, or at another time other than tonight?

MR. MEADORS: No objection from the State.

MR. SMALDONE: No objection.

THE COURT: All right.

Mr. Smaldone, I'll give you ten days, if you would like, to make your post-trial motions. If you do make those in writing, make sure you do three things. File those, serve Mr. Meadors, and get me a copy.

MR. SMALDONE: Okay.

THE COURT: All right. Thank you, gentlemen, for the way that you tried the case. I think it was tried very well by both sides.

Doctor and Mrs. Funke, thank you for your participation.

Law enforcement as well.

And, Mr. Godbolt, the jury has made its decision and it's not what you wanted, but the process has come to this conclusion.

The sentencing will be sometime tomorrow or the next day, unless there is some unforeseen circumstances.

MR. SMALDONE: Thank you.

MR. MEADORS: Thank you.

THE COURT: Thank you.

(CD of Jury' Requested Testimony marked as Court's Exhibit No. 5 for identification)

(Whereupon, proceedings were adjourned to December 6, 2012)

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STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF SUMTER)

THE STATE)
)
-vs-) TRANSCRIPT OF RECORD
) 2012-GS-43-00227
RECO ANTONIO GODBOLT,)
) DECEMBER 6, 2012
DEFENDANT. SUMTER, SOUTH CAROLINA

(VOLUME IV)

B E F O R E:

THE HONORABLE GEORGE C. JAMES, JUDGE. ; And a Jury.

A P P E A R A N C E S:

JOHN MEADORS, ASSISTANT SOLICITOR
CHIP FINNEY, SOLICITOR
ATTORNEYS FOR THE STATE

GRANT SMALDONE, ASSISTANT PUBLIC DEFENDER
ATTORNEY FOR THE DEFENDANT

MICHAEL R. WATTS
CIRCUIT COURT REPORTER

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(PROCEEDINGS, DECEMBER 6, 2012)

MR. MEADORS: May it please the court?

THE COURT: Yes, sir.

MR. MEADORS: Before you is Reco Godbolt with his attorney Mr. Grant Smaldone; 2012-GS-43-227, kidnapping, burglary first, armed robbery, criminal conspiracy, and possession of a weapon during a violent crime. Of course, these are the five of the six verdicts that the jury came back with guilty this afternoon.

We are here for sentencing, Your Honor.

THE COURT: All right, Mr. Meadors, is there -- first of all, anything that you or Mr. Finney would like to say, any law enforcement folks, or any of the victims?

MR. MEADORS: Your Honor, I think briefly.

THE COURT: All right.

MR. MEADORS: With your permission, I think we can start with -- of course, you've heard it before. He understands Your Honor has heard the facts and -- and the jury has, but I think Dr. Funke and maybe Ms. Carolyn Funke might have some brief words.

THE COURT: Yes, sir.

Dr. Funke.

BRYAN FUNKE: Good afternoon, Your Honor.

I'm Bryan Funke, one of the victims in this crime. You know the facts of the case. You know Mr. Godbolt's

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history.

I just want to give you a little bit from my perspective as a victim, how terrorizing it is to be chased with a weapon and to be held at gunpoint in fear of your life.

Not only was that terrifying for me, but for my entire family. My wife has not slept well for a long time after that terrible incident on October 31st. My children, they've become hypervigilant. They don't -- they didn't sleep well for a long time. You know, I -- my teenage son would run around the house, lock all the doors, and close the garage door, even when I was out in the yard working in the yard. It -- it's been quite a terrifying experience for us.

But not only for us, our entire neighborhood. Idlewild is an idealic community, or was. It's approximately twenty-five years old, in Sumter. It's a community -- it's a diverse community of teachers, lawyers, businessmen, military, law enforcement. We have a very broad community. It's a neighborhood with small children, where people congregate outside and take care of each other and socialize.

We've lost our innocence. Something has changed. We've formed a neighborhood watch. We have block captains. We have recall rosters. We have call-down lists. It's a

different neighborhood than it was, and it -- and it's not a different neighborhood in a good way.

Our adjoining neighborhood is installing video surveillance that monitors every vehicle going in and out. People have moved out of the neighborhood. We've lost innocence, and we can never get that back. And the actions of Reco Godbolt and his co-defendant changed not only my life and my family's life, but our entire community's life. Thank you, Your Honor.

THE COURT: Thank you, Dr. Funke.

Mrs. Funke.

CAROLYN FUNKE: Carolyn Funke.

Just to expound for my family, my kids, they were seventeen years old. They could have come home for lunch that day, because they did that somewhat regularly, depending on what their school schedule was. I -- I just dread what would have happened had they been the ones to walk in on this.

My kids, for awhile, would lock their doors in their bedroom and then barricade themselves in with a dresser. And that went on for several months.

