

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Hampton County
Perry M. Buckner, Circuit Court Judge

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APR 22 2013

Opinion No. 2012-UP-632 (S.C. Ct. App. filed 11/28/2012) **S.C. Supreme Court**

10-GS-25-026-030.

THE STATE,

RESPONDENT,

V.

STEVIE LAMONT AIKEN,

PETITIONER

Appellate Case No. 2013-000399

APPENDIX

SUSAN B. HACKETT
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorney for Petitioner

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

MARK R. FARTHING
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

ISSAC MCDUFFIE STONE, III
Solicitor, Fourteenth Judicial Circuit
Post Office Box 2226
Beaufort, SC 29901
(803) 943-3580
Attorneys for Respondent

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**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Stevie Lamont Aiken, Appellant.

Appellate Case No. 2011-187586

Appeal From Hampton County
Perry M. Buckner, Circuit Court Judge

Unpublished Opinion No. 2012-UP-632
Submitted November 1, 2012 – Filed November 28, 2012

AFFIRMED

Appellate Defender Elizabeth Anne Franklin-Best, of
Columbia, for Appellant.

Attorney General Alan McCrory Wilson, Chief Deputy
Attorney General John W. McIntosh, Senior Assistant
Deputy Attorney General Salley W. Elliott, and Assistant
Attorney General Mark Reynolds Farthing, all of
Columbia; and Solicitor Issac McDuffie Stone, III, of
Bluffton, for Respondent.

PER CURIAM: Aiken appeals his convictions of burglary, kidnapping, armed robbery, assault and battery with intent to kill, and possession of a weapon during the commission of a violent crime. He contends the trial court erred in denying him his right to confront the State's witness, who was his accomplice during the commission of these crimes, about potential sentences. We affirm pursuant to Rule 220(b), SCACR, and the following authorities: *State v. Mizzell*, 349 S.C. 326, 331, 563 S.E.2d 315, 318 (2002) ("The jury is, generally, not entitled to learn the possible sentence of a defendant because the sentence is irrelevant to finding guilt or innocence."); *id.* at 331-32, 563 S.E.2d at 318 ("However, other constitutional concerns, such as the Confrontation Clause, limit the applicability of this rule in circumstances where the defendant's right to effectively cross-examine a co-conspirator witness of possible bias outweighs the need to exclude the evidence."); *id.* at 331, 563 S.E.2d at 317 ("The trial [court] retains discretion to impose reasonable limits on the scope of cross-examination."); *State v. Gillian*, 360 S.C. 433, 451, 602 S.E.2d 62, 71-72 (Ct. App. 2004) ("Before a trial [court] may limit a criminal defendant's right to engage in cross-examination to show bias on the part of the witness, the record must clearly show the cross-examination is inappropriate."); *Mizzell*, 349 S.C. at 331, 563 S.E.2d at 317 ("If the defendant establishes he was unfairly prejudiced by the limitation, it is reversible error."); *id.* at 333, 563 S.E.2d at 318 ("A violation of the defendant's Sixth Amendment right to confront the witness is not *per se* reversible error if the error was harmless beyond a reasonable doubt."); *State v. Wiley*, 387 S.C. 490, 497, 692 S.E.2d 560, 564 (Ct. App. 2010) ("Error is harmless when it could not reasonably have affected the result of the trial.").

AFFIRMED.¹

HUFF, THOMAS, and GEATHERS, JJ., concur.

¹ We decided this case without oral argument pursuant to Rule 215, SCACR.

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

THE STATE,

RESPONDENT,

V.

STEVIE LAMONT AIKEN,

APPELLANT

Appeal from Hampton County

Perry M. Buckner, Circuit Court Judge

Opinion No. 2012-UP-632

Appellate Case No. 2011-187586

PETITION FOR REHEARING

On November 28, 2012, this Court affirmed Appellant's convictions in an unpublished opinion. As this Court recognized the issue presented in Appellant's case was whether the trial court erred in denying Appellant the right to confront the state's witness, who was an alleged accomplice, about potential sentences the witness faced. Affirming the trial court's decision, this Court cited State v. Mizzell, 349 S.C. 326, 563 S.E.2d 315 (2002), State v. Gillian, 360 S.C. 433, 602 S.E.2d 62 (Ct. App. 2004) and State v. Wiley, 387 S.C. 49, 692 S.E.2d 560 (Ct. App. 2010). Although this Court recognized that a defendant's right to cross-examine a witness of potential bias, including possible sentencing, outweighs the need to exclude such evidence based upon the fact that

the jury may learn of a defendant's possible sentence, this court determined the trial court's failure to permit Appellant to question the state's witness of such was harmless.

At Appellant's trial, Nathaniel Harris testified for the prosecution. He admitted that he participated in the crimes with which Appellant was charged. However, he testified he could not identify Appellant in the courtroom. R. 237, l. 19 – R. 238, l. 22. On cross-examination, Harris testified that he actually went to the victim's home with Derrick Aiken, appellant's brother. R. 259, ll. 2-7. Harris testified that he entered a guilty plea to charges arising out of the crimes, and received a twenty-year sentence. R. 239, ll. 1 - 9.

During cross-examination, Harris refused to answer certain questions concerning the sentences he was facing on the charges against him. When Appellant attempted to get a straight answer from Harris on this critical issue, the prosecutor objected. R. 268, l. 3 – R. 269, l. 7. At the conclusion of the trial, defense counsel preserved the objection, response and the court's ruling. R. 426, l. 10 – R. 433, l. 10.

As this Court recognized in its unpublished opinion, the trial court erred in refusing to allow trial counsel to cross-examine a key state's witness, and co-defendant, about the possible penalties he could receive for his participation in this crime, and when he made a deal with the solicitor's office to testify against Aiken. Without question, a defendant has the right to cross-examine a witness concerning bias under the Confrontation Clause. Davis v. Alaska, 415 U.S. 308 (1974); State v. Brown, 303 S.C. 169, 399 S.E.2d 593 (1991). When a court prohibits a defendant from engaging in cross-examination designed to show bias from which jurors could draw negative inferences relating to the reliability of the witness, the court violates the Confrontation Clause. Delaware v. Van Arsdall, 475 U.S. 673, 680 (1986).

“On cross examination, any fact may be elicited which tends to show interest, bias, or partiality’ of the witness.” State v. Brewington, 267 S.C. 97, 101, 226 S.E.2d 249, 250 (1976) (quoting 98 C.J.S. Witnesses §560a (1957); see also, State v. Gracely, 399 S.C. 363, 372, 731 S.E.2d 880, 885 (2012); State v. Mizzell, 349 S.C. 326, 331, 563 S.E.2d 315, 318 (2002); Rule 608(c), SCRE (“Bias, prejudice or any motive to misrepresent may be shown to impeach the witness either by examination of the witness or by evidence otherwise adduced.”)).

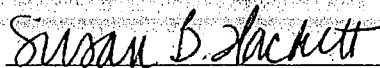
A violation of the Confrontation Clause is subject to a harmless error analysis, as this Court recognized. Van Arsdall, 475 U.S. at 680. The United States Supreme Court delineated several factors for courts to consider in evaluating a Confrontation Clause violation. The factors include (1) the importance of the witness’s testimony in the prosecution’s case, (2) whether the testimony is cumulative to other evidence presented, (3) the presence or absence of evidence corroborating or contradicting the testimony, (4) the extent of cross examination otherwise permitted, and (5) the overall strength of the prosecution’s case. Id. at 684.

In this case, trial counsel was not allowed to cross-examine a key state's witness, implicated in the same crimes and charged with the same offenses, who clearly made a deal with the state to avoid potential life sentence in exchange for his testimony against Appellant. “They threw out the burglary charge, and I plead guilty to it.” R. 269, ll. 20-21. The error unfairly prejudiced Appellant-- the denial of meaningful cross-examination in this case outweighed the state’s interest in excluding the evidence. Harris offered highly incriminating evidence against Appellant, and testified that Appellant engaged in the most egregious aspects of this crime (throwing the brick, shooting the gun, forcing the victim into the trunk). Appellant was denied his right to fully cross-examine Harris as to the benefits he received by agreeing to testify against him during his trial.

Appellant was denied his right to confront the witnesses against him, and his trial was rendered fundamentally unfair. Thus, the error was not harmless.

Respectfully, Aiken asks this Court to rehear the matter, reverse Appellant's convictions, and remand for a new trial.

Respectfully submitted,

A handwritten signature in cursive script, reading "Susan B. Hackett", written over a horizontal line.

Susan Barber Hackett
Appellate Defender

This 12th day of December, 2012.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Hampton County

Perry M. Buckner, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

STEVIE LAMONT AIKEN,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Petition for Rehearing in the above-entitled case has been served upon Mark R. Farthing, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 12th day of December, 2012.

Susan B. Hackett
Susan Barber Hackett
Appellate Defender

ATTORNEY FOR APPELLANT

SWORN TO BEFORE ME this 12th day
of December, 2012.
Emily B. [Signature] (L.S.)
Notary Public for South Carolina
My Commission Expires: November 16, 2022.

The South Carolina Court of Appeals

The State, Respondent,

v.

Stevie Lamont Aiken, Appellant.

JAN 25 2013

Appellate Case No. 2011-187586

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

Thomas C. Hoff

J.

Paul W. Roman

J.

John D. Deaton

J.

Columbia, South Carolina

cc:

Mark Reynolds Farthing

Susan Barber Hackett

FILED

Jan 25, 2013

STATE OF SOUTH CAROLINA

In The Court of Appeals

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APR 22 2013

APPEAL FROM HAMPTON COUNTY

Perry M. Buckner, Circuit Court Judge

S.C. Supreme Court

THE STATE,

RESPONDENT,

V.

STEVIE LAMONT AIKEN,

APPELLANT

RECORD ON APPEAL

SUSAN B. HACKETT
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorney for Appellant

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

MARK R. FARTHING
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

(803) 734-3727

ISSAC MCDUFFIE STONE, III
Solicitor, Fourteenth Judicial Circuit
Post Office Box 2226
Beaufort, SC 29901
(803) 943-3580

Attorneys for Respondent

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
COUNTY OF HAMPTON) CASE NO: 2010-GS-25-00025, 26,
27, 28, 29 and 30

STATE OF SOUTH CAROLINA,)
)
V.) TRANSCRIPT OF RECORD
)
STEVIE LAMONT AIKEN,)
)
DEFENDANT.)
)

MARCH 7TH - 9TH, 2011
HAMPTON, SOUTH CAROLINA
BEFORE THE HONORABLE PERRY M. BUCKNER, III, JUDGE.

APPEARANCES:

SOLICITOR ISAAC McDUFFIE STONE, ESQUIRE
DEPUTY SOLICITOR SEAN P. THORNTON, ESQUIRE
POST OFFICE BOX 1725
WALTERBORO, SOUTH CAROLINA 29488
Attorneys for the State of South Carolina

MR. STEPHEN PLEXICO, ESQUIRE
PUBLIC DEFENDER'S OFFICE
POST OFFICE BOX 506
HAMPTON, SOUTH CAROLINA 29924
Attorney for the Defendant

Rebecca H. Hill
Official Court Reporter
522 Dowling Avenue
Walterboro, SC 29488

1 THE COURT: All right. Let the record reflect that
2 this is the matter of Indictment Number 2010-GS-25-00025,
3 26, 27, 28, 29 and 30. I have had a lengthy conference with
4 the lawyers this morning in anticipation of learning what
5 motions needed to be heard and in preparation for the trial
6 of this case. Present before me now is Solicitor Stone,
7 Deputy Solicitor Thornton, and Mr. Steve Plexico, public
8 defender for Hampton County, along with his client who is
9 now present in the courtroom, Mr. Stevie Aiken.

10 Mr. Plexico handed the Court a motion which he has
11 filed with the Court on March the 7th. That motion directed
12 to the Solicitor on behalf of the defendant moved to
13 suppress any statements that the defendant is alleged to
14 have made that the State intends to introduce into evidence
15 during the trial of the case. Because I need to hear
16 testimony, I informed the parties that we would have a
17 Jackson v. Denno hearing, even though no jury has been
18 selected as of yet in the trial of this case, as it is my
19 first case for trial this week and I intend to qualify the
20 jury this afternoon and proceed with the trial of this case
21 following jury selection, following jury qualification this
22 afternoon.

23 Mr. Plexico also handed the Court another motion. That
24 motion was a motion to suppress any items seized in the
25 search of a home. It's my understanding that that motion

1 will have to be held in abeyance, as far as the hearing,
2 until the witness who is going to be made available to Mr.
3 Plexico tomorrow morning at 8:45 a.m. for Mr. Plexico to
4 interview to determine whether or not he wishes to have a
5 hearing on that motion. Have I accurately stated what
6 occurred in chambers as far as the State is concerned?

7 DEP. SOL. THORNTON: Yes, sir.

8 THE COURT: Insofar as the -- Mr. Plexico, you
9 can't talk to him and listen to me.

10 MR. PLEXICO: Yes, Your Honor.

11 THE COURT: Have I accurately stated what occurred
12 in chambers insofar as the defendant is concerned?

13 MR. PLEXICO: Yes, Your Honor.

14 THE COURT: Very well. Then let's proceed with
15 some work in this matter and that being the Jackson v. Denno
16 hearing. It is my understanding from Mr. Plexico's written
17 motion that he alleges that the defendant's either
18 constitutional rights were violated insofar as a statement
19 is concerned that is going to be introduced into evidence in
20 the trial of this case.

21 Let the record also reflect that I've inquired in the
22 courtroom because it's now approximately 12:30 and I've
23 inquired to make sure there are no jurors in the courtroom
24 and it is my understanding from my conference in chambers
25 that the State will attempt to introduce a statement

Jackson V. Denno Hearing
Direct Examination of Chauncey Solomon by Dep. Sol. Thornton

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1 allegedly given by the defendant, and therefore, it is
2 necessary to hold an in camera evidentiary hearing at the
3 threshold point to establish the circumstances under which
4 any alleged statement was obtained.

5 It is certainly true, Mr. Plexico, on behalf of your
6 client, that you have the right to an independent
7 evidentiary hearing to determine the voluntariness of any
8 statement alleged to have been made by your client, the
9 defendant, prior to the sufficiency of any such statement to
10 the jury. Therefore, Solicitor, you may proceed. Call your
11 first witness.

12 DEP. SOL. THORNTON: Thank you, Your Honor. Chauncey
13 Solomon.

14 THE COURT: Mr. Solomon, if you'll come around and
15 be sworn by the Clerk, please.

16 WHEREUPON, MR. CHAUNCEY SOLOMON IS DULY SWORN.

17 THE COURT: State your full name for the record
18 and spell your last name for the court reporter.

19 MR. SOLOMON: My name is Chauncey Solomon. Last
20 name is S-O-L-O-M-O-N.

21 THE COURT: Your witness, counsel.

22 DEP. SOL. THORNTON: Thank you, Your Honor.

23 DIRECT EXAMINATION

24 BY DEP. SOL. THORNTON:

25 Q Mr. Solomon, who do you work for, sir?

Jackson V. Denno Hearing
Direct Examination of Chauncey Solomon by Dep. Sol. Thornton

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1 A I'm employed by the Hampton County Sheriff's Office.

2 Q Okay. Did you work in that capacity on or about
3 December the 7th of 2009?

4 A Yes, sir.

5 Q All right. Did you have an occasion to talk to Stevie
6 Lamont Aiken, the defendant in this case, on that day?

7 A Yes, sir, I did.

8 Q All right.

9 DEP. SOL. THORNTON: Your Honor, may I approach?

10 THE COURT: You may.

11 Q I'm going to hand you what's been marked for
12 identification as Court's Exhibit Number One. Can you
13 identify that document?

14 A This document is the Hampton County Sheriff's Office
15 Miranda Rights Form. It's commonly used for when we talk to
16 people

17 Q All right. Now, is that just the generic form or is
18 that a form that you used in this case?

19 A That's the form that we used in this case. Also, it's
20 one that we use in every case.

21 Q All right. And is that what people commonly refer to
22 as your "right's form"?

23 A Yes, sir.

24 Q All right. Can you read what's on the form? What are
25 the rights on that form?

Jackson V. Denno Hearing
Direct Examination of Chauncey Solomon by Dep. Sol. Thornton

13

1 A Yes, sir. It says "The Hampton County Sheriff's Office
2 Miranda Rights." It has the date on it, the time, this
3 particular date being 12-7-2009, and the time is 6:43 p.m.
4 It says, "Before we ask you any questions, you must
5 understand about your rights. You have the right to remain
6 silent. Anything you say can and will be used against you in
7 a court of law. You have the right to talk to a lawyer
8 prior to answering any questions, and to have him or her
9 present with you during questioning." It says, "If you
10 cannot afford a lawyer, the Court will appoint one to
11 represent you at no cost. If you decide to answer questions
12 now without a lawyer, you still have the right to stop
13 answering questions at any time." It says, "I have read
14 this statement of my rights and I understand what my rights
15 are." There's a place for a person to sign and it says
16 "waiver of rights" and at the bottom of that it says, "I am
17 willing to make a statement and to answer questions. I do
18 not want a lawyer present at this time. I understand and
19 know what I am doing. No promises or threats have been made
20 to me or no pressure or coercion of any kind has been signed
21 against me. It also has a signature. It has a witness and
22 the time.

23 Q All right. How many witness signatures are on the
24 document that's Court's Exhibit One?

25 A There's two.

Jackson V. Denno Hearing
Direct Examination of Chauncey Solomon by Dep. Sol. Thornton

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- 1 Q All right, sir. Is yours one of them?
- 2 A Yes, sir, it is.
- 3 Q Who is the other one?
- 4 A Detective Perry Singleton.
- 5 Q All right. Officer Solomon, did you read each of those
- 6 rights to the defendant, Stevie Lamont Aiken?
- 7 A Yes, sir, I did.
- 8 Q And did you do that on December the 7th of 2009?
- 9 A Yes, sir, I did.
- 10 Q Did he indicate that he understood each of his rights?
- 11 A He indicated that he understood and actually he wrote
- 12 his name by every paragraph.
- 13 Q Is that to say that he initialed beside each one of
- 14 those rights?
- 15 A Each one of those, he initialed, in his own
- 16 handwriting.
- 17 Q Did he also sign the document?
- 18 A Yes, he did.
- 19 Q Did he do all of this in your presence?
- 20 A He did it in my presence.
- 21 Q Did you threaten him in any way, Officer Solomon?
- 22 A No, I did not.
- 23 Q Did you use any physical force or intimidation, or
- 24 violence on him?
- 25 A No, sir.

Jackson V. Denno Hearing
Direct Examination of Chauncey Solomon by Dep. Sol. Thornton

15

1 Q Did you make him any promises for leniency?

2 A No, sir.

3 Q Did he appear to understand his rights when you were
4 talking to him?

5 A Yes, sir. He appeared to understand everything.

6 Q Did he appear to be under the influence of any drugs or
7 alcohol?

8 A No, sir.

9 Q All right. How many people were in the room with him,
10 other than you and Mr. Singleton?

11 A Approximately four or five people, if I'm not mistaken.

12 Q All right, sir. Did any of the people in your presence
13 use any physical force or intimidation against the
14 defendant?

15 A No, sir. I was doing all of the talking at the time.

16 Q Did he, in fact, give you a statement?

17 A Yes, he did.

18 Q All right. And was this statement videotaped?

19 A It -- we tried to videotape it and apparently something
20 went wrong with the video, some kind of way; so, yes, it was
21 videotaped, but somehow the -- something happened.

22 Q Okay. To shorten it up, is some of it on video and
23 then some of it's not?

24 A Yes, some of it is on video and then it cuts off;
25 something, I think, the tape ran out or something.

Jackson V. Denno Hearing
Direct Examination of Chauncey Solomon by Dep. Sol. Thornton

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1 Q Is it fair to say that Mr. Aiken didn't admit to
2 anything that's on the videotape that you've provided both
3 myself and Mr. Plexico?

4 A Yes, it's fair to say.

5 Q Sometime after this video cuts off, does Mr. Aiken give
6 you a statement that would incriminate him in the case -- in
7 the case involving the victim, Ms. Gooding?

8 A Yes, sir. He gave a full confession of the incident
9 that took place on that particular day.

10 Q All right.

11 DEP. SOL. THORNTON: Your Honor, may I approach?

12 THE COURT: You may.

13 Q I'm going to hand you what's been marked for
14 identification as Court's Exhibit Number Two. Can you
15 identify that?

16 A Yes, sir. It's a voluntary statement that Mr. Stevie
17 Aiken gave that particular night.

18 Q All right. And is that a written statement?

19 A Yes, it is.

20 Q All right. Let me ask you a couple questions about
21 that written statement. Does it indicate - is there a place
22 on there that indicates where the person giving the
23 statement, in this case, Stevie Lamont Aiken, lives?

24 A Yes, sir. It says [REDACTED] Street, Walterboro, South
25 Carolina.

Jackson V. Denno Hearing
Direct Examination of Chauncey Solomon by Dep. Sol. Thornton

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1 Q And where did that information come from?

2 A It came from Mr. Stevie Aiken.

3 Q And are you listed anywhere on the written statement?

4 A Yes. Down to the bottom where the person who actually
5 gave his Miranda Warnings to, I signed that particular
6 place.

7 Q All right. Who else signed that statement?

8 A Leslie Jamison -- Detective Leslie Jamison.

9 Q All right. Now is that a statement that Mr. Aiken
10 wrote himself, or is that a statement that somebody else
11 wrote on his behalf?

12 A Leslie Jamison. I think it was Leslie Jamison.

13 Q Leslie Jamison did what?

14 A She wrote it on his behalf.

15 Q All right. Are there places, if you'll look on Court's
16 Exhibit for identification, Court's Number Two, are there
17 places on there where words have been scratched out?

18 A Yes.

19 Q All right. And is there anything next to those scratch
20 out places?

21 A Yes, sir. There are initials right above it. It's
22 commonly used for a person who makes a mistake to have them
23 put their initials above it to indicate that it was a
24 mistake. It's not something that someone went behind him
25 and tried to change something.

Jackson V. Denno Hearing
Direct Examination of Chauncey Solomon by Dep. Sol. Thornton

18

1 Q Are Mr. Stevie Aiken's initials next to those scratch
2 out places?

3 A Yes, sir, it is.

4 Q Officer Solomon, before accepting this statement, did
5 you look over it and talk to Mr. Aiken about it after you
6 reviewed the statement?

7 A Yes, I did.

8 Q All right. And did he indicate that that was a true
9 and accurate statement?

10 A Yes, sir.

11 Q Would you please read that statement?

12 A Sure. It says, "I called my brother, Derrick Aiken, on
13 Sunday, December the 6, and asked him to drop us, me and
14 Nate, off at Miley crossroads, at the train tracks. Me and
15 Nate stood in Ms. Gooding's yard for about two hours. Nate
16 went in the woods to use the bathroom. The tissue is still
17 there. I showed Nate where the phone line was and he cut
18 the phone lines with a pair of scissors. The dog started
19 barking. This is when Nate and I went by the room when the
20 -- we couldn't hear nothing, so we went to the window where
21 the light was at. Nate threw a brick in the window. The
22 brick broke the window. He threw the brick and then half a
23 brick in the window."

24 Q Officer Solomon, hang on for just a second. I'm sorry
25 to interrupt you. We keep making reference to Nate. Who do

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1 you understand that to be?

2 A It's the co-defendant in this case, Nathaniel Harris.

3 Q And is that the co-defendant who has already pled
4 guilty?

5 A Yes, sir.

6 Q All right, sir. Please go ahead, I'm sorry to
7 interrupt.

8 A "A lady came to the window and she - and she didn't
9 have anything. Then, she shot out the window. Once, she
10 almost hit Nate in the head. I went around to the back of
11 the house to see if someone was coming out of the door. No
12 one came out. As I was walking back to the side of the
13 house, the back door came open. The lady, Ms. Gooding,
14 said, 'Don't hurt me.' She went back and locked the door.
15 I heard another shot. Ms. Gooding was shooting again. I
16 was in the path. She came to the back door and started
17 yelling for the neighbors. I came out the path and she
18 pointed the gun at me and pulled the trigger, but it would
19 not fire. I shot in her direction and I believe it hit the
20 shed on the neighbor's house. She went back to her room and
21 I heard a shot. The next thing I know, she was coming out
22 of the door with blood on her legs and she threw the gun on
23 the ground. She laid on the ground and said, 'Don't hurt me
24 anymore.' So, Nate went and got the car and backed it up by
25 where she was on the ground. He took the wheelchair and the

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1 two water bottles out of the trunk and sat them down on the
2 ground at the corner of the house. Me and the lady and Nate
3 went to Walterboro. I was driving the car and Nate was in
4 the front passenger seat. Nate picked up her gun and he had
5 it in his lap. Nate went into the house twice before he
6 left. He went in one time to get the wallet and keys, and
7 the second time to get her checkbook. I drove Sniders
8 Highway back to Walterboro, turned right at the courthouse.
9 I turned left at the Bobop's Amoco and then turned by two
10 trailers and stopped by the dumpsters. Nate threw the gun
11 in the dumpster and I started arguing about taking the lady
12 to the hospital. I told him to take her to the hospital and
13 Nate said he wasn't taking her. I started walking to my
14 house. Nate came behind me in the car. We argued again and
15 then he pulled off and I didn't see him again until that
16 morning at Williams' Seafood. He showed me a check, a
17 personal check, at BB&T with two names, Jessie and Margaret
18 Gooding. I didn't remember the last name of the -- it was
19 for \$6,000. He said the check was from last night and he
20 was going to cash it at BB&T. He used my phone to call a
21 taxi. A blue taxi came and picked him up and gave him \$5.00
22 for the taxi. About twenty minutes later, Nate came back
23 and said he couldn't cash the check because BB&T couldn't
24 contact Ms. Gooding. Nate walked around and about two hours
25 later, police, SLED, Hampton County swarmed the place and

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1 Nate was in cuffs. Jimmy Roden called me and told me that
2 the police wanted to talk to me. I told him to tell the
3 police I was going to my house. I met the police at my
4 house. Nate came -- Nate's name is Nathaniel Harris."

5 Q All right. Now, where you stopped just there, does
6 that have any page numbers at the top right-hand corner of
7 that statement?

8 A Yes. Page three of three.

9 Q All right, sir. You've got one statement that you just
10 read that says "Three of three", and is there another page,
11 a fourth page, that I've just handed you in Court's Exhibit
12 Number Two?

13 A There is a Fourth page.

14 Q All right. Now, as to that statement, was it taken at
15 approximately the same time as the other statement?

16 A Yes, sir.

17 Q Is this also a statement given to you by Stevie Lamont
18 Aiken?

19 A It's the same statement.

20 Q All right. Was it the same evening and everything that
21 the three page statement that you just got done reading?

22 A Same evening, same statement.

23 Q All right, sir. If you'll read that one, please.

24 A Me and Nate went to ---

25 THE COURT: Is it your intention, you've called it an

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1 exhibit and you've referred to numbers. It's been marked
2 only for identification. Mr. Plexico, is there any
3 objection since this is an in camera hearing, to marking it
4 as an exhibit for purposes of this hearing only?

5 MR. PLEXICO: No, Your Honor.

6 THE COURT: All right. Does Becky have her sticker on
7 it already, Mr. Thornton?

8 DEP. SOL. THORNTON: Yes, sir. I've had both the first
9 document and the second one already marked.

10 THE COURT: Thank you for being prepared. One and Two.
11 One is a one-page statement and Two is four?

12 DEP. SOL. THORNTON: No, sir. One is the Miranda
13 Rights Form, which is one page. And Two is the four page --
14 it's four pages of statement, yes, sir.

15 THE COURT: One is a one-page statement, and Two is
16 four pages?

17 DEP. SOL. THORNTON: Yes, Your Honor. I apologize. I
18 was trying to specify between statement and Miranda rights.

19 THE COURT: I understand. Without objection. Please
20 publish what you were asked to publish by the State's
21 question.

22 Q Please read the statement at this time, Detective.

23 A "Me and Nate went back to Bobop's Amoco around eight or
24 nine this morning, the morning after. Came to my house and
25 he said, "Get those guns out of the trash." I rode my

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1 bicycle. He walked. I put Nate in the dumpster and he
2 found the gun, 32 caliber revolver, black, and the brown
3 handle. It's a 9 mm black automatic. He gave those to me.
4 I took the 9 mm to my brother, Derrick, when I saw him on
5 his lunch break. I stopped him at Hampton Street and told
6 him to keep it. Took the 32 revolver to my house and put it
7 in my couch." End of the statement.

8 Q All right, sir. And you mentioned this earlier, is
9 that [REDACTED] Street? Is that where he indicated --
10 when I say "he", the defendant, indicated he lived?

11 A Yes.

12 Q Now, I asked you earlier, Detective, about did you go
13 over this statement with him. Were you there the entire
14 time he wrote this statement out or did you leave?

15 A I was there several hours. It took several hours,
16 videoing, but I left to go retrieve the gun.

17 Q All right, sir. So you were not there the entire time
18 he was writing?

19 A No, sir.

20 Q But did you come back and go over the statement with
21 him to make sure it was true and accurate?

22 A I came back, went over the statement with him, signed
23 it, and that was it.

24 Q So, prior to your signature, your testimony is that you
25 went over this with him?

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24

1 A Yes, sir.

2 DEP. SOL. THORNTON: Your Honor, Court's indulgence one
3 moment.

4 THE COURT: Yes, sir.

5 DEP. SOL. THORNTON: I have nothing further for this
6 witness. Detective, please answer any questions that Mr.
7 Plexico has.

8 THE COURT: Cross-examination, Mr. Plexico.

9 CROSS-EXAMINATION

10 BY MR. PLEXICO:

11 Q Sir, this started -- what time did the interview start?

12 A Sometime afternoon, I think. The Miranda warning was
13 at 6:43 p.m., around about 7:00, I guess.

14 Q Okay. So it was not in the afternoon?

15 A Yes, P.M.

16 Q P.M., that's in the evening, correct?

17 A Yes.

18 Q All right. Now, do you know -- had you ever met my
19 client before?

20 A Never met him before.

21 Q All right. Did you have any information in regards to
22 his educational level?

23 A Well, I asked him for his educational level.

24 Q All right. Go ahead -- I'm sorry.

25 A I asked him normally when we talking to him, we ask can

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25

1 you read and write, and how far did you go in school, that
2 type of thing.

3 Q Okay. And what was his answer to that?

4 A I can't remember exactly what it was. But I do
5 remember asking him if he could read or write and he said
6 yes. You know, understand the English language and he said
7 yes.

8 Q Did you ask him about his educational level?

9 A Yes, but I just can't remember exactly what was his
10 response.

11 Q Okay. Now, what time did you leave to go get the gun?

12 A I really don't know. It was late. We did a video
13 first and then we did a written statement, so I don't know
14 the exact time to be honest with you.

15 Q But you weren't present during the written statements,
16 correct?

17 A Some of it, yes.

18 Q Okay. So there were two statements, two different
19 times? Three pages and then one page, correct?

20 A All of it was done together.

21 Q All right.

22 MR. PLEXICO: May I approach, Your Honor.

23 THE COURT: You may.

24 Q Do you have your copy of the statements in front of
25 you.

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Cross-Examination of Chauncey Solomon by Mr. Plexico

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1 THE COURT: One and Two are with the witness. Stay
2 with the microphone, Mr. Plexico.

3 MR. PLEXICO: Yes, Your Honor.

4 Q All right. One through Three, it's captioned on the
5 top as being taken on December 7th at 8:40 P.M., is that
6 correct?

7 A Yes.

8 Q All right. The [REDACTED] page, which is not captioned on
9 the top, which is part of Exhibit Two, says 10:10 P.M.,
10 correct?

11 A Yes.

12 Q All right. So that's an hour and a half in between.

13 A Yes.

14 Q All right. Now, he spent at least an hour -- have you
15 seen the video of my client ---

16 A Yes.

17 Q --- during the interview? All right. Is that fair to
18 say it's about an hour and a half?

19 A Yes. Yes.

20 Q Okay. And throughout that hour and a half interview,
21 does he not constantly deny that he's had anything to do
22 with these crimes?

23 A Some of it. Some of it he did, and then, he actually -
24 - he looked at me and said, "Chauncey, sir, you got me."
25 And he started telling me exactly what happened.

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1 Q Okay. Is that on the video that you have seen?

2 A Well, the video, it cuts off. We were thinking the
3 video was working the whole time, but apparently it ran out
4 of tape or something.

5 Q Please answer "yes" or "no". Is that on the video?

6 A No, sir.

7 Q All right. So any incriminating statement he made,
8 there is no audio or video recording of that, correct?

9 A No, sir.

10 Q All right. Now, who left with you to go to Miley?

11 A Special Agent Antley and Anthony Russell.

12 Q Okay. Now, that only left Perry Singleton and Leslie
13 Jamison in the room, correct?

14 A I don't remember exactly. I know Leslie Jamison was
15 there.

16 Q All right. Now, and she wrote this statement, correct?

17 A Yes.

18 Q Okay. Was the first statement completed by the time
19 you returned to Miley?

20 A I -- I don't know.

21 Q You don't recall?

22 A I don't recall.

23 Q Was the second statement completed by the time you came
24 back from Miley?

25 A Yes.

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Cross-Examination of Chauncey Solomon by Mr. Plexico

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1 Q So, the second statement -- this is the one page.

2 A Well, everything was done by that time. I actually
3 went over it with him and signed it.

4 Q Okay. Explain in detail what you ---

5 THE COURT: Just a moment. For the record, because
6 you've said "second statement", all of which is part of an
7 exhibit, without objection to, but you're referring to the
8 Fourth page of Exhibit Two, for the record?

9 MR. PLEXICO: Yes, Your Honor.

10 THE COURT: Don't hold it up and call it "second page",
11 because the record won't be clear. Refer to it by the
12 exhibit number. Proceed.

13 MR. PLEXICO: Yes, Your Honor.

14 Q And you were saying on the voluntary statement page,
15 it's labeled at 10:10. This was completed also, as well as
16 the first three, by the time you had returned from Miley?

17 A Yes.

18 Q All right. You just testified that you went over the
19 statement with him, correct?

20 A Yes.

21 Q Now, tell us in detail what you did to go over the
22 statement with him?

23 A I just asked him if wrote the statement and he said no,
24 that Leslie wrote it. I asked him if everything was
25 accurate and this is exactly what happened. At that

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1 particular time, he was cooperating.. So ---

2 Q What do you mean by that?

3 A He was actually cooperating with law enforcement.
4 Telling them exactly what happened.

5 Q So you asked if he wrote the statement, he said no,
6 that Jamison wrote it.

7 A Yes.

8 Q Then you asked if the contents were true?

9 A Yes.

10 Q And did that end your interview?

11 A Yes.

12 Q Then, you signed it?

13 A Yes.

14 Q Had Detective Jamison already signed it by the time you
15 had signed it?

16 A Well, yes, I think so, or either we signed it together.

17 Q How long was he in custody before he came to the
18 Hampton County Sheriff's Department? What do you all call
19 that there?

20 A The Annex.

21 Q The Annex.

22 A Well, I can't say he was being detained. The county
23 brought him to us halfway or something. Somehow we met up
24 and we brought him to the Annex Building.

25 Q Who brought him there from the meeting point with the

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Cross-Examination of Chauncey Solomon by Mr. Plexico

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1 Colleton County Department?

2 A I really can't remember.

3 Q So you have no idea whether any officer -- an officer
4 of the Sheriff's Department would have brought him here?

5 A I think so. I think it maybe it was Doug Byrd or
6 something. I'm not exactly remembering exactly who it was.

7 Q So you have no idea what any officer said to him during
8 that time period?

9 A No, sir.

10 Q Would it be fair to say that everybody was pretty much
11 upset about what had happened in this case?

12 A No. We -- the Sheriff, he reminds us that we have to
13 remain neutral so we can do our job. So, we have to put our
14 feelings aside and we work, really, that way.

15 Q Did y'all give him anything to eat at the Annex
16 Station?

17 A I'm not sure. I'm pretty sure, because we normally ask
18 if they want some water or a soda or something. We're
19 pretty thoughtful with the people that comes there.

20 Q Did you say anything about his wife to him? That his
21 wife would be in trouble for having the guns?

22 A Not that I can recall, I don't. I may have. I'm not
23 sure.

24 Q All right. Did you hear any other officer, in your
25 presence, say anything about his wife?

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1 A No, sir.

2 Q And you testified that you didn't use any -- there was
3 no force used?

4 A No, sir, no force.

5 MR. PLEXICO: Court's indulgence, Your Honor?

6 THE COURT: Yes, sir.

7 MR. PLEXICO: I don't have anything further on this
8 witness, Your Honor.

9 THE COURT: Redirect?

10 DEP. SOL. THORNTON: None, Your Honor. We would
11 call ---

12 THE COURT: Just a moment. Let me see the exhibits,
13 please. I prefer when you have a hearing, if you will give
14 the Court a copy, because I don't like taking it from a
15 witness while they're testifying. Thank you, you may step
16 down.

17 (WITNESS SOLOMON LEAVES THE STAND.)

18 THE COURT: Let the record reflect that I have now
19 reviewed Court's Exhibit's One and Two; and I'm handing
20 those, Mylinda, if you would, to the court reporter.

21 Call your next witness.

22 DEP. SOL. THORNTON: Thank you, Your Honor. The State
23 calls Perry Singleton. Your Honor, I've shown these also to
24 Mr. Plexico. I have a copy for the Court if Your Honor
25 would like to look on while we discuss that.

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1 THE COURT: Are you going to use those exhibits for
2 this witness, too?

3 DEP. SOL. THORNTON: Yes, sir. I'll use those exhibits
4 for this witness and I'll give these to you, if that's all
5 right, sir.

6 MADAME CLERK: Place your left hand on the Bible and
7 raise your right.

8 WHEREUPON, PERRY SINGLETON IS DULY SWORN

9 (MR. SINGLETON TAKES THE WITNESS STAND.)

10 DIRECT EXAMINATION

11 BY DEP. SOL. THORNTON:

12 Q Mr. Singleton, who do you work for?

13 A The Hampton County Sheriff's Office.

14 Q All right. Did you work for the Hampton County
15 Sheriff's Office on or about December the 7th, 2009?

16 A I did.

17 Q Were you present during any statements given by the
18 defendant in this case, Stevie Aiken?

19 A Yes.

20 Q All right, sir. I'm going to hand you---

21 DEP. SOL. THORNTON: Court's permission to approach?

22 THE COURT: You may.

23 Q What's been marked as Court's Exhibit Number One. Can
24 you identify that for me, sir?

25 A Yes, I can.

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1 Q All right. What is it?

2 A It's a copy of the Hampton County Sheriff's Office
3 Miranda Rights.

4 Q All right. And does your name appear anywhere on that
5 document?

6 A Yes, I witnessed this.

7 Q All right. And did you witness Chauncey Solomon giving
8 those rights that are on that form that's already been read
9 into the record to Stevie Aiken?

10 A I did.

11 Q All right. In your opinion, did Mr. Aiken seem to
12 understand his rights?

13 A He did.

14 Q All right. Did he seem to have any problem
15 communicating with you?

16 A No.

17 Q Did he have any --- was he - did he appear to be under
18 the influence of any alcohol or drugs or anything that he
19 wouldn't understand what was going on?

20 A No.

21 Q Any question in your mind that he understood what was
22 going on at that time?

23 A No.

24 Q All right, sir. Were you there the entire time that he
25 was doing the verbal statement?

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1 A I was there for a while. It was my birthday, so I had
2 something going on.

3 Q But you did witness the Miranda?

4 A I did.

5 Q All right. During the time that this Miranda was given
6 and for all the time that you were present, did you see
7 anyone threaten the defendant, Stevie Aiken, in any way?

8 A No.

9 Q Did you see them promise any leniency?

10 A Nothing.

11 Q Did you see them try to intimidate him?

12 A No.

13 Q Earlier Mr. Plexico said something about did y'all feed
14 him. Did you tell him you were going to starve him to death
15 unless he confessed?

16 A No.

17 DEP. SOL. THORNTON: I don't have anything further for
18 this witness.

19 THE COURT: Cross-examination?

20 CROSS-EXAMINATION

21 MR. PLEXICO:

22 Q Okay. So, I just want to be clear, you were there at
23 the initial, the start of the interview?

24 A Yes, and part of the interview.

25 Q All right. But before he made this statement, you had

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1 already left, correct?

2 A Yes.

3 Q All right. I'm referring to Court's Exhibit Two, which
4 is in front of you and consists of four pages.

5 THE COURT: Just a moment. Yes, sir?

6 DEP. SOL. THORNTON: I apologize, Your Honor. I did
7 not mean to interrupt. It's not actually in front of him.
8 I'll be happy to hand it up.

9 MR. PLEXICO: Oh, I'm sorry. Thank you.

10 THE COURT: All right. Start over, Mr. Plexico. The
11 witness has been handed Exhibit Two for purposes of this
12 hearing by Deputy Solicitor. Proceed.

13 Q That consists of four pages, Exhibit Two, would you
14 verify that you have four pages?

15 A I do.

16 Q Okay. And you were not present for any of that
17 statement, correct?

18 A Some of it. I left.

19 Q Okay. You were present, you said, at the initial part
20 of the interview?

21 A Yes.

22 Q And that was the part that was videotaped, correct?

23 A Uh-huh. I didn't see the tape, though.

24 Q All right. But he does spend that entire DVD's time,
25 it appears that he is denying that he had any involvement at

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1 all with these crimes, involving Ms. Gooding.

2 A I remember him telling us that he was willing to
3 cooperate and tell us what happened. That's one statement.
4 That's when he started giving the statement.

5 Q Are you familiar with the way the video equipment is
6 set up at the Hampton County Sheriff's Department Annex?

7 A I am.

8 Q And are you aware that you yourself is on that video?

9 A I was there for a while; I left.

10 Q Okay. Now, and during that video, for the entire
11 length of the video, is it not true that there is no
12 statement that my client, Mr. Stevie Aiken, made indicating
13 he was guilty of any of the crimes for which we are here
14 today?

15 A I don't recall.

16 Q So since you left during the video portion and he had
17 not confessed, you did not hear any confessions from my
18 client, correct?

19 A At the time I left, he was starting to cooperate with
20 the investigation.

21 Q Okay. He was not writing any statements, correct?

22 A Detective Jamison wrote the statement.

23 Q Okay. At the time you left, he was not writing any
24 statements, correct?

25 A No, she was writing the statement.

- 1 Q She was writing the statement?
- 2 A Yes.
- 3 Q Okay. Where was she writing that statement at?
- 4 A We was in our conference room.
- 5 Q All right. Now, when did you return?
- 6 A The next day.
- 7 Q Okay. Do you know my client? Do you know my client
- 8 from before that day?
- 9 A I met him on the 7th.
- 10 Q All right. That would have been the day of the
- 11 interview, correct?
- 12 A Yes.
- 13 Q All right. So you have no prior knowledge of his
- 14 educational status?
- 15 A None whatsoever.
- 16 Q All right. Now, and isn't it your experience, you have
- 17 interviewed quite a number of people in your role as a law
- 18 enforcement officer, correct?
- 19 A I have.
- 20 Q And often times don't they overstate their educational
- 21 level?
- 22 A No, I can't answer "yes" to that.
- 23 Q Can you answer "no"?
- 24 A I don't know.
- 25 Q Okay. All right. Did anybody tell him he could be

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Direct Examination of Leslie Jamison by Dep. Sol. Thornton

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1 charged for murder?

2 A Not that I'm aware of.

3 Q Did you?

4 A No, sir.

5 MR. PLEXICO: All right. I don't have anything

6 further.

7 THE COURT: Redirect?

8 DEP. SOL. THORNTON: None, Your Honor.

9 THE COURT: You may step down. Just leave those

10 exhibits up there. Call your next witness.

11 DEP. SOL. THORNTON: Leslie Jamison.

12 WHEREUPON, DETECTIVE LESLIE JAMISON IS DULY SWORN.

13 THE COURT: Use that microphone. Move a little close

14 to it. It will amplify your voice. State your full name

15 and spell your last name for the record, please.

16 DET. JAMISON: Leslie Jamison, J-A-M-I-S-O-N.

17 THE COURT: Your witness, counsel.

18 DEP. SOL. THORNTON: Thank you, Judge.

19 DIRECT EXAMINATION

20 BY DEP. SOL. THORNTON:

21 Q Ms. Jamison, who do you work for?

22 A Hampton County Sheriff's Office.

23 Q On or about December the 7th of 2009, did you work for

24 the Hampton County Sheriff's Office?

25 A Yes, I did.

1 Q And did you have an occasion to take a statement from
2 Stevie Lamont Aiken?

3 A Yes, I did.

4 Q All right. And if you will, please, ma'am, look at
5 what's been marked and entered for purposes of this hearing
6 as Court's Exhibit Number Two. Can you identify that
7 document for me?

8 A Yes, I can. This is the Hampton County Sheriff's
9 Office Voluntary Statement Form.

10 Q And how many pages does Court's Exhibit Number Two
11 consist of?

12 A Three.

13 Q You want to count one more time?

14 A Four

15 Q All right. Would you look at those four pages for me,
16 please, ma'am? And let me know when you've had a chance to
17 look them over.

18 A I have.

19 Q Did you write those four pages?

20 A Yes, I did.

21 Q And did you do that on behalf of Stevie Lamont Aiken?

22 A Yes, I did.

23 Q And did you write that statement at his request?

24 A Yes, I did.

25 Q And did you allow him to read that statement?

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- 1 A Yes, I did.
- 2 Q Did you go over the statement with him after your wrote
3 it?
- 4 A After I wrote it, I read it back to him and I gave it
5 to him to look at also.
- 6 Q Okay. I missed that first part of that, did you say
7 you read it to him yourself?
- 8 A I read it back over to him and I let him look at it.
- 9 Q Are there -- for lack of a better word, are there line-
10 outs or corrections made on State's Exhibit Number Two?
- 11 A Yes, sir, there is.
- 12 Q And is that where Mr. Aiken asks that something be
13 changed?
- 14 A As I was writing, if I made a mistake, I scratched it
15 out. And normally, the procedure, once we do that, we have
16 to initial to get the person making the statement to initial
17 also.
- 18 Q And did Mr. Aiken initial by the corrections?
- 19 A Yes, he did.
- 20 Q And is the purpose of that so something's' not changed
21 after somebody writes a statement?
- 22 A Correct.
- 23 Q Did you sign anywhere on that statement?
- 24 A Yes, I did.
- 25 Q And is there another signature other than yours and Mr.

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1 Aiken's on that statement?

2 A Yes, there is.

3 Q And who is that?

4 A Chauncey Solomon.

5 Q And were you present when you finished this statement
6 and went back over it with Mr. Aiken, did Mr. Solomon do the
7 same thing?

8 A Yes, he did.

9 Q And at any time did Mr. Aiken challenge anything that
10 you had written on his behalf?

11 A No, he didn't.

12 Q And after you read it back to him and it was gone over
13 also with Officer Solomon, did he indicate that that was the
14 truth in his statement?

15 A Yes, he did.

16 Q Did he make any attempt at that time to make any
17 changes other than the things that you scratched out and had
18 him initial?

19 A Not on this form.

20 Q All right. When you ---

21 DEP. SOL. THORNTON: Court's indulgence one moment,
22 Your Honor.

23 THE COURT: Yes, sir.

24 Q Was there anybody else present in the room with you the
25 entire time that you wrote this statement for Mr. Aiken?

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- 1 A I believe Halbert Mungin.
- 2 Q All right. And is Mr. Mungin an employee with the
- 3 Sheriff's Office?
- 4 A Yes, he is.
- 5 Q All right. Since you were the one who wrote the
- 6 statement, is it safe to say that you were there the entire
- 7 time that the statement was written?
- 8 A Yes.
- 9 Q All right. Did you see anybody threaten or harass or
- 10 attempt to intimidate Mr. Stevie Lamont Aiken to get him to
- 11 agree to this statement?
- 12 A No, I didn't.
- 13 Q Did you, or anyone in your presence, promise him any
- 14 leniency to get him to make this statement?
- 15 A No, we didn't.
- 16 DEP. SOL. THORNTON: Your Honor, may I approach?
- 17 THE COURT: You may.
- 18 Q Officer Jamison, after you went over the statement with
- 19 him, he indicated it was correct, did you have him sign or
- 20 write his name as the person whose statement this was?
- 21 A Yes.
- 22 Q And did he do that voluntarily?
- 23 A Yes, he did.
- 24 Q And did he do that at all the appropriate places on
- 25 these four pages?

1 A Yes, he did.

2 DEP. SOL. THORNTON: Thank you, Your Honor. I have no
3 further questions.

4 THE COURT: Cross-examination?

5 MR. PLEXICO: Yes, Your Honor.

6 CROSS-EXAMINATION

7 MR. PLEXICO:

8 Q So, this was - he got there when, around 6:00?

9 A It was in the evening. I don't exactly remember what
10 time.

11 Q Okay. But he was there a while before you ever gave
12 him the Miranda forms, correct?

13 A He was there -- I can't tell you if he was there five
14 minutes or an hour.

15 Q Okay. Y'all had four officers present. You had Sgt.
16 Anthony, you had Officer Mungin, yourself, Det. Chauncey
17 Solomon, and Det. Perry Singleton, correct?

18 A Yes.

19 Q Was the Sheriff in and out?

20 A The Sheriff?

21 Q Yes. T. C. Smalls, was he in and out?

22 A I don't recall.

23 Q All right. So you had five officers there, correct?

24 A You had officers there.

25 Q There were five officers present? Those five officers?

- 1 A Yes.
- 2 Q Okay. All right. And my client is in there by
- 3 himself, correct?
- 4 A Yes, he's there.
- 5 Q And he's brought over to a county that he doesn't live
- 6 in, correct?
- 7 A Yes.
- 8 Q And which one of those five officers is the one who
- 9 said he could be charged with murder?
- 10 A I don't know. I wasn't aware that that happened.
- 11 Q All right. Now, needless to say, he was very
- 12 intimidated by y'all, was he not?
- 13 A I don't know if he was intimidated or not.
- 14 Q Have you ever seen my client before the 7th of
- 15 December?
- 16 A Yes, I have.
- 17 Q Okay. And would you see him shortly before that?
- 18 A Shortly before ---
- 19 Q What month did you see him in?
- 20 A I live in Colleton County, also. He lives in Colleton
- 21 County. I've been knowing him most of his life.
- 22 Q Okay. Now ---
- 23 MR. PLEXICO: Court's indulgence.
- 24 THE COURT: All right, Mr. Plexico, let's move along.
- 25 Q And what was your role in law enforcement in Colleton

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1 County?

2 A Deputy Sheriff and assigned to the investigation
3 division.

4 Q All right. Did you ever work at the jail?

5 A Yes, I was the jail administrator.

6 Q Okay. And did you know my client from the jail?

7 A I know him, not necessarily from the jail. I know him
8 personally.

9 Q Okay. Did you go to school with him?

10 A I don't remember how far behind he was. It's possible
11 we could have been in school together. He was not in my -
12 he was not a classmate.

13 Q Okay. So you haven't been to any classes with him,
14 correct?

15 A No, I have not.

16 Q And you've never tutored him, correct?

17 A No, I have not.

18 Q have you reviewed any educational records that he has?

19 A No, I have not.

20 Q All right. Have you lived near him?

21 A I live in Colleton County.

22 Q Okay. Has he been a neighbor of yours in what the
23 common person would consider to be a neighbor?

24 A Not that I know of.

25 Q Okay. Have you ever eaten at his -- so you've never

1 eaten at his house?

2 A No, I haven't.

3 Q You've never gone out with him or dated him?

4 A No, I haven't.

5 Q Okay. So you really don't know him then, do you?

6 A I know him when I see him. I know his name. I know

7 some of his family.

8 Q All right. So you don't know anything about his

9 ability to understand what others tell him, do you?

10 A I have no knowledge of that.

11 Q All right. And he did spend an hour and a half

12 absolutely denying that he had anything to do with these

13 crimes involving Ms. Gooding, is that correct?

14 A I cannot tell you it was an hour and a half.

15 Q Have you seen the DVD?

16 A I have not seen the DVD.

17 Q Do you think that's important?

18 A Is it important for me to see it?

19 Q Yes.

20 A No.

21 Q Okay. Now, you have taken classes on interrogations?

22 A Yes, I have.

23 Q And have you been taught that it's much more effective

24 to put a client who is making a statement against his

25 interest, in front of a jury on video; isn't that an

1 effective tool to get a conviction?

2 A We were taught that it would be good to have a
3 statement interview.

4 Q Okay. But here, you have a video for a -- a long
5 video of my client denying that he has anything to do with
6 it, correct?

7 A I haven't seen the video. I cannot tell you that.

8 Q Were you present in the room?

9 A I was present for some time.

10 Q And you were in and out of the room, then?

11 A Yes.

12 Q So you didn't -- excuse me?

13 A Yes. For the beginning of the interview, I was the
14 person that was running the camera. We had a lot going on,
15 a lot of different things going on. Some of us got pulled
16 away to do different things.

17 Q And when was the first time in the interview, how long
18 was it until you remember, how long was it that you got
19 pulled away? An hour? An hour and a half?

20 A I cannot remember.

21 Q Was it over an hour or under an hour?

22 A I'd be lying if I tried to tell you.

23 Q Okay. All right. How long were you in there in your
24 own estimation before you were first pulled away?

25 A It was off and on. Taking a guess, I think it was

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1 about 30 minutes, but I was in and out.

2 Q Okay. During those 30 minutes, he solidly denied that
3 he had anything to do with the Gooding Case, correct?

4 A In the beginning, he denied it. I can't tell you if it
5 was 30 minutes, 40 minutes, or an hour. I can only tell you
6 that in the beginning of his statement, that I observed, he
7 denied it.

8 Q Okay. But all five of you were asking questions on and
9 off?

10 A I never asked him a question in the beginning of his
11 interview. I was working the camera only.

12 Q Okay. But some officers would question him and then
13 leave the room, correct?

14 A Officers were in the room. We did leave out from time
15 to time.

16 Q And then others would question him, correct?

17 A I can only assume that. If I'm not in there, I don't
18 know.

19 Q So they kept a --- well, when you were in there,
20 somebody was always questioning him, correct?

21 A There was always conversation, correct.

22 Q Okay. And this went on for approximately four hours,
23 correct?

24 A I cannot tell you how long.

25 Q all right. While you were in there, in the conference

1 room with my client, somebody was constantly questioning
2 him, correct?

3 A While I was there, there was conversation, yes.

4 Q Okay. All right. Now, so y'all kept a fresh officer
5 on him, interrogating him, correct?

6 A What do you call a "fresh"?

7 Q Well, one who would question him for twenty minutes and
8 then turn him over, he would leave, and then turn over to
9 another officer?

10 A If that's what you call fresh, that's what you call
11 fresh. I just know there were officers in there who were
12 doing an interview with him.

13 Q And he was being interviewed --- they were taking turns
14 asking him questions, correct?

15 A Yes.

16 Q All right. So it's kind of like a merry-go-round with
17 the officers getting on questioning, correct?

18 A I can't say that. A merry-go-round, that's what you're
19 calling it.

20 Q And you wrote this entire statement, correct?

21 A Correct.

22 Q All right. You see that he has a hurt hand today,
23 correct? Did you notice that coming in?

24 A Yes, he has some type of bandage on it.

25 Q There wasn't anything wrong with his hands on this

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1 date, correct?

2 A Not that I was aware of.

3 Q Okay. And isn't it true that he could not write and
4 that's why

5 A I had no idea whether he could write or not.

6 Q Okay. You took it upon yourself to write this
7 statement, then?

8 A I was called in to write his statement down. I asked
9 him if he agreed to that, and he said, "yes. I will tell
10 you and you can write it down for me. And that's what I
11 did.

12 Q So he had already made a statement to them and then
13 they thought it was worthwhile to call you in to write a
14 written memorial of what he had already said, correct?

