

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Jan 28 2021
SC Court of Appeals

Appeal from Sumter County

Honorable George M. McFaddin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CURTIS CHANNING PEARSON,

APPELLANT

APPELLATE CASE NO 2020-000376

RECORD ON APPEAL

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE’S EXHIBIT #1 (VIDEO)**

1 STATE OF SOUTH CAROLINA)
 2 COUNTY OF SUMTER) COURT OF GENERAL SESSIONS

3
 4 STATE OF SOUTH CAROLINA,) TRANSCRIPT
 5 PLAINTIFF,) OF
 6 VS.) RECORD
 7 CURTIS CHANNING PEARSON,) 2019-GS-43-1184
 8 DEFENDANT.)

9
 10 February 19th and 20th, 2020
 11 Sumter, South Carolina
 12

13 B E F O R E:

14 THE HONORABLE GEORGE M. McFADDIN, Judge, and a jury.

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

16 JASON CORBETT
 17 ASSISTANT SOLICITOR
 18 Attorney for the State

19 TIMOTHY L. GRIFFITH
 20 ESQ.
 21 Attorney for the Defendant
 22

23 Transcribed by Pamela E. Green, from
 24 DCRP, Digital Courtroom Recorder Project
 25

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P R O C E E D I N G S

SOLICITOR CORBETT: Your Honor, Jason Corbett on behalf of the State.

Your Honor, at this time we would call the case of State of South Carolina versus Curtis Pearson. Mr. Pearson is before the Court on true billed Indictment 2019-GS-43-1184. That indictment alleging armed robbery and possession of a weapon during the commission of a violent crime.

Your Honor, if I may, I'll approach and hand up the original indictment as well as the State's potential witnesses.

THE COURT: All right, sir. Please.

SOLICITOR CORBETT: Thank you, Your Honor.

THE COURT: Yes, sir.

Members of the panel, I am going to work with you now to strike a jury for this case in the State of South Carolina versus Curtis Pearson.

Right, sir?

SOLICITOR CORBETT: That is correct, Your Honor.

THE COURT: I'll ask you some questions that you might have already heard before. Perhaps several times.

But let me first ask the two lawyers to step up here please.

1 (WHEREUPON, a bench conference was held out of the
2 hearing of the jury at this time.)

3 THE COURT: Ladies and gentlemen, in this case, has any
4 one of you ever been or now related by blood or marriage to
5 Curtis Pearson or -- how you pronounce this name, gentlemen?

6 SOLICITOR CORBETT: Is -- Miss McDonald's name---

7 THE COURT: Yes, sir.

8 SOLICITOR CORBETT: ---is Keosha.

9 THE COURT: Keosha McDonald, if so, please stand up.

10 (WHEREUPON, there was no response.)

11 THE COURT: Has any one of you ever had a close
12 personal or social relationship with either of those names
13 I've just mentioned, please stand up.

14 (WHEREUPON, there was no response.)

15 THE COURT: I'm going to list possible witnesses in
16 this trial.

17 Curtis Pearson.

18 Willie McFadden.

19 Earnest Broadway.

20 Irene Culick.

21 Keosha McDonald.

22 Rose Crosby.

23 Heather Bennett.

24 Jim Allsbrook.

25 Dan Buck.

1 Jamacia Simon.

2 Darious (sic) Toney.

3 Are any of you related by blood or marriage to any of
4 those names I have just listed or do any of you have a close
5 personal or social relationship with any of those names,
6 please stand up.

7 (WHEREUPON, jurors respond.)

8 THE COURT: Your connection, sir?

9 Your number first.

10 THE JUROR: A friend of one of those people mentioned.

11 THE COURT: I can't hear.

12 THE JUROR: Oh, 77.

13 THE COURT: You're Number 77?

14 (WHEREUPON, there was no audible response.)

15 THE COURT: And what is your connection, sir?

16 THE JUROR: A friend of one of the people you
17 mentioned.

18 THE COURT: All right, sir. Can you still remain a
19 fair and impartial juror in this trial?

20 THE JUROR: Yes.

21 THE COURT: All right. Thank you.

22 SOLICITOR CORBETT: And, Your Honor, if I may?

23 THE COURT: Do you want to know who it is?

24 SOLICITOR CORBETT: Judge, if, if we could know---

25 THE COURT: Yeah.

1 SOLICITOR CORBETT: ---who that is.

2 THE COURT: Yeah.

3 SOLICITOR CORBETT: And also, Judge, on one of those
4 potential witnesses, I believe the first name is pronounced
5 Davnus.

6 THE COURT: It's Davnus?

7 SOLICITOR CORBETT: Davnus.

8 THE COURT: D-A -- Davnus.

9 Ladies and gentlemen, the name I mispronounced, it is
10 now Davnus Toney, and I am sorry I made that mistake.

11 For the gentleman who just stood up, sir, which one is
12 it that you are affiliated with to some degree?

13 THE JUROR: Dan Buck.

14 THE COURT: All right. Once again, can you remain a
15 faithful or a fair and impartial juror?

16 THE JUROR: Yes, sir.

17 THE COURT: Thank you.

18 Yeah. Yes, sir, your number?

19 THE JUROR: 150, Jim Allsbrook. I served in the
20 military.

21 THE COURT: All right. Can you be a fair and impartial
22 juror, sir?

23 (WHEREUPON, there was no audible response.)

24 THE COURT: Is that yes?

25 THE JUROR: Sure.

1 THE COURT: All right. Thank you.

2 I'm gonna ask the attorneys in this matter to please
3 stand and introduce yourselves, and any partners and so
4 forth.

5 Mr. Corbett, do you want or Mr. -- whoever's first.

6 MR. GRIFFITH: Please the Court, Your Honor.

7 Attorney Timothy Griffith. I represent the Defendant
8 in this case. Timothy L. Griffith, Attorney at Law.

9 THE COURT: All right. Mr. Corbett.

10 SOLICITOR CORBETT: Good morning. My name is Jason
11 Corbett. I'm an Assistant Solicitor here in Sumter County,
12 and I'm joined this morning by Solicitor Finney.

13 THE COURT: Has any member of the panel ever been
14 represented by either of these lawyers involved in this case
15 or by their law firms, if so, please stand.

16 (WHEREUPON, there was no response.)

17 THE COURT: Is anyone, is anyone related by blood or
18 marriage to these lawyers or have a close personal or social
19 relationship with them or their attorneys in this case,
20 please stand.

21 (WHEREUPON, there was no response.)

22 THE COURT: Has any member of the panel formed or
23 expressed an opinion about any issue or matter in this case,
24 please stand.

25 (WHEREUPON, there was no response.)

1 THE COURT: Is any member of the panel aware of any
2 bias or prejudice toward either the State or a -- the
3 Defendant in this case, please stand.

4 (WHEREUPON, there was no response.)

5 THE COURT: Is any member of the jury panel here who
6 served on the Grand Jury that indicted the Defendant in this
7 case, please stand.

8 (WHEREUPON, there was no response.)

9 THE COURT: Is there any member of the jury panel who
10 is a member of or contributor to any group which has as its
11 primary concern the promotion of law enforcement or victim's
12 rights?

13 These groups would include, but not be limited to SADD
14 or CAVE, if you please so stand.

15 (WHEREUPON, there was no response.)

16 THE COURT: Has any member of the jury panel or a
17 member of their immediate family been a victim of a violent
18 crime, if so, please stand.

19 (WHEREUPON, jurors respond.)

20 THE COURT: All right. Ma'am?

21 THE JUROR: Number 15.

22 THE COURT: Number 15?

23 THE JUROR: Uh-huh. (Affirmative).

24 THE COURT: Ma'am, can you be a fair and impartial
25 juror in this case?

1 THE JUROR: Yes.

2 THE COURT: All right. You may be seated. I think --
3 is that all?

4 Just one.

5 THE BAILIFF: No, one behind you.

6 THE COURT: Yes, ma'am, your number please?

7 THE JUROR: 165.

8 THE COURT: Ma'am, can you be a fair and impartial
9 juror in this case?

10 THE JUROR: I don't think I would.

11 THE COURT: You want to come forward?

12 THE JUROR: Yes.

13 (WHEREUPON, a bench conference was held with the juror
14 at this time.)

15 THE COURT: Does any member of the jury panel know of
16 any reason whatsoever why he or she should not serve as a
17 juror in this case with particular emphasis being placed on
18 your ability to be fair and impartial to both the State and
19 the Defendant, if so, please stand.

20 (WHEREUPON, jurors respond.)

21 THE BAILIFF: Come on. Come up on the line please.

22 THE COURT: Yes, sir.

23 (WHEREUPON, a bench conference was held with the juror
24 at this time.)

25 THE COURT: Ma'am?

1 THE BAILIFF: 162, Your Honor.

2 (WHEREUPON, a bench conference was held with the juror
3 at this time.)

4 THE COURT: To the lawyers, that's all I have to ask.
5 Anything else, gentlemen?

6 MR. GRIFFITH: Nothing from me, Your Honor.

7 SOLICITOR CORBETT: Nothing further from the State,
8 Your Honor.

9 THE COURT: All right. I'll -- y'all need a few
10 minutes?

11 Y'all need a few minutes?

12 SOLICITOR CORBETT: We're ready.

13 THE COURT: You ready?

14 MR. GRIFFITH: Please the Court.

15 One moment, Your Honor?

16 THE COURT: Yes, sir.

17 MR. GRIFFITH: Let me ask the clerk a question.

18 (Pause.)

19 MR. GRIFFITH: Ready, Your Honor.

20 THE COURT: All right, sir.

21 (Pause.)

22 THE BAILIFF: May it please the Court, Your Honor?

23 THE COURT: Yes, sir.

24 THE BAILIFF: Good morning again, ladies and gentlemen
25 of the jury panel.

1 we're gonna go through the same process what we did
2 yesterday for those who was here. I will call you by your
3 juror number and your name, and you'll come forward to the
4 podium, and face the back-door with your face, and turn your
5 back to me.

6 All right. Here we go.

7 Juror Number 64, Brandolyn Harris.

8 what say the State?

9 SOLICITOR CORBETT: Present the juror please.

10 THE BAILIFF: What say the defense?

11 MR. GRIFFITH: Please sit the juror.

12 THE BAILIFF: Have a seat in the jury box, ma'am.

13 And I forgot to mention, when you come forward, bring
14 your belongings with you just in case if you get selected as
15 a juror.

16 Juror Number 17, Jeffrey Boone.

17 what say the State?

18 SOLICITOR CORBETT: Present the juror please.

19 THE BAILIFF: What say the defense?

20 MR. GRIFFITH: Please present the juror.

21 THE BAILIFF: Have a seat, sir.

22 Juror Number 15, Jerod Stukes.

23 what say the State?

24 SOLICITOR CORBETT: Present the juror please.

25 THE BAILIFF: What say the defense?

1 MR. GRIFFITH: Please excuse this juror.

2 THE COURT: Have a seat back in the panel, sir.

3 Juror Number 14, Arthur Billups. McArthur.

4 What say the State?

5 SOLICITOR CORBETT: Present the juror please.

6 THE BAILIFF: What say the defense?

7 MR. GRIFFITH: Please present the juror.

8 THE BAILIFF: Have a seat in the juror box, sir.

9 Juror Number 134, Kathy Evans Rogerson.

10 What say the State?

11 SOLICITOR CORBETT: Present the juror please.

12 THE BAILIFF: What say the defense?

13 MR. GRIFFITH: Please excuse the juror.

14 THE BAILIFF: Have a seat back in the panel, ma'am.

15 Juror Number 151, Emma Strong.

16 What say the State?

17 SOLICITOR CORBETT: Present the juror please.

18 THE BAILIFF: What say the defense?

19 MR. GRIFFITH: Please seat the juror.

20 THE BAILIFF: Have a seat in the jury box, ma'am.

21 Juror Number 61, William R. Graham.

22 What say the State?

23 SOLICITOR CORBETT: Present the juror please.

24 THE BAILIFF: What say the defense?

25 MR. GRIFFITH: Please excuse the juror.

1 THE BAILIFF: Have a seat back in the panel, sir.

2 Juror Number 108, Thomas E. Mims, Junior.

3 what say the State?

4 SOLICITOR CORBETT: Present the juror please.

5 THE BAILIFF: what say the defense?

6 MR. GRIFFITH: Please excuse the juror.

7 THE BAILIFF: Have a seat back in the panel, sir.

8 Juror Number 67, Kimberly Henderson.

9 what say the State?

10 SOLICITOR CORBETT: Present the juror please.

11 THE BAILIFF: what say the defense?

12 MR. GRIFFITH: Please present the juror.

13 THE BAILIFF: Have a seat in the jury box, ma'am.

14 Juror Number 18, Shanice Bosier.

15 what say the State?

16 SOLICITOR CORBETT: Present the juror please.

17 THE BAILIFF: what say the defense?

18 MR. GRIFFITH: Please seat the juror.

19 THE BAILIFF: Have a seat in the jury box, ma'am.

20 Don't forget, ladies and gentlemen, when I call your

21 name, make sure you bring your belongings with you now.

22 Juror Number 131, Deborah Richardson.

23 what say the State?

24 SOLICITOR CORBETT: Present the juror please.

25 THE BAILIFF: what say the defense?

1 MR. GRIFFITH: Please seat the juror.

2 THE COURT: Have a seat in the jury box, ma'am.

3 Juror Number 127, Crystal Priest.

4 What say the State?

5 SOLICITOR CORBETT: Present the juror please.

6 THE BAILIFF: What say the defense?

7 MR. GRIFFITH: Please seat the juror.

8 THE BAILIFF: Have a seat in the jury box, ma'am.

9 Juror Number 29, Michelle Comfort.

10 What say the State?

11 SOLICITOR CORBETT: Present the juror please.

12 THE BAILIFF: What say the defense?

13 MR. GRIFFITH: Please excuse the juror.

14 THE BAILIFF: Have a seat back in the panel, ma'am.

15 Juror Number 94, Paul M. Lowrey.

16 What say the State?

17 SOLICITOR CORBETT: Present the juror please.

18 THE BAILIFF: What say the defense?

19 MR. GRIFFITH: Please seat the juror.

20 THE BAILIFF: Have a seat in the jury box, sir.

21 Juror Number 122, Raynathan Pearson.

22 What say the State?

23 SOLICITOR CORBETT: Excuse the juror please.

24 THE BAILIFF: Have a seat back in the panel, sir.

25 Juror Number 109, John M. Mitchiner.

1 what say the State?

2 SOLICITOR CORBETT: Present the juror please.

3 THE BAILIFF: What say the defense?

4 MR. GRIFFITH: Please excuse the juror.

5 THE BAILIFF: Have a seat, sir, back in the panel.

6 Juror Number 150, Gregory Stewart.

7 what say the State?

8 SOLICITOR CORBETT: Present the juror please.

9 THE BAILIFF: What say the defense?

10 MR. GRIFFITH: Please seat the juror.

11 THE BAILIFF: Have a seat in the jury box, sir.

12 Juror Number 22, Dajanae Brown-Watkins.

13 what say the State?

14 SOLICITOR CORBETT: Present the juror please.

15 THE BAILIFF: What say the defense?

16 MR. GRIFFITH: Please seat the juror.

17 THE BAILIFF: You may have a seat, ma'am, in the jury
18 box.

19 Juror Number 3, Terry Anderson.

20 what say the State?

21 SOLICITOR CORBETT: Excuse the juror please.

22 THE BAILIFF: Have a seat back in the panel, sir.

23 Juror Number 40, James A. Dixon, Junior.

24 what say the State?

25 SOLICITOR CORBETT: Present the juror please.

1 THE BAILIFF: What say the defense?

2 MR. GRIFFITH: Please seat the juror.

3 THE BAILIFF: Have a seat in the jury box, sir.

4 THE COURT: Two.

5 THE BAILIFF: Your alternate jurors.

6 Juror Number 137, Frank D. Sanders.

7 What say the State?

8 SOLICITOR CORBETT: Present the juror please.

9 THE BAILIFF: What say the defense?

10 MR. GRIFFITH: Please seat the juror.

11 THE BAILIFF: Have a seat in the jury box, sir.

12 Juror Number 56, Michael A. Gilbert, Junior.

13 What say the State?

14 SOLICITOR CORBETT: Present the juror please.

15 THE BAILIFF: What say the defense?

16 MR. GRIFFITH: Please seat the juror.

17 THE BAILIFF: Have a seat in the jury box, sir.

18 Your Honor, please the Court, I have seen that all

19 jurors has been selected and seated.

20 THE COURT: All right, Mr. Campbell.

21 Attorneys, may I speak to you please?

22 (WHEREUPON, a bench conference was held out of the
23 hearing of the jury at this time.)

24 THE COURT: To those of you who have been chosen, we
25 will now break for the midday meal as we call it, I call it.

1 Some of y'all call it lunch. I call it dinner. If you
2 would come back to your jury room and be there at 1:45.

3 Wait a minute. 1:15. Sorry. I take that back. 1:15.

4 That's an hour and a half, right, roughly?

5 THE BAILIFF: Yes, sir.

6 THE COURT: All right. 1:15. Be back in your jury
7 room. Please do not discuss this case with any person or
8 among yourselves and do not begin any deliberations. And if
9 you'll follow Mr. Haynesworth here, he'll show you where to
10 go.

11 Thank you.

12 (WHEREUPON, Court was in recess for the lunch hour.)

13 THE COURT: -- regarding her child. She is Number 5.

14 (Pause.)

15 THE COURT: All right. We're on the record, gentlemen.
16 I have the names of the alternates.

17 Okay. You picked that one?

18 All right. Who is that?

19 THE BAILIFF: Frank Sanders, 137.

20 THE COURT: Yeah, he was next in line anyway.

21 (Pause.)

22 THE COURT: All right. Then, gentlemen, do y'all mind
23 if I just send him to tell Ms. Henderson that she has been
24 released. Just call her out in the hallway and then tell
25 her, and then I -- when they come in, remind me to tell Mr.

1 Sanders he's now a member of the jury panel.

2 THE BAILIFF: Yes, sir.

3 SOLICITOR CORBETT: No objection.

4 THE COURT: Is that all right, gentlemen?

5 MR. GRIFFITH: Yes, sir.

6 THE COURT: All right. If you'll go take care of that,
7 sir.

8 THE BAILIFF: Yes, sir.

9 (WHEREUPON, the following takes place within the
10 presence of the jury panel.)

11 THE COURT: Anything before we start?

12 SOLICITOR CORBETT: Nothing from the State, Your Honor.

13 THE COURT: All right.

14 MR. GRIFFITH: Nothing from the defense, Your Honor.

15 THE COURT: Mr. Sanders, would you raise your hand?

16 (WHEREUPON, the juror complies.)

17 THE COURT: You are now a member of the 12 person jury
18 after the release of the other juror.

19 As for a foreperson, I will select that here shortly.

20 Ms. Brittany, you want to swear them, swear the jury?

21 (WHEREUPON, the jury panel was placed under oath at
22 this time.)

23 THE COURT: This is what you don't see on television,
24 what I'm getting ready, ready to do, or in those wonderful
25 movies, and I will do this at the end of this trial.

1 But before I read to you what we call a preliminary
2 charge, it is not my desire and you will not be here after
3 five o'clock. You have lives too. So, we may break before
4 5:00 or very close to 5:00. Only if we've got a live
5 witness that may be almost done, we will go past 5:00, but I
6 try my best to avoid that.

7 If any of you need to take a break for any reason,
8 raise your hand, and somebody will get my attention if I'm
9 not looking at you, and we'll stop. You don't have to give
10 a reason and we'll take a break.

11 We will take breaks in this trial roughly an hour, hour
12 and a half. It depends on where we are in testimony.

13 Now that said, what I will now say is intended to serve
14 as an introduction to the trial of this case. These remarks
15 are not a charge on the law in this case. I will instruct
16 you on the law at the end of the trial before you retire to
17 consider and decide this case.

18 Before the trial begins, I want to explain some
19 procedures that we will follow. You have been selected as
20 fair and impartial jurors whose purpose is to find and
21 determine the facts. You are the sole judges of the facts.
22 If at anytime I make any comment regarding the facts, you
23 are to disregard what I say.

24 You are to determine the facts from the testimony you
25 hear and any other evidence that is presented. You should

1 not be influenced by any opinions or statements you may have
2 heard outside the courtroom. It is especially important
3 that you perform your duty of determining the facts
4 diligently and conscientiously because ordinarily there is
5 no way to correct an erroneous determination of the facts by
6 a jury. When you comply with your oath to impartially
7 determine the facts of this case, you will have fulfilled
8 your duty as jurors, and no one will have the right to
9 criticize your verdict.

10 On the other hand, the same law that makes you the
11 judge of the facts makes me a judge of the law. The law, as
12 given by this Court, is the only law you may consider. You
13 must accept and follow it even though you may disagree with
14 it.

15 I can not tell you what the facts are, and you can not
16 disagree with me about what the law is or should be. Your
17 job is to take the law as I give it to you, and apply it to
18 the facts as you find them from the testimony of the
19 witnesses and any other evidence presented. After doing
20 that, you will render your verdict, a true and just verdict,
21 under the solemn oath you took as jurors just a few minutes
22 ago.

23 Until I advise you to begin deliberation, you must not
24 discuss this case with anyone including your fellow jurors,
25 friends, family members, and anyone involved in this case.