THE COURT: Their own rooms?

CAROLYN FUNKE: Their own rooms. I mean, they were petrified. You know, they knew that these guys were in jail. That really didn't matter to them. They were -- they

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were petrified. I mean, you know, now we've moved on, we're putting it in the rear-view mirror, but there is always going to be what happened that day in the back of our heads. Thank you.

THE COURT: Thank you.

MR. MEADORS: Your Honor, I'd just like to acknowledge her presence. Sergeant Gretchen Davis has been here. This wasn't actually the trial that we started to go into Widgeon Way. It was shortly before that. We decided not to for record purposes, but she has been here.

Her husband, Master Sergeant Will Davis, was here for awhile, and I just want to acknowledge her presence here in the courtroom and thank her for being here.

THE COURT: Thank you, ma'am.

MR. MEADORS: In addition to that, judge, very briefly, I have also want to thank my boss, Solicitor Finney. The Sumter Police Department did -- did an outstanding job responding to this. Quite frankly there is very few cases I've been involved in in my career where we basically catch at least one of them at the scene and see both suspects at the scene. So it was very good police work, and I want to commend them publicly for that and the job they did in apprehending these individuals.

John Melton, Natalie Kelly, and Trey Tallon are here. I don't know if -- if any of them want to say

anything briefly, but if you'd give them the opportunity.

THE COURT: Mr. Melton.

JOHN MELTON: Hello, judge. Thank you for giving me this opportunity to speak before you today.

I would -- I would like just to go back and say that, you know, the response times were great by the Sumter Police Department, because we actually changed our dynamics and everything based on burglaries that were occurring at that time. We split up rotations and shifts. We pulled office personnel. We made a burglary team. We tried to do everything we could to apprehend the suspects.

And in this case, judge, I know you've heard the facts. I'm -- I'm thankful that Mr. Funke was not injured any worse than he was. And, you know, part of me in here wants to stand up here today and -- and express my concern for public safety and for the fact that the Funkes have had to go through this whole entire process, in fact, have had to be drug through this entire trial.

I would ask -- and -- and -- and -- and I think my fellow officers would agree with me on this, that -- that you do consider the -- the trend of the burglaries, the fact that Mr. Funke was assaulted. They had the opportunity to run away. Mr. Funke ran past his house. They could have just left. Instead he was chased down and he was assaulted.

And I would ask you to consider Mr. Godbolt's

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criminal history. It -- it does show a proclivity for violent offenses.

And I -- and in -- in closing, I would just like to say that it's our expression to you that -- that we would like to see substantial time placed on Mr. Godbolt.

THE COURT: Thank you.

MR. MEADORS: Your Honor, in -- in conclusion, I just -- one thing. I know Dr. Funke's testimony talked about being involved if several conflicts around the world and perhaps the closest he came to a gunshot was in his own front yard in Sumter county.

Judge, his prior record, the defendant, is discharging a firearm into a vehicle.

THE COURT: When was that?

MR. MEADORS: That was in August of 2010.

Also at that same time were two assault and battery of a high and aggravating natures. All of those were combined for a YOA sentence in August of 2010.

Other than that, he has six ill treatment of animal convictions. And that's in -- December 15th of 2011. He would have already been incarcerated, so I believe those were magistrate offenses, judge.

I'm -- I'm sure they all are. Thank you, judge.

THE COURT: Anything from the State as far as any sentence demand or requests?

MR. MEADORS: Your Honor, considering the -- the facts and the nature and the -- and the closeness of this crime, I guess, if you will, to Dr. Funke, we would ask for a substantial sentence.

THE COURT: All right.

Mr. Finney, anything?

MR. FINNEY: Your Honor, thank you for allowing me to get on the record.

I just -- I just think that you've heard throughout the trial that the planning and execution of this was not just happenstance. They did take some steps to prepare themselves.

The jury believed they had a weapon. The jury saw evidence of gloves. They were on their way to their second burglary when they ran into Mr. Funke, not the first for the day. So we ask you take those things into consideration.

Also, you are aware that the other co-defendant pled guilty and there was a negotiated sentence recommendation by the State of eighteen and a half years on that case. So please use that as a -- as a barometer when you --

THE COURT: All right.

MR. FINNEY: -- sentence in this case.

Thank you very much.

THE COURT: Thank you.

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All right, anything else from the State?

MR. MEADORS: No, sir. Thank you.

THE COURT: Mr. Smaldone?

MR. SMALDONE: Thank you, Your Honor.

Obviously the jury has spoken. And, first of all, I think we're all glad that everyone is here today and that nothing, you know, further happened from this.

I've met with Reco quite a few times and I really believe that there is some good in him, even despite the horrible things that have happened.