15 A There was a verbal interview, which is standard. At
16 the end of that, we wrote down what he said.

17 Q But you weren't present for the verbal interview,
18 correct?

19 A Off and on, I was.

20 Q So you can't say whether he was threatened or made any
21 promises during the entirety of the interview, correct?

22 A The time that I was there, he was not threatened.

23 Q But you don't remember specifically the times you were
24 there and the times you weren't there, correct?

25 A No, I don't remember.

1 Q And did my client actually write this statement? You
2 said, "No," correct?

3 A Your client did not write the statement.

4 Q Why did you go back two hours later and get another
5 statement?

6 A I didn't go back two hours later and get another
7 statement.

8 Q Okay. So you started the whole process and got all
9 four pages of these statements, correct?

10 A Yes.

11 Q All right. So it took you from 8:40 to 10:10 to finish
12 these statements?

13 A Yes.

14 Q Why did it take so long?

15 A During the beginning of this statement, the writing
16 sections, the officer left to go obtain a gun from Colleton
17 County. At some point, the gun wasn't where he originally
18 told them where the gun was. I let him know that. Then, he
19 started giving us this last statement, and it was around
20 that time. That's why you have a different time on that.

21 Q All right. Now, so were you trying to keep him on base
22 and on course with what his previous verbal statement was?

23 A Was I trying to keep him on base?

24 Q Yes.

25 A Was I trying to keep him on ---

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1 Q Were you trying to keep him in line with what the
2 previous statement was?

3 A He was giving a statement. Once the gun was not
4 located, gave him that information. He wrote down again and
5 told me where it was.

6 Q Did Officer Antley tell you what he had made verbally
7 before you came in to write the statement? Did Officer
8 Antley say, "Okay. Here's what he said and we want to get
9 this in writing now"?

10 A Not that I recall.

11 Q Okay. Do you have any writings at all about the
12 denials that he was making in regards to this case?

13 A Only what's in the statement.

14 Q Okay. Do you have a supplemental report?

15 A (NO RESPONSE.)

16 Q Do you have a report of your activities during the
17 interview?

18 A I did a supplement to the original incident report.

19 Q Okay. And do you have that in front of you?

20 A I do not have that in front of me.

21 MR. PLEXICO: Court's indulgence.

22 (BRIEF PAUSE IN COURTROOM WHILE MR. PLEXICO SEARCHES
23 FOR DOCUMENT ON HIS TABLE.)

24 MR. PLEXICO: May I approach, please, Your Honor.

25 THE COURT: You may.

1 Q Is this your ---

2 THE COURT: Hold on a minute. Do you have a copy?
3 Show it to him.

4 DEP. SOL. THORNTON: I believe we do, Judge.

5 THE COURT: Proceed.

6 Q Can you identify this?

7 A Yes, I can.

8 Q Is this the only supplemental incident report that you
9 filed?

10 A I don't think so, without the report, I can't say.

11 Q Did you bring your report today?

12 A No, I didn't.

13 Q Did you re-advise my client of his rights before you
14 took the second statement from him at 10:10?

15 A No, I didn't.

16 Q Did you make any promises to my client about a murder
17 charge not being filed?

18 A I did not make any promises to him.

19 Q Was there any coercion from any of the officers that
20 you witnessed?

21 A No, I didn't.

22 Q Had Ms. Gooding been found at this point in time?

23 A Yes, she had been.

24 THE COURT: Anything further?

25 MR. PLEXICO: Court's indulgence for a moment.

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1 (BRIEF PAUSE)

2 MR. PLEXICO: I don't have anything further, Your
3 Honor.

4 THE COURT: Redirect?

5 DEP. SOL. THORNTON: None, Your Honor.

6 THE COURT: You may step down.

7 Call your next witness.

8 DEP. SOL. THORNTON: Mr. Mungin, please.

9 THE COURT: Come around and be sworn by the Clerk,
10 please.

11 WHEREUPON, HALBERT MUNGIN IS DULY SWORN.

12 THE COURT: Make yourself comfortable. Pull your chair
13 up. Use the microphone. State your full name and spell
14 your last for the court reporter.

15 MR. MUNGIN: Halbert Mungin, M-U-N-G-I-N.

16 THE COURT: Your witness, counsel.

17 DIRECT EXAMINATION

18 BY DEP. SOL. THORNTON:

19 Q Officer Mungin, who do you work for, sir?

20 A Hampton County Sheriff's Office.

21 Q And did you work for the Hampton County Sheriff's
22 Office on or about December the 7th, 2009?

23 A Yes, I did.

24 Q Were you present in the room when Stevie Aiken gave a
25 statement that was recorded in writing by Leslie Jamison?

1 A Yes.

2 Q Would you look at Court's Exhibit Number Two, please,
3 sir? Can you identify that document?

4 A It's a voluntary statement form we use at the Sheriff's
5 Office.

6 Q All right. And is that any particular voluntary
7 statement form?

8 A This is the statement form that Leslie wrote for Stevie
9 Aiken that night.

10 Q And were you present when she wrote that statement at
11 his request?

12 A Yes, I was.

13 Q Would you review that statement for me, please? And
14 when I say "that statement", just so we're clear, I mean all
15 four pages of Court Exhibit Number Two. Would you please
16 review that for me and let me know when you are done.

17 A Okay.

18 Q You ready?

19 A (WITNESS NODS.)

20 Q Officer Mungin, is that an accurate recording or an
21 accurate writing of what Stevie Aiken told Leslie Jamison
22 when she wrote that down?

23 A Everything that he told her, she wrote it as he told
24 her.

25 Q All right. When you were there witnessing this, did

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1 anybody threaten or coerce Mr. Aiken?

2 A No, sir.

3 Q Did he appear to be able to communicate with Ms.
4 Jamison when she was taking this down?

5 A Yes, sir.

6 Q All right. Did you notice any signs of distress or any
7 threats or intimidations leveled against Mr. Aiken by
8 anybody in your office?

9 A No, sir.

10 Q Okay. Did you see anybody threaten him with a murder
11 charge?

12 A No, sir.

13 Q Did you see anybody threaten him on anything?

14 A No, sir.

15 Q And were you there the entire time that Leslie Jamison
16 took down the written portion of this statement?

17 A Yes; me, Leslie, and Stevie Aiken.

18 DEP. SOL. THORNTON. I have no further questions.

19 Please answer any questions that Mr. Plexico has.

20 THE COURT: Cross examination.

21 CROSS-EXAMINATION

22 BY MR. PLEXICO:

23 Q I want to be clear. What time did you arrive there?

24 A I don't remember the time I got there, to be honest
25 with you.

1 Q Did you arrive at 8:00?

2 A It might have been about 7:30.

3 Q Okay. But you -- when you arrived there, could you
4 hear my client?

5 A No, sir.

6 Q When did you enter the conference room? Eight O'Clock?

7 A No, I entered the conference room when the previous
8 officer had left, and I was there with Leslie Jamison so she
9 wouldn't be in there by herself with Stevie Aiken.

10 Q And you have no idea if anyone else had threatened my
11 client, correct?

12 A No, sir.

13 Q Did you meet the Colleton County Deputies and pick him
14 up and bring him to the Annex office?

15 A No, sir.

16 Q And where were you standing in relation to my client
17 while you were in the room?

18 A While it was just us three in the room?

19 Q Yes, sir.

20 A I was sitting to his left. If you're looking -- if
21 you're in the conference room and use the law books as a
22 reference point, I was sitting to the left.

23 Q Okay. Now, where was Officer Jamison?

24 A She was to the right.

25 Q Okay. So she was writing upside down to you, correct?

1 A Writing upside down?

2 Q Well, if you look at - if I'm writing and you try to

3 read it, then my writing would be upside down, correct,

4 because we're on opposite sides of the table?

5 A Not necessarily, because if you're adjacent to them

6 like this, you can kind of see it. It's not upside down.

7 Q Did you read that statement as she was writing it?

8 A No; not as she was writing it, no.

9 Q Okay. So you have no idea what she wrote, correct?

10 A At that time, I read it at the end.

11 Q All right. And when did you read it, exactly? You

12 read it at the end of what?

13 A When she was finished writing.

14 Q And why did you do that?

15 A I mean, just because I was in the room. No specific

16 reason.

17 Q But you didn't witness the statement, correct?

18 A Correct.

19 Q And did you ever hear my client denying that he had

20 anything to do with this when you first entered the room?

21 A No, sir.

22 Q And you still can't remember when you came in there?

23 A I came in the room, like I said, when the other

24 officer's left, so she wouldn't be in there by herself.

25 What time that would be, I don't know.

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1 MR. PLEXICO: I don't have anything further.

2 THE COURT: Redirect?

3 DEP. SOL. THORNTON: None, Your Honor.

4 THE COURT: You may step down. Call your next witness.

5 DEP. SOL. THORNTON: That's all the witnesses the State
6 has, Judge.

7 THE COURT: Does the defendant wish to introduce any
8 evidence for purposes of this hearing?

9 MR. PLEXICO: No, Your Honor.

10 THE COURT: Very well. I will hear you briefly, Mr.
11 Plexico, since this is your motion.

12 MR. PLEXICO: Thank you, Your Honor. Your Honor, they
13 have absolutely no idea about my client's intellectual
14 abilities, whether he can actually read and write. They
15 have special educational classes in school for the
16 handicapped. They are required to educate all our children,
17 whether they're capable of being able to read and write or
18 not.

19 Further, Your Honor, there is no continuity here, which
20 is the most disturbing part of this. There is no one person
21 that can testify that during the entire interview process
22 that the defendant was not threatened or something untoward
23 happened in the way of promises or threats, Your Honor, in
24 regards to my client. They have part of the problem when
25 you pass someone off to another person is this lack of

1 continuity. I think the State utterly fails because of a
2 lack of continuity to show that this was a voluntary
3 statement, and therefore, admissible and that his Miranda
4 Rights were given, Judge. They might get over one hurdle,
5 but I just don't see how since no one witnessed the entire
6 interview, there's nothing here in the record, I believe, to
7 show the Court that this was a voluntary statement in fact,
8 Judge.

9 THE COURT: So your argument is voluntariness and not
10 just based on the safeguards required by Miranda?

11 MR. PLEXICO: Yes, Judge.

12 THE COURT: Thank you very much.

13 DEP. SOL. THORNTON: Your Honor, I'm not aware that
14 lack of continuity is one of the elements that this Court
15 should consider. I would ask you, Judge, as the Court well
16 knows, this is a preponderance of the evidence standard for
17 our purposes, and the jury will make the final determination
18 as to the voluntariness of any statement, it Your Honor sees
19 fit to admit it into evidence.

20 Judge, I've had officers who have gotten up and
21 testified, any officer who has had any contact has gone
22 through the statement the entire time, there is no
23 requirement that there be just one officer. Clearly, Judge,
24 he's had his Miranda rights given to him. Every officer
25 that has got up and testified in front of you indicated that

1 he seemed to understand what he was doing, knew what he was
2 doing, his rights were read to him. He's initialed by each
3 right. There's been no evidence of any threats or coercion.
4 There's been no evidence of any promises made or any promise
5 of leniency in exchange for his testimony. Further, Your
6 Honor, something Mr. Plexico keeps bringing out flies in the
7 face of him not making some type of voluntary statement. He
8 did deny, as Mr. Plexico tried to point out, several minutes
9 and then he gave it up. As I believe Det. Solomon answered,
10 he said, "You got me." And he then proceeds to say - not
11 only does he say the statement to Det. Solomon, he then
12 reiterates the statement to Leslie Jamison.

13 All of this, Judge, has gone on and been witnessed by
14 at least two people at any one time. And every officer has
15 got up and testified to that, Your Honor. Clearly, he made
16 the statement. Clearly, it was after he had been given his
17 Miranda warnings. There's been no evidence he didn't
18 understand what was going on. Mr. Plexico has alluded to it
19 and there's been no testimony that he suffers from any
20 mental defect or condition that would not allow him to not
21 know what was going on. I think, Judge, under a
22 preponderance of the evidence standard, that the State has
23 met its burden. I would ask you to respectfully deny the
24 motion.

25 THE COURT: Let me say that in making the determination

1 of voluntariness, I believe a Judge should, as both of you
2 are aware, examine the totality of circumstances surrounding
3 any utterance to determine if the State has met its burden
4 of proof, so as to warrant any admission of any alleged
5 statement.

6 And part of the State's burden during any hearing of
7 this type, is to prove by a preponderance of evidence that
8 the statement is voluntary, taken in compliance with
9 Miranda, if there was custodial interrogation.

10 I've carefully considered all of the evidence which has
11 been offered by the State. The defendant chose voluntarily
12 not to present evidence. This Court is convinced by a
13 preponderance of the evidence, and I so find that before the
14 alleged statement was obtained from the defendant, the
15 defendant was fully advised of his rights under the 5th and
16 6th Amendment to the Constitution of the United States and
17 that the defendant was advised of his Constitutional
18 safeguards that are required by Miranda v. Arizona.

19 In addition, I believe that the defendant knowingly,
20 based on my examination and I have read in its entirety,
21 both exhibits One and Two, and that the defendant knowingly
22 and intelligently waived his rights under the 5th and 6th
23 Amendments of the Constitution of the United States and the
24 Constitutional safeguards required by Miranda v. Arizona.

25 I also find by a preponderance of the evidence that the

1 alleged statement obtained by the defendant consisting of
2 four pages, Court's Exhibit Number Two, was freely and
3 voluntarily given, without duress, without coercion, without
4 undue influence, without reward, without promise or hope of
5 reward, without promise of leniency, without threat of
6 injury, without compulsion or inducement of any kind, and
7 that such statement was the voluntary product of the free
8 and unconstrained will of the defendant.

9 I make all of those foregoing conclusions, by a
10 preponderance of the evidence, and I, therefore, find that
11 the statement is admissible into evidence in the trial of
12 this case.

13 Now, counsel, Mr. Plexico, do you have another motion?
14 I'm not going to hear that motion, now. I'm going to stop
15 at this point because it's ten minutes to two, and the jury
16 is coming at what time, Mylinda?

17 MADAME CLERK: At 2:00, Judge.

18 THE COURT: I have a jury in nine minutes, so I realize
19 I'm not going to have much time for some of you folks to get
20 lunch. But I wanted to make sure that we got as much work
21 done as possible. We'll start back at approximately 2:15,
22 so that you can get a little bit of a break. Please be
23 present in the courtroom. We're in recess until 2:15.

24

25 THE COURT: Call your case, Solicitor.

1 SOLICITOR STONE: Your Honor, if it please the Court,
2 the State of South Carolina calls the case, the State v.
3 Stevie Lamont Aiken, Indictment Number 2010-GS-25-28,
4 charging Mr. Aiken with armed robbery; 2010-GS-25-26,
5 charging Stevie Lamont Aiken with assault and battery with
6 intent to kill; 2010-GS-25-27, charging Stevie Lamont Aiken
7 with possession of a firearm during the commission of a
8 violent crime; 2010-GS-25-29, charging Stevie Lamont Aiken
9 with the charge of kidnapping; 2010-GS-25-30, charging
10 Stevie Lamont Aiken with burglary in the first degree. And
11 I'll hand these indictments to you. I believe I have handed
12 you a witness list; Your Honor. If you don't have it, I'll
13 get another one to you.

14 THE COURT: I have a witness list.

15 SOLICITOR STONE: Yes, sir.

16 THE COURT: I see that I just had a juror come into the
17 courtroom while Solicitor was calling the case. Madame
18 Clerk, do I have any other jurors outside of the courtroom?
19 That everybody, Mr. Padgett.

20 MR. PADGETT: That's everybody.

21 THE COURT: That's everybody. All right. Ladies and
22 gentlemen of my jury panel, I'm going to remind you, earlier
23 this afternoon, I placed you, through the Clerk of Court,
24 under oath. I will now be asking you certain questions
25 concerning your impartiality to serve as a juror in the

1 trial of the case, which the State has called for trial.
2 Your responses to these questions are also under oath. And
3 Mr. Jimmy is going to ultimately get the portable microphone
4 from the Clerk, and you will have to stand, speak into the
5 microphone, if you want to respond to any of my questions.

6 Now, the State of South Carolina has called for the
7 case of the State of South Carolina v. Stevie Lamont Aiken.
8 Mr. Aiken is charged by these pieces of paper, which I hold
9 in my hand, which we call indictments. Mr. Stevie Lamont
10 Aiken, as you know, is charged with burglary, first degree,
11 kidnapping, possession of a weapon during the commission of
12 a violent crime, assault and battery with intent to kill,
13 and armed robbery. None of the allegations in these
14 indictments, these pieces of paper, which I hold, are
15 evidence. They are simply the formal written instruments by
16 which the case is brought into this Court.

17 To the indictments, the defendant in this case has pled
18 "not guilty." That places the burden on the State of South
19 Carolina, to prove each and every element of the offenses in
20 the indictment beyond a reasonable doubt. And it will be
21 your duty, ladies and gentlemen, if you are selected as a
22 juror in a trial of the case, to determine whether or not
23 the State has met that burden.

24 Do not worry about knowing the elements of the
25 offenses. I will explain the elements of each of the

1 offenses to you if you are selected as a juror in the trial
2 of this case in my charge to you on the law at the
3 conclusion of the trial.

4 Now, I'm going to ask that the lawyers who are going to
5 be trying this case, stand, turn around and face my jury
6 panel, introduce themselves. And in the case of Counsel for
7 the defendant, please have your client stand and introduce
8 your client. Begin with counsel for the State of South
9 Carolina.

10 SOLICITOR STONE: Yes, sir. May it please the Court?

11 THE COURT: Yes, sir.

12 SOLICITOR STONE: I'm Duffie Stone. I'm Solicitor for
13 the 14th Circuit. This is Sean Thornton. He is the Deputy
14 Solicitor for the 14th Circuit.

15 SOLICITOR STONE: Thank you, Your Honor.

16 THE COURT: Yes, sir. Anyone else in your office
17 involved in the trial of this case?

18 SOLICITOR STONE: No, sir. Just us.

19 THE COURT: Very well. Counsel for the defendant.

20 MR. PLEXICO: I'm Stephen Plexico. I'm a public
21 defender, and this is my client, Mr. Stevie Lamont Aiken.

22 THE COURT: Mr. Aiken is from Walterboro?

23 MR. PLEXICO: Yes, he is from Walterboro; yes, sir.

24 THE COURT: Ladies and gentlemen, this gentleman that
25 has just stood and faced you is the defendant, charged in

1 the indictments, Mr. Stevie Lamont Aiken of Walterboro,
2 South Carolina.

3 Now, you've met the defendant in this case. I ask, is
4 there any member of my jury panel related by blood,
5 connected by marriage or a close, personal friend of the
6 defendant in this case, Stevie Lamont Aiken of Walterboro,
7 South Carolina, whom you have just met. If so, please stand
8 at this time.

9 (NO RESPONSE.)

10 THE COURT: Let the record reflect, no one is standing.
11 Is any member of my jury panel related by blood, connected
12 by marriage or a close, personal friend of Mr. Duffie Stone,
13 who is the 14th Judicial Circuit Solicitor? Or Mr. Sean
14 Thornton, who is the Deputy Solicitor for the 14th Judicial
15 Circuit, whom you have just met? If you are related by
16 blood, connected by marriage, or a close, personal friend of
17 either one of the attorneys for the State of South Carolina
18 in the trial of this case, please stand at this time.

19 (NO RESPONSE.)

20 THE COURT: Let the record reflect, no one is standing.
21 Any member of my jury panel ever been represented in the
22 past, or currently represented, either by Mr. Duffie Stone
23 or Mr. Sean Thornton? If so, please stand at this time.

24 (NO RESPONSE.)

25 THE COURT: Let the record reflect, no one is standing.

1 You have also met counsel for the defendant, Mr. Steve
2 Plexico, who is with the Hampton County Public Defenders
3 Office. Any member of my jury panel related by blood,
4 connected by marriage or a close, personal friend of Mr.
5 Steve Plexico, counsel for the defendant? If so, please
6 stand at this time.

7 (NO RESPONSE.)

8 THE COURT: Let the record reflect, no one is standing.
9 Any member of my jury panel ever been represented in the
10 past, or currently represented, by Mr. Steve Plexico? If
11 so, please stand at this time.

12 (NO RESPONSE.)

13 THE COURT: Let the record reflect, no one is standing.
14 Now, ladies and gentlemen, I told you what is in these
15 indictments that I hold in my hand, ladies and gentlemen, is
16 not evidence. And the reason that's important is, if you're
17 selected as juror in the trial of the case, you must decide
18 the case solely upon evidence introduced in the courtroom
19 when both sides are present, with the right of cross-
20 examination.

21 However, in order to determine your impartiality to
22 serve as a juror, it is necessary that I tell you a little
23 bit about the allegations in the case, in order to ask you
24 certain questions to ensure a fair and an impartial jury in
25 the trial of the case. Indictment 2010-28, charging the

1 defendant Stevie Lamont Aiken with the offense of armed
2 robbery, it is alleged that this offense occurred in Hampton
3 County, South Carolina on or about December the 7th, 2009.
4 And it is alleged that the defendant, Stevie Lamont Aiken,
5 by use of force, threats or intimidation, either by action
6 or words, and while armed, or while using a representation
7 of a deadly weapon or object, which a person present during
8 the commission of the robbery reasonably believed to be a
9 deadly weapon, did take and carry away goods or monies from
10 the person or presence of Margaret Gooding, with the intent
11 to permanently deprive her of possession thereof.

12 In the indictment for assault and battery with intent
13 to kill, it is alleged that this occurred in Hampton County,
14 South Carolina, on or about December the 7th, 2009, that the
15 defendant, Stevie Lamont Aiken, did, with malice
16 aforethought, commit an unlawful act of a violent nature
17 upon the victim, Margaret Gooding. It is alleged that the
18 defendant did shoot the victim.

19 In Indictment 2010-27, charging the defendant with
20 possession of a weapon during the commission of a violent
21 crime, it is alleged that this occurred in Hampton County,
22 South Carolina, on or about December 7th, 2009, that the
23 defendant did possess a gun or visibly displayed what
24 appeared to be a gun, during the commission of, or
25 attempting commission, of a violent crime, alleged to be

1 burglary in the first degree.

2 Indictment 2010-29, charging the defendant with
3 kidnapping, it is alleged that the defendant did in Hampton
4 County, South Carolina on or about December 7th, 2009, that
5 the defendant did unlawfully seize, confine, inveigle,
6 decoy, kidnap, abduct or carry away the victim, Margaret
7 Gooding, without authority of law.

8 And finally, Indictment 2010-30, charging the defendant
9 with the offense of burglary, first degree. It is alleged
10 that the defendant did, in Hampton County, on or about
11 December 7th, 2009, entered the dwelling of Margaret
12 Gooding, located at [REDACTED] Road, without
13 consent, and with the intent to commit a crime therein. The
14 entry was alleged during nighttime hours, and the defendant
15 was armed with a deadly weapon.

16 I tell you about those allegations and those charges in
17 the indictment which the State has called for trial in order
18 to ask you this: Has any member of my jury panel heard
19 about, read about, or know anything whatsoever about the
20 facts which are alleged in these indictments? If so, please
21 stand at this time.

22 (JURORS STAND.)

23 THE COURT: All right. One at a time, up front.
24 Counsel, approach.

25 (COUNSEL APPROACH THE BENCH.)

1 THE COURT: Give me your name and number, please, when
2 the people come up. Everyone down. Please, ladies in the
3 back, come on down, form a line. Give the bailiff your name
4 and juror number, so we can move along.

5 JUROR: Number Ten.

6 THE COURT: Thank you. How are you doing? Come on up.
7 How are you today?

8 JUROR: I'm fine.

9 THE COURT: Becky, this is juror number ten, Sheila
10 Bovain. You stood in response to my question of whether or
11 not you've heard about, read about, or know anything
12 whatsoever about the facts in this case. Listen to me
13 carefully and just give me a yes or no response. Have you
14 read something about this case?

15 JUROR: I've read about it.

16 THE COURT: Okay. You read something about it. Is
17 that the reason that you stood?

18 JUROR: Yes, sir.

19 THE COURT: Okay. Is that the sole reason that you
20 stood?

21 JUROR: No, sir.

22 THE COURT: Okay. Other than reading about it, have
23 you talked with someone about this case?

24 JUROR: I talked with some people in Colleton, because
25 I was working in Colleton at the time it happened.

1 THE COURT: So you talked to co-workers, and who were
2 your co-workers, where?

3 JUROR: At the unemployment office.

4 THE COURT: So you work in the unemployment
5 office?

6 JUROR: Yes, sir.

7 THE COURT: And is that the reasons that you
8 stood?

9 JUROR: Yes, sir.

10 THE COURT: Okay. The fact that you've read about
11 this case and talked with people in this case, would
12 that affect your ability to give the defendant or the
13 State of South Carolina a fair and an impartial trial?

14 JUROR: No, sir.

15 THE COURT: All right. Thank you very much. You
16 may return to your seat.

17 BAILIFF: Number fifty, Lisa Gilliam.

18 THE COURT: Good afternoon. Nice to see you. Let
19 me check your number, here. This is juror number
20 fifty, Lisa S. Gilliam, G-I-L-L-I-A-M. Ms. Gilliam, I
21 ask whether or not you've read about, know anything
22 about the facts in this case. And these are yes or no
23 questions. I'm going to try to make it as easy as I
24 can for you, okay?

25 JUROR: Okay.

1 THE COURT: Did you stand up because you read
2 something in this case?

3 JUROR: Yes.

4 THE COURT: In the newspaper?

5 JUROR: Yes.

6 THE COURT: All right. Now, what did you read in
7 the newspaper?

8 JUROR: Well, I'm actually kin to Ms. Margaret.

9 THE COURT: You're kin to Ms. Gooding?

10 JUROR: Yes, sir, I am.

11 THE COURT: How are you related to Ms. Gooding?

12 JUROR: Her father and my grandfather were
13 brothers and I used to ---

14 THE COURT: That's enough right there, Ms.
15 Gilliam, I'm going to excuse you from service in the
16 trial of this case.

17 JUROR: All right.

18 THE COURT: Go back and have a seat for me because
19 I might can use you in another case. Juror number
20 fifty is disqualified from service in the trial of this
21 case.

22 BAILIFF: Sixty-eight, Terrie Hill.

23 THE COURT: How are you doing? Nice to see you.
24 I want you to turn so Becky can hear you.

25 JUROR: Okay.

1 THE COURT: Ms. Hill -- you got the same name as
2 Becky.

3 JUROR: Yes.

4 THE COURT: Ms. Hill, you stood in response to my
5 questions when I asked about whether or not you've
6 heard about, read about, or know anything whatsoever
7 about the facts which are alleged in this case. I'm
8 going to ask you a yes or no question. Did you stand
9 because you read something about this case?

10 JUROR: Yes, I read something about it in the
11 Hampton County Guardian.

12 THE COURT: All right. Just say yes or no, okay?
13 The reason that you're up here is because we don't want
14 you talking in front of the other jurors and that's the
15 reason that I'm limiting your answers, because what you
16 know, I'm not sure that I want the other jurors to
17 know, and I don't know what you know; so I've got to
18 inquire, do you understand?

19 JUROR: Yes, sir.

20 THE COURT: Okay. Now, Ms. Hill, is that the sole
21 reason that you stood up?

22 JUROR: Yes, sir.

23 THE COURT: Something that you read in the
24 newspaper, can you tell me what you read in the
25 newspaper?

1 JUROR: Just some story about what had happened.
2 They did a generic briefing in the paper.

3 THE COURT: Do you recall what was in that generic
4 briefing?

5 JUROR: In regards to forced entry and being
6 stuffed in the trunk and driven to Walterboro, and
7 someone else discovered her in the trunk.

8 THE COURT: All right. Can you put aside anything
9 that you might have read in the newspaper and decide
10 this case solely upon evidence introduced during the
11 trial of this case when both sides are present with the
12 right of cross-examination?

13 JUROR: I think so.

14 THE COURT: All right. Do you believe that you
15 can be fair to both the State of South Carolina and the
16 defendant in this case?

17 JUROR: Yes, sir, based on the evidence they
18 present.

19 THE COURT: All right. And can you put aside
20 anything that you may have read, even a generic
21 briefing in this case, and decide this case solely upon
22 evidence introduced in this courtroom when both sides
23 are present?

24 JUROR: Yes, sir.

25 THE COURT: Thank you, ma'am, you may return to your

1 seat. All right. Ladies and gentlemen, I'm advised that
2 the potential witnesses in the trial of this case will be as
3 follows. Now, ladies and gentlemen, most of these
4 witnesses, some of them may be in the courtroom. We're not
5 going to start the trial today, be in the morning. But I'm
6 going to give you a hometown, or I'm going to give you a
7 place of employment for the witnesses. If the witnesses are
8 present in the courtroom when I call your name, please stand
9 and face my jury panel so they can see your face, along with
10 the name being called, if they're present.

11 These are potential witnesses in the trial of the case:
12 Jarvis Barnes, Hampton, South Carolina; Margaret Gooding,
13 Hampton, South Carolina, standing to my right, your left,
14 ladies and gentlemen. Thank you. Please be seated. Odis
15 Gooding, Hampton, South Carolina; standing to my right, your
16 left. Thank you, sir. You may be seated. Michael Bridges,
17 Hampton County Sheriff's Office, standing to my right, your
18 left. Thank you. You may be seated. Deputy Richard Long.
19 I have -- now, I'm assuming he's from Jasper?

20 SOLICITOR STONE: Yes, sir. Jasper County, Ridgeland,
21 South Carolina.

22 THE COURT: Jasper County Sheriff's Office in
23 Ridgeland, South Carolina. That being Richard Long.
24 Captain Anthony Russell, Hampton County Sheriff's Office;
25 Karl Kenley, South Carolina Law Enforcement Division; Harold

1 Groves, Walterboro, South Carolina; Angie Smith, Colleton
2 County Sheriff's Office; Detective Ray Taylor, Colleton
3 County Sheriff's Office; Detective Jeff Scott, Colleton
4 County Sheriff's Office; Brian Rowe, R-O-W-E, Colleton
5 County Fire and Rescue; Suzette Taylor, Sanford, North
6 Carolina, standing to my right and your left, ladies and
7 gentlemen. Thank you. You may be seated.

8 Jimmy Rhoden, R-H-O-D-E-N, Walterboro, South Carolina;
9 Nathaniel Harris, Walterboro, South Carolina; Lieutenant
10 Allan Inabinett, Colleton County Sheriff's Office; Greg
11 Antley -- A-N-T-L-E-Y, Madam Court Reporter -- South
12 Carolina Law Enforcement Division; Detective Perry
13 Singleton, Hampton County Sheriff's Office. Thank you. You
14 may be seated.

15 Detective Sergeant Chauncey Solomon, standing to my
16 right, Hampton County Sheriff's Office. Sergeant Halbert
17 Mungin, Hampton County Sheriff -- standing behind you,
18 ladies and gentlemen, Hampton County Sheriff's Office.
19 Sergeant Leslie Jamison, Hampton County Sheriff's Office,
20 standing to my right, your left, ladies and gentlemen.
21 Suzanne Cromer, South Carolina Law Enforcement Division;
22 Amanda Campbell, Colleton County Sheriff's Office.

23 Counsel, approach.

24 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
25 AND OUT OF THE HEARING OF THE JURY PANEL.)

1 THE COURT: Amanda Campbell, Colleton County Sheriff's
2 Office; Selena Kinard, K-I-N-A-R-D, South Carolina Law
3 Enforcement Division; Amy Stephens, South Carolina Law
4 Enforcement Division; Nikki Perry, P-E-R-R-Y, South Carolina
5 Law Enforcement Division; Patricia Crooks, C-R-O-O-K-S,
6 South Carolina Law Enforcement Division; Doris Yarborough,
7 South Carolina Law Enforcement Division; Stevie Aiken.
8 Stand up, please, Mr. Aiken. Turn and face my jury panel.
9 Walterboro, South Carolina. Thank you. You may be seated.
10 Any additional witnesses from the State of South
11 Carolina?
12 SOLICITOR STONE: No, sir.
13 THE COURT: Any additional witnesses from the
14 defendant?
15 MR. PLEXICO: No, Your Honor.
16 THE COURT: Any member of my jury panel related by
17 blood, connected by marriage or a close, personal friend of
18 any of the potential witnesses in the trial of those case,
19 whose names I have just called? If so, please stand at this
20 time.
21 (NO RESPONSE.)
22 THE COURT: Let the record reflect, no one is standing.
23 MADAME CLERK: Judge? (INDICATING A JUROR IS
24 STANDING.)
25 THE COURT: Just one moment. Pass the microphone for

1 me, Mr. Jimmy. Now, listen to me carefully, because very
2 often -- I need a "yes" or "no" answer, unless I ask for
3 more information. Otherwise, I'm going to have to call you
4 down front. Give me your name and juror number. Hold the
5 microphone up.

6 JUROR: Walter Solomon, One Twenty-five.

7 THE COURT: Hold on one second; let me check your
8 number. Counsel, this is juror number One hundred and
9 Twenty-five, Walter Solomon. Mr. Solomons, are you related
10 by blood to a potential witness?

11 JUROR: Yes, sir.

12 THE COURT: What witness are you related by blood to?

13 JUROR: Perry Singleton and Chauncey Solomon.

14 THE COURT: You're related to Chauncey Solomon and who?

15 JUROR: Perry Singleton.

16 THE COURT: Perry Singleton. How are you related to
17 Perry Singleton?

18 JUROR: By blood.

19 THE COURT: Pardon?

20 JUROR: By blood.

21 THE COURT: Your brother?

22 JUROR: I said "by blood."

23 THE COURT: Well, how by blood? Is he your first
24 cousin or your brother?

25 JUROR: He's my second cousin.

1 THE COURT: Second cousin. How are you related to
2 Chauncey Solomon?

3 JUROR: That's my second cousin.

4 THE COURT: Second cousin.

5 JUROR: Yes, sir.

6 THE COURT: All right. The fact that you are second
7 cousins with Mr. Singleton and Mr. Solomon, would that in
8 any way keep you from giving the State of South Carolina or
9 the defendant in this case, Stevie Aiken, a fair and an
10 impartial trial?

11 JUROR: Yes, sir.

12 THE COURT: It would not?

13 JUROR: It would.

14 THE COURT: It would? I'll excuse you from service in
15 the trial of this case. Take a seat. Anyone else?

16 (NO RESPONSE.)

17 THE COURT: Let the record reflect, no one else is
18 standing in response to my last question. Any member of my
19 jury panel formed any opinion about the facts which are
20 alleged in this case? If so, please stand at this time.

21 (NO RESPONSE.)

22 THE COURT: Let the record reflect, no one is standing.
23 Any member of my jury panel know of any bias or prejudice
24 they may have about the facts which are alleged in this
25 case? If so, please stand at this time.

1 (NO RESPONSE.)

2 THE COURT: Let the record reflect, no one is standing.
3 Any member of my jury panel received any text messages about
4 this case, or discussed this case on any type of blog or
5 electronic communication device? If so, please stand at
6 this time.

7 (NO RESPONSE.)

8 THE COURT: Let the record reflect, no one is standing.
9 Any member of my jury panel ever been employed, or currently
10 employed, by any law enforcement agency? If so, please
11 stand at this time.

12 (NO RESPONSE.)

13 THE COURT: Let the record reflect, no one is standing.
14 Any member of my jury panel ever been a member of, or a
15 contributor to, any group which has as its primary concern
16 the promotion of law enforcement or victim's rights? These
17 groups would include MADD, SADD, CAVE or CADRE, or even
18 CODA, Citizens Opposed to Domestic Violence. If so, please
19 stand at this time.

20 (NO RESPONSE.)

21 THE COURT: Let the record reflect, no one is standing.
22 Any member of my jury panel ever been the victim of a
23 violent crime? If so, please stand at this time. If so,
24 please stand.

25 (JUROR STANDS.)

1 THE COURT: Pass the microphone. Okay. Give me your
2 name, please, and your juror number. Sheila Bovain, number
3 Ten. All right. Counsel, this is juror number Ten, Sheila
4 Bovain. Ms. Bovain, were you the victim of a violent crime?

5 JUROR: Yes, sir.

6 THE COURT: All right. Is that matter in the past.
7 The crime was in the past?

8 JUROR: It was 1998.

9 THE COURT: '98, all right. The fact that you were the
10 victim of a violent crime, would that in any way affect your
11 ability to give the State of South Carolina or the defendant
12 in this case a fair and an impartial trial?

13 JUROR: I can't truly say, because I don't know how I
14 would act ---

15 THE COURT: You have to tell me "yes" or "no." Do you
16 believe the fact that you were the victim, would that in any
17 way affect your ability to give the State or the defendant
18 in this case a fair and an impartial trial?

19 JUROR: Yes, sir, it could possibly.

20 THE COURT: I'll excuse you from service in the trial
21 in this case. Pass the microphone.

22 (JUROR STANDS.)

23 THE COURT: Your name and juror number, please, ma'am.

24 JUROR: Number Twenty-eight, Yolanda Daniel.

25 THE COURT: Number Twenty-eight?

1 JUROR: Yes.

2 THE COURT: Not quite so close, and speak up just a
3 little bit for me, if you would. I'm just getting a little
4 bit of a blur in your microphone. Yolanda Daniels?

5 JUROR: Yes.

6 THE COURT: Ms. Daniels, were you the victim of a
7 violent crime?

8 JUROR: Yes.

9 THE COURT: The fact that you were the victim of a
10 violent crime, would that in any way affect your ability to
11 give the State of South Carolina, or the defendant in this
12 case, a fair and an impartial trial?

13 JUROR: Yes.

14 THE COURT: Pardon?

15 JUROR: Yes.

16 THE COURT: It would?

17 JUROR: Yes.

18 THE COURT: Very well. I'll excuse you from service in
19 the trial of this case. Have a seat.

20 (JUROR IS SEATED.)

21 THE COURT: Anyone else?

22 (NO RESPONSE.)

23 THE COURT: Let the record reflect no one else is
24 standing. Any member of my jury panel formerly a member of
25 the Hampton County Grand Jury which found the indictments in

1 this case? If so, please stand at this time.

2 (NO RESPONSE.)

3 THE COURT: Let the record reflect, no one is standing.
4 Any member of my jury panel know of any reason whatsoever
5 why he or she should not serve as a juror in this case, with
6 particular emphasis being placed on your ability to be fair
7 and impartial to both the State of South Carolina and the
8 defendant, and to base your decision solely upon evidence
9 introduced during trial of the case? If so, please stand at
10 this time.

11 (NO RESPONSE.)

12 THE COURT: Let the record reflect, no one is standing.
13 Any additional voir dire for the State?

14 SOLICITOR STONE: No, sir, not from the State.

15 THE COURT: From the defendant?

16 MR. PLEXICO: No, Your Honor.

17 THE COURT: All right. Counsel, approach.

18 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
19 AND OUT OF THE HEARING OF THE JURY.)

20 THE COURT: Madame Clerk.

21 MADAME CLERK: Yes, sir.

22 THE COURT: Both sides agree that the strikes in this
23 case are ten for the defendant, five for the State of South
24 Carolina. We will be drawing three alternate jurors in this
25 case. The strikes are two for the defendant and one for the

1 State on the alternate, with three alternates. Both sides
2 further agree the alternates will be identified in the order
3 in which they are selected, as alternates one, two, and
4 three, which means we'll need fifteen seats in the jury box,
5 and that they agree that the alternates will be utilized in
6 the order in which they are selected, without having to
7 redraw as alternate jury, should we need to use an
8 alternate; you understand?

9 MADAME CLERK: Yes, sir.

10 THE COURT: Would you give us the jury, please?

11 (JURY SELECTION PROCESS BEGINS.)

12 MADAME CLERK: When I call your name ---

13 THE COURT: Just a moment, Madame Clerk. Just a
14 moment.

15 Counsel, approach. Hold on a second, Madame Clerk.

16 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
17 AND OUT OF THE HEARING OF THE JURY.)

18 THE COURT: Madame Clerk, are you ready?

19 MADAME CLERK: Yes, sir.

20 THE COURT: All right. Proceed.

21 MADAME CLERK: When I call your name, please come
22 forward and bring your personal belongs that you may have
23 with you in the courtroom. Number Sixty-eight, Terrie Hill
24 (Black female.) You just need to turn around. What say ye
25 for the State?

1 SOLICITOR STONE: Please present Ms. Hill.
2 MADAME CLERK: What says the defense?
3 MR. PLEXICO: Please swear the juror.
4 MADAME CLERK: Number Seventy-five, Frankie Johnson
5 (Black male.)
6 THE COURT: Counsel, approach.
7 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
8 AND OUT OF THE HEARING OF THE JURY.)
9 THE COURT: Proceed.
10 MADAME CLERK: What says the State?
11 SOLICITOR STONE: Please excuse Mr. Johnson from this
12 case.
13 MADAME CLERK: Number Ninety-three, Donald Nixon (White
14 male.) What says the State?
15 SOLICITOR STONE: Please present Mr. Nixon.
16 MADAME CLERK: What says the defense?
17 MR. PLEXICO: Please excuse the juror from the trial of
18 this case.
19 MADAME CLERK: Number One Thirty-six, Michael Wallace
20 (Black male.) What says the State?
21 SOLICITOR STONE: Please present Mr. Wallace.
22 MADAME CLERK: What says the defense?
23 MR. PLEXICO: Please swear the juror.
24 MADAME CLERK: Number One Thirteen, Wanda Rivers (White
25 female.)

1 THE COURT: Come on up, Ms. Rivers. Just turn around
2 and face the back of the room for me.

3 BAILIFF WOOTEN: Judge, can he talk with you?
4 (INDICATING JUROR NUMBER 136.)

5 THE COURT: No. Not without both sides present.
6 Counsel, approach. Ms. Rivers, have a seat for me. If you
7 would, just have a seat right here on the bench.

8 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
9 AND OUT OF THE HEARING OF THE JURY.)

10 THE COURT: This is juror number One Thirteen, counsel,
11 Wanda Rivers. Madame Clerk.

12 MADAME CLERK: What says the State?

13 SOLICITOR STONE: Please excuse Ms. Rivers for this
14 case.

15 MADAME CLERK: Number Forty-nine, Russell Gibson (White
16 male.) What says the State?

17 SOLICITOR STONE: Please present Mr. Gibson.

18 MADAME CLERK: What says the defense?

19 MR. PLEXICO: Please excuse the juror from the trial of
20 this case.

21 MADAME CLERK: Number One hundred and Twenty, Jamie
22 Sauls (White male.) What says the State?

23 SOLICITOR STONE: Please present Mr. Sauls.

24 MADAME CLERK: What says the defense?

25 MR. PLEXICO: Please swear the juror.

1 MADAME CLERK: Number Sixty-six, Brian Harvey (White
2 male.) What says the State?

3 SOLICITOR STONE: Please present Mr. Harvey.

4 MADAME CLERK: What says the defense?

5 MR. PLEXICO: Please excuse the juror from the trial of
6 this case.

7 MADAME CLERK: Number One Thirty-two, Troy Thompson
8 (White male.) What says the State?

9 SOLICITOR STONE: Please present Mr. Thompson.

10 MADAME CLERK: What says the defense?

11 MR. PLEXICO: Please swear the juror.

12 MADAME CLERK: Number One-oh-three, Palicia Owens
13 (Black female.) What says the State?

14 SOLICITOR STONE: Please present Ms. Owens.

15 MADAME CLERK: What says the defense?

16 MR. PLEXICO: Please swear the juror.

17 MADAME CLERK: Number Nineteen, Christopher Brunson
18 (White male.) What says the State?

19 SOLICITOR STONE: Please present Mr. Brunson.

20 MADAME CLERK: What says the defense?

21 MR. PLEXICO: Please swear the juror.

22 MADAME CLERK: Number Sixty-three, Laurie Hanna (White
23 female.) What says the State?

24 SOLICITOR STONE: Please present Ms. Hanna.

25 MADAME CLERK: What says the defense?

1 MR. PLEXICO: Please excuse the juror from the trial of
2 this case.

3 MADAME CLERK: Number One Forty-six, Stacy Wilson
4 (Black female.) What says the State?

5 SOLICITOR STONE: Please present Ms. Wilson.

6 MADAME CLERK: What says the defense?

7 MR. PLEXICO: Please swear the juror.

8 MADAME CLERK: Number Ninety-two, Daniel Mixon (White
9 male.) What says the State?

10 SOLICITOR STONE: Please present Mr. Mixon.

11 MADAME CLERK: What says the defense?

12 MR. PLEXICO: Please swear the juror.

13 MADAME CLERK: Number One Sixteen, Bonnie Rozier (White
14 female.) What says the State?

15 SOLICITOR STONE: Please present Ms. Rozier.

16 MADAME CLERK: What says the defense?

17 MR. PLEXICO: Please excuse the juror from the trial of
18 this case.

19 MADAME CLERK: Number Twenty, Jerome Buckner (Black
20 male.) What says the State?

21 SOLICITOR STONE: Please present Mr. Buckner.)

22 MADAME CLERK: What says the defense?

23 MR. PLEXICO: Please swear the juror.

24 MADAME CLERK: Number Forty-eight, Victoria Garvin
25 (Black female.) What says the State?

1 SOLICITOR STONE: Please excuse Ms. Garvin from this
2 case.

3 MADAME CLERK: Number Eighty-six, Ray McAlhaney (White
4 male.) What says the State?

5 SOLICITOR STONE: Please present Mr. McAlhaney.

6 MADAME CLERK: What says the defense?

7 MR. PLEXICO: Please swear the juror.

8 MADAME CLERK: Number One Hundred and Forty, Delores
9 Williams (Black female.) What says the State?

10 SOLICITOR STONE: Please present Ms. Williams.

11 MADAME CLERK: What says the defense?

12 MR. PLEXICO: Please excuse the juror from the trial of
13 this case.

14 MADAME CLERK: Number Forty-four, Leslie Gant (Black
15 female.) What says the State?

16 SOLICITOR STONE: Please present Ms. Gant.

17 MADAME CLERK: What says the defense?

18 MR. PLEXICO: Please swear the juror.

19 MADAME CLERK: Number Eighteen, Chelsea Brunson (White
20 female.) What says the State?

21 SOLICITOR STONE: Please present Ms. Brunson.

22 MADAME CLERK: What says the defense?

23 MR. PLEXICO: Please excuse the juror from the trial of
24 this case.

25 MADAME CLERK: Number One Hundred, Jennifer Newton

1 (Black female.) What says the State?

2 SOLICITOR STONE: Please excuse Ms. Newton from this
3 case.

4 MADAME CLERK: Number Forty-two, Sekani fields (Black
5 female.) What says the State?

6 SOLICITOR STONE: Please present Ms. Fields.

7 MADAME CLERK: What says the defense?

8 MR. PLEXICO: Please swear the juror.

9 THE COURT: Madame Clerk, that's twelve. This will be
10 alternate number one. Strikes are two and one on alternate
11 number one.

12 MADAME CLERK: Number Forty-one, Janice Fields (Black
13 female.) What says the State?

14 SOLICITOR STONE: Please present Ms. Fields.

15 MADAME CLERK: What says the defense?

16 MR. PLEXICO: Please swear the juror.

17 MADAME CLERK: Number One Nineteen, Michael Sarge
18 (Black male.)

19 THE COURT: Alternate number two.

20 MADAME CLERK: What says the State?

21 SOLICITOR STONE: Please present Mr. Sarge.

22 MADAME CLERK: What says the defense?

23 MR. PLEXICO: Please swear the juror.

24 THE COURT: Alternate number three.

25 MADAME CLERK: Number Forty-five, Shanta Gardner (Black

1 female.) What says the State?

2 SOLICITOR STONE: Please present Ms. Gardner.

3 MADAME CLERK: What says the defense?

4 MR. PLEXICO: Please swear the juror.

5 THE COURT: Are there any matters of law pertaining to
6 the selection of the jury that need to be decided before the
7 jury is sworn, from the State of South Carolina?

8 SOLICITOR STONE: No, sir, not from the State.

9 THE COURT: From the defendant?

10 MR. PLEXICO: No, Your Honor.

11 THE COURT: Counsel, approach.

12 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
13 AND OUT OF THE HEARING OF THE JURY.)

14 THE COURT: All right. Ladies and gentlemen of the
15 jury panel, I told you we weren't starting the case today.
16 I do want you to go with Mr. Jimmy Wooten, who probably
17 knows more about the courthouse than anybody, other than
18 maybe Mylinda, in this courtroom right now. Do not discuss
19 this case. You have not heard any evidence in this case,
20 and it would be improper for you to discuss it amongst
21 yourselves or with anybody else. The reason I'm sending you
22 out with Mr. Jimmy, he's going to show you where the jury
23 room is, and he's going to talk to you about how to get in
24 the courtroom in the morning, because when you come back in
25 the morning, I don't want you to come in here. I want you

1 to report to your jury room...

2 In the morning, the first thing you're going to do when
3 you get here -- I want you here by 9:15. And the reason I
4 want you here by 9:15 -- Mr. Jimmy, in addition to having
5 something for you to drink and a snack in there, and we're
6 going to take good care of you -- is you're going to have a
7 pad and a piece of paper. I want you to elect on that pad,
8 by writing the name, a foreperson of the jury. Now, my
9 three alternates back there -- you're number one; you're
10 number two and you're number three, ma'am -- you cannot be
11 elected foreperson, but you're just as important as a member
12 of the jury. Because if for some reason a juror cannot
13 continue in the trial, you would take their place in the
14 jury room. So you will be with the jury throughout the
15 trial; you're just not eligible at the beginning to be
16 elected foreperson.

17 Now, what are the duties of a foreperson? Foreperson
18 presides in the jury room, just like the chairperson of a
19 committee presides at a committee meeting. It's the
20 foreperson's job to see that each and every member of my
21 jury gets an opportunity to voice their opinions in the jury
22 room, once deliberations begin. So the foreperson presides
23 in the jury room.

24 The foreperson's going to write the jury's verdict and
25 sign it. And I'm going to prepare a verdict form, and then

1 the foreperson's going to write me a name on each of these
2 indictments. And whoever's elected foreperson is going to
3 get to know my law clerk, Nick Rivera. Because one of his
4 jobs is not to let the foreperson leave the courtroom
5 without signing the indictments. And he knows that. In
6 fact, he's looking at me right now, because he knows he's
7 actually had to run some people down on the courthouse
8 grounds before, ladies and gentlemen, or close to it. But
9 he doesn't let anybody get away, because we have to have
10 whatever's written on the verdict form also written on the
11 indictments. And we don't send the indictments into the
12 jury, because they are not evidence in the case.

13 So, the foreperson writes the jury's verdict. The
14 foreperson presides in the jury room. And the foreperson is
15 the jury's spokesperson out here in the courtroom. The
16 foreperson speaks for the jury, should that need arise
17 during the trial of the case. Now, any of the first twelve
18 of you that were selected, other than my three alternates,
19 are eligible to be foreperson.

20 When you arrive in the morning, I want you to discuss
21 it amongst yourselves. I want you to pick a foreperson. I
22 want you to write the name on a piece of paper, knock on
23 your jury room door, give the piece of paper to Mr. Jimmy
24 Wooten. He'll bring it out to me, and we will proceed with
25 the trial of this case.

1 I want to start by 9:30. That's the reason I want you
2 here by 9:15, because I want to get you home as quickly as I
3 can. I don't want to keep you late. We had to get started
4 today and it took some time. Now, I'm going to bring you
5 back. Do not discuss the case. Just go with Mr. Jimmy
6 right now to your jury room, and I'll be right back with you
7 in just a moment. Please retire to your jury room.

8 (6:00 P.M., MARCH 7TH, 2011, WHEREUPON THE JURY EXITS
9 THE COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
10 RECORD.)

11 THE COURT: All right. Ladies and gentlemen, those of
12 you that were not selected as jurors in the trial of this
13 case, here's what I want you to do. As you leave the
14 courtroom, Mr. Danny's in the back back there and he's going
15 to have a piece of paper that's going to have a telephone
16 number on it, 914-2257. I'm going to ask you to call that
17 number, obviously, after six o'clock. It's five minutes
18 till now. I've kept you late because we had to get a jury
19 today.

20 When you get home, call the number. I'll have a -- I
21 don't know that anything will change. I'll have a taped
22 message on that number, telling you when, if at all, I might
23 need you to return to the courtroom. If I do ask you to
24 return, please report to the area of the courtroom that
25 you're seated in now. This side of the courtroom is

1 reserved only for my jurors, so please report to that side.

2 If I ask you to report back, please be on time. If one
3 of you is late, all the rest of you have to sit and wait
4 until everybody is present. If you call the number and it's
5 busy -- there's one message for all jurors -- just keep
6 calling until you get through tonight. We'll have a message
7 on there for you.

8 Any questions about the callback procedures from any of
9 my jurors? Everybody understand what to do?

10 (NO RESPONSE.)

11 THE COURT: Thank you for your patience during roll
12 call, jury selection. You are now excused. Everybody else,
13 remain seated. You're now excused. Call the number after
14 six o'clock tonight.

15 (JURORS NOT SELECTED EXIT THE COURTROOM.)

16 THE COURT: Anything on the record from the State of
17 South Carolina, before I bring the jury?

18 SOLICITOR STONE: Yes, sir. My concern is that we
19 are ready to go. However, I know the defense has a
20 motion tomorrow morning on a search issue. And I wanted
21 to make ---

22 THE COURT: But I can't do anything about that until
23 the witness is interviewed.

24 SOLICITOR STONE: That's correct.

25 THE COURT: Anything else?

1 SOLICITOR STONE: No, sir.

2 THE COURT: Anything on the record from the defendant,
3 before we bring the jury back and excuse them for the night?

4 MR. PLEXICO: No, Your Honor.

5 THE COURT: All right. Bring the jury, please. I
6 believe that witness is going to be here, Mr. Thornton, at
7 8:45; is that right?

8 DEP. SOL. THORNTON: Yes, sir.

9 THE COURT: Mr. Plexico, that means you better be here
10 at 8:45. If I'm bringing a witness at your request, you're
11 going to be here to greet that witness when they walk in.

12 MR. PLEXICO: I understand, Your Honor.

13 (6:05 P.M., 3-7-11, WHEREUPON, THE JURY ENTERS THE
14 COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

15 THE COURT: Fill all the way down, if you would,
16 please, so nobody's got to crawl over anybody. Just take a
17 seat.

18 All right, ladies and gentlemen, you now know where
19 your jury room is and you now know where to go in the
20 morning. You know I need you here at 9:15.

21 I want you to be aware of this. I've got a matter of
22 law, and I'm going to explain all about that to you when we
23 start tomorrow morning. You're the sole judges of the
24 facts; I'm the sole judge of the law. I can't suggest to
25 you or talk to you about the facts in the case, and you

1 can't differ with me about what the law is. You have to
2 accept the law, as I give it to you, and I can't make any
3 comment to you about what the facts are.

4 Obviously, so you won't be influenced by anything that
5 I might say and do, very often, when I'm discussing a matter
6 of law with the attorneys, I have to make a comment to the
7 attorneys about the facts. So that you won't be influenced
8 by what I say, the custom in this state is to excuse you
9 from the courtroom when such discussions take place. And in
10 the morning, I've got one of those matters. And I don't
11 know how long it's gong to take, but I can promise you, I'll
12 be thinking about your time. I'm going to get to you as
13 quickly as I can. I hope to start at 9:30, but it might be
14 9:45. Don't think I don't know that, because I do. And I
15 try to keep the train on the track, but it's impossible
16 always to anticipate how much time it's going to take.

17 I still want you here by 9:15, because I want you to
18 select a foreperson, write the name on a piece of paper,
19 give it to Mr. Jimmy, send it out. I'm going to be working
20 when you get here. That's why you report to your jury room.

21 Now, ladies and gentlemen, it's very important that you
22 not discuss this case with anybody. You see we took great
23 deliberation in asking you about your fairness and your
24 impartiality, so that you would decide this case solely upon
25 evidence introduced during the trial of the case, when both

1 sides are present.

2 So if anybody tries to talk to you, whether it's a
3 family member or anybody about this case, I want you to say
4 "Judge Buckner asked me not to discuss this case. I can't
5 talk about it." If that person persists in wanting to talk
6 to you, you get their name and you give it to me, and I'll
7 handle that problem for you, ladies and gentlemen. That
8 person's not going to bother you anymore; I can promise you
9 that. So please do not discuss this case with anybody while
10 you're on the jury. And only discuss it with your fellow
11 jurors when I tell you to discuss it in your jury room, and
12 that will be at the conclusion of the trial, and not before
13 all the evidence is presented.

14 Now, ladies and gentlemen, I know that our world is
15 such now that we all think we have to have electronic
16 communication and we all have now iPhones and Blackberrys,
17 and people are on Facebook and Twitter and they're on My
18 Space, and Linked In, and all things of that nature,
19 electronic devices, capable of communication.

20 Please, it's improper for you to try to communicate
21 about this case, try to do any research about any witness,
22 or anything in that regard. It's improper for you to read
23 the newspaper, watch television or listen to the radio about
24 this case. You must decide this case solely upon evidence
25 introduced in this courtroom, when both sides are present,

1 with the right of cross-examination. They have the right to
2 know what you're deciding the case on. And in order to do
3 that, they have to be present when you base your decision on
4 evidence. Because they are here for the evidence.

5 So please don't watch television, listen to the radio
6 or read any newspaper account of this case, while you're on
7 the jury, just as I don't want you to do any juror research
8 on your computer while you're on the jury. You must decide
9 this case solely upon evidence introduced during the trial
10 of this case, when both sides are present, with the right of
11 cross-examination.

12 Now, I hope everybody has a pleasant evening. I'm
13 sorry that I kept you this late. I don't mean to work you
14 late, but we had to get started, and we had to qualify a
15 jury, and we had to select a jury in order to get started.
16 I need you to report to your jury room by 9:15 in the
17 morning. You now know that I've got some work for you to
18 do.

19 Soon as I get that piece of paper from Mr. Wooten and I
20 finish my matter of law which I'll be taking up in the
21 morning out here in the courtroom, I'll bring you in, I'll
22 swear you, and we'll start trial of the case.

23 Any questions about what I've told you, from any of my
24 jurors?

25 (NO RESPONSE.)

1 THE COURT: Now, my three alternate jurors, you stay
2 right where you are. You're an alternate. You're just as
3 important as the jury, and you're going to be with the jury,
4 and you're bound by the same rules the jury is bound by.
5 You'll be taking their place if for some reason somebody
6 cannot continue on the jury. And that's the reason we
7 select alternate jurors.

8 Now, I want to thank you, ladies and gentlemen, on
9 behalf of Hampton County and this Court for your patience.
10 I appreciate that very much. I believe jury service is very
11 important. I always tell my jurors this. Just remember
12 this, ladies and gentlemen, when you go home tonight; think
13 about it. If you had a case pending in this Court, wouldn't
14 you want someone like yourself to be on a jury?

15 I'll be explaining to you tomorrow when I swear you and
16 when I talk to you before we start the trial, I'll be
17 explaining to you what you should base your decision on in
18 the case, and I'll be charging you the law that applies to
19 this case at the conclusion of the case.

20 Now, for this overnight recess, it's improper for you
21 to do any research. I don't know anything about this case.
22 I read to you the indictments, the allegations of the
23 charges. You don't know anything about this case. You
24 swore to me you didn't. And that's exactly what the law
25 wants. The law wants you to have an open mind. They want

1 me to have an open mind. We haven't heard any evidence in
2 this case. You'll be hearing that tomorrow. You'll be
3 getting it for the first time. And that's what I'll be
4 talking to you about in the morning as we begin our trial.
5 So, if any one of you are thinking, I want to get on twitter
6 or Facebook, or my computer and do some research, don't do
7 it. The parties have a right to know exactly what evidence
8 is being introduced in this case in order that the defendant
9 and the State can get a fair trial. If you go try to do any
10 research on your own, obviously, you're now injecting a
11 matter that neither side knows about into the trial of this
12 case. So, it's improper for you to do so. You are to
13 decide this case solely upon evidence introduced during the
14 trial of this case when both sides are present with the
15 right of cross-examination.

16 I hope everybody has a pleasant evening this evening.
17 Please be in your jury room prior to 9:30 feed you a little
18 something, give you something to drink, and try to get
19 started as close to 9:30 in the morning as possible.

20 Thank you for your patience during roll call, during
21 jury qualification, and during jury selection. Without you,
22 ladies and gentlemen, the members of the jury, justice
23 cannot be accomplished in the courtroom, and I thank you for
24 your service and your willingness to serve on the jury.
25 Military service, voting, and jury service are duties to

1 one's country.

2 I truly believe that the right to a trial by jury, the
3 right to vote, to serve in the military are things we owe
4 our country, because our forefather's knew what they were
5 doing when they gave us the right to trial by jury, and I
6 thank you for that service on behalf of Colleton County.
7 You may leave the courtroom at this time.

8 Everyone else remain seated while the jury is leaving.

9 (6:06 P.M., 3-7-11, THE JURY EXITS THE COURTROOM AND
10 COURT IS ADJOURNED FOR THE EVENING.)

11 (9:30 A.M., 3-8-11, THE FOLLOWING PROCEEDINGS ARE HELD
12 ON THE RECORD.)

13 THE COURT: All right, Counsel. I met with you this
14 morning. First of all, I understand I've got a group from
15 North District Middle School, raise your hand for me.
16 Welcome. My name is Perry Buckner. I'm a Circuit Court
17 Judge here in South Carolina, and I always enjoy having
18 young people in our courtroom. Hope this will be an
19 educational opportunity. Let me go over a couple ground
20 rules for you. How many of you have been to court before?
21 I don't mean as a defendant; don't be bashful. Now, we keep
22 quiet in the courtroom. Part of that reason is, my court
23 reporter right below me, Becky Hill, has to be able to hear
24 in order to take down exactly what's being said.

25 So I'll try, if you're with me long enough, when I take

1 a break -- I can't take questions from you during a trial.
2 But if you're with me during break and you've got a question
3 -- but if you or your teacher will write me and Melinda will
4 give you my address or email me, I'll answer any question
5 that you have about anything that goes on in court. I want
6 this to be a learning opportunity. I'm always under a time
7 deadline, just like I am right now. And that means I can't
8 stop like I would if I would come into your school and
9 answer questions.

10 But I want you to use this opportunity to observe, to
11 learn, and to be respectfully quiet. Although the
12 courtroom's a public place, serious matters are conducted
13 here, serious business. We treat it that way.

14 That applies to everybody, members of the media. My
15 law clerk sees that you know all about the rules. You do
16 not film any member of the jury and you dress just like
17 everyone else, in a respectful manner, just like you're
18 going to church, and you maintain quiet and respect in the
19 courtroom, just like the spectators.

20 I want the jury to be able to hear. I want my parties
21 to be able to hear. And we can't do that if you're talking,
22 whispering, or if you're moving a camera around during a
23 trial that distracts other people. I expect that to be
24 followed while this court's in session.

25 Now, if you have questions later on, please, if you

1 would, save those for me. I'll be happy to answer them for
2 you. We welcome you here and we hope this will be a
3 learning opportunity. Just to give you a little
4 background, this is criminal court. That means the State of
5 South Carolina is a party, and we're trying a case in which
6 the State has indicted an individual whose name is Stevie
7 Aiken. He is represented by Mr. Plexico. The State is
8 represented by Solicitor Duffie Stone and Deputy Solicitor
9 Sean Thornton.

10 This case involves five indictments. The offenses
11 which are charged include assault with intent to kill, armed
12 robbery, kidnapping, burglary and possession of a weapon
13 during the commission of a violent crime.

14 We spent yesterday qualifying a jury, and selecting a
15 jury and hearing pre-trial motions. We're going to begin
16 the trial this morning, and we're going to move. So I hope
17 that you will have an opportunity to observe and to learn,
18 from your presence here today.

19 All right, Counsel. We met in chambers and we
20 discussed the fact -- Mr. Plexico, you had given me a
21 written motion in which you sought to suppress certain items
22 that were seized, allegedly, from a search conducted at a
23 home in Colleton County. I, pursuant to your request, had
24 the person who consented to that search, here at 8:45 a.m.
25 this morning, so that you could interview that person. You

1 then came to my chambers at approximately 9:30 this morning
2 and informed me you no longer wished to be heard on that
3 motion, having conducted that interview on behalf of your
4 client; is that correct, Mr. Plexico?

5 MR. PLEXICO: Yes, it is, Your Honor.

6 THE COURT: Therefore, there will be no need to pursue
7 that motion. It is now moot; is that correct, Mr. Plexico?

8 MR. PLEXICO: Yes, Your Honor.

9 THE COURT: Very well. Now, Mr. Plexico you also
10 brought up a second matter in my chambers this morning.
11 That second matter was your request to sequester witnesses
12 on behalf of your client; is that correct?

13 MR. PLEXICO: Yes, Your Honor.

14 THE COURT: All right. Mr. Plexico, on the record, I
15 will grant your request for sequestration. It will apply
16 equally to both parties in the case. That means that your
17 client, Mr. Plexico, of course, will be allowed to remain.
18 And, Solicitor, I understand that you are going to choose as
19 your case manager, the Captain from the Hampton County
20 Sheriff's Department, right?

21 SOLICITOR STONE: Yes, sir.

22 THE COURT: All right. I also, Solicitor, will also
23 permit, even though I'm going to sequester any victim of any
24 of these offenses. Now, I've got, let's see, only named in
25 my indictments is Margaret Gooding, and I'm not sure that

1 Ms. Gooding is a witness in the trial of this case.

2 SOLICITOR STONE: Martha Gooding is a witness, Your
3 Honor, and Odis Gooding is her husband. She is the sister;
4 they are both witnesses. They're some of the first
5 witnesses up. So what I would like to do is I'll go ahead
6 and leave them sequestered, if it's okay with the Court.
7 But after they testify, if they could be allowed to stay
8 after that.

9 THE COURT: Very well. Mr. Plexico, any objection?

10 MR. PLEXICO: No, Your Honor.

11 THE COURT: All right. Now, you're not going to call
12 them in reply, if you choose that method; you understand.

13 SOLICITOR STONE: Yes, sir. And Suzette Taylor is
14 actually the victim's daughter. She is here, and we have --
15 I think pursuant to your ruling in chambers, she is the
16 victim that will be allowed to stay.

17 THE COURT: Very well. I will allow the daughter to
18 stay in the courtroom. Is she a witness?

19 SOLICITOR STONE: She is.

20 THE COURT: All right now, Mr. Plexico, I'm allowing
21 the daughter to stay in the courtroom; who is the victim,
22 and her name is what?

23 SOLICITOR STONE: Suzette Taylor.

24 THE COURT: Suzette Taylor. She'll be allowed to
25 remain in the courtroom, your client, and the case managing

1 officer. Solicitor, you will be responsible for designating
2 another room in the courthouse where your remaining
3 witnesses will stay, so that we don't have to look for
4 witnesses during the trial of the case.

5 You will also be responsible for instructing your
6 witnesses that they are not to discuss their testimony with
7 anyone until I release them, or they are released by me
8 through you during the trial of this case.

9 I caution you, that any witness that's subject to
10 sequestration, if you anticipate that there may be any
11 reason you would want to call that witness in reply -- and I
12 realize you don't always know that because you don't know
13 what may happen during the defense cross-examination or if
14 the defense presents evidence. However, if there is any
15 reason, I caution you to let the witness remain in
16 sequestration, so that we don't have a problem, should you
17 desire to call a reply witness.

18 SOLICITOR STONE: Yes, sir.

19 THE COURT: Very well. Anything further from the State
20 before I bring the jury?

21 SOLICITOR STONE: No, sir.

22 THE COURT: Anything further from the defendant before
23 I bring the jury?

24 MR. PLEXICO: No, Your Honor

25 THE COURT: All right. Counsel, I have just been

1 handed a note by my bailiff that the jury has selected Mr.
2 Troy Thompson as foreperson of the jury. Any objection from
3 the State to making the jury's note a court exhibit?

4 SOLICITOR STONE: No, sir.

5 THE COURT: From the defendant?

6 MR. PLEXICO: No, Your Honor.

7 THE COURT: Court's Exhibit No. 1, without objection,
8 Becky.

9 (COURT'S EXHIBIT ONE, JURY'S NOTE, RECEIVED INTO
10 EVIDENCE.)

11 THE COURT: Mr. Jimmy, would you bring us the jury,
12 please.

13 (10:05 A.M., 3-8-11, WHEREUPON, THE JURY ENTERS THE
14 COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

15 THE COURT: Congratulations, Mr. Thompson, on your
16 election as foreperson. Good morning, ladies and gentlemen
17 of the jury.

18 JURORS: Good morning.

19 THE COURT: Thank you for being here on time. We've
20 been doing a little work, both in chambers and outside.
21 Now, let me swear you; and this is a little preliminary
22 matter. You'll notice there's a camera in the courtroom;
23 don't be afraid of that. You're not going to be on camera.
24 Otherwise, the people with that camera are going to deal
25 with me, and they know that. So the courtroom's a public

1 place; we allow the media to come in the courtroom. But I
2 don't want you to be in any way intimidated, nor do I want
3 you to have to look at the camera, because they don't want
4 to be filming you, because they're going to have to deal
5 with me if they do. And they know they can't film you. But
6 they are here to cover the trial.

7 We welcome them; we're happy to have them. But I don't
8 want you to feel any different just because there are
9 cameras here. We have a rule about that, and I enforce that
10 rule very strictly, ladies and gentlemen. And one of the
11 things in the rule is, there will never be any photographs
12 of any juror. And believe me, I intend to enforce it during
13 the trial of this case.

14 Madame Clerk, would you swear the jury, please.

15 MADAME CLERK: Yes, sir. Stand and raise your right
16 hand.

17 WHEREUPON, THE JURORS ARE DULY SWORN.

18 THE COURT: All right, ladies and gentlemen. You've
19 been sworn now as jurors in the trial of this case. First
20 thing I want to go over with you, now that you've been
21 selected to serve on the jury -- and I cautioned you about
22 this last night, and I want to remind you -- please,
23 throughout the rest of this trial, I'm going to ask you not
24 to discuss this case with anybody else, including your other
25 jurors, until I instruct you to discuss it with your fellow

1 jurors. And only then, in jury room, with your fellow
2 jurors.

3 I ask you please not to read or listen to any news
4 reports about this case. I ask that you not use a computer,
5 a cellular phone, or any other electronic device with
6 communication capability during this trial, or during your
7 deliberations. These devices everyone has now, certainly, I
8 encourage you, if you want to use it at home or during a
9 lunch break, but it may not be used at home or during a
10 lunch break ever to obtain or disclose information about
11 anything involved in this trial, whether it be a witness, a
12 lawyer, a party or anything, the Judge, anything.

13 We've had problems with that. Let me give you an
14 illustration. We had a jury in a county far from Hampton
15 that went out to deliberate. They were discussing a medical
16 issue. And one of the jurors said, "Well, I've got my
17 Blackberry. My brother's a doctor; I'll just call my
18 brother on the cell phone and ask his opinion.

19 Now, ladies and gentlemen, that's obviously improper.
20 You must decide the case as I've instructed you during your
21 selection, based on evidence introduced during the trial of
22 the case, and not on any outside source, or any outside,
23 independent investigation on your part. So please do not
24 use a computer, cellular phone or any other electronic
25 device to obtain information about a party, witness,

1 attorney, or court officer, about any news account of this
2 case, about any information that may be collected by you
3 through any type of juror research on any topic raised by
4 the testimony that is offered in this case.

5 I ask you not to communicate with anyone about the case
6 on your cell phone through email, Blackberry, iPhone, text
7 messaging, Twitter, through any blog or any internet chat
8 room or by way of any other social networking website, which
9 includes Facebook, My Space, Linked In, You Tube. Those
10 things are strictly prohibited to you, now that you've been
11 selected as a juror in the trial of the case.

12 Now, ladies and gentlemen, before we begin this trial,
13 I want to tell you that this trial probably will be
14 different from what many of you expect. You know, many
15 people do not have the opportunity or the chance to attend
16 an actual court session, as each of you are doing now. And
17 many people think from watching television, or going to a
18 movie, or reading a book such shows as Cold Case and CSI,
19 that trials are always full of high drama and intense acting
20 and riveting and entertaining circumstances.

21 While all of these things may be true, ladies and
22 gentlemen of the jury, an actual trial is not for
23 entertainment. An actual trial is a fundamental part of our
24 democracy. It is a search for the truth in an effort to
25 make sure that justice is done between the parties, before

1 the Court. Searching for the truth and making sure that
2 justice is done is often slow, as it was this morning. It
3 is often deliberate. It is often repetitive, the exact
4 opposite of what you may have seen on television or read in
5 a book or seen in a movie.

6 This courtroom, ladies and gentlemen, is a place of
7 honor. It is dedicated to the protection and the
8 preservation of citizen's rights through what many people
9 have called the greatest justice system in the entire world.

10 The attorneys that are going to appear before you in
11 this trial, ladies and gentlemen, the attorneys are
12 advocates for the State of South Carolina and for the
13 defendant, for the parties that they represent. But first
14 and foremost, the attorneys are officers of this court. And
15 as officers of this court, they took an oath just like you
16 just took. And in their oath, we call it the civility oath,
17 and in that oath, they were sworn to uphold the integrity,
18 they were sworn that they would uphold the fairness of our
19 judicial system.

20 And the attorneys are here to assist you, ladies and
21 gentlemen of the jury, in a search for the truth. You
22 should expect the attorneys in this case to be professional.
23 You should expect them to be competent, and you should
24 expect the attorneys to be ethical in the discharge of their
25 duties to their client and to the court.

1 Now, I remind each of you, that just like the
2 attorneys, you just took an oath, the twelve of you, plus my
3 three alternate jurors. And in that oath, you said you
4 would try this case and that you would reach a fair and a
5 just verdict. And just like the attorneys who took the
6 civility oath, you took an oath and you are expected as
7 jurors to be professional. You are expected as jurors to be
8 reasonable. And you are expected as jurors to be ethical,
9 truthful in the discharge of your duty as jurors.

10 Before we begin this trial, ladies and gentlemen, I
11 want to thank each and every one of you for your jury
12 service, for your accepting what I believe to be a very
13 important responsibility of jury service. I want to thank
14 you in advance for your contribution as jurors to our
15 justice system. Without you, ladies and gentlemen of the
16 jury, justice can never be accomplished in a courtroom. And
17 I thank you for that service.

18 Now, ladies and gentlemen and Mr. Foreman, the case
19 we're about to try is a case of the State of South Carolina
20 versus Stevie Lamont Aiken, who is the defendant, seated at
21 defense table with his attorney, Mr. Plexico. You met him
22 yesterday during jury selection. I'm holding in my hand --
23 well, I can pull them a little bit apart -- five
24 indictments. The defendant is charged by these five
25 indictments that are filed in this Court, with the crimes of

1 armed robbery; possession of a weapon during the commission
2 of a violent crime; kidnapping; burglary, first degree; and
3 assault and battery with intent to kill.

4 Now, the elements of all five of those crimes, I told
5 you yesterday, will be explained to you later, in my charge
6 to you on the law at the conclusion of the case. You should
7 understand for now, as a juror, that the indictments --
8 there are five of them -- are simply the charges by which
9 the case is brought into this Court of General Sessions, and
10 that it is not in any since evidence of any of the
11 allegations contained in the indictment.

12 Now, the defendant in this case has pled "not guilty"
13 to all five of the indictments. The State of South
14 Carolina, therefore, has the burden of providing each of the
15 essential elements of the five indictments, beyond a
16 reasonable doubt. And it will be your duty, ladies and
17 gentlemen of the jury, to decide whether or not the State
18 has met that burden. It is your solemn responsibility to
19 determine the guilt or the innocence of the defendant, and
20 your verdict must be based solely and only on the evidence
21 as it is presented to you in this trial and on the law, as I
22 instruct it to you to be during the trial and at the
23 conclusion of the trial, in my charge to you on the law,
24 which will take place after the closing arguments of the
25 attorneys.

1 Now, in just a minute, ladies and gentlemen, the
2 Solicitor will make what is called an opening statement in
3 which he will explain to you the issues in this case, or at
4 least what the Solicitor contents, as an advocate for the
5 State of South Carolina to be the issues in this case.
6 Following the opening statement by the Solicitor, the
7 attorney for the defendant will make an opening statement.

8 Now, I want to tell you, ladies and gentlemen, that
9 what the attorneys will tell you at this time is not
10 evidence in this case. I want you to listen to the
11 attorneys, but they're advocates for their clients. And
12 what they say to you in opening statement, what they suggest
13 to you by a question they ask during the trial, what they
14 argue to you at the conclusion of the case in their closing
15 argument, is not evidence in the trial of this case. And
16 the opening statement is only their contention as to what
17 the issues in the trial might be. The purpose of an opening
18 statement is for each side to outline its claims and the
19 evidence which they intend to introduce in support of their
20 claims.

21 Now, following the opening statements, each side will
22 present its evidence with, once again, the State of South
23 Carolina going first, because the State of South Carolina
24 has the burden of proof, and that's the order we follow in
25 the courtroom, followed by the defendant, if the defendant

1 so desires.

2 At the conclusion of the evidence in the case, the
3 attorneys will then make their closing arguments to me. And
4 unlike the opening statements, these final remarks by the
5 attorneys will be true arguments. That is, each side will
6 try to emphasize to you certain portions of the evidence
7 that you've heard and try to persuade you in their argument
8 to agree with their version of the facts, based on the
9 evidence introduced during the trial of the case.

10 Now, what the attorneys tell you is not evidence in
11 this case. It's only their contention as to what the issues
12 are, or what the evidence has shown. You, ladies and
13 gentlemen of the jury, must base your decision, as a jury,
14 solely upon evidence introduced in the courtroom. What is
15 evidence?

16 The evidence in this case is going to be presented to
17 you by testimony. You notice this witness stand is right
18 here by you. It's located on the side of the courtroom
19 where you are. Going to be testimony of sworn witnesses
20 who've taken an oath and sit down on that witness stand and
21 testify in front of you. Or evidence may take the form of
22 an exhibit, such as a photograph or a model. And as to any
23 such exhibit -- the attorneys know this, but I'm going to
24 tell you this -- you're going to hear me say that it is in
25 evidence before you see it. Because one of my jobs, as a

1 presiding judge, will be to rule on the admissibility of
2 evidence. And unless I admit it into evidence, you won't be
3 seeing it.

4 So evidence may be sworn testimony, it may be an
5 exhibit introduced into evidence, or the attorneys may reach
6 what we call a stipulation, an understanding, an agreement,
7 that a fact is true. So evidence might be a stipulation of
8 a fact, which means it isn't necessary to prove it. It may
9 be sworn testimony, or it may be an exhibit which is
10 introduced into evidence during the trial of the case. That
11 is what you base your decision on as a jury, the evidence in
12 the case.

13 Now, in consideration of this evidence, you should
14 remember always throughout this trial that under the
15 Constitution of the State of South Carolina, you and you
16 alone, the members of the jury, are the sole judges of the
17 facts in this case. And the same law that makes you, the
18 jury, the sole judges of the facts, makes me the sole judge
19 of the law. I cannot invade your province and tell you,
20 comment to you or suggest to you what the facts are. And
21 you should not invade my province and differ with me about
22 what the law is.

23 Everything that I say, even right now, to you during
24 the course of this trial that's being taken down by my court
25 reporter, Becky Hill, and if I make a mistake as to the law,

1 to the detriment of either side, they can appeal the case to
2 an Appellate Court. And if the Appellate Court agrees that
3 I made a mistake on the law, the Appellate Court will
4 reverse the case and send it back for a new trial.

5 So don't you, ladies and gentlemen of the jury, worry
6 about whether or not I've told you the law correctly. That
7 is somebody else's worry. Your job is to take the law as I
8 give it to you and apply it to the facts, as you find them
9 to be, from evidence introduced during the trial of the
10 case, which would be testimony from the witness stand, or an
11 exhibit, or a stipulation. And after doing that, ladies and
12 gentlemen, you will render your verdict, a true and a just
13 verdict, under the solemn oath that each of you just took as
14 jurors.

15 Now, from time to time during the trial of this case,
16 you may hear one of the lawyers say something like, "Your
17 Honor, I believe we have a question of law," or you might
18 hear them say, "Your Honor, may we approach the bench?" or I
19 myself might find it necessary to ask you, the jury, to step
20 to your jury room, to be excused from the courtroom for a
21 little while, while the attorneys and I, which we did this
22 morning, discuss a matter of law.

23 Now, the reason for this is because just what I told
24 you. You're the sole judges of the facts; I'm the sole
25 judge of the law. And sometimes, as I told you yesterday,

1 when I'm ruling on a matter of law, by necessity, I have to
2 make a comment to the attorneys about the facts in the case.
3 So that you will not be influenced by anything that I might
4 say or do in ruling on whether or not a particular piece of
5 law applies to this case, the custom in this state is to
6 either take it up in a sidebar -- and that means bring them
7 right up here beside me -- or ask you to step to your jury
8 room. Not that we're trying to hide anything from you; so
9 that you won't be influenced by something that I might say
10 or do in ruling on whether or not a certain piece of law
11 applies to the facts of this case.

12 And in that, let me tell you again, ladies and
13 gentlemen, you remember this throughout, you and you alone,
14 members of this jury, are the sole judges of the facts in
15 this matter. And if you should conclude or gather from
16 anything that I might say or do during the course of this
17 trial that I have any opinion whatsoever as to the facts in
18 this case, please erase that from your mind, because as I
19 said, you and you alone are the sole judges of the facts in
20 this case, members of the jury.

21 Now, how do you determine, as a juror, what the true
22 facts are? Well, ladies and gentlemen of the jury, of
23 necessity, you're going to pass upon the credibility, which
24 simply means the believability of the witnesses who are
25 going to testify during the trial of this case.

1 Let me give you an illustration. It will be my
2 responsibility to rule as a matter of law as to whether
3 certain testimony is admissible or not. But once I've
4 allowed the testimony to be admitted into evidence, whether
5 or not you as a jury believe that testimony is solely a
6 matter for you, the jury, to determine. And in passing upon
7 the believability or credibility of the witnesses who will
8 testify during the trial of this case, you have the right,
9 as a jury, to take into consideration the interest of any
10 witness, the bias, if any, of any witness, the prejudice, if
11 any, of any witness, the opportunity for the witness to have
12 observed the matters about which he or she may testify. You
13 may even taken into consideration in considering the
14 credibility or believability of the witnesses who will
15 testify during the trial of this case. You may even take
16 into consideration what we call the demeanor of the witness,
17 the appearance of the witness while the witness is on the
18 witness stand. Anything that is in evidence, you, as a
19 jury, have the right to consider in ruling upon the
20 credibility or the believability of the witnesses who will
21 testify during the trial of this case.

22 And that means, Mr. Foreman, and that means, ladies and
23 gentlemen of the jury, and I want to emphasize this to you,
24 that it is your duty under your sworn obligation as jurors
25 to pay close attention to the witnesses; to listen to the

1 witnesses. Do not let your thoughts wonder.

2 Give strict attention to the witnesses, so that at the
3 conclusion of all the witnesses in this case, and after you
4 hear the closing arguments of the attorneys, and then
5 receive my charge to you on the law that applies to this
6 case, because you listened, because you paid close
7 attention, you will have placed yourself as a juror in a
8 position to determine what the true facts are in this case,
9 and to apply the law as I charge it to you to be at the
10 conclusion of the case, to those facts as you find them to
11 be, based on evidence introduced during the trial of the
12 case, and thus render a true and a just verdict.

13 Now, you must not consider anything that you may have
14 read or heard about this case outside of this courtroom,
15 whether before or during this trial. And until this case is
16 submitted to you by me at the conclusion of the case, you
17 must not discuss it with anyone, not even your fellow
18 jurors, not even a member of your family. And after I
19 submit it to you, you must discuss it only in your jury room
20 with your fellow jurors. It's very important, ladies and
21 gentlemen, that each of you keep an open mind and not decide
22 the case until the entire matter has been submitted to you
23 under my instructions at the conclusion of the case.

24 Why do we say that? Because, ladies and gentlemen, the
25 very last thing that happens in this trial, the last thing

1 one of the attorneys say, the last thing I say in my charge
2 to you on the law might make a difference to you in reaching
3 your opinion as a juror, based on the evidence introduced
4 during the trial of the case. So it's very important that
5 you keep an open mind and not decide the case until the
6 entire matter has been submitted to you under my
7 instructions.

8 It will be your added duty, Mr. Foreman, to preside in
9 the jury room, just like a chairperson of a committee, at a
10 committee meeting, to see that each and every member of my
11 jury has a full and a fair opportunity to voice their
12 opinions in the jury room, once deliberations begin. And it
13 will be your duty to write the jury's verdict, but I will
14 prepare a verdict form for you and explain that you in my
15 charge to you on the law at the conclusion of the case.

16 And also, my law clerk will be looking for you, because
17 he'll want you to write what you write on the verdict form
18 on those indictments that I showed you, before you leave the
19 courthouse at the conclusion of the trial.

20 Now, y'all notice how loud I talk. I'm so used to
21 doing this, I do. Part of it, I can already see grins on my
22 lawyer's face. They know that I have a hearing aid in my
23 ear because I shot a shotgun all my life. So I talk loud.
24 But I'm so used to trying to talk so people on the back row
25 -- like people that like to sit in my church on the back row

1 -- so that they can hear you. We do have, obviously --
2 Melinda's got it turned on -- we have microphones in the
3 courtroom. There are a lot of people -- I was telling a
4 witness just last night. When you back off and I turn
5 around like this, (TALKING SOFTLY) it's hard for you to
6 hear. That's why Becky has such a hard time.

7 One of the things lawyers love to do, I mean, they just
8 love to do it, is to ask the witness to step down there in
9 front of you. But then, Becky can't see that as well. So I
10 can't tell you how important it is for her to see the mouth
11 of the person talking. That's why we use portable
12 microphone. And that's why we want you to be able to hear.
13 That's why I'm so used to talking loud -- and the lawyers
14 are, too. They're pretty good at it.

15 Every now and then I have to make a lawyer get back to
16 the microphone. But don't worry, ladies and gentlemen, I'll
17 handle that during the trial, because it's very important
18 that you be able to hear. But it's also important that both
19 sides hear it, that I hear, and the public hears and the
20 court reporter hears. And that's why you might see me
21 making some adjustments during the trial, when the lawyers
22 like to move witnesses around. If you can't hear, raise
23 your hand. I want my jurors to be able to hear at all
24 times. And I'll be watching each and every one of you
25 throughout the trial.

1 Now, if an exhibit is admitted into evidence and after
2 I say it's in evidence, then they're going to publish it to
3 you. And if you can't see the exhibit, raise your hand. I
4 want my jurors to be able to hear and to see at all times
5 throughout the trial in a case.

6 Now, Mr. Foreman, we do not allow jurors normally to
7 ask questions during the trial of a case. If at any time a
8 member of the jury has a question, here is the procedure we
9 have to follow. If you are not already in your jury room,
10 you will retire to your jury room. You will write the
11 question on a piece of paper. You will give it to my
12 bailiff; he'll bring it out to me. I will then rule as a
13 matter of law, whether or not the question can or cannot be
14 answered, just as I would any question asked by any of the
15 attorneys during the trial of the case.

16 Now, I've already told you, ladies and gentlemen, we do
17 not allow cell phones or beepers or iPhones or any type of
18 electronic device while you're on jury duty. Please don't
19 bring them with you. Leave them home; leave them in the
20 car. And don't do it for any type of research.

21 I've tried it both ways, Mr. Foreman and ladies and
22 gentlemen of the jury, I ask that you do not take written
23 notes. Now, you're probably wondering why. Because you'll
24 see me; I've got a pen in my hand right now. You'll see me
25 writing. I'll tell you why. Because I've found that if the

1 juror takes written notes, makes an error in the written
2 notes, the notes can be harmful, rather than helpful in your
3 jury room, once deliberations begin. The time-tested system
4 is for each of you to listen. Listen carefully. So I ask
5 that you do not take written notes during the trial of the
6 case.

7 Now, I do not intend that what I've just said to you,
8 ladies and gentlemen, should be construed by you, these
9 remarks I've made, as a charge on the law in this case.
10 Because it is not that. I'm going to charge you the law --
11 just like you, I'm asked this question so frequently, and
12 unfortunately, judges and lawyers that are here, take it for
13 granted -- I don't know anything about this evidence, just
14 like you don't. And it's intended that way.

15 I have not heard or know one thing about the evidence
16 that's about to be presented in the trial of this case, just
17 as you've told me under oath that you don't know anything.
18 You haven't read about, heard about, or know anything
19 whatsoever about the facts which are about to be presented
20 during the trial of this case. And that's the way the
21 system is based, so that you have an open mind and I have an
22 open mind.

23 So I can't charge you the law that applies to this case
24 until I hear the evidence, along with you. So I will charge
25 you the law that applies to this case at the conclusion of

1 the trial of this case.

2 This has been nearly an attempt on my part to briefly
3 explain to you some of the procedure that we use and follow
4 in the courtroom in the trial of the case, so that you'll
5 have a better understanding as to what may be happening from
6 time to time.

7 But nevertheless, in order to preserve everyone's
8 rights, I'll give the parties an opportunity to object to
9 anything that I have said to you, if they have any exception
10 or objection. Any exceptions to anything that I've said to
11 the jury, by the State?

12 SOLICITOR STONE: No, sir, not from the State.

13 THE COURT: By the defendant?

14 MR. PLEXICO: No, Your Honor.

15 THE COURT: Ladies and gentlemen of the jury, we will
16 now begin trial in the case. Solicitor.

17 SOLICITOR STONE: May it please the Court, Your Honor?

18 THE COURT: Yes, sir.

19 OPENING STATEMENT

20 SOLICITOR STONE: Margaret Gooding lived alone. She
21 lived in a house in Miley. On her left side she had a
22 neighbor, maybe a couple hundred yards down to the right she
23 had a neighbor on the other side of the street. But other
24 than that, she was alone. Stevie Lamont Aiken, this man
25 sitting right here, knew that. And he preyed on it on

1 December the 7th, 2009. He, along with another man by the
2 name of Nathaniel Harris, went to her home. It was night,
3 about eight, nine, nine o'clock, ten o'clock at night, and
4 they waited. They waited until she got off the telephone.
5 And when she did, they cut her phone line, isolating her
6 from any help she could possibly get.

7 They threw a brick through a window. And then when she
8 came to the window, and when she tried to protect herself by
9 using her handgun, they shot her. They took her outside of
10 her house. They put her in the trunk of her car. Then they
11 drove her to Walterboro, and they left her there, while they
12 went and tried to cash her check, and while they went and
13 tried to get rid of, not only her gun, but the gun that they
14 used to shoot her.

15 Now, we have charged Stevie Lamont Aiken with those
16 crimes. We've charged him with armed robbery for the use of
17 that gun and from stealing from her, her car and her checks;
18 charged with burglary in the first degree, with breaking
19 into somebody's home at nighttime; charged with assault and
20 battery and intent to kill, for shooting her in the stomach.
21 And we've charged him with the use of a firearm during the
22 commission of a violent crime, for the use of that 9 mm gun.

23 Now, my job as the prosecutor is to present to you the
24 evidence you're going to hear today and some into tomorrow
25 as well. My job is to put the evidence up on the witness

1 stand, through people, through exhibits, and my job is to
2 prove to you that on December the 7th, 2009, Stevie Lamont
3 Aiken did what I said he did, which is prey on a lady who
4 lived by herself.

5 If I don't do that, your job is to come back here and
6 find him not guilty, because I haven't done my job. But the
7 Judge talked to you just a few moments ago about what a
8 trial was. And I think it can be summed up in one thing
9 that he said: Search for the truth. Search for the truth.
10 Fact, that's what verdict means; it means to speak the
11 truth.

12 If I don't do my job, your job is to come back here and
13 hold me accountable for that. At the end of this trial,
14 after you hear the witnesses, after you see the exhibits,
15 I'm going to ask you to do one thing, and one thing only.
16 The only thing that I should ever ask you to do. Give us
17 the verdict that speaks the truth. The truth. Thank you.

18 THE COURT: Mr. Plexico.

19 MR. PLEXICO: Mr. Solicitor, Your Honor.

20 THE COURT: Yes, sir.

21 OPENING STATEMENT

22 MR. PLEXICO: Mr. Foreman, ladies and gentlemen of the
23 jury, I want to thank y'all for being here. This is one of
24 the most important opportunities that you'll ever have to
25 serve your country. You can actually sit in judgment today

1 on a fellow citizen. Very few countries, do you have that
2 opportunity. I think it's very important that y'all listen
3 to all the evidence and keep an open mind.

4 They have to prove that my client is guilty beyond a
5 reasonable doubt. Why is the burden on the State of South
6 Carolina? That's because one person could not possibly
7 match the financial resources and the expertise that the
8 government, with all its taxing power, can draw all the
9 citizens. They can put up as much evidence conceivably as
10 they could.

11 So therefore, the burden is on the State, to prove
12 beyond a reasonable doubt that the defendant is guilty. And
13 this isn't just to prove something in a car wreck. You go
14 to court and prove damage done to a fender. Whose fault is
15 it?

16 Well, that's 49-51. That's called a preponderance of
17 the evidence. So it's not just proving it, but it's proving
18 it beyond a reasonable doubt. And that's the doubt for
19 which you cannot have a reasonable doubt.

20 I believe that the evidence, when it's all said and
21 done and all heard, I believe that any juror could easily,
22 very easily find the State failed to prove their case. And
23 that means that while you may have suspicions, unless
24 they're proved guilty beyond a reasonable doubt, you must
25 set him free. That's very important.

Direct Examination of Jarvis Barnes by Solicitor Stone

1 Obviously, I believe there will be many opportunities
2 to explain exactly what happened here and we will explore
3 that during the trial. Thank you very much.

4 THE COURT: Call your first witness.

5 SOLICITOR STONE: Yes, sir. The State calls Jarvis
6 Barnes.

7 WHEREUPON, JARVIS BARNES IS DULY SWORN.

8 THE COURT: Have a seat right here.

9 MR. BARNES: Yeah. Now I can sit down?

10 THE COURT: Yes, sir. You can.

11 MR. BARNES: Oh, good. Thank you, sir.

12 THE COURT: Pull that chair up. I want you to use that
13 microphone right there.

14 MR. BARNES: Oh, okay.

15 THE COURT: That's going to amplify your voice.

16 MR. BARNES: Oh, okay.

17 THE COURT: Speak into it and state your full name and
18 spell your last name for the court reporter.

19 MR. BARNES: Jarvis Barnes, B-A-R-N-E-S.

20 THE COURT: Your witness, counsel.

21 SOLICITOR STONE: Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY SOL. STONE:

24 Q Mr. Barnes, where do you live, sir?

25 A I live in Miley.

Direct Examination of Jarvis Barnes by Solicitor Stone

1 Q Now, where is Miley?

2 A Oh, probably ten miles out of Hampton.

3 Q And who do you live there with?

4 A My brother and I.

5 Q And what's the address?

6 A [REDACTED]

7 Q What about the physical address? Do you know what your
8 physical address is?

9 A I think it's [REDACTED] Road.

10 Q And you live there in Miley. Is that in Hampton
11 County?

12 A Yes, sir.

13 Q And who lives beside you -- or who -- or let me back up
14 a little bit. In December of 2009, who lived beside you?

15 A Margaret Gooding.

16 SOLICITOR STONE: May I approach, Your Honor?

17 THE COURT: You may.

18 Q Let me ask you, if I could, Mr. Barnes, I'm going to
19 show you State's Exhibit One and State's Exhibit Two. I've
20 shown these to defense. But if you could, are these fair
21 and accurate depictions of your house and Ms. Gooding's
22 house?

23 A Yes, sir.

24 Q And State's Exhibit Number Two, is that a fair and
25 accurate depiction of Ms. Gooding's house on the side?

Direct Examination of Jarvis Barnes by Solicitor Stone

1 A Yes, sir.

2 SOLICITOR STONE: Your Honor, at this time we'd ask to
3 move State's Exhibit One and Two into evidence.

4 THE COURT: Any objection as to State's One and Two?

5 MR. PLEXICO: No, Your Honor.

6 THE COURT: Ladies and gentlemen of the jury, State's
7 Exhibits One and Two will be admitted into evidence in the
8 trial of this case.

9 (State Exhibit One, photo, received into evidence.)

10 (State Exhibit Two, photo, received into evidence.)

11 THE COURT: One and Two into evidence. You may
12 publish.

13 SOLICITOR STONE: Thank you, Your Honor.

14 Q Now let me ask you, Mr. Barnes, if I could go to,
15 specifically, State's Exhibit Two, this photograph right
16 here. Now, could you describe what's in that photograph for
17 me, please.

18 A Well, it's a garage.

19 Q And whose garage is it?

20 A It's Margaret Gooding's.

21 Q Your house is to the ---

22 A My house is on the right.

23 Q On the right side of that. So you would be able to
24 actually see that from your house; is that right?

25 A Yeah. Uh-huh.

Direct Examination of Jarvis Barnes by Solicitor Stone

1 Q Sir, let me now show you State's Exhibit Three, Four
2 and Five. Are these fair and accurate depictions of Ms.
3 Gooding's car?

4 A Yes.

5 SOLICITOR STONE: Your Honor, at this time, we'd ask to
6 admit State's Exhibit Three, Four and Five.

7 THE COURT: Any objection as to Three, Four and Five?

8 MR. PLEXICO: No, Your Honor.

9 THE COURT: Ladies and gentlemen of the jury, State's
10 Exhibits Three, Four and Five will be admitted into
11 evidence, without objection.

12 (State Exhibit Three, photo, received into evidence.)

13 (State Exhibit Four, photo, received into evidence.)

14 (State Exhibit Five, photo, received into evidence.)

15 THE COURT: Three, Four and Five now into evidence.

16 You may publish.

17 Q Mr. Barnes, let me ask you, if you could, please, sir,
18 to go back to the night of December the 6th/December the
19 7th. I realize the day I'm talking about is eleven
20 o'clock/midnight on the 6th and then into December the 7th,
21 2009. Do you recall where you were that night, sir?

22 A I was at home.

23 Q And around eleven o'clock/twelve o'clock, what were you
24 doing?

25 A I was asleep in the bed.

1 Q Tell me what happened after that. And please, if you
2 don't mind, sir, speak in the microphone, so I can hear you
3 up here.

4 A I heard a gunshot. And, you know, it was deer hunting
5 season, and I thought maybe it was deer hunters, because
6 they hunt at night. And so I got up and went to the
7 bathroom. And I looked out the window, and all the lights
8 were on at Margaret's house. So I -- and I thought to
9 myself, I said, "You know, something's -- I don't know." I
10 said, "Maybe it wasn't a deer hunter." And I didn't see any
11 cars over there, except her car.

12 Q And let me stop you right there. State's Exhibit
13 Three, Four, and Five, the photograph of the white car, was
14 that her car?

15 A Her -- that car was in her yard.

16 Q And in the -- and I think we put in State's Exhibit
17 Two, which is the side view of her house with the garage.
18 Where was the car located?

19 A Well, it -- it wasn't under the garage. She very
20 seldom parked under the garage. It was kind of parked out,
21 in front of it.

22 Q So you could see it when you looked outside?

23 A Oh, yeah. Uh-huh. Because she had a -- she had a -- a
24 yard light. And, you know, the back of the house was always
25 lit up.

Direct Examination of Jarvis Barnes by Solicitor Stone

1 Q And the inside of the house, the lights were on as
2 well?

3 A Yeah. Uh-huh.

4 Q All right. Tell me what happened after that.

5 A So, you know, after I heard the shot, it kind of
6 bothered me and everything. So I called her family, that
7 sees about her, Odis and Martha Ann Gooding. And told them
8 I had heard a gunshot. And -- and they said they were going
9 to call the 911. And so when I got off the phone, she
10 called me back, I think, and wanted to know if her car was
11 in the yard. And I went back and looked out the window.
12 Now, I forget how long after that. And -- and I said, "No,
13 the car is gone."

14 Q So at some point -- how much time elapsed between the
15 time you see the car there and the time you don't?

16 A I really can't remember.

17 Q Okay. But enough time to have at least a phone call
18 conversation.

19 A Yeah. Uh-huh. Because I was back on the phone with
20 her. And I told her to hold on and I'll go look out the
21 window. And when I came back, the car was gone.

22 Q Were the lights to the house still on?

23 A The lights were on. And I thought to myself, "Why in
24 the world would she be leaving this time of night?"

25 Q And do you recall about what time that was?

Cross-Examination of Jarvis Barnes by Mr. Plexico

1 A It must have been around midnight, after midnight. It
2 was late. I -- I mean, it takes a lot to wake me up. When
3 I go to bed, I don't wake up.

4 Q And when you said somebody called back, who was that?

5 A Ms. Gooding, Martha Ann.

6 Q Is that who you talked to the first time?

7 A Yeah. Uh-huh. Martha Ann.

8 Q I don't have any further questions at this time, Your
9 Honor.

10 THE COURT: Very well.

11 THE COURT: Cross-examination.

12 CROSS-EXAMINATION

13 BY MR. PLEXICO:

14 Q Mr. Barnes, when you looked out, did you see anything
15 untoward that night?

16 A Anything what?

17 Q Anything unusual that night?

18 A No. It was quiet.

19 Q You certainly didn't see my client out there, correct?

20 A I didn't see anybody. It was quiet.

21 MR. PLEXICO: I don't have anything further.

22 THE COURT: Re-direct?

23 SOLICITOR STONE: No, sir.

24 THE COURT: As to this witness?

25 SOLICITOR STONE: Ask that he be excused, Your Honor.

1 THE COURT: Any objection to this witness being
2 excused?

3 MR. PLEXICO: No, Your Honor.

4 THE COURT: Mr. Barnes, you may step down from the
5 witness stand.

6 MR. BARNES: Oh, okay. Thank you.

7 THE COURT: You're excused from the trial of this case.
8 Be careful.

9 MR. BARNES: Okay. Thank you.

10 THE COURT: Watch your step.

11 MR. BARNES: So I can leave?

12 THE COURT: Yes, sir, you can leave the courthouse.
13 You're excused from the trial of this case.

14 MR. BARNES: Thank you.

15 THE COURT: Counsel, approach.

16 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
17 AND OUT OF THE HEARING OF THE JURY.)

18 THE COURT: Mr. Foreman and ladies and gentlemen of the
19 jury, I'm going to take my mid-morning break. I take a
20 break once in mid-morning, once in mid-afternoon, so you can
21 stretch your legs, use the restroom. Please do not discuss
22 this case. You have not heard all the evidence in the case.
23 It would be improper for you to discuss it. I'll be right
24 back with you, as soon as you've had a chance to take a
25 break. You may retire to your jury room at this time.

1 (10:55 a.m., 3-9-11, WHEREUPON, THE JURY EXITS THE
2 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
3 RECORD.)

4 THE COURT: All right. Ladies and gentlemen, we'll be
5 at ease for a ten-minute recess.

6 (Off the record, briefly.)

7 THE COURT: I noticed that you put up the screen, and
8 it describes things, which is fine, except now it's going to
9 be up there for them to look at when they walk out here
10 until it's in evidence. Take it down. All right. You
11 understand the rule, Mr. Thornton?

12 DEP. SOL. THORNTON: Yes, sir. Madame Clerk, can you
13 take care of that for me?

14 MADAME CLERK: I did.

15 DEP. SOL. THORNTON: Yes, ma'am. I just wanted to make
16 sure. Thank you.

17 MADAME CLERK: You just have to let me know when you're
18 ready.

19 DEP. SOL. THORNTON: I will.

20 THE COURT: Is the defendant ready to proceed?

21 MR. PLEXICO: Yes, Your Honor.

22 THE COURT: Bring me the jury.

23 (11:15 A.M., 3-8-11, WHEREUPON THE JURY ENTERS THE
24 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
25 RECORD.)

1 THE COURT: All right, Mr. Plexico, ladies and
2 gentlemen of the jury, we'll now continue with testimony in
3 the trial of this case. Solicitor, you may call your next
4 witness.

5 SOLICITOR STONE: Yes, sir. Martha Ann Gooding.

6 MADAME CLERK: Please place left hand on the Bible and
7 raise your right.

8 WHEREUPON, MS. MARTHA ANN GOODING WAS DULY SWORN.

9 THE COURT: Have a seat; make yourself comfortable.
10 Pull that chair right on up; it's got rollers on it. Come
11 right on up. Pull that microphone down, so it's close to
12 you. That's going to amplify your voice. It will come
13 down. I want you to speak into that microphone. Speak up,
14 so the members of the jury can hear you down on the end.
15 Begin by stating your full name and spelling your last name
16 for the court reporter, all right?

17 MS. GOODING: Martha Ann Gooding, G-O-O-D-I-N-G.

18 THE COURT: Can you hear down there on the end? All
19 right, Solicitor, your witness.

20 SOLICITOR STONE: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY SOLICITOR STONE:

23 Q Ms. Gooding, let me ask you to come just a little bit
24 closer because I'm not hearing very well. So I'm sorry
25 about that. Where do you live now?

1 A Crockettville, South Carolina.

2 Q Thank you. Where is that?

3 A Four miles from Hampton.

4 Q Do you live in Hampton County as well?

5 A Hampton County, as well.

6 Q How long have you lived there?

7 A Seventy-seven years.

8 Q Now, who is Margaret Ann Gooding? Margaret Gooding,
9 yes, ma'am. Who is that?

10 A That is my sister-in-law by marriage.

11 Q And in the summer of 2009, where did she live?

12 A Miley, South Carolina.

13 Q How far is Miley from you?

14 A I think about nine miles, eight or nine.

15 Q And tell me where -- who did she live with at this
16 time, when we go back to 2009, who did she live with?

17 A Alone.

18 Q And did you check on her periodically? Did you have a
19 pretty good relationship?

20 A We did. We talked a lot.

21 Q Did she have anything that she kept, that would allow
22 her -- first of all, how old was she?

23 A I think she was -- she's a year older than me, I
24 believe, maybe 79.

25 Q Was she in pretty good health?

- 1 A No.
- 2 Q Did she have any way of contacting you if an emergency
3 happened, anything like that?
- 4 A Just by phone.
- 5 Q Did she have any -- I know they make those Lifeline
6 things now. Did she have one of those?
- 7 A She had one of those.
- 8 Q Okay. Do you know how that worked?
- 9 A I think she was just to mash it if anything happened,
10 and then they would answer her.
- 11 Q Through the phone?
- 12 A Through the phone.
- 13 Q Okay. Now, do you know, did you speak to her at all on
14 December the 9th -- or December the 7th? I keep saying the
15 9th, but it's 2009. December the 6th or December the 7th,
16 2009, did you talk to her on the telephone?
- 17 A I did.
- 18 Q Do you remember about what time that was?
- 19 A I'm going to think it was between ten o'clock and
20 eleven.
- 21 Q Did y'all talk for a long time?
- 22 A We usually did. And so my husband, one reason he went
23 to bed at 10:30, and I know he told me to get off the phone.
24 That's why I'm saying -- that's kind of how I know. But we
25 talked on a little while.

1 Q You don't recall, by any chance, what time you got off.
2 Sometime around eleven?

3 A Eleven. That's what I'm going to think, around eleven.

4 Q Did you go to bed right after you got off the phone
5 with her?

6 A No.

7 Q Ma'am?

8 A No.

9 Q What happened after that?

10 A I was just in the house, doing normal things that I
11 usually do.

12 Q Did you get another phone call?

13 A The phone rang. And my ---

14 Q Do you remember ---

15 A --- husband answered it.

16 Q --- what time that was?

17 A My husband answered it. Well, it wasn't long after
18 Margaret and I hung up.

19 Q Do you recall, by any chance, how long it was?

20 A I don't know. It was within a hour I would say.

21 Q And you had stayed awake that whole time?

22 A Yes.

23 Q You stay up late? Later than your husband, huh?

24 A Right.

25 Q What happened after that, when you got the phone call

1 back?

2 A Well, the phone rang. And my husband was upstairs in
3 bed, so he answered it up there. And so after he hung up, I
4 went and asked him, "Who was that that called?" And he told
5 me, "Jarvis".

6 Q Now, who is Jarvis?

7 A The next door neighbor.

8 Q That's Mr. Barnes, Jarvis Barnes?

9 A Mr. Barnes, right.

10 Q He lives next door to ---

11 A Margaret.

12 Q --- Margaret, okay. By the way, does Margaret still
13 live there?

14 A No.

15 Q Where is Margaret now?

16 A Sanford, North Carolina.

17 Q And where is she staying in Sanford?

18 A Parkview Assisted Living.

19 Q How is she doing now?

20 A Not well.

21 Q Let me get back to -- your husband's answered the
22 phone. It's, I guess at this point, about midnight?

23 A I would think so -- between 11 and 12.

24 Q And Mr. Barnes has called. What happens after that?

25 A Okay. Then I ask him, my husband, who called. So he

1 said, "Jarvis." So I -- and said, that Margaret -- he had
2 heard shots, and wondered if Margaret was all right. I
3 think that's the way it went. And so I think my husband
4 just went on off to sleep. But I checked it out. So, I
5 called Margaret's house, no answer. So then, I called
6 Jarvis back and asked him would he look over and see if
7 there was any lights at Margaret's house, because I -- I
8 just talked to her, you know, an hour before.

9 Q Yes, ma'am.

10 A Or something like that. Anyway, I asked him, "Would
11 you look and see if there's any lights?" So he said give
12 him a minute. So, he went and he come back and told me that
13 the lights were on, in and outside, and the car was gone.
14 So I said, "Well, let's get off and let me call 911." So I
15 called 911 and asked would they send someone to check on my
16 sister-in-law, because I had talked to her earlier and I
17 couldn't get an answer.

18 Q Now, let me make sure that we're on the same page.
19 I've already put into evidence State's Exhibit -- let me
20 make sure I've got the right number here -- Three. Is this
21 your sister's car?

22 A It is.

23 Q And this is the car that she was driving at that time?

24 A That's right.

25 Q Now, your husband, what is his name?

1 A Odis.

2 Q And what did Odis do after that?

3 A Well, after I called 911, he got up and -- and -- I
4 don't know whether it was 911 who called and asked if some
5 of us could go to Miley, because they had already found out
6 that they could see some blood, and she wasn't at home. So
7 then my husband went to Miley. I did not go.

8 Q Thank you, ma'am. Please answer any questions Mr.
9 Plexico may have. Thank you.

10 A Thank you.

11 MR. PLEXICO: I don't have any questions, Your Honor.

12 THE COURT: As to this witness?

13 SOLICITOR STONE: Your Honor, I do not anticipate
14 recalling her, and I'd ask if she be excused and allowed to
15 sit in the courtroom.

16 THE COURT: So you'd like her to remain in the
17 courtroom?

18 SOLICITOR STONE: Yes, sir.

19 THE COURT: Any objection, Mr. Plexico?

20 MR. PLEXICO: No, Your Honor.

21 THE COURT: All right. Ma'am, you may step down from
22 the witness stand. And if you'll have a seat out in the
23 courtroom, you may remain with us.

24 MS. GOODING: Okay.

25 THE COURT: Thank you. Call your next witness.

1 SOLICITOR STONE: Odis Gooding.

2 (WHEREUPON, MR. ODIS GOODING COMES INTO COURTROOM.)

3 MADAME CLERK: Raise your right hand.

4 WHEREUPON, MR. ODIS GOODING WAS DULY SWORN.

5 THE COURT: Watch your step and have a seat for me.

6 Pull that chair all the way up to the microphone, adjust it
7 for your height. And I want you to speak into it, speak up
8 so the jury can hear you and people in the courtroom. And
9 just begin by stating your full name and spelling your last
10 name for the court reporter.

11 MR. GOODING: My name's Henry Odis Gooding, G-double O-
12 D-I-N-G.

13 THE COURT: Your witness.

14 DIRECT EXAMINATION

15 BY SOLICITOR STONE:

16 Q And Mr. Gooding, where do you live, sir?

17 A Crockettville, South Carolina.

18 Q And we've already heard that that's about nine miles
19 from Miley; is that right?

20 A Seven.

21 Q Seven miles, okay. And who do you live there with?

22 A My wife, Martha Ann Gooding.

23 Q Martha Ann Gooding. Now, Margaret Gooding is your
24 sister; is that right?

25 A Sister-in-law.

1 Q Okay. And let me go back with you, if I could, to
2 December the 7th of 2009, and ask if you could tell us a
3 little bit about that night, please.

4 A Well, that night, I had already gone to bed. Jarvis,
5 Mr. Barnes, called and I answered the phone. And he said he
6 wondered what was going on at Margaret's house. And I told
7 him, "Far as I knew, nothing, because my wife was talking to
8 her when I went to bed." I think, if I recall, he said he
9 heard shots. So I hung up the phone and then I -- so
10 Martha Ann comes up and asked me what was going on, and I
11 told her Jarvis had called. So she called over there.
12 Well, she called -- I think she said she called Margaret
13 first. No answer. So then she called Jarvis and asked him
14 to check. That's when she called 9-1-1.