1 This includes discussions face to face and those by
2 telephone, email, text, or any other method of
3 communication. You may not use a computer, a cellular
4 phone, or other electronic device with communication,
5 communication capabilities at anytime while in the courtroom
6 or during deliberations. You must not use these devices to
7 send or receive information about this case. This includes
8 information about a party, a witness, a lawyer, or a Court
9 officer, news accounts about the case, or research on any
10 topics related, any topics you think would be helpful in
11 deciding the case or any testimony presented by any witness.

12 During the trial, do not read, listen to, or watch any
13 news reports about this case. This includes anything that
14 may be in the newspapers or on the Internet, radio, or
15 television. You must not consider anything you may have
16 read or heard about this case outside the courtroom whether
17 before or during the trial. After this case is submitted to
18 you, you must discuss it only in the jury room with your
19 fellow jurors.

20 The attorneys and the parties in this case have been
21 advised and know they're not allowed to talk with you at all
22 during this trial. It is important that you keep an open
23 mind and not decide any issue in this case until all of the
24 evidence has been presented, the parties have made their
25 closing arguments, and I have instructed you on the law in

1 this case.

2 In just a moment the solicitor will make what is called
3 an opening statement in which the solicitor will explain to
4 you the issues in this case or at least what the solicitor
5 thinks the issues are in this case. The attorney for the
6 Defendant will also make an opening statement. What these
7 attorneys will tell you during their opening statements is
8 not evidence in this case. It is only their contention as
9 to what the issues are. The evidence in this case will be
10 presented to you by the testimony of sworn witnesses from
11 the witness stand and/or by exhibits that may be introduced
12 into evidence.

13 From time to time during the trial you may hear one of
14 the lawyers say that they have a question of law or a matter
15 of law to discuss with the Court. Sometimes I might myself
16 have to excuse you from the courtroom so that I can discuss
17 matters of law with the attorneys. This is to keep your
18 duty, your responsibility and mine separate and apart.

19 Again, I am not suppose to tell you what I think the
20 facts are. So I will excuse you from the courtroom when
21 those discussions take place so that you will not be
22 influenced by anything I might say or do in connection with
23 the facts.

24 In determining what the true facts are in this case,
25 you must decide whether or not the testimony of the witness

1 is believable. It will be my responsibility to rule as a
2 matter of law as to whether certain testimony is allowed at
3 all or not. But once the testimony is allowed and admitted,
4 whether or not you believe it is solely for you to
5 determine.

6 In deciding whether to believe a witness, you have the
7 right to consider whether the witness has an interest in the
8 result of this trial, whether the witness is prejudiced
9 toward either the -- party, the opportunity for the witness
10 to have seen the matters and things about which the witness
11 may testify, and the way the witness acts on the witness
12 stand. You have a right to consider anything that is in the
13 record that will help you evaluate the testimony of the
14 witnesses.

15 That means that it is your duty to pay close attention
16 to these witnesses, to observe the witnesses, to listen to
17 them, and to pay close attention to the attorneys and to the
18 Court. Don't let your thoughts wonder, but pay strict
19 attention to the testimony in this case so that, at the end
20 of this trial, you will be able to determine what the true
21 facts are, to apply the law to those facts, and render a
22 true and just verdict.

23 In order to preserve everyone's rights, I will give the
24 parties an opportunity to object to anything I have thus
25 said.

1 Gentlemen.

2 SOLICITOR CORBETT: No objection from the State.

3 MR. GRIFFITH: No objection, Your Honor.

4 THE COURT: All right. I thank you very much.

5 Mr. Corbett.

6 SOLICITOR CORBETT: Thank you, Your Honor.

7 Ladies and gentlemen, good afternoon.

8 Many years ago I had someone tell me, when you talk,
9 you walk back and forth so much I couldn't hear what you
10 were saying. So, I've begun using this as an anchor, and I
11 sometimes pull against the anchor, but I will try not to
12 walk so much that you can't hear what I'm saying.

13 Opening statements, an opportunity for me to tell you a
14 little bit about what I believe that the evidence is going
15 to show because, once you hear that evidence, it then falls
16 to you to exercise that portion of your oath where it says
17 to well and truly try the facts of the case, and that is for
18 you to determine from evidence that you will see and
19 evidence that you will hear.

20 November 29th of 2018, Keosha McDonald is working a
21 relatively short shift that evening. Gets in a little
22 before 7:00. She's gonna be clocking out around ten o'clock
23 at the Speedway Convenience Store. Ironically enough, it's
24 not very far from where we sit now. The road right here in
25 front of the courthouse is called Harvin Street. We're

1 sitting at 215 North Harvin. And if you go back to Harvin
2 and you turn right, it dead ends into Calhoun Street. If
3 you turn left on Calhoun, you go up, you cross over North
4 Main, you go another block, Tuomey Hospital's on your left,
5 and you come to Washington Street. You turn right onto
6 Washington Street.

7 I've been coming to Sumter for 50 years. So, I've
8 always known it as the Mount Vernon Inn, that's still the
9 name, will be on your left. You go around the curve, and as
10 you go around the curve, it turns into Broad Street, and
11 right there, as soon as you clear that curve, is Church
12 Street crossing over Broad. There's a Speedway Gas Station
13 sitting right there on the right, the corner of Broad and
14 Church Street.

15 That evening Keosha McDonald is working. Nineteen
16 years old out there earning a living doing what she's
17 suppose to do.

18 Approximately 9:00PM she suffers what no one who works
19 a retail job wants to suffer. Three men come into that
20 store. One of them immediately approaches the counter, asks
21 for something. As she's attempting to do her job, gun in
22 her face. Second person comes to the counter. Gun in her
23 face. They come over the counter and are now taking money
24 out of the cash register. Third individual standing by the
25 door. Then he will approach and you see him point a gun at

1 a 19-year old who's just trying to make a living.

2 That's what happened on that night. You know, the
3 thing about cases like this is, when you're use to watching
4 them on TV, they've got writers who write them out, and they
5 create all of the characters. But this isn't a TV episode.
6 This is real life and bad things happen in short periods of
7 time.

8 They weren't in there but a couple of minutes maybe,
9 and they came up in there, robbed her.

10 Now, we call it armed robbery, and we call it
11 possession of a weapon during the commission of a violent
12 crime. But the way that we say it in our every day language
13 is they robbed her while they had guns.

14 Keosha McDonald didn't go back to work there anymore.
15 She couldn't do it. You know, it reminds me of something
16 that an older gentleman told me happened to him many, many
17 years ago. This would of been back late '50s, early '60s,
18 and, and it's a story. I'm not talking about the specific
19 caliber, but he, he -- I remember him telling me one time,
20 if you don't think a .22 pistol, pistol is this big around,
21 have one pointed at you. Imagine how big a gun barrel looks
22 when it's pointed at you.

23 So, what happens?

24 well, there's surveillance footage in this store. It's
25 actually pretty good surveillance footage. So this

1 afternoon you guys are gonna watch surveillance footage.
2 we're gonna put you in the store when it happened.

3 Now, I'm gonna admit to you that it's gonna be a little
4 tedious because there's so many cameras that we have to
5 watch it, switch to the different camera, watch it, switch
6 to another camera, and watch it. So I admit to you that's
7 gonna be a little tedious.

8 But I want you to see the whole picture. I want you to
9 see what we've got, the different camera angles in that
10 store.

11 Two of the individuals had their face covered. One was
12 wearing a hoodie. Didn't have his face covered. Detective
13 McFadden of the Sumter Police Department, they took that
14 videotape and they copy a single still picture off it, and
15 they -- I think the phrase we use nowadays is they pushed it
16 out to the media.

17 They got a tip. Got a tip on that. Did a photo -- a
18 lineup with the witness in this case. Davnus Toney was
19 arrested. They interviewed Davnus Toney. Subsequent to
20 that, Jamacia Simon and Curtis Pearson were arrested.

21 Jamacia Simon, Davnus Toney, they have pled guilty.
22 You're gonna hear from Davnus Toney. I'm not certain
23 whether it will be today or tomorrow, but you will hear from
24 him more than likely today, and he will describe to you the
25 individuals in that store, including Curtis Pearson, who

1 went there that night to rob somebody of what money was in
2 the cash register. A straight up armed robbery.

3 Ladies and gentlemen, when you listen to the facts of
4 this case, I believe what the evidence will show you is that
5 Curtis Pearson was in that store and he had a gun.

6 Thank you.

7 THE COURT: Mr. Griffith.

8 MR. GRIFFITH: Ladies and gentlemen of the jury, thank
9 you very much for your service. We couldn't do it without
10 you. We really couldn't. And, in this country, of course,
11 you're innocent until the State proves, beyond a reasonable
12 doubt, that you're guilty.

13 Armed robbery is a horrible crime. It's a scary crime.
14 I was working at Krogers. I was the only guy in the front.
15 Everybody else was at lunch. It was the night shift except
16 one guy in the back. I was robbed. Armed robbery. Wasn't
17 any fun at all.

18 And so it is a terrible crime. We can't let the fact
19 that it's a terrible crime make you think well, they've
20 accused a guy of it, he must of done it.

21 That's not the way it works. They have to prove,
22 beyond a reasonable doubt, that it definitely was
23 Mr. Pearson.

24 Mr. Pearson tells me that he was not there.

25 SOLICITOR CORBETT: Objection, Your Honor.

1 THE COURT: Yes, sir.

2 SOLICITOR CORBETT: May we approach?

3 THE COURT: Yes, sir.

4 (WHEREUPON, a bench conference was held out of the
5 hearing of the jury at this time.)

6 THE COURT: Members of the jury, regarding the last
7 statement made by Mr. Griffith about what his client told
8 him, I am instructing you to totally disregard that comment
9 and give it no weight whatsoever later.

10 Is that satisfactory, Mr. Corbett?

11 SOLICITOR CORBETT: Thank you, Your Honor. Yes, sir.

12 THE COURT: Proceed, sir.

13 MR. GRIFFITH: My client has entered a plea of not
14 guilty in this charge, and you'll hear from witnesses, and,
15 of course, the only person who was able to identify these
16 robbers was the clerk who was at the store, and one of them
17 had no mask on for some reason and was identified quite
18 easily, and, when that person was caught, they knew they
19 were going down.

20 And so they're going down. They want to make sure that
21 they don't go down all the way because later the Judge will
22 inform you of the law as to what the consequences are for
23 armed robbery, and so, of course, he wanted to make a deal.
24 So, they said well, you name some names. Now you got
25 yourself a deal, and he started naming names.

1 Unfortunately, he named just anybody he could to get
2 out of it. Wasn't gonna name his friends more than likely.
3 But he might name people he didn't like that well. And so
4 he's getting consideration for naming names.

5 But other than that, the State has no evidence
6 whatsoever that Mr. Pearson was anywhere near there or had
7 anything to do with this crime. The State must prove,
8 beyond a reasonable doubt, that he was involved, and if they
9 can not prove that, then you can not find him guilty. You
10 should find him not guilty.

11 And, as I said, armed robbery is a horrible crime, but
12 don't let that fact make you think it's a horrible crime,
13 he's, he's been charged, okay, well, he's guilty obviously.
14 No, he doesn't have to prove anything. Mr. Pearson does not
15 have to prove that he is innocent. All he's got to do is --
16 the State must prove that he is guilty, and he has pled that
17 he is not guilty of this charge.

18 And I thank you so much again for helping us with this,
19 and hopefully we won't keep you too long. But I hope that
20 you will consider all of the evidence, and weigh it heavily
21 on both sides, and come up with the correct verdict.

22 Thank you.

23 THE COURT: Mr. Corbett.

24 SOLICITOR CORBETT: Yes, Your Honor.

25 The State would call Keosha McDonald.

Keosha McDonald - Direct examination
By Solicitor Corbett

1 THE BAILIFF: Place your left-hand on the Bible.

2 (WHEREUPON, the witness complies.)

3 THE BAILIFF: Raise your right-hand.

4 (WHEREUPON, the witness complies.)

5 THE BAILIFF: State your name.

6 THE WITNESS: Keosha McDonald.

7 KEOSHA McDONALD, being first duly
8 sworn, testified as follows:

9 THE BAILIFF: Thank you much. Step around. Watch your
10 step.

11 (WHEREUPON, the witness complies.)

12 THE BAILIFF: State your name for the record and spell,
13 spell your last name please.

14 THE WITNESS: Keosha McDonald. M-C-D-O-N-A-L-D.

15 DIRECT EXAMINATION

16 BY SOLICITOR CORBETT:

17 Q Miss McDonald, good afternoon.

18 A Hello.

19 Q How are you doing today?

20 A I'm good. Thank you.

21 Q I'm gonna stand a little bit down here to kind of
22 encourage you to speak loudly in this direction.

23 okay?

24 A (WHEREUPON, there was no audible response.)

25 Q All right. You've told us your name. Now I want you

1 to back us up to November 29th, 2018.

2 where were you working at that time?

3 A At Speedway in Sumter.

4 Q Okay. Now tell us where that's located.

5 A So it will be like right where Church Street and
6 Barnett Street meets.

7 Q Okay. Now, I know this is going to come across to you
8 as a silly question. But that's located here in the City of
9 Sumter.

10 Is that correct?

11 A Correct.

12 Q And that's also located here in Sumter County?

13 A Right.

14 Q Okay. Now, on this particular day, do you remember
15 about what time your shift was?

16 A Yeah, it will be -- been about 7:00 to 10:00.

17 Q Okay. And so you were working that night.

18 Is that correct?

19 A Right.

20 Q Okay. And let me ask you, does the store have video
21 surveillance?

22 A Correct.

23 Q Okay. Now I'm going to apologize in advance. This is
24 gonna be a little bit tedious, but I want you to look at
25 something with me please, ma'am.

1 Do you have any objection to the video?

2 MR. GRIFFITH: No.

3 Without objection, Your Honor.

4 (WHEREUPON, the video was marked as State's Exhibit No.
5 1 for identification purposes only at this time.)

6 THE COURT: All right sir.

7 Q Now, they're several different versions of this, and I
8 want you to watch this with me.

9 A Uh-huh. (Affirmative).

10 SOLICITOR CORBETT: And, Judge, I -- if you would,
11 please bear with me a moment. My computer seems to only
12 freeze up when I'm in Court.

13 (Pause.)

14 Q Now, Miss McDonald, while I'm waiting for this computer
15 to hopefully finish thinking, can you describe what we're
16 here in this picture?

17 A Right now you'll see my register closer on the left,
18 and I'm currently around a different corner. So you can't
19 really see me yet but that's the store.

20 SOLICITOR CORBETT: Judge, if I may, I'm gonna try to
21 close this and reopen it.

22 THE COURT: Yes, sir.

23 (Pause.)

24 SOLICITOR CORBETT: Your Honor, my apologies.

25 May I have just a brief recess?

1 THE COURT: Yes, sir.

2 SOLICITOR CORBETT: I've got someone in my office
3 younger than me.

4 THE COURT: All is well, sir.

5 SOLICITOR CORBETT: Okay, sir.

6 THE COURT: All is well.

7 Members of the jury, so that you're -- have some degree
8 of freedom, I'm gonna send you back to your jury room, and
9 once we are ready, we will come get you. Do not during
10 deliberations and do not discuss this case among yourselves
11 please.

12 Thank you.

13 (WHEREUPON, a short recess was taken at this time.)

14 (WHEREUPON, the following takes place within the
15 presence of the jury.)

16 THE COURT: All right. Mr. Corbett, sir.

17 SOLICITOR CORBETT: Thank you, Your Honor.

18 Your Honor, my apologies. I think we have it working.

19 THE COURT: None needed, sir.

20 CONTINUED DIRECT EXAMINATION

21 BY SOLICITOR CORBETT:

22 Q Now, Miss McDonald, we were talking earlier about the
23 picture that you see there in front of you now.

24 Is that correct?

25 A Correct.

1 Q And I believe you indicated you were using the register
2 which would be on the left in this picture?

3 A Right.

4 Q Okay. I'm going to go ahead and allow this video to
5 play, and I'm gonna let it play through. And then, if we
6 need to go back and look at any particular frames, we can
7 certainly do that.

8 (WHEREUPON, a portion of the video was played at this
9 time.)

10 Q Now, Miss McDonald, I have paused it here for just a
11 moment.

12 The individual here behind the counter, who is that?

13 A That would be Davnus Toney.

14 Q No, I'm sorry. Behind the counter.

15 A Oh, me. Me.

16 Q That's you?

17 A Uh-huh. (Affirmative).

18 Q Okay. Now, there's an individual at the counter.

19 Is that correct?

20 A Yes, sir.

21 Q Okay. So, when they first approach the counter, you
22 were in a different part of the store?

23 A Correct.

24 Q And then you came back to the register?

25 A Right.

1 Q Okay. If you would, continue to watch with us.

2 (WHEREUPON, a portion of the video was played at this
3 time.)

4 Q Now, Miss McDonald, I'm going to back this up for a few
5 moments. I want to ask you a few questions about what we're
6 looking at.

7 (Pause.)

8 Q All right. Walk us through what's happening here at
9 the cash register when the first individual approaches.

10 A Well, I approached him and then he asked for a box of
11 cigarettes. So, I grabbed the cigarettes and I believe I
12 was fixing to bring them up, and then at the moment is where
13 he -- wait, no. I asked him -- he asked if he could -- I
14 needed to see his ID. I said yeah and then I guess he like
15 pretend to pull out the ID, and that was the moment where he
16 pulled out the gun.

17 Q Okay. Now, I'm gonna, I'm gonna try to advance it
18 slowly here.

19 A Uh-huh. (Affirmative).

20 Q So, that's you retrieving the cigarettes.

21 A Yeah.

22 Q Okay. Now, what's that the, the Defendant has, this,
23 this individual here?

24 A It appeared to be a gun.

25 Q Okay. Okay. Now, at this point, what's going through

1 your mind?

2 A I was scared and shocked.

3 Q Okay. Okay. Do you recall anything being said at this
4 point or what is going on?

5 A Just a lot of yelling like telling me to give him the
6 money and kind of like rushing me.

7 Q Now, do you see my arrow on screen?

8 A Uh-huh. (Affirmative).

9 Yeah.

10 Q There's another that person comes into view.
11 Is that correct?

12 A Correct.

13 Q Okay. Could -- are you able to tell if that person had
14 a weapon?

15 A Yeah.

16 Q Okay. Okay. And that's what we see right here?

17 A Correct.

18 Q Okay. Now, that individual, was their face covered?

19 A Yeah.

20 Q But the first one was not?

21 A Correct. It wasn't.

22 Q Okay. So, the -- what's going on here?

23 A At that moment I'm probably -- well, I was opening the
24 register. So, I was just putting in the code at that
25 moment.

1 Q Okay. Okay. The register is now opened?

2 A Uh-huh. (Affirmative).

3 Yeah.

4 Q Okay. And the second individual is -- that's the same
5 person who was on the other side of the counter?

6 A Correct.

7 Q Okay. Do you even remember how many times the gun -- a
8 gun was pointed at you?

9 A No.

10 Q Okay. Okay. Now, where are you in this frame?

11 Are you able---

12 A In that frame I'm probably closer against the wall.

13 Oh, over here. Yeah, closer against the wall --

14 Q Okay.

15 A -- like around the right.

16 Q What, what were you doing at this point?

17 A At that point I was just kind of pacing cause I was
18 just still so shocked and scared I just didn't really know
19 what to do. So, I was just kind of pacing.

20 Q Now, how many individuals did you see in the store that
21 evening?

22 A I seen three.

23 Q Okay. Okay. So, this is you over here on this -- what
24 would be the right-hand side?

25 A Right.

1 Q Okay. All right. Now, we also see an individual here.
2 Is that correct?

3 A Correct.

4 Q And what does that appear to be in their hand?

5 A A gun.

6 Q Okay. Now, I -- now I see that you're on the floor.

7 A Uh-huh. (Affirmative).

8 Q What's, what's kind of your thought process at this
9 point?

10 A I was kind of scared. I didn't know if he was gonna
11 like shoot me or not. So, I just kind of got on the floor.

12 Q Miss McDonald, take your time. It's okay.

13 (Pause.)

14 Q Okay. Tell us what's going on at this point.

15 A At that point I was going back to lock the door.
16 Before that I believe I pressed the panic button, and then I
17 was going back to lock the door --

18 Q Okay.

19 A -- cause I just kind of sat there for a minute before
20 getting up.

21 Q Okay. Now, did you call anyone that evening?

22 A I called the police.

23 Q Okay. And by way of 9-1-1?

24 A Yeah.

25 Q Okay. Okay. How old, how old were you when this

1 happened?

2 A Nineteen.

3 Q Okay. Now, I want you to bear with me. We're gonna
4 look at a couple different cameras views.

5 okay?

6 A Okay.

7 Q Now, what are we looking at in this video?

8 A That would be the entrance---

9 Q At---

10 A ---of the store.

11 Q The entrance of the store?

12 A Yeah.

13 Q Now, what, what did we see in this video?

14 A I'm sorry.

15 would you be able to play it again?

16 Q Sure. Let me do this.

17 MR. GRIFFITH: Object, Your Honor. He has not
18 established whether she saw this actually or, or this is
19 just a video.

20 THE COURT: well, he asked her if she -- what was your
21 question, Mr. Corbett?

22 SOLICITOR CORBETT: I was gonna ask her to walk us
23 through what we see in this video.

24 THE COURT: Okay. And, Mr. Griffith---

25 MR. GRIFFITH: I---

1 THE COURT: ---your objection is what, sir?

2 MR. GRIFFITH: She didn't -- did she actually see these
3 events or is this just something on a video. She's
4 speculating about what is happening here. It calls for
5 speculation as to what's happening if she didn't actually
6 see it herself --

7 THE COURT: I'm gonna overrule that, sir.

8 MR. GRIFFITH: -- when it happened.

9 THE COURT: Overruled.

10 SOLICITOR CORBETT: And, Judge, I will, I will attempt
11 to rephrase.

12 THE COURT: Yes, sir.

13 Q Okay. Now, Miss McDonald, this is a video from the
14 store that night.

15 Is this correct -- that correct?

16 A Correct.

17 Q Okay. As we watch, is this the individual who first
18 approached the cash register?

19 A Correct.

20 Q Okay. Is that an individual that you later identified
21 in a photo lineup?

22 A Correct.

23 Q Okay. Now, what we see here in the video, is that the
24 second individual that approached your cash register?

25 A Yes.

1 Q Okay. Masked consistent, clothing consistent?

2 A Correct.

3 Q Did you ever see this person in the store?

4 A I did.

5 Q Okay. And you were behind the counter at the time they
6 fled from in the store.

7 Is that correct?

8 A Correct.

9 Q Okay. Now, the person there in the background, who is
10 that?

11 A Right here?

12 Q Right there where my arrow is.

13 A Me.

14 Q Okay. So, when this individual entered, you were
15 actually back here doing some other work?

16 A Yeah.

17 Q Okay. Now, when we see you come by, where are you
18 going at that time?

19 A I'm going up to the register.

20 Q Okay. Again, this is video from that night?

21 A Correct.

22 Q Now, Miss McDonald---

23 A Uh-huh. (Affirmative).

24 Q ---what we're watching here is different cameras angles
25 of the same event.

1 Is that correct?

2 A Right.

3 Q All right. Is that you walking back to the cash
4 register?

5 A Yeah.

6 Q Just a different prospective than the earlier videos?

7 A Yeah.

8 Q Okay. And there would of been multiple cameras
9 catching multiple angles of this.

10 Is that correct?

11 A Correct.

12 Q Now, are you able to identify what this picture is?

13 A Yeah, that's the same setting as the store.

14 Q Okay. This is your cash register area?

15 A Yeah.

16 Q Okay. Miss McDonald, did those camera angles capture
17 the, the bulk of what happened that evening?

18 A Yes.

19 Q Now, what -- I, I apologize for questions sounding
20 obvious after watching that.

21 A Uh-huh. (Affirmative).

22 Q What did they take from the store?

23 A They took the money from the cash register and my cell
24 phone.

25 Q They took your cell phone?

1 A Yeah.

2 Q So, one of the ways that you could of called for help?

3 A Yeah.

4 Q Okay. Again, I apologize for asking a, a, a silly
5 sounding question.

6 Did, at any point in time, you give them consent to
7 have firearms in the store or to take the money from the
8 store or point weapons at you?

9 A No, sir.

10 Q Okay. Did you know who these people were while this
11 was going on?

12 A No, sir.

13 Q Okay. Now, ultimately the police arrived on scene.
14 Is that correct?

15 A Correct.

16 Q And you had a chance to speak with investigators?

17 A Yeah.

18 Q After the actual night and the, the following -- the
19 time following that, what, if any, other participation did
20 you have in this case?

21 A The lineup. Like picking a person out of the lineup.

22 Q Okay. Now, of the -- you saw the three individuals in
23 the camera -- in the video?

24 A Yeah.

25 Q Which one of them did you pick out of the lineup?

1 A Davnus.

2 Q Okay. So you now know the individual to be Davnus
3 Toney?

4 A Yeah.

5 Q Okay. Is that the one without the mask?

6 A Correct.

7 Q Okay. Wearing the hoodie with no mask?

8 A Yeah.

9 Q Okay. Now, were you able to positively identify the
10 other two?

11 A No.

12 Q Okay. All right. Prior to this -- and you indicated
13 where -- as they were in the store, you didn't -- at that
14 time you did not know who they were?

15 A No.

16 Q Okay. Did you have any knowledge of them after the
17 fact?

18 A Of Curtis, yeah.

19 Q Okay. What do you mean by that?

20 A I knew that he was the manager's daughter's boyfriend.
21 So that would be the only knowledge I've had of him.

22 SOLICITOR CORBETT: Okay. Your Honor?

23 THE COURT: Yes, sir.

24 SOLICITOR CORBETT: The video is also continued on a
25 disk. A copy of which was previously provided to

1 Mr. Griffith.

2 THE COURT: All right.

3 SOLICITOR CORBETT: I have marked the disk as State's
4 No. 1 for identification and -- at this point in time. But
5 we would now offer that into evidence.

6 THE COURT: Mr. Griffith.

7 MR. GRIFFITH: Without objection, Your Honor.

8 THE COURT: All right. Without objection. In.

9 (WHEREUPON, State's Exhibit No. 1 was received into
10 evidence at this time.)

11 Q Miss McDonald, thank you. Please answer any questions
12 that Mr. Griffith might have for you.

13 okay?

14 A Okay.

15 CROSS-EXAMINATION

16 BY MR. GRIFFITH:

17 Q Miss McDonald, I apologize for you having to go through
18 that. As, as I -- you may have heard me telling the jury in
19 my opening, I was the victim of an armed robbery when I was
20 19-years old working at a store. But -- and so I know it's
21 not easy and I'm sorry.

22 But just to, to go over again, you only could identify
23 one person?

24 You only -- you could only identify one face during
25 this robbery.

1 Isn't that correct?

2 A Correct.

3 Q And you picked that face out of a photo lineup.

4 Is that correct?

5 A Correct.

6 Q And that face ultimately turned out to be a man named

7 Mr. Toney.

8 Isn't that correct?

9 A Correct.

10 Q And that was, that was not Mr. Pearson.

11 Isn't that correct?

12 A Correct.

13 Q At no time did you ever see -- could you identify

14 Mr. Pearson during that robbery.

15 Isn't that correct?

16 A Correct.

17 MR. GRIFFITH: I have no further questions. Thank you.

18 THE COURT: Mr. Corbett.

19 SOLICITOR CORBETT: Nothing on redirect, Your Honor.

20 THE COURT: All right. You may step down, ma'am.

21 Thank you.

22 THE WITNESS: Okay.

23 SOLICITOR CORBETT: Your Honor, may counsel and I
24 approach?

25 THE COURT: Yes, sir.

1 (WHEREUPON, a bench conference was held out of the
2 hearing of the jury at this time.)

3 SOLICITOR CORBETT: Your Honor, may it please the
4 Court?

5 THE COURT: Yes, sir.

6 SOLICITOR CORBETT: State's next witness will be Davnus
7 Toney. We'll just take a moment to have him brought into
8 the courtroom.

9 THE COURT: Yes, sir.

10 (Pause.)

11 SOLICITOR CORBETT: Your Honor, may I approach briefly?

12 THE COURT: Yes, sir.

13 Do I need Mr. Griffith?

14 SOLICITOR CORBETT: I, I alerted him to what this was
15 about.

16 THE COURT: I would -- Mr. Griffith, come on up just
17 for a second.

18 (WHEREUPON, a bench conference was held out of the
19 hearing of the jury at this time.)

20 THE BAILIFF: State your name for the record, and spell
21 your last name please.

22 THE WITNESS: Davnus, Davnus Toney. T-O-N-E-Y.

23 DIRECT EXAMINATION

24 BY SOLICITOR CORBETT:

25 Q Mr. Toney, good afternoon.

1 Mr. Toney, are you one of three individuals who were
2 involved in an armed robbery at the Speedway Store on Broad
3 Street back in November of 2018?

4 A Yes, sir.

5 Q Okay. If you would, please tell us where had you been
6 prior to going to the Speedway Store?

7 A I was at a spot on Croswell.

8 Q Okay. How far is that from the Speedway?

9 A About 3-miles.

10 Q Who were you with at that location?

11 A I was by myself at the moment.

12 Q Okay. Okay. Later on in the evening did you have
13 occasion to go to the Speedway Store?

14 A No, sir.

15 Q Okay. At that night did you go to the Speedway Store?

16 A Yes, sir.

17 Q Okay. Do you remember about what time that you would
18 have gone to the Speedway Store?

19 A No, sir.

20 Q Okay. Was it dark outside?

21 A Yes, sir.

22 Q Okay. So it was in the evening hours?

23 A Yes, sir.

24 Q Okay. How did you get there?

25 A I walk.

1 Q Okay. Well, you walked from the Crosswell location or
2 did you go to another location first?

3 A No, I walked from the Crosswell location.

4 Q Okay. Now, did you walk with anyone?

5 A Yes, sir.

6 Q All right. Who is that?

7 A Curtis Pearson and Jamacia Simon.

8 Q Okay. Now, did the three of you go to the Speedway
9 Store?

10 A Yes, sir.

11 Q All of you?

12 A Yes, sir.

13 Q Okay. Matter of fact, you went in that store and
14 produced what looked like a pistol.

15 Is that correct?

16 A Not at first, sir.

17 Q Okay. Did you ultimately do that?

18 A Yes, sir.

19 Q Okay. And took money from the store?

20 A Yes, sir.

21 Q Okay. Now, you were ultimately charged with that
22 crime.

23 Is that correct?

24 A Yes, sir.

25 Q Okay. And, matter of fact, earlier today you pled---

1 MR. GRIFFITH: Object to -- Your Honor, most of his
2 questions are, are leading this witness. Leading.

3 THE COURT: Mr. Corbett.

4 SOLICITOR CORBETT: I will try to rephrase, Your Honor.

5 THE COURT: Okay. Please do. Thank you.

6 Q Mr. Toney, as a result of your actions that November
7 evening, were you charged?

8 A I don't understand your question.

9 Q Were you charged with a crime?

10 Were you arrested?

11 A Yes, sir.

12 Q Okay. What were you arrested for?

13 A Armed robbery.

14 Q Okay. Now, what has, what has happened to your armed
15 robbery charge?

16 A Nothing. I just plead guilty to it.

17 Q Okay. So, you pled guilty to armed robbery.

18 Is that correct?

19 A Yes, sir.

20 Q Okay. Now, why did you plead guilty to the armed
21 robbery charge?

22 A Because I was on camera with no mask.

23 Q Okay. All right. Now, with regard to your armed
24 robbery charge, you have pled guilty. Is that -- as you
25 just said.

1 Is that correct?

2 A Yes, sir.

3 Q Okay. Did -- prior to -- well, let, let -- prior to
4 right now, when is the, the first time you saw me?

5 A I don't even remember.

6 Q Okay. So, but we've never talked.

7 Is that correct?

8 A No, sir.

9 Q All right. You saw me earlier today?

10 A Yes, sir.

11 Q Okay. Did you have a bond hearing at some point?

12 A Not at first.

13 Q Okay. Did you ultimately have a bond hearing?

14 A Yes, sir, a couple months later.

15 Q Okay. All right. And, and I, I apologize cause I
16 don't know the answer to this.

17 Was I at your bond hearing?

18 A I don't remember.

19 Q Okay. All right. But in any event, today you entered
20 a guilty -- a plea of guilty to armed robbery.

21 Is that correct?

22 A Yes, sir.

23 Q Okay. Now, prior to that happening today, was there
24 anyone who threatened you, coerced you, or promised you
25 something in order for you to do that?

1 A No, sir.

2 Q Okay. Now, it's no secret that you're hoping that, by
3 cooperating here today, that that will be of benefit to you
4 at the time of sentencing.

5 Isn't that true?

6 A Yes, sir.

7 Q Okay. You're hoping that, by coming in here and
8 testifying, that that will help you down the road?

9 A I hope so.

10 Q But you have no guarantees of that?

11 A No, sir, I'm not a violent person.

12 Q Okay. Now, you indicated that you walked from
13 Crosswell to the Speedway?

14 A Yes, sir.

15 Q Okay. Bear with me one moment. I'm gonna have someone
16 assist me with my computer.

17 (Pause.)

18 Q Now, when you left the Crosswell location walking to
19 the Speedway Store, some couple -- several miles away I
20 believe you said.

21 Is that correct?

22 A Yes, sir.

23 Q Okay. When you left the Crosswell location, was
24 anyone -- did anyone leave with you?

25 A Yes, sir.

1 Q who is that?

2 A Curtis Pearson and Jamacia Simon.

3 Q Okay. why did the three of you leave Crosswell walking
4 to the Speedway?

5 A To go rob a store.

6 Q That was the plan, wasn't it?

7 A It wasn't a plan. But it just happened.

8 Q Okay. All right. well, let me ask you this. Two of
9 the three of you were wearing masks.

10 Is that correct?

11 A Yes, sir.

12 Q All of you either had or had what appeared to be a
13 handgun.

14 Is that correct?

15 A No, sir, B.B. guns.

16 Q A handgun or what appeared to be a handgun?

17 A Yes, sir.

18 Q Is that correct?

19 A Yes, sir.

20 Q Okay. So, all three of you had that because we see
21 that -- you've seen the video, right?

22 A Yes, sir.

23 Q And that's apparent on the video?

24 A Yes, sir.

25 Q Okay. So, when the three of you left Crosswell, it

1 wasn't by chance that you had masks and either handguns or
2 what appeared to be handguns with you?

3 A No, sir.

4 MR. GRIFFITH: Objection, Your Honor. He continues to
5 lead.

6 THE COURT: Mr. Corbett.

7 I don't see that much of a leading question though.

8 MR. GRIFFITH: Your Honor, he's telling the story and
9 asking him to agree that yeah, that's the story.

10 SOLICITOR CORBETT: Judge, I'll try to rephrase.

11 THE COURT: If you could, sir, just for the sake of
12 moving on.

13 Q Mr. Toney, I, I apologize. Let me back up for just a
14 little bit. You left the Crosswell location.

15 Is that correct?

16 A Yes, sir.

17 Q Going where?

18 A Going to the Speedway.

19 Q Okay. Which Speedway?

20 A It's only one. On Broad Street.

21 Q On Broad Street.

22 Who were you with?

23 A I was with Curtis Pearson and Jamacia Simon.

24 Q What was the purpose for you going there?

25 A I was going to get cigarettes.

1 Q Going to get cigarettes.

2 what was the other purpose for going there?

3 A It wasn't an other purpose. It's just for me to go get
4 cigarettes.

5 Q Okay. So, Mr. Simon (sic), please explain to us how
6 three people walk into a store, two have masks, all three
7 have a handgun or what appear to be a handgun, and you tell
8 us there was no plan to go there.

9 A Well, I, I went in the store to get cigarettes cause
10 you actually see on the camera where I pull my wallet out
11 and ask the young lady for cigarettes. At the time I was
12 under the influence of drugs, and all I know, all I know is
13 suddenly that I have a gun in my hand, and I was asking her
14 for cash.

15 Q You had a gun in your hand?

16 A I mean the B.B. gun.

17 Q Where did you get it from?

18 A From Curtis Pearson.

19 Q When did he give it to you?

20 A When we was on Crosswell.

21 Q For what purpose?

22 A No purpose at all.

23 Q So, you guys are sitting at a residence on Crosswell,
24 correct?

25 A Yes, sir.

1 Q He hands you what appears to a handgun?

2 A No.

3 Q which you -- appears to be a handgun?

4 A It didn't happen like that. It---

5 Q How did it happen?

6 A He just asked me about a lick or, you know, if I want
7 to make some money, and I was like, you know, I don't care
8 --

9 Q Okay.

10 A -- you know.

11 Q Please tell all of us here what it means about a lick.

12 A Basically going to take something from somebody.

13 Q Okay. So, the purpose of going to the Speedway was to
14 rob the store?

15 A No, I was going to the Speedway to get cigarettes and
16 my mind triggered somewhere else cause I was under the
17 influence at the time.

18 Q Where was the lick?

19 A It was probably somebody house or anything.

20 Q All right. Mr. Pearson (sic), I'm gonna ask for you to
21 watch with me what has been identified as State's Exhibit
22 No. 1. Excuse me one moment. There we go.

23 Now, Mr. Toney, can you tell us who that is in the
24 picture?

25 A Mr. Toney.

Davnus Toney - Direct examination
By Solicitor Corbett

1 Q That's you?

2 A Mr. Toney.

3 Q I'm sorry.

4 Did I, I say the wrong name?

5 A No, you said it right.

6 Q Okay.

7 A You said who that was. I said Mr. Toney.

8 Q All right. And when you say Mr. Toney, are you
9 referring to yourself?

10 A Yes, sir.

11 Q Okay. This is you in the picture, correct?

12 A Yes, sir.

13 Q I'm sorry, Mr. Toney. Please bear with me just one
14 moment. Let me --.

15 Now, what are you doing right there?

16 A Robbing a store.

17 Q Okay. So, what is that in your hand?

18 A The B.B. gun.

19 Q Okay. Now I'm having a little -- it appears to be
20 something attached below the barrel.

21 Am I correct?

22 A Yeah, you could buy lasers for B.B. guns now.

23 Q Okay. So, you have some type of laser sight device
24 mounted on a rail beneath the barrel?

25 A Well, it's not mines. It was just on there at the

1 time.

2 Q Okay. So, you are now pointing that at the clerk.

3 Is that correct?

4 A Yes, sir.

5 Q Okay. What are you saying?

6 A I don't remember.

7 Q Okay. What's the general gist of what it was.

8 A Give me the money I guess or open the register.

9 Q Now, bear with me a moment as I forward a little bit.

10 who's this?

11 A That's Jamacia Simon.

12 Q That's Jamacia Simon?

13 A Yes, sir.

14 Q Okay. Appears to be holding something over his face?

15 A I guess.

16 Q Okay. What's in his hand?

17 A Another B.B. gun.

18 Q Now, is that -- what's going on right here?

19 A Me still at the register.

20 Q Now, the item that is in Jamacia Simon's hand -- are

21 you able to see the arrow on the screen?

22 A Not really. It's kind of blurry.

23 Q Okay. Did you handle what appears to be a handgun?

24 A You say I handled?

25 Q Yeah.

1 Did you hold it?

2 A Talking about the B.B. gun?

3 Q Right here.

4 A No, I didn't hold that.

5 Q Okay. How do you know it's a B.B. gun?

6 A Because I looked at them before we left Crosswell.

7 Q You looked at them before you left?

8 A Yeah.

9 Q Okay. Now, was there any type of orange tip or
10 anything on these B.B. guns?

11 A I don't remember.

12 Q Okay. Do you see any such in the photograph?

13 A No. It's blurry.

14 Q Okay. Now are you able to make out this individual
15 here?

16 A No, sir.

17 Q Okay. Dark jacket, gray sleeves?

18 A I mean I know who it was. But as far as the picture
19 you can't see who it is.

20 Q Okay. Do you know who that is from the circumstances?

21 A Yes, sir.

22 Q Who is that?

23 A Curtis Pearson.

24 Q Do you see Curtis Pearson here today?

25 A Yes, sir.

1 Q where is he?

2 A Right there.

3 Q Okay. Sitting at the table next to Mr. Griffith?

4 A Yes, sir.

5 Q Now, Mr. Toney, I'm gonna show you another video which
6 is also part of State's Exhibit No. 1 listed as a
7 surveillance camera from the entrance door from the night in
8 question.

9 Now, tell us, who is this in the vid -- in this
10 picture?

11 A Me.

12 Q That's you, correct?

13 A Yes, sir.

14 Q Okay. Who is this?

15 A That's Jamacia Simon.

16 Q Okay. Why is Mr. Simon's face covered?

17 A I don't know.

18 Q Okay. Why does Mr. Simon come in and produce what you
19 have described as a B.B. gun?

20 A I don't know.

21 Q You don't know?

22 A I was already in the store.

23 Q Okay. So, your testimony is that you went into the
24 store, you were under the influence, and a gun appeared in
25 your hand, and you're now robbing the store?

1 A No, I went---

2 Q Okay.

3 A I went in the store, no mask, asked for a pack of
4 cigarettes, and with me being in a little -- under the
5 influence of drugs, my mind went somewhere else and all I
6 know I had a B.B. gun pointing at her.

7 Q How did Mr. Simon know to follow you into the store
8 with his face covered while holding what appears to be a
9 handgun?

10 A I don't know. I was already in the store. So, I
11 really can't say what that -- what was on they mind.

12 Q Okay. So, it was coincidence --

13 A Yeah.

14 Q -- that you walked into the store, made a spur of
15 the de -- spur of the moment decision to rob it, and that,
16 standing just on the other side of the door, Jamacia Simon
17 also makes a spur of the moment decision to rob the store?

18 MR. GRIFFITH: Objection, Your Honor. It's calling for
19 speculation. He's telling a story and asking the witness to
20 agree with his story. He's leading the witness.

21 THE COURT: Mr. Corbett, if you could break it up
22 and---

23 SOLICITOR CORBETT: Yes, sir.

24 THE COURT: ---use direct questions please.

25 SOLICITOR CORBETT: Yes, sir.

1 THE COURT: Sustained.

2 Q You went into the store.

3 Is that correct?

4 A Yes, sir.

5 Q Okay. You've just testified that you produced what
6 appeared to be a handgun or a B.B. gun?

7 A Yes, sir.

8 Q And that, shortly thereafter, someone else came in the
9 store?

10 A Yes, sir.

11 Q And I know it's been asked and answered, but who was
12 that someone else?

13 A Jamacia Simon.

14 Q Okay. And what were they doing with their face?

15 A They had they face covered.

16 Q Okay. What was in their hand?

17 A B.B. guns.

18 Q Okay. Something that appeared to be a handgun?

19 A Yes, sir.

20 Q Is that correct?

21 Okay. Now, bear with me a moment while we continue
22 here.

23 Who is that entering the store?

24 A Curtis Pearson.

25 Q Okay. Now, look at the video if you would please, and

1 tell me or describe for me Mr. Pearson's face.

2 A You say describe?

3 Q Yeah.

4 A He has a mask on.

5 Q He has a mask on?

6 A Yes, sir.

7 Q Okay. Are you able to see what is in his hand?

8 A No, sir.

9 Q Okay. At any point that night did you see what was in
10 his hand?

11 A Yes, sir.

12 Q Okay. And what was that?

13 A Another B.B. gun.

14 Q What plan did you have with Mr. Pearson regarding going
15 into the Speedway?

16 A It was no plan. I told them to go run in there real
17 quick to get a pack of cigarettes. That was my plan.

18 Q Okay. All right. So, at Crosswell, where did you get
19 the B.B. gun/item that appeared to be a handgun?

20 A I got them from Curtis Pearson.

21 Q Okay. Did -- do you see anyone else leave the
22 Crosswell location with a similar item?

23 A No, sir.

24 Q Okay. No one else did?

25 A Not -- just us three. That's it.

1 Q That's what I'm talking about.

2 The three of you?

3 A Yeah, that's it.

4 Q I'm sorry. I, I asked that poorly. Let me retry.

5 You left Crosswell with what appeared to be a handgun,
6 or as you described it, a B.B. gun?

7 A Yes, sir.

8 Q Did you -- did you see anyone else with a B.B. gun or
9 something that appeared to be a handgun or B.B. gun?

10 A Yes, sir.

11 Q And who is that?

12 A Curtis Pearson and Jamacia Simon.

13 Q All right. And, Mr. Toney, please bear with me a
14 moment. You've already seen some of these images. This is
15 just a slightly different angle.

16 If you're able to see my arrow -- are you able to see
17 that?

18 A Yes, sir.

19 Q Who is this individual here?

20 A Curtis Pearson.

21 Q How many people took money from the cash register?

22 A Two.

23 Q Who were those two?

24 A Davnus Toney and Jamacia Simon.

25 Q You and Jamacia Simon, correct?

1 A Yes, sir.

2 Q Okay. Now, when you left the store -- I'm sorry. Let
3 me back up for just one moment here.

4 All right. Is that you?

5 A Yes, sir.

6 Q Leaving the store?

7 A Yes, sir.

8 Q And two other individuals?

9 A Yes, sir.

10 Q Okay. So, from the video, it's fairly clear that the
11 three of you left at almost the exact same time?

12 A Yes, sir.

13 Q Is that correct?

14 where did you go?

15 A Back to Crosswell.

16 Q Back to Crosswell.

17 Okay. Who went back to Crosswell?

18 A Me, Jamacia Simon, and Curtis Pearson.

19 Q Okay. What happened to the money?

20 A I don't know. Drank it up.

21 Q Whose we?

22 A Curtis Pearson and Jamacia Simon.

23 Q And you?

24 A Yeah, Davnus Toney.

25 Q So, did y'all go to a store?

1 Did you split it up?

2 what did you do with it?

3 A I don't remember.

4 Q well, what happened to the item that you have described
5 as a B.B. gun?

6 A I gave them back to Curtis Pearson.

7 Q Do you know its whereabouts after that?

8 A No, sir.

9 Q Okay. Now, do you remember the date that this
10 happened?

11 A No, sir.

12 Q Okay. Does November 29th of 2018 sound correct?

13 A I guess.

14 Q Okay. Do you remember how long before you were
15 arrested?

16 A About two weeks.

17 Q Okay. So, tell us about the circumstances of that.

18 A Me being arrested?

19 Q Yes, sir.

20 A I had a, a Magistrate's Court charge that go to, and
21 when I went in there they arrested me.

22 Q Okay. So, you were arrested on an outstanding warrant?

23 A No, I had a, I had a Court date to go to for Magistrate
24 Court.

25 Q Okay.

1 A So, when I went in, that's when they arrested me.

2 Q Okay. They arrested you.

3 Is that correct?

4 A Yes, sir.

5 Q Okay. Now, some time close in time to you being
6 arrested you were interviewed.

7 Is that correct?

8 A Yes, sir.

9 Q Okay. And during the course of this interview, did you
10 tell the police who---

11 MR. GRIFFITH: Objection, Your Honor. He continues to
12 lead the witness.

13 THE COURT: You turn it around a bit, Mr. Corbett, as
14 in what did you tell the police please.

15 SOLICITOR CORBETT: Yes. Yes, sir.

16 You were interviewed by the police?

17 A Yes, sir.

18 Q What did you tell the police?

19 A I told them everything.

20 Q Okay. Did you tell them who was involved?

21 A Yes, sir.

22 Q Okay. And that was back in December of 2018?

23 A Yes, sir.

24 Q What names did you tell them at that point in time?

25 A Jamacia Simon and Curtis Pearson.

Davrus Toney - Direct examination
By Solicitor Corbett

1 Q Okay. Now, did you see Jamacia Simon today?

2 A Yes, sir.

3 Q Where did you see him?

4 A Right here in the courtroom.

5 Q And what was going on?

6 A We was pleading guilty to charges I guess.

7 Q Specifically Mr. Simon, what was going on with him?

8 A I guess talking to the judge.

9 Q What was his purpose for being in Court this morning?

10 A To plead guilty.

11 Q To what?

12 A Armed robbery.

13 Q For the same offense that you're here for?

14 A Yes, sir.

15 SOLICITOR CORBETT: I'm sorry, Your Honor. Just one
16 moment please.

17 THE COURT: Yes, sir.

18 SOLICITOR CORBETT: I think I'm, I'm nearing the end.

19 THE COURT: Yes, sir.

20 (Pause.)

21 Q Mr. Toney, thank you for bearing with me. I'm just
22 trying to make sure I catch everything on my notes.

23 How much money did you take from the store that night?

24 A Probably like 200.00, \$250.00.

25 Q Okay. Do you, do you know how much money Jamacia Simon

1 took from the store?

2 A That was all together.

3 Q All together.

4 A Yes, sir.

5 Q So y'all counted it?

6 A Yes, sir.

7 Q All right. Who counted it?

8 A We did.

9 Q Who's we?

10 A Jamacia Simon, Curtis Pearson, and Davnus Toney.

11 Q Now, did you have any particular connection to this
12 store?

13 A No, sir.

14 Q Did anybody in your group?

15 A Well, the only person was Curtis Pearson.

16 Q Tell me what you mean please.

17 A Well, the girl he was dating, that was -- her mom was
18 the manager of the store.

19 Q Okay. All right. Thank you, Mr. Toney.

20 THE COURT: Mr. Griffith.

21 MR. GRIFFITH: Thank you. Please the Court.

22 CROSS-EXAMINATION

23 BY MR. GRIFFITH:

24 Q So, Mr. Toney, you were pretty high that night, right?

25 A Yes, sir, very high.

Davvus Toney - Cross-examination
By Mr. Griffith

1 Q You don't even remember going in the store until you
2 pulled out that gun, do you?

3 A Yes, sir.

4 Q You don't even remember -- you did tell us you knew why
5 you went to the store, didn't you?

6 A Yes, sir.

7 Q You went there to get cigarettes?

8 A Yes, sir.

9 Q But you were so high you -- you said something snapped
10 in your head.

11 what did you say?

12 A Something just trigger in my head like I'm, I'm bipolar
13 and schizophrenic.

14 Q Okay. And so you just pulled out that gun
15 automatically, right?

16 A Yes, sir.

17 Q And that wasn't your plan, was it?

18 A Never was.

19 Q So, there was no plan to rob a store, was there?

20 A No, sir.

21 Q You stated that you don't remember what you guys did
22 with the money, right?

23 A Yes, sir.

24 Q So, so you don't remember, right?

25 A No, sir, I was still high.

1 Q Okay. So, you were still really high after this
2 happened?

3 A Yes, sir.

4 Q And you barely remember what was going on.
5 Isn't that right?

6 A Yes, sir.

7 Q So, when you were arrested, were you high then?

8 A A little bit.

9 Q And when you were arrested, you said that you told them
10 everything.

11 Isn't that right?

12 A Not at first.

13 Q Okay. But they, they told you, you that it would go
14 easier on you if you told them everything, wouldn't it --
15 didn't they?

16 A Well, after the third time.

17 Q Okay. So, when you -- you had no plan to go into the
18 store.

19 That's correct, isn't it?

20 A Yes, sir.

21 Q That -- other than get cigarettes, right?

22 A Yes, sir.

23 Q You were way stoned?

24 A (WHEREUPON, there was no audible response.)

25 Q Okay. What had you been doing?

Davvus Toney - Cross-examination
By Mr. Griffith

1 Do you remember what drug you were taking?

2 A I was on cocaine, Ice, and heroin.

3 Q So, you were on heroin, Ice, and coke?

4 A Yes, sir.

5 Q Okay. So, you were pretty stringed out -- strung out?

6 A Yes, sir.

7 Q Okay. Okay. Now, isn't it true that your bond was set
8 at \$35,000.

9 Is that correct?

10 A Yes, sir.

11 Q And are you aware that your codefendants' bonds were
12 set at 75---

13 SOLICITOR CORBETT: Objection, Your Honor.

14 May we approach?

15 THE COURT: Yes, sir.

16 (WHEREUPON, a bench conference was held out of the
17 hearing of the jury at this time.)

18 THE COURT: For the sake of the, for the sake of the
19 record, overruled.

20 Proceed, sir.

21 MR. GRIFFITH: Thank you, Your Honor.

22 And you're aware that they had bonds of 75,000.

23 Isn't that right?

24 A Yes, sir.

25 Q Okay. So you were given some special consideration for

1 naming names, weren't you?

2 A Not really. I was just doing what was right.

3 Q Isn't it true that you've gotten into several fights
4 with -- arguments with Mr. Pearson and when he accused you
5 of sleeping with his wife.

6 Isn't that true?

7 A No, sir.

8 Q When you gave your statement, were you aware that the
9 police had already questioned Mr. Pearson?

10 A No, sir.

11 Q Okay. Okay. I have no further questions at this time.

12 THE COURT: Mr. Corbett.

13 SOLICITOR CORBETT: Mark this for identification
14 please.

15 (WHEREUPON, three interview forms were marked as
16 State's Exhibit Nos. 2 through 4 for identification purposes
17 only at this time.)

18 SOLICITOR CORBETT: Thank you.

19 REDIRECT EXAMINATION

20 BY SOLICITOR CORBETT:

21 Q Mr. Toney, I want to back up to one of the questions
22 that Mr. Griffith was asking you about.

23 The location on Crosswell, where is it?

24 Describe it for me please.

25 A Loring Drive.

1 Q Loring Drive?

2 A Yes, sir.

3 Q What's part of Loring Drive?

4 A I don't know. I know it's apartments over there.

5 Q Let me ask it this way if I could.

6 Are, are you from Sumter?

7 A No, sir.

8 Q Are you familiar with Sumter?

9 A A little bit.

10 Q How long have you lived here?

11 A A couple of years.

12 Q Are you familiar with Lafayette that I sometimes call
13 Highway 15?

14 A Yes, sir.

15 Q Okay. Loring crosses Lafayette.

16 Is that right?

17 A Yes, sir.

18 Q Okay. So, if I'm over here on Lafayette, and I'm
19 heading out toward, for lack of a better term, I'll say the
20 Ford dealership?

21 A Uh-huh. (Affirmative).

22 Q Are you familiar with what I'm describing?

23 A Yes, sir.

24 Q Okay. So if we're on -- if we're -- if the Piggly
25 wiggly's on our right, and we're going up Lafayette, the

1 address you're talking about, would it be on the right
2 side---

3 A Yes, sir.

4 Q ---of Lafayette or the left?

5 A The right side.

6 Q The right side?

7 A Yes, sir.

8 Q Okay. So, sort of like you would pass the new police
9 station on your right and then turn right?

10 A Yes, sir.

11 Q Okay. Now, Mr. Griffith was asking you about your
12 condition that night. You were telling him that you were
13 high, et cetera. But you went to Speedway and asked for
14 cigarettes.

15 what kind?

16 A Newports 100.

17 Q I'm sorry?

18 A Newports 100.

19 Q Newports 100.

20 So, you're able to tell us specifically what cigarettes
21 you were asking for?

22 A Cause that's all I smoke.

23 Q Okay. You're able to tell us how much money you got
24 approximately, correct?

25 A Yes, sir.

1 Q Okay. And you also told us you were high and there was
2 no plan?

3 A Yes, sir.

4 Q Yet, you left the Loring Crosswell area on this side of
5 Lafayette. I'm fairly certain there's a convenience store
6 on Lafayette somewhere about the Crosswell or Loring, Loring
7 intersection.

8 A It is.

9 Q And walked all the way down to Church where you would
10 have to make a left to get to the Speedway at the corner of
11 Church and Broad?

12 A Yes, sir.

13 Q To buy a pack of cigarettes?

14 A Yes, sir.

15 Q Matter of fact, the Piggly wiggly would of been closer?

16 A Yes, sir.

17 Q The walgreens would of been closer.

18 Is that correct?

19 A Yes, sir.

20 Q The CVS would of been closer and at least one
21 convenience store on Lafayette.

22 Am I correct?

23 A Yes, sir.

24 SOLICITOR CORBETT: That's all that I have. Thank you.

25 THE COURT: Mr. Griffith.

Davrus Toney - Recross examination
By Mr. Griffith

1 MR. GRIFFITH: Redirect briefly, Your Honor.

2 RECROSS EXAMINATION

3 BY MR. GRIFFITH:

4 Q You only smoke Newport News or Newports, right?

5 A Yes, sir.

6 Q why would you think of some other cigarettes that you
7 were gonna buy, right, cause that's all you smoke, isn't it?

8 A Yes, sir.

9 Q You said you don't remember what you did with the
10 money.

11 Somebody told you later it was \$250.00 bucks, didn't
12 they?

13 A I just rounded off closest enough. I know it wasn't
14 more than 300 you know.

15 Q Okay. Cause you weren't really sure, were you?

16 A Yes, sir.

17 Q Cause you were high as a kite, right?

18 A Yes, sir.

19 Q Okay. Thank you. That's all I was trying to say.

20 THE COURT: Mr. Corbett.

21 SOLICITOR CORBETT: Nothing further, Your Honor.

22 THE COURT: All right. Thank you, sir.

23 THE WITNESS: All right.

24 THE COURT: Can I speak to the lawyers please?

25 Mr. Griffith.

1 MR. GRIFFITH: Oh, I'm sorry.

2 (WHEREUPON, a bench conference was held out of the
3 hearing of the jury at this time.)

4 THE COURT: Members of the jury, you have been in here
5 now, since you returned earlier, one hour and 15 minutes. I
6 told you earlier we would take breaks about an hour to hour
7 and a half intervals.

8 So, we will take another break now, and you can figure
9 it's gonna be approximately 15 minutes, maybe 20 minutes.
10 And when you're ready, Mr. Haynesworth will bring you back
11 in.

12 Thank you so much.

13 Oh, and by the way, don't talk about it among
14 yourselves and don't make any deliberations.

15 Thank you.

16 (WHEREUPON, a short recess was taken at this time.)

17 (WHEREUPON, the following takes place within the
18 presence of the jury panel.)

19 THE BAILIFF: They're all seated, Your Honor.

20 THE COURT: All right, sir. Mr. Corbett. Mr. Corbett.

21 SOLICITOR CORBETT: Yes, sir, Your Honor.

22 The State would call Detective McFadden.

23 THE COURT: Yes, sir.

24 THE BAILIFF: Left-hand on the Bible. Left-hand.
25 There you go. Raise your right-hand.

Willie McFadden - Direct examination
By Solicitor Corbett

1 (WHEREUPON, the witness complies.)

2 THE BAILIFF: State your name.

3 THE WITNESS: Willie McFadden.

4 WILLIE MCFADDEN, being first
5 duly sworn, testified as follows:

6 THE BAILIFF: Thank you so much. Step up please.

7 (WHEREUPON, the witness complies.)

8 THE BAILIFF: State your name for the record and spell
9 your last name please.

10 THE WITNESS: Willie McFadden. M-C-F-A-D-D-E-N.

11 DIRECT EXAMINATION

12 BY SOLICITOR CORBETT:

13 Q Detective McFadden, good afternoon.

14 Tell us, by whom are you employed?

15 A City of Sumter Police Department.

16 Q And how long have you been with Sumter Police
17 Department?

18 A Since 2014.

19 Q Okay. Now, the Speedway robbery of November 29th,
20 2018, how did you come to be involved in that?

21 A That particular case was assigned to me.

22 Q Okay. Now, when you say assigned to you, just kind of
23 tell us briefly about what that means.

24 A Whenever an incident happens, the, the -- whenever an
25 incident happens, they assign different reports to different

1 detectives, and that particular report, report was assigned
2 to me.

3 Q Okay. Now, in your role as the detective in that case,
4 tell us a little bit about how the investigation proceeded,
5 and what you did for Sumter Police Department.

6 A I made contact with the victim, which is gonna be
7 Miss McDonald, interviewed her, got a statement from her.
8 And what I did was get the -- review the video footage that
9 our other detectives obtained from that night.

10 We was able to get a photo -- well, we put out to the
11 media, pushed out to the media the image that we got from
12 the video, and we got Crime Stoppers Tips that came in, and
13 that's when I got that name that came in, and put it on a
14 photo lineup, sent it off to SLED. Got a photo lineup back
15 to show Miss McDonald, and she identified Davnus, Davnus
16 Toney as one -- the guy that had no mask on in there.

17 Q Okay. Now, at some point in time, did you talk to
18 Davnus Toney?

19 A That's correct.

20 Q Okay. Was it more than one time?

21 A Yes, sir.

22 Q Okay. So you interviewed him on several different
23 occasions?

24 A Yes, sir.

25 Q Okay. I believe it -- do you remember how many?

1 A I believe it was three if I'm not mistaken.

2 Q Okay.

3 A I'd have to look over the notes again.

4 Q Okay. Now, after interview -- all right. At the
5 time -- I want to make sure I ask this correctly.

6 When you spoke to Darnus Toney, had he been arrested?

7 A Yes.

8 Q Okay. And, and I think I'm going back over something
9 you've already said.

10 But what was the basis for getting an arrest warrant
11 for Darnus Toney?

12 A From the photo lineup that Miss McDonald picked out as
13 being the guy that came into the store to rob the store on
14 that night.

15 Q All right. Now, at the time that the arrest warrant
16 was obtained for Darnus Toney, did you have any other arrest
17 warrants for this situation?

18 A I did not, no, sir.

19 Q So, after Darnus Toney is arrested, you interview him?

20 A Yes, sir.

21 Q Okay. What was the result of those interviews?

22 A He told me what happened that night, and he named his
23 codefendants that was involved in that incident.

24 Q Okay. Now, bear with me one moment please.

25 (Pause.)

Willie McFadden - Direct examination
By Solicitor Corbett

1 Q I'm sorry about that. I'm gonna show you -- oh, let me
2 mark this for identification first.

3 (WHEREUPON, an arrest warrant for Davnus Toney was
4 marked as State's Exhibit No. 5 for identification purposes
5 only at this time.)

6 Q Okay. Detective McFadden, I'm gonna show you what's
7 been marked for identification as State's No. 5. Take a
8 moment and read over that and tell us if you can identify
9 it.

10 A Yes, this is the arrest warrant for Davnus Toney for---

11 Q On what charge?

12 A For armed robbery.

13 Q Okay. Now, that's the arrest warrant for Davnus Toney.
14 Is that correct?

15 A That's correct.

16 Q Now, there near the bottom left, does it indicate when
17 that was served?

18 A Yes, it does.

19 Q Okay. And what is that date?

20 A On December 13, 2018.

21 SOLICITOR CORBETT: Your Honor, we'd ask that State's
22 No. 5 be admitted for evidence.

23 THE COURT: Mr. Griffith.

24 MR. GRIFFITH: No objection, Your Honor.

25 THE COURT: Without objection. Be entered.

1 (WHEREUPON, State's Exhibit No. 5 was received into
2 evidence at this time.)

3 (WHEREUPON, an arrest warrant for Curtis Pearson was
4 marked as State's Exhibit No. 6 for identification purposes
5 only at this time.)

6 Q Now, Detective McFadden, I'm gonna show you what's been
7 marked for identification as State's No. 6, and ask you to
8 read over that and tell us if you can identify that.

9 A This is an arrest warrant for Curtis Pearson.

10 Q And over there near the bottom left, does it indicate
11 when that was served?

12 A On December 21st, 2018.

13 Q Say that date again for me please?

14 A December 21st, 28---

15 Q December, December 21st?

16 A That's correct.

17 Q And I'm sorry. I missed this earlier. I'm going back
18 to State's No. 5, the arrest warrant for Davnus Toney.

19 You indicated that it was served on December 13th of
20 2018?

21 A That's correct.

22 Q Okay. And what do we show here as the date that it was
23 issued by the judge?

24 A The date it was issued by the judge, it says
25 December 13th, 2018.

Willie McFadden - Direct examination
By Solicitor Corbett

1 Q Now, State's No. 6 -- Your Honor, I'm sorry. At this
2 time I would offer into evidence State's No. 6.

3 THE COURT: Mr. Griffith.

4 MR. GRIFFITH: No objection, Your Honor.

5 THE COURT: Without -- in.

6 (WHEREUPON, State's Exhibit No. 6 was received into
7 evidence at this time.)

8 Q Now in State's No. 6, you had already indicated it was
9 served December 21st.

10 What is the date at the time it was issued by the
11 magistrate?

12 A That was issued on December 20th, 2018.

13 MR. GRIFFITH: Without objection.

14 (WHEREUPON, the arrest warrant for Jamacia Simon was
15 marked as State's Exhibit No. 7 for identification purposes
16 only at this time.)

17 Q And, Detective McFadden, if you would, please take a
18 moment, read over what's been marked for identification as
19 State's No. 7, and tell us if you can identify that please.

20 A This is the arrest warrant for Jamacia Simon for armed
21 robbery.

22 Q Now, what is the date that that was served?

23 A This was served on December 21st, 2018.

24 Q And does it indicate here when it was issued by the
25 judge?

1 A Yes, sir, December 20th, 2018.

2 SOLICITOR CORBETT: Your Honor, we'd move No. --
3 State's No. 7 into evidence please.

4 THE COURT: Any objection, Mr. Griffith?

5 MR. GRIFFITH: Without objection, Your Honor.

6 THE COURT: Thank you.

7 (WHEREUPON, State's Exhibit No. 7 was received into
8 evidence at this time.)

9 Q Now, Detective McFadden, Davnus Toney was arrested on
10 December 13th.

11 Is that correct?

12 A That's correct.

13 Q And over the next week you interviewed him on several
14 occasions?

15 A Yes, sir.

16 Q Okay. And as a result of interviewing him, you then
17 obtained arrest warrants on Jamacia Simon and Curtis
18 Pearson?

19 A That is correct.

20 Q Now, we were talking about the video a little bit
21 earlier, and you had indicated you reviewed the video?

22 A Yes, sir.

23 Q Okay. So you actually watched portions of those
24 videos?

25 A Yes, sir.

Willie McFadden - Direct examination
By Solicitor Corbett

1 Q Okay. And then ultimately -- well, I'm sorry.

2 what ultimately led to arrest warrants being issued for
3 Simon and Pearson?

4 A For the statement from Davnus Toney.

5 Q This statement of Davnus Toney, were they prior to you
6 having -- Judge, my apologies. I'm, I'm so sorry to ask you
7 to do this.

8 Could we have an in camera moment on a matter of law?

9 THE COURT: Yes, sir.

10 SOLICITOR CORBETT: Judge, did you want us to do that
11 at the bench or in the courtroom?

12 THE COURT: What do you want to do?

13 SOLICITOR CORBETT: Would you---

14 THE COURT: Excuse me. You want, you want it on the
15 record?

16 SOLICITOR CORBETT: Judge, it's a technical point. It
17 might better be suited for the record.

18 THE COURT: Let's do that.

19 I'm going to ask you folks to please return to your
20 jury room. This is one of those times I told you about, and
21 do not begin deliberations. Do not discuss it among
22 yourselves please.

23 Thank you so much.

24 (WHEREUPON, the following takes place outside the
25 presence of the jury panel.)

1 THE COURT: Do y'all want to come up here?
2 We're still on the record.

3 SOLICITOR CORBETT: Judge, I can do it from here if
4 you'd like.

5 THE COURT: Okay. Fine.

6 SOLICITOR CORBETT: Whatever suits you.

7 Judge -- and, and I'm sorry to delay the proceedings,
8 but out of an abundance of caution, I caught myself in
9 mid-sentence about to say something that I was afraid might
10 create a mistrial issue.

11 THE COURT: Oh my.

12 SOLICITOR CORBETT: So I, I stopped myself.

13 I was about to ask the officer, and this is related to
14 a question that Mr. Griffith asked Mr. Toney, I was about to
15 ask him did you speak to Davnus Toney prior to speaking to
16 Curtis Pearson, and I wasn't -- in an abundance of caution I
17 stopped because I wasn't sure if I was going down a
18 dangerous road about commenting on his right to remain
19 silent.

20 THE COURT: Uh-huh. (Affirmative).

21 SOLICITOR CORBETT: I, I think they call it a Doyle
22 violation.

23 THE COURT: I think so. My, my advice, for what it's
24 worth from sailing black rivers, is to leave it alone.

25 SOLICITOR CORBETT: Right.

Willie McFadden - Direct examination
By Solicitor Corbett

1 THE COURT: That's my advice.

2 MR. GRIFFITH: So, you're, you're thinking that making
3 the statement that Mr. Pearson was questioned is a
4 violation, is that what you're talking about, of his right
5 to remain silent?

6 SOLICITOR CORBETT: Technically I don't think that it
7 is, but I, I wasn't willing to risk that in---

8 THE COURT: Then don't.

9 SOLICITOR CORBETT: ---open Court, and, quite honestly,
10 needed a moment to think---

11 THE COURT: Okay. That's fine.

12 SOLICITOR CORBETT: ---through that before I did it.

13 THE COURT: Well, my, my other rule of thumb in life is
14 when in doubt don't.

15 SOLICITOR CORBETT: Yes, sir.

16 THE COURT: For what it's worth.

17 MR. GRIFFITH: But, at the same time, just to let you
18 know, I mean if Mr. Tomey (sic) named, Toney named
19 Mr. Pearson, well, obviously the officer would have
20 questioned Mr. Pearson and I don't---

21 THE COURT: Uh-huh. (Affirmative).

22 MR. GRIFFITH: ---think that's a violation of
23 Mr. Pearson's right to remain silent other than unless he
24 was not read his Miranda rights or something like that or---

25 SOLICITOR CORBETT: Well, Judge, if I may, perhaps a

1 simple way is, is this. If I could pose the question and
2 then find out if Mr. Griffith has an objection?

3 If I could---

4 THE COURT: Okay.

5 SOLICITOR CORBETT: ---proffer the question?

6 THE COURT: All right. But, but even then, let's
7 suppose that he says it's okay, and then it comes back on
8 PCR that it wasn't okay, we're right back where we were.

9 SOLICITOR CORBETT: Judge?

10 Judge, my difficulty is Mr. Griffith posed the question
11 to Mr. Toney isn't it true that he had interviewed
12 Mr. Pearson before he talked to you.

13 THE COURT: Yeah.

14 SOLICITOR CORBETT: That is, that is the dilemma that
15 that question has placed me in because I do not believe that
16 question to be true.

17 THE COURT: Uh-huh. (Affirmative).

18 MR. GRIFFITH: well, isn't it true that he spoke to
19 Mr. Pearson after he got his name from Mr. Toney, but before
20 Mr. Toney had solidified his accusations, that was my point,
21 and, and he said that he talked to Mr. Toney many times or
22 that is Mr. Toney said they talked to me several times. I
23 didn't tell him that at first though.

24 And so my question is -- was, and the reason for it,
25 was because then Mr. Pearson gave a statement implicating

Willie McFadden - Direct examination
By Solicitor Corbett

1 Mr. Toney and Mr. -- the other guy. And so -- and then the,
2 the gist was Mr. Toney was angry about that. That was why I
3 asked that question.

4 So, as a matter of law, I mean I asked the question and
5 he said no. So, I didn't pursue the question --

6 THE COURT: Uh-huh. (Affirmative).

7 MR. GRIFFITH: -- cause I can't.

8 SOLICITOR CORBETT: Judge, if I may proffer the
9 following question?

10 THE COURT: Sure. Go ahead.

11 Q Detective McFadden, upon interviewing Davnus Toney, he
12 provided the names of Jamacia Simon and Curtis Pearson.

13 Is that---

14 MR. GRIFFITH: Objection. Leading.

15 SOLICITOR CORBETT: Okay. Judge, I'll proffer it this
16 way.

17 THE COURT: All right.

18 Q Upon interviewing Mr. Toney, did he provide the names
19 of his codefendants?

20 A Yes.

21 Q Okay. What names did he provide?

22 A Jamacia Simon and Curtis Pearson.

23 Q Did he provide those names prior to you having
24 communication with either Mr. Simon or Mr. Pearson?

25 A No.

1 Q All right. I'm -- wait a minute. I'm -- Detective
2 McFadden, I'm sorry. Now I've got it confused.

3 MR. GRIFFITH: But he -- yeah, he -- you just said no
4 when asked did he ask those questions prior---

5 THE WITNESS: Who, who---

6 MR. GRIFFITH: ---to talking to the other two guys,
7 right?

8 THE WITNESS: I thought he said communication -- did I
9 have any communication with the -- with talking -- well, did
10 I interview the other two guys -- well, I can't remember.

11 Q I'm sorry. I may of asked -- I may of asked the
12 question incorrectly. Let me, let me ask that again. Mr.
13 Toney was arrested subsequent to the clerk picking him out
14 of a lineup.

15 Is that correct?

16 A That is correct.

17 Q And his arrest date was on what date?

18 A December 13th, 2018.

19 Q Okay. Subsequent to his arrest, did you interview him?

20 A Yes.

21 Q Did he provide the names of codefendants?

22 A Yes.

23 Q What names did he provide?

24 A Curtis Pearson and Jamacia Simon.

25 Q Did you talk to or interview Jamacia Simon or Curtis

Willie McFadden - Direct examination
By Solicitor Corbett

1 Pearson before that information was provided by Mr. Toney?

2 A Before, no.

3 SOLICITOR CORBETT: Okay. That's the question I want
4 to know if there's any objection to.

5 MR. GRIFFITH: Well, I don't object to the question,
6 no.

7 SOLICITOR CORBETT: Okay.

8 THE COURT: Okay.

9 THE WITNESS: Okay.

10 SOLICITOR CORBETT: Very well. Judge, I believe I'm
11 ready to proceed.

12 THE COURT: All right, sir. You can bring them back in
13 sir.

14 THE BAILIFF: Yes, sir.

15 (WHEREUPON, the following takes place within the
16 presence of the jury.)

17 THE BAILIFF: The jurors are all seated, Your Honor.

18 THE COURT: Mr. Corbett.

19 SOLICITOR CORBETT: Thank you, Your Honor. Your Honor,
20 thank you for the break.

21 CONTINUED DIRECT EXAMINATION

22 BY SOLICITOR CORBETT:

23 Q Detective McFadden, I'm gonna show you once again
24 what's been moved into evidence as State's No. 5. I believe
25 that is the arrest warrant for Davnus Toney.

1 Is that correct?

2 A That's correct.

3 Q Okay. And what was the date of Mr. Toney's arrest?

4 A It was December 13th, 2018.

5 Q And in the subsequent days, you interviewed Mr. Toney
6 on more, more than one occasion?

7 A That is correct.

8 Q Okay. As a result of those interviews, what
9 information did he provide?

10 A He provided the name of his codefendants, Mr. Curtis
11 Pearson and Jamacia Simon.

12 Q Now, did you have any type of communication or
13 interview with either Mr. Simon or Mr. Pearson prior to Mr.
14 Toney giving you that information?

15 A No.

16 Q Okay. Detective McFadden, thank you very much. Please
17 answer any questions Mr. Griffith, Griffith may have.

18 THE COURT: Mr. Griffith, sir.

19 MR. GRIFFITH: Thank you.

20 Please the Court.

21 CROSS-EXAMINATION

22 BY MR. GRIFFITH:

23 Q Detective McFadden, you arrested Mr. Toney on 12/13.

24 Isn't that correct?

25 A That is correct.

Willie McFadden - Cross-examination
By Mr. Griffith

1 Q And you subsequently began to question him over a
2 period of days.

3 Isn't that correct?

4 A That's correct.

5 Q And over that period of days he was giving you
6 information pieces at a time, wasn't he?

7 A Yes, sir.

8 Q And so he didn't immediately give you any names, did
9 he?

10 A I don't believe he did. Not immediately, no, sir.

11 Q Okay. But under continuous questioning, he finally
12 started giving you some names, didn't he?

13 A Yes, sir.

14 Q Was there any time when he gave you names other than
15 Mr. Pearson and Mr. Simon?

16 A No, sir.

17 Q So, you began interviewing him on the 13th?

18 That's correct?

19 A That is correct.

20 Q Do you know how long it was until your next interview?

21 A I have to look at the --.

22 Q Your log?

23 A Well, the -- every time we would reinterview him, we
24 would read the -- his Miranda rights over again. So, the
25 dates and stuff would be on the, on the Miranda rights form.

1 Q But it wasn't the next day, was it, or maybe it was,
2 but I mean --?

3 A I, I have to look and see.

4 Q It, it---

5 A Yes, sir.

6 Q It spanned a period of time though is what we're
7 saying?

8 Is that what I'm asking you?

9 Yes?

10 A Yes, sir.

11 Q Okay. So, it wasn't like on the 13th, 14th, and
12 15th?

13 A No, sir.

14 Q Okay. So, it could of been on the 13th, 15th, and
15 20th, could it be?

16 A I'd have to look at the chain -- look at the Miranda
17 form again to give you exact dates. I don't know. I don't
18 want to tell you something that's wrong.

19 Q Okay. But the only information that you got pointing
20 to either Mr. Simon, is it Simon or Simmons, Simon or
21 Mr. Pearson was the information you got from Mr. Toney.

22 Isn't that correct?

23 A That's correct.

24 Q You couldn't identify anybody in that video, could you,
25 other than Mr. Toney?

Willie McFadden - Cross-examination
By Mr. Griffith

1 A That's correct.

2 Q There were no other witnesses, were there?

3 A No, sir.

4 Q Was Mr. Toney -- you may not be able to answer this
5 question.

6 To your knowledge, was Mr. Toney high when you arrested
7 him?

8 A He didn't appear to be high.

9 Q Okay. Was he arrested with any drugs?

10 A No, sir.

11 Q So, by that time you don't -- he didn't -- he did not
12 appear to be high?

13 A That's correct.

14 Q And so, when you questioned him, do you -- can you tell
15 us at what point he told you the names of his codefendant?

16 Was it the, the second interview, the third interview,
17 first interview?

18 A I think it might of either been the second or third. I
19 can't give you the exact time that we started talking to him
20 as far as when he started naming names. I have to go back
21 and check the dates on and notes.

22 Q And typically when you would question him, how long a
23 time would you spend questioning him?

24 A It's all -- every time would be different. It's all
25 different. I can't just say it's gonna be this amount of

1 time, then this amount of time. Every time is different.

2 Q Okay. But by the third -- second or third, whenever it
3 was, he started telling you names, he'd been in the jail for
4 quite some time, hadn't he?

5 A I don't know.

6 Q It wasn't all on the same day, was it?

7 A No, not all on the same day, no, sir.

8 Q Okay. So, he'd been in there quite a while.

9 So, he was -- when he finally began to tell you what
10 happened, it (sic) was pretty anxious to, to get this thing
11 behind him, wasn't he?

12 A He say he wanted to tell the truth.

13 Q But he's your only source of information that points,
14 points to Mr. Pearson, isn't he?

15 A Yes, sir.

16 Q Okay. I have no further questions at this time.

17 THE COURT: Mr. Corbett.

18 SOLICITOR CORBETT: Thank you, Your Honor.

19 REDIRECT EXAMINATION

20 BY SOLICITOR CORBETT:

21 Q I'm gonna show you what's been marked for
22 identification as State's No. 2.

23 Can you tell us what that is please?

24 A That's -- this is a Sumter Police Department interview
25 form. It's the Miranda rights that we read to them every

1 time we interview somebody.

2 Q And for which individual?

3 A This is for Darnus Toney.

4 Q Okay. Is that form dated?

5 A Yes, it is.

6 Q And what's the date of that?

7 A It's December 13th, 2018.

8 Q Okay. The same day he was arrested?

9 A That is correct.

10 Q I'm gonna show you what's been marked for
11 identification as State's No. 3.

12 Ask if you can identify that.

13 A This is the same, same form, the interview form for
14 Darnus Toney, the Miranda rights that we read to him before
15 a second interview.

16 Q And what's the date of that?

17 A That's December 17th, 2018.

18 Q I'm gonna show you what's been marked for
19 identification as State's No. 4.

20 what is that?

21 A This is another interview form with the Miranda rights
22 for Darnus, Darnus Toney.

23 Q Okay. And what is the date of that?

24 A This is December 20th, 2018.

25 Q Your interviews with Mr. Toney, was anything done to

1 force or coerce---

2 A No, sir.

3 Q ---any information from him?

4 A No, sir.

5 Q Was he promised anything by law enforcement for his
6 statement?

7 A No, sir.

8 Q Okay. That's all that I have. Thank you.

9 MR. GRIFFITH: Just briefly, Your Honor.

10 THE COURT: Yes, sir.

11 RECROSS EXAMINATION

12 BY MR. GRIFFITH:

13 Q Detective McFadden, you questioned Mr. Toney?

14 A Yes, sir.

15 Q And I'm certain you questioned the young lady, Miss.
16 McDonald?

17 A Yes, sir.

18 Q Did you question anybody else?

19 A Yes, sir.

20 Q Did you question Rose Crosby?

21 A I spoke with Rose Crosby. That was the manager of the
22 store, yes, sir.

23 Q And did she tell you that she thought maybe
24 Mr. Pearson---

25 SOLICITOR CORBETT: Objection, Your Honor.

Willie McFadden - Recross examination
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1 THE COURT: Yes, sir.

2 Grounds?

3 SOLICITOR CORBETT: Hearsay.

4 THE COURT: Sustained.

5 Q What did she tell you?

6 THE COURT: Sustained. Sustained.

7 MR. GRIFFITH: Thank you, Your Honor. I'll rephrase.

8 Q What did she say?

9 SOLICITOR CORBETT: Objection, Your Honor.

10 THE COURT: Sustained, Mr., Mr. Griffith.

11 MR. GRIFFITH: This isn't a police interview. I'll --
12 this is, this is a police interview, a statement made by a
13 witness to the crime or allegedly not a witness, but someone
14 that he was questioning to find out any information about
15 persons that he might arrest.

16 Okay. I'll rephrase it.

17 THE COURT: Yes, sir.

18 MR. GRIFFITH: Let me come up with a better --.

19 THE COURT: Please do, sir.

20 Q Did someone else intimate Mr. Pearson?

21 SOLICITOR CORBETT: Objection, Your Honor.

22 THE COURT: Your grounds now?

23 SOLICITOR CORBETT: Your Honor, it calls for hearsay.

24 MR. GRIFFITH: Your Honor?

25 THE COURT: I think.

1 MR. GRIFFITH: If it please the Court?

2 THE COURT: Well, go ahead, sir. I'll, I'll hear from
3 you. Go ahead.

4 MR. GRIFFITH: Your Honor, he questioned other people.
5 I believe that the Court has a right to know whether other
6 people---

7 SOLICITOR CORBETT: Objection, Your Honor.

8 May we do this outside the presence of the jury?

9 THE COURT: Yes, sir.

10 I'm gonna ask you to do it one more time, and remember
11 what to do or not to do. No deliberation. No discussion.

12 (WHEREUPON, the following takes place outside the
13 presence of the jury.)

14 THE COURT: All right.

15 MR. GRIFFITH: Your Honor?

16 THE COURT: Yes, sir.

17 MR. GRIFFITH: If it please the Court?

18 THE COURT: Yes, sir.

19 MR. GRIFFITH: If that's hearsay, everything that he
20 said that Mr. Toney said is hearsay.

21 THE COURT: How do you get that, Mr. Griffith?

22 I'm, I'm losing---

23 MR. GRIFFITH: He says that---

24 THE COURT: I don't follow your logic there.

25 MR. GRIFFITH: He said that Mr. Toney told him that,

Willie McFadden - Recross examination
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1 that he had two codefendants, Mr. Pearson and Mr. Simon.

2 THE COURT: Right.

3 SOLICITOR CORBETT: I'm asking him now if he questioned
4 someone else who told him something. I mean --.

5 THE COURT: Okay. Mr., Mr. Corbett.

6 MR. GRIFFITH: The record should be stricken of
7 everything he said about Mr. Toney.

8 THE COURT: No, sir, Mr. Toney, Mr. Toney testified
9 live here a while ago, Mr. Griffith, in living color.

10 MR. GRIFFITH: I understand.

11 THE COURT: Mr. Corbett.

12 SOLICITOR CORBETT: Your Honor, my objection is based
13 on hearsay grounds, that he is asking this witness what
14 someone who is not here said. Hearsay is out of Court
15 statements offered in Court to prove the truth of the matter
16 asserted. I believe that that was the information he was
17 attempting to elicit, and I can---

18 THE COURT: Is that right, Mr. Griffith?

19 SOLICITOR CORBETT: In, in addition, Judge, I do not
20 fault -- I do not believe that it falls under a recognized
21 hearsay exception.

22 THE COURT: Mr. Griffith, I -- much to your chagrin, I
23 will agree with the Solicitor, sir, and I will overrule it.
24 I mean sustain it. Sustained.

25 MR. GRIFFITH: Okay. I understand.

1 THE COURT: All right, sir.

2 MR. GRIFFITH: Let, let me then put forth did he
3 receive other information pointing to the defendants before
4 Mr. Tomey (sic) or Toney told him his codefendants' names?