He's a high school graduate. He was enrolled at Central Carolina Tech -- technical college. He was -- he had substantial employment. I mean he was an assistant manager at a -- at a restaurant.

He was on disability, couldn't work any more, and I believe that's around the time his life crossed paths with Jamal Helton. And -- and from then on I think things kind ever went downhill. And -- and he's -- he's not -- we're not blaming Jamal Helton for what happened, because Reco was -- was involved too, but I think that had he not met someone like that, then who knows what would happen.

Since he's been in the Sumter County jail, I really think he's -- he's taken steps to begin to turn his life around. He's completed Bible classes. He has his own Bible with his name engraved on it. He's really dedicated

his life, life to God, and he -- he -- he knows -- you know, he knows he's not going home any time soon, and he's ready to -- to pay for what he did.

And -- and I'll -- I'll ask Your Honor consider the eighteen and a half year sentence that his co-defendant got out -- out of fairness.

THE COURT: All right.

MR. SMALDONE: And I'm not sure if anyone would like to speak. They -- they can --

THE COURT: Certainly.

Ladies, I'd be glad to hear from you if you would like, and Mr. Godbolt, whatever order. The only thing I'll need is your name and then you can speak, if you would like.

BETTY GRANT: Well, I'm his -- the grandmother. I am the grandmother -- I'm going to just say the grandmother and the mother.

THE COURT: What's your -- what's your name?

BETTY GRANT: My name is Betty Grant.

THE COURT: Grant?

BETTY GRANT: Right.

THE COURT: Yes, ma'am.

BETTY GRANT: Yes -- yes, sir.

Well, I'm the grandmother -- well, I will say the mother, too, of Reco Godbolt, because 2003 he lost his mother. I'm not putting that against what he -- what he

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did, because I raised my kids to accept what life is. People die every day, but at -- at that time I raised Reco and five more of his sisters. And during the time he was going to school I never had no problem with Reco. He always had -- you know, he set himself up in the army. He passed that test.

I tell them, "you stay at my home. You got to work. And if you get in trouble, it's not in my hands no more. It's in the judge hands. The only thing I can do is send you to school, make sure you go to church every day."

I prayed every night for the family that my son -- the harm that my son did to them. My heart go out to them.

But I just -- you know, I don't know what came across Reco. He was doing well until he got the injury. I guess he got frustrated that he didn't have a job.

I'm not using that for an excuse, because I have been raised, I never been in no trouble before my life. I don't have no -- of my other children. And I tell -- I tell all my grandkids the same thing I tell Reco. I told them -- I don't hide it from them. I let them know that Reco is facing some time. This is what you will get. If you are wrong, you are wrong. And if you come -- if you come in my residence with any type of drugs, I -- I love you, but I'll put you out, but I'll put you out through law enforcement. I'm not just going to say "get out." You out. You out

through the court order.

And I'm very sorry for what -- what went wrong with the family that he -- that -- you know, and that day when I heard it, it made me -- I just fell in tears, because I didn't raise Reco that way like that. Reco came from a good family.

Even though he lost his mother, we had his aunt; he had his grandmother; he had my pastor, Reverend Dixon up at the church, who talk to the young kids. We had people to come to our church with a program and stuff to help with the kid.

And he just got -- I'm not going to say that -- put it on Jamal, because I teach my kids that you have your own mind. You do your own wrongdoing. I don't care what age they is in my house; five, six, or seven. I even got a disability child that I take care of, but I don't let him feel special. I let him know that you got to work. Your suggest and your seasoning don't have nothing to do with your disability.

And I always taught Reco and them to work. He worked and everything until he got injured. And I -- I just don't know what happened after that, but all I'd ask of you, Your Honor, is just to have mercy on him. And like I said, I'm sorry what the family had to go through.

THE COURT: Thank you, ma'am.

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BETTY GRANT: I thank you.

THE COURT: Anyone else?

Your name, please?

BRITTANY GRANT: Brittany Grant.

THE COURT: Brittany Grant?

BRITTANY GRANT: Yes, sir.

THE COURT: Yes, ma'am.

BRITTANY GRANT: I'm Reco's sister.

And from me, I just want to apologize to the victims -- family. Even though it wasn't me -- even though it wasn't me that committed a crime, I just want to apologize to them. I just want to apologize to them. That's it.

THE COURT: Thank you, ma'am.

VICKY GODFREY: My name is Vicky Godfrey. I'm Reco's aunt.

Reco know I love him. He did do wrong and I know he have to pay for what he did.

We know the victims, they are -- you know, we were traumatized and stuff, and they was hurt, and this was -- you know, they don't feel safe in their homes. And it also not just affected them, it affected his family as well.

I just ask for the court to please just have mercy on him, and I know he's going to have to do some time.

And I'm very thankful that the victims didn't --