15 Q Now, at some point in time, did law enforcement -- and
16 I didn't know if it's 9-1-1 or law enforcement -- call back
17 to you?

18 A They did, yes.

19 Q Would you recall who called?

20 A All I know is Michael Bridges asked her to call,
21 because we had the scanner on and we could hear what was
22 going on.

23 Q I see.

24 A So I went over.

25 Q And went over to?

1 A To the house, yes.

2 Q To the house, okay. Now, when you got there, what did
3 you find?

4 A Well, I went in. And I found -- well, we had some
5 blood, but I can't recall exactly where it was at. But I
6 went in the bedroom where the pistol -- where the window was
7 broken out and saw bullet holes.

8

9 Q Now when you got there, do you recall about what time
10 this was?

11 A I would say around 11:30, twelve o'clock. I -- I'm
12 just not sure.

13 Q You've been in the house before, I'm assuming.

14 A Yes.

15 SOLICITOR STONE: Excuse me just a moment, Your Honor.

16 (APPROACHES COURT REPORTER TO HAVE EXHIBITS MARKED.)

17 Q Here, let me show you what's been marked as State's
18 Exhibit 29B. And ask if you can take a look at that and
19 tell us if that is a drawing of the inside of the house, of
20 her house.

21 A That looks correct.

22 Q And would that assist you in explaining where you went
23 and what you saw that day?

24 A I went in the back door.

25 Q Would that help you, if I could show you?

1 A If I turned around.

2 Q Yes. Okay.

3 A Well, I -- I come in this way and went into the
4 bedroom.

5 Q All right. Let me stop you there. I don't mean to
6 interrupt you. Let me stop you right there.

7 SOLICITOR STONE: Your Honor, I do not plan on using
8 this as a piece of evidence, but I do as an exhibit, and I
9 have this blown up.

10 THE COURT: Any objection to using it as a
11 demonstrative exhibit? Are you going to demonstrate it to
12 the jury, with the witness? Mr. Plexico?

13 MR. PLEXICO: Your Honor, I do have an objection, Your
14 Honor.

15 THE COURT: Counsel, approach.

16 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
17 AND OUT OF THE HEARING OF THE JURY.)

18 THE COURT: Objection is sustained at this stage.
19 Counsel, you may proceed.

20 SOLICITOR STONE: Thank you.

21 Q Let me ask you to take a look at State's Exhibit
22 Twenty-nine (B). Before you tell us what's in there, if you
23 could just take a look at that and tell me if that fairly
24 and accurately depicts the inside of Ms. Gooding's house.
25 And, in fact, let me refer back to State's Exhibit One.

1 This is your sister-in-law's house, correct?

2 A Correct.

3 Q State's Exhibit One?

4 A Correct.

5 Q All right. Does Twenty-nine B fairly and accurately
6 depict the inside of the house? Recognize that it's not to
7 scale, but ---

8 A Right.

9 Q --- showing where the rooms are and ---

10 A That is correct.

11 Q --- things like that.

12 A Right.

13 Q Is that correct?

14 A That's correct.

15 SOLICITOR STONE: Your Honor, at this time, we offer
16 Twenty-nine B and Twenty-nine A, which is the blow-up of
17 that, into evidence.

18 THE COURT: Any objection as to Twenty-nine A and B?

19 MR. PLEXICO: No, Your Honor

20 THE COURT: Ladies and gentlemen of the jury, State's
21 Exhibit's Twenty-nine A and Twenty-nine B will be admitted
22 into evidence, without objection.

23 (State Exhibit Twenty-nine A, photo, received into
24 evidence.)

25 (State Exhibit Twenty-nine B, photo blown-up, received

1 into evidence.)

2 THE COURT: State's Twenty-nine A and Twenty-nine B
3 into evidence. Get me the portable microphone, if you're
4 going to ask the witness to step down.

5 SOLICITOR STONE: Yes, sir.

6 THE COURT: Mr. Plexico, you may come around outside of
7 the jury box, so you can view what's being shown to the
8 jury.

9 MR. PLEXICO: Okay.

10 DIRECT EXAMINATION CONTINUES:

11 Q Mr. Gooding, if I could ask you to come down, please,
12 sir.

13 THE COURT: (TO THE COURT REPORTER) Becky, let me know
14 if you're having a problem.

15 Q Let me ask you to come around here. In fact, tell you
16 what I'm going to do, let me move this over here a little
17 bit. Can everyone see? All right. Let me ask you to hold
18 that for me. That's a microphone; it's on. If you could,
19 please, tell us a little bit about this. This is State's
20 Exhibit Twenty-nine; I'm going to put that as A.

21 A I'm trying to figure out where the back door is.

22 Q Okay.

23 THE COURT: Hold the microphone a little closer for me,
24 if you would. Is that on? Check it for me; is it on?

25 SOLICITOR STONE: It should be on. (TAPS THE

1 MICROPHONE.)

2 THE COURT: Turn it up a little bit.

3 Q Come over here. And ---

4 THE COURT: Can you see, Mr. Plexico? Come on forward
5 a little bit. Just don't block the juror's view.

6 Q Sir, if you will, please.

7 A Okay. This is the back door. I went in the back door
8 and went through this area here, and this is the hall. And
9 this is the bedroom. This is the bedroom. This is the
10 window that was broken.

11 Q Now let me interrupt you just a moment. You've got --
12 there is bedroom, which is marked "number two," and bedroom
13 "number one." Do you know which one she normally stays in?

14 A She normally stays in that one, number two.

15 Q Number two. All right, sir. And if you will, first,
16 tell the jury a little bit about the makeup of this house,
17 so that they can see. And I know ---

18 THE COURT: Hold on, Solicitor. Don't cut my
19 foreperson out.

20 Q Okay. If you would, just give us a general idea about
21 what that drawing shows, first.

22 A Well, this is the laundry room, you know, when you
23 first come in. I usually go in the back door. This is the
24 laundry room, and this is the kitchen, the dining room and
25 the living room. And there's a hallway through here, with

1 the doors. And then come on up. This is the bedroom at the
2 back, and the hallway going back there and a bathroom, and a
3 bedroom and another area, the door, and here, come into this
4 back room, the front bedroom.

5 Q And so you normally went into the back door when you
6 went in?

7 A Back door, yeah.

8 Q All right. And the back door of this house would be
9 back here; is that correct?

10 A That's correct.

11 Q Now, Mr. Barnes' house, where is it located?

12 A Mr. Barnes' house would be over in this area.

13 (INDICATING ON EXHIBIT.)

14 Q And what is to the -- which would be the top of this
15 exhibit, but to the right ---

16 A There was ---

17 Q --- of her house.

18 A --- another house over there.

19 Q Okay. How far away?

20 A About the same distance between the Barnes' house and
21 that one, I'd say.

22 Q And then what is behind this house?

23 A Just an old field. Well, she had a storeroom back
24 there. You know, yard and then the woods, trees.

25 Q How many neighbors did your sister-in-law have?

1 A She had Jarvis and his brother. And back then, I
2 really -- I don't believe there's anybody else nearby.

3 Q And the railroad tracks go along somewhere close?

4 A Yes. It's on down this area.

5 Q And there are no neighbors past Mr. Barnes' house to
6 the railroad tracks?

7 A No, no, no. The post office, and so forth.

8 Q When you first walked into the house, what did you
9 notice that night?

10 A I -- I really didn't -- I went with Mr. Bridges and
11 went -- and he carried me on through here and showed me the
12 bedroom. That's about all I -- I know, because I got back
13 out.

14 Q And That's bedroom number two?

15 A Two. That's correct.

16 Q All right, sir. Now then, at any point, did anybody
17 ask

18 you -- and I'll show you again State's Exhibit Three, which
19 has been identified as her car. Did you, at any point, give
20 a description of this car to law enforcement?

21 A I -- I could have give it to her. I just don't recall.
22 I knew it was a white Buick, but I -- that's about all I can
23 recall.

24 Q And this was the car that she was driving at that time?

25 A That is correct.

1 Q And was it at the house when you got there that night?

2 A No.

3 Q All right, sir. If you will take the stand back.

4 (THE WITNESS COMPLIES.)

5 SOLICITOR STONE: We don't have any further questions
6 of this witness at this time, Your Honor.

7 THE COURT: Cross-examination?

8 MR. PLEXICO: I don't have any questions, Your Honor.

9 THE COURT: As to this witness, Solicitor?

10 SOLICITOR STONE: The same as Ms. Gooding, if he could
11 be ---

12 THE COURT: Any objection to this witness remaining in
13 the courtroom? He will not be called as a reply witness.

14 MR. PLEXICO: No, Your Honor.

15 THE COURT: You may step down and you may have a seat
16 in the courtroom. You're excused from the witness stand.
17 Call your next witness.

18 SOLICITOR STONE: Officer Michael Bridges.

19 WHEREUPON, OFFICER MICHAEL BRIDGES WAS DULY SWORN.

20 THE COURT: Have a seat; make yourself comfortable.
21 Pull that up to the microphone and adjust it ??? microphone
22 ??? good height. State your full name and spelling your
23 last name for the court reporter.

24 (WITNESS ENTERS THE COURTROOM.)

25 MADAME CLERK: Raise your right hand, please, sir.

1 OFFICER BRIDGES: Michael Bridges, B-R-I-D-G-E-S.

2 WHEREUPON, OFFICER MICHAEL BRIDGES IS DULY SWORN.)

3 THE COURT: Have a seat. Make yourself comfortable.

4 Adjust that microphone. State your full name and spell
5 your last name for the court reporter.

6 JUROR: Michael Bridges, B-R-I-D-G-E-S.

7 THE COURT: Your witness, Solicitor.

8 SOLICITOR STONE: Thank you, Your Honor.

9 DIRECT EXAMINATION

10 BY SOLICITOR STONE:

11 Q What is your rank exactly, sir?

12 A Corporal.

13 Q Corporal. Corporal Bridges, you are with the Hampton
14 Sheriff's Office?

15 A Yes, sir.

16 Q And how long have you been there with them?

17 A Five-and-a-half years.

18 Q And what are your job duties with the Sheriff's office?

19 A Road patrol, answer calls pertaining to most anything
20 that happens in the county, we get a call and respond to it.

21 Q And you cover the entire county; is that right?

22 A That's correct.

23 Q Are you familiar with Miley, South Carolina?

24 A Yes, sir.

25 Q I'm going to show you what's been marked as State's

1 Exhibit Twenty-eight; and before you tell us about that, is
2 this a fair and accurate depiction -- I know you've looked
3 at this before -- of a map of the land area surrounding
4 Miley, South Carolina?

5 A Yes, sir.

6 Q And you're familiar with this area? This is the area
7 you patrol.

8 A That's correct.

9 SOLICITOR STONE: Your Honor, at this time, we move
10 State's Exhibit Twenty-eight into evidence.

11 THE COURT: Any objection as to State's Twenty-eight,
12 Mr. Plexico?

13 MR. PLEXICO: No, Your Honor.

14 THE COURT: Ladies and gentlemen of the jury, State's
15 Exhibit Twenty-eight will be admitted into evidence, without
16 objection.

17 (State Exhibit Twenty-eight, map, received into
18 evidence.)

19 THE COURT: Twenty-eight now in evidence. You may
20 publish. Mr. Plexico, you may come around

21 (MR. PLEXICO COMES AROUND.)

22 Q Corporal, if I can get you to come off the stand,
23 please, sir, and show us ---

24 THE COURT: Give him the microphone.

25 SOLICITOR STONE: Yes, sir.

1 Q You right-handed or left-handed?

2 A Either one.

3 Q : Either one, okay. Well, here's the microphone. Use
4 whatever you want to. But you show us, if you could -- and
5 you got somebody right behind you, so don't want you to
6 stand there.

7 THE COURT: Deputy Bridges, I want this gentleman to be
8 able to see and I want these people. And I want Mr. Plexico
9 to be able to see. And I need for you to use that
10 microphone, because the court reporter can't see you now.
11 You've got to speak up.

12 OFFICER BRIDGES: Okay.

13 THE COURT: All right, Solicitor.

14 SOLICITOR STONE: Thank you, sir.

15 Q Could you kind of show us what the area is here on this
16 map?

17 A Far as the whole area?

18 Q Yes, sir.

19 A Hampton County to Varnville. Every town in Hampton
20 County and country-wide. It about covers all of it.

21 Q All right. Now, where is Miley, South Carolina?

22 A The dot.

23 Q Where the red dot is here?

24 A Yes, sir.

25 Q All right. Now tell me, these roads here, what crosses

1 here?

2 A You got Lightsey Railroad that goes through Miley and
3 one road, [REDACTED] and that's about it.

4 Q Now, the [REDACTED] is the main road through ---

5 A That's correct.

6 Q --- so to speak?

7 A Yes, sir.

8 Q And is that where Ms. Gooding lived?

9 A Yes, sir.

10 Q Now, did you know, have you been out to that house
11 before?

12 A Yes, sir.

13 Q Did you know Ms. Gooding?

14 A Yes, sir.

15 Q So you're familiar with the area?

16 A Yes, sir.

17 Q All right. Now, you're fine where you are. I just
18 want to -- now, this is marked as State's Exhibit One. Do
19 you recognize that, sir?

20 A Yes, sir.

21 Q And what is that?

22 A That's Mrs. Gooding's house.

23 Q Tell me about the neighborhood around that, if you
24 would, please.

25 A The only neighbor in that particular area with her was

1 the Barnes' next door, and right down the road, Mr. Gray,
2 and that's about it, as far in that whole area.

3 Q Is Mr. Gray on this side? And is this [REDACTED]
4 here?

5 A That's [REDACTED]

6 Q And Mr. Gray, he lives on which side?

7 A I guess it would be left down the road, probably couple
8 hundred yards or a little better.

9 Q Any other neighbors, other than that?

10 A No, sir.

11 Q All right. And to the right of her house, here, what's
12 over there?

13 A Just grewed up bushes and woods area.

14 Q What about behind her house?

15 A Behind her, she's got a open yard in the back and the
16 rest is grewed up.

17 Q And then there's a railroad track; I know you showed us
18 on the map. Where is that in compared to this house?

19 A If you're facing the house, it would be on the right,
20 approximately, not a mile, probably half a mile.

21 Q All right, sir. Now, you were -- and I'm going to
22 leave you up there, if that's okay with Your Honor. You
23 were the officer -- you were one of the first responders out
24 on December the 7th; is that correct?

25 A That's correct.

1 Q And I'm talking about 2009. What was your job once you
2 got there?

3 A Well, whenever I got there, I was -- first thing I
4 noticed was the vehicle gone. And I said it was strange
5 with knowing that car was gone, because generally it's
6 sitting under the shed. So when I got out, I -- my first
7 thought was Mrs. Gooding, I went to the back door, hollered
8 Ms. Gooding's name. No response, and no vehicle.

9 Q Did you go through the house at that point?

10 A Yes, sir.

11 Q All right. The reason I left you up there, we have put
12 into evidence State's Exhibit Twenty-nine. And if I put it
13 up like this --

14 THE COURT: Now, there's an A and B. Which one?

15 SOLICITOR STONE: Yes, sir. This is A; I apologize.

16 Q All right. State's Exhibit Twenty-nine, showing this
17 side of the house. Could you sort of tell us what you did
18 when you got there? And this, I believe, is the front porch
19 here; is that correct?

20 A Yes, sir.

21 Q And that's the bottom, which would be the south end of
22 Exhibit Twenty-nine A, the front porch, right?

23 A Yes, sir.

24 Q Now, what did you do once you got there?

25 A When I arrived, there's a driveway here; shed back

1 here. First thing I noticed, the car was gone. I got out
2 of my car and walked around to the back door and called Ms.
3 Gooding's name, because I've been there before and I knew
4 what she told me. She said always let her know what -- who
5 it is. And I said, "Yes, ma'am."

6 Didn't get any response out of anybody. Turned the
7 knob on the door. Door was unlocked; I knew that was
8 unusual. Proceeded to open the door and my -- I called my
9 backup, which was right down the road. He was coming on.
10 And told him he might better speed it up, because that door
11 being unlocked. And then I noticed the blood sprinkled on
12 the floor.

13 Q Let me stop you right there, if I could. Cpl. Bridges,
14 let me show you what's been marked as State's Exhibit Number
15 Six. Is that a fair and accurate depiction of the scene, as
16 you saw it that night?

17 A Yes, sir.

18 SOLICITOR STONE: Your Honor, at this time, we would
19 move State's Exhibit Six into evidence.

20 THE COURT: Any objection as to State's Six?

21 MR. PLEXICO: Without objection, Your Honor.

22 THE COURT: Ladies and gentlemen of the jury, State's
23 Exhibit Number Six going to be admitted into evidence,
24 without objection. You may publish.

25 (State Exhibit Six, photo, received into evidence.)

1 SOLICITOR STONE: And I believe, Your Honor, we can
2 actually use the monitor on this, so everyone can see.

3 THE COURT: Can the witness go back to the witness
4 stand, in light of the monitors?

5 SOLICITOR STONE: Yes, sir. If I could go ahead and
6 put these other photos in first, that might be more helpful.

7 THE COURT: Have a seat. He's going to bring them to
8 you.

9 OFFICER BRIDGES: Yes, sir.

10 Q Show you what's been marked as State's Exhibit Seven,
11 Eight, Nine and Ten. And if you would, please, are these
12 fair and accurate depictions of the scene, as you saw them
13 that night?

14 (The witness reviews the photos.)

15 A Yes, sir, they are.

16 SOLICITOR STONE: Your Honor, at this time, we move
17 State's Exhibit Number Eight, Number Ten, Number Nine and
18 Number Seven into evidence.

19 THE COURT: Seven, Eight, Nine and Ten.

20 SOLICITOR STONE: Yes, sir.

21 THE COURT: Any objection? This is State's Seven,
22 Eight, Nine and Ten.

23 MR. PLEXICO: No, Your Honor.

24 THE COURT: Ladies and gentlemen of the jury, State's
25 Exhibits Seven, Eight, Nine and Ten will be admitted into

1 evidence, without objection. You may now publish Six,
2 Seven, Eight, Nine and Ten.

3 (State Exhibit Seven, photo, received into evidence.)

4 (State Exhibit Eight, photo, received into evidence.)

5 (State Exhibit Nine, photo, received into evidence.)

6 (State Exhibit Ten, photo, received into evidence.)

7 THE COURT: Ladies and gentlemen, I recognize that the
8 lights in the courtroom, we can dim the lights. If you
9 cannot see either the board across from you or the monitor
10 above you. And Deputy Bridges, I'm going to attempt to dim
11 the lights. I'm doing it with the hope that you can also
12 see the screen to your right. Can you do so?

13 OFFICER BRIDGES: Yes, sir.

14 THE COURT: Mr. Plexico, can you see?

15 MR. PLEXICO: Yes, Your Honor.

16 THE COURT: Solicitor, can you see?

17 SOLICITOR STONE: I can, Your Honor.

18 THE COURT: Proceed.

19 Q What is up on the monitor, Officer Bridges, Corporal
20 Bridges, is State's Exhibit Six. Could you describe what
21 that is, please, sir?

22 A This is the door opening on the back door. It was
23 first opened whenever we entered the -- the house.

24 Q And what does this actual picture show us?

25 A That I knew something had happened because of the blood

1 on the floor.

2 Q So the dots here, the front.

3 A Right.

4 Q That's --

5 A Blood.

6 Q -- blood? You saw it that night?

7 A Yes, sir.

8 Q Go to State's Exhibit Seven. Tell us where that is,
9 sir.

10 A That's walking in front -- in -- into the first room,
11 into the house. I believe all that's right there at the
12 kitchen area, like a -- like a den right there.

13 Q You can stay where you are. This is used as State's
14 Exhibit Twenty-nine A. What room is that in?

15 A Coming in here.

16 Q In this front area, this foyer?

17 A Yes.

18 Q Now, what does that picture show us?

19 A I noticed the blood trail was going as we moved into
20 the house.

21 Q I'm going to show you what's been marked into evidence
22 as State's Exhibit Nine. Would you tell us what that is,
23 please?

24 A That's when we entered the bedroom, we noticed that the
25 -- something had actually knocked the windows out of the

1 house and spotted these brick on the floor, on the floor of
2 the bedroom.

3 Q And that is in that second bedroom, I believe, on
4 State's Exhibit Twenty-nine A?

5 A Yeah.

6 Q The bedroom here and the bedroom here.

7 A The second bedroom.

8 Q Bedroom number two, here?

9 A Yes, sir.

10 Q I'm going to show you State's Exhibit Ten. Tell us
11 what that is, please, sir.

12 A That's the blinds that was covering the window. It was
13 actually knocked into the room and was hanging off of the
14 foot of the bedpost.

15 Q And that is in that bedroom, that second bedroom?

16 A Yes, sir.

17 Q Go now, if you would, to State's Exhibit Eight. Okay.
18 Now, is this also in that same bedroom?

19 A That is correct. Yes, sir.

20 Q And what is that?

21 A That was determined by us to be a bullet hole in
22 the ---

23 MR. PLEXICO: I object, Your Honor, under Rule 701.

24 A --- window.

25 THE COURT: Sir, just a moment. Sustained.

1 Q This is a fair and accurate depiction of the scene, as
2 you saw it?

3 A Yes, sir.

4 Q And is that part of the window frame? Is that what
5 that is?

6 A That is the window frame.

7 Q And it's missing the wood, it looks like.

8 A Yes, sir.

9 Q Now, what did you do once you got there and took a look
10 at these things?

11 A Once I saw everything, like I say, my backup was there,
12 I immediately called 911 dispatch to get a hold of Captain
13 Russell, Lieutenant Troy Long. Troy was on call. And if
14 anything major happens, we always called the Captain. And
15 they arrived on the scene. We just -- we looked around, see
16 what else we could find while they were en route to us.

17 Q Now, you had already seen -- you knew what her car
18 looked right; is that right?

19 A Yes, sir.

20 Q Did you put the description out for her car?

21 A My backup, Long, put out the BOLO on it.

22 Q All right now, when you say "BOLO", what is the "BOLO"?

23 A Be On the Look Out. We put it on the neighboring
24 counties and the county of Hampton.

25 Q So that would cover Hampton, Jasper, Colleton,

1 Allendale?

2 A Colleton, Allendale, yes, sir.

3 Q And that is -- I believe we've used that as State's
4 Exhibit Three. That is Ms. Gooding's car here; is that
5 correct?

6 A That's correct.

7 SOLICITOR STONE: Your Honor, at this time, we don't
8 have any question for this witness.

9 THE COURT: Cross-examination?

10 MR. PLEXICO: Yes, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. PLEXICO:

13 Q When you came, there was no one there.

14 A That's correct.

15 Q So you looked around and Ms. Gooding wasn't there, but
16 not a sole other was there; is that right?

17 A That's correct.

18 Q And really, at this point in time, you have no idea
19 about who had done anything in that house; is ---

20 A No, sir..

21 Q --- that correct? All right.

22 MR. PLEXICO: I don't have anything further.

23 THE COURT: As to this witness? Or is there a re-
24 direct?

25 SOLICITOR STONE: We would ask Your Honor that he be

1 excused. But I don't believe he's going to stay in the
2 courtroom, in case we have to call him back.

3 THE COURT: Any objection to this witness being
4 excused, by counsel for the defendant?

5 MR. PLEXICO: No, Your Honor.

6 THE COURT: Deputy Bridges, you may step down. And
7 you're excused from the trial of this case. You may leave
8 the courtroom. Call your next witness.

9 SOLICITOR STONE: Captain Anthony Russell.

10 (CAPTAIN RUSSELL ENTERS THE COURTROOM.)

11 WHEREUPON, CAPTAIN ANTHONY RUSSELL WAS DULY SWORN.

12 THE COURT: State your full name, please, and spell
13 your last name for my court reporter.

14 CAPTAIN RUSSELL: My name is Anthony Russell. Spelling
15 my last name, R-U-S-S-E-L-L.

16 THE COURT: Your witness, counsel.

17 SOLICITOR STONE: Thank you, sir.

18 DIRECT EXAMINATION

19 BY SOLICITOR STONE:

20 Q You are a captain with the Hampton County Sheriff's
21 Office?

22 A That's correct.

23 Q How long have you been with the sheriff's office?

24 A Fifteen years now.

25 Q And what do you do? What's your job?

1 A I'm the Captain of Operation.

2 Q What does that mean?

3 A Meaning, I oversee road patrol, criminal investigation,
4 civil division and victim ID.

5 Q So you oversee that entire section of the Sheriff's
6 Office?

7 A That's correct.

8 Q On December the 7th of 2009, did you also -- were you a
9 captain at that point, too?

10 A Yes, sir.

11 Q And your job description was pretty much the same as
12 you just told us?

13 A That's correct.

14 Q Tell us what you did that night concerning Ms.
15 Gooding's home.

16 A On December the 7th, I received a phone call from our
17 911 dispatcher, wanting me to get in contact with Deputy
18 Bridges. At that point, when I gave Deputy Bridges a call,
19 he informed me of what he had out at [REDACTED] Road.
20 And I immediately got dressed and -- and responded to that
21 incident. I think the address was [REDACTED] [REDACTED] Road.

22 When I got there, I met Deputy Bridges and started
23 talking with him. And I also did a preliminary check of the
24 residence. When I got to the back door, I seen blood drops
25 on the back door also, going into the residence.

1 At that point, I immediately called my supervisor,
2 which was Chief Deputy Billy Jarrell, informed him what I
3 had and told him that I was going to call for assistance
4 from our state crime lab, which is SLED. And I called --
5 made a phone call to Columbia and had SLED contact me; and I
6 requested a crime scene unit to respond.

7 Q Now, did you go through the crime scene yourself?

8 A Yes, sir.

9 Q And I've got this in your way, and I apologize for
10 that. Now, let me go back first to State's Exhibit Six,
11 which I think will show on your monitor, and ask if these
12 are what you just described as the scene that you saw that
13 night. And this, showing on the monitor, will be State's
14 Exhibit Six.

15 A Yes, sir. State's Exhibit Number Six, that is an
16 accurate depiction of the blood that was found at the
17 residence that night.

18 Q And then in State's Exhibit Seven?

19 A State's Exhibit Number Seven, that is an accurate
20 depiction of the blood that was found in the den area.

21 Q State's Exhibit Eight?

22 A State's Exhibit Number Eight, that is an accurate
23 depiction of the window frame.

24 Q And that's in the bedroom?

25 A Yes, sir. That was damage in the bedroom area.

1 Q And State's Exhibit Number Nine?

2 A State's Exhibit Number Nine, that's also a accurate
3 depiction of the bedroom area, where two bricks were thrown,
4 appeared to be thrown, from the outside, into the inside
5 room there.

6 Q And State's Exhibit Ten?

7 A State's Exhibit Number Ten, that is a accurate
8 depiction of the blind where it was damaged, hanging off the
9 bed pole.

10 Q Now, let me show you what's been marked as State's
11 Exhibit Eleven, Twelve, Thirteen and Fourteen. And if I
12 could, if you would look through those and tell me if those
13 are accurate depictions of the scene, as you viewed them
14 that night.

15 (The witness reviews the photographs.)

16 A State's Exhibit Number Twelve, that is a accurate
17 depiction of the phone line being cut.

18 Q All right. Are all those fair and accurate depictions
19 of the scene, as you saw it that night?

20 A Yes, sir, it is.

21 SOLICITOR STONE: At this time, Your Honor, we would
22 move State's Exhibits Eleven, Twelve, Thirteen and Fourteen
23 into evidence.

24 THE COURT: Mr. Plexico, as to Eleven, Twelve, Thirteen
25 and Fourteen?

1 MR. PLEXICO: Without objection, Your Honor.

2 THE COURT: Ladies and gentlemen of the jury, State's
3 Exhibit's Eleven, Twelve, Thirteen and Fourteen will be
4 admitted into evidence, without objection. You may publish.

5 SOLICITOR STONE: Thank you, Your Honor.

6 (State Exhibit Eleven, photo, received into evidence.)

7 (State Exhibit Twelve, photo, received into evidence.)

8 (State Exhibit Thirteen, photo, received into
9 evidence.)

10 (State Exhibit Fourteen, photo, received into
11 evidence.)

12 Q First of all, let me go to State's Exhibit Thirteen.
13 It appears to be sideways on that monitor. There we go,
14 okay. Ask if you could describe what that is, please.

15 A Yes, sir. State's Exhibit Number Thirteen, this is the
16 -- the window, standing from the outside of Ms. Gooding
17 home, where you can see the blind that was damaged in that
18 bedroom.

19 Q All right. Pull that microphone to you just a little
20 bit, so I can hear you.

21 A Yes, sir.

22 Q So that's the outside of the window that was damaged?

23 A That's correct. Yes, sir.

24 Q Let me ask you to take a look at State's Exhibit
25 Fourteen. Could you tell us what that is, please?

1 A Yes, sir. State's Exhibit Number Fourteen. This was a
2 -- a firearm box that we found inside Ms. Gooding home
3 during search, where, apparently, she had bought a handgun
4 and kept it in that box, but the handgun was not in there.

5 Q Do you know what kind of gun that box held?

6 A I believe it was a -- a 32 revolver.

7 MR. PLEXICO: I object, Your Honor. Improper
8 foundation.

9 THE COURT: Sustained.

10 Q Let me ask you to go to, please, sir, State's Exhibit
11 Twelve. Ask if you can tell us what that is, please.

12 A Yes, sir. In State's Exhibit Number Twelve, this is
13 the outside of Ms. Gooding home. This is the phone box.
14 And on the night of the incident, this is -- it appeared
15 that it's been cut by someone.

16 Q And State's Exhibit Eleven.

17 A State's Exhibit Number Eleven, this is just a far-off
18 picture of the same phone box where the line was cut.

19 SOLICITOR STONE: Excuse me, just a moment.

20 (Off the record, briefly, while having court reporter
21 mark several exhibits.)

22 Q Now, when you went into the house, did you see anything
23 else? Was the place -- anything around the place that you
24 noticed?

25 A Yes, sir. When I got into the kitchen area, I noticed

1 a bullet hole in the kitchen stove. And I also observed a
2 bullet hole in the -- the bedroom door, in bedroom number
3 two door.

4 Q And this would be in section, in the kitchen area; is
5 that right?

6 A Yes, sir. That's correct.

7 Q I'm going to show you what's been marked as State's
8 Exhibit Twenty-nine A. Where did you see these bullet
9 holes?

10 A Bullet hole would have been in this, in that door. And
11 in here is a kitchen area. And there was a stove sitting
12 right there, and a bullet hole was in that stove.

13 SOLICITOR STONE: That's all we have for this witness
14 at this time, Your Honor.

15 THE COURT: Cross-examination?

16 CROSS-EXAMINATION

17 MR. PLEXICO:

18 Q All right. When you came, there was only your officers
19 there, correct?

20 A Yes, sir. That's correct.

21 Q All right. And are you saying that when you -- did you
22 go in the back door?

23 A Yes, sir, I did.

24 Q When you went in the back door, did you see the laundry
25 room?

1 A Yes, sir.

2 Q Did you see the kitchen?

3 A Yes, sir.

4 Q And the stove's in the kitchen?

5 A Yes. The stove and the -- the kitchen and the den is

6 pretty much altogether.

7 Q The den.

8 A Yes, sir.

9 Q Okay. All right. And that's how you remember the

10 house?

11 A That's correct.

12 Q Okay. I don't have anything further.

13 THE COURT: Redirect?

14 SOLICITOR STONE: Nothing else, Your Honor.

15 THE COURT: As to the witness?

16 SOLICITOR STONE: He is our case officer here.

17 THE COURT: You may step down, Captain Russell. You

18 may remain in the courtroom. Call your next witness,

19 Solicitor.

20 SOLICITOR STONE: State calls Karl Kenley.

21 THE COURT: Karl Kenley.

22 (KARL KENLEY ENTERS THE COURTROOM.)

23 WHEREUPON, MR. KARL KENLEY WAS DULY SWORN.

24 THE COURT: Have a seat for me; make yourself

25 comfortable. Pull that chair up to the microphone. Adjust

1 the microphone and state your full name and spell your last
2 name for the court reporter.

3 MR. KENLEY: Name is Karl Kenley. Karl with a K.
4 Kenley, K-E-N-L-E-Y.

5 DIRECT EXAMINATION

6 BY SOLICITOR STONE:

7 Q And who do you work for, Mr. Kenley?

8 A State Law Enforcement Division, SLED.

9 Q And how long have you worked for SLED?

10 A Five years.

11 Q And what do you do for SLED? What is your job?

12 A I'm a crime scene investigator.

13 Q Now, what does a crime scene investigator do? What
14 exactly is your job?

15 A We respond to all 46 counties in the State of South
16 Carolina when requested by another agency, to process crime
17 scenes for physical evidence.

18 Q All right. And processing, by that, you mean
19 collecting, testing --

20 A Collecting.

21 Q -- that kind of stuff?

22 A Taking photographs, collecting, taking back to the lab
23 to process them for prints or footwear impressions, that
24 kind of stuff.

25 Q Let me ask you to scoot that microphone over just a

1 little bit, because when you turn your head, we lose you a
2 little bit.

3 A Okay.

4 Q Now, on December the 7th of 2009, did you respond to
5 Miley, South Carolina as a crime scene investigator?

6 A Yes, sir, I did.

7 Q And what did you do once you got there?

8 A We arrived on the scene and basically spoke with
9 requesting agency, and found out that there had been
10 possibly a home invasion, and that the victim, or the
11 resident was missing from the residence.

12 Q Now, the inviting agency, would that be the Hampton
13 County Sheriff's Office?

14 A That's correct.

15 Q So you came from Columbia; is that right?

16 A That's correct.

17 Q Now, once you got there and got some lay of the land,
18 what did you do?

19 A After we took photographs of the outside of the
20 residence, general photographs, mid-range photographs and
21 worked -- basically, worked our way into the residence,
22 again, looking for physical evidence and processing the
23 scene for any evidence that may exist inside and outside of
24 the house.

25 Q Now, did you take -- any of the evidence that you

1 found, would that be your job to take that?

2 A Yes.

3 Q Take that into custody?

4 A We collected -- any evidence on the scene was collected
5 by me and my partner, Sabrina, at the time and it was taken
6 back to Columbia.

7 Q Now, when you collect the evidence, what do you do with
8 it, once you take it into custody?

9 A Well, we package it on scene; take it back to Columbia.
10 If there was any processing that needs to be done by us in
11 the lab with any of the evidence, we process it. We package
12 it, if it needs to be sent to another agency, we prepare for
13 that.

14 Q Let me first show you what's been marked as State's
15 Exhibit Fifteen, ask if this is a fair and accurate
16 depiction of the scene as you saw it.

17 A Yes, sir, it is.

18 SOLICITOR STONE: At this time, Your Honor, we move
19 State's Exhibit Fifteen into evidence.

20 THE COURT: Mr. Plexico, as to State's Fifteen.

21 MR. PLEXICO: Without objection, Your Honor.

22 THE COURT: Ladies and gentlemen of the jury, State's
23 Exhibit Number Fifteen will be admitted into evidence
24 without objection. You may publish.

25 (State Exhibit Fifteen, photo, received into evidence.)

1 Q And I believe on your monitor, Your Honor, and Mr.
2 Kenley, is State's Exhibit Fifteen. Tell us what that is,
3 please, sir.

4 A That is a shell casing that was located outside of the
5 victim's bedroom.

6 Q And that is just about the center of State's Exhibit
7 Fifteen; is that right?

8 A That's correct.

9 Q And where is that located as to the victim's house?

10 A It's outside the bedroom window.

11 Q The bedroom window. Is that the same window in State's
12 Exhibit Ten?

13 A Yes, sir, it is.

14 Q Show you what's been marked as State's Exhibit Sixteen.
15 Ask if that is a fair and accurate depiction of the scene as
16 you saw it?

17 A Yes, sir, it is.

18 Q And with the -- what appears to be a rod in that
19 photograph, did you put that there? Do you know how that
20 got there?

21 A Yes. That rod was put there to track the path of the
22 projectile.

23 SOLICITOR STONE: This time, Your Honor, we move
24 State's Exhibit Sixteen into evidence.

25 THE COURT: As to State's Sixteen, Mr. Plexico.

1 MR. PLEXICO: No objection, Your Honor.

2 THE COURT: Ladies and gentlemen of the jury, State's
3 Exhibit Sixteen will be admitted into evidence without
4 objection. You may publish.

5 (State Exhibit Sixteen, photo, received into evidence.)

6 Q And if you would, please, it's up on the monitor, it's
7 State's Exhibit Sixteen. If you could tell the jury what
8 that is, please.

9 A That is a dowel rod. After searching inside the
10 residence, we noticed several holes in the residence and
11 determined those to be bullet holes. And we used a wooden
12 dowel rod to track the path of the bullet, to see if we
13 could locate the projectile and the path in which it was
14 traveling.

15 Q All right. That's called a -- did you say dowel?

16 A Dowel.

17 Q Is that right?

18 A D-O-W-E-L, dowel.

19 Q And so that -- you actually put that there, or one of
20 your crime scene people put that there; is that right?

21 A Yes. That's correct.

22 Q And what does that show us?

23 A That shows us the path of the projectile at time
24 traveling through the door and into the stove in the
25 kitchen.

1 Q And on the right side of the exhibit, there appears --
2 is that a door or a wall or what?

3 A That is a door.

4 Q And then to the left of the exhibit with the dowel rod
5 going into it, is what?

6 A That's the kitchen stove.

7 Q Show you what's been marked as State's Exhibit Number
8 Seventeen. Ask if that's a fair and accurate depiction of
9 the scene as you saw it that night.

10 A Yes, sir, it is.

11 Q State's Exhibit Eighteen, ask if that is a fair and
12 accurate depiction of the scene as you saw it.

13 A Yes, sir, it is.

14 Q State's Exhibit Twenty, ask if that is a fair and
15 accurate depiction of the scene as you saw it.

16 A Yes, sir.

17 Q And State's Exhibit Nineteen.

18 A Yes, sir.

19 Q Is that a fair and accurate depiction of the scene?

20 A Yes, sir.

21 Q Is that, in fact, your hand?

22 A I think that's Sabrina's hand.

23 Q Okay. All right.

24 SOLICITOR STONE: Your Honor, at this time we move
25 State's Exhibit Seventeen, Eighteen, Nineteen and Twenty

1 into evidence.

2 THE COURT: Mr. Plexico, as to State's Exhibit
3 Seventeen, Eighteen, Nineteen and Twenty?

4 MR. PLEXICO: Your Honor, I object under Rule 402.

5 THE COURT: Counsel, approach.

6 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
7 AND OUT OF THE HEARING OF THE JURY.)

8 THE COURT: Objection sustained for now. Solicitor,
9 you may lay the foundation.

10 Q All right. Let me show, first, State's Exhibit
11 Sixteen, which you've already testified to, and I think it's
12 still up on the monitor. It is. You had testified earlier,
13 I believe, that's a stove; is that correct?

14 A That's correct.

15 Q All right now, did you remove anything from the stove?
16 What is the bottom part of the stove, by the way?

17 A It's like a storage container that holds pots and pans.

18 Q Could you tell if the hole goes into that or the top
19 part of the stove?

20 A When you open the drawer, you realize that it actually
21 went into the drawer.

22 Q Did you open the drawer?

23 A Yes.

24 Q Did you see anything once you opened the drawer?

25 A Yes, sir, we did.

1 Q Did you pull anything out of that drawer, once you
2 opened the drawer?

3 A Yes, sir, we did.

4 SOLICITOR STONE: Your Honor, at this time --

5 Q And let me go back to State's Exhibit Seventeen,
6 Eighteen, Nineteen and Twenty. Are those fair and accurate
7 pictures of what you saw when you opened the drawer and what
8 you pulled out of there?

9 A Yes, sir.

10 SOLICITOR STONE: Your Honor, at this time, we move
11 those into evidence.

12 THE COURT: As to Seventeen, Eighteen, Nineteen and
13 Twenty?

14 MR. PLEXICO: Without objection, Your Honor.

15 THE COURT: Ladies and gentlemen of the jury, State's
16 Exhibits Seventeen, Eighteen, Nineteen and Twenty will be
17 admitted into evidence without objection. You may now
18 publish, Solicitor.

19 SOLICITOR STONE: Thank you, Your Honor.

20 (State Exhibit Seventeen, photo, received into
21 evidence.)

22 (State Exhibit Eighteen, photo, received into
23 evidence.)

24 (State Exhibit Nineteen, photo, received into
25 evidence.)

1 (State Exhibit Twenty, photo, received into evidence.)

2 Q State's Exhibit Seventeen, I believe, shows the inside
3 of that drawer as you pull it out?

4 A Yes, sir.

5 Q Now, tell me about that, if you would, please.

6 A To the right of the screen, that's actually the hole
7 that the dowel rod was going into in the previous picture.
8 And under the aluminum foil, you'll actually see the
9 projectile in the bottom of the drawer. We photographed it
10 before we moved it.

11 Q Where is -- it's at the very bottom -- you can't see.
12 Where is it on State's Exhibit Seventeen? Where would you
13 see the projectiles?

14 A Kind of a fragment, down to the right.

15 Q The right bottom down here?

16 A Correct.

17 Q Now, when you say "projectiles" what are we talking
18 about?

19 A Fired bullets.

20 Q Bullets.

21 A Correct.

22 Q Let me go to State's Exhibit Eighteen. Ask if you can
23 tell us what that is, please.

24 A That's the piece of projectile that we saw in the
25 previous picture. After we picked it up, we photographed it

1 again in Sabrina's hand.

2 Q And that is the spent bullet, or however you call it?

3 A Correct.

4 Q State's Exhibit Twenty. Tell us what that is, please.

5 A That's a fragment, also. Fragment from the fired
6 bullet.

7 Q And that's a separate fragment from the other one?

8 A Correct.

9 Q And State's Exhibit Nineteen.

10 A That's a fired bullet, also; separate fired bullet.

11 Q All right. Now, this looks larger than the other two.
12 Why is that?

13 A It's more in tact. The other pieces were fragments.
14 This piece was actually more in tact when it was recovered.

15 Q Now, let me show you what's been marked as State's
16 Exhibit Twenty-one, and ask if that is a fair and accurate
17 depiction of the scene as you saw it.

18 A Yes, it is.

19 Q And where is that located?

20 A That's a bedroom wall.

21 Q That is the bedroom wall, inside Ms. Gooding's home?

22 A Correct.

23 Q And that is what appears to be a hole. That is how it
24 looked to you when you saw it?

25 A That's correct.

1 Q State's Exhibit Twenty-two, what is that?

2 A That's the same hole in the wall. We were attempting
3 to retrieve whatever was inside the wall.

4 Q And that's what you did?

5 A That's correct.

6 Q And that's a fair and accurate picture of that scene as
7 you saw it?

8 A Yes, it is.

9 Q State's Exhibit Twenty-three.

10 A That's actually the fired bullet that was retrieved
11 from the hole in the wall in the bedroom.

12 Q And retrieved from State's Exhibit Twenty-one, what
13 that shows.

14 A That's correct. That's correct.

15 SOLICITOR STONE: Your Honor, at this time, I'm going
16 to move State's Exhibit Twenty-one, Twenty-two and Twenty-
17 three into evidence.

18 THE COURT: Mr. Plexico, as to Twenty-one, Twenty-two
19 and Twenty-three.

20 MR. PLEXICO: With no objection, Your Honor.

21 THE COURT: Ladies and gentlemen of the jury, State's
22 Exhibits Twenty-one, Twenty-two and Twenty-three will be
23 admitted into evidence without objection. You may publish.

24 (State Exhibit Twenty-one, photo, received into
25 evidence.)

1 (State Exhibit Twenty-two, photo, received into
2 evidence.)

3 (State Exhibit Twenty-three, photo, received into
4 evidence.)

5 SOLICITOR STONE: Thank you, Your Honor.

6 Q State's Exhibit Twenty-one is up on the monitor. Could
7 you tell us what that is, please, sir?

8 A That's a bedroom wall. It didn't have a hole in it at
9 the time.

10 Q And where is the bedroom wall located in this house?

11 A If you're looking from the outside of the victim's
12 window, it's directly in front of you, next to the bed.

13 Q Is that the same window that we've seen in these other
14 photographs, that was crushed in?

15 A That's correct.

16 Q Now, State's Exhibit Twenty-two, tell us about that,
17 please.

18 A That's where we were attempting -- we knew there was
19 something in the wall and we were attempting to retrieve it.
20 And were trying to retrieve it without damaging the
21 projectile, as much as possible.

22 Q So what goes around -- I'd say obviously there's a hole
23 in the center. But what's that stuff around it?

24 A Just plaster of the wall, the drywall.

25 Q Is this stuff that you created by trying to chip away

1 at it?

2 A That -- that's correct.

3 Q Let's go to State's Exhibit Twenty-three. Tell us what
4 that is.

5 A And that's actually, we were trying to retrieve it and
6 photograph it inside the wall. But after we pulled some of
7 the plaster, it fell out, and we photographed it where it
8 fell, which was on the dresser.

9 SOLICITOR STONE: Excuse me just a moment, Your Honor.

10 (Off the record, briefly.)

11 Q Now, agent, let me first go over something with you, if
12 I could. Would you be considered a case agent? How would
13 that ---

14 A Yes. I would be the case agent as far as a crime scene
15 is concerned.

16 Q Tell me a little bit about gathering evidence and how
17 you do that, what the process is.

18 A Any evidence that's collected or found on the scene is
19 first photographed and then is collected on scene and is
20 taken back to the SLED lab, if there needs to be any
21 examination done in the crime scene department for
22 fingerprints or swabbing for DNA, we do that. And if it
23 needs to be sent to another agency within the SLED lab, we
24 package it and seal it and then send it -- forward to that
25 agency.

1 Q Now, I'll show you first of all what's been marked as
2 State's Exhibit Thirty-seven A, which there's nothing in
3 this envelope. What is this -- what is this envelope?

4 A This is actually the envelope that I packaged all of
5 the firearms evidence in, to be forwarded.

6 Q All right. Now, when you packaged it in there, do you
7 tape it, seal it, and initial it?

8 A Yes.

9 Q How do you handle that?

10 A I taped it and I put the date and my initials on the
11 tape, so that anybody that gets it after me knows the person
12 that had custody of it before them was me, with my initials.

13 Q All right. And that is Thirty-seven A; is that
14 correct?

15 A That's correct.

16 Q And are your initials on this envelope?

17 A Yes, sir, they are.

18 Q Now, there is tape -- what appears to be tape around
19 the bottom end of it. How does that -- how did that get
20 there?

21 A That's the way -- the tape at the top with my initials
22 is when I did my examination and forward it to someone else.
23 And then they sealed it the same way that I did, with their
24 initials, showing that it -- it went through two different
25 departments.

1 Q Now, let me show you what's been marked as State's
2 Exhibit -- let me go back -- make sure I get these in order.
3 First, let me show you what's marked as State's Exhibit
4 Thirty-seven C. First of all, tell me about the packaging
5 on that.

6 A Again, it's just like the larger envelope. Written on
7 the outside of it is exactly what the item on the inside is,
8 and the case number. And then the outside is also sealed
9 and taped with my initials and date that it was sealed.

10 Q And is this something that you put some of the evidence
11 that you gathered into this envelope?

12 A Correct. These are projectiles collected from the
13 scene.

14 Q All right. Now, you put it in the yellow envelope,
15 right?

16 A That's correct.

17 Q And the clear envelope comes later; is that correct?

18 A Correct.

19 Q So from your standpoint, what we're talking about is
20 the yellow envelope and what appears to be some pieces of
21 metal inside; that's correct?

22 A That's correct.

23 Q When you gathered -- first of all, did you gather these
24 pieces of evidence?

25 A Yes. They were collected on the scene.

1 Q And some of these, I believe, have already been
2 photographed and shown to the jury; is that correct?

3 A That's correct.

4 Q And that's State's Exhibit Thirty-seven. When you
5 retrieved that, what exactly did you do with it?

6 A It was taken back to the SLED lab. There was not any
7 examination performed on that particular item from our
8 department. So, it was immediately forwarded to firearms.

9 Q Firearms is in SLED as well?

10 A That's correct.

11 Q And did you --

12 THE COURT: Hold on a second, Solicitor. You're
13 referring to what you're holding in your hand, it's State's
14 Exhibit Thirty-seven. Does it have a letter?

15 SOLICITOR STONE: It does, C, Your Honor. I apologize.
16 Thirty-seven C.

17 Q And on, again, Thirty-seven C, did you do anything to
18 change or alter it in any way before you stuck it in this
19 envelope and sealed it?

20 A No, sir. It was just collected and packaged and
21 forwarded.

22 Q Let me show you what's been marked as Thirty-seven D,
23 State's Exhibit. Could you describe that for us, please?

24 A Again, this is a projectile that was recovered from the
25 bedroom wall. Again, there was no processing by the crime

1 scene individual, and it was packaged and forwarded to
2 firearms.

3 Q And, in fact, the photograph on the monitor, is that
4 the same item?

5 A That's correct.

6 Q Now, did you do anything to that bullet before you put
7 it in the -- into the yellow envelope?

8 A No.

9 Q Change it or alter it in any way?

10 A No, sir.

11 Q And the yellow envelope, you prepared that and sealed
12 it.

13 A That's correct. That's my writing and that's my
14 initials and the date on the tape.

15 Q All right. And you sent it, once you got it back to
16 SLED, you sent this to --

17 A To Firearms.

18 Q -- firearms?

19 A That's correct.

20 Q Show you what's been marked as State's Exhibit Thirty-
21 seven E. Again, all of these items coming out of this
22 larger envelope called Thirty-seven A. Tell us what that
23 is, please, sir.

24 A This is a shell casing that was recovered on the
25 outside of the bedroom window at the victim's residence.

1 Q And you collected that shell casing?

2 A That's correct.

3 Q And you put it in that yellow envelope?

4 A That's correct.

5 Q Did you change or alter it in any way?

6 A No, sir. This particular item was actually processed
7 for latent prints by me before it was forwarded to firearms.

8 Q And then you sealed it in the yellow envelope.

9 A That's correct. That's correct.

10 Q State's Exhibit Thirty-seven F. Tell us what that is,
11 please, sir.

12 A This is another shell casing that was outside the
13 victim's bedroom window.

14 Q And you collected that and put that in the yellow
15 envelope as well?

16 A That's correct. It was also processed for latent
17 prints by me and then it was forward to firearms.

18 Q And Thirty-seven G?

19 A That was a third shell casing that was collected
20 outside the victim's bedroom window. It was processed by
21 latent prints from me and forward to firearms in the yellow
22 envelope.

23 Q Now, I know we put one, and make sure I've got the
24 right exhibit on here. State's Exhibit Fifteen depicted one
25 of those shell casings outside of the house of Ms. Gooding's

- 1 window; is that correct?
- 2 A That's correct.
- 3 Q All right. And you did not photograph all of them,
4 just that one; is that correct?
- 5 A That's correct.
- 6 Q And then let me show you what's been marked as State's
7 Exhibit Thirty-seven B. Tell us what that is, please, sir.
- 8 A This is a bullet fragment that was found in the back
9 yard at the victim's residence. It was not processed for
10 any -- no examination was done by us, and we forwarded it to
11 firearms.
- 12 Q All of these items that I just showed you, which is
13 State's Exhibit Thirty-seven A, B, C, D, E, F, and G, you
14 processed all of these? You put these in the yellow
15 envelopes, correct?
- 16 A That's correct.
- 17 Q And did you change or alter them in any way?
- 18 A No, sir.
- 19 Q And these are all your initials on the outside of these
20 envelopes; that correct?
- 21 A That's correct.
- 22 Q And then they went to firearms?
- 23 A That's right.
- 24 Q Let me show you what's been marked as State's Exhibit
25 Thirty-four. What can you tell us about this package, sir?

1 A This is a gun box, again, with my initials on all three
2 sides of the tape. That's from a firearm that I received
3 from another SLED agent.

4 Q Now, in your job as case officer, or case investigator,
5 do you also take in items that are collected by other
6 people?

7 A Yes.

8 Q All right. And this is one of those items?

9 A Correct.

10 Q Now, the initial and the tape -- and I realize we have
11 just unsealed -- no, we didn't; it's still sealed. That
12 tape here, that's your tape?

13 A Yes, sir.

14 Q The tape you put on there?

15 A The red writing is the tape that I put on.

16 Q And the initials here, those are yours?

17 A KLK, correct?

18 Q Tell me about the process when you collect evidence.
19 What do you do with it?

20 A Again, this piece of evidence was collected from
21 another SLED agent. It was taken into my custody. It was
22 processed for latent fingerprints in our lab, and was placed
23 into this gun box, sealed on all three sides with my
24 initials and the date, and then forwarded to firearms.

25 Q Hold on just a moment. Thank you. Let me ask you, if

1 you could, open that up and make sure that is the same item
2 that you put in that box.

3 (The witness complies.)

4 A Yes, sir. This is after this particular weapon was
5 processed by me. It was sealed in a plastic bag with my
6 initials, and it was sealed and then sent to firearms within
7 this box.

8 Q Let me have the court reporter label that inside
9 package.

10 SOLICITOR STONE: Excuse me, Your Honor.

11 THE COURT: Give us the number.

12 COURT REPORTER: Thirty-four B.

13 THE COURT: Thirty-four B.

14 SOLICITOR STONE: I want to do Thirty-four C, too, on
15 this, too. Thank you.

16 COURT REPORTER: Thirty-four C, also.

17 THE COURT: Make it clear for the record.

18 Q Let me first hand you State's Exhibit Thirty-four C.
19 Could you tell us what that is, please, sir?

20 A This is actually the bag that the weapon was given to
21 me. This is the bag it was in when it was transferred to my
22 custody.

23 Q And those are your initials here on this bag?

24 A Correct. KLK shows that I took possession of it, and
25 this is the condition and the packaging that it was in when

1 I received it.

2 Q All right, sir. Thirty-four B. Tell us what that is.

3 A This is actually the plastic bag that I placed the
4 weapon in after it was processed by me, forwarded to
5 firearms.

6 Q And the bottom here, says "item one." That's your
7 initials as well?

8 A That's my initials, correct.

9 Q And you sealed this as well?

10 A That's correct.

11 Q All right. Did you do -- did you change, or alter it,
12 or anything, in order to process it, send it up to the
13 firearm

14 A No.

15 Q Let me give you one more. This is marked State's
16 Exhibit Thirty-five. And ask if you could open that for me,
17 please, sir.

18 (The witness complies.)

19 Q All right. So I'm handing you back State's Exhibit
20 Thirty-five. We have marked that as Thirty-five A. First
21 of all, let me ask you to open that up. Tell us what is in,
22 starting with the brown bag. What is that?

23 A Again, Thirty-five B is actually the brown paper bag
24 that the weapon was in when I received it in my custody.

25 Q And in Thirty-five D?

1 A Thirty-five D is the plastic bag that I placed the
2 weapon in after it was processed by me, to be transferred to
3 firearms.

4 Q And Thirty-five C?

5 A The weapon was actually wrapped in this rag, inside the
6 brown paper bag when I received it.

7 Q And all of that, are those writings that you put in
8 this box when you received it?

9 A That's correct.

10 SOLICITOR STONE: At this time, Your Honor, this is
11 the ---

12 THE COURT: Counsel, approach.

13 SOLICITOR STONE: Yes, sir.

14 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
15 AND OUT OF THE HEARING OF THE JURY.)

16 Q As to item Thirty-five A, Thirty-five C, Thirty-five B
17 and Thirty-five D, did you change or alter these items in
18 any way when you received them?

19 A No, sir.

20 Q Now, I know you put your initials on some of these
21 items. That's on the packaging itself; is that correct?

22 A That's correct.

23 Q Nothing as far as the rag inside Thirty-five C or the
24 gun in Thirty-five D?

25 A No, sir.

1 Q Change or alter it in any way?

2 A No, sir.

3 Q Your job, once you collected this -- and let me make
4 sure I've got two things. I've got two items in Thirty-five
5 D. What is that?