5 THE COURT: Mr. Corbett.

6 SOLICITOR CORBETT: Judge, I believe that still calls
7 for hearsay.

8 THE COURT: Well, what, what it does is call for -- I
9 mean the follow-up question is well, from who, and then
10 you're right back into hearsay again.

11 MR. GRIFFITH: Not if I don't ask for who.

12 THE COURT: I'm gonna sustain it, Mr. Griffith.

13 MR. GRIFFITH: Okay.

14 THE COURT: All right.

15 MR. GRIFFITH: Thank you, Your Honor.

16 THE COURT: Yes, sir.

17 Sir, would you bring them back in please?

18 (WHEREUPON, the following takes place within the
19 presence of the jury.)

20 THE BAILIFF: They jurors are all seated, Your Honor.

21 THE COURT: Proceed, sir.

22 CONTINUED RECROSS EXAMINATION

23 BY MR. GRIFFITH:

24 Q So, the only one that implicated Mr. Pearson was Mr.
25 Toney.

Willie McFadden - Recross examination
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1 Isn't that correct?

2 A That's correct.

3 Q Thank you.

4 A Yes, sir.

5 THE COURT: Mr. Corbett.

6 SOLICITOR CORBETT: Nothing further, Your Honor.

7 THE COURT: Thank you, sir.

8 THE WITNESS: Thank you.

9 THE COURT: Thank you.

10 May we chat, gentlemen?

11 (WHEREUPON, a bench conference was held out of the
12 hearing of the jury at this time.)

13 THE COURT: Members of the jury, we are stopping for
14 today.

15 Now, what I'm might -- going to tell you now might
16 irritate some of you, and if that's the case I understand,
17 and I'll tell you why I'm gonna tell you this. I have a
18 doctor's appointment in the morning that I have been waiting
19 on for nine months at 8:45 and I need to go. So I'm gonna
20 ask you to come back -- what time did you say?

21 SOLICITOR CORBETT: Judge, I believe 10:30 would be a
22 safe---

23 THE COURT: 10:30.

24 SOLICITOR CORBETT: ---time.

25 THE COURT: 10:30. And I'd rather you come then and to

1 come earlier then sit back and wait on me. So, please
2 forgive me for doing this, but we'll be back at 10:30 in the
3 morning. So, be back in your jury room at 10:30 and we
4 will, we will start promptly then.

5 If I'm -- if we don't, blame it on me or blame it on my
6 doctor.

7 Okay. All right. Thank y'all.

8 Do not discuss the case. Do not begin deliberations.
9 I have to do that. Thank you.

10 (WHEREUPON, the following takes place outside the
11 presence of the jury.)

12 THE COURT: All right, gentlemen. 10:30. Thank you
13 for your patience.

14 MR. GRIFFITH: Thank you, Your Honor.

15 SOLICITOR CORBETT: Thank you, Your Honor.

16

17 (WHEREUPON, Court was in recess for the evening.)

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THE COURT: I have read it.

Mr. Griffith, any, any comments about this?

MR. GRIFFITH: I have no objection, Your Honor.

THE COURT: All right. Without objection.

Okay.

SOLICITOR CORBETT: And, Judge, my intention is that once the Court provides to -- instructs the jury with regard to the judicial notice, that the State will then rest.

THE COURT: So, are you telling me the State's going to rest in just a few minutes or --?

SOLICITOR CORBETT: At the conclusion of, of the instruction regarding judicial---

THE COURT: Okay.

SOLICITOR CORBETT: ---notice.

THE COURT: All right.

SOLICITOR CORBETT: Then that will be---

THE COURT: That's---

SOLICITOR CORBETT: ---the State will rest at that point.

THE COURT: Do you have any more witnesses for the State?

SOLICITOR CORBETT: No, sir.

THE COURT: Oh, okay. All right.

1 SOLICITOR CORBETT: Judge, and, and my apologies. We,
2 we thought that there may be one additional witness. But
3 that did not work out the way we anticipated.

4 THE COURT: That's fine.

5 All right. Mr. Griffith, are you gonna have any
6 witnesses?

7 MR. GRIFFITH: Your Honor, my client has -- and I have
8 discussed whether or not he should testify, and we have come
9 to the conclusion he doesn't re -- he's not required to
10 testify and he need not testify.

11 THE COURT: Okay. Well, can we put that on the record
12 now?

13 MR. GRIFFITH: If you'd like.

14 THE COURT: Do it now?

15 Suit you, Mr. Corbett---

16 SOLICITOR CORBETT: Judge---

17 THE COURT: ---or you'd rather?

18 SOLICITOR CORBETT: ---from, from strictly a scheduling
19 point, if we bring them out, read them that, and then I
20 rest, then you would have to send them right back out. So,
21 I have no objection if you want to go ahead and advise the
22 Defendant---

23 THE COURT: That's what I was thinking.

24 SOLICITOR CORBETT: ---of his rights at this time.

25 THE COURT: For the proverbial economy of time.

1 SOLICITOR CORBETT: Yes, sir.

2 THE COURT: Mr. Pearson, would stand up for me please?

3 (WHEREUPON, the Defendant complies.)

4 THE COURT: Mr. Pearson, as you well know, you have the
5 right to remain silent at this trial.

6 Do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Have you discussed with your lawyer your
9 right to exercise the right not to testify?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Is that a decision you have made -- the
12 decision to not testify, have you made that with the,
13 with -- after consulting with your lawyer?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. Have you made this decision on
16 your own free will?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Is anybody telling you that you can not
19 testify?

20 THE DEFENDANT: No, sir.

21 THE COURT: All right. But you know that you don't
22 have to, right?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Mr. Corbett, Mr. Griffith, any further
25 questions that I should ask him about this that you're aware

1 of?

2 THE DEFENDANT: I'm---

3 THE COURT: I will tell the jury, Mr. Pearson, that you
4 had that right to not testify, and they're not to hold that
5 against you.

6 You understand?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Okay. Mr. Corbett.

9 SOLICITOR CORBETT: Judge, I believe that ad -- that
10 adequately covers the record.

11 THE COURT: All right. So, we'll bring the jury in,
12 and I will read this to them, and I guess shortly we'll have
13 a charge conference and charge the jury -- argue and then
14 charge.

15 Okay. Would you bring them in, sir?

16 THE BAILIFF: Yes, sir.

17 THE COURT: After, after the motion, of course.

18 (WHEREUPON, the following takes place within the
19 presence of the jury.)

20 THE BAILIFF: All jurors are all present, Your Honor.

21 THE COURT: All right. Ms. Brown-Watkins, would you
22 raise your hand?

23 (WHEREUPON, the juror complies.)

24 THE COURT: All right. Ma'am, I am appointing you as
25 the foreperson of this jury.

1 Mr. Campbell, you can sit.

2 You want her to move now?

3 THE BAILIFF: Yes, sir, Your Honor.

4 Ma'am, sit in the first front row.

5 THE COURT: Ma'am, I will give you further instructions
6 about your role here shortly.

7 THE JUROR: Okay.

8 THE COURT: Okay. Mr. Corbett, you want me to -- now
9 to read this, is that right, or do you want to?

10 SOLICITOR CORBETT: Yes, sir, Judge. We would ask the
11 Court the advise the jury---

12 THE COURT: Okay.

13 SOLICITOR CORBETT: ---of the judicial notice.

14 THE COURT: Okay. Members of this jury, I have taken
15 judicial notice of the fact that both Davnus Toney and
16 Jamacia Simon have pleaded guilty to armed robbery in this
17 matter. I accepted their guilty pleas on 19 February, 2020,
18 and will impose sentence at a later time. I further
19 instruct you that you are to accept as conclusive any fact
20 judicially noticed by the Court.

21 Now, Mr. Corbett, anything else, sir?

22 SOLICITOR CORBETT: Nothing further, Your Honor. The
23 State rests.

24 THE COURT: All right. Mr. Griffith.

25 MR. GRIFFITH: Your Honor, I would move for directed

1 verdict---

2 THE COURT: All right. Hold on.

3 MR. GRIFFITH: ---at this time.

4 THE COURT: Hold on. Hold on.

5 All right. I guess I could simply note it, but I'd
6 rather do it the -- on the -- a more complete manner.

7 That being said, this is not a YoYo game. This is --
8 we're already back where I need to separate us.

9 So, would you return to your jury room---

10 SOLICITOR CORBETT: Judge, I'm sorry to interrupt.
11 Prior to doing that, may we approach?

12 THE COURT: Yes, sir.

13 (WHEREUPON, a bench conference was held out of the
14 hearing of the jury at this time.)

15 THE COURT: All right. Members of the jury, as I, as I
16 said, please -- I, I beseech you to please return to your
17 jury room for just a few minutes. Let me take up a legal
18 matter. Do not discuss the case. Do not deliberate please.

19 Thank you.

20 (WHEREUPON, the following takes place outside the
21 presence of the jury.)

22 THE COURT: All right. Mr. Griffith.

23 MR. GRIFFITH: Your Honor, the defense would rest. We
24 are not gonna proceed with any witnesses, and defense would
25 also move for directed verdict. The State has failed to

1 prove the elements of the case. And so we would ask the
2 Court for a directed verdict at this time.

3 THE COURT: All right. Mr. Corbett.

4 SOLICITOR CORBETT: Thank you, Your Honor.

5 With regard to the directed verdict motion, the State
6 would like to point out that the evidence currently before
7 the Court is video evidence of an armed robbery taking place
8 including the removal of monies. The testimony from the
9 victim that it was done without consent, that the victim was
10 placed in fear.

11 The statute further provides that while either armed on
12 alleging, alleging being armed, I'm not quoting it exactly,
13 and, from the video, it appears that there are -- individual
14 defendants are holding what appears to be handguns. It's
15 also been described as a B.B. gun. But, either way, we
16 believe that would meet the statutory definition. We
17 further have a codefendant testimony placing it -- the
18 Defendant, Mr. Pearson, in the store and taking part in the
19 robbery.

20 THE COURT: All right. Mr. Griffith, with all respect
21 to you, sir, and mindful that you have done the right thing
22 in terms of procedure to make that motion, I do respectfully
23 deny it. I find that, considering in a light favorable to
24 the -- most favorable to the nonmoving party, that I should
25 do that and I have.

1 MR. GRIFFITH: Thank you, Your Honor.

2 THE COURT: Now, that being said, gentlemen, we will
3 need to look at some charges here.

4 Am I right?

5 That's where we are.

6 All right. So, we'll stand down here shortly,
7 gentlemen, cause I want you to review these charges and
8 before we come back and go with that.

9 SOLICITOR CORBETT: And, and, Judge, I'm sorry, up at
10 the bench I think I had incorrectly stated the sequence.
11 Once we complete jury charge, we bring the jury back out,
12 Mr. Griffith will then rest in front of the jury, and then
13 we'll go straight to---

14 THE COURT: Yes, sir.

15 SOLICITOR CORBETT: ---closing arguments?

16 THE COURT: Yes, sir.

17 SOLICITOR CORBETT: Very well. Thank you.

18 THE COURT: well, let's do this.

19 Let me bring them back in and then you rest, Mr.
20 Griffith, and then I'll tell them again that we've got to
21 separate ourselves one more time for a legal matter. Let's
22 just do that.

23 Okay, sir. Mr. Barnette---

24 MR. GRIFFITH: That's fine with the defense, Your
25 Honor.

1 (WHEREUPON, the following takes place within the
2 presence of the jury.)

3 THE BAILIFF: The jurors are all seated, Your Honor.

4 THE COURT: Mr. Griffith, sir.

5 MR. GRIFFITH: Your Honor, at this time the defense
6 would rest.

7 THE COURT: All right, sir.

8 Ladies and gentlemen, I told you at the outset that
9 none of this is scripted and it's not, and you've seen that
10 firsthand. I now have to take some time to talk to the
11 lawyers about the law to instruct you to use when you
12 deliberate.

13 Once again, we must separate ourselves. Please do not
14 discuss the case. Do not begin deliberations, and thank you
15 for your patience today in waiting for the Court to start
16 and for having to go back and forth and back and forth.

17 So, if you would, take them inside, sir.

18 (WHEREUPON, the following takes place outside the
19 presence of the jury.)

20 THE COURT: My method is to let you look at it. Tell
21 me what you like and don't like and so forth. Then we'll
22 talk.

23 (Pause.)

24 THE COURT: Gentlemen, they're already things in here
25 that I see that were shotgunned into this, and we know it

1 shouldn't be in there. But so we'll talk about that in a
2 minute.

3 (Pause.)

4 THE COURT: Gentlemen, when you are ready, let's meet
5 in the conference room and finalize our charges. But
6 there's no rush on this. Take your time.

7 MR. GRIFFITH: I, I, I did have a couple comments, Your
8 Honor.

9 THE COURT: Well, let's do it---

10 MR. GRIFFITH: On Page 5, it references a defendant's
11 good character and reputation. Nothing has been---

12 THE LAW CLERK: We, we have a lot that can come out.
13 These are our standard charges, and I didn't know whether
14 the Defendant was gonna testify or not.

15 MR. GRIFFITH: Oh, yeah.

16 THE LAW CLERK: So -- but I think he said --.

17 MR. GRIFFITH: Then on Page 11---

18 THE COURT: Hold on.

19 MR. GRIFFITH: ---the statement---

20 THE COURT: Let me just start at the front since we're
21 gonna do this in here now. That's fine.

22 Number -- on, on Page 1, multiple charges, the first --
23 the very first paragraph should take care of it.

24 THE LAW CLERK: Do you want this on the record?

25 THE COURT: Yeah, since we're doing it in here now, and

1 if y'all have any problem, we'll take these one by one now.

2 SOLICITOR CORBETT: Judge?

3 THE COURT: Yes, sir.

4 SOLICITOR CORBETT: I'm, I'm sorry to interrupt you.
5 May Mr. Griffith and I approach?

6 THE COURT: Yes, sir.

7 (WHEREUPON, a bench conference was held at this time.)

8 THE COURT: Let's go back there in the back.

9 SOLICITOR CORBETT: Yes, sir.

10 THE COURT: Okay.

11 (WHEREUPON, a short recess was taken at this time.)

12 THE COURT: -- that you may argue and so that I may
13 charge it.

14 SOLICITOR CORBETT: State's ready, Your Honor.

15 MR. GRIFFITH: Defense is ready, Your Honor?

16 THE COURT: All right. Bring them in, sir.

17 (whereupon, the following takes place within the
18 presence of the jury.)

19 THE BAILIFF: The jurors are seated, Your Honor.

20 THE COURT: All right. If anyone with us wants to
21 leave the courtroom, now is the time to do it because from
22 here until the end of my charge to the jury no one leaves
23 and no one comes in.

24 If you -- members of the jury, at this time the
25 attorneys are going to offer their closing arguments to you.

1 After that I will instruct you on the law to apply to the
2 facts as you find them in this case.

3 Mr. Corbett.

4 SOLICITOR CORBETT: Thank you, Your Honor.

5 May it please the Court.

6 Ladies and gentlemen, good morning. Thank you for
7 being here and for your attention.

8 We've reached the portion of the trial known as closing
9 arguments, and it's a chance for me to tell you a little bit
10 about what I believe the evidence has shown in this case,
11 and I will tell you it's a little bit of a peculiar feeling
12 because, in a few moments, a few minutes I should say, Mr.
13 Griffith will get up here and have an opportunity to also
14 speak to you. So, it sort of puts me in the spot of maybe
15 trying to anticipate a little bit what he's gonna say and
16 talk to you about some of those issues as well.

17 But what I really want to talk to you about is
18 evidence. It comes from the witness stand, documents that
19 admitted, et cetera. And that's what I believe is important
20 in this case, evidence.

21 Now, why do I stress that so much?

22 Because I can say things here. But until somebody sits
23 on the witness stand and says them they're not evidence.
24 For example, occasionally we will ask questions or some
25 people will ask questions that the answer may be no. But

1 it's designed to make you think a different answer.

2 So, for example, when you were interviewed by the
3 police, they promised you something. So you just gave some
4 names. Asking that question doesn't make it true.

5 Okay. That's the one that stuck out to me in this
6 trial because what did the evidence show to us?

7 Se know there was an armed robbery, and now we're
8 trying to figure out who, who those three people are.
9 Information goes out in the community. They get a hit on
10 Davnus Toney. He's picked out of a photo lineup. He tells
11 you that, after being interviewed, I tell them it was
12 Jamacia Simon and Curtis Pearson that was with me.

13 Okay. He never said he was promised anything. He
14 never said I started throwing out names. He gave them those
15 two names in December of 2018, December of 2018, within one
16 week of this happening. Excuse me. Within one week of his
17 arrest. That's what the evidence showed in the case.

18 Not promises. Not all these other things because I
19 asked Detective McFadden did y'all do any kind of threats or
20 coercion. You make any promises.

21 So, you may be wondering why we would take a step known
22 as judicial notice, and that is that the other two people
23 pled guilty and are waiting to be sentenced.

24 Now, often times when people stand up here and throw
25 around words like deals and promises and things like that,

1 what would you expect to see on that form?

2 Larceny. Assault. Something lesser.

3 That's what a deal sounds like, right?

4 They pled guilty to armed robbery is what they pled
5 guilty to. We know there were three people in that store
6 that night, and we now know that two of them had pled guilty
7 to armed robbery.

8 So, now, let me get back on track a little bit if I
9 may. The law in this case is armed robbery, and possession
10 of a weapon during the commission of a violent crime.

11 Now, obviously, if there's not an armed robbery,
12 there's not possession of a weapon during the commission of
13 a violent crime. That has to exist first.

14 So, let's talk about the armed robbery for a moment.
15 Now, the Judge is going to charge you on the law in the
16 case, and you are oath bound to follow that law.

17 Now, I will do my best to summarize it. But if I tell
18 you something different than what the Judge is -- judge
19 tells you, you are bound by your oath to follow the
20 instructions as he gives them to you. But I will do my best
21 to accurately summarize this.

22 To be guilty of armed robbery, you have to take
23 property from another person by fear or force.

24 Okay. You have to do that. You actually have to take
25 something from them or from their presence that they have

1 control over with the intent to deprive them of it.

2 Okay. That's part of this law.

3 The other part of the law is that you either have to be
4 armed or while alleging, either by action or words, and
5 using a representation of a deadly weapon. So, armed with a
6 deadly weapon or using a representation of a deadly weapon.
7 Now, I'm gonna come back to that cause it was described
8 differently.

9 Okay. That's armed robbery.

10 So, what do we know from that night?

11 Often times you have to listen to the witnesses testify
12 and try to sort out who's telling you what. You didn't have
13 to do that in this case because we looked at I think four
14 different camera angels that night, four different camera
15 angles.

16 So, were those three people in the store either armed
17 or using -- with a deadly weapon or using a representation
18 of a deadly weapon?

19 I find it somewhat surprising that three guys would
20 happen to have three super realistic looking B.B. pistols.
21 But whatever they were, they were representations of a
22 deadly weapon. I mean you see something being pointed in
23 that young lady's face that has a laser sight mounted under
24 the barrel. So, that video tells us, whether you call it a
25 B.B. pistol or you call it a real pistol, it was, at a very

1 minimum, a representation of a deadly weapon.

2 was it taken from that young lady by force or
3 intimidation or fear?

4 wow. That one's easy to answer.

5 when a young lady who's now 21-years old who was 19 at
6 the time has to sit on that stand and tell you while I was
7 on my knees behind the counter, I thought they were going to
8 shoot me. Through tears has to describe to you what it was
9 like to be in that store that night.

10 was the money taken?

11 Yeah, that's pretty clear too.

12 Matter of fact, if my recollection of the video's
13 correct, not only were they digging it out the drawer, but I
14 believe they pulled the whole cash drawer out to get all of
15 the money, and you saw them running out the door with it.
16 An armed robbery took place.

17 Now, do I wish that some other folks were there that
18 night to see it?

19 Yes, I do.

20 would it -- what's the old joke about you wish that the
21 nuns were present there to testify?

22 But they weren't in the convenience store that night,
23 and I'll tell you why, cause guys who commit crimes, they
24 wait till nobody's around. They wait till nobody's around.
25 So they bust up in this store, and then Davnus Toney took

1 the stand to testify.

2 Now, what do I do with Davnus Toney because he was an
3 interesting character to say the least?

4 Because Davnus Toney, he kind of put himself in a spot
5 because, back in December of 2018, he told them who was with
6 him that night.

7 So, how did he come across today?

8 Golly. I gave them my friends' names.

9 What do I do now?

10 Okay. Well, I'm locked in on that, but maybe I was
11 high. Maybe I was using cocaine, heroin, and meth. Maybe I
12 didn't remember. But I remember asking for the cigarettes,
13 reaching for my wallet, counting the money later on.

14 Well, what was he doing with you there?

15 Maybe trying to hedge. Maybe trying to save some face.
16 Maybe not wanting to be accused of coming in and testifying.
17 But his problem was he'd locked in two, I'm sorry, a year
18 and, what is it, three months ago now, in December of '18
19 when he told them the names.

20 Was he trying to hedge a little bit?

21 Oh, we didn't have a plan.

22 You didn't have a plan?

23 You walked from the other side of Lafayette to Church
24 and Broad, and I was trying to ask him if it wasn't a plan?

25 How was it -- was it a coincidence that two other

1 people ran in while you were holding the clerk at gunpoint?

2 The plan part is not that important because you see
3 what happened on the video. Whether it was talked about a
4 minute ahead of time or an hour ahead of time, it was still
5 three people committing an armed robbery, and the names were
6 provided.