6 A It's a weapon and a magazine from the -- from the gun.
7 They are considered one item.

8 Q The magazine actually fits into the gun?

9 A That's correct.

10 Q And what is the purpose behind the magazine? What's
11 that do?

12 A It holds the ammunition.

13 Q These items, again, you retrieved them and then you
14 took them where?

15 A To the SLED lab, for processing.

16 Q And that would be firearms?

17 A That's correct.

18 SOLICITOR STONE: No further questions at this time,
19 Your Honor. We would subject him to recall, if necessary.

20 THE COURT: Cross-examination.

21 CROSS-EXAMINATION

22 BY MR. PLEXICO:

23 Q And you collected all of this, you said. Who did you
24 collect --

25 MR. PLEXICO: May I approach, Your Honor?

1 THE COURT: You may.

2 Q All right. This is Thirty-five A. Who did you collect
3 this from?

4 A It was collected from my partner, Sabrina Zonizer, and
5 she collected it from Agent Greg Antley, in SLED Low
6 Country.

7 Q And item Thirty-four, who did you collect that from?

8 A Also from Sabrina Zonizer, and she collected it from
9 Agent Greg Antley.

10 MR. PLEXICO: All right. I don't have anything
11 further, Your Honor.

12 THE COURT: Redirect?

13 SOLICITOR STONE: Give me just a moment.

14 (BRIEF PAUSE IN THE COURTROOM.)

15 SOLICITOR STONE: No further questions at this time,
16 Your Honor.

17 THE COURT: As to this witness.

18 SOLICITOR STONE: We may recall him, Your Honor. So
19 we've asked --

20 THE COURT: And he understands my Order?

21 SOLICITOR STONE: Yes, sir.

22 THE COURT: All right. You may step down, but you are
23 not excused from the trial of this case. If you'll return
24 to the room, please. Call your next witness.

25 SOLICITOR STONE: Harold Groves.

1 (WHEREUPON, MR. GROVES ENTERS THE COURTROOM.)

2 WHEREUPON, MR. HAROLD GROVES WAS DULY SWORN.

3 THE COURT: Have a seat on the witness stand, Mr.
4 Groves. Pull that seat up. Pull up to that microphone;
5 adjust that microphone. Speak up for me so the people on
6 the end of the jury box can hear you. State your full name
7 and spell your last name for the court reporter

8 MR. GROVES: My name is Harold Groves, G-R-O-V-E-S.

9 THE COURT: Your witness, counsel.

10 SOLICITOR STONE: Yes, sir.

11 DIRECT EXAMINATION

12 BY SOLICITOR STONE:

13 Q Where do you live, Mr. Groves?

14 A In Walterboro.

15 Q Where in Walterboro?

16 A [REDACTED] Circle.

17 Q Do you have a business in Walterboro as well?

18 A Yes, sir. Groves Plumbing.

19 Q And is that business by yourself? Do you have anybody
20 working with you?

21 A I have my nephew who helps us a little bit.

22 Q And where is that located? Where is that business?

23 A [REDACTED] Circle.

24 Q Are you married, sir?

25 A Yes, sir.

1 Q And what does your wife do?

2 A She's a dog groomer.

3 Q And does she have her own business? She do that in-
4 house or what?

5 A She has her own business.

6 Q And where is that business located?

7 A [REDACTED] Circle, I believe it is.

8 Q Now, and this [REDACTED] Circle area, where is that in
9 comparison to Downtown Walterboro?

10 A About quarter of a mile out the city limits, or down
11 Charleston Highway.

12 Q Now, what's your normal process in the morning, sir?
13 What do you -- what do you normally do?

14 A I usually go pick up my help, come back to the office.

15 Q What time do you start your work?

16 A Probably around 8:30.

17 Q In the morning?

18 A Yes, sir.

19 Q And you run all day?

20 A Yes, sir.

21 Q I guess, depending on the business.

22 A Yes, sir.

23 Q What about your wife? How does her business run, as
24 far as the time?

25 A She's usually there by seven until, you know, probably

1 about five.

2 Q Seven in the morning?

3 A Yes.

4 Q Now, on December the 7th, 2009, you were still
5 operating that business back then?

6 A Yes, sir.

7 Q And your wife was still operating her business.

8 A Yes, sir.

9 Q Anything unusual happen during that day?

10 A Yes, sir.

11 Q Tell me about it.

12 A We got there -- I got there about 8:30, and I noticed a
13 white Buick sitting to the left as we come into my road.

14 Q All right. Let me stop you there. When you say
15 "there." You said, "I got there," where are you talking
16 about?

17 A Well, turning into the road at [REDACTED] Circle.

18 Q Into your office?

19 A Yes, sir.

20 Q And you noticed a white Buick?

21 A Yes, sir.

22 Q Tell me what -- describe the area around where you see
23 this white Buick.

24 A It's an old building, really run down.

25 Q Any business operating in that business now?

- 1 A No, sir.
- 2 Q Any business been there for a while?
- 3 A It was at one time.
- 4 Q But not now, or not in 2009?
- 5 A No, sir.
- 6 Q What about over to the right and behind this place?
- 7 A Just -- well, you get the back of my -- my shop and my
- 8 wife's shop back there. She's about 67 feet from where that
- 9 car was sitting, her building.
- 10 Q What did you do when you noticed the white car?
- 11 A I said, "Another drunk parked back here." And so we
- 12 went back and my wife was sick that morning, thank the Lord.
- 13 Because I didn't know what could have happened to her. And
- 14 I come back around the car. I told my nephew, I says, you
- 15 know, we need to find out whose car this is." I said, "Step
- 16 out there and see what you see."
- 17 Q Let me stop you just a second, if I could, sir. Show
- 18 you what's been marked as State's Exhibit Three, Four, and
- 19 Five. You recognize that, sir?
- 20 A Yes, sir. That's the car.
- 21 Q That's the car you saw near your business in
- 22 Walterboro.
- 23 A Yes, sir.
- 24 Q And about what time was this, did you see this?
- 25 A About 8:30.

1 Q About 8:30 in the morning?

2 A Yes, sir.

3 Q And this is the same car as in State's Exhibit Five and
4 State's Exhibit Four.

5 A Yes, sir.

6 Q All right, sir, I'm sorry I interrupted you. What did
7 you do after you noticed the car?

8 A I -- I asked my nephew, I said, "Son, get out there and
9 see if there's anybody in that car," because it could be
10 somebody back there hurt, you know,. And so he got out and
11 he walked up there and he bumped the car as he went up, you
12 know, in the back, and we didn't hear nothing. And he said,
13 "Uncle Harold, there's a cane in the car." And he didn't
14 look far enough to see the keys. And so we got back in the
15 -- in the truck and went about our business. And at
16 lunchtime, I found out that Ms. Gooding was missing from
17 Miley. And didn't think much about it.

18 So I took him on home. It was slow that day. That's
19 when the economy was slow back then. And about three
20 o'clock, I decided I was going to go on home, or I was going
21 to find out who that car belonged to, because it had been
22 sitting there too long. Usually if it had been a drunk,
23 somebody would have come back and got it by that time. And
24 I got out the truck, walked down beside it. And I looked in
25 there and there was a cane in there. And then I seen the

1 keys and I says, "There's something wrong here." I said,
2 "Nobody would leave the keys here."

3 So I turned around, walked to the back of the truck on
4 the driver's side. And I pulled out my phone and I called
5 911. And the young lady answered and I told her who I was.
6 And I said, "Young lady, I have a white Buick sitting here."
7 And she said, "Mr. Groves," she said, "what color did you
8 say that car was?" I said, "It's white Buick."

9 And about that time, I heard somebody talking. And I
10 was looking around. I told the dispatcher, I said, "I hear
11 somebody talking." And I was looking around to see who was
12 talking. I didn't that she was in the trunk. And the
13 dispatcher says, "Mr. Groves, will you give me that license
14 number?" I said, "Yes, ma'am," and I give it to her. She
15 said, "Mr. Groves, would you back away from that car? And
16 the law will be there in a few minutes." And I figured then
17 it had something to do with --- and I just backed off.
18 About four minutes later, the law was there.

19 Q Now, did you stay there the entire time the ---

20 A Yes.

21 Q --- the law enforcement officers got there?

22 A Yes, sir.

23 (BRIEF PAUSE IN COURTROOM WHILE SOLICITOR GETS EXHIBIT
24 READY TO MARK BY COURT REPORTER.)

25 THE COURT: Solicitor.

1 SOLICITOR STONE: Yes, sir.

2 Q Mr. Groves, I'm going to show you what's been marked as
3 State's Exhibit Number Twenty-five. And ask you, sir, if
4 you'd look at that, if you could tell me if that is a fair
5 and accurate depiction as you saw that car that day, the
6 surrounding area around that car, and then after the
7 officers arrived.

8 A Yes, sir, that's it.

9 Q Show you State's Exhibit Number Twenty-four. Ask you,
10 sir, if that is a fair and accurate depiction of the scene,
11 as you saw it that day?

12 A Yes, sir.

13 Q Let me show you what's been marked as State's Exhibit
14 Number Twenty-six. Ask you if that is also, sir, a ---

15 A Yes.

16 Q --- fair and accurate depiction.

17 A Yes, sir.

18 THE COURT: Counsel, the last one was Twenty-six?

19 SOLICITOR STONE: Yes, sir. Your Honor, at this time,
20 we move State's Exhibit Twenty-five, Twenty-four -- excuse
21 me, Twenty-four, Twenty-five and Twenty-six into evidence.

22 THE COURT: Mr. Plexico, as to Twenty-four, Twenty-five
23 and Twenty-six.

24 MR. PLEXICO: I object, Your Honor, as to Rule 403.

25 THE COURT: Counsel, approach.

1 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
2 AND OUT OF THE HEARING OF THE JURY.)

3 THE COURT: Let the record reflect, that there's an
4 objection and a conference at the bench under 404. Mr.
5 Plexico tells me its grounds under 404 is solely that the
6 prejudice outweighs any probative value. That objection is
7 overruled. State's Exhibits Twenty-four, Twenty-five and
8 Twenty-six will be admitted into evidence over objection.
9 You may publish to the jury.

10 SOLICITOR STONE: Thank you, Your Honor.

11 (State Exhibit Twenty-four, photo, received into
12 evidence.)

13 (State Exhibit Twenty-five, photo, received into
14 evidence.)

15 (State Exhibit Twenty-six, photo, received into
16 evidence.)

17 Q First, go to State's Exhibit Twenty-five, Mr. Groves.
18 I think that's going to come up on your monitor right there,
19 sir.

20 A Yes.

21 Q Tell us what that is.

22 A That is the white Buick sitting there with a body in
23 the back of the trunk, sir.

24 Q And you saw that when you were standing there after you
25 had already called 911?

1 A No, sir. They didn't open it up until the law got
2 there.

3 Q Right. I understand you didn't open it up. But the
4 law opened it up, and you were there when that happened?

5 A Yes, sir.

6 Q Now, first of all, tell me -- to the -- it's on the
7 other side of the white Buick, what's back there? Is that
8 where you had described earlier your office was?

9 A That's the back of my shop back there.

10 Q And there appear to be woods separating the two?

11 A Yes.

12 Q The front seat of the car -- that is the car you looked
13 into? Is that the door you looked into when you saw the
14 cane and the keys?

15 A Yes, sir, but it was closed at the time.

16 Q Now, were you present when the officers opened the
17 trunk?

18 A Yes, sir, I was.

19 Q Okay, sir. Let me go to State's Exhibit Number Twenty-
20 five. This is the other side of the Buick, sir?

21 A Yes, sir.

22 Q And what is that red building?

23 A It's old tire place.

24 Q This is the abandoned business that you were talking
25 about earlier?

1 A Yes, sir.

2 Q And then let me show you what's been marked as State's
3 Exhibit Twenty-six. Tell us what that is, please.

4 A Two officers standing by the trunk of the car.

5 Q And this is -- and this is the photograph of these
6 officers that opened the trunk when you were there?

7 A Yes, sir.

8 SOLICITOR STONE: I don't have any further questions
9 for this witness, Your Honor. Answer any questions Mr.
10 Plexico has, sir. Thank you.

11 THE COURT: Cross-examination?

12 CROSS-EXAMINATION

13 BY MR. PLEXICO:

14 Q Sir, you didn't see my client anywhere around there,
15 correct, the entire day?

16 A I don't know who your client is, sir.

17 Q My client -- stand up. You didn't see this man around
18 there all day; is that not correct?

19 A No, sir.

20 MR. PLEXICO: I don't have anything further.

21 THE COURT: Redirect?

22 SOLICITOR STONE: No, sir. Nothing else from this
23 witness.

24 THE COURT: As to this witness?

25 SOLICITOR STONE: We'd ask that he be excused.

1 THE COURT: Any objection to this witness being excused
2 from the trial in this case?

3 MR. PLEXICO: No, Your Honor.

4 THE COURT: Mr. Groves, you may step down from the
5 witness stand, and you are excused from the trial of the
6 case. You may leave the courtroom at this time.

7 MR. GROVES: Thank you, Your Honor.

8 THE COURT: Thank you. Counsel, approach.

9 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
10 AND OUT OF THE HEARING OF THE JURY.)

11 SOLICITOR STONE: Your Honor, we call Amanda Campbell.

12 (WHEREUPON, AMANDA CAMPBELL ENTERS THE COURTROOM.)

13 MADAME CLERK: Place your left hand on the Bible and
14 raise your right hand.

15 WHEREUPON, MS. AMANDA CAMPBELL WAS DULY SWORN.

16 THE COURT: Watch your step. Have a seat in that chair
17 and make yourself comfortable. Pull your chair up and pull
18 that microphone down and adjust it to your height. Pull up
19 to it. Speak into the microphone. Speak loud enough so the
20 people on the jury and in the courtroom can hear you. It's
21 going to amplify your voice. State your full name and spell
22 your last name for the court reporter.

23 MS. CAMPBELL: Okay: Amanda Campbell, C-A-M-P-B-E-L-L.

24 DIRECT EXAMINATION

25 BY SOLICITOR STONE:

1 Q And that's C-A-M-P-B-E-L-L?

2 A Yes, sir.

3 Q Ms. Campbell, what do you do, ma'am?

4 A I am a dispatcher for the Colleton County Sheriff's
5 Office.

6 Q And how long have you been a dispatcher for the
7 sheriff's office?

8 A This year will be ten years.

9 Q Wow. As a dispatcher, what exactly do you do? What is
10 your job?

11 A I answer emergency lines, non-emergency lines. I
12 dispatch for police, fire and EMS.

13 Q And that is for throughout Colleton County?

14 A Yes, sir.

15 Q Now, the calls as they come in, is that coming through
16 sort of a main terminal-type thing or how does that work?

17 A Yes, sir. We are the main 911 emergency system for
18 Colleton County.

19 Q What did you say? What was the last thing you said?

20 A The main emergency system for Colleton County.

21 Q And you are located, I believe, in the hold hospital;
22 are you not?

23 A Yes, sir.

24 Q In Walterboro?

25 A Yes, sir.

1 Q All of the calls come into there. As they're coming
2 in, are those being reported contemporaneously with them
3 coming in?

4 A Yes, sir.

5 Q And these calls, as they're coming in, and your
6 dispatch going out, all of that is kept in the regular,
7 ordinary course of your business as a dispatcher?

8 A Yes, sir.

9 Q Now, I believe you have with you State's Exhibit
10 Thirty-six. Have you reviewed what's on -- this is obviously
11 a disc. But have you reviewed what's on State's Exhibit
12 Thirty-six?

13 A Yes, sir, I have.

14 Q And is that a fair and accurate depiction of the 911
15 call coming into your dispatch center on December the 7th?

16 A Yes, sir.

17 Q And this, again, these records are kept in your
18 ordinary course of business as a dispatcher; is that right?

19 A Yes, sir.

20 SOLICITOR STONE: At this time, Your Honor, we ask to
21 publish State's Exhibit Thirty-six and enter that into
22 evidence.

23 THE COURT: As to State's Thirty-six.

24 MR. PLEXICO: I would object, Your Honor. It's already
25 been testified to, Your Honor.

1 THE COURT: Counsel, approach.

2 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
3 AND OUT OF THE HEARING OF THE JURY.)

4 THE COURT: Let the record reflect that I had a
5 conference with the attorneys concerning the objection at
6 the bench. I understand that the objection's on relevance.
7 It's also on the basis that there has been previous
8 testimony already testified to about this in the trial of
9 this case. And under 402, those objections are overruled.
10 You may publish State's Exhibit Number Thirty-six. It is
11 admitted into evidence over objection.

12 SOLICITOR STONE: Thank you, Your Honor. We'll publish
13 it now.

14 (State Exhibit Thirty-six, Audio CD 9-1-1, received
15 into evidence.)

16 (WHEREUPON, THE 911 AUDIO CD IS PLAYED.)

17 SOLICITOR STONE: Nothing further, Your Honor.

18 THE COURT: Cross-examination?

19 MR. PLEXICO: I don't have anything further.

20 THE COURT: As to this witness.

21 SOLICITOR STONE: Ask that she may be excused, Your
22 Honor.

23 THE COURT: Any objection to Ms. Campbell being
24 excused, by the defense?

25 MR. PLEXICO: No, Your Honor.

1 THE COURT: You may step down, Ms. Campbell. And you
2 are C-A-M-P-B-E-L-L. And you are excused from the trial of
3 this case.

4 MS. CAMPBELL: Thank you.

5 THE COURT: Mr. Plexico and ladies and gentlemen of the
6 jury, I'm going to stop at this point so that you'll have an
7 opportunity to get some lunch. Please, over the lunch
8 break, do not discuss this case. As I've instructed you
9 throughout the trial, it would be improper for you to talk
10 to anybody about this case. I don't know whether there will
11 be anything on the radio, television, in the newspaper.
12 Please do not read such, watch such or listen to such.

13 You must decide this case solely upon evidence
14 introduced in this courtroom when both sides are present,
15 with the right of cross-examination. We'll give you plenty
16 of time. You don't have to be back in your jury room till
17 2:30. So we're going to stop now and start back at 2:30.
18 Please be back in your jury room by 2:30. You may retire to
19 your jury room at this time.

20 Everyone else seated while the jury is leaving.

21 (WHEREUPON, COURT IS RECESSED FOR LUNCH.)

22 (12:55 P.M., 3-8-2011, WHEREUPON THE JURY ENTERS THE
23 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
24 RECORD.)

25 THE COURT: All right, counsel, we're going to stop at

1 this time, so that you also will have adequate time,
2 opportunity in which to get a lunch break. We'll start back
3 at 2:30 this afternoon. Court's in recess until 2:30.
4 Thank you very much.

5 SOLICITOR STONE: Thank you, Your Honor.

6 THE COURT: Solicitor, is there something that I
7 believe you want to put on the record. Is it the next
8 witness, Solicitor?

9 SOLICITOR STONE: No, sir. It is not the next witness.

10 THE COURT: All right. It involves a future witness
11 from the State. And what's the witness' name?

12 MR. PLEXICO: Nathaniel Harris.

13 SOLICITOR STONE: Nathaniel Harris.

14 THE COURT: Nathaniel Harris of Walterboro. Mr.
15 Plexico came into my chambers, along with the Solicitor,
16 because it appears that Mr. Nathaniel Harris has a criminal
17 record and is a witness for the State. He has a conviction
18 for shoplifting, which I find to be clearly a crime of moral
19 turpitude and Mr. Plexico can ask him all about it.

20 But he also has a conviction more than ten years old
21 for hindering a police officer in resisting arrest.
22 Evidence of a conviction under our rules, which is 609(B),
23 if it's older than ten years, the Court has to determine in
24 the interest of justice that the probative value of the
25 conviction, supported by facts and circumstances,

1 substantially outweighs its prejudicial effect.

2 In this case, although I understand from Mr. Plexico,
3 who argued to me that his credibility is the central issue
4 in this case, Mr. Plexico doesn't have the ability to show
5 that he has a conviction for dishonesty. He's also had the
6 ability to cross-examine him on other matters, because I
7 understand he pled guilty to the very offenses that we're
8 trying here today. Is that right, Solicitor?

9 SOLICITOR STONE: It is, Your Honor.

10 THE COURT: And so that, obviously, will be -- the
11 information will be imparted to the jury, so they can
12 determine this witness' credibility or believability.

13 However, I decline to find that at this point, the
14 probative value of the greater than ten year old conviction
15 substantially outweighs its prejudicial affect. I decline
16 to admit that into evidence. And I wanted to make a record
17 of my ruling, pursuant to 609(b) of the Rules of Evidence.

18 State ready to proceed?

19 SOLICITOR STONE: State's ready, Your Honor.

20 THE COURT: Defendant ready to proceed?

21 SOLICITOR STONE: Yes, Your Honor.

22 THE COURT: Bring in the jury.

23 (2:54 P.M., 3-8-11, WHEREUPON, THE JURY ENTERS THE
24 COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

25 THE COURT: All right, Mr. Foreman, ladies and

1 gentlemen, I know I said 2:30; I know it's five till three,
2 but I had a matter of law come up at two o'clock that took
3 till just a few moments ago. I dealt with it in chambers
4 and out here on the record. I appreciate your patience.
5 I'm mindful you were waiting on me. I don't like you to
6 wait on me, but we were working. We weren't out here
7 smoking cigarettes and drinking coffee during lunch break.
8 We were working.

9 We'll now continue with testimony in the trial of this
10 case. Call your next witness, Solicitor.

11 SOLICITOR STONE: Detective Ray Taylor.

12 THE COURT: Ray Taylor.

13 WHEREUPON, MR. RAY TAYLOR WAS DULY SWORN.

14 THE COURT: Detective Taylor; have a seat. Pull the
15 chair up Adjust the microphone. State your full name;
16 spell your last for the court reporter.

17 DETECTIVE TAYLOR: Cameron Ray Taylor, T-A-Y-L-O-R.

18 DIRECT EXAMINATION

19 BY SOLICITOR STONE:

20 Q And you're a detective; is that correct, sir?

21 A I'm a deputy assigned to the Investigation Division.

22 Q And with what department?

23 A Colleton County.

24 Q The Sheriff's Office?

25 A Yes, sir.

1 Q How long have you been with the sheriff's office?

2 A I've been back with the sheriff's office since 2007. I
3 started law enforcement in 1987.

4 Q Now, your job entails what, exactly, with the sheriff's
5 office? You're assigned to the investigations. What do you
6 do with it?

7 A My primary duties, I'm in charge of sex offender
8 registry, and then I assist the other investigators as
9 needed with any other cases that they're working on.

10 Q And on December the 7th, 2009, you were serving in this
11 capacity with the Colleton Sheriff's Office?

12 A Yes, I was.

13 Q And you worked the case concerning the white Buick
14 found in Colleton County; is that correct?

15 A Yes, I did.

16 Q Now, what was your job duty? How did you get involved
17 in this?

18 A We had been assisting Hampton County, looking for this
19 vehicle most of the day. I was in the general area. Our
20 dispatch messaged over the radio that a individual had
21 spotted a vehicle, had called a tag in. It was, in fact,
22 the vehicle that we were looking for. At that point, I
23 proceeded to where the vehicle was located.

24 Q And where exactly was the car located?

25 A It was off of Hampton Street on a little side road.

1 It's an old, abandoned building. It was partially hidden
2 behind the old abandoned building.

3 Q And let me show you what's -- we've already put this
4 into evidence as, I believe, State's Exhibit Twenty-six.
5 And that's coming up on your monitor, right there.

6 A Yes, sir.

7 Q All right. Tell me -- this is obviously you in this
8 photograph?

9 A Yes, sir, it is.

10 Q All right. Tell me how you got into this position.

11 A The direction in which I'm looking, there's a little
12 side road that comes, would be from my -- from my left here,
13 looking at y'all's monitor. From my left, it comes off of a
14 main highway there. That's a little side road; it actually
15 turns into a dirt road. It comes by this, and then this
16 little driveway here actually pulled up behind that
17 building.

18 Q Now, were you the officer -- who was this other officer
19 with you?

20 A This is Detective Scott. And then over to the right-
21 hand side is Lieutenant Inabinett, who is also
22 investigation.

23 Q All right now, you got to the scene pretty much at the
24 same time or ---

25 A Myself and Detective Scott and one other officer all

1 arrived at approximately the same time. Sergeant Thomas
2 retrieved his camera from the car while we approached the
3 car. As we got close to the car, we heard some sounds
4 coming from the trunk area.

5 Q And I know that this is a picture, but at some point,
6 is this how you found the car when you got there?

7 A No, sir. The door was closed and the trunk was closed
8 on it. We retrieved the keys from the front of the car
9 there and popped the trunk. We could hear sounds coming
10 from the trunk. We opened the trunk; found Ms. Gooding in
11 the trunk. And at that point, I called for EMS to respond.

12 Q Now, did you get Mrs. Gooding out of the trunk?

13 A No, sir. She was wanting to get out of the trunk, but
14 she had informed me that she had been shot. So I made her
15 stay in the trunk because I didn't know how bad her injuries
16 were.

17 Q And then what do you do after this point?

18 A We stayed there with her and talked to her until the
19 EMS personnel arrived. And then at that point, we backed
20 out and let them take care of her. And then we secured the
21 scene.

22 Q Could you hear her talking when you first went up to
23 the car?

24 A As we got close, we could hear sounds coming from the
25 trunk. I couldn't tell exactly what it was. It was muffled

1 sounds coming from it. Once I -- once we opened the trunk,
2 I did talk to her, ask her who she was. She did inform me,
3 you know, her name was Margaret Gooding. And at that point,
4 you know, just talked to her about, you know, her injuries
5 and stuff. I -- I could see that she had some blood and all
6 on her clothing and all. And not knowing how bad she was
7 injured, made her stayed in the trunk.

8 Q Was she still -- what was her mood as you were talking
9 to her?

10 A She was coherent. She told me she had been in the
11 trunk since the night before; she said the night before.
12 And from the information we had obtained from Hampton
13 County, we knew that she had disappeared sometime, you know,
14 the night before, in the morning hours, before that.

15 Q And you said you saw some blood. Where was the blood?

16 A She had on a dark-colored robe here. As you can see,
17 there were some dark colors there. She also had on what
18 appeared to be like a Depend undergarment, and it was a lot
19 of red, which appeared to be blood that had stained in that
20 area.

21 Q Did she tell you what had happened, as far as that was
22 concerned?

23 A She just said she had been shot.

24 SOLICITOR STONE: I don't have any further questions at
25 this point for this witness, Your Honor.

1 THE COURT: Cross-examination?

2 MR. PLEXICO: I don't have any questions, Your Honor.

3 THE COURT: As to this witness, Solicitor?

4 SOLICITOR STONE: I'd ask that he be excused, Your
5 Honor.

6 THE COURT: Any objection to this witness being excused
7 from the trial of this case?

8 MR. PLEXICO: No, Your Honor.

9 THE COURT: You may step down, Mr. Taylor, and you are
10 excused from the trial of this case.

11 DETECTIVE TAYLOR: Thank you, Your Honor.

12 THE COURT: Call your next witness.

13 SOLICITOR STONE: Your Honor, the State calls Brian
14 Rowe.

15 (MR. ROWE ENTERS THE COURTROOM.)

16 MADAME CLERK: Place your left hand on the Bible and
17 raise your right.

18 WHEREUPON, MR. BRIAN ROWE WAS DULY SWORN.

19 THE COURT: Have a seat up here, if you would, Mr.
20 Rowe. Pull that chair up; make yourself comfortable. Pull
21 it up to the microphone. Adjust the microphone to your
22 height. Speak into the microphone. Speak up, so the people
23 on the jury and in the courtroom can hear you. State your
24 full name and spell your last name for the court reporter.

25 MR. ROWE: Brian Wayne Rowe, ROWE.

1 THE COURT: Your witness, counsel.

2 SOLICITOR STONE: Thank you, sir.

3 DIRECT EXAMINATION

4 BY SOLICITOR STONE:

5 Q Mr. Rowe, what do you do, sir?

6 A I'm a paramedic/firefighter and Assistant Battalion
7 Chief.

8 Q Where is that?

9 A Colleton County Fire and Rescue.

10 Q Now, a paramedic, what does that allow you to do? I
11 understand there are stages of being a paramedic; is that
12 correct?

13 A That is correct. A paramedic is obtained --
14 approximately two years of additional training. We
15 basically bring the ER to the field. Do the same initial
16 treatments that you receive in -- in an ER, for medical and
17 trauma emergencies.

18 Q And that's your position on this. Are you with a team,
19 so to speak?

20 A I'm on an ambulance with one partner, who's an EMT
21 Basic. It's a less amount of training.

22 Q Now, your job, just say -- let me go back right now to
23 December the 7th, 2009. You were working in this capacity
24 on that day?

25 A Correct.

1 Q And did you get called to a white Buick that was found
2 in the Town of Walterboro?

3 A I did.

4 Q Tell me about that.

5 A We received a call for a possible gunshot wound that
6 day, according to bystanders. We were getting a bit of
7 conflicting information as to what we were actually going to
8 be going to. But a call of that nature, we obviously get to
9 with a little bit more zeal, I guess. Things speed up a
10 little bit. that level of injury. We arrived on the scene
11 and, in fact, did have a patient who had been shot.

12 Q All right. And we've already put into evidence State's
13 Exhibit Number Twenty-six, I believe. Twenty-six. (HANDS
14 EXHIBIT TO WITNESS.) Is this what you found when you got to
15 the scene?

16 A Yes.

17 Q And I know the officers, they were not there. What
18 exactly did you do, once you get to the scene?

19 A Once I got to the scene, we found the female in the
20 trunk of the car. We did what's called a rapid trauma
21 assessment. And what that is, is it's to prevent further
22 harm, when you find somebody in that situation. In fact,
23 you could maybe hurt them more by moving them to quickly and
24 not assessing them for more injuries. We didn't know
25 exactly what we had. So we did do the rapid trauma

- 1 assessment, to determine what kind of life threats she had.
2 And then we placed her from the trunk onto a spine board.
3 You see people in crashes be put on that long piece of
4 plastic. We moved her to that board. Moved her to the
5 ambulance to start her treatment, basically, all the while
6 coordinating getting a helicopter there, for more definitive
7 care, better level of care for her.
- 8 Q And then you actually transported her to the
9 helicopter; is that correct?
- 10 A Yes.
- 11 Q Now, did you make any -- did you see any -- I know you
12 said you were responding to a gunshot. Did you see any
13 gunshot wounds or anything like that when you got there?
- 14 A Yes, I did.
- 15 Q And what did you see exactly?
- 16 A I saw two penetrating injuries to her abdomen,
17 consistent with all gunshots I've ever seen.
- 18 Q And what did you do at this point? You got her in the
19 ambulance. You took her to the helicopter; is that correct?
- 20 A That's correct; while providing care.
- 21 Q So you're actually with her? You're not driving the
22 ambulance?
- 23 A No, sir.
- 24 Q And you're in the back with her?
- 25 A Yes.

1 Q What are you doing at this point?

2 A Basically, I initiated IV therapy, to keep her blood
3 pressure, heart rate where it needs to be to sustain a life.
4 I initiated just therapy that we would do on a trauma
5 patient of that level of injury. Coordinated, like I said,
6 with the helicopter folks, so that they knew what they were
7 coming to do. Basically, tried to sustain a life; keep her
8 vital signs where they should be.

9 Q And she is still -- when you're talking to her when
10 she's back in the back, is she still under the excitement of
11 the event of getting her out of the trunk?

12 A She basically thanked me. I can -- the main thing I
13 remember about treating her that day was that she -- I kept
14 having to adjust her hand off of me. Because, as you can
15 imagine, there's a lot going on in the back of the truck,
16 quickly. And I kept having to like get around her because
17 she was so thankful; she just kept repeating to me, "I kept
18 asking God to send somebody. Thank you for coming." And
19 I'm just moving around, trying to get everything set up for
20 her.

21 SOLICITOR STONE: Your Honor, I don't have any further
22 questions of this witness.

23 Q If you'll answer anything Mr. Plexico has.

24 THE COURT: Cross-examination?

25 MR. PLEXICO: No questions, Your Honor.

1 THE COURT: As to this witness, Solicitor.

2 SOLICITOR STONE: We ask that he be excused, Your
3 Honor.

4 THE COURT: Any objection?

5 MR. PLEXICO: No, Your Honor.

6 THE COURT: Mr. Rowe, you are excused from the trial of
7 the case. You may leave the courtroom at this time. Call
8 your next witness.

9 SOLICITOR STONE: Suzette Taylor.

10 WHEREUPON, MS. SUZETTE TAYLOR WAS DULY SWORN.

11 THE COURT: Watch your step. Ms. Taylor, I hope you're
12 doing well. Use that microphone. And I think you've been
13 watching; haven't you?

14 MS. TAYLOR: I have.

15 THE COURT: I think you know exactly what to do now.
16 All right. Speak up for me so they can hear you, and spell
17 your last name for me.

18 MS. TAYLOR: Suzette Taylor, T-A-Y-L-O-R.

19 DIRECT EXAMINATION

20 BT SOLICITOR STONE:

21 Q Ms. Taylor, where do you live, ma'am?

22 A Sanford, North Carolina.

23 Q And where is that exactly?

24 A It's about 20 miles south of Raleigh, in-between
25 Southern Pines and Raleigh.

1 Q How long have you lived there?

2 A Five or six years.

3 Q Where are you from originally?

4 A Miley.

5 Q You're from Miley originally?

6 A Uh-huh.

7 Q Who is Margaret Gooding to you?

8 A She's my mother.

9 Q And where's Ms. Gooding now?

10 A She in an assisted living facility in Sanford, North
11 Carolina.

12 Q Now, what is your occupation? What do you do, ma'am?

13 A I'm a Nurse Anesthetist.

14 Q And how long have you been in that field?

15 A Oh, probably 25/30 years.

16 Q Do you see your mom very often?

17 A Pretty much every day.

18 Q She's in an assisted care living facility close to you?

19 A About two miles away.

20 Q Now, why is she in that facility?

21 A Because of what happened.

22 Q What is her condition now?

23 A She has dementia. She has good days and she has bad
24 days ---

25 MR. PLEXICO: Your Honor, I have an objection, Your

1 Honor.

2 THE COURT: Yes, sir. Counsel, approach.

3 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
4 AND OUT OF THE HEARING OF THE JURY.)

5 THE COURT: The objection by counsel for the defendant
6 is sustained. Ms. Taylor, the reason I'm sustaining the
7 objection is, we have rules about when you can give a
8 medical opinion in court. Now, I understand that you're a
9 Nurse Anesthetist. But I'm going to ask you to refrain from
10 medical opinions, unless you're qualified as an expert to
11 give an opinion as to diagnosis or as to any causation from
12 any diagnosis.

13 Ladies and gentlemen of the jury, to the extent that
14 you heard any testimony concerning a diagnosis, medical, or
15 an opinion as to a condition, you will disregard that
16 testimony. To the extent you heard any testimony from this
17 witness concerning any causation resulting from diagnosis,
18 you will disregard that as well. The objection is
19 sustained.

20 Solicitor, your witness. Direct examination.

21 SOLICITOR STONE: Thank you.

22 Q Let me ask you to take a look at State's Exhibit
23 Fourteen. And we're going to put that on the monitor so the
24 jury knows what we're looking at. That's going to come up.
25 Okay. Do you recognize that?

1 A I do.

2 Q All right. Speak into the microphone. I know I'm
3 right here, but I ---

4 A Yes, I do.

5 Q And what is that?

6 A That is the gun box that my mother's gun -- we -- we
7 purchased it in.

8 Q Let me show you what's been marked as State's Exhibit,
9 specifically, Thirty-four B. And I recognize there is a
10 trigger lock in this. But other than this piece of yellow
11 hardware right there, do you recognize this item?

12 A Yes, I do.

13 Q And what is that item?

14 A That is my mother's handgun.

15 SOLICITOR STONE: Your Honor, at this time we move
16 State's Exhibit Thirty-four B into evidence.

17 THE COURT: Any objection as to Thirty-four B?

18 MR. PLEXICO: No, Your Honor.

19 THE COURT: Ladies and gentlemen of the jury, State's
20 Exhibit Thirty-four B will be admitted into evidence,
21 without objection.

22 (State Exhibit Thirty-four B, photo, received into
23 evidence.)

24 THE COURT: Thirty-four B into evidence. You may
25 publish to the jury. Has the gun been safety locked?

1 SOLICITOR STONE: It has, Your Honor. And I would, for
2 the record, I had the officer put this on the gun, and
3 therefore, had to cut the plastic out, this afternoon.

4 THE COURT: At my request, Solicitor. Thank you very
5 much. Ladies and gentlemen, that means the gun is locked,
6 not capable of being fired with the lock on it. Proceed to
7 publish.

8 SOLICITOR STONE: I don't have any further questions of
9 this witness, Your Honor.

10 THE COURT: Cross-examination?

11 MR. PLEXICO: I have none, Your Honor.

12 THE COURT: As to this witness, Solicitor?

13 SOLICITOR STONE: She is the victim, Your Honor, who
14 has been present.

15 THE COURT: If she wants to remain, I'll be happy to
16 have her remain. You can remain in the courtroom.

17 Call your next witness.

18 DEP. SOL. THORNTON: Jimmy Roden.

19 MADAME CLERK: Place your left hand on the Bible and
20 raise your right.

21 (MR. JIMMY RHODEN ENTERS THE COURTROOM.)

22 WHEREUPON, MR. JIMMY RHODEN WAS DULY SWORN.

23 THE COURT: Have a seat for me and make yourself
24 comfortable. Pull that chair right up to the microphone and
25 adjust that microphone to your height. Speak into that

1 microphone. Give me your full name and spelling your last
2 name for the court reporter.

3 MR. RODEN: Jimmy Lee Roden, R-O-D-E-N.

4 THE COURT: Your witness, counsel.

5 DEP. SOL. THORNTON: Thank you, Judge.

6 DIRECT EXAMINATION

7 BY SOLICITOR STONE:

8 Q Mr. Roden, where do you live, sir?

9 A 1572 in Walterboro.

10 Q So you live in Walterboro?

11 A Yes, sir.

12 Q Is that in Colleton County?

13 A Correct.

14 Q All right. Mr. Roden, do you know Margaret Gooding?

15 A Yes, sir.

16 Q And how do you know Ms. Gooding?

17 A She practically kind of raised me. I grew up with her.

18 Q All right. So you know her fairly well?

19 A Yes, sir.

20 Q All right. And do you know about where Ms. Gooding
21 used to live, say, in 2009?

22 A Yes, sir.

23 Q Where was that?

24 A In Miley, South Carolina.

25 Q All right. And do you know what county Miley is in?

1 A Hampton County.

2 Q All right. What was the nature of your relationship
3 with Ms. Gooding? In other words, did you help her out
4 around the house? Or did you do chores for her or did you
5 help her out in any way? What did you do with ---

6 A You mean coming up in years? Or ---

7 Q Recently. Say in 2008/2009.

8 A Okay. I haven't did no work for -- for, you know, what
9 I'm saying? I used to rake the leaves for her. But I
10 haven't did no work to her prior to, I think, last year.

11 Q Okay. And what did you do for her on or about December
12 of 2009? Did you have any conversations with Ms. Gooding?

13 A Not as I know of; not 2009.

14 Q All right. What about prior to Thanksgiving, that you
15 just talked about?

16 A Okay. I think that would be 2010, if I ain't mistaken,
17 November the 22nd. I went ahead and did some landscape work
18 for her. She wanted me to do it before Thanksgiving, so she
19 told me to come that 22nd, which I think it was a Tuesday.

20 Q All right. Let me interrupt you real quick, Mr. Roden.

21 SOLICITOR STONE: May I approach, Judge.

22 THE COURT: You may.

23 Q Mr. Roden, I'm going to hand you -- Mr. Roden, I'm
24 going to hand you what's been marked for identification as
25 State's Number Forty.

1 A Okay.

2 Q Do you recognize that two-page document?

3 A Yes, sir.

4 Q Okay. What is that, sir?

5 A This right here is a -- a -- I think a statement I gave
6 to the officers.

7 Q All right. And is that in reference to this case? The
8 one here about Ms. Gooding?

9 A Yes, sir.

10 Q All right. What's the date at the top of that
11 document, sir?

12 A December the 8th of 2009.

13 Q All right. After reviewing that document, sir, would
14 it have been in 2009, before Thanksgiving, when you did some
15 work for Ms. Gooding?

16 A Yes, 2009. I wasn't thinking. This year just came in,
17 so I was thinking last year was 2009.

18 Q All right, sir.

19 A Yes, sir.

20 Q Prior to Thanksgiving, what kind of work did you do for
21 Ms. Gooding in 2009?

22 A Okay. I got -- I came -- I got a call from my sister
23 because me and my brother-in-law, Pully, do the job, because
24 he's big on the landscaping.

25 Q All right. What kind of job?

- 1 A Landscaping.
- 2 Q So Ms. Gooding wanted you to do some landscaping?
- 3 A Yes, sir.
- 4 Q All right, sir. Go ahead.
- 5 A And she called -- called my brother-in-law, and I
- 6 called her, I say, "We are going to be able to do it." She
- 7 said, "Well, don't come this week; come I think that Tuesday
- 8 before Thanksgiving. That way, the yard will be fresh that
- 9 Thursday." So I said, "Okay." So I went ahead, went down
- 10 there. Me and Steve went down there.
- 11 Q All right. Let me stop you for a minute. So you're
- 12 going to do some work for Ms. Gooding; is that right?
- 13 A Yes, sir.
- 14 Q And you said Steve had went with you. Who's Steve?
- 15 A Steve Aiken, the gentleman over here.
- 16 Q Stevie Aiken, the defendant sitting beside Mr. Plexico?
- 17 A Yes, sir.
- 18 Q So he went with you to Ms. Gooding's house?
- 19 A Yeah, he went with me.
- 20 Q Okay. Tell me about that.
- 21 A Okay. That day when we got there, and when I got
- 22 there, I called Stevie in the house. I said, "Stevie, let
- 23 me introduce you to -- to some good people." So I knocked
- 24 on the door. Ms. Margaret came to the door. I said, "How
- 25 you doing? It's a long time no hear." I said, "Steve, this

1 is Ms. Margaret. She like a aunt to me. She's the one that
2 raised me when my mom used to go into work. I used to stay
3 over here." And I said, "Stevie, this is Margaret. Let me
4 introduce you." Then, we went to work.

5 Q So you actually introduced Stevie Lamont Aiken, the
6 defendant in this case, to Ms. Margaret Gooding?

7 A Yes, sir.

8 Q Did you talk to Stevie about anything in particular
9 about Ms. Gooding?

10 A Prior to that day? Or prior --

11 Q That day.

12 A Yeah, I talked to him.

13 Q All right. And did you talk about anything in
14 particular?

15 A Yeah, you know what I'm saying. First thing we talked
16 about. It has Ms. Margaret -- it has some -- she has checks
17 in the house. And I said, "Ms. Margaret," I said, "you need
18 to go ahead and be careful, you know, got checks laying
19 around." You know what I'm saying?

20 Q Now, when you say "checks" you mean like -- what kind
21 of, like bank checks?

22 A Government checks. Yeah, I say, "You need to go ahead
23 and do something with those checks." She said, "Okay." Of
24 course, she was telling me somebody, you know, tried to, you
25 know, saying, "Coming in the next week." You know what I'm

1 saying? So I said, "Okay. You need to take care of that."
2 So she said, "Okay." Then we talked; then I left. And I
3 said, "Okay. You have a good day." And she said, I'll call
4 you to do some work to my shed. I say, "Okay."

5 So, you know, we are going home. And I was telling
6 Steve, I said, "Steve" ---

7 Q Now, when you say "Steve," you mean the defendant,
8 Stevie Lamont Aiken?

9 A Yes, sir.

10 Q All right. Go ahead.

11 A I say, "Steve, Ms. Margaret got to be careful. She got
12 them checks laying around like that; know what I'm saying?"
13 And he said, "Yeah, she got to be careful, you know what I'm
14 saying?" And -- and that was the end of the conversation
15 with the checks.

16 Q All right. So let me back up, to make sure that we got
17 this straight. You were doing some work for Ms. Gooding and
18 you took Stevie Lamont Aiken over there and introduced them
19 because he was helping you?

20 A Yes, sir.

21 Q And you mentioned to him about the checks that you saw
22 in the house, and that she ought to be careful?

23 A Yes, sir. He was right there when I saw them.

24 Q And did you have any other conversations with Mr.
25 Stevie Aiken, say on or about December the 6th of 2009?

1 A Yes.

2 Q All right. And if you need to refresh, with looking at
3 your prior statement, you certainly can. But do you recall
4 what Mr. Aiken said to you?

5 A If I recall my recollect, I think he had asked me,
6 "Does Ms. Gooding call me about another prior job to do for
7 her." I'm pretty sure that was the last conversation we
8 had.

9 Q And that was on the 6th of December of 2009?

10 A If I recall, I know it was before this happened. You
11 know what I'm saying?

12 SOLICITOR STONE: May I approach, Judge?

13 THE COURT: You may.

14 Q Mr. Roden, if you'd look at the last sentence on the
15 first page of that document and review that to yourself, and
16 see if that helps recollect and solidify the date in your
17 mind.

18 (The witness reviews the document.)

19 A Yes, sir.

20 Q All right. So was it on or about December the 6th of
21 2009 when you had this conversation?

22 A Yes, sir.

23 Q Okay. So the day of Ms. Gooding's attack, when she was
24 kidnapped, shot and dumped in a trunk, he was asking you
25 about her that day; is that right; on the 6th?

1 A Yeah. That's -- I think that's prior to the day it
2 happened.

3 Q Do you know where Stevie Aiken lives?

4 A Yes, sir.

5 Q And where does he live?

6 A I think on Fifth Street or close to Fifth Street, but I
7 do not recall the address.

8 Q Is that in Walterboro?

9 A Yes, sir.

10 Q All right. And did you get a -- did Ms. Gooding pay
11 you for the work you did that day?

12 A Yes, sir.

13 Q All right. And how did she pay you? Cash? or check?
14 or ---

15 A Check.

16 SOLICITOR STONE: Court's indulgence, Your Honor.

17 (BRIEF PAUSE.)

18 DEP. SOL. THORNTON: No further questions, Your Honor.

19 THE COURT: Cross-examination?

20 CROSS-EXAMINATION

21 BY MR. PLEXICO:

22 Q Now, you have known Ms. Gooding for a long time,
23 correct?

24 A Yes, sir.

25 Q All right. Tell me, you knew about her finances? She

1 had a ---

2 A Not really, sir.

3 Q Well, she had her checkbooks lying around; didn't she?

4 A No. It wasn't no checkbooks.

5 Q They were checks?

6 A Yes, sir.

7 Q Okay. So they were checks for a lot of money?

8 A Well, I don't know how much money they were, I just saw

9 like three or four checks. I never know -- I never really

10 got close. I just saw the checks there on the table.

11 Q But you noticed that? Your eye caught that?

12 A Yes, sir.

13 Q All right. Tell me, is it the money? Is that why you

14 sell crack?

15 A Crack?

16 Q Yes.

17 A I never sold crack a day in my life.

18 Q Did you ever sell marijuana to Nathaniel Harris?

19 A. Nathaniel Harris?

20 Q Yes, sir.

21 A No, sir.

22 Q You ever sell marijuana to anybody named Nate?

23 A No, sir.

24 MR. PLEXICO: I don't have anything further.

25 THE COURT: Redirect?

1 REDIRECT EXAMINATION

2 BY DEP. SOL. THORNTON:

3 Q Do you have any idea what he's talking about?

4 A No, sir.

5 DEP. SOL. THORNTON: Nothing further, Judge.

6 THE COURT: Re-cross, limited to redirect.

7 MR. PLEXICO: Nothing further, Judge.

8 THE COURT: As to this witness, Solicitor?

9 DEP. SOL. THORNTON: Ask that he be excused, Your

10 Honor.

11 THE COURT: Any objection?

12 MR. PLEXICO: Not at all, Judge.

13 THE COURT: Mr. Roden, you may step down from the

14 witness stand, and you are excused from the trial of this

15 case. You may leave the courtroom.

16 Call your next witness.

17 DEP. SOL. THORNTON: Nathaniel Harris.

18 (MR. NATHANIEL HARRIS ENTERS THE COURTROOM.)

19 WHEREUPON, MR. NATHANIEL HARRIS WAS DULY SWORN.

20 THE COURT: Have a seat right there on the witness

21 stand. Pull your chair up; it will slide. I want you to

22 speak and adjust that microphone to height. That's going to

23 amplify your voice. I want you to speak up, so everybody

24 can hear you in the courtroom, particularly the jury and the

25 people in the courtroom. State your full name and spell

1 your last name for the court reporter.

2 MR. HARRIS: Nathaniel Harris, H-A-R-R-I-S.

3 THE COURT: Mr. Harris, speak up for me. Your witness,
4 counsel.

5 DIRECT EXAMINATION

6 BY SOLICITOR STONE:

7 Q Mr. Harris, I see you're in an orange jumpsuit. Does
8 that mean you're currently incarcerated?

9 A Yes, sir.

10 Q All right. Did you, in fact, plead guilty to crimes
11 associated with the kidnapping, robbery, and burglary of one
12 Margaret Gooding?

13 A Yes, sir.

14 Q And did you commit these crimes on or about December
15 the 7th, 2009?

16 A Yes, sir.

17 Q Was anybody with you?

18 A Yes, Steve -- Stevie Aiken.

19 Q Do you see Stevie Aiken in the courtroom?

20 A No, sir.

21 Q You don't?

22 A I can't see if he is in here. I can't see.

23 DEP. SOL. THORNTON: Court's indulgence, Your Honor.

24 (BRIEF PAUSE.)

25 Q All right. Mr. Harris, you've indicated you pled

1 guilty. Did you get any certain deal to plead guilty? In
2 other words, did you plead guilty to a certain offer?

3 A I don't understand.

4 Q How much time did you get for pleading guilty, Mr.
5 Harris.

6 A Oh, yes, sir. Yes. Twenty years.

7 Q All right. So you took a plea and you got 20 years in
8 prison; is that right?

9 A Yes, sir.

10 Q Do you also have a prior offense for -- do you have
11 prior offenses? In other words, have you ever been in
12 trouble before?

13 A No, sir.

14 Q You've never been in trouble before. You've never been
15 convicted of shoplifting?

16 A Oh, yes, I have -- I've had other charges before, yes.

17 Q All right. Now, you mentioned that you went and did
18 these crimes with Stevie Lamont Aiken; is that correct?

19 A Yes, sir.

20 Q All right. How long have you known Stevie Lamont
21 Aiken?

22 A I would say two to three years, about three years.

23 Q All right. And whose idea was it to go and commit this
24 crime in Ms. Margaret Gooding's house?

25 A Stevie Aiken.

1 Q All right. And do you know how he knew Ms. Aiken --
2 excuse me. Do you know how Stevie Aiken knew Ms. Gooding?

3 A I'm trying to think. He had went to do some -- he met
4 her somehow and he went to do some work, to do for her yard
5 work or something for -- for her. And this is how I found
6 out that he -- that's how he knew her.

7 Q Starting when you got to -- how did you -- first of
8 all, how did you get to Ms. Gooding's house?

9 A We -- well, I went to his house first.

10 Q Whose house?

11 A Stevie Aiken's house.

12 Q All right.

13 A And it was night. It was about like -- it was about a
14 nine, about eight, nine o'clock that night. And then he had
15 his brother to take us down there in a car.

16 Q All right. He, meaning Stevie Aiken, had his brother -
17 - do you know his brother's name?

18 A Derrick Aikens.

19 Q All right. Do you see Derrick Aiken in the courtroom
20 anywhere?

21 A Yes, sir.

22 Q All right. Where's Derrick Aiken?

23 A (POINTS OUT INTO COURTROOM.) He's out there in the
24 audience.

25 Q All right. So you do see Derrick Aiken in the

1 courtroom?

2 A Yes.

3 Q That's who gave you the ride?

4 A Yes, sir.

5 Q All right. You were with Stevie Aiken; is that right?

6 A Yes, sir.

7 Q All right. What did y'all do when you got out to Ms.
8 Margaret's house?

9 A We went to her house -- yeah, we went to the house. It
10 was we -- just first, we just was walking around outside the
11 yard. Then we circled around the house. Then after that,
12 we went around to the side of the house where the phone
13 cable is, the phone line cable. And he had me to cut the
14 phone line. And after that, we walked -- we walked off and
15 we -- we must have -- well, we walked off and came back. We
16 walked off -- we walked up about like a few feet somewhere,
17 like -- like in a circle. And then after that, we came
18 back.

19 Or after we -- well, while we were circling around in
20 circles, he was telling me to find a brick or something
21 hard, something hard, you know, so that -- something hard,
22 like a brick in other words. So ---

23 Q Did you find one?

24 A No. So -- so we kept, just kept looking. He had me --
25 he started, just kept looking around, still looking. And

1 somehow or another, he came across a -- he came by -- he
2 came across a four-by-four brick, and ---

3 Q What did you do with the brick? Or what did he do with
4 the brick?

5 A After we got his brick, I believe he give it to me.
6 And then after that, then we -- we headed towards the side
7 of the -- the other side of Mrs. Gooding's house, the part
8 on the other side where -- where her bedroom was. And he
9 wanted me to throw the brick through the window, but I
10 refused. I told him, "No. I'm not -- I'm not throwing no
11 brick in no window."

12 So he got a little annoyed at me and, you know, I -- I
13 told him I was really shaken up about it. So he grabbed the
14 brick out of my hand, and took it, and just throw it through
15 the window. I -- I -- I know it. I just had a, you know --
16 -

17 Q What happened after that?

18 A After that, after the window was all busted out and
19 shattered, everything came down, even her curtains. It was
20 just like -- it was just a -- a -- the whole window was just
21 busted in the -- through the bedroom. Ms. Gooding came
22 through the hall and peeked through the window, peeked
23 through the -- her room, and noticed that the window was
24 busted out. So she looked and then she turned back around,
25 like she went to go get something. I didn't know what it

1 was. I had a feeling what she was going to go and get.

2 Q What did you think she was going to get?

3 A I -- I believe she was going to get her gun. That's
4 what it was. So, she went and she got that. And she came,
5 she came back. But then she began to fire. She -- she shot
6 one round; she fired through the window.

7 Q All right. Let me ask you a question: Did you have a
8 gun with you?

9 A Did I have one?

10 Q Yes.

11 A No, sir.

12 Q Did Stevie Aiken have a gun?

13 A Yes, sir.

14 Q Did he shoot that gun?

15 A Yes, sir.

16 Q Did he shoot it at Margaret Gooding?

17 A Yes, sir.

18 Q All right. What happened after she fired a shot?

19 A After she fired a shot, then he fired it back. He shot
20 to her. And now she was shot, which I didn't know she was
21 shot. I was told that she was. Then she -- she went back
22 through her house to the back door, and she begin to yell to
23 her neighbor, some guy. I don't know the guy name. Some
24 guy named Sam or something? And she been calling some guy
25 name, and she yelled out three times, but she didn't get no

1 response and she didn't get no answer.

2 Q Now, what did you and Stevie Aiken do at that point?

3 A And then, he ran to the end of the house where she was
4 standing -- where she was standing at the back door. And he
5 told her to put her gun down -- he demanded her to put her
6 gun down.

7 Q Back up. Who said, "Put the gun down"?

8 A Stevie Aiken demanded her to put her gun down. And she
9 put the gun down. Then he told her to come down the back of
10 the steps, come down. Come -- come down them steps. Come
11 down to the back and come back here where we was at.

12 Q All right. And then what happened?

13 A Then -- then he had her to come over here where we was
14 at and made her sit down on the ground. And then after
15 that, that's when he made me go in the house, to get her --
16 her purse and her car keys and her checkbook.

17 Q All right. So you went in the house and got the purse,
18 the car keys and a checkbook?

19 A Yes, sir.

20 Q Now, let's back up for a minute. So up to this point,
21 you and Stevie Aiken have gone up to Miley, to Ms. Gooding's
22 house. You've cut the phone line so far; is that right?

23 A Yes, sir.

24 Q After cutting the phone line, you look around for a
25 brick to throw through the window, or something hard to

1 throw through the window?

2 A He had us go out in, you know, the wooded area, as we
3 was walking around, to look for something hard, like a
4 brick. But I couldn't find nothing. So, he came across the
5 brick somehow himself.

6 Q So, the answer to my question a minute ago was "yes."
7 Y'all went look around to try to find a brick or something
8 hard to throw; is that right?

9 A Right.

10 Q All right. And eventually, y'all found a brick; is
11 that right?

12 A Right. Yes. Yes, sir.

13 Q All right. And the brick was thrown by y'all through
14 the window; is that right?

15 A He -- he's the one that had throwed the brick through
16 the window.

17 Q All right. Were you with him?

18 A I was with him.

19 Q Okay. Did you run away when he threw the brick?

20 A (NO RESPONSE.)

21 Q Come on, Mr. Harris, that's an easy question. Were you
22 still there after he threw the brick?

23 A Yes, I was. I was there.

24 Q All right. You went in the house. You got that purse,
25 you got her car keys, you got her checkbook; is that right?

1 A Yes, sir.

2 Q All right. Now, she's, at this point, sitting on the
3 ground. Could you tell she had been injured? Could you
4 tell she was hurt?

5 A Yes, sir.

6 Q How could you tell?

7 A I could see -- I could see the -- I -- I could see the
8 blood on her shirt.

9 Q All right. What happened after y'all had her out,
10 sitting on the ground? Then you got the car keys. What did
11 you do then?

12 A Then he told her to go in her garage. He said, "Take
13 the keys." Go get her car, pull it out, bring the car
14 around and back it up to him.

15 Q All right. Did you do that?

16 A Yes, sir.

17 Q All right. Then what happened?

18 A After we did that, we opened up the trunk and took all
19 the stuff out. And then he demanded Ms. Gooding to get in
20 the back of the -- back of the trunk.

21 Q All right. So, Ms. Gooding had to get in the back of
22 the trunk; is that right?

23 A Yes, sir.

24 Q All right. Then what did y'all do?

25 A After she had got in the back of the trunk, and then

1 she was moving kind of slow, so we had -- you know, had kind
2 of helped pushed her in and stuff, and then he closed her
3 in. And then we got in the car.

4 Q All right. And where did y'all go? Who drove?

5 A He had drove the car. He got in. I got on the
6 passenger's side; he got in the driver's side.

7 Q And did you get in a white Buick?

8 A Yes, sir.

9 DEP. SOL. THORNTON: Your Honor, may I approach?

10 THE COURT: You may.

11 Q I'm going to show you what's been previously marked and
12 entered into evidence as State's Exhibit Three, Four and
13 Five. Does that appear to be the car that Ms. Gooding had?

14 A Yes, sir.

15 Q Mr. Harris, where did y'all go when you got in the car,
16 after you put Ms. Gooding in the trunk?

17 A We went back to Walterboro, South Carolina.

18 Q All right. Where in Walterboro did you go?

19 A It was off of the Charleston Highway, Highway 17.

20 There was this little road coming into Walterboro. It's a
21 road that bears off to the right, that heads towards an old
22 aging -- where -- where old folks aging, the Colleton County
23 old aging for the old folks.

24 Q All right. Is that somewhere off of [REDACTED] Circle or
25 near [REDACTED] Circle Road?

1 A Yes, sir.

2 Q And is that -- did y'all leave the car next to an old
3 maintenance shop? It's a old, red building?

4 A Yes, yes.

5 Q All right. What happened after you put the car there?
6 What did you and Stevie Aiken do?

7 A Well, we get out the car and Stevie said, "Let's go."
8 I said, "Where we going?" He said, "We're going to my
9 house." So got out and head toward his house. I said,
10 "What about Ms. Gooding? You going to let her out?" You
11 know. And I -- I wanted to let her out, but he wouldn't let
12 me out.

13 Q All right. Let me stop you for a minute. Do you know
14 where Stevie Aiken lives? Or where he lived at that time?

15 A Yes.

16 Q What's his address? Where does he live at?

17 A I don't know the address, but I know where he lives.

18 Q All right. Is it fairly close to where y'all dumped
19 off the car?

20 A Yes, sir.

21 Q All right. Do you know what street it's on? His house
22 is on?

23 A No.

24 Q Okay. All right. So you go to his house.

25 A He live on a dirt road, but I don't know the name of

1 the road.

2 Q All right. Well, what do you do when you get to his
3 house?

4 A --- like walk down --

5 Q No. Maybe you didn't understand my question. What did
6 y'all do when you got to his house?

7 A Oh, we -- we got -- we got -- to the house, we just got
8 there. And then we went and laid down and -- and -- and
9 went to sleep we went down and rest. And I -- while I was
10 resting, you know, shaking and shivering and thinking about
11 what happened, you know, all nervous up inside after what I
12 had done, I'm kind of paranoid and everything.

13 Q What did y'all do with the guns, Mr. Harris?

14 A I had no idea what he had -- he took them in his room.
15 He took them in his room when he got -- when he got in the
16 house.

17 Q Mr. Harris, at some point, did y'all place them
18 anywhere, like a dumpster, say? And then have to go back
19 for them later? Think hard.

20 MR. PLEXICO: I object, Your Honor. That's leading.

21 THE COURT: Sustained. Rephrase the question, counsel,
22 direct examination.

23 Q Mr. Harris, after thinking very closely about what
24 you're going to say, what did y'all do with the guns?

25 A All I know is, he had them in the house. And what he

1 did with them from there, I don't know.

2 Q All right. Did you go to BB&T bank at some point that
3 day?

4 A The next day.

5 Q Okay. What did you do at BB&T bank?

6 A I went to go cash the check.

7 Q Whose check?

8 A It was a check that he -- he signed my name on that was
9 Ms. Margaret -- Margaret Gooding's check.

10 Q All right, Mr. Harris, so the answer to my question is,
11 you went to cash one of Margaret Gooding's checks.

12 A Yes, sir.

13 Q And that's not a check she made out to you; is that
14 right?

15 A No, sir.

16 Q That was one y'all got from stealing.

17 A Right.

18 Q And you went to cash it.

19 A Right.

20 Q Did you get any money for it?

21 A No. Not at the bank.

22 Q After you left the bank, did you get picked up by law
23 enforcement at some point?

24 A Well, after I got back to the spot where they had --

25 where they had -- in the area where I was in, in Walterboro.

1 They came -- it was about like ten to fifteen minutes, right
2 after I got back and --

3 Q You said, "they came." Who's they?

4 A Six Colleton County police officers came. Three of
5 them unmarked and three black and gold.

6 Q All right. And what happened to you when they picked
7 you up?

8 A When they got there, they seen me and they called me
9 over. One of the officers called me over there and wanted
10 to talk to me, and asked me did i just leave the BB&T bank.
11 And I told him, "Yes." I didn't lie to them. I told them,
12 "Yes." So they began to search my pocket, take everything
13 out of my pocket. They took everything out of my pocket and
14 sit it in the car and --

15 Q Mr. Harris, did they take you into custody at that
16 time?

17 A Yes, sir.

18 Q Did you stay in Colleton? Or did you go somewhere
19 else?

20 A They took me to Colleton County. They took me down to
21 Colleton County jail. They said they would ask me some
22 questions.

23 Q All right. Did you stay in Colleton County? Or did
24 you at some point get moved to another county?

25 A No, sir. I -- I -- I -- I -- they had me in the

1 waiting room down there, the questioning room down there in
2 Colleton County. And about 15 minutes after I had been in
3 there, here come law enforcement from -- from Hampton
4 County, someone coming to get me, to take me to Hampton
5 County.

6 Q All right. And did you go to Hampton -- did you come
7 here to Hampton County?

8 A Yes, sir.

9 Q All right. And were you questioned by law enforcement?

10 A Yes, sir.

11 Q And what did you tell them?

12 A I told them the same thing I told you.

13 Q All right.

14 A The same story.

15 Q And that is that you and Stevie Lamont Aiken robbed Ms.
16 Gooding, burglarized her house, shot her, because y'all were
17 acting together; is that not right?

18 A Yes, sir.

19 Q And that's what you pled guilty to.

20 A Yes, sir.

21 DEP. SOL. THORNTON: Court's indulgence, Your Honor.

22 Your Honor, I'm going to ask the witness to step down out of
23 the box, please.

24 THE COURT: You got the portable microphone, Mylinda?

25 MADAME CLERK: Yes, sir.

1 THE COURT: Turn it on for him; make sure it's working.

2 You're going to show him an exhibit?

3 DEP. SOL. THORNTON: No, sir. I'm going to bring him
4 here and ask him one more question.

5 THE COURT: All right.

6 Q Mr. Harris, if you would, please, come down.

7 THE COURT: Now, can you see, Mr. Plexico, if he comes
8 right there?

9 MR. PLEXICO: Yes, Your Honor.

10 THE COURT: Step down. Hand you the microphone. You
11 hold it for him, Solicitor.

12 Q Come on up here, Mr. Harris. And, Mr. Harris, I want
13 you to stand right here and I want you to look out at
14 everybody in this room, and I want you to do it very
15 carefully, and you tell me if you see Stevie Lamont Aiken in
16 this room, now that you're down off of that bench.

17 A Yes, sir.

18 Q Go ahead.

19 A Yes, sir.

20 Q Where is he?

21 A He's right to my right.

22 Q All right. So before, you just could see him because
23 the judge's bench was in the way?

24 A Something was kind of hiding him.

25 Q So would you point to him for me?

1 A He's right there.

2 Q So Stevie Lamont Aiken is this man sitting right here
3 next to his lawyer, Mr. Plexico? That's who you're talking
4 about?

5 A Yes, sir.

6 Q All right. Have a seat. Watch your step.

7 (Witness returns to the jury box.)

8 Q Mr. Harris, one more question. Earlier I asked you
9 about the guns. You said you didn't know what he did with
10 them. You thought they were at his house. Did you ever see
11 the guns again?

12 A No. I haven't seen them after that.

13 DEP. SOL. THORNTON: I have no further questions, Your
14 Honor.

15 Q Please answer any questions Mr. Plexico has.

16 THE COURT: Cross-examination.

17 CROSS-EXAMINATION

18 BY MR. PLEXICO:

19 Q Mr. Harris, how are you today?

20 A How you doing?

21 Q Just fine. All right. Now, you don't exactly have a
22 home to live in; do you? When about the time this happened.

23 A I haven't -- I haven't -- I hadn't had a home to stay,
24 but I had someone to stay with.

25 Q Okay. All right. There are a lot of abandoned

1 trailers and all out in the area of Walterboro that we're
2 talking about where you left the car, correct? There are
3 places to spend the night in abandoned buildings.

4 A Yes, sir.

5 Q That's your area of town; isn't it?

6 A That's -- that's not my -- that's not my area of --
7 that particular area where all them trailers is, no sir.

8 Q Well, the general area out that way.

9 A Close to that area, yes, sir.

10 Q Okay. All right. But there are places for you to
11 spend the night since, essentially, you're homeless, right?

12 A Yes, sir.

13 Q All right now, and you don't have a regular job any
14 place, correct?

15 A No. I hadn't worked since '09.

16 Q Okay, and in order to make a living, you have to steal
17 on a regular basis; don't you?

18 A Yes, sir.

19 Q So it would be fair to say that you're a thief; is that
20 a fair appraisal of your character?

21 A (NO RESPONSE.)

22 Q Yes or no?

23 A Yes.

24 Q And you're dishonest.

25 A Yeah, I'm dishonest; I'm gonna be true. I ain't gonna

1 tell no story.

2 Q But you're an honest thief?

3 A Yes, sir.

4 Q Is there such a thing as an honest thief?

5 A No.

6 Q So you're not honest either; are you?

7 A I can be honest.

8 Q When it suits you, correct?

9 A What you talking about, honesty?

10 Q No. You could be honest, if it serves you well,
11 correct?

12 A Yeah, if it serves me well.

13 Q Now, let's talk about some -- you said that -- go back
14 to your testimony. You said that person you were with
15 ordered her into the automobile and then helped Ms. Gooding
16 into the automobile. Then put her in, right? That's what
17 you just testified to.

18 A Yes, sir.

19 Q Okay. Now, when you earlier -- you went to the Hampton
20 County Police Department, sheriff's department. You were
21 brought over here by Colleton, correct?

22 A I was brought over here by Hampton -- Hampton County.

23 Q All right. Now, that point in time, you sat in a big
24 room and talked to them, right?

25 A Yes, sir.

- 1 Q And you were on -- you were being videotaped.
- 2 A Yes, sir.
- 3 Q Is that right?
- 4 A Yes, sir.
- 5 Q And you spent a long, long, long time in there on
- 6 videotape; didn't you?
- 7 A I been in there a while.
- 8 Q Quite a while. It was about an hour and a half, two
- 9 hours?
- 10 A About an hour and a half.
- 11 Q And they videotaped the entire thing; didn't they?
- 12 A Yes, sir.
- 13 Q Now, that's not quite what you said on the videotape.
- 14 What you said on the videotape was, "we put her in the car";
- 15 isn't that correct?
- 16 A Yeah, we put her in the car.
- 17 Q Okay. That would be you. So it wasn't just the other
- 18 person. It was you, correct?
- 19 A Yeah. Yes, sir.
- 20 Q All right. Now, you know Jimmy Roden?
- 21 A I don't know that man.
- 22 Q You don't buy drugs from Jimmy Roden?
- 23 A I don't know that man. I don't buy drugs.
- 24 Q You've never met Jimmy Roden before?
- 25 A I don't even know that man.

1 Q Now, you know Derrick Aiken.

2 A That's -- that's Stevie's brother.

3 Q Do you know Derrick Aiken?

4 A I just said, that's his brother.

5 Q So you know him, yes?

6 A No. Not personally. I just -- I -- I just got to met
7 him.

8 Q All right now, when you talked on the videotape, you
9 seemed very protective of Derrick Aiken. Is that the way
10 you think you came across in the videotape?

11 DEP. SOL. THORNTON: Objection, Your Honor. Calls for
12 a conclusion. That's a completely --

13 THE COURT: Sustained. It's cross-examination. Mr.
14 Plexico, I'll give you latitude, but don't ask the witness
15 absent qualifications to characterize how they came across
16 on a tape. Proceed.

17 Q Did you express a concern for Derrick Aiken during that
18 interview?

19 A Excuse me?

20 Q Did you express concern for Derrick Aiken during your
21 interview with the Hampton County Sheriff's deputies?

22 A No, sir.

23 Q All right. Now, didn't you say that you were with
24 Derrick at about 5 p.m., the day this happened?

25 A I don't believe it was about 5 p.m. ??? exact date and

1 night.

2 Q All right now, but you went over there with Derrick
3 Aiken, correct?

4 A I'm lost now. Where at?

5 Q You went to Miley, South Carolina with Derrick Aiken,
6 correct?

7 A Yes.

8 Q Okay. Now, and you need money; don't you?

9 A Sir?

10 Q You need money to survive; don't you?

11 A Yes.

12 Q Okay. Now, you have to steal it on a regular basis,
13 like you testified to, correct?

14 A Well, normally, I would have to work for it.

15 Q Have you been telling untruths here today?

16 A Sir?

17 Q Have you been untruthful today? Have you been lying?

18 A No, no.

19 Q All right. Now, so you wound back up in an area you're
20 familiar with, Ms. Gooding in the car, right?

21 A Come back again.

22 Q You wound up in an area that you're familiar with in
23 Colleton County, going toward Charleston, and left Ms.
24 Gooding in that car, right?

25 A Uh-huh.

1 Q Then you wait a few hours, correct? And took that
2 check to the bank.

3 A Waited till the next day.

4 Q Okay. Now, almost for \$6,000?

5 A Yes, sir.

6 Q Well, who was the -- was the check made out to Derrick
7 Aiken?

8 A No.

9 Q Was it made out to Stevie Aiken?

10 A No.

11 Q Who did you make the check out to?

12 A I didn't make anything out. It was made out in my
13 name.

14 Q All right now, do you understand that that is -- was it
15 your check?

16 A Yes, sir.

17 Q It was your check.

18 A No, that was not my check.

19 Q So, you took a check to the bank, made out to you,
20 knowing it to be a forgery, correct.

21 A Come back again?

22 Q You took a check, Mrs. Gooding's check, to the bank,
23 made out to you for \$6,000, with the intent to cash it,
24 knowing it was a forgery, correct?

25 A Yes, sir.

1 Q All right. Now ---
2 MR. PLEXICO: Court's indulgence.
3 Q Now, you can read and write, correct?
4 A Yes, sir.
5 MR. PLEXICO: May I approach?
6 THE COURT: You may.
7 Q Would you look over this?
8 THE COURT: Mr. Plexico, back away so the foreman can
9 see the witness. Ask a question.
10 Q Have you had enough time to review that?
11 A Yes.
12 Q All right. You were convicted in 2006 of stealing in
13 Chatham County, correct?
14 A That was shoplifting, yes, sir.
15 Q Now, that's Savannah, Georgia.
16 A Yes, sir.
17 Q Matter of fact, you were in so much trouble there, they
18 banned you from Chatham County; didn't they?
19 A Yes, sir.
20 Q All right. Now, so you wind up in Colleton. Now, how
21 far is Miley from Walterboro?
22 A I would say 30 miles.
23 Q You had a long time to think about what you were going
24 to do when you were riding over there with Derrick, correct?
25 A Yes, sir.

1 Q Okay. Now, so you expected to get some big money out
2 of this; is that right? Didn't you?

3 (The witness pauses.)

4 Q Derrick had financial -- you were talking to Derrick
5 that evening, right? There, talking to Derrick --

6 THE COURT: One question at a time. Ask the question.

7 A No, sir. I didn't talk to Derrick.

8 Q You did talk with Derrick, right?

9 A I didn't talk -- I didn't talk to Derrick.

10 Q All right. Now, so you were in a car -- so you were
11 with somebody earlier, in a car with them for 30 minutes and
12 you didn't talk to them?

13 A No, sir.

14 Q Is there any reason you're protecting Derrick?

15 A Excuse me?

16 Q Are you afraid of Derrick Aiken?

17 A No, sir.

18 Q Are you protecting Derrick Aiken for any reason?

19 A (NO RESPONSE.)

20 Q I'm asking you: Are you, yes or no, protecting Derrick
21 Aiken for any reason?

22 A Protect him from what?

23 Q He took you there to rob somebody, to burglarize their
24 home and do God knows what else.

25 A No, I'm ---

1 Q Didn't he?

2 A --- I'm not protecting Derrick.

3 Q He did take you there to rob her, to burglarize her
4 home, and do why God knows whatever else; didn't he?

5 A He just -- he just took us there, and that was all he
6 did. And then he left.

7 Q What is in Miley?

8 A I don't know, sir, because I don't even know that part
9 of South Carolina. I'm not from there.

10 Q There is no good in Miley happening past ten o'clock.

11 A Excuse me?

12 Q Is there anything happening, anybody can come visit
13 Miley and do that's lawful, past ten o'clock?

14 A Well, I don't know, because I didn't know actually
15 where I was at, to tell you the truth.

16 Q It was a desolate area?

17 A Yeah.

18 Q Wasn't it?

19 A I guess so.

20 Q It wasn't anybody around?

21 A It was the country.

22 Q So Derrick had to know he's dropping y'all off to do no
23 good, right? If that's what happened.

24 A He had no idea, sir, what was going down.

25 Q Now, didn't he actually stay there?

1 A No, sir.

2 Q Didn't you actually drive her car out of there with her
3 in it?

4 A No. I did not drive her out there with -- with her in
5 it.

6 Q Now, you had her gun; didn't you?

7 A I had her gun, yes. But it was right there -- it was
8 on my -- it was right here in the side, right here by my
9 side on the inside the car.

10 Q Did you stash it over at Stevie Aiken's house?

11 A I didn't stash nothing. I gave him -- he took the gun
12 from -- from me. And where -- wherever God knows he put
13 them. I know, we was in the house.

14 Q What did you do -- where in the house?

15 A Sir?

16 Q When you were in the house. Now you're saying you and
17 Stevie Aiken were in the house? Where were you in the
18 house?

19 A After we got back, we went to the house. And like I
20 said, God knows where he put them. I don't know.

21 Q Well, did the person you're with get the wallet out of
22 the house? What did they get out of the house, the person
23 you were with?

24 A (NO RESPONSE.)

25 Q Purse and the checks, right?

1 A And the checkbook.

2 Q Isn't that what they got? They got that stuff out of
3 the house.

4 A That was all they got.

5 Q And you were guarding Ms. Gooding, right? You were
6 guarding Ms. Gooding, right?

7 A What you mean by -- no.

8 Q While they were inside getting her wallet, her purse,
9 her checkbook and her keys, you were standing over Ms.
10 Gooding?

11 A No, sir. I was in the house getting -- I was in the
12 house getting that stuff. I was the one.

13 Q Now, so you had free reign that night?

14 A Excuse me?

15 Q You had free reign to go out and do whatever. You were
16 in charge; weren't you?

17 A Yeah.

18 Q All right. Because all this is your idea?

19 A Some of it is my idea.

20 Q Yeah. This is your idea, because you need money. You
21 heard she had money; you went there to get her money, right?
22 That was your job. You were doing your job. You're a
23 thief. You were there to steal, right?

24 A Right.

25 Q All right. And it doesn't take two to steal; does it?

1 A No, sir.

2 Q All right now, there wasn't any need to have Mr. Aiken
3 out there; was there? Stevie Aiken there, right?

4 A (NO RESPONSE.)

5 Q Did you give Derrick Aiken the gun?

6 A No, sir.

7 Q That's where the police got it from?

8 A Say what?

9 Q The police got -- would it surprise you to learn ---

10 A I know ---

11 Q --- that the police ---

12 A --- nothing about that. When we got back to his house.
13 That's all I know. Wherever he put them, I don't even know.

14 Q We know you went there with Derrick Aiken, correct? To
15 Ms. Gooding's house.

16 THE COURT: One question at a time. Proceed.

17 A I did not give him no gun.

18 Q We know you went to Ms. Gooding's house in Miley with
19 Derrick Aiken, correct?

20 A Three of us went.

21 Q That gun, Derrick Aiken, he had in his pump house and
22 he gave to police, was in that car with you and Stevie
23 Aiken, correct?

24 A I don't know what gun ---

25 Q Did you find ---

1 A --- gave to anybody.

2 Q --- did you find a gun out in the woods by Ms.
3 Gooding's house?

4 A No, sir.

5 Q So you brought the gun?

6 A What's that?

7 Q You brought the gun?

8 A I didn't bring nothing.

9 Q Is burglary a dangerous job?

10 A Oh, yeah. It's -- it's very much a dangerous job.

11 Q So you need to protect yourself when you do a dangerous
12 job, right?

13 A Okay.

14 Q Is that right?

15 A Yeah.

16 Q So you would bring a 9 mm to a burglary, correct? To
17 protect yourself. It's okay to protect yourself. That's
18 what you would do, right?

19 A But I didn't have a gun. It wasn't in my possession.

20 Q You were just there and afraid and frightened for Ms.
21 Gooding. Is that your testimony?

22 A Yes, sir.

23 Q And somebody else did it all. They did all the bad
24 stuff, right?

25 A That's right.

- 1 Q And you didn't do anything bad, right?
- 2 A I'm not going to say that.
- 3 Q All right. Well, look. You're looking at life on
- 4 burglary; aren't you?
- 5 A (NO RESPONSE.)
- 6 Q Aren't you?
- 7 A I've been charged.
- 8 Q Yes or no? Are you looking at life on burglary?
- 9 A That's what it say -- that's what it said.
- 10 Q Yes, sir. You're charged with burglary first, correct?
- 11 You pled guilty to it, correct?
- 12 A (The witness pauses.)
- 13 Q Did you plead guilty in front of Carmen Mullen in this
- 14 courtroom to burglary first?
- 15 A (The witness pauses.)
- 16 Q Yes or no?
- 17 A No, I didn't plead guilty to burglary first.
- 18 Q Did you plead guilty to assault and battery with intent
- 19 to kill Mrs. Margaret Gooding, standing here in this
- 20 courtroom with Judge Carmen Mullen, the lady judge, seated
- 21 where that judge is today?
- 22 A Yes.
- 23 Q Did you plead guilty to armed robbery?
- 24 A Yes.
- 25 Q And for armed robbery, you could get 10 to 30 years by

1 itself; is that not correct, without --

2 THE COURT: Just a moment. Yes, sir.

3 DEP. SOL. THORNTON: Your Honor, it's always ---

4 MR. PLEXICO: Your Honor, could we have a bench
5 conference?

6 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
7 AND OUT OF THE HEARING OF THE JURY.)

8 Q Did you plead guilty to stealing a car, grand larceny?

9 A Yes, sir.

10 Q Now, did you plead guilty to possession of a weapon
11 during the commission of a violent crime?

12 A Yes, sir.

13 Q All right. So you cut a deal for your participation
14 with the prosecutor's office, correct?

15 A What you mean, did I talk with them?

16 Q You cut a deal for your testimony with the prosecutor's
17 office.

18 A If you want to say something like that, yes, sir.

19 Q What was the deal?

20 A They threw out the burglary charge, and I plead guilty
21 to it.

22 Q Now, you said when y'all drove by, was that you
23 driving?

24 A No, sir.

25 Q Drove by the old folks home; is that what you said?

- 1 A As we was coming into Walterboro.
- 2 Q Now, are they easy targets, old people?
- 3 A Sir?
- 4 Q Are they easy targets, old people?
- 5 A Yes, sir.
- 6 Q Well, didn't you earlier say you had never been in
7 trouble before, to the prosecutor?
- 8 A He had that rephrased, and I told him yes, I had.
- 9 Q But originally you said you hadn't, right?
- 10 A I started -- I started saying that I hadn't, but I did.
- 11 Q So you went in the garage and backed the car up. Is
12 that what you did, you said?
- 13 A Yes, sir.
- 14 Q Now, when you think about a crime, you have to pick the
15 victim, correct?
- 16 A Yes, sir. But I never -- I never knew that lady,
17 though.
- 18 Q But you knew her well enough to take -- you weren't
19 scared of going out there, correct?
- 20 A Actually, at one -- one time, one -- one point in time,
21 at one time. I didn't know what we was actually getting
22 ourselves into until I got -- got to the victim.
- 23 Q So you were in a car, going to rob, to burglarize and
24 steel with a gun, and your job is stealing for a living, and
25 you didn't know you were going out stealing that night?

1 A Not until I got to the house.

2 Q You expected a big payout for your work that night;
3 didn't you?

4 A (NO RESPONSE.)

5 Q Didn't you?

6 A (NO RESPONSE.)

7 MR. PLEXICO: Court's indulgence.

8 THE COURT: Yes, sir.

9 Q Now, were you high on any drugs or alcohol when you
10 were arrested by the Colleton police?

11 A No, sir.

12 Q Now, you talked about pacing around for a long time
13 before doing anything; is that correct?

14 A Yes, sir.

15 Q Is that because you went up to the house and you heard
16 her talking?

17 A No, sir.

18 Q If a thief cuts a phone line before they enter a home,
19 is that the sign of an expert thief?

20 A Say that again.

21 Q Let me rephrase it this way. Does it take experience
22 in breaking into homes to know to cut the phone line?

23 A No.

24 Q Would cutting the phone line turn off burglar alarms?

25 A If it's hooked into the phone line, yes, it will.

1 Q So that would be a smart thing for a thief to do.

2 A True.

3 Q Does it take experience to learn the trade of stealing
4 and burglarizing?

5 A No, sir.

6 Q Well, the more experience, you would be better at it;
7 wouldn't you?

8 A (NO RESPONSE.)

9 Q Did you cut Ms. Gooding's phone line that night?

10 A Yes, I did.

11 Q Did you have her gun that night in your hand?

12 A Yes, sir, I did.

13 Q Did you have the 9 mm that night in your hand?

14 A No, sir.

15 Q Did you shoot Mrs. Gooding?

16 A No, sir. I would never do nothing to nobody like that.

17 Q Was there anything that happened that night that would
18 necessarily -- let me rephrase that; I withdraw that.

19 THE COURT: Speak up, Mr. Plexico.

20 Q Isn't it true that there is nothing that happened that
21 required two people that night?

22 A Excuse me?

23 Q Nothing that happened that night required two people,
24 correct?

25 A Did anything happen that night, you're saying?

1 Q Nothing happened the night that Mrs. Gooding's home was
2 burglarized and she was injured, nothing happened to her
3 that one person alone could not have done; isn't that true?

4 A Oh, yeah. Yeah.

5 Q And you're that person; aren't you?

6 A (NO RESPONSE.)

7 Q Aren't you?

8 A (NO RESPONSE.)

9 MR. PLEXICO: I don't have anything further.

10 THE COURT: Redirect?

11 DEP. SOL. THORNTON: Thank you, Judge.

12 REDIRECT EXAMINATION

13 BY DEP. SOL. THORNTON:

14 DEP. SOL. THORNTON: May I approach, Your Honor?

15 THE COURT: You may.

16 Q Mr. Harris, I'm going to hand you a document and ask
17 you to look at that for me, and tell me if you recognize it.

18 (The witness reviews the document.)

19 Q You recognize that document, Mr. Harris?

20 A (Witness nods head.)

21 THE COURT: You have to say yes or no.

22 A Yes.

23 THE COURT: All right. Hold on a second. Show it to
24 counsel for the defendant.

25 DEP. SOL. THORNTON: Yes, sir.

1 (Document is shown to the defense counsel.)

2 Q What is this document, Mr. Harris?

3 A It tells what happened down there that night to Ms.
4 Gooding.

5 Q You said "It tells what happened." Is that a
6 statement?

7 A That's a statement.

8 Q Whose statement is it?

9 A That's a statement that I wrote.

10 Q So you wrote that statement?

11 A Yes, sir.

12 Q And did you write that in 2009? And you can look at it
13 again, if it would refresh your memory. Do you need to look
14 at it again?

15 A It looks like it, yes. I'm going to say yes.

16 Q After looking at that document again, did you write
17 that statement in December of 2009?

18 A Yes, sir.

19 Q And what's contained in that statement, is that more or
20 less what you testified to today?

21 A Yes, sir.

22 Q All right. Now, did you make that statement before you
23 talked to anybody in my office, before you pled guilty to
24 anything, and did any of that other stuff?

25 A Yes, sir.

1 Q In fact, you did that the day after this happened; did
2 you?

3 A Yes, sir.

4 DEP. SOL. THORNTON: Court's indulgence, Your Honor.

5 Q I have no further questions. Thank you, Mr. Harris.

6 THE COURT: Re-cross, limited to redirect.

7 RECROSS-EXAMINATION

8 BY MR. PLEXICO:

9 Q Do you have that statement in front of you?

10 A Yes, sir.

11 Q You still have this statement in front of you? Is the
12 first -- could you look at it?

13 (The witness complies.)

14 Q Is the first line "I, Nathaniel Harris, was in the act
15 of burglary"?

16 A Yes, sir.

17 Q Okay. And then it blames what you are doing. It says,
18 "And Stevie Aiken had me to break into this lady's house."
19 So you said you were in the act of burglary, but somebody
20 else made you do it, correct?

21 A Yes, sir.

22 Q Now, you realized -- you have a lawyer, correct?

23 A Yes, sir.

24 Q You realized just how much trouble you're in, correct?

25 DEP. SOL. THORNTON: Objection, Your Honor. It exceeds

1 the scope of recross.

2 MR. PLEXICO: That's -- that -- that's ---

3 THE COURT: Hold on a second. Counsel, approach.

4 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
5 AND OUT OF THE HEARING OF THE JURY.)

6 THE COURT: Objection is sustained. Beyond the scope.
7 Limited to redirect. Please proceed, counsel. This is
8 recross-examination limited to redirect.

9 Q The Solicitor asked you just now about you testifying
10 and cutting a deal; is that correct? Did you have a deal?
11 And when you had it, did the Solicitor just ask you that?

12 A No, sir.

13 Q Why are you testifying today? For your deal; is that
14 correct?

15 A I'm confused right now.

16 MR. PLEXICO: I don't have anything further.

17 THE COURT: You may step down from the witness stand.
18 Leave the documents here.

19 (WITNESS EXITS.)

20 THE COURT: Mr. Foreman, ladies and gentlemen of the
21 jury, I'm going to take my mid-afternoon break at this time.
22 Please do not discuss this case. You have not heard all the
23 evidence in this case. I'll be right back with you as soon
24 as I know each of you have had a chance to take a break.
25 You may retire to your jury room at this time.

Direct Examination of Nathaniel Harris by Dep. Sol. Thornton

1 (4:25 P.M., 3-8-11, WHEREUPON THE JURY EXITS THE
2 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
3 RECORD.)

4 THE COURT: All right. Let the record reflect, we just
5 had a bench conference, and I sustained the Solicitor's
6 objection to Mr. Plexico asking on recross-examination after
7 redirect: "You know you're in a lot of trouble, right?"
8 First he asked, "You have an attorney. You know you're in a
9 lot of trouble." I sustained that objection. It's beyond
10 the scope of redirect examination. But I permitted Mr.
11 Plexico to ask this witness anything about any alleged deal
12 that he had, as permissive under recross-examination. I
13 wanted there to be a record of my ruling of the conference
14 which occurred at the bench.

15 We'll take a short break and continue with the trial.

16 (OFF THE RECORD, BRIEFLY.)

17 THE COURT: State ready to proceed?

18 ASST. SOL. THORNTON: The State's ready, Your
19 Honor.

20 THE COURT: Is the defendant ready to proceed?

21 MR. PLEXICO: Yes, Your Honor.

22 THE COURT: Bring us the jury.

23 (5:00 P.M., 03-08-11, WHEREUPON, THE JURY ENTERS THE
24 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
25 RECORD.)

1 THE COURT: Ladies and gentlemen of the jury, I
2 cannot finish this case today, not without keeping you
3 here until 9:00 or 10:00 tonight, and I'm not going to
4 do that. So, I'm going to adjourn at this point for
5 today and we'll start back in the morning. We have
6 approximately six more witnesses in the trial of this
7 case; it may be seven, that I'm aware of at this time.
8 There's no way to gauge exactly how long that will take
9 and we have argument and charge, but I anticipate we
10 will complete the case tomorrow. I want to get you back
11 to your homes in a timely fashion.

12 As I've instructed you throughout the trial,
13 please do not discuss this case with anyone. It would
14 be improper for you to do so. Please, I have a
15 feeling, because obviously the media has been in the
16 courtroom, there will probably be some press coverage,
17 either on radio, television or newspaper. Please do
18 not listen to such, read such, or watch such. You must
19 decide this case solely upon evidence introduced in
20 this courtroom when both sides are present with the
21 right of cross examination.

22 Now, over the overnight recess, I know people can
23 be curious and that's perfectly normal. Just tell them
24 that you're on the jury if they ask you about the case
25 and that the judge has instructed you not to talk about

1 it. If the person persists wanting to talk to you
2 about it, get their name and give it to me and I will
3 handle it for you.

4 I hope everybody has a pleasant evening. I don't
5 have anymore motions like I did this morning, and I
6 want to start at 9:30 in the morning; that means at
7 9:30, because I think I've handled everything that I
8 have to handle that would have delayed the start like
9 it did this morning, already. So please be in your
10 jury room prior to 9:30. That's so I can get you home
11 in a timely fashion, so we need to be able to start.
12 So, don't come to courtroom. Report to your jury room
13 and be in your jury room before 9:30 in the morning so
14 we can start at 9:30. Any questions from anyone?
15 Now, I'm aware that I have one juror who has a
16 situation involving a funeral, and I will deal with
17 that tomorrow. I hope everybody has a pleasant
18 evening. I look forward to seeing you in the morning
19 at 9:30. You may leave the courtroom at this time
20 through this door. Everyone else remain seated while
21 the jury is leaving the courtroom.

22 (5:04 P.M., 03-08-11, WHEREUPON, THE JURY EXITS
23 THE COURTROOM AND COURT IS ADJOURNED FOR THE EVENING.)

24 (9:50 A.M., 03-09-11, WHEREUPON, COURT IS BACK IN
25 SESSION IN THE TRIAL OF STEVIE AIKEN, AND THE FOLLOWING

1 IS HELD ON THE RECORD.)

2 THE COURT: Let the record reflect that I had a charge
3 conference this morning with my lawyers, concerning the
4 charge. I have received the request to charge from the
5 State yesterday. And although I'm going to charge the hand
6 of one is the hand of all, I am not going to charge it in
7 the wording submitted by the State. I have also received a
8 request to charge, depending on what the evidence shows
9 today, from the defendant, and I'll take that up at the
10 appropriate time later on, so that the State knows exactly
11 what I'm going to charge, before they give their closing
12 argument.

13 This morning, I was advised by the Clerk that I had a
14 juror, -- what number, Mylinda?

15 MADAME CLERK: He's Number Nineteen.

16 THE COURT: Number Nineteen, who, although not a blood
17 family member, had a death in the family of the woman who
18 raised him. Her funeral is this afternoon and he is a
19 pallbearer in the funeral. And because this was someone who
20 he considered to be his mother, I had called the lawyers to
21 my chambers and advised them that I was going to excuse this
22 juror. So he has to leave at twelve anyway, and I don't
23 think we'd be completely finished. So that will
24 necessitate that we use the first alternate to take his
25 place, in order that he can be a pallbearer, who is Janice

1 Fields. And that was by agreement of counsel.

2 Finally this morning, I prepared a verdict form for the
3 jury. I showed the verdict form to both counsel for the
4 State of South Carolina and counsel for the defendant. They
5 both approved the verdict form which I prepared.

6 I then went over every single item in my charge with
7 the attorneys, so that they would be aware of the different
8 matters which the court, at this time, even though we have
9 not concluded the testimony, intends to charge the jury in
10 the court's charge on the law. And they are both aware of
11 what I intend to do so far, at this stage, so that we can
12 move the trial along and not have to re-plow any ground
13 later on.

14 With that, is there anything further from the State
15 before I bring the jury?

16 SOLICITOR STONE: No, sir.

17 THE COURT: From the defendant?

18 SOLICITOR STONE: No, Your Honor.

19 THE COURT: Bring us the jury, please.

20 (10:00 A.M., 3-9-11, WHEREUPON, THE JURY ENTERS THE
21 COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

22 THE COURT: All right. Good morning, ladies and
23 gentlemen. Good morning, Mr. Foreman.

24 (Jurors reply.)

25 THE COURT: As you may or may not know, we had a juror

1 who had a death of a woman who he considered, although not a
2 blood relative, but she's the person who raised him. He's
3 scheduled to be a pallbearer in the funeral today. Because
4 of that hardship, I have excused him from jury service
5 because he could not do that and remain to the completion of
6 the trial.

7 Therefore, Ms. Janice Fields, the reason that I draw
8 alternate jurors is for things that arise like that, such as
9 a death. You are now part of the jury. You will take his
10 place. Would you like to come down and take this seat for
11 me?

12 (Ms. Fields comes forward.)

13 THE COURT: Alternate Number One, Janice Fields is now
14 a member of the jury.

15 All right, ladies and gentlemen, we will now continue
16 with the testimony in the trial of the case

17 THE COURT: Solicitor, please call your next
18 witness.

19 DEP. SOL. THORNTON: Perry Singleton.

20 (MR. PERRY SINGLETON ENTERS THE COURTROOM.)

21 WHEREUPON, MR. PERRY SINGLETON WAS DULY SWORN.

22 THE COURT: Good morning. Use the microphone. Pull up
23 closer to it. State your full name and spell your last
24 name.

25 MR. SINGLETON: Perry Singleton, Sr. Last name, S-I-N-

Direct Examination of Perry Singleton by Dep. Sol. Thornton

1 G-L-E-T-O-N.

2 THE COURT: Your witness, counsel.

3 SOLICITOR STONE: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 DEP. SOL. THORNTON:

6 Q Mr. Singleton, who do you work for?

7 A Hampton County Sheriff's Office.

8 Q And what do you do for them?

9 A I'm an investigator for the sheriff's office.

10 Q All right. Is that the same thing as saying a
11 detective?

12 A Yes, sir.

13 Q All right. Detective Singleton, did you work in the
14 same capacity for the Hampton County Sheriff's Office on or
15 about December the 7th, 2009?

16 A I did.

17 Q All right. And did you have an occasion to witness a
18 statement being given by the defendant in this case, Stevie
19 Lamont Aiken?

20 A Yes, I did.

21 Q All right. I'm going to hand you what's been marked
22 for identification --

23 DEP. SOL. THORNTON: Pardon me, Your Honor.

24 THE COURT: Yes, sir.

25 DEP. SOL. THORNTON: I'm going to give a copy to

1 Defense counsel.

2 MR. PLEXICO: Okay.

3 Q I'm going to hand you what's been marked for
4 identification as State's Exhibit Number Thirty-eight. And
5 ask you, sir, can you identify that document for me?

6 A Yes, sir. This is a copy of the Sheriff's Office
7 Miranda Rights form.

8 Q All right. And Miranda rights form, you mean the "You
9 have a right to remain silent" speech?

10 A Yes.

11 Q All right, sir. And is that just any form for that or
12 is it a particular form?

13 A Particular form.

14 Q And what was the particular form?

15 A Hampton County Sheriff's Office, Miranda Rights.

16 Q All right. Let me rephrase my question. Do you have
17 lots of those forms that you use?

18 A Yes, we do.

19 Q All right. Is that just a generic, blank form? Or is
20 it used in a particular case?

21 A All cases where we have to interview somebody, we will
22 use this on them.

23 Q And in what case was Exhibit Thirty-eight, for
24 identification, used in?

25 A The Gooding case.

1 Q All right. Is that the one where Stevie Lamont Aiken
2 is the defendant?

3 A Yes.

4 Q Detective, what are the rights that are listed on that
5 form?

6 A You have the right to remain silent. Anything you say,
7 can and will be used against you in a court of law. You
8 have the right to talk to a lawyer prior to answering any
9 questions, and have him or her present with you during
10 questioning. If you cannot afford a lawyer, the court will
11 appoint one to represent you without cost, if you wish. If
12 you decide to answer questions now, without a lawyer
13 present, you still have the right to stop answer questions
14 at any time. This is a statement of my rights and I
15 understand what my rights are.

16 Q All right. And are there any notations next to each
17 one of those rights?

18 A Yes. We get the suspect to initial to the left of each
19 sentence.

20 Q All right. And in this case, were those rights read to
21 Mr. Aiken in your presence?

22 A Yes, sir.

23 Q All right. Did he initial next to each one of those
24 rights?

25 A He did.

1 Q And did he also sign or print his name on the form,
2 indicating he would give a statement?

3 A Yes, he did.

4 Q And was all that done in your presence?

5 A Yes.

6 Q Is that an accurate copy of the Miranda Rights form
7 given to him that day?

8 A Yes.

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

10 A No, sir.

11 DEP. SOL. THORNTON: Your Honor, I'd ask that State's
12 Exhibit Number Thirty-eight be moved into evidence..

13 THE COURT: Subject to my earlier ruling?

14 MR. PLEXICO: Yes, Your Honor.

15 THE COURT: Very well. It's admissible, as what
16 number?

17 DEP. SOL. THORNTON: Thirty-eight, Your Honor.

18 THE COURT: State's Exhibit Number Thirty-eight, ladies
19 and gentlemen of the jury. It's admissible into evidence.

20 (State Exhibit Thirty-eight, Miranda Rights, received
21 into evidence.)

22 THE COURT: State's Thirty-eight now in evidence. You
23 may publish.

24 Q Detective, while you were present when these rights
25 were being read, was there any threat against the defendant

- 1 in this case, Stevie Aiken?
- 2 A No, sir.
- 3 Q Did anybody promise him any leniency to try to get him
4 to talk?
- 5 A No, sir.
- 6 Q Did anybody make him any promises of any kind?
- 7 A No, sir.
- 8 Q Was it just you in the room? Or were there other
9 officers present as well?
- 10 A Other officers.
- 11 Q All right. And were the same officers there the entire
12 time that Mr. Aiken was talking to y'all or did some come
13 and go?
- 14 A I left just before the written statement.
- 15 Q All right. Without regard to any written statement,
16 let me ask you this: At some point during that interview,
17 did Mr. Aiken confess his involvement in the Gooding case?
- 18 A Yes, he did.
- 19 Q All right. And you left prior to any written statement
20 being taken; is that correct?
- 21 A After he gave a verbal statement, that's when I left.
- 22 Q All right. And what was his verbal statement?
- 23 A Admitting to his involvement in the Gooding case.
- 24 Q Now, the entire time you were there, again, were there
25 any threats made, any coercion, anything like that?

1 A No, sir.

2 Q No promises of any kind?

3 A No, sir.

4 DEP. SOL. THORNTON: Your Honor, Court's indulgence for
5 one moment.

6 Q Thank you very much, Detective.

7 DEP. SOL. THORNTON: Your Honor, I have no further
8 questions.

9 Q Please answer any questions Mr. Plexico has.

10 THE COURT: Cross-examination.

11 CROSS-EXAMINATION

12 BT MR. PLEXICO:

13 Q You have audio and video recording equipment at the
14 Hampton County Sheriff's Department?

15 A We do.

16 Q All right now, did you use that audio and video
17 recording equipment that day?

18 A Yes, we did.

19 Q And isn't it true that he spent the entire video, the
20 entire time that my client is on the video, didn't he spend
21 that entire time saying that he was not involved in this
22 case?

23 A I don't recall that. But video was used prior to the
24 co-defendant interview.

25 Q Did you video record my client's interview?

1 A It was.

2 Q Okay. All right. And his confession is on that video;
3 is that true?

4 A I don't know.

5 Q How many hours ---

6 A At some point, the video ran out. We used that video
7 to interview a co-defendant. And the time for the -- for
8 the tape ran out. I don't know whether he -- it was on
9 there or if it was after the tape -- tape ran out.

10 Q Are you trained to video record the denial of
11 involvement in a crime or the admission of the defendant's
12 involvement in a crime?

13 A The admission.

14 Q Do you have a video, a DVD, any audio of my client
15 admitting to his involvement in this crime?

16 A Not on video.

17 Q Do you have any audio?

18 A No audio.

19 Q Now, you had already talked to Mr. Harris, correct?

20 A We did.

21 Q He gave a statement on video, correct?

22 A Yes, sir.

23 Q And that's on video.

24 A Yes, sir.

25 Q Essentially saying that he went over and burglarized

1 the home, and his involvement, and all the things that
2 happened over at the Gooding residence.

3 A That's correct. He also implicated your client.

4 Q All right now, if he had acted alone, he would be left
5 holding the whole bag; wouldn't he?

6 A Yes.

7 Q All right now, so this went on for hours; didn't it?
8 Where he denied?

9 A I don't know how long it took.

10 Q Well, the DVD you do have is lengthy; isn't that
11 correct, of my client?

12 A It is.

13 Q And the entire time on the lengthy DVD, he has denied
14 any involvement in this matter, correct?

15 A That's correct.

16 Q Now, y'all discussed the case with him, right?

17 A We did.

18 Q All right. And then y'all -- an officer would talk to
19 him, and then the next officer would talk to him, and y'all
20 kind of rolled in and out, correct?

21 A Yes.

22 Q All right. Now, there is no one person who heard that
23 entire interview. No one officer who heard that entire
24 confession; is that not correct?

25 A That's not correct. I did.

1 Q Well, didn't you leave?

2 A That was after the verbal confession by your client.

3 Q Is that on -- is that on DVD?

4 A No, it's not.

5 Q When you watch the DVD, you're getting up and coming in
6 and out; aren't you?

7 A I went out a couple times.

8 Q Right. It was your birthday the next day; wasn't it?

9 A That day.

10 Q That day? Okay. Now, so you've got other things to do
11 besides from the Gooding case, correct? Personal things.

12 A I left after he gave the verbal confession.

13 Q On the DVD, don't you get up and leave and go in and
14 out during the interview?

15 A I did, one or two times, sir.

16 Q Okay. So there's nobody there who knows what was said
17 during the entire time, including yourself, upon reflection,
18 isn't that true?

19 A I was there when he gave the verbal confession.

20 Q Do you know -- would you answer my question?

21 A What's your question?

22 Q So there's no officer there during the entire
23 interview, who was there the entire time. There's no -- let
24 me rephrase this. There's no single officer who heard the
25 entire interview of my client; isn't that true?

1 A Detective Jamison took a statement, written statement,
2 from him.

3 Q Okay. And when you sat down and started talking to my
4 client, Detective Jamison wasn't there, correct?

5 A She was running the video at the time.

6 Q All right. Now, but she wasn't there the whole time.

7 A No, sir.

8 Q So you were wrong when you said Detective Jamison.
9 Therefore, there's nobody who was there the entire time of
10 the interview.

11 A He gave a -- he gave a verbal statement. After that,
12 Detective Jamison was brought in to take his confession on
13 paper.

14 Q Why aren't you answering my question? I've asked it
15 three times. Why are you not answering my question?

16 SOLICITOR STONE: Objection, Your Honor.

17 THE COURT: Sustained. Move along. Ask a question.

18 Q Now, isn't it true that there was no one officer who
19 heard the entire interview of Stevie Aiken?

20 A Sergeant Jamison took a written statement from your
21 client.

22 Q Was there a process before the written statement was
23 given, involving my client, in discussions with my client,
24 about this case, that Sergeant Jamison was not present for?

25 A Yes.

1 Q Okay. Therefore, during the interview of my client,
2 the entire interview, isn't it true that there's no one
3 officer who was present and heard the entire thing?

4 A That's correct.

5 Q Okay. And if you're not there, you couldn't possibly
6 testify any promises were made, if any threats were made, if
7 any suggestions were made, if any coercion was made, because
8 you're not there and you wouldn't know; isn't that true?

9 A There was no threats or promises made while I was in
10 there.

11 Q While you were there.

12 MR. PLEXICO: Court's indulgence.

13 THE COURT: Anything further?

14 MR. PLEXICO: I don't have anything further, Your
15 Honor.

16 THE COURT: Redirect?

17 DEP. SOL. THORNTON: Nothing further, Judge.

18 THE COURT: As to this witness?

19 DEP. SOL. THORNTON: Ask that he be excused.

20 THE COURT: Any objection, Mr. Plexico?

21 MR. PLEXICO: No, Your Honor.

22 THE COURT: You may step down. You're excused from the
23 trial of this case. Call your next witness.

24 SOLICITOR STONE: State re-calls Anthony Russell to the
25 stand.

1 WHEREUPON, MR. ANTHONY RUSSELL WAS DULY SWORN.

2 THE COURT: Good morning. You know what to do.

3 MR. RUSSELL: Yes, sir.

4 DIRECT EXAMINATION

5 DEP. SOL. THORNTON:

6 Q Captain Russell, you testified already in this case.

7 You heard what was just talked about, about this video

8 business; is that correct?

9 A Yes, sir.

10 Q All right. As part of your job, do you pull videotapes

11 together and get things together for both prosecutor's

12 office and defense counsel in the cases?

13 A Yes, sir. That is correct.

14 Q Did you do that in this case?

15 A Yes, sir, I did.

16 Q And did you view the videotape that Mr. Plexico keeps

17 talking about?

18 A Yes, sir, I did.

19 Q All right. And does his client appear for some portion

20 of time on the videotape?

21 A Yes, sir. I think it was roughly, I think, 47 minutes.

22 Q All right. And during that 47 minutes, you've viewed

23 all that tape; is that correct?

24 A Yes, sir. That is correct.

25 Q And during those 47 minutes, does he more or less deny

1 involvement in the case?

2 A Yes, sir, that's correct.

3 Q All right. And does at some point the tape run out?

4 A Yes, sir. When I discovered that the tape ran out, I
5 immediately contacted the investigator for the Solicitor's
6 Office, Bruce Davis, and I met with him. And I told him
7 that, apparently, it was a two hour disk in the mini-cam.
8 And ?prior to that interview with the defendant, Stevie
9 Aiken, the investigators had just interviewed another co-
10 defendant in this case, and that was 57 minutes long. So
11 there was no way that they could have gotten both interviews
12 on one tape, on one disk. And that's what took place in the
13 case.

14 Q So would it be fair to say that the officer messed up
15 and just should have put another tape in?

16 A Yes, sir. After they realized that one interview ran
17 over an hour, the rule of thumb is just to stop that, once
18 they complete that interview, put a new disk in, and you got
19 two hours to do another interview. And, apparently, they
20 didn't do it.

21 Q Now, were you present when this interview was done?

22 A No, sir, I was not.

23 Q The knowledge you have of this is from pulling the
24 video itself?

25 A Yes, sir. Just strictly looking at the video.

1 DEP. SOL. THORNTON: Your Honor, Court's indulgence.

2 THE COURT: Yes, sir.

3 Q I don't have any further questions at this time to ask
4 you. Answer any questions Mr. Plexico has.

5 THE COURT: Cross-examination?

6 CROSS-EXAMINATION

7 BY MR. PLEXICO:

8 Q Sir, you heard the video, correct?

9 A Yes, sir.

10 Q My client never said he was involved in what happened
11 that evening, December 6th, at the Gooding residence.

12 A That's correct.

13 Q You said more or less earlier? I want to be clear. He
14 said he was not involved at all, correct?

15 A Correct. No involvement.

16 MR. PLEXICO: I don't have anything further.

17 THE COURT: Redirect?

18 DEP. SOL. THORNTON: None, Your Honor

19 THE COURT: As to the witness.

20 DEP. SOL. THORNTON: Ask that he be --

21 THE COURT: He's going to remain with us.

22 DEP. SOL. THORNTON: Yes, sir.

23 THE COURT: You may step down. Call your next witness.

24 DEP. SOL. THORNTON: Leslie Jamison.

25 WHEREUPON, MS. LESLIE JAMISON IS DULY SWORN.

1 THE COURT: Make yourself comfortable. Roll that chair
2 up; adjust that microphone. Talk into it. State your full
3 name, spell your last name for Becky, please.

4 MS. JAMISON: Leslie Jamison, J-A-M-I-S-O-N.

5 THE COURT: Your witness, counsel.

6 DEP. SOL. THORNTON: Thank you, Judge.

7 DIRECT EXAMINATION

8 DEP. SOL. THORNTON:

9 Q Ms. Jamison, who do you work for?

10 A Hampton County Sheriff's Office.

11 Q And what do you do for the sheriff's office?

12 A Criminal investigating for the county.

13 Q All right. So would it good to call you detective?

14 A Yes, that's correct.

15 Q Detective Jamison, let me ask you a question. Did you
16 work for the sheriff's office here in Hampton County on or
17 about December the 7th of 2009?

18 A Yes, I did.

19 Q Did you have an occasion on that date to talk to Stevie
20 Lamont Aiken?

21 A Yes, I did.

22 Q And do you see the person you talked to in the
23 courtroom?

24 A (STANDS UP.) Yes.

25 Q I'm glad you stood up. We had a little problem with

1 that yesterday. And can you tell me who he is?

2 A Sitting by Mr. Plexico, Stevie Lamont Aiken.

3 Q All right. What was the reason that you were talking
4 to Mr. Aiken on December the 7th, 2009?

5 A As part of an investigation with a case that we'd had,
6 a Mrs. Margaret Gooding.

7 DEP. SOL. THORNTON: Your Honor, may I approach?

8 THE COURT: You may.

9 Q Ma'am, I'm going to hand you what's been marked for
10 identification as State's Exhibit Number Thirty-nine. Can
11 you identify that document for me?

12 A This is a voluntary statement. This is a form that we
13 use for a voluntary statement at the Hampton County
14 Sheriff's Office.

15 Q Whose voluntary statement is that?

16 A It's a voluntary statement of Stevie Aiken.

17 Q Now, did Stevie Aiken write that statement?

18 A No, he did not.

19 Q Who wrote it?

20 A I did.

21 Q And how did that process work?

22 A Once the verbal interview was done, I was asked to come
23 in to write the statement. As he told me the statement, I
24 wrote it.

25 Q All right. So he repeated his statement to you and you

1 took it down; is that correct?

2 A That's correct.

3 Q Is that writing an accurate reflection of what he told
4 you that day?

5 A Yes, it is.

6 Q And are there notations on there, Detective, where
7 changes were made?

8 A Yes.

9 Q And did Mr. Aiken initial those changes?

10 A Yes. Well, they weren't like actually changes. If I'm
11 writing and I misspell something or something was wrong, I
12 scratched it out, and as procedure, I get him to look at it,
13 tell me what it is. He initials the scratch-out, and I
14 initial it, also.

15 Q All right now, would you please look over, I believe
16 that's four pages.

17 A It's four pages.

18 Q Would you look those over, please?

19 A Okay.

20 Q Has it been altered or changed in any way since you
21 wrote it down?

22 A No, it has not been.

23 Q And is that an accurate reflection of what he told you
24 on December the 7th, 2009?

25 A Yes, sir.

1 DEP. SOL. THORNTON: Your Honor, at this time, I'd ask
2 that State's Exhibit Number Thirty-nine be admitted into
3 evidence.

4 THE COURT: Subject to my earlier ruling in the trial
5 of this case, State's Exhibit Number Thirty-nine is
6 admissible into evidence.

7 (State Exhibit Thirty-nine, statement, received into
8 evidence.)