7 Detective McFadden told you that. They do what police
8 do.

9 what happened?

10 We got a report of a robbery. We reviewed the
11 videotape. We took a still image from that videotape. We
12 put it out in the community. Fortunately for them they got
13 a tip off of that, were able to create a photo lineup.
14 Remember both Detective McFadden and Miss McDonald testified
15 to this cause once they had that photo then they could
16 positively identify him, and then that's when it started
17 building up cause they get him in there, interview him, find
18 out who was there. That's what happened in the case.

19 Ladies and gentlemen, I think I've covered the law.
20 Possession of a weapon during the commission of a violent
21 crime, you saw the video as well on that. It's difficult.
22 It's difficult to go back and sit down and, and have
23 somebody critique what you've done, criticize what you've
24 done, point out your -- my possible deficiencies. But
25 here's what I know.

1 Miss McDonald, she didn't deserve that. Nobody does.
2 People that get up and go to work for a living -- I've been
3 fortunate. I, I haven't worked much retail. It was only a
4 short period when I was a teenager. Never experienced
5 anything like this, but I can't imagine how scary that is.
6 The terrible amount of fear that you must go through having
7 that gun pointed in your face.

8 And, folks, if y'all need to, that video's in evidence.
9 You see three different people. Curtis Person, the one
10 described as being by the door, he comes forward and lifts
11 that gun up at that clerk. It's tough to see. But as she's
12 easing around that counter, he closes that distance for a
13 moment.

14 Saw the other two from the very get go.

15 What type of terrible fear that must be to be robbed
16 like that, and the police took the information that they
17 provided -- were provided with, once again, in December of
18 2018 and made this case.

19 Ladies and gentlemen, I believe that the evidence leads
20 you to that one conclusion, that Curtis Pearson is guilty of
21 armed robbery.

22 Now, often times we talk about robbery when it's more
23 than one person as to well, did the person actually commit
24 the armed robbery. Sometimes people will say well, I was
25 there, but I didn't commit the armed robbery.

1 Now, this case is a little bit different. I usually
2 spend a lot of time talking about that because we talk about
3 the hand of one is the hand of all.

4 Okay. We talk about that. Normally I would spend a
5 great deal of time on it, but, in this case, I don't think
6 we really have to worry much about whether or not it was the
7 hand of one is the hand of all because every hand had a gun
8 in it, and that makes you part of the robbery. Whether
9 you're the one standing at the counter or whether you're the
10 one by the door doing this, and then closing the distance on
11 the clerk, you are part of the armed robbery.

12 Yesterday you stood here and said you would well and
13 truly try the facts of the case. I submit to you those are
14 the facts of the case.

15 Thank you.

16 THE COURT: Mr. Griffith.

17 MR. GRIFFITH: Thank you, Your Honor.

18 Please the Court.

19 Thank you all again for being here to help us with the
20 case. The object is to find the truth of course. We want
21 to find the truth. We want justice to be served, and we
22 want to -- we want to know, if someone commits a crime, that
23 we can come together and look at it, and make a decision
24 about whether a crime was committed or not, and whether or
25 not it was them that did it. But being accused of a crime

1 does not mean that you committed the crime.

2 The State witness that they brought in is the only
3 person that named Mr. Pearson.

4 The State talked about what a horrible crime it was,
5 how scary it was. I've been in one of those and it is. It
6 doesn't make it less scary no matter who's doing it. It
7 doesn't make it more scary if it's the person that's, that's
8 here that was not seen on the video.

9 So, yeah, if, if -- it was a horrible crime. Armed
10 robbery is a horrible crime. It's considered a serious
11 crime in South Carolina.

12 Well, they went through a lot to show you that, to tell
13 you that. But what they didn't tell you is that they had
14 any real proof that Mr. Pearson was the person that was that
15 third person. Their witness -- there definitely was a third
16 person.

17 Their witness was higher than a Georgia pine when this
18 happened. He said he had no plan when he went in that
19 store. He went in there to get some cigarettes. You heard
20 his testimony, and, sure, if I smoked Newport cigarettes
21 every day for a year, I'm not gonna go in and ask for -- and
22 think okay, what kind of cigarettes do I smoke. Of course
23 he knew what kind of cigarettes he smoked. He asked for
24 Newports.

25 Then he said something snapped. So he pulled out his

1 gun and started robbing the store. He said the -- he hadn't
2 intended on robbing that store. He didn't remember how much
3 money there was. First they guided him to how much money
4 there was, and he said oh, yeah, it was that much money.
5 Then when I asked him he said well, I don't know. Maybe it
6 was 300. I don't know. He didn't know how much money there
7 was. He admitted that he didn't really remember a lot about
8 what was going on cause he was so high that he couldn't
9 remember what happened. They told him a story and he would
10 say yeah, that's what happened.

11 My client, Mr. Pearson, pled not guilty. That's all he
12 needs to say. I mean he doesn't have to prove -- get up and
13 prove that he's innocent. He already said I'm not guilty.

14 The State has not shown, beyond a reasonable doubt,
15 that Mr. Toney told the truth. He remembered and admitted
16 that he didn't have any real memory of it. They handed --
17 they had the Judge read this judicial notice saying that
18 he's accepted the plea from Mr. Simon and Mr. Tomey (sic).
19 But their sentence has been deferred till later to see how
20 much they help out in a trial.

21 When he was arrested he was given consideration when he
22 said I'll cooperate. He got a smaller bond. He's not
23 sweet, loving friends with Mr. Pearson.

24 The judge doesn't -- of course, I have to say the Judge
25 doesn't have to abide by any kind of sentencing thing. He,

1 he makes the decision. That decision's up to the Judge.

2 But the testimony of somebody who couldn't tell you
3 what happened, but he's expecting a reward for his
4 testimony, who didn't have an intent, who testified that he
5 didn't have an intent -- part of the elements of armed
6 robbery is intent. The State is not met its burden of proof
7 beyond a reasonable doubt.

8 Being accused isn't enough.

9 If the one -- and no other witness is not reliable, how
10 can we tell a person -- find a person guilty and have them
11 being in danger of some punishment from the State for
12 something they may not have committed?

13 Reasonable doubt has to be beyond a reasonable doubt.
14 If there is doubt, then don't. If you're not firmly
15 convinced -- the Judge, of course, will go over what a
16 reasonable doubt means. You have to be firmly convinced.

17 What the Defendant said or the witness said is that he
18 didn't say anything at first. He didn't make any
19 statements. Then, of course, our contention is that, you
20 know, he said listen, if you cooperate, things might go
21 better for you. But the State did not prove, beyond a
22 reasonable doubt, that leaves you firmly convinced that Mr.
23 Pearson was that third man, and, in that case, we'd ask that
24 you consider all the evidence, and, if you're firmly
25 convinced, that's gonna be something that you will decide.

1 If you are not firmly convinced, then you must find that Mr.
2 Pearson can not be found guilty if you are not firmly
3 convinced that he was that third person.

4 Thank you.

5 THE COURT: Gentlemen, any objection to my reading to
6 the jury or charging the jury at the rail?

7 SOLICITOR CORBETT: None from the State---

8 MR. GRIFFITH: None.

9 SOLICITOR CORBETT: ---Your Honor.

10 MR. GRIFFITH: None, Your Honor.

11 THE COURT: All right, sir.

12 This is the second thing that you don't see in movies
13 and TV shows. This is when the judge reads to the jury the
14 law to charge that you are to use in this case. It's gonna
15 take me about 15 minutes. So bear with me.

16 I remind you that, during this trial, you and I had and
17 have certain duties to perform. As a trial judge, it --
18 trial judge, it was and is my responsibility to preside over
19 the trial of the case. I also had the duty to rule on the
20 admissibility of evidence offered during the trial.

21 You are to consider only the competent evidence before
22 you. If there was any testimony ordered stricken from the
23 record in this case during this trial, you must disregard
24 that stricken testimony. You are to consider only the
25 testimony which has been presented from the witness stand,

1 any exhibits which have been made a part of the record, and
2 any stipulations of counsel. I had the additional duty to
3 charge you the law that applies to this case.

4 As a presiding judge, I am the sole judge of the law of
5 the case, and it is your duty, as jurors, to accept and
6 apply the law as I now state it to you. If you already have
7 any idea as to what the law is or what the law ought to be,
8 and it does not agree with what I tell you the law is, you
9 must abandon this idea because you are sworn to accept the
10 law and apply the law exactly as I state it to you.

11 In every case tried in this Court before a jury, a jury
12 becomes the sole and exclusive judge of the facts in the
13 case. A trial judge can not intimate, state, comment on, or
14 make any statement to a trial jury about the facts in a
15 case. Since you, the jury, are the sole judge of the facts
16 in this case, you are not to infer, from what I have said
17 during the progress of this trial in ruling upon the
18 admissibility of evidence or otherwise, or anything that I
19 say now during this course of this instruction to you, that
20 I have any opinion about the facts in this case. The law
21 does not allow me to have an opinion about the facts in the
22 case. This is a matter solely for you, the jury, to
23 determine.

24 As jurors, it is your duty to determine the effect, the
25 value, weight, and truth of the evidence presented during

1 this trial.

2 The indictment charges the Defendant with armed robbery
3 and possession of a weapon during the commission of a
4 violent crime. I remind you that the fact the Defendant was
5 arrested, charged, and indicted in this case is not evidence
6 in this case, and can not be considered by you as evidence
7 of guilt in this case nor does it create any presumption or
8 inference of guilt.

9 This document is simply the formal written instrument
10 which contains the charges made against the Defendant. It
11 is the formal document by which this case is brought into
12 this Court.

13 The charges in this case allege several different
14 offenses against the Defendant. The charges are, charge
15 number one, armed robbery, charge number two, possession of
16 a weapon during a violent crime. The indictment charges
17 separate and distinct offenses. You must decide each charge
18 separately on the evidence and the law applicable to it
19 uninfluenced by your decision as to any other charge. You
20 will be asked to write a separate verdict of guilty or not
21 guilty to each charge.

22 The Defendant has pled not guilty to this indictment,
23 and that plea puts the burden on the State to prove the
24 Defendant guilty. A person charged with committing a
25 criminal offense in South Carolina is never required to

1 prove himself innocent.

2 I charge you that it is an important rule of the law
3 that the Defendant, in a criminal trial, no matter what the
4 seriousness of the charge may be, will always be presumed to
5 be innocent of the charge for which the indictment was, was
6 issued unless guilt has been proven by evidence satisfying
7 you of that guilt beyond a reasonable doubt.

8 This presumption of innocence, innocence does not end
9 when you begin your deliberations, but it accompanies the
10 Defendant throughout the trial until you reach a verdict of
11 guilty based on evidence satisfying you of that guilt beyond
12 a reasonable doubt. The presumption of innocence is like a
13 robe of righteousness placed about the shoulders of the
14 Defendant which remains with the Defendant until it has been
15 stripped from the Defendant by evidence satisfying you of
16 the Defendant's guilt beyond a reasonable doubt.

17 The presumption of innocence is not a mere legal
18 theory. It is not just a legal phrase. It is a substantial
19 right to which every Defendant is entitled unless you, the
20 jury, are satisfied from the evidence of the Defendant's
21 guilt beyond a reasonable doubt.

22 What is a reasonable doubt in the law?

23 Reasonable doubt is the kind of doubt that would cause
24 a reasonable person to hesitate to act.

25 There are two types of evidence which are generally

1 presented during a trial, direct evidence and circumstantial
2 evidence.

3 Direct evidence is the testimony of a person who claims
4 to have actual knowledge of a fact such as an eye witness.
5 It is evidence which immediately establishes the main fact
6 to be proved.

7 Circumstantial evidence is proof of a chain of facts
8 and circumstances indicating the existence of a fact. It is
9 evidence which immediately establishes collateral facts from
10 which the main fact may be inferred. Circumstantial
11 evidence is based on inference and not on personal knowledge
12 or observation.

13 The law makes absolutely no distinction between the
14 weight or value to be given to either direct or
15 circumstantial evidence nor is a greater degree of certainty
16 required of circumstantial evidence than of direct evidence.
17 You should weigh all of the evidence in the case. After
18 weighing all the evidence, if you are not convinced of the
19 guilt of the Defendant beyond a reasonable doubt, you must
20 find the Defendant not guilty.

21 Necessarily you must determine the credibility of
22 witnesses who have testified in this case. Credibility
23 simply means believability. It becomes your duty as jurors
24 to analyze and evaluate the evidence, and determine which
25 evidence convinces you of its truth.

1 In determining the believability of witnesses who have
2 testified, you may believe one witness over several
3 witnesses or several witnesses over one witness. You may
4 believe a part of the testimony of a witness, and reject the
5 remaining part of the testimony of that same witness. You
6 may believe the testimony of a witness entirely or reject it
7 entirely. You may consider whether any witness has
8 exhibited to you any interest, bias, prejudice, or other
9 motive in this case. You may also consider the appearance
10 and manner of a witness while on the witness stand.

11 I instruct you and emphasize that the fact the
12 Defendant did not testify is not a factor to be considered
13 by you in any way in your deliberations and in your
14 consideration on the question of the guilt or innocence of
15 the Defendant. It must not be considered by you in any
16 manner whatsoever.

17 A Defendant has the constitutional right to remain
18 silent, and the assertion of this right must not be
19 considered by you in your deliberations. I repeat, under
20 your oath, you are to draw no conclusion whatsoever from the
21 fact that the Defendant in this case did not testify. The
22 fact that this Defendant did not testify shall not even be
23 discussed in the jury room. The burden of proof, burden of
24 proof, as I have stated to you, is on the State. The
25 Defendant is not required to prove his innocence. The

1 burden of proof remains on the State to prove guilt beyond a
2 reasonable doubt.

3 If a crime is committed, committed by two or more
4 people who are acting here together in committing a crime,
5 the act of one is the act of all. A person who joins with
6 another to commit an unlawful, unlawful act is criminally
7 responsible for everything done by the other person which
8 happens as a probable or natural consequence of the acts
9 done in carrying out the common plan or purpose.

10 For example, two people can be guilty of killing
11 another person when only one of the two had a gun, there was
12 only one bullet, and only one of the two fired the shot that
13 caused the death. If two or more people are together,
14 acting together, assisting each other in committing the
15 offense, the act of one is the act of all, or as it is
16 sometimes said, the hand of one is the hand of all.

17 Prior knowledge that a crime is going to be committed
18 without more is not sufficient to make a person guilty of
19 that crime. Mere knowledge that another person is going to
20 commit a crime, even if the Defendant is present when the
21 crime is committed, is not sufficient to convict the
22 Defendant as a principal.

23 Guilt as a principal is shown by actual or constructive
24 presence at the scene as a result of prior arrangement.
25 Therefore, a finding of the prior arranged plan or common

1 scheme is necessary for a finding of guilt as a principal.
2 The State must prove, beyond a reasonable doubt, by
3 competent evidence, that the theory of the hand of one is
4 the hand of all.

5 A principal in a crime is one who either actually
6 commits the crime or who is present aiding, abetting, and
7 assisting in committing the crime. When a person does act
8 in the presence of and with the assistance of another, the
9 act is done by both. Where two or more acting with a common
10 plan or intent are present at the commission of a crime, it
11 does not matter who actually commits the crime. All are
12 guilty. The hand of one is the hand of all.

13 Present at the commission of a crime means to be
14 sufficiently near to, near to aid and abet and assist in the
15 commission of the crime. However, mere presence at the
16 scene of a crime is not sufficient to convict one as a
17 principal on the theory of aiding and abetting.

18 Intent is also a necessary element for there must have
19 been a common design or intent to commit the crime, and the
20 crime must have been committed pursuant thereto with the
21 person aiding and abetting by some overt act. Intent means
22 intending the result which actually occurs. Not
23 accidentally or volun -- involuntarily. Intent may be shown
24 by acts and conduct of the Defendant and other
25 circumstantial -- circumstances from which you may naturally

1 and reasonably infer intent. The State must prove these
2 elements beyond a reasonable doubt.

3 An issue in this case is the identification of the
4 Defendant as the person who committed the crime charged.
5 The State has the burden of proving identity beyond a
6 reasonable doubt. You must be satisfied, beyond a
7 reasonable doubt, of the accuracy of the identification of
8 the Defendant before you may convict the Defendant.

9 Identification testimony is an expression or -- of
10 belief or impression by a witness. You must determine the
11 accuracy of the identification of the Defendant. You must
12 consider the believability of each identification witness in
13 the same way as any other witness. You may consider whether
14 the witness had an adequate opportunity to observe the
15 offender at the time of the offense. This will be affected
16 by things like how long or short a time was available, how
17 far or how close the witness was, the lighting conditions,
18 and whether the witness had the chance to see or know the
19 person in the past.

20 Once again, I instruct you the burden of proof on the
21 State extends to every element of the crime charged, and
22 this specifically includes the burden of proof beyond a
23 reasonable doubt. The identity of the Defendant as the
24 person who committed the crime, if, after examining the
25 testimony, you have a reasonable doubt as to the accuracy of

1 the identification, you must find the Defendant not guilty.

2 In order to establish criminal liability, criminal
3 intent is required. For example, the mental state required
4 to be proven by the State for a particular crime might be
5 purpose, intent, knowledge, recklessness, or criminal
6 negligence. Criminal intent must be proven by the State
7 beyond a reasonable doubt. Criminal intent is always a
8 matter that must be determined by the jury from the
9 circumstances surrounding the situation.

10 There is no way to prove intent to a mathematical
11 certainty, certainty. There is no way medical science can
12 dissect a person's brain and determine what the person had
13 in mind. So, the law says that criminal intent may be
14 inferred under circumstances shown to have existed. This is
15 how you make a determination of whether or not the element
16 requiring intent was present.

17 It is not necessary to establish intent by direct and
18 positive evidence. But intent may be established by
19 inference in the same way as any other fact may be taken
20 into consideration. The acts of the parties and all of the
21 facts and circumstances of the case.

22 Criminal intent is a mental state, a conscious
23 wrongdoing. It is up to you to determine what the Defendant
24 intended to do based on the circumstances shown to have
25 existed. Criminal intent can arise from action or a failure

1 to act. It may arise from negligence, recklessness,
2 recklessness, or an indifference to duty or to consequences
3 that is considered by the law to be the equivalent of
4 criminal intent.

5 Mere presence at the scene is not sufficient to prove
6 someone guilty of a crime. A Defendant's present (sic)
7 where a crime is being committed or mere association where a
8 person who commits a crime does not make a defendant an
9 accomplice or an aider or abettor in the person committing
10 the crime. The burden is on the State to prove every
11 element of the crime charged.

12 If you find, after reviewing all of the evidence, that
13 the State has proved that the Defendant was only present at
14 the scene of a crime, and that they have not proved, beyond
15 a reasonable doubt, any other participation in the crime,
16 then you must find the Defendant not guilty. The law is
17 that proof of -- at the scene of the crime is not sufficient
18 to find someone guilty.

19 The Defendant is charged with armed robbery. In order
20 to prove this offense, the State must first prove, beyond a
21 reasonable doubt, that the Defendant took personal property
22 from the person or presence of another person. Property is
23 in the presence of a person if it is within the person's
24 reach, inspection, observation, or control so that the
25 person could not overcome with violence or prevent by fear

1 key possession of the property.

2 The State must also prove, beyond a reasonable doubt,
3 that the Defendant carried the property away intending to
4 permanently deprive the owner of the property, and to keep
5 the property for the Defendant's own use. The slightest
6 removal of the property or the complete possession of the
7 property, even for an instant by the Defendant, is
8 sufficient to show a taking and carrying away of the
9 property. The taking and carrying away of the property must
10 have been done with violence or by putting the owner of the
11 property in fear of violence.

12 Finally, the State must prove, beyond a reasonable
13 doubt, that the Defendant was armed as South Carolina Code
14 Section 16-11-330 states. A person who commits armed
15 robbery while armed with a pistol, a dirk, slingshot, metal
16 knuckles, razor, or other deadly weapon, or while
17 allowing -- or while alleging, either by action or words, he
18 was armed while using a representation of a deadly weapon or
19 any believed to be a deadly weapon, is guilty of armed
20 robbery.

21 The Defendant is charged with possession of a weapon
22 during the commission of or attempt to commit a violent
23 crime. The State must prove, beyond a reasonable doubt,
24 that the Defendant was in possession of a firearm or visibly
25 displayed what appeared to be a firearm during the

1 commission of a violent crime. A firearm means any machine
2 gun, automatic rifle, revolver, pistol, or any weapon which
3 will be -- is designed to or may be readily converted to
4 expel a projectile.

5 In order to find the Defendant guilty of possession of
6 a deadly weapon during the commission of a crime, a violent
7 crime, you must first find the Defendant guilty of either
8 committing a violent crime or attempting to commit a violent
9 crime. Armed robbery is a violent crime. The State must
10 prove, beyond a reasonable doubt, weapons further advanced
11 or helped in the commission of the crime.

12 There are four possible jury verdicts which you may
13 find in this, in this case, guilty or not guilty. There is
14 no significance whatsoever in the order in which I state
15 these possible verdicts. It is simply that one must be
16 stated first.

17 Your verdict must be unanimous meaning all 12 of you
18 must agree.

19 Madam Foreperson, when the jury agrees on this verdict,
20 your verdict, you will write the verdict on the back of
21 the -- on the bottom of -- back of the indictment and sign
22 your name as foreperson, knock on the door of the jury room,
23 and inform the bailiff that you have reached a verdict.