9 THE COURT: State's Thirty-nine into evidence. You may
10 publish.

11 DEP. SOL. THORNTON: Your Honor, at this time, I would
12 like to -- I'm going to use a demonstrative, a blow-up of
13 this statement. I want to let the Court and Mr. Plexico
14 know that y'all may need to come here. I'll put the ---

15 THE COURT: Mr. Plexico, you may come around, outside
16 the jury box. You going to have some witnesses step down?

17 DEP. SOL. THORNTON: No, sir. I can have her read from
18 right there.

19 THE COURT: You're not using the monitors, just the ---

20 DEP. SOL. THORNTON: Just the stand, Judge.

21 THE COURT: Mr. Plexico, if you'd like to come around,
22 so you can see what's on the easel.

23 (Mr. Plexico moves around to see.)

24 Q Detective, I'd ask you to go ahead and read that
25 statement for me, please.

1 A Okay. "I called my brother, Derrick Aiken, on Sunday,
2 December 6th and asked him to drop us -- me, Nate -- off at
3 Miley's Crossroads, at the train track. Me and Nate stood
4 in Mrs. Gooding's yard for about two hours. Nate went into
5 the woods to use the bathroom. The tissue is still there.
6 I showed Nate where the phone line was and he cut the line
7 with the scissors. The dogs started barking, and this is
8 when Nate and I went by the bedroom window.

9 We couldn't hear nothing, so we went to the window
10 where the light was, and Nate threw a brick in the window.
11 The brick broke the window. He threw a whole brick and then
12 a half a brick in the window.

13 The lady came to the window and says she didn't have
14 anything. Then she shot out the window once. She almost
15 hit Nate in the head. I went around to the back of the
16 house to see if someone was coming out of the door. No one
17 came out. As I was walking back to the side of the house,
18 the back door came open. The lady, Ms. Gooding, said,
19 "Don't hurt me." She went back in and locked the door.

20 I heard another shot. Ms. Gooding was shooting again.
21 I was in the back. She came back to the back door and
22 started yelling for neighbors. I came out the path and she
23 pointed the gun at me and pulled the trigger, but it would
24 not fire. I shot in her direction, and I believe I hit the
25 shed on the neighbor's house.

1 She went back to her room, and I heard a shot. The
2 next thing I knew, she was coming out the back door with
3 blood on her leg and she threw the gun on the ground. She
4 laid on the ground and says, "Don't hurt me anymore."

5 Nate went and got the car, backed it up by where she
6 was on the ground. He took the wheelchair and two water
7 bottles out of the trunk and sat them on the ground at the
8 corner of the house.

9 We -- me, the lady and Nate -- went to Walterboro. I
10 was driving the car and Nate was in the front passenger's
11 seat. Nate had picked her -- picked up her gun and he had
12 it in the car. Nate went in the house twice before we left.
13 He went in one time to get her wallet and keys, and the
14 second time to get her checkbooks.

15 I drove Snyder's Highway back to Walterboro and turned
16 right at the courthouse. I turned left at the Bobop's
17 Amoco, and then turned by the trailer and stopped at the
18 dumpster. Nate threw the guns in the dumpster.

19 Nate and I started arguing about taking the lady to the
20 hospital. I told him to take her to the hospital. Nate
21 says he wasn't taking her. I started walking to my house.
22 Nate came behind me in the car. We argued again. He pulled
23 out and I didn't see him again until that morning at
24 William's Seafood.

25 He showed me a check, personal check, BB&T with two

1 names, Jessie and Margaret Gooding. I don't remember the
2 last name of the Jessie person. The check was made out to
3 Nate Harris for \$6,000. He said the check was from last
4 night and he was going to cash it at BB&T.

5 He used my phone to call a taxi. A blue taxi came and
6 picked him up. I gave him five dollars for the taxi. About
7 20 minutes later, Nate came back and he said he couldn't
8 cash the check because they, BB&T, couldn't contact Ms.
9 Gooding.

10 Nate walked around and about two hours later, the
11 police, black and gold, SLED and Hampton County swarmed the
12 place and took Nate in cuffs. Jimmy Roden called me and
13 told me the police wanted to talk to me. I told him to tell
14 the police I was going to my house. I met the police at my
15 house. Nate's name is Nathan Harris.

16 Me and Nate went back to the dumpsters by Bobop's Amoco
17 around eight or nine this morning. And after he came to my
18 house, he said, "We have to get those guns out of the
19 trash." I rode my bicycle and he walked. I put Nate in the
20 dumpsters and he found the gun: The 32 revolver, black with
21 brown handle, a 9 millimeter, black automatic. He gave the
22 guns to me. I took the 9 millimeter to my brother, Derrick,
23 when I saw him on his lunch break. I stopped him on Hampton
24 Street. I told him to keep it. I took the 32 revolver to
25 my house and I put it in the big couch.

1 Q I notice on the statement, this State's Exhibit Number
2 Thirty-nine, that three of the pages, the first three, say 1
3 of 3, 2 of 3, 3 of 3, and then there was a fourth page.
4 Now, was that statement taken all about the same time, the
5 same evening?

6 A Yes, it was.

7 Q All right. Can you tell me why this fourth page is
8 there, about the defendant and Nathaniel Harris going to
9 stash the guns?

10 A During the time that I was writing the statement for
11 Mr. Aiken, other officers were in Walterboro, trying to
12 recover the guns from where he told them he had placed them
13 in the dumpster. And during that time, once they got there,
14 the guns weren't there. I let him know that.

15 Q When you say ---

16 MR. PLEXICO: I would object to the basis of hearsay,
17 Your Honor.

18 THE COURT: Sustained. Please don't refer to what
19 someone else said. Ask a question, counsel.

20 Q Based on the -- and again, don't talk about
21 specifically what the officers looking for the guns told
22 you. But based on the information they gave you, did you
23 let Mr. Aiken know that the guns were not in the dumpster?

24 A I let Mr. Aiken know. I told him that.

25 Q And what did he tell you?

1 A At that time, he told me where they really were. He
2 gave me the statement. And that's why those pages have
3 three, because he was done. And once I told him that, he
4 gave me the second statement.

5 Q So once you let him know the guns were not in the
6 dumpster where he claimed they were, he came clean and told
7 you where the guns were.

8 A Yes, he did.

9 Q And did you relay that information to the other
10 officers?

11 A Yes, I did.

12 Q Now, while you were with the defendant, Stevie Lamont
13 Aiken, taking this statement down, did he seem to understand
14 what he was doing?

15 A Yeah, he did.

16 Q Did you threaten him in any way?

17 A No, I didn't.

18 Q Did you see anybody else threaten him in any way?

19 A No, I didn't.

20 Q Make any promises to him?

21 A No, sir.

22 Q Did he seem to understand and give you complete
23 sentences and things like that, as he's describing this?

24 A Yes, he did.

25 Q And these are his words on this paper that you wrote

1 down.

2 A Yes, they are.

3 DEP. SOL. THORNTON: Court's indulgence, Your Honor.

4 If I can approach, Judge.

5 THE COURT: You may.

6 Q On State's Exhibit Thirty-nine, which is now in
7 evidence, is there a place for Mr. Aiken to sign or write
8 his name?

9 A Yes, there is.

10 Q And does that appear on just one page or on every page?

11 A The signature is on four pages.

12 Q All four?

13 A All four pages.

14 Q And did you watch him sign that?

15 A Yes, I did.

16 Q Now, did you give -- before he signed it, did you give
17 him an opportunity to change anything?

18 A Yes, I did.

19 Q And how did you do that?

20 A Once I finished the complete statement, I read the
21 statement back to him. I gave it to him, the chance to look
22 it over, to read it.

23 Q And did he indicate to you he needed to make any
24 changes?

25 A No, he didn't.

- 1 Q So you took this statement down verbatim from him.
- 2 A Yes.
- 3 Q You then read it back to him.
- 4 A Yes, I did.
- 5 Q You then gave it to him and allowed him to read it.
- 6 A Yes, I did.
- 7 Q And he decided that that was correct and he didn't need
- 8 to make any changes; is that right?
- 9 A That's correct.
- 10 Q And then he signed it; is that right?
- 11 A He signed off on it.
- 12 Q And the person who signed this and confessed to these
- 13 crimes, is he in the courtroom?
- 14 A Yes, he is.
- 15 Q And again, who is he?
- 16 A Sitting next to Mr. Plexico, black male, Stevie Lamont
- 17 Aiken.
- 18 Q Thank you, ma'am. And just to make sure, and I want to
- 19 go back over this one time. Did you or anybody in your
- 20 presence ever coerce, threaten, intimidate or do anything
- 21 else to Stevie Lamont Aiken?
- 22 A I did not and I did not see anyone else do it.
- 23 Q Thank you.
- 24 DEP. SOL. THORNTON: No further questions, Your Honor.
- 25 A If you'd answer any questions Mr. Plexico has.

1 THE COURT: Cross-examination?

2 CROSS-EXAMINATION

3 BY MR. PLEXICO:

4 Q Well, you said that you operated the video equipment.
5 Did you operate the video equipment?

6 A Yes, I did.

7 Q Now, y'all have multiple DVDs there, is that not
8 correct, to use for interviews?

9 A At that time, we had just one.

10 Q You only had one DVD?

11 A That's all I had, yes.

12 Q When it runs out, can you go get another one?

13 A No. I wasn't aware that it ran out.

14 Q All right now, but you have a lot of experience in law
15 enforcement, right?

16 A Correct.

17 Q All right now, you are trained properly to do your job?

18 A Correct.

19 Q Now, are you trained to actually record the confession
20 of a defendant or the denial of a defendant?

21 A I record the entire interview.

22 Q And he spent a lengthy time on that interview, denying
23 on the video, denying that he had anything to do with this;
24 isn't that true?

25 A In the beginning, he did.

1 Q All right. Now, did you actually see the video?

2 A I never watched the video.

3 Q You never even watched the video you took?

4 A I never watched the video.

5 Q All right now, you have no idea -- you didn't witness
6 the entire interview; is that correct?

7 A No, I did not.

8 Q Y'all were under a lot of pressure to solve this case;
9 weren't you?

10 A We were working very hard to solve it.

11 Q All right now, don't you think it's odd that you've got
12 almost an hour, at least 47 minutes, of the defendant
13 denying he had anything to do with it? There's no statement
14 in his handwriting. Don't you think that's odd?

15 A No, I don't.

16 Q Y'all did have operational video and audio equipment,
17 correct?

18 A Correct.

19 Q Now, so you missed an hour or two hours of this
20 process?

21 A I don't know exactly how long to the minute.

22 Q Now, it went on about four hours? five hours?

23 A I can't tell you that exactly either. I don't have the
24 exact time we started, and I don't have the exact time we
25 ended; the entire process.

1 Q Would it go on for hours and hours?

2 A It went on for some time.

3 Q What is "some time" in your definition?

4 A Some time, it went on.

5 Q How would you define "some time" in a matter of hours
6 and minutes, in your own words?

7 A How would I define "some time"?

8 Q Yes, ma'am.

9 A It went on for a while. I don't know exact amount of
10 hours of time.

11 Q Was it more or less than six hours?

12 A It was -- it was more than a hour, I know.

13 MR. PLEXICO: I don't have anything further, Your
14 Honor.

15 THE COURT: Redirect?

16 DEP. SOL. THORNTON: Yes, sir.

17 REDIRECT EXAMINATION

18 DEP. SOL. THORNTON:

19 Q Ma'am, just one question. Mr. Plexico asked you a
20 minute ago about did you find this unusual. Do you remember
21 that question?

22 A Yes.

23 Q Is it unusual for a criminal to first deny involvement
24 in a case and then confess?

25 A That's not unusual.

1 Q Thank you.

2 DEP. SOL. THORNTON: Nothing further, Judge.

3 THE COURT: Re-cross, limited to redirect.

4 RECROSS-EXAMINATION

5 BY MR. PLEXICO:

6 Q Is it unusual for the police to say that he confessed,
7 have the audio on and the video to turn off? Is that
8 unusual? Is it unusual for a confession ---

9 THE COURT: One question at a time.

10 Q Is it unusual for the police to have only a denial,
11 with audio equipment in their office that's operational and
12 functioning, and they only have a denial on that video
13 equipment? Isn't that unusual?

14 A That's not unusual.

15 Q This happens all the time in the Hampton County
16 Sheriff's Office?

17 A I don't know about in Hampton County, but that's not
18 unusual.

19 Q What are you referring to?

20 A I'm referring to, I was the one that was operating the
21 videotape. I operated the videotape. I was being pulled in
22 and out of the office at the time, doing different things.
23 The tape was running, and at some point it cut off. That
24 wasn't intentional. It cut off.

25 Q Is it unusual ---

1 A Means the tape had ran out.

2 Q All right. Let me explain it again. Isn't it unusual
3 for a defendant, when you have operational video equipment
4 and the defendant allegedly confessed, and then this
5 interview went on for a while, isn't it unusual only a
6 denial is on the video?

7 A That's not unusual.

8 MR. PLEXICO: I don't have anything further.

9 THE COURT: As to this witness, counsel.

10 DEP. SOL. THORNTON: Ask she be excused, Your Honor.

11 THE COURT: Any objection to this witness being
12 excused?

13 MR. PLEXICO: None whatsoever, Your Honor.

14 THE COURT: You may step down and you are excused from
15 the trial of this case. Call your next witness.

16 DEP. SOL. THORNTON: Greg Antley.

17 (MR. GREG ANTLEY ENTERS THE COURTROOM.)

18 WHEREUPON, MR. GREG ANTLEY WAS DULY SWORN.

19 THE COURT: Have a seat and make yourself comfortable.
20 Pull that chair up. The microphone, adjust the microphone
21 to your height. State your full name and spell your last
22 name for my court reporter.

23 MR. ANTLEY: Greg Antley. Last name, A-N-T-L-E-Y.

24 THE COURT: Your witness, counsel.

25 DEP. SOL. THORNTON: Thank you, Judge.

1 DIRECT EXAMINATION

2 DEP. SOL. THORNTON:

3 Q Agent Antley, who do you work for, sir.

4 A State Law Enforcement Division.

5 Q Is that commonly known as SLED?

6 A Yes, sir, it is.

7 Q Were you working for SLED, sir, on or about December
8 the 7th, 2009?

9 A Yes, I was.

10 Q And did you have any connection at all with a case
11 involving a victim, Margaret Gooding?

12 A Yes, I did.

13 Q And what involvement did you have, sir?

14 A The initial call received to SLED was that the Hampton
15 County Sheriff's Office requested assistance in what started
16 out as apparently a missing person case. Basically, the
17 Hampton County Sheriff's Office responded to a residence in
18 the county that morning, found evidence of disarray. And
19 the resident of the -- person that lives at the residence,
20 could not be located. So I was assigned to come down and
21 assist the sheriff's office at that point.

22 Q And did you do that?

23 A Yes, sir.

24 Q Were you present when any statements were taken from
25 Stevie Lamont Aiken?

1 A Yes, sir, I was.

2 Q Do you see Stevie Lamont Aiken in the courtroom, sir?

3 A Yes, sir, I do.

4 Q Where is he?

5 A He's sitting at the table with the shirt and tie on
6 next to his attorney.

7 DEP. SOL. THORNTON: Your Honor, may I approach?

8 THE COURT: You may.

9 Q I'm going to hand you what's been marked as State's
10 Exhibit Thirty-eight and Thirty-nine. First as to Thirty-
11 eight, sir. Can you tell me what that document is?

12 A It's a written Miranda Rights form.

13 Q And is it a specific written Miranda Rights form?

14 A At the top, it's listed as Hampton County Sheriff's
15 Office, Miranda Rights. It is dated and initialed and
16 signed.

17 Q And were you present when the Miranda Rights were read
18 to the defendant in this case, Stevie Lamont Aiken?

19 A Yes, sir, I was.

20 Q And were you one of the people in the room when he was
21 questioned?

22 A Yes, sir, I was.

23 Q And were each of those rights, that's already been
24 published to the jury, were each of those rights read to Mr.
25 Aiken?

1 A Yes, sir, they were.

2 Q And did you watch him initial each right?

3 A Yes, sir, I did.

4 Q And did he sign or print his name on that form,
5 indicating he understood his rights?

6 A Yes, sir.

7 Q Now, were you present for the entire verbal interview?

8 A Yes, sir, I was.

9 Q Would you please review for me item State's Exhibit
10 Thirty-Nine? Take your time; it's four pages. Please
11 review each page.

12 (BRIEF PAUSE IN THE COURTROOM WHILE THE WITNESS REVIEWS
13 THE DOCUMENT.)

14 A Okay.

15 Q All right. Agent Antley, have you had a chance now to
16 review all four pages?

17 A Yes, sir.

18 Q All right. Let me first ask you some questions as to
19 the first three pages. They've already been published to
20 the jury, which I believe end with "him." And "him" being
21 Stevie Lamont Aiken and Nathaniel Harris putting the guns in
22 the dumpster. Up until that point, sir, is that an accurate
23 reflection of the verbal statement he gave in your presence?

24 A Yes, sir.

25 Q Once he gave that statement, admitting to the crimes

1 and where he had put the guns, did you do anything at that
2 point?

3 A I left the investigator's office, that is, I think,
4 technically in Varnville, South Carolina, and traveled to
5 Walterboro, attempting to locate the weapons, by locating
6 dumpsters in the area where the victim's car was found.

7 Q Were you able to find any guns in dumpsters?

8 A No, sir, I was not.

9 Q Did y'all relay that information -- again, don't get
10 into what anybody specifically said, but was that
11 information relayed back to Hampton?

12 A Yes, sir.

13 Q All right. After you did that, were you provided with
14 information about where the guns might be?

15 A Yes, I was.

16 Q All right. I'm going to hand you what's been marked as
17 State's Exhibit Number Thirty-four, and ask you if you can
18 identify the item -- actually, I think there's -- the box is
19 Thirty-four and there's maybe additional item numbers. If
20 you'll open the box for me.

21 (The witness complies.)

22 Q Can you identify each of the items that are tagged in
23 that box?

24 A May I remove the weapon from the bag?

25 Q You can.

1 DEP. SOL. THORNTON: Your Honor, it has been trigger
2 locked. The trigger lock is still intact.

3 THE COURT: Very well. You may do so.

4 A This item is Thirty-four B. It is a Charter Arms
5 Revolver bearing Serial Number 524716. And if I may, from
6 my report, the receipt of property of the weapon that I
7 turned over to SLED agent Sabrina Zonizer, on December 18th
8 of '09 is a Charter Arms 32 Caliber Revolver bearing Serial
9 Number 524716. This is the same weapon that I recovered.

10 Q Where did you recover that weapon?

11 A This weapon was recovered from [REDACTED] Street in
12 Walterboro, South Carolina.

13 Q So you recovered that weapon at [REDACTED] Street?

14 A That's correct.

15 Q And any particular place in [REDACTED] Street where
16 that weapon was recovered?

17 A Listed on item Thirty-four C is a -- a basically a
18 brown paper bag, which I used -- this is my writing on this
19 bag. It was used -- when I recovered this weapon, the
20 weapon was placed in this bag. It's listed "under couch
21 pillow in front living room at [REDACTED] Street in
22 Walterboro, South Carolina."

23 Q Couch pillow at the front living room.

24 A Yes, sir.

25 Q Would you please -- if you would put those back in the

Direct Examination of Greg Antley by Dep. Sol. Thornton

1 box, and would you refer back to State's Exhibit Thirty-n
2 ine, the statement of Derrick Aiken, Page 4, and read for me
3 where Derrick Aiken said y'all would find the 32 gun.

4 THE COURT: Counsel, approach just a moment.

5 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
6 AND OUT OF THE HEARING OF THE JURY.)

7 Q Agent Antley, to keep any confusion I may have caused
8 to a minimum, would you please read State's Exhibit Thirty-
9 nine, the statement from Stevie Lamont Aiken?

10 A Yes, sir.

11 Q As to where he indicated the guns would be found,
12 specifically the 32 caliber pistol.

13 A Okay. On the fourth page of this statement, it reads,
14 the last -- the last sentence on the fourth page, "I took
15 the 32 revolver to my house and put it in the big couch,"
16 period.

17 Q And that's the statement of Stevie Lamont Aiken?

18 A Yes, sir.

19 Q And where does Stevie Lamont Aiken indicate he lives?
20 Isn't there a place at the top of that statement that says
21 what his address is?

22 A It lists [REDACTED] Street, Walterboro, South Carolina.

23 Q Where did you find the 32?

24 A [REDACTED] Street in Walterboro, South Carolina.

25 Q Thank you very much, sir. Now, is this gun in the

Direct Examination of Greg Antley by Dep. Sol. Thornton

1 same, other than having a trigger lock installed, it's in
2 the same condition it was when you found it?

3 A Yes, sir.

4 Q And if you would take a look again at the bag, which
5 has been marked as Thirty-four C. Is that in the same
6 condition as it was? And that's your writing on the bag?

7 A Yes, sir, it's my writing.

8 DEP. SOL. THORNTON: Your Honor, in case we did not
9 move the bag itself into evidence, I ask Thirty-four C also
10 be moved into evidence at this time.

11 THE COURT: Thirty-four C. Mr. Plexico, you agree
12 Thirty-four C is in evidence.

13 MR. PLEXICO: I understand.

14 THE COURT: Counsel, approach. This side.

15 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
16 AND OUT OF THE HEARING OF THE JURY.)

17 Q Agent Antley, I'm going to re-hand you what's been
18 marked, the box, as Thirty-four. The item in it is a
19 pistol. Would you please check to make sure that that will
20 be considered rendered safe for the jury's viewing later in
21 the jury room.

22 (The witness complies.)

23 A Yes, sir. There is a gun lock in the gun's chamber,
24 and the cylinder is empty, also. I consider this gun safe.

25 Q All right, sir. Is there any ammunition of any kind,

1 either in the box or the bag? Would you please check.

2 (The witness complies.)

3 A No ammo. No, sir.

4 Q All right. So you consider it, as an agent of SLED,
5 safe for the jury to view; is that right?

6 A I consider it safe to be handled as is, in the present
7 condition, yes, sir.

8 Q All right. Thank you, sir. Going to hand you what's
9 now been marked as box with State's Exhibit Thirty-five A,
10 and contents, Thirty-five B, C and D. And ask you if you
11 can identify the contents of that box.

12 (The witness complies.)

13 A Exhibit Thirty-five D is a Hi-Point Firearms Model 9 --
14 9 millimeter luger, automatic pistol, with an attached
15 magazine.

16 Q All right, sir. Is the magazine empty?

17 A Yes, sir. This is the weapon that I recovered from
18 [REDACTED] Road in Round O, South Carolina, at
19 approximately 12:05 a.m. on the morning of December 8th,
20 2009.

21 Q All right. And whose address do you understand that
22 that is?

23 A Derrick Aiken.

24 Q All right. And if you would put that aside for one
25 moment and look back at the statement of Stevie Lamont

Direct Examination of Greg Antley by Dep. Sol. Thornton

1 Aiken, Page 4. Where does he indicate that the 9 millimeter
2 can be found?

3 A On the fourth page, in the center of the paragraph, it
4 reads, "I took the 9 millimeter to my brother Derrick when I
5 saw him on his lunch break."

6 Q All right. And did you retrieve the weapon from
7 Derrick Aiken at his house?

8 A Yes, sir, I did.

9 Q And is that weapon a 9 millimeter?

10 A Yes, sir.

11 Q And what did you do with the weapon once you recovered
12 it?

13 A Once it was recovered, it was placed in a bag, a brown
14 paper bag, which the brown paper bag is item Thirty-five B.
15 Also with the weapon recovered as Exhibit Thirty-five C was
16 a clear plastic bag and what I -- what I considered a shop
17 rag. The weapon, when I recovered it from the property, was
18 inside the plastic bag and wrapped inside the shop rag.

19 Q Now, was there anything unusual about the identifying
20 marks on that pistol?

21 A Besides being able to read the name of what type of
22 make the pistol was, I could not read the serial number on
23 the under side of the pistol because it appeared to be --
24 have -- have been filed down.

25 Q Filed down, meaning the serial number had been removed?

Direct Examination of Greg Antley by Dep. Sol. Thornton

1 A Well, it was -- the -- the serial number plate was
2 there, but the number could not be read. It was filed
3 enough or just disfigured enough to where the numbers could
4 not be read at that point.

5 Q All right, sir. Would you examine the pistol where the
6 serial number would normally be. And can you tell me, has
7 it been altered in any way since you had it?

8 A Yes, sir. On the under side here, it -- it appears
9 that part of the actual composite stock of the gun has been
10 removed to reveal a plate showing a serial number, adjacent
11 to the original serial number pad here.

12 Q So it would appear there's a hidden serial number on
13 the underside of that plate?

14 A Yes, sir.

15 Q All right. Other than that, sir, has the gun been
16 changed or altered in any way, other than the addition, of
17 course, of the trigger lock?

18 A No, sir.

19 Q All right. If you will set that to the side for me,
20 Agent, one minute and go back to Page 4 of the statement
21 that you just read from, from Stevie Lamont Aiken.

22 (The witness complies.)

23 Q Just to make clear, what else did he say? Or what was
24 the next sentence that he talked about -- he, being Stevie
25 Lamont Aiken -- that he asked his brother to do with this

Direct Examination of Greg Antley by Dep. Sol. Thornton

1 gun?

2 A The statement again says, "I took 9 mm to my brother,
3 Derrick, when I saw him on his lunch break. I stopped him
4 on Hampton Street."

5 Q All right. And what does it say after that?

6 A "I told him to keep it."

7 Q And is that who you got the gun from?

8 A Yes, sir, it is.

9 DEP. SOL. THORNTON: Your Honor, at this time, I'd ask
10 that State's Thirty-five, I believe it's A, B, C and D, Your
11 Honor, which includes the box, be admitted into evidence.

12 THE COURT: Becky, I have Thirty-five A, B and C and D.
13 Thirty-five A, B, C and D already in evidence; do you?

14 COURT REPORTER: It was ID'd.

15 THE COURT: Just ID'd. Any objection as to Thirty-five
16 A, B, C and D, Mr. Plexico?

17 MR. PLEXICO: No, Your Honor.

18 THE COURT: Ladies and gentleman of the jury, State's
19 Exhibits Thirty-five A, Thirty-five B, Thirty-five C and
20 Thirty-five D will be admitted into evidence, without
21 objection. You may publish.

22 (State Exhibit Thirty-five A, box, received into
23 evidence.)

24 (State Exhibit Thirty-five B, shop rag in bag, received
25 into evidence.)

1 (State Exhibit Thirty-five C, brown paper bag, received
2 into evidence.)

3 (State Exhibit Thirty-five D, 9 mm gun, received into
4 evidence.)

5 Q Same question that I asked about the other weapon,
6 Agent. Would you please review that one more time. Make
7 sure the trigger lock is intact and there's no ammunition
8 with the pistol.

9 (The witness complies.)

10 A And if I can, Judge. Agent Antley, when you go to
11 certify that it is safe for the jury, if you would please
12 come down and publish to the jury, since you are far more
13 experienced in firearms than I am.

14 A In its present state, the gun is locked. There is not
15 any bullet in the chamber, and the magazine is -- is empty
16 at this time. In my opinion, it is safe to handle.

17 DEP. SOL. THORNTON: With Court's permission, I'd ask
18 him to come down to publish.

19 THE COURT: Mr. Plexico, you may come around. You may
20 step down with the exhibit.

21 MR. ANTLEY: The weapon is -- is currently empty.
22 There's not a bullet in the chamber. The gun lock keeps the
23 slide action from moving.

24 DEP. SOL. THORNTON: Thank you. Your Honor, Court's
25 indulgence for one moment, sir.

1 Q At this time, I have no further questions. I'd ask
2 that if you'd please answer any questions Mr. Plexico has.

3 THE COURT: Cross-examination.

4 CROSS-EXAMINATION

5 BY MR. PLEXICO:

6 Q Sir, did you pick up my client and bring him to Hampton
7 from Walterboro?

8 A No, sir.

9 Q Was he brought here by law enforcement?

10 A Yes, sir.

11 Q Isn't it true that if you're the lead agent on this
12 ???; is that correct?

13 A The lead agent from SLED?

14 Q SLED.

15 A Yes, sir.

16 Q Isn't it true that this gun fired rounds into Ms.
17 Gooding's house, according to the SLED analysis?

18 A Yes, sir.

19 Q And you found this gun where?

20 THE COURT: Refer to the exhibit number for the record.
21 When you say "this gun", counsel, it's unclear.

22 Q Exhibit Thirty-five D, which is this gun, fired shots
23 into Ms. Gooding's residence.

24 A Yes, sir.

25 Q And you found this gun at Derrick Aiken's house,

Cross-Examination of Greg Antley by Mr. Plexico

1 correct?

2 A Yes, sir.

3 Q All right now, normally, were you relying -- you
4 interviewed Mr. Harris, correct?

5 A Correct.

6 Q All right now, were you present when he wrote any kind
7 of statement, my client?

8 A You mean Mr. Aiken, when he wrote his statement?

9 Q Were you present?

10 A No, sir.

11 Q So as he wrote out that statement, you verified that he
12 wrote it, when you came back. Did you come back that night?

13 A I just verified the statement by the signature being on
14 the statement.

15 Q You didn't see him sign it, though; did you?

16 A No, sir.

17 Q And you have no -- how many samples of his signature do
18 you have in that file?

19 A None, that I'm aware of.

20 Q And this was a very high profile case, correct?

21 A Yes, sir.

22 Q Where do you work for normally?

23 A Sir?

24 Q Do you work out of Columbia?

25 A At the time, I was working out of the North Charleston

Redirect Examination of Greg Antley by Dep. Sol. Thornton

1 office.

2 Q Is that where you live, in North Charleston?

3 A No, sir.

4 THE COURT: Anything further?

5 MR. PLEXICO: I don't have anything further of this
6 witness.

7 THE COURT: Redirect?

8 REDIRECT EXAMINATION

9 DEP. SOL. THORNTON:

10 Q Mr. Plexico asked you a minute ago if you saw Stevie
11 Aiken sign that statement, and you indicated you did not; is
12 that correct?

13 A That's correct.

14 Q Does the first three pages, at least, of that statement
15 accurately reflect what you heard him confess to verbally,
16 prior to you leaving the office?

17 A Yes, sir, it does.

18 Q No further questions.

19 THE COURT: Recross, limited to redirect.

20 MR. PLEXICO: I don't have anything further.

21 THE COURT: As to this witness, Solicitor?

22 DEP. SOL. THORNTON: I'd ask that he be excused, Your
23 Honor.

24 THE COURT: Any objection to this witness being
25 excused, Mr. Plexico?

1 MR. PLEXICO: No, Your Honor.

2 THE COURT: Greg, you may step down from the witness
3 stand, and you are excused from the trial of the case. You
4 may leave the courtroom. Please make sure my exhibits are
5 back in the boxes for jury, so that they're together. And
6 Sean, bring him the rest of the exhibit, so he can put them
7 back in the box.

8 DEP. SOLICITOR. THORNTON: Yes, sir.

9 MR. ANTLEY: Thank you, Your Honor.

10 THE COURT: Thank you.

11 (BRIEF PAUSE.)

12 THE COURT: Call your next witness.

13 DEP. SOL. THORNTON: Allen Inabinett.

14 MADAME CLERK: Place your hand on the Bible.

15 WHEREUPON, MR. ALLEN INABINETT WAS DULY SWORN.

16 THE COURT: Pull that chair up. Adjust that
17 microphone. You know what to do. State your full name,
18 spell your last.

19 MR. INABINETT: Fred Allan Inabinett, I-N-A-B-I-N-E-T-
20 T, Inabinett.

21 THE COURT: Get a little closer to that mic. Your
22 witness, counsel.

23 DEP. SOL. THORNTON: Thank you, Judge.

24 DIRECT EXAMINATION

25 DEP. SOL. THORNTON:

1 Q Mr. Inabinett, I know this is a ridiculous question for
2 me to ask you, but who do you work for?

3 A Colleton County Sheriff's Department.

4 Q And are you, in fact, lieutenant over the detective
5 division of Colleton County?

6 A Yes, I am.

7 Q All right. Were you operating in that capacity on or
8 about December the 7th of 2009?

9 A Yes, sir, I was.

10 Q All right. And did you have any -- did you put in any
11 work on the case involving one Margaret Gooding, found in
12 Colleton County in the trunk of her car?

13 A Yes, sir.

14 Q All right. What did you do, sir?

15 A I immediately responded to the location on [REDACTED]
16 Circle, which is in Colleton County, due to a complaint
17 about a suspicious car being found, which was a white
18 vehicle.

19 Q All right. Is that the car where Ms. Gooding was found
20 in the trunk of her car?

21 A That's correct.

22 Q Now, at any time during the course of your involvement
23 in this case, were you asked to track anybody down?

24 A Yes, sir.

25 Q And without regard to telling me anything anybody else

- 1 told you, just who were you asked to track down?
- 2 A A individual, two individuals. One named Nathaniel
- 3 Harris and one named Stevie Aiken.
- 4 Q All right. Who were you asked to track down first?
- 5 A Nathaniel Harris.
- 6 Q Were you able to locate him?
- 7 A Yes, sir.
- 8 Q And when you were able to locate him, did you take him
- 9 into custody?
- 10 A I did. I met him in Colleton County, Francis Street
- 11 area. He was transported back to Colleton County Annex,
- 12 where he was then transferred to Hampton County Sheriff's
- 13 Department.
- 14 Q All right. After he left and went to Hampton, did you
- 15 have any other contact with Mr. Harris about this case?
- 16 A No, sir.
- 17 Q All right. Next, you mentioned the second person you
- 18 were asked to find. Who is that?
- 19 A Mr. Stevie Aiken.
- 20 Q You know who Stevie Aiken is, to look at him?
- 21 A Yes, sir.
- 22 Q You see him in this courtroom?
- 23 A Yes, sir. He's sitting at defense counsel table.
- 24 Q Were you able to find Stevie Aiken that day?
- 25 A Yes, sir.

1 Q Tell me how.

2 A Knowing the area where Mr. Aiken resides at, which is
3 the Foxfield Subdivision area; it's in Colleton County.
4 I -- I seen Mr. Aiken riding his bicycle. And I then
5 stopped and had a conversation with him.

6 Q All right. And what was the conversation? Actually,
7 don't even go into that. Let me ask you another question.
8 When you got done discussing whatever, what did you do after
9 that?

10 A I escorted Mr. Aiken to his residence. I followed him
11 on his bicycle. He went to his home at [REDACTED] Street,
12 where I watched on the left side and he made some movement
13 to put some kind of item right inside the door. He then
14 came outside. I patted him down, and he and I went back to
15 the sheriff's department.

16 Q All right. At some point, did you transfer custody to
17 Hampton?

18 A Yes, sir. I was then met by Hampton County Sheriff's
19 Department at the Colleton County Sheriff's Department.
20 Then he was transferred to Hampton County.

21 Q Did you have an occasion that day or the next day to go
22 back to [REDACTED] Street, Stevie Aiken's address?

23 A Yes, sir. At approximately nine o'clock p.m. on the
24 night of the 7th, I went back to [REDACTED] Street and met
25 with Mr. Aiken's girlfriend or fiancé.

1 Q All right. And was the purpose of that to search [REDACTED]
2 [REDACTED] Street?

3 A That's correct.

4 Q And were you looking for anything in particular?

5 A Yes, sir. A handgun that possibly was involved in the
6 crime.

7 Q And did you participate in the search of the residence?

8 A Yes, sir.

9 Q And who else was there? Do you remember anybody from
10 SLED?

11 A Agent Greg Antley and Hampton County personnel was
12 there as well, Mr. Solomon and, I believe, Mr. Russell.

13 Q All right. Let me ask you a question: Was anything
14 taken into custody?

15 A Yes, sir. We -- I had a -- after doing the -- getting
16 the consent to search by the girlfriend, she gave verbal and
17 written consent. I then went inside, located a 32 caliber
18 revolver up underneath the cushion of the sofa in the living
19 room.

20 Q And was SLED Agent Antley present when you recovered
21 this weapon from the cushion?

22 A Yes, he was.

23 Q Did you turn the gun over to him?

24 A I did.

25 Q Where did you find it?

1 A Underneath the cushion of the -- on the sofa/couch,
2 which is right inside the living room.

3 Q Right. And how far is that from the front door?

4 A Within feet. One, two feet. Yeah, it was very close.

5 Q And so you found it fairly close to the front door?

6 A Yes, sir.

7 Q All right. Were you present at any other location
8 where a search was conducted?

9 A Yes, sir. We left [REDACTED] and then went to [REDACTED] Road,
10 which is the defendant's brother, Derrick Aiken.

11 Q All right. Was anything recovered from that residence?

12 A Yes, sir. The address, I do believe, is [REDACTED] [REDACTED]
13 Road in Colleton County. We obtained, or recovered, a 9
14 millimeter handgun from the house of Derrick Aiken.

15 Q And did you -- you said you recovered the weapon from
16 that; is that correct?

17 A Yes, sir.

18 Q Do you remember what caliber it was?

19 A 9 millimeter.

20 Q I'm going to ask you to look at what's been entered
21 into evidence as State's Exhibit Thirty-four. I believe
22 specifically what I'm asking you about is Thirty-four B,
23 asking if you can identify that for me.

24 (The witness reviews the document.)

25 A Yes, sir.

- 1 Q What is it?
- 2 A This is a 32 caliber revolver.
- 3 Q Any 32 caliber revolver?
- 4 A No, sir. This is the that was recovered from [REDACTED]
- 5 [REDACTED] Street.
- 6 Q Derrick Aiken's house?
- 7 A That's correct.
- 8 Q Where, again, did you find it?
- 9 A Underneath ---
- 10 Q I'm sorry, Stevie Aiken's house?
- 11 A Correct, sir. Stevie Aiken's house. Underneath the
- 12 sofa, which is in the living room in the couch.
- 13 Q And what address is that?
- 14 A [REDACTED] [REDACTED] Street in Colleton County.
- 15 Q All right. Stevie Aiken's address.
- 16 A Yes, sir.
- 17 Q Look at State's Exhibit Thirty-five for me and ask you
- 18 if you can identify that. It's already been introduced into
- 19 evidence.
- 20 A Yes, sir.
- 21 Q All right. What is it?
- 22 A Hi-Point, 9 millimeter.
- 23 Q All right. And is it any 9 millimeter?
- 24 A No, sir. This is the one that was recovered from
- 25 Derrick Aiken's house.

1 Q All right. And since I probably thoroughly confused
2 everybody in the courtroom, the 32 was recovered at whose
3 house?

4 A Stevie Aiken.

5 Q And the 9 was recovered at whose house?

6 A Derrick Aiken.

7 Q And are the guns that you saw and helped recover that
8 day?

9 A Yes, sir.

10 Q I'm going to ask you to identify what's been marked for
11 identification as State's Exhibit Twenty-seven. If you can,
12 what is it?

13 A This is a overview map of Colleton County. But more
14 precisely, the area where the vehicle was recovered and Mr.
15 Aiken's residence.

16 Q All right. And there is wording on there. I believe
17 one says "Margaret Gooding's car." Can you read that,
18 please?

19 A Yes, sir. In red, bold, "Margaret Gooding's 1998 Buick
20 LeSabre." In red, bold writing, "Stevie Aiken's house."

21 Q All right. Would you please put these pins at those
22 two locations?

23 (The witness complies.)

24 Q All right now, is this an accurate map, to your
25 knowledge, of that area?

1 A Yes, it is.

2 Q All right. And they look kind of far apart, Lieutenant
3 Inabinett. Did you have a chance, at my request, to drive
4 that distance?

5 A I did.

6 Q And about how far is it from the place where Margaret
7 Gooding's car was found to Stevie Lamont Aiken, the
8 defendant in the case's house?

9 A Approximately, one and one-half mile.

10 Q Is that, again, an accurate depiction of where the car
11 was found, where Stevie Aiken lives at [REDACTED] Street?

12 A It is.

13 DEP. SOL. THORNTON: All right. Your Honor, at this
14 time, I'd ask that State's Exhibit Twenty-seven be
15 introduced into evidence.

16 THE COURT: Any objection as to State's Twenty-seven?

17 MR. PLEXICO: No, Your Honor.

18 THE COURT: Ladies and gentlemen of the jury, State's
19 Exhibit Twenty-seven will be admitted into evidence, without
20 objection.

21 (State Exhibit Twenty-seven, aerial map, received into
22 evidence.)

23 THE COURT: State's Twenty-seven into evidence.

24 DEP. SOL. THORNTON: Court's indulgence, Your Honor,
25 for just a moment.

1 (BRIEF PAUSE.)

2 Q I have nothing further for this witness. Please answer
3 any question Mr. Plexico has.

4 THE COURT: Cross-examination.

5 CROSS-EXAMINATION

6 BY MR. PLEXICO:

7 Q Were you present for the arrest of Nathaniel Harris?

8 A No, sir.

9 Q Do you know Nathaniel Harris?

10 A Yes, sir.

11 Q All right. How tall are you?

12 A Approximately, 5'7".

13 Q How tall is Nathaniel Harris, since you know him?

14 A Approximately ---

15 Q 6'2"?

16 A --- 6'8".

17 Q So, he's a good head taller than you.

18 A Yes, sir.

19 Q All right. Now, one-and-a-half miles from where you
20 found the car and where my client stayed, that's a -- let me
21 rephrase this. That area has a lot of abandoned and run-
22 down buildings in it; doesn't it?

23 A Yes.

24 Q In that general area?

25 A Yes, sir.

1 Q Now, and there is a lot of wooded and overgrown areas
2 in-between that and one-and-a-half miles.

3 A Yes, sir. That's fair to say.

4 Q And wouldn't it be logical, instead of hiding a car
5 beside a open business, to hide it in one of those areas?

6 DEP. SOL. THORNTON: Objection, Your Honor. Calls for
7 speculation.

8 THE COURT: Sustained.

9 Q Are there better places to hide a car than where you
10 found it?

11 DEP. SOL. THORNTON: Same objection.

12 THE COURT: I'll allow him to answer that question, if
13 he knows.

14 A I'm not certain, sir.

15 Q But a mile and a half's a good distance; isn't it?

16 A Yes, sir. It was approximately a mile and a half.

17 Q Is that the extent of your involvement in this case,
18 what you have testified to?

19 A Yes, sir.

20 Q I don't have anything further.

21 THE COURT: Redirect?

22 DEP. SOL. THORNTON: Nothing, Your Honor. Ask he be
23 excused.

24 THE COURT: Any objection, Mr. Plexico?

25 MR. PLEXICO: No, Your Honor.

1 THE COURT: Fred, you may step down from the witness
2 stand and you are excused from the trial of this case. You
3 may leave the courtroom at this time. Thank you very much.

4 Call your next witness.

5 DEP. SOL. THORNTON: Your Honor, the State calls
6 Suzanne Cromer.

7 WHEREUPON, MS. SUZANNE CROMER WAS DULY SWORN.

8 THE COURT: Have a seat for me. Pull that chair up for
9 me. Adjust that microphone because it's going to amplify
10 your voice. State your full name and spell your last name,
11 please, for my court reporter, Becky, here.

12 MS. CROMER: Thank you so much. My name is Suzanne
13 Cromer, C-R-O-M-E-R.

14 THE COURT: Your witness.

15 SOLICITOR STONE: I'm sorry, Your Honor.

16 DIRECT EXAMINATION

17 SOLICITOR STONE:

18 Q Ms. Cromer, what do you do, ma'am?

19 A I'm employed by the South Carolina Law Enforcement
20 Division, commonly referred to as SLED. I'm a firearm and
21 tool mark examiner.

22 Q And how long have you been with SLED?

23 A I've been with SLED about twelve-and-a-half years.

24 Q Where is your office, exactly?

25 A Columbia, South Carolina.

1 Q And in this division, it's tool marks and firearms? Is
2 that what you said?

3 A It's -- it's -- we call it the firearms department.
4 But we do firearms and tool mark identification.

5 Q What type of education do you have that allow you to do
6 this type of work?

7 A I have a bachelor's degree from Clemson University. I
8 did some graduate work at the University of South Carolina
9 in Criminal Justice. I've completed SLED's in-house
10 training program, which is a three to five year intense
11 study program where I studied under five tool mark qualified
12 firearms examiners. We take written tests, oral tests,
13 practical exercise, proficiency exams, competency tests.
14 And then upon completion of testifying in court, you are
15 deemed a court-qualified firearms examiner.

16 I have taken classes through the Association of Firearm
17 and Tool Mark Examiners. I have taken classes through the
18 South Carolina Chapter of the International Association of
19 Identification. I have taken classes through the Bureau of
20 Alcohol, Tobacco and Firearms, serial number restorations.
21 I've also taken a class on Hi-Point -- excuse me, Hi-Point
22 firearms and on Glock firearms.

23 Q Now, Hi-Point firearms, that's a specific type of gun?

24 A Yes, sir. That's a specific manufacturer.

25 Q Now, have you ever been qualified in a courtroom as an

1 expert before?

2 A Yes, sir, I have.

3 Q How many times? Do you recall?

4 A Approximately, 45, 46.

5 Q And in what fields, specifically?

6 A Firearm and tool mark identification.

7 SOLICITOR STONE: And, Your Honor, at this time we move
8 her to be an expert in firearm and tool mark identification.

9 THE COURT: Any objections as to qualification?

10 MR. PLEXICO: Without objection, Your Honor.

11 THE COURT: Ladies and gentlemen of the jury, you're
12 about to hear the testimony of a witness who claims to have
13 special knowledge skill, experience, training or education
14 in the field of firearms or tool mark identification.
15 Normally, ladies and gentlemen, the law does not permit
16 witnesses to get on the witness stand to give opinion
17 testimony. An exception to this rule is for those witnesses
18 who have qualified by the Court, permitted to give expert
19 opinion testimony or to give an opinion as an expert in the
20 matters in which they claim to be so skilled.

21 In determining the weight to be given to any expert
22 opinion, you should consider the qualifications and the
23 credibility or believability of the expert, the reasons
24 given for his or her opinion. You're not bound by such
25 expert opinion. You give it the weight, if any, to which

1 you deem it is entitled.

2 Witness is qualified, without objection, Solicitor.

3 You may proceed.

4 SOLICITOR STONE: Thank you, Your Honor

5 Q Ms. Cromer, I'm going to show you what has been placed
6 into evidence as State's Exhibit Thirty-five D. I know this
7 is in a large bag with some other items, but I'd like you,
8 if you could, just to pull out that one specific item.

9 (The witness complies.)

10 A This is State's Exhibit Thirty-five.

11 Q Yes, ma'am. Make sure you pull the microphone to you
12 so that they can -- the jury can hear you.

13 A What I'm looking at is my scribed markings. I mark
14 each firearm with my lab number, my item number, and my
15 initials. Yes, sir. This is what I received in this case.

16 Q And what type of gun is that?

17 A This is a Hi-Point firearm, model C9, 9 millimeter
18 Luger.

19 Q And was that a type of gun? And I think you just
20 testified that you had special training.

21 A Yes, sir, it is.

22 Q Now, let me call your attention, first, to the serial
23 number on that gun. Could you tell us about that, please?

24 A When I received this firearm, the serial number was
25 partially obliterated. That means that someone purposefully

1 attempted to remove the serial number. So I -- due to my
2 course in Hi-Point familiarization, I knew that there was a
3 second serial number. So I removed a piece of the frame
4 away, to be able to read the second serial number on this
5 firearm. And the serial number for this firearm is
6 P1267018.

7 Q And so this removal, that's something that you actually
8 did; is that correct?

9 A Yes, sir, it is.

10 Q Now, these items together is your SLED item number
11 what?

12 A Two.

13 Q Two, okay. Now, I ask to hold that up there, if you
14 could right now, please. I am going to ask you to take a
15 look at what has been marked as State's Exhibit, for
16 identification, Thirty-seven A. And inside, for the record,
17 that also includes Thirty-seven A, B, C, D, E, F, G. I'm
18 going to hand that to you and ask you if you can identify
19 the packaging as Thirty-seven A and what is inside of it,
20 please, ma'am.

21 A First, this is my packaging that I received. This our
22 SLED yellow barcode. All of our evidence is barcode-labeled
23 in Container A. I have my initials and seal date there.

24 These are the fired evidence that I received in this
25 case, State's Exhibit Thirty-seven G is a fired 9 millimeter

1 cartridge case, and it's still in a container, sealed with
2 my initials and my seal date.

3 State's Exhibit Thirty-seven F is another fired 9
4 millimeter Luger cartridge case, still in a sealed container
5 with my initials and seal date. As well as Thirty-seven E,
6 another fired 9 millimeter Luger cartridge case. Again,
7 it's still in a sealed container with my initials and seal
8 date. Thirty-seven D is a fired 9 millimeter Luger bullet.
9 Again, still in a sealed container with my initials and seal
10 date.

11 Thirty-seven C was three pieces of copper bullet jacket
12 and three fired bullet jacket fragments and two lead
13 fragments. Again, still in a sealed container with my
14 initials and seal date. State's Exhibit Thirty-seven B is a
15 lead fragment, which is still in a sealed container with my
16 initials and seal date.

17 Q Now, I want to make sure I understand. These items
18 that you just referred to, Thirty-seven B through G, I guess
19 it is, how did these come to you? Did these come to you in
20 these plastic sealed or the yellow sealed; or how does that
21 work?

22 A No. When they come to me, they come in this container
23 here. And I put them -- when I finish my examination, I put
24 them in the clear, see-through ziplocked bag and seal them.

25 Q Now, are they sealed when they get to you?

1 A Yes. It has the evidence-tape seal. The person who
2 sealed it, which was Karl Kenley, and his seal date.

3 Q And has anyone unsealed that -- did you get it -- was
4 already sealed when you got it?

5 A Yes, it was sealed ---

6 Q And you ---

7 A --- when I got it.

8 Q --- unsealed it?

9 A I unsealed it.

10 Q And is that the same on all of these items?

11 A Yes, sir. All of these items are sealed with evidence
12 ???.

13 Q And then when you unsealed it, that's when you did the
14 testing; is that correct?

15 A That is correct.

16 SOLICITOR STONE: Your Honor, at this time we move
17 items Thirty-seven A, B, C, D, E, F, G into evidence.

18 THE COURT: Mr. Plexico, as to Thirty-seven A through
19 G, any objection?

20 MR. PLEXICO: No, Your Honor.

21 THE COURT: Ladies and gentlemen of the jury, Thirty-
22 seven A, Thirty-seven B, Thirty-seven C, Thirty-seven D,
23 Thirty-seven E, Thirty-seven F and Thirty-seven G will be
24 admitted into evidence, without objection. You may publish,
25 Solicitor.

1 SOLICITOR STONE: Thank you, Your Honor.

2 (State Exhibit Thirty-seven A, manilla envelope,
3 received into evidence.)

4 (State Exhibit Thirty-seven B, lead fragment, received
5 into evidence.)

6 (State Exhibit Thirty-seven C, bullet jacket fragments,
7 received into evidence.)

8 (State Exhibit Thirty-seven D, 9 mm Luger bullet,
9 received into evidence.)

10 (State Exhibit Thirty-seven E, 9 mm cartridge case,
11 received into evidence.)

12 (State Exhibit Thirty-seven F, 9 mm cartridge case,
13 received into evidence.)

14 (State Exhibit Thirty-seven G, 9 mm cartridge case,
15 received into evidence.)

16 Q Ms. Cromer, if you would, please, specifically I
17 mentioned and if you can make sure that your SLED numbers
18 match to this, so we're talking about the same items.
19 Specifically, SLED item number three.

20 A SLED item number three is Thirty-seven G.

21 Q And SLED item number four? I'll hold it for you.

22 A SLED item number four is Thirty-seven F.

23 Q SLED item number six?

24 A Six is Thirty-seven D.

25 Q And number seven?

1 A My item seven is State's Exhibit Thirty-seven C.

2 SOLICITOR STONE: Your Honor, if I could ask Ms. Cromer
3 to come down as these are very small items and show these to
4 the jury and explain what these items are.

5 THE COURT: You may. Give her the portable microphone,
6 Solicitor. Mr. Plexico, you may come around outside the
7 jury box. Ma'am, when you turn your back to my court
8 reporter, obviously, it's more difficult for her. Hold the
9 microphone up. Solicitor, tape it and make sure -- is it
10 on?

11 SOLICITOR STONE: Yes, sir. It is, sir.

12 THE COURT: All right. Speak up for me, so that she
13 can hear you. Mr. Plexico, can you see?

14 MR. PLEXICO: Yes, Your Honor.

15 THE COURT: All right, Solicitor. You may proceed.

16 Q Let me just hand you those. What I'd like you to do is
17 explain to the jury, if you would, what those items are.
18 And, if you could, I know it's going to be tough, but if you
19 will, just talk and then we'll go down there after that.

20 A State's Exhibit Thirty-seven G and Thirty-seven F are
21 fired 9 millimeter Luger caliber cartridge cases. When you
22 have an unfired round, it is a cartridge case and a bullet
23 together. So when it's fired, you have -- you're left with
24 two pieces. So these are fired 9 millimeter Luger cartridge
25 cases.

1 Thirty-seven D is a fired bullet, copper jacket around
2 those, 9 millimeter Luger, approximately 115 grams. State's
3 Exhibit Thirty-seven C was three fired copper jacket pieces.
4 When you have a jacketed bullet like this, when it strikes
5 something, it may come apart. And that's why you have
6 pieces. We have two lead core pieces.

7 Q So all these items actually start out as one part; is
8 that right?

9 A That is correct.

10 Q And then once they're fired, it leaves Thirty-seven G
11 behind, and the bullet and fragments goes to that; is that
12 right? A That's correct.

13 Q If you'll come down here and show ---

14 A These are fired 9 millimeter Luger caliber cartridge
15 cases.

16 THE COURT: Identify the exhibit, please.

17 MS. CROMER: I'm sorry. Exhibit Thirty-seven F and
18 Thirty-seven G.

19 A And this is a fired 9 millimeter Luger bullet, State's
20 Exhibit Thirty-seven D. And State's Exhibit Thirty-seven C
21 is the three copper jacket fired bullet fragment pieces and
22 two lead core pieces.

23 Q Thank you.

24 (MS. CROMER TAKES THE STAND.)

25 Q Now, with your training as firearms and tool marks,

1 tell us what it is -- what type of testing you can do, items
2 Thirty-seven F, G, C and D, with the bullets, basically, and
3 the shell cases it came out of. What kind of testing did
4 you do on those?

5 A What we do, basically, in firearms identification is we
6 analyze those ammunition components to determine whether
7 they were fired by a specific firearm or loaded into and
8 extracted out of a specific firearm. If we do not have a
9 specific firearm, we may be able to tell investigators what
10 type of firearm they're looking for.

11 If we do have a firearm, what I will do is test fire
12 that gun with similar ammunition, compared to my -- my
13 evidence specimens. So, I test fired that firearm into a
14 bullet recovery tank. Our tank at SLED is on -- it starts
15 on the second floor of our building and goes down to the
16 first floor. And we shoot into water, because that slows
17 the bullet down, without adding to or taking from any of the
18 markings that are left there by the gun.

19 So, then, we get our cartridge cases, we get our fired
20 evidence. We come back. We look at our fired evidence
21 against each other, to see how consistently they mark. Then
22 we do our examination of our actual evidence from the scene.
23 And we compare them on our comparison microscope. On
24 cartridge cases, we're looking at five different areas that
25 can be marked by a semi-automatic pistol. You have the

1 bridge face of the cartridge case, bridge face markings.
2 This -- the part of the gun that's the bridge face is this
3 part back here, where the head of the cartridge case rests
4 during -- during firing.

5 When you shoot that firearm, a firing pin is going to
6 come out of the bridge face. It's going to strike the
7 primer of the cartridge case. The primer's that little
8 circle in the middle. And it contains the initial spark,
9 initial explosion, if you will. And it's going to cause
10 sparks to go through a flash hole, ignite the gun powder.
11 The gun powder is going to start burning. All this pressure
12 is going to build up inside this little cartridge case,
13 blowing the cartridge case backwards into that part of the
14 gun and pushing the bullet down the barrel. So the breech
15 face, any imperfections on this breech face of this gun can
16 be imprinted onto that head of the cartridge case.

17 The firing pin, as well, can leave individual
18 identifying marks, as well as an extractor, which is the
19 little claw. When you fired this gun, like I said, that
20 pressure's going to push that head of the cartridge case and
21 that cartridge backwards. It's going to have enough
22 pressure to move this whole slide backwards. So, it has a
23 little extractor, which you can see right there. It's like
24 a claw that hooks to the rim of the cartridge case and holds
25 onto it. So, that can actually mark the gun, too. And

1 also, the chamber of the gun, where the whole cartridge is,
2 can mark it.

3 And a Hi-Point is a little different. It doesn't have
4 an individual ejector. Usually, some firearms will have a
5 different part that acts as the ejector. Well, while that
6 ejector, that little claw is holding it, pulling it
7 backwards, an ejector's going to hit the cartridge case and
8 turn it out of the ejection port, for it to come out of the
9 gun. So, on this type of firearm, it actually uses the
10 firing pin as the ejector. So we look at five different
11 areas on cartridge cases.

12 Bullets are completely different.

13 Q I'll show you Thirty-seven D and Thirty-seven C, as
14 examples of the bullets.

15 A The bullets can be marked by rifling. Rifling is put
16 into the gun barrel by the manufacturer, it gives a bullet a
17 rotary motion, very similar to a quarterback throwing a
18 football. He wants it in a tight spiral, so it will go more
19 accurately to its target, and not lobby end-over-end.

20 Well, that's the premise of rifling. Now, rifling is
21 made up of lands and grooves, raised and depressed areas.
22 So different manufacturers can use different numbers of
23 lands and grooves. You can have two, you can have four, you
24 can have micro-group, which is in the twenties, number of
25 lands and grooves.

1 At this time, the only known manufacturer to use nine
2 lands and grooves is Hi-Point Firearms. And he uses it with
3 a left twist, meaning it's going to spin to the left.

4 Q Now, other than just a general 9 millimeter, or the
5 general Hi-Point Firearm, can you specifically tell what
6 particular gun that these items can come from?

7 A If I just received this bullet by itself, I would call
8 investigators because this bullet does display nine left
9 rifling. I would call investigators and say that you are
10 looking for a Hi-Point brand firearm.

11 Q Can you get anymore specific as far as that individual
12 gun and that bullet, if you were to have both of those?

13 A Yes, sir. What I do, after I do my test fires, I take
14 them back and I look at how this gun actually marks on
15 bullets. And what I'm looking for is those individual
16 identifying characteristics. And once I match up all of the
17 bullets that I know only fired from this gun, I move to this
18 evidence, and I put it up on my comparison microscope. A
19 comparison microscope is like binoculars and it lets me see
20 two objects at the same time. So I compare it to my test
21 fires, and I did so in this case.

22 Q So not only is it consistent with the type of gun, but
23 these individual lands and grooves, they can be -- they are
24 unique as to one particular gun; is that right?

25 A That is correct.

1 Q Now, this 9 millimeter here, I believe is State's
2 Exhibit Thirty-five D, along with the clip, and that is your
3 SLED item number two; is that correct?

4 A That is correct.

5 Q Did you test item number two as to this individual gun,
6 the bullets and shell cases?

7 A Yes, sir, I did. And I concluded that this bullet, in
8 my opinion, was fired --

9 THE COURT: Give the exhibit number, please.

10 MS. CROMER: Okay. I'm sorry. State's Exhibit Thirty-
11 seven D.

12 Q All right. Let me interrupt you there. Thirty-seven
13 D, where did that item -- where was that item retrieved
14 from?

15 A The fired bullet from the bedroom wall. In my opinion,
16 I found sufficient agreement to lead me to believe that this
17 bullet was fired by this firearm.

18 Q And let me make sure we're clear about it. Not just
19 any 9 millimeter Hi-Point, but this specific gun.

20 A Yes, sir.

21 Q Let me show you what has been marked as State's Exhibit
22 Thirty-seven C. Ask if you can tell us where that was
23 located.

24 A State's Exhibit Thirty-seven C, which was labeled
25 "projectile recovered from stove," the three copper jacket

1 fragment pieces, I identified as having sufficient agreement
2 as being fired from State's Exhibit Thirty-five D.

3 Q Which is this handgun here?

4 A Yes, sir. The two lead cord fragments -- the cord
5 fragments have that copper jacket over top. So, the lead
6 never comes in contact with the inside of the gun barrel.
7 So it didn't have any markings for me to identify the
8 firearm.

9 Q But the item that you did identify ---

10 A Is the three copper jacket pieces.

11 Q All right. I believe these two items that I'll hand
12 you, item Thirty-seven F and Thirty-seven G, where were
13 those two items located?

14 A Thirty-seven F was located, "shell casing from outside
15 bedroom window." Thirty-seven G was "shell casing from
16 outside bedroom window." And I deemed these both to have
17 sufficient agreement that they were fired by this firearm,
18 Thirty-seven -- excuse me, item -- or State's Exhibit
19 Thirty-five D.

20 Q As to the bullets that were located at the scene that
21 you described and this particular handgun, not just a 9
22 millimeter, not just a Hi-Point, but this particular gun
23 here, can you give us your opinion as to whether or not
24 those bullets came from this gun?

25 A Yes. It is my opinion that they were fired by that

1 firearm.

2 SOLICITOR STONE: I want to make sure I take -- all
3 that's already into evidence, sir.

4 THE COURT: Yes.

5 SOLICITOR STONE: I don't have any further questions of
6 this witness.

7 THE COURT: Cross-examination?

8 CROSS-EXAMINATION

9 BY MR. PLEXICO:

10 Q I see in your reports -- do you have it in front of
11 you?

12 A Yes, sir.

13 THE COURT: Come up to the microphone.

14 Q In your report, Derrick Aiken's listed as a suspect
15 that you were told, correct?

16 A Derrick Aiken? Yes, sir. He is listed as a suspect.

17 MR. PLEXICO: I don't have anything further.

18 THE COURT: Redirect?

19 REDIRECT EXAMINATION

20 BY SOLICITOR STONE:

21 Q Any other suspects?

22 A The suspects were Nathaniel Harris, Stevie Aiken and
23 Derrick Aiken.

24 Q Thank you.

25 SOLICITOR STONE: Nothing else, Your Honor.

1 THE COURT: Recross, limited to redirect?

2 MR. PLEXICO: No, Your Honor.

3 THE COURT: As to this witness, Solicitor?

4 SOLICITOR STONE: We'd ask that she be allowed to

5 return ---

6 THE COURT: Mr. Plexico, any objection to excusing Ms.
7 Cromer?

8 MR. PLEXICO: No, Your Honor.

9 THE COURT: Ms. Cromer, if you'll put my exhibits back
10 that he -- the Solicitor loves to take them out and leave
11 them laying everywhere. Please put them back in the box for
12 me.

13 (The witness complies.)

14 THE COURT: Thank you very much.

15 MS. CROMER: Yes, sir.

16 THE COURT: Thank you. Have a nice day. You are
17 excused from the trial of this case.

18 MS. CROMER: Thank you.

19 THE COURT: Call your next witness.

20 SOLICITOR STONE: Your Honor, the State rests.

21 THE COURT: Are there any matters of law that I need to
22 take up at this time, on behalf of the defendant?

23 MR. PLEXICO: Yes, Your Honor, or after a break,
24 whatever suits The Court.

25 THE COURT: Mr. Plexico, ladies and gentlemen of the

1 jury, I need to take up a matter of law, be right back with
2 you as soon as I can. Let's take our mid-morning break at
3 this time. Please do not discuss the case. You have not
4 heard all of the evidence in the case. You may retire to
5 your jury room.

6 Sit down, Mr. Plexico.

7 (11:45 A.M., 3-9-11, WHEREUPON THE JURY EXITS THE
8 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
9 RECORD.)

10 THE COURT: All right, Mr. Plexico, I'll be happy to
11 hear you.

12 MR. PLEXICO: Yes, Your Honor ---

13 THE COURT: Come to the microphone.

14 MR. PLEXICO: Your Honor, in regards to -- can I use
15 this one back here?

16 THE COURT: You may.

17 MR. PLEXICO: Your Honor, in regards to assault and
18 battery with intent to kill ---

19 THE COURT: Yes, sir.

20 MR. PLEXICO: --- I would move for a directed verdict
21 of not guilty in regards to the assault and battery with
22 intent to kill, Your Honor. I don't believe the State has
23 shown any evidence of malice. And as a matter of fact, it
24 could be easily shown that there was no medical evidence
25 that these were life-threatening injuries. The mere use of

1 a gun, I do not believe, alone is enough to ---

2 THE COURT: Mr. Plexico, are you suggesting to the
3 Court there has to be a life-threatening injury in order for
4 there to be sufficient evidence for a Court to submit to a
5 jury the criminal offense of assault and battery with intent
6 to kill, when you know that the law does not require a
7 specific intent to kill, in order for there to be sufficient
8 evidence to submit to the jury? Tell me what the basis of
9 your objection or request is.

10 MR. PLEXICO: Your Honor, there is no malice that's
11 been shown, Your Honor.

12 THE COURT: Well, now, Mr. Plexico -- all right. I
13 understand the basis of your motion. Anything else?

14 MR. PLEXICO: There is. Your Honor, we would move for
15 directed verdicts on the kidnapping, armed robbery. Your
16 Honor, we don't believe there's sufficient evidence, more
17 than a suspicion, on the possession of a weapon during the
18 commission of a violent crime and kidnapping, the armed
19 robbery, the abwik on all the indictments, Your Honor, to
20 create more than a suspicion in the minds of the jurors
21 that, in fact, my client actually is guilty of that, and we
22 would move for a directed verdict on those grounds, Your
23 Honor, on all the indictments.

24 THE COURT: Very well. Solicitor, I don't need to hear
25 from you.

1 Mr. Plexico, first of all, as to your motion on the
2 fact that you feel there's no malice, as you know, for
3 purposes of assault and battery with intent to kill, malice
4 is hatred, ill-will, hostility and the law does not require
5 that malice exist for any particular time before an act is
6 committed, but it must be in the mind of the defendant just
7 before and at time the act was committed. It may be
8 expressed or inferred.

9 And, obviously, Solicitor, any deed in preparation
10 could show malice, such as, Solicitor, some of the evidence
11 in this case. It may be inferred from conduct showing a
12 total disregard for human life. Your motion for directed
13 verdict in this case is respectfully denied on that ground.

14 As to your motions that I direct a verdict on the other
15 indictments for insufficient evidence, being armed robbery,
16 kidnapping, burglary first, possession of a weapon during
17 the commission of a violent crime, your motions are
18 respectfully denied. At this stage, I believe there is
19 clearly sufficient evidence to submit each of those offenses
20 to the jury. Take a seat, Mr. Plexico.

21 Mr. Plexico, please advise your client that I'm going
22 to bring him forward with you in just a moment and you will
23 be sworn by the clerk, because I am going to advise him of
24 his rights. Please take a moment and tell him.

25 MR. PLEXICO: Yes, Your Honor. I already have.

1 THE COURT: In that case, please come forward with your
2 client. Madame Clerk, please swear the defendant.

3 MADAME CLERK: Yes, sir. Place your left hand on the
4 Bible and raise your right.

5 WHEREUPON, MR. STEVIE LAMONT AIKEN WAS DULY SWORN.

6 THE COURT: Step up to the microphone for me. I want
7 you to speak up, so they can hear you back there. And first
8 of all, state your full name for the record.

9 MR. AIKEN: Stevie Lamont Aiken.

10 THE COURT: Mr. Aiken, at this time, I'm going to
11 explain to you certain of your rights. If you do not
12 understand anything that I say, please let me know. If you
13 want me to explain anything in further detail, please let me
14 know. You understand?

15 MR. AIKEN: Yes, sir.

16 THE COURT: We've now reached the stage of the trial
17 where you may present your defense. You have the right to
18 testify in your own behalf. However, no one, no one can
19 make you testify. In the event you have a criminal record
20 or record for any conviction involving dishonesty or false
21 statement or for any crime punishable by imprisonment of
22 more than one year, and this Court determines as a matter of
23 law that the probative value of admitting this evidence
24 outweighs its prejudicial effect to you, the Solicitor will
25 be able to introduce this record for impeachment purposes,

1 to attack your credibility or your believability.

2 And I understand from your attorney that you do have a
3 prior criminal record; is that correct, Mr. Plexico?

4 MR. PLEXICO: Yes, Your Honor.

5 THE COURT: If you elect not to take the stand, Mr.
6 Aiken, I will charge the jury that they are not to give the
7 fact that you did not testify any consideration whatsoever.
8 And there is to be absolutely no prejudice to you because
9 you did not testify. You have the constitutional right to
10 remain silent.

11 The decision as to whether or not you will testify will
12 be left entirely up to you, as to whether or not you decide
13 to testify in the trial of this case. You may talk with
14 your attorney, but the ultimate decision as to whether or
15 not you testify in this case is not your attorneys. It is
16 yours. Have you understood what I've just told you?

17 MR. AIKEN: Yes, sir.

18 THE COURT: Very well. You need a moment, Mr. Plexico?

19 MR. PLEXICO: No, Your Honor.

20 THE COURT: Do you wish, Mr. Aiken, to testify in the
21 trial of this case?

22 MR. AIKEN: No, sir.

23 THE COURT: Is that your decision?

24 MR. AIKEN: Yes, sir.

25 THE COURT: Did you enter that decision without being

1 forced to do so?

2 MR. AIKEN: Yes, sir.

3 THE COURT: And you did it of your own free will in the
4 court; is that correct?

5 MR. AIKEN: Yes, sir.

6 THE COURT: Very well. You may return to your seat.

7 (Mr. Aiken takes a seat.)

8 THE COURT: Mr. Plexico, does the defendant intend to
9 introduce any other evidence? I don't believe you listed
10 any other witness when I voir dired the jury, other than
11 your client. Do you intend to introduce any evidence?

12 MR. PLEXICO: No, Your Honor.

13 THE COURT: In that case, Mr. Plexico, when you tell
14 the jury you've rested, you will have final argument in the
15 case, if you're not going to present any evidence; you
16 understand?

17 MR. PLEXICO: Oh, yes, Your Honor.

18 THE COURT: Very well. Counsel, I'm going to take my
19 final break for the afternoon for y'all, because we're going
20 to move right on through. It is now seven minutes till
21 twelve o'clock. We're going to take about a seven to ten
22 minute break. If either one of you have any additional
23 requests to charge that I have not already been over with
24 you in chambers this morning, you better let this Court know
25 about it right now. Mr. Plexico, anything else that we

1 hadn't already covered?

2 MR. PLEXICO: No, Your Honor.

3 THE COURT: Anything from the State?

4 SOLICITOR STONE: No, sir.

5 THE COURT: All right. Now, y'all have been over the
6 verdict form. We'll take a short recess. When we come
7 back, Mr. Plexico, I'll give you the opportunity to rest in
8 front of the jury. The State will argue first. Who will
9 argue on behalf of the State?

10 SOLICITOR STONE: I will, Your Honor.

11 THE COURT: Very well, Solicitor. Solicitor, how long
12 do you feel you need?

13 SOLICITOR STONE: I would say no more than 20 minutes,
14 Your Honor.

15 THE COURT: Excellent, Solicitor. Be happy to give you
16 that or longer. Mr. Plexico, can you do it in 20?

17 MR. PLEXICO: At least 30, Your Honor.

18 THE COURT: Mr. Solicitor, you've got 30, if you need
19 it. All right now, when you've reach 25 minutes, Mr.
20 Plexico, because I'm giving you what you asked for, what are
21 you going to hear?

22 MR. PLEXICO: I think the tapping of your pen.

23 THE COURT: You will hear the familiar tap, Mr.
24 Plexico. That means no matter how enchanted you are with
25 your words, you have five more minutes to wrap up your

1 remarks; you understand?

2 MR. PLEXICO: Yes, Your Honor.

3 THE COURT: Solicitor, I will also give you a tapping,
4 even though you tell me you can do it in 20; you understand?

5 SOLICITOR STONE: I do.

6 THE COURT: Solicitor will argue first, followed by the
7 defendant, who has advised the Court they're not going to
8 present any evidence, and will have closing argument. There
9 are no additional requests to charge, other than what we've
10 been over. And you've both approved the verdict form.
11 Please take a ten minute recess at this time.

12 (Off the record, briefly.)

13 THE COURT: Is the State ready to proceed?

14 SOLICITOR STONE: State's ready, Your Honor.

15 THE COURT: Is the defendant ready to proceed?

16 SOLICITOR STONE: Yes, Your Honor.

17 THE COURT: Bring me the jury.

18 (12:10 P.M., 3-9-11, WHEREUPON, THE JURY ENTERS THE
19 COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

20 THE COURT: Mr. Foreman and ladies and gentlemen of the
21 jury, you've heard the evidence from the State of South
22 Carolina. We will now hear from the defendant. Mr. Plexico,
23 you may call your first witness.

24 MR. PLEXICO: Your Honor, at this point, the defense
25 would rest, Your Honor.

1 THE COURT: Mr. Foreman and ladies and gentlemen of the
2 jury, you have now heard all the evidence in the case. You
3 will now hear the closing arguments of the attorneys,
4 followed by my charge on the law. I ask that you give the
5 attorneys your careful consideration. Solicitor?

6 SOLICITOR STONE: Your Honor, as to my prior motions?

7 THE COURT: Counsel, approach.

8 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
9 AND OUT OF THE HEARING OF THE JURY.)

10 THE COURT: Solicitor, is the State ready to proceed?

11 SOLICITOR STONE: Yes, sir, the State's ready.

12 THE COURT: Please do so.

13 SOLICITOR STONE: Thank you, Your Honor. May it please
14 the Court?

15 THE COURT: Yes, sir.

16 CLOSING ARGUMENT

17 BY SOLICITOR STONE:

18 I told you at the beginning of this trial yesterday
19 that Margaret Gooding was alone; she was isolated. Stevie
20 Lamont Aiken knew that, and then he took advantage of it.
21 Now, I also told you yesterday that he didn't do that by
22 himself; he did it with Nathaniel Harris, all of which you
23 have heard in this courtroom over the last day and a half.

24 Let's start first with exactly what we know happened in
25 this case. We know from State's Exhibit Twenty-eight that

1 Ms. Gooding lived in Miley, South Carolina. We know that
2 she lived by herself. We know that she had a next door
3 neighbor. And other than that, very few people were out
4 there. She was in many ways isolated.

5 We also know that one of two people, Nathaniel Harris
6 and Stevie Aiken, but one of those people knew that. That
7 one person was Stevie Lamont Aiken, somebody who, as he
8 referred to in his statement and has also took the stand,
9 told you, that Stevie Lamont Aiken had gone to this house in
10 Miley, South Carolina, to cut her grass a mere two weeks
11 before.

12 We also know that the date before this happened, Stevie
13 Lamont Aiken called Mr. Roden and said, "What about that
14 lady that lives out in Miley?" The same man that tells you
15 through his statement how he got there, where he went, and
16 how he got away. The same person who knew she was a good
17 target, that she was vulnerable, that she was by herself.

18 How else do you find him? How else do you find him?
19 How else do you drive by this house and know that there's a
20 lady in the house that has checks, that is by herself? How
21 do you know to cut the phone line, to cut off her source
22 from getting help with the little thing that she wore around
23 her neck? How do you know that, unless you've been there
24 before? How do you even know how to find the house, unless
25 you've been there before? And we know that Stevie Aiken had

1 been there before.

2 We also know these facts about what happened. We know
3 she lived by herself. We know that the phone line was cut.
4 We know that the window was broken out to her bedroom, and
5 that two bricks were thrown into her window, two, and that's
6 important. We know that shell casings were found outside of
7 this window. We know that at least one of the shots fired
8 into the house went into her stove in her kitchen. We know
9 that she was put in the trunk of her car, that she was
10 driven to Walterboro, a mere mile and a half from where
11 Stevie Aiken lives. Stevie Aiken who, as I think the
12 testimony made clear, gets around by bicycle, not by a car.
13 In fact, he's the one who had to call his brother to get a
14 ride to Miley to start this home invasion. We know this to
15 be true. This is the evidence that you've heard, and
16 there's no question about that.

17 So the question then is, is Nathaniel Harris involved?
18 Absolutely. Let me tell you something about Nathaniel
19 Harris. Was he involved in this case? Yes. Is he a thief?
20 Absolutely. Is he a bad guy? No question about it. The
21 old phrase is: If you prosecuted the devil, you've got to
22 go to Hell for the witnesses. I've got a different way to
23 put it. Who else is Stevie Lamont Aiken going to take with
24 him to go to a burglary? To go to a home invasion? Who
25 else is he going to take with him? We don't apologize for

1 Nathaniel Harris because, you know what, we didn't choose
2 Nathaniel Harris. Stevie Aiken chose Nathaniel Harris. Is
3 he a thief? Sure, absolutely. Which is why he's going to
4 prison for 20 years.

5 But the case doesn't base everything on what Nathaniel
6 Harris said, because just like Stevie Aiken, he told you
7 what happened. But he tried his best to make himself look
8 better. "I didn't do it; Stevie made me do it." No. He's
9 just as guilty as Stevie Aiken is. And Stevie Aiken is just
10 as guilty as Nathaniel Harris.

11 The Judge will charge you at the end of this case the
12 law of this case, and he'll tell you the elements of the
13 crime. He will tell you something pretty important. He
14 will tell you that when two or more people work together to
15 commit a crime, they're both just as guilty as the other.
16 What the judge will call it is "The hand of one is the hand
17 of all." Only one person could cut the phone line, but two
18 of them were out there. Only one person may have pulled the
19 trigger, but she got shot, nonetheless.

20 It only takes one person to throw two bricks in the
21 window, and neither one of these guys said they were the
22 ones that did it. But as far as the law is concerned, it
23 doesn't make any difference. The hand of one is the hand of
24 all. They both threw those bricks through the window. Not
25 one, but two.

1 Shooting into the stove, they both did it. Whether
2 Nathaniel Harris comes and tells you that Stevie made him do
3 it, or whether Stevie says Nathaniel did it, doesn't make
4 any difference, not from the law.

5 And they both kidnapped this woman, put her in the
6 trunk of the car and left her even more isolated, even more
7 vulnerable than she was when she started on this December
8 the 6th/December the 7th, 2009.

9 Now, if that was the evidence that we had in this case,
10 ladies and gentlemen, I would ask you to come back here and
11 render a verdict that said guilty. But that's not all we
12 have. We have something else. And I know Mr. Plexico's
13 made a big deal about the statement that Stevie Aiken gave
14 the police. But I want you to do something with me real
15 quick.

16 I blew this statement up because we wanted you to take
17 a close look at what he said. I want to call some attention
18 to some things in this, if I could. And I know all of you
19 can't see it, but I will try to move it so that everybody
20 can. I know you-all have heard this statement, but I want
21 to go over some things.

22 Stevie Aiken told you that "I called my brother Derrick
23 Aiken." Derrick Aiken's name is already in this. "And
24 asked him to drop us off." Now, he said "us" -- being me,
25 Nate -- "off at the Miley Creek crossroads, at the Miley

1 crossroads, at the train tracks." Again, all testimony that
2 you have already heard before you even heard this statement.
3 He said that they stayed in the woods, the same woods that
4 were described to you by the police and everyone that was
5 out there to see this scene. The same woods that they found
6 the shell calibers, right outside of her window. And he
7 says, "The light was on. Nate threw a brick in the window.
8 The brick broke the window. He threw a whole brick and then
9 a half." He threw two bricks, exactly what you already know
10 happened.

11 "I shot in her direction and I believe it hit the
12 shed." It probably did hit the shed, after it went through
13 her. And the two bullet holes in her stomach, the EMS
14 technician told you she had in the trunk of that car.

15 "Me, the lady and Nate -- me, the lady and Nick went to
16 Walterboro. I was driving the car and Nate was in the
17 passenger's seat. Nate picked up the gun, put it in the
18 car." And then he goes back to tell you exactly what,
19 interestingly enough, Nate told you as well. Nate goes back
20 into the house to get the checkbook, the checkbook that
21 Stevie Aiken knew was at that house, because he had been
22 there before.

23 And then he tells you how he gets back. He takes
24 Sniders Highway back to Walterboro, and they arrive at the
25 courthouse. He describes the direction in which the car

1 went. None of that information at this point did law
2 enforcement have. Nathaniel Harris didn't tell them all of
3 that; Stevie Aiken did.

4 And, just as Harris did, Stevie Aiken tried to make
5 things sound a little bit better. We were arguing about who
6 was going to take her to the hospital, and I told Nate he
7 needed to do that. Now, if he didn't make that statement,
8 what's he trying to make himself look better for? Because
9 that's what he's doing. Stevie Aiken is saying, "I tried to
10 get the lady some help."

11 If this statement was forced on him, if Leslie Jamison,
12 the officer that you heard that took this written statement,
13 if she had written that statement and made him write that
14 statement or give her that statement, why would that be in
15 there? Why would there be anything in there that would try
16 to sound like Stevie Aiken was trying to make it better on
17 himself? That's what he was trying to do. He told what
18 happened. But while he was telling what happened, he wanted
19 to make it sound like he wasn't nearly as bad as Nathaniel
20 Harris.

21 He describes the checkbook and the check going to the
22 BB&T. And he talks about how "Jimmy Roden called me and
23 told me the police were looking for me." Jimmy Roden. The
24 same Jimmy Roden who testified that Stevie Aiken knew where
25 she lived, knew she was by herself, knew there were checks

1 in the house, because they talked about it when they went
2 out there, when Stevie Aiken had gone to that house before.
3 And Jimmy Roden, who Aiken talks about in his own statement,
4 says that he went with Stevie Aiken to that house before;
5 not Nathaniel Harris. The one person who knew she was
6 alone, isolated and where she lived, is the same person that
7 gave his brother directions on how to drive over there, and
8 then knew how to get back to Walterboro, leaving the car a
9 mile and half away from his own house.

10 Now, those are, I think, important, but it's not the
11 final thing. It's not the most important thing. We know
12 Thirty-four B and Thirty-five D -- Thirty-four B being Mrs.
13 Gooding's gun, we know that this was her gun. We know this
14 gun came from Stevie Aiken's house, in the sofa where he put
15 it when he accidentally ran into Officer Inabinett. We know
16 that.

17 We know that this 9 millimeter was found at Derrick
18 Aiken's house. How do we know that? How do we know that?
19 Nathaniel Harris testified, but he didn't tell you where the
20 guns were and he didn't tell law enforcement where the guns
21 were. Neither did anyone else. In fact, they were looking
22 in the dumpster where Stevie Aiken told them to look, until
23 a fourth piece of paper of this confession. When they
24 called and said, "You know what, your story is not holding
25 water. Where are the guns?"

1 This is the biggest problem the defense has. How did
2 law enforcement find these guns, if this statement and this
3 statement was not accurate? How did they ever find the 9
4 millimeter at Derrick Aiken's house, without Stevie Aiken
5 telling them where it was?

6 The 32 stolen from Mrs. Gooding. How would they have
7 ever found that, if that statement is not accurate? The
8 answer to that question, it's not possible. They'd have
9 never found it.

10 I would submit to you, ladies and gentlemen, that this
11 is some of the best evidence that there is. These guns
12 found at Stevie Aiken's house and Derrick Aiken's house,
13 exactly where Stevie Aiken took them when he gave this 9
14 millimeter to Derrick and said, "You keep it," and he took
15 this and put it under the sofa when he ran into Officer
16 Inabinett.

17 And by the way, for somebody who didn't know much about
18 this case or at this point, as Mr. Plexico's trying to point
19 out, this isn't an accurate statement, how did he know it
20 was a 9 millimeter and a 32 caliber? Pretty accurate
21 descriptions of these two guns.

22 And finally, of course, the 9 millimeter, we also know,
23 is what fired those bullets that shot this lady, fired the
24 bullets into those stoves and left the shell casings outside
25 the window, and you know that as well.

1 My job is to prove to you beyond a reasonable doubt.
2 My job is to give you the evidence, which you have heard.
3 And I told you in the very beginning of this exactly what
4 I'll ask you to do. I would ask you to return a verdict
5 that speaks the truth. Thank you.

6 SOLICITOR STONE: Thank you, Your Honor.

7 THE COURT: Mr. Plexico?

8 CLOSING ARGUMENT

9 BY MR. PLEXICO:

10 Your Honor, Mr. Foreman, ladies and gentlemen of the
11 jury, this case is finally over. I have a lot to say you.
12 I have a lot to give you to consider. What happened to Ms.
13 Gooding is a terrible, terrible thing. There is absolutely
14 no question about it. But there are many other ways to
15 explain exactly what happened here.

16 Now, there is no question something -- Derrick Aiken
17 had the gun. Nathaniel Harris went in and started talking.
18 Nathaniel Harris was there to get a \$6,000 check cashed. He
19 was caught. What's he done? The man's been so bad, they've
20 already practically banned him from the State of Georgia, at
21 least Chatham County. Yet, he only had one conviction. So
22 whatever he was doing over there to get barred, to get
23 thrown out, had to be repetitive enough. Now, that means
24 many times.

25 When they're tired of seeing you, how do you keep

1 getting out of trouble? You know the system, you know how
2 to work it. You don't wind up in any trouble. It's always
3 somebody else. Somebody else made me do it. You broke in,
4 somebody else. You've got somebody to sell. Unless you
5 have something to sell -- it's like fishing. Unless you
6 have something to sell to the State, then you're in for it.
7 Then you're getting everything. And he's obviously been
8 very good.

9 Now, the officers were under a lot of pressure to solve
10 this case. A lot of pressure. This was a very public
11 matter. Now, who provided the information in this
12 statement, allegedly made by my client? It matches exactly
13 what Nathaniel Harris says. That is Nathaniel Harris'
14 statement. Now, if you look at this statement itself, what
15 does it say?

16 Court's indulgence.

17 (BRIEF PAUSE.)

18 MR. PLEXICO: This. Who is this? The above warnings
19 were given by, an involuntary statement was taken by
20 Chauncey Solomon. And how many words did you hear from that
21 witness stand from Chauncey Solomon? None. What happened?
22 Then there's the witness, for Ms. Jamison.

23 Now, the question you have to answer before we could
24 even consider, consider statement given by the defendant is,
25 number one, as it, in fact, given by the defendant? Is it

1 the statement of the defendant? Then you have to consider
2 if you find it was, was there any coercion at all on the
3 part of the State. And the State has the burden here to
4 show that this was, number one, my client's statement, not
5 Nathaniel Harris'. Number two, that he knew what was in it.

6 Number three, he gave it without coercion; he gave it
7 voluntarily; he gave it without threat. Not a single person
8 the prosecutor put on the stand could say that that man was
9 never threatened. They could never say, "I know for sure
10 that he was no coercion used." Not a single officer. Why?
11 Because they were in and out, and maybe they didn't want to
12 participate in what the rest of them were doing.

13 You know it's wrong. You know it couldn't have been
14 Chauncey Solomon. You know it's false -- there's falsities
15 to start with. The very document shows that it's false, and
16 there's no question about that. And once you understand
17 that, and you do not use that statement, as the Judge will
18 instruct you, that you cannot consider that statement at
19 all; why would you, if he's not the one who gave it?

20 Now, Nathaniel Harris is used to manipulating people,
21 duping people. How smart is the man? Okay? What has he
22 done? All right. I'm asking you not to falter, the
23 government might. But people with common sense should not,
24 because that's his when you consider everything? Other
25 people that knew about Mr. Roden -- excuse me, about Ms.

1 Gooding, Mr. Roden. All right. No question at all, came
2 in, he was supposed to be crystal clear. Don't believe it
3 for a minute.

4 Now, who had the check? Who was he showing it to? We
5 don't know that. Said he knew her well, but he hadn't seen
6 her in a while. He did go over and cut her grass. I don't
7 know what the problem was or why he wasn't going over there.
8 But that didn't seem to make any sense.

9 Now, when you look at the most striking thing, I think,
10 that tells everything about what he said was, and sociopath,
11 you know, habitual liar, tells half-truths. They'll tell
12 you a little bit of the truth and then embellish.

13 He said he felt bad as he laid, the night that
14 happened, okay, shaking and shivering. What does that tell
15 you? He wasn't in shelter. He was in one of those
16 abandoned places over there near the car that was a whole
17 mile and a half from where my client lived. He was
18 shivering and shaking on December 6th. Why? It's December
19 and it's cold.

20 He tries to hide it, but the truth comes out. He
21 wasn't with my client that night. Did he sell him the gun?
22 He denied it. Isn't that more probable than not? Who's not
23 on trial? Derrick Aiken. Not at all. Who had the 9
24 millimeter? Who had this gun, that they dug the shells out
25 of the house? It was Derrick.

1 Now, they went, and how did they find the guns? What
2 did Harris say: Derrick Aiken, Stevie Aiken search the
3 places anyway. That's it period. That's how they found it.
4 They were over there, Antley was over there. He wasn't
5 there for the whole thing, for the interview of my client.
6 That's how they found the guns. That's easy to understand.
7 There's no question, this was in the pump house of Derrick
8 Aiken. There will be a jury for Derrick Aiken. Don't
9 blame my client for what his brother apparently has done.

10 Well, if he was cold and shaking, he couldn't have
11 spent the night at my client's house, as he said. So if he
12 didn't spend the night at the house, well, then, where was
13 he? I think I've covered that. Remember, what was -- I
14 read the statement; they didn't put his statement in. Okay?
15 First line of the statement, what was it? I read it, "I,
16 Nathaniel Harris, was in the act of burglary." Then he goes
17 into his litany of how to blame somebody else for that which
18 Nathaniel Harris has done. Nothing that happened that night
19 is nothing that he couldn't have done or done with Derrick
20 Aiken.

21 And do you think for a minute he's going to go out to
22 Walterboro, all the way out to Miley, and not have a ride
23 back? He's thinking thousands and thousands of dollars.
24 He's not going to have a ride back from Derrick Aiken.
25 Who's the Aiken that was involved? Who are the two people?

1 Derrick Aiken, Nathaniel Harris. Or just Nathaniel Harris?
2 Think about it.

3 Now, how did he get the gun back to Derrick Aiken?
4 That's obvious. He was there. He was still there. And
5 what did he say about this, Ms. Gooding? "I have Ms.
6 Gooding's gun." Well, let me tell you something. If you're
7 getting shot at and your life is in jeopardy, all right, and
8 you disarm the other person, is your buddy going to go get
9 the gun? No. That gun was about to kill me. I'm going to
10 go pick that gun up. Common sense, what jurors are supposed
11 to have. It's not somebody else, okay? Common sense.
12 Realizes he's got a problem, and tries to sell it to my
13 client. That's what happens.

14 Now, remember, he started off talking about himself,
15 saying that he didn't get in any trouble. The reality is,
16 is that he is nothing but -- he's nothing but a troublemaker
17 that stays in trouble. That's the reality. And the
18 Solicitor had to lead him around, okay, and ask him about
19 his convictions, all right. As I said, he had something to
20 trade; it wasn't about that.

21 Now, the main thing, he easily picks out Derrick Aiken
22 in the audience. I ask you, if you have a doubt about it,
23 to come sit in this chair, if you're six foot two, and look
24 around and see if you cannot see that man seated in the
25 courtroom. He wasn't seeing on the floor. He wasn't on the

1 floor. And how many times has he been to court? There are
2 two parties in the courtroom in a criminal trial: the
3 prosecutor and the guy that you're testifying against.
4 Well, that makes it easy; doesn't it? Common sense. He
5 didn't know who he was.

6 He goes through that with Ms. Gooding, essentially
7 attack on a bone. That's something if my client was near,
8 he would never have forgotten that face. Never would have
9 forgotten that face, and you know it. But when he sat on
10 that witness stand and said the man that he was with wasn't
11 in here, he was doing no more than protecting his buddy,
12 Derrick Aiken. And that's all there is to it. Think about
13 it. If he couldn't pick him out, if it took a parade to
14 pick him out, you know that's not true. I challenge any
15 juror to come sit in that chair at 6'2" or six feet. I'm
16 not a big man. And say that you can't see that man seated
17 over there, that makes no sense. It's not true, because he
18 wasn't with him.

19 Now, what did he do? How good of a crook is he? If
20 you look in what he had in his pocket. His gun? Tools.
21 Very smart. Good burglary to come up, cut the phone line,
22 nobody -- what's it show? Experience in burglary. What
23 does he do for a living? He steals for a living. That's
24 what he said on the witness stand. He steals for a living.
25 In fact, he's a thief. Where are thieves? Involved in

1 burglaries. Does it make sense? Use your common sense.
2 Think about it. Don't convict an innocent man.

3 They have to prove my client's guilty beyond a
4 reasonable doubt. My client has nothing to prove. And
5 they've got to have trustworthy evidence that you can say,
6 "I don't have a reasonable doubt about his guilt of these
7 serious, serious, serious crimes." And y'all know how
8 serious these crimes are. Extremely serious. There is
9 absolutely no way to trust anything that man has said.
10 This is not the way the honest statement would be taken;
11 absolutely not. It speaks for itself. They went in here,
12 they run out that statement, and they claimed that he signed
13 it. They claim that he signed it.

14 What did Chauncey Solomon testify to? Witnessing that
15 signature? Not a word; not a word. He failed in their
16 proof and in their evidence. There is no way a juror
17 honestly seeking the truth can find my client actually gave
18 that statement.

19 Now, what's the most telling? It was about the video
20 that the State put up here for you to watch for 47 minutes
21 saying, "I didn't do nothing." Well, that wasn't working.
22 Cut it off. Let's just write it out. We know what Harris
23 says. Let's embellish it a bit. Let's go get the train
24 rolling. And that's exactly what they did. You are not
25 locomotive engineers here, to run over my client. That's

1 not the way it's going to be, not today. That may do well
2 for the Hampton County Sheriff's Department.

3 Now, whoever heard of not sitting for an interview?
4 You know there's something wrong; they all walked off. And
5 here's the question: What was happening that they walked
6 off from and didn't want to be part of; that's the question.
7 That's the question.

8 Now, he's being paid well. He didn't get his \$6,000,
9 but he's getting paid well through what the state's giving
10 him. He's paid well, Nathaniel Harris. Now, think about,
11 if you're with Nathaniel Harris. He's going to go get the
12 money; would you be at fault? No. My client wasn't with
13 him at the bank. He wasn't outside of the bank waiting on
14 him. No evidence of that at all. Even he didn't say that.
15 Because you know, he's not bringing your part of the \$6,000.
16 What does that indicate? More likely than not, he was
17 alone, okay?

18 Who had the checkbook? Of course, the other --
19 somebody or other wrote the checks. He says it's my client.
20 But all this, the other, he made me do it, I think there are
21 two Nathaniel Harris'. There's the good Nathaniel Harris
22 who doesn't get in any trouble, who people make to do bad
23 things. And then when he looks in the mirror, then there is
24 the other Nathaniel Harris, okay? That's the one who's
25 probably like the devil. That's the evil Nathaniel Harris.

1 That's the other one. Of course, he can't say, "This is
2 me." No. He's going to say it's somebody else. And who's
3 a quick, good person to sell the gun to? Think about it;
4 doesn't make sense.

5 They have to have evidence to convict my client. They
6 have to have unfairly gotten, dishonest, deceit. If you are
7 convinced my client made that statement, you can't even
8 consider it. You have to be convinced that he made it
9 beyond a reasonable doubt. And if you have a reasonable, a
10 reasonable doubt, any reasonable doubt, a doubt for which
11 you have a reason why. Why were they deceived if it was an
12 honest statement? Why? Because it's not true.

13 Then, what other evidence do they have? The only
14 evidence they have is the word of Nathaniel Harris. Now,
15 who could trust Nathaniel Harris with anything?

16 Court's indulgence.

17 Yeah. Think about the car. Gentleman came up and
18 says, "Ms. Gooding always parks her car. She seldom uses
19 the garage. She parks it out there in front," Okay? He
20 says he heard the shots, got up, he looked. Nathaniel
21 Harris was still there, okay?

22 Now, but where was the car? It was parked not in the
23 garage. He couldn't even tell the truth about getting in
24 the car. He says, "Oh, I backed it out of the garage. That
25 would be a normal thing to say for a person who had to

1 drive. He's trying to appear normal and say the things that
2 would fit, because he's practiced at this, okay. But you
3 know it's not true, because you heard what the neighbor
4 said. He didn't have a dog in this fight at all. You know,
5 he even couldn't tell the truth about that. He just is
6 dishonest, because he's left holding the bag, if he doesn't
7 make himself valuable, by pinning it on somebody else.

8 That's just like fishing. He threw the sheriff's
9 department the bait and then with small hook, line and
10 sinker, he made this man guilty. And that's not the way it
11 is. The only thing they have is the pistol that he could
12 have easily bought from Nathaniel Harris.

13 We don't have anything to prove. There's so much doubt
14 here about anything, everything. There's no reason to
15 believe the statement, which is deceitful on its face, cries
16 out to be ignored. And one fact witness, of all those
17 things. One fact witness, who admits to having at least one
18 gun. All right. And that's Nathaniel Harris. And who's
19 going to come and attack a house and not be armed. It
20 wouldn't be slick Nathaniel Harris.

21 You know, everything about the Sheriff's Department,
22 you know, I was trying to get some straight answers.
23 Evasive and deceitful, this guy. I mean, I just -- I think
24 -- y'all heard me. How can you ask the same question and
25 never get a straight answer? It was like talking to

1 drive. He's trying to appear normal and say the things that
2 would fit, because he's practiced at this, okay. But you
3 know it's not true, because you heard what the neighbor
4 said. He didn't have a dog in this fight at all. You know,
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22 you know, I was trying to get some straight answers.
23 Evasive and deceitful, this guy. I mean, I just -- I think
24 -- y'all heard me. How can you ask the same question and
25 never get a straight answer? It was like talking to

1 Nathaniel Harris. I was shocked. You should be too, because
2 they're asking you to trust those people and rely on that
3 statement. If they can't be straightforward in this
4 courtroom, can you trust them? Ask yourself that. This
5 isn't a game. When you're trying to avoid the answers, it's
6 like a child. Who broke the cookie jar? Well, you know, I
7 was in there and I ate some cookies. I don't remember
8 anything about the jar being broke, okay? This was like
9 trying to find out who broke the cookie jar. Just use your
10 common sense, your common sense. Can you trust it?

11 Well, Detective Russell wasn't even involved. He
12 started saying more or less. That wasn't straightforward.
13 That wasn't a accurate answer. The accurate answer was, he
14 sat there for at least for 47 minutes and said, "I didn't do
15 nothing," He figured out, hey, this ain't working. We're
16 going to do something else, and they did it.

17 Now, they didn't put up who brought him over, that ride
18 over to Colleton. How does it match? Look at that
19 statement; think about it. Can you trust any of them? My
20 client has nothing to prove. He is 100 percent innocent.
21 The law gives him the cloak of innocence until the State,
22 competent, with fair evidence, proves my client guilty
23 beyond a reasonable doubt.

24 Like I said before, this isn't a car case. This isn't
25 50/50 and probably. They have to prove each element of

1 their case beyond a reasonable doubt. They don't have to
2 prove a little bit. A lot of this, a little bit of this, a
3 lot of that. They have to prove every element beyond a
4 reasonable doubt. They have to prove the competent
5 evidence. Assault and battery, intent to kill, malice,
6 that's everything that murder is, except the death. He
7 intended to kill Ms. Gooding. That's not what you're likely
8 to hear on the evidence.

9 He'll also charge you with abhan, assault and battery
10 of a high and aggravated nature. That's where an injury has
11 occurred that's serious, but there was no intent. There was
12 no evidence he did that.

13 He's also charged with kidnapping. We know who did
14 that; it was Nathaniel Harris. So he's got to rope somebody
15 else in. Can you trust the two things you only have to
16 consider? The statement allegedly from my client. If you
17 find that he didn't give the statement, then you have -- you
18 can't trust it as a juror and stand your ground. Following
19 the police. Don't be another victim of Nathaniel Harris in
20 getting the job done fast and move on to the next one.
21 Think about it.

22 Now, there's no evidence that he kidnapped her. Armed
23 robbery, Nathaniel Harris. Who had the gun? Derrick Aiken.
24 Where's the evidence? Not on my client. Look at all these
25 targets. I think I've covered them all. Burglary, no

1 evidence my client entered at all. Think about it. Who was
2 there? Who went in? Who went in repeatedly except the
3 other person that was Nathaniel Harris, who I believe the
4 other person is the Nathaniel Harris and made him go back
5 in, who entered multiple times.

6 Now, burglary, he's charged with. Possession. My
7 client's also charged with possession of a weapon during
8 commission of a violent crime. Who said that he sat there
9 and held Ms. Gooding's gun? And like I said, think about
10 it. This would be your trophy when you left after getting
11 shot at. All right? After you won the gun battle with this
12 gun. This would be your trophy, okay? That would be it.
13 That's the reality of what's happened here.

14 The claim that my client called Roden. First, the
15 record of a call on today's modern technology? And the work
16 they've done on the case? They didn't want to uncover
17 anything that wasn't true, because they didn't look. They
18 didn't show you that. They didn't show you beyond a doubt,
19 beyond a reasonable doubt that that even happened. Think
20 about it. They could have.

21 Now, he's not charged, you're not hearing today, with
22 grand larceny. They have all these charges. But they did
23 not bring forth the theft of a car charge today. If they
24 themselves don't believe that they have a good case on that,
25 how could they believe they have a good case on any of this?

1 Think about it. We're here making some tough decisions.
2 This is what General Sessions is about. This is what
3 America's about, tough decisions. Follow your conscience.

4 Now, sometimes it's hard to do the right thing. But
5 doing a bad thing or the wrong thing is never the answer.
6 They have to prove my client guilty. In America, it is
7 better that ten guilty go free than one innocent, one
8 innocent be convicted.

9 (Judge gives a tapping for the five minute warning.)

10 MR. PLEXICO: This is very important, very, very
11 important. Where's the evidence in all those witnesses? It
12 is a tragic thing. Someone's going to be punished over this.
13 One's yet to come to justice. Do not convict an innocent,
14 innocent person. If you don't trust that statement, then
15 you don't consider it. That's your right as the jury. Your
16 right as a juror. You don't trust that statement, don't
17 consider it. Remember, the burden's on the State. Then say
18 whatever -- whatever's left, I will consider. Then,
19 whatever's left, that blames my client for anything is for
20 Nathaniel Harris. The good and the bad, Nathaniel Harris.
21 And do you trust anything that man says?

22 Could you in good conscience convict my client on the
23 word of anybody? On the word of Nathaniel Harris? The
24 answer is no. I'm asking you to do justice. This is all.
25 This is a difficult case, but I'm asking you to follow your

1 conscience and do justice when you find my client not guilty
2 on all the counts. No competent, trustworthy evidence.
3 This is a continuation of Harris' deceit and this is deceit
4 in and on its face. Don't deceive yourselves. Thank you
5 very much.

6 THE COURT: Counsel, approach. Sidebar.

7 (WHEREUPON, A BENCH CONFERENCE WAS HELD OFF THE RECORD
8 AND OUT OF THE HEARING OF THE JURY.)

9 THE COURT: All right. Mr. Padgett, no one in or out
10 of the courtroom during charge for any door.

11 JURY CHARGE

12 THE COURT: Mr. Foreman, ladies and gentlemen of the
13 jury, it is now my duty to charge you the law of this case.
14 The State of South Carolina, ladies and gentlemen, has
15 charged the defendant, Stevie Lamont Aiken, with five
16 indictments. The first, ladies and gentlemen, Indictment
17 2010-GS-25-00026, with the offense of assault and battery
18 with intent to kill; Possession of a weapon during the
19 commission of a violent crime in Indictment 20010-GS-
20 2500027; an indictment for armed robbery, Indictment 20010-
21 GS-25-00028; and with kidnapping, in Indictment 20010-GS-25-
22 00029; and finally with burglary in the first degree in
23 Indictment 20010-GS-25-00030.

24 Now, I remind you, ladies and gentlemen that the fact
25 that the defendant in his case has been arrested, that the

1 defendant has been charged, the fact that the defendant has
2 been indicted in this case is not evidence in this case, nor
3 does it create any presumption or inference of guilt. These
4 indictments, these documents that I've referred to, which I
5 have called indictments, are simply the formal written
6 instruments which contain the charges made against the
7 defendant. The indictments are the formal documents by
8 which the case is brought into this court.

9 Now to the indictments, the defendant has pled not
10 guilty. And that plea of not guilty to each of the five
11 indictments puts the burden on the State of South Carolina
12 to prove the defendant guilty beyond a reasonable doubt. A
13 person charged with committing a criminal offense in South
14 Carolina is never required to prove himself or herself
15 innocent.

16 I charge you, ladies and gentlemen of the jury, that it
17 is an important rule of the law that the defendant in a
18 criminal trial, no matter what the seriousness of the charge
19 may be, will always be presumed to be innocent of the crime
20 for which the indictment was issued, unless guilt has been
21 proven by evidence, satisfying you of that guilt beyond a
22 reasonable doubt. This presumption of innocence, ladies and
23 gentlemen of the jury, does not end when you begin your
24 deliberations, but it accompanies the defendant throughout
25 the trial until you, as a jury, reach a verdict guilty based

1 on evidence, satisfying you of that guilt beyond a
2 reasonable doubt.

3 The presumption of innocence is not a mere legal
4 theory. It is not just a legal phrase. It is a substantial
5 right to which every defendant in criminal court is entitled
6 unless you, the jury, are satisfied from the evidence of the
7 defendant's guilt beyond a reasonable doubt.

8 What is a reasonable doubt in the law? A reasonable
9 doubt is the kind of doubt that would cause a reasonable
10 person to hesitate to act.

11 The State has the burden of proving the defendant
12 guilty beyond a reasonable doubt. Some of you on the jury
13 today may have served as jurors in the past in a civil case,
14 where you were told by the judge that it was only necessary
15 to prove that a fact is more likely true than not true. We
16 call that in a civil case, the burden of by the greater
17 weight or the preponderance of the evidence. In a criminal
18 case, such as the case here today, State's proof must be
19 more than that. It must be beyond a reasonable doubt.

20 Proof beyond a reasonable doubt is proof that leaves
21 you firmly convinced of the defendant's guilt. There are
22 very few things in this world that we know with absolute
23 certainty. And in criminal cases, the law does not require
24 proof that overcomes every possible doubt. If based on your
25 consideration of the evidence you are firmly convinced that

1 the defendant is guilty of the crime or crimes charged, you
2 must find the defendant guilty. On the other hand, if you
3 think there's a real possibility that the defendant is not
4 guilty, you must give the defendant the benefit of the doubt
5 and find the defendant not guilty.

6 I remind you, ladies and gentlemen, that throughout
7 this trial, you and I have had certain duties to perform.
8 As a trial judge, it has been my responsibility to preside
9 over the trial of the case, and I also have the duty to rule
10 on the admissibility of evidence offered during the trial of
11 the case. I remind you that you are to consider only the
12 competent evidence offered during the trial. If there was
13 any testimony ordered stricken from the record by me during
14 this trial, you must disregard that testimony and not use it
15 as a basis of your decision. You are to consider only the
16 testimony which was presented from the witness stand by the
17 sworn witnesses, any exhibits which have been introduced
18 into evidence during the trial of the case, and if there
19 were any, any stipulations of counsel.

20 Now, I also as the presiding judge, have the additional
21 duty to charge you the law that applies to this case. As
22 the presiding judge, I told you that I am the sole judge of
23 the law in this case, and it is your duty as jurors to
24 accept and to apply the law, as I now state it to you. If
25 you on this jury already have any idea as to what you think

1 the law is, or what you feel the law ought to be, and it
2 does not agree with what I now tell you the law is, you must
3 abandon any of your preconceived ideas or any of your
4 preconceived opinions, because of you took an oath from the
5 Clerk of Court. And in that oath, you swore or affirmed
6 that you would accept the law as given to you, and apply the
7 law as given to you, exactly as I now state it to you.

8 In every case tried in this Court before a jury, the
9 jury becomes the sole and the exclusive judges of the facts
10 in the case. A trial judge, such as myself, cannot
11 intimate, comment on or make any statement to a trial jury,
12 such as you, about the facts in a case. Since you, the
13 jury, are the sole judges of the facts in this case, you are
14 not to infer from what I have said during the progress of
15 this trial in ruling upon the admissibility of evidence or
16 otherwise, or anything that I say now during the course of
17 this instruction to you, that I have any opinion whatsoever
18 about the facts in this case. The law does not allow me to
19 have an opinion about the facts in this case. This is a
20 matter solely for you, the jury, to determine. As jurors,
21 then, it is your duty to determine the effect, the value,
22 the weight and the truth of the evidence that's been
23 presented during the trial of this case.

24 Now, ladies and gentlemen, there are two types of
25 evidence that are generally presented during a trial. And

1 like many things in the law, we have names for those general
2 types of evidence. They're called direct evidence and
3 circumstantial evidence.

4 Direct evidence, ladies and gentlemen, is testimony of
5 a person who claims to have actual knowledge of a fact, such
6 as an eyewitness to an event. Direct evidence is evidence
7 which immediately establishes the main fact to be proved.

8 Circumstantial evidence, as contrasted with direct
9 evidence, is proof of a chain of facts and circumstances,
10 indicating the existence of a fact. Circumstantial evidence
11 is evidence which immediately establishes a collateral fact
12 from which the main fact may or may not be inferred.
13 Circumstantial evidence is based on inference and not on
14 personal knowledge or personal observation.

15 The law makes absolutely no distinction whatsoever
16 between the weight or the value to be given to either direct
17 evidence or circumstantial evidence. Nor is a greater
18 degree of certainty required of circumstantial evidence than
19 of direct evidence. Ladies and gentlemen of the jury, you
20 should weigh all the evidence in this case. You should
21 consider all the evidence in this case, both direct and
22 circumstantial evidence.

23 After weighing and considering all the evidence in this
24 case, if you're not convinced of the guilt of the defendant
25 beyond a reasonable doubt, you must find the defendant not

1 guilty. On the other hand, after weighing and hearing and
2 considering all the evidence in this case, if you're
3 convinced of the guilt of the defendant beyond a reasonable
4 doubt, you must find the defendant guilty.

5 Necessarily, ladies and gentlemen, you must determine
6 the credibility, meaning the believability, of the witnesses
7 who have testified during the trial of this case. It
8 becomes your duty as a juror to analyze. It becomes your
9 duty as a juror to evaluate the evidence and determine which
10 evidence convinces you of its truth.

11 In determining the believability or credibility of the
12 witnesses who have testified in this case, you may believe
13 one witness over several witness. You may believe several
14 witnesses over one witness. You may believe a part of the
15 testimony of a witness and reject the remaining part of the
16 testimony of that same witness. You may believe the
17 testimony of a witness in its entirety, or you may reject
18 the testimony of a witness in its entirety. You may
19 consider whether any witness has exhibited to you any
20 interest, any bias, any prejudice or other motive in this
21 case. You may also consider the appearance and manner of
22 the witness while the witness is on the witness stand.

23 Now, you heard me tell you during the trial that the
24 rules of evidence ordinarily do not permit witnesses to get
25 on this witness stand and say to you, a jury, "My opinion is

1 so-and-so." Or "my conclusion is so-and-so." We do have an
2 exception to the opinion rule. In the law an exception
3 exists for witnesses whom we call "expert witnesses." A
4 witness who by education and experience claims to have
5 become an expert in some art, science or profession, and
6 those witnesses have qualified by the court as a matter of
7 law, may given an opinion as to the subject the witness
8 claims to be an expert in. And they also give the reasons
9 for his or her expert opinion. You should consider any
10 expert opinion given by a witness just like any other
11 evidence in the case. Give it the weight you think it
12 deserves. If you decide that an expert witness's opinion is
13 not based on sufficient education and experience, or if you
14 decide that the reasons given in support of the opinion are
15 not sound, or that the opinion is outweighed by other
16 evidence, you may disregard the opinion entirely.

17 An expert witness's opinion is to be given no greater
18 weight than that of other witnesses, simply because the
19 witness is an expert. And you do not have to accept an
20 expert's opinion, even though it is uncontradicted.

21 I charge you, ladies and gentlemen, that normally, the
22 law says that a person who has a past criminal record is
23 competent to testify during a trial. A past criminal record
24 with convictions does not affect the ability of a witness to
25 testify. This past criminal record may only be considered

1 by you, if at all, in determining the witness' believability
2 or credibility.

3 Remember, ladies and gentlemen, you as a jury are the
4 sole judges of the facts in this case, and you are also as a
5 jury the sole judges of the believability of any and all the
6 witness