24 You got the verdict form, Sam?

25 THE BAILIFF: Yes, sir.

1 THE COURT: Both named Sam.

2 I'm sorry. This verdict form here has two categories
3 basically.

4 As to the charge of armed robbery, we, the jury,
5 unanimously find the Defendant, Curtis Channing Pearson,
6 either not guilty or guilty. If you find the Defendant
7 guilty of armed robbery, then you go to this Question Number
8 2 and determine whether he's not guilty or guilty.
9 Foreperson signs and dates. Knock on the door.

10 Gentlemen, any exceptions we need to take on the record
11 in their absence?

12 MR. GRIFFITH: None from the State -- I mean for the
13 Defendant, Your Honor.

14 SOLICITOR CORBETT: Nothing from the State, Your Honor.

15 THE COURT: All right. Do we have all the exhibits
16 lined up, locked and loaded, and ready to go?

17 SOLICITOR CORBETT: Judge, if, if we might, as they're
18 going out, Mr. Griffith and I will review them and---

19 THE COURT: All right.

20 SOLICITOR CORBETT: ---make---

21 THE COURT: I'm gonna ask you, sir, to take them to the
22 jury room.

23 THE BAILIFF: Yes, sir.

24 THE COURT: I will hold the verdict form for now till
25 we give everything to them.

1 THE BAILIFF: Yes, sir.

2 THE COURT: Do not discuss the case yet. Do not begin
3 deliberations please.

4 (WHEREUPON, the following takes place outside the
5 presence of the jury.)

6 (WHEREUPON, the alternate jurors were released at this
7 time.)

8 SOLICITOR CORBETT: Your Honor, may we go on the record
9 briefly?

10 THE COURT: Yes, sir.

11 SOLICITOR CORBETT: Your Honor, with regard to exhibits
12 in the trial, it's my recollection that the State has
13 offered into evidence State's Exhibit No. 1, State's Exhibit
14 No. 5, No. 6, and No. 7, and have the witness refer to
15 State's 2, 3, and 4, but I do not believe I admitted those
16 into evidence.

17 THE COURT: I don't recall them going in.

18 SOLICITOR CORBETT: Yes, sir.

19 THE COURT: None of them.

20 SOLICITOR CORBETT: So, Judge---

21 MR. GRIFFITH: And I agree, Your Honor.

22 THE COURT: They didn't go in.

23 All right. So --.

24 MR. GRIFFITH: So we can instruct them to begin
25 deliberations?

1 THE COURT: Yes, sir. Tell them it's theirs, and if
2 they have any questions, let us know.

3 THE BAILIFF: Yes, sir.

4 THE COURT: All right.

5 SOLICITOR CORBETT: Thank you.

6 (WHEREUPON, the jury began deliberations at 12:41PM and
7 a question was asked at 1:24PM.)

8 THE BAILIFF: Yes, sir.

9 THE COURT: Or perhaps more of a request. At the top
10 says request, and then simply says video 2/20/2020. Request
11 to see video. Signed by the foreperson. I'm not sure what
12 the actual question is.

13 Can you bring her in please?

14 THE BAILIFF: Yes, sir.

15 (WHEREUPON, the forelady comes into the courtroom at
16 this time.)

17 THE COURT: Hey, ma'am. Could you stand right here
18 please?

19 Ma'am, your request it -- it says -- you turn around
20 and face the jurors -- I mean the lawyers please.

21 video 2/20/2020. Request to see video and your name.
22 what precisely do y'all wish to see, ma'am?

23 THE FORELADY: The entrance.

24 THE COURT: The entrance?

25 THE FORELADY: Yeah.

1 THE COURT: Just the---

2 THE FORELADY: That part.

3 THE COURT: Just the outside of the store entrance?

4 THE FORELADY: The -- when they come in. The video
5 when they come into the store.

6 THE COURT: How long -- can -- do y'all -- I think I
7 know what she's talking about.

8 Do y'all?

9 SOLICITOR CORBETT: Yes, sir, Judge. I believe there
10 were, if my memory's correct, either four or five separate
11 camera angles shown during the trial.

12 THE COURT: Yes, sir.

13 SOLICITOR CORBETT: And there is one marked entrance.

14 THE COURT: Okay. Is that what you need to see, ma'am?

15 THE FORELADY: Uh-huh. (Affirmative).

16 THE COURT: All right. Give that to the reporter.

17 THE BAILIFF: Yes, sir.

18 THE COURT: And if you will go back in.

19 Do y'all need some time to set that up?

20 SOLICITOR CORBETT: Judge, I think it will take me --
21 well, it's me, but I think I can do it in about 30 seconds.

22 THE COURT: Okay. Ma'am, if you'd go back here and
23 join your jury. We'll bring you in once we know it's ready.
24 okay?

25 THE FORELADY: Okay.

1 (WHEREUPON, the following takes place outside the
2 presence of the forelady.)

3 (WHEREUPON, the note from the jury was marked as
4 Court's Exhibit No. 1 and received into evidence at this
5 time.)

6 (WHEREUPON, the following takes place within the
7 presence of the jury panel.)

8 SOLICITOR CORBETT: Judge, I believe that's the extent
9 of what we played at trial.

10 THE COURT: All right. Madam Forelady, does that meet
11 your request, ma'am?

12 THE FORELADY: Yes.

13 THE COURT: Okay. All right. If y'all would return to
14 your jury, jury room and resume deliberations please.

15 (WHEREUPON, the jury began deliberations again and
16 another question was sent out at 2:01PM.)

17 MR. GRIFFITH: Yes, Your Honor.

18 THE COURT: Do you want to go forward?

19 It's just the question or you want him in here?

20 Do you want your client for this?

21 MR. GRIFFITH: Is this---

22 THE COURT: It's just a question from the jury.

23 MR. GRIFFITH: Oh, okay. No, we don't need him.

24 THE COURT: All right. Here's the question. Request
25 to explain the definition of reasonable versus non

1 reasonable doubt. I can reread the reasonable doubt, which
2 is three sentences long. There is no charge on non
3 reasonable doubt.

4 MR. GRIFFITH: There is no charge on non reasonable
5 doubt, and if --.

6 Reasonable doubt is a very short sentence in here.
7 It -- what is reasonable doubt in the law.

8 THE COURT: I know.

9 MR. GRIFFITH: Reasonable doubt is the kind of doubt
10 that would cause a reasonable person to hesitate to act.
11 The expanded jury instructions, however, did give a little
12 more info than that because they say -- it said, in fact,
13 and I'm trying to find my note, leaves one firmly convinced.

14 THE COURT: Your thoughts, Mr. Corbett?

15 SOLICITOR CORBETT: Judge, my initial reaction is that
16 the Court could recharge them on reasonable doubt.

17 THE COURT: Well, yeah, of course. But do I go with
18 the---

19 SOLICITOR CORBETT: Where, where I'm torn is do you --
20 does the Court attempt to explain that there's not a non
21 reasonable doubt charge?

22 THE COURT: How about -- I, I could -- I could say
23 there's simply no non reasonable charge to give you.

24 SOLICITOR CORBETT: Judge, may I hear the question one
25 more time?

1 THE COURT: Sure. Explain the definition of reasonable
2 doubt versus non reasonable doubt.

3 MR. GRIFFITH: You can only give them the definition of
4 reasonable doubt.

5 THE COURT: Okay.

6 MR. GRIFFITH: I don't think we can possibly give them
7 the definition of non reasonable doubt.

8 Jason, do you have the other -- the old copy that shows
9 the alternative---

10 SOLICITOR CORBETT: Uh-huh. (Affirmative).

11 MR. GRIFFITH: -- reasonable, reasonable doubt charge?
12 would the judge consider the alternative reasonable,
13 reasonable doubt charge which really is a lot more verbose
14 and may give them a little bit better idea of what they're
15 suppose to be?

16 THE COURT: well, I'd like to hear from Mr. Corbett
17 first before I address that request or possibility.

18 SOLICITOR CORBETT: Judge, if -- I'm -- if you'll bear
19 with me one moment. I was just trying to write out my
20 thoughts a little bit.

21 THE COURT: Okay.

22 (Pause.)

23 SOLICITOR CORBETT: Judge, I'm just trying to remember
24 if I've been confronted with the situation where they've
25 asked for a definition for something that wasn't defined in

1 the charge, and I'm not entirely sure of the appropriateness
2 of charging something different at this point. And, Judge,
3 I -- admittedly I'm thinking out loud here somewhat.

4 THE COURT: I understand.

5 SOLICITOR CORBETT: But, but I wonder if the correct
6 response would not be ladies and gentlemen of the jury, the
7 jury charge provides that reasonable doubt is the kind of
8 doubt that would cause a reasonable person to hesitate to
9 act. Within the charge -- within the jury charges, there is
10 no definition of non reasonable doubt.

11 THE COURT: Well, I was gonna definitely tell them
12 there's no non reasonable doubt. My concern somewhat
13 mirrors yours, Mr. Corbett, because, even in trials I've had
14 as a lawyer, and yeah, I use to charge juries in
15 Magistrate's Court too, and now, never been confronted with
16 going back in and expanding a definition.

17 MR. GRIFFITH: Well, Your Honor, in this definition, if
18 you notice in the paragraph above it, the last words on the
19 paragraph are on -- are beyond a reasonable doubt and the
20 words beyond a reasonable doubt are traditionally used when
21 talking about reasonable doubt. And so -- but they are not
22 in the definition we gave them.

23 what is a reasonable doubt in the law, reasonable doubt
24 is the kind of doubt that would cause a reasonable person to
25 hesitate to act, and I can understand a person who is not

1 conversant in the law may wonder well, what does that mean,
2 would cause a reasonable person to hesitate to act.

3 If you were to say -- if you were to add the words you
4 must find him guilty beyond a reasonable doubt, just reading
5 from the paragraph above, or satisfied from the evidence of
6 the defendant's guilt beyond a reasonable doubt or, or, in
7 the alternative, use the alternative doubt charge it would
8 be my suggestion.

9 THE COURT: Gentlemen, I'm gonna defer the question,
10 not the, not the answer, I've got to be the one to make the
11 answer, but I want your consent to do so, if I were to ask
12 Judge Cothran what he would do.

13 MR. GRIFFITH: I---

14 THE COURT: Mr. Corbett.

15 SOLICITOR CORBETT: I certainly have no objection to
16 that, Your Honor.

17 THE COURT: All right.

18 MR. GRIFFITH: I have no objection, Your Honor.

19 THE COURT: Okay. All right. It's almost, to me, a
20 novel question that I've never heard before.

21 MR. GRIFFITH: Judge Cothran I'm sure has seen it.

22 THE COURT: I'm sure he'll have an answer.

23 THE BAILIFF: Your Honor?

24 SOLICITOR CORBETT: We had that question of Judge
25 Cottingham.

1 THE BAILIFF: I was just told by the bailiff is that
2 they have a verdict.

3 THE BAILIFF: They got a verdict.

4 THE COURT: Oh. All right. Well --.

5 MR. GRIFFITH: Well never mind then.

6 SOLICITOR CORBETT: Well, Judge, prior to the jury
7 coming out, could I have just a couple moments to notify the
8 victim?

9 THE COURT: Oh, yes, sir. Yes, sir.

10 So they have a verdict now?

11 THE BAILIFF: Yeah, they got a verdict.

12 THE COURT: All right. Then let's let the record
13 reflect then, Mr. Corbett, that we're not addressing this
14 question since they have a verdict, correct?

15 SOLICITOR CORBETT: That is -- that is suitable to the
16 State, Your Honor.

17 THE COURT: Mr. Griffith.

18 MR. GRIFFITH: Yes, sir.

19 (WHEREUPON, the following takes place within the
20 presence of the jury panel.)

21 THE BAILIFF: The jurors are all seated, Your Honor.

22 THE COURT: Yes, sir. Yes, sir.

23 THE BAILIFF: Yes, sir.

24 THE COURT: Madam Forelady, I understand your jury has
25 reached a verdict?

1 THE FORELADY: Yes.

2 THE COURT: Ma'am, is it a unanimous verdict?

3 THE FORELADY: Yes.

4 THE COURT: All right. Would you hand it to the
5 bailiff please?

6 (WHEREUPON, the forelady complies.)

7 THE COURT: Publish please.

8 THE BAILIFF: May it please the Court, Your Honor.

9 State of South Carolina, County of Sumter, in the Court
10 of General Sessions, Third Judicial Circuit, Case Number
11 2019-GS-43-1184, the State versus Curtis Channing Pearson,
12 the Defendant.

13 As to the charge of armed robbery, we, the jury,
14 unanimously find the Defendant, Curtis Channing Pearson,
15 guilty.

16 Of the charge of possession of a weapon during a
17 violent crime, we, the jury, unanimously find the Defendant,
18 Curtis Channing Pearson, guilty. Signed foreperson, Dajanae
19 Brown-Walton -- Wilkin. Dated 20, correction on that,
20 2/20/2020.

21 May I approach, Your Honor?

22 THE COURT: Okay.

23 Gentlemen, do any of you -- either of you wish to poll
24 the jury?

25 SOLICITOR CORBETT: Not requested by the State.

1 MR. GRIFFITH: Not necessary, Your Honor.

2 THE COURT: Okay. All right. Would you take them to
3 the jury room please, sir?

4 THE BAILIFF: Yes, sir.

5 (WHEREUPON, the following takes place outside the
6 presence of the jury.)

7 THE COURT: Gentlemen, anything further?

8 SOLICITOR CORBETT: Nothing from the State, Your Honor.

9 MR. GRIFFITH: Your Honor, we would request verdict
10 notwithstanding -- I mean notwithstanding the verdict, a, a
11 verdict of not guilty.

12 THE COURT: Yes, sir.

13 Any response, Mr. Corbett?

14 SOLICITOR CORBETT: Your Honor, I believe, in a similar
15 fashion to my statements made regarding the directed verdict
16 motion, we believe that the jury has spoken and there was a,
17 excuse me, sufficient evidence for the verdict they reached.

18 THE COURT: The -- I respectfully deny that, Mr.
19 Griffith. The, the foreperson stated their verdict was
20 unanimous, and clearly the verdict of the jury, in my
21 opinion, paid a lot of attention to what was said and gave a
22 lot of serious thought to what they decided.

23 MR. GRIFFITH: Thank you, Your Honor.

24 THE COURT: And now, Mr. Corbett, the sentencing, did
25 y'all wish to do that now or are we gonna have them all

1 three here together or what do you want to do?

2 SOLICITOR CORBETT: Judge, it would be my preference
3 and my suggestion that we go ahead and do the sentencing
4 now. I will need about two minutes to print out the actual
5 sentencing sheet.

6 THE COURT: Okay.

7 SOLICITOR CORBETT: But it would be my preference that
8 we go ahead and deal with that sentencing now.

9 THE COURT: For him?

10 SOLICITOR CORBETT: Yes, sir.

11 THE COURT: All right.

12 SOLICITOR CORBETT: I, I believe that, that there's not
13 a great deal of benefit by doing them together.

14 THE COURT: That's fine. I mean either way's fine with
15 me.

16 SOLICITOR CORBETT: Yes, sir.

17 THE COURT: I, I prefer to do it that way anyway.

18 SOLICITOR CORBETT: Yes, sir.

19 THE COURT: All right. We will stand down about 10
20 minutes. If you need longer than that, let me know.

21 SOLICITOR CORBETT: Very well. Thank you, Judge.

22 (WHEREUPON, a short recess was taken at this time.)

23 THE COURT: Mr. Corbett.

24 SOLICITOR CORBETT: Thank you, Your Honor.

25 Your Honor, State versus Curtis Pearson. Indictment

1 2019-GS-43-1184. It's been, I think, approximately 10 to 15
2 minutes since the return of the jury verdict of guilty on
3 both charges.

4 Judge, we're now prepared for sentencing.

5 Judge, I will tell you I spoke with the victim in this
6 matter. She indicated that she did not wish to further
7 address the Court, that the Court has heard her testimony
8 throughout trial, and she did not have anything additional
9 to add.

10 THE COURT: All right sir.

11 Mr. Griffith, sir.

12 MR. GRIFFITH: Your Honor, Mr. Curtis is 28-years old.
13 He has no significant -- he's never been in trouble before.
14 This is his first time and he would ask the Court to be
15 lenient in that he, of course, has a right to go to trial,
16 and he took that right although he was found guilty, Your
17 Honor. He maintains his innocence.

18 But, at the same time, Your Honor, he is local to
19 Sumter and has family here, and we just ask that the Court
20 consider all of the circumstances, and, and give some
21 leniency toward him.

22 THE COURT: It is the Sentence of the Court that Mr.
23 Pearson, regarding the armed robbery charge, shall be and he
24 is hereby sentenced to the Department of Corrections for 30
25 years. That sentence is to run consecutive to or with the

1 other charge which he was found guilty. Possession of a
2 weapon during a violent crime, Sentenced to the State
3 Department of Corrections for five years. These are to run
4 consecutive with credit given any time already served.

5 Mindful of what I call the Doctrine of Futility, I have
6 nothing else to say.

7 Thank you.

8 SOLICITOR CORBETT: Thank you, Judge.

9 MR. GRIFFITH: Thank you, Your Honor.

10 (WHEREUPON, the note from the jury was marked as
11 Court's Exhibit No. 2 and received into evidence at this
12 time.)

13

14 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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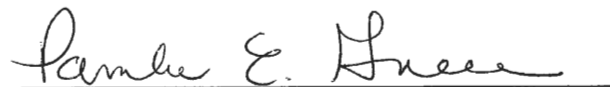
25

C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Sumter County, South Carolina, on the 19th and 20th days of February, 2020.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

September 4th, 2020

A handwritten signature in cursive script that reads "Pamela E. Green". The signature is written in dark ink and is positioned above a horizontal line.

PAMELA E. GREEN, Court Reporter

WITNESSES

Willie J. McFadden Sumter
Police Dept.

DOCKET NO. 2019-GS-43-1184

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

November TERM 2019

THE STATE

vs.

CURTIS CHANNING PEARSON
DAVNUS QUAVON TONEY
JAMACIA R. SIMON

ARREST WARRANT NUMBER

2018A4320100852 2018A4320100853
2018A4320100837 2018A4320100838

2018A4320100855

Indictment for

Armed Robbery

Possession of a Weapon during the
Commission of a Violent Crime

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

Charles D.
11/21/19

VERDICT

NOTED FOR RECORD

ERNEST A. FINNEY, III, SOLICITOR

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SUMTER)

INDICTMENT FOR
 Armed Robbery
 Possession of a Weapon during the
 Commission of a Violent Crime

At a Court of General Sessions, convened on November 21, 2019 the Grand Jurors of
 SUMTER County present upon their oath:

COUNT ONE

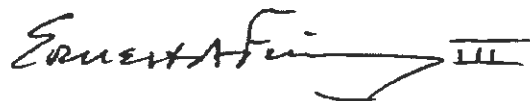
That on or about November 29, 2018, in Sumter County, South Carolina, the Defendants, Curtis Channing Pearson and Davnus Q. Toney, did at 101 Broad Street, Sumter County, SC by use of force, threats or intimidation and while armed with a deadly weapon(s), or while alleging, either by action or words, they were armed while using a representation of a deadly weapon(s) or other object which a person present during the commission of the robbery reasonably believed to be a deadly weapon(s), did take and carry away goods and/or monies from the person or immediate presence of Keosha McDonald of Speedway Gas Station with the intent to permanently deprive the victim(s) of possession thereof, in violation of Section 16-11-330(A) of the South Carolina Code of Laws, 1976, as amended.

COUNT TWO

That Curtis Channing Pearson, Jamacia Simon and Davnus Q. Toney did in Sumter County, on or about November 29, 2018, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-490, South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Solicitor



COUNTY 164 OF
STATE

VS.

Curtis Channing Pearson

AKA:

Race: Black Sex: M Age: 28

DOB: SS#: DL#:

Address: Loring Dr

City, State, Zip: Sumter, SC 29150

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: W. Jason Corbett 065340 SCB77923
Corbett, Jason W SC Bar# Defendant Griffith, Timothy L. SC Bar#
Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:		\$
§14-1-206 (Assessments 107.5 %)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 180.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Probation)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 375

TOTAL \$128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

INDICTMENT/CASE#: 2019-GS-43-1 184

A/W#: 2018A4320100852

Date of Offense: 11/29/2018

S.C. Code § 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

Presiding Judge

Judge Code:

Sentence Date:

COUNTY OF _____
STATE _____

VS. _____

Curtis Channing Pearson

AKA: _____

Race: Black Sex: M Age: 28

DOB: _____ SS#: _____

Address: Loring Dr

City, State, Zip: Sumter, SC 29150

DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: Jason Corbett 065346 SCB77923

Corbett, Jason W

SC Bar#

Defendant

Griffith, Timothy L.
Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.

☐ CONCURRENT or☒ CONSECUTIVE to sentence on: 28 Feb 2020 actual issued this☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:	\$	
§14-1-206 (Assessments 107.5 %)	\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
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§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter: James C. Campbell
DCRP

INDICTMENT/CASE#: 2019-GS-43-1184

A/W#: 2018A4320100853

Date of Offense: 11/29/2018

S.C. Code § 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

Presiding Judge

Judge Code: 2759Sentence Date: 2/20/20

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

Jan 28 2021

SC Court of Appeals



Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 28th day of January, 2021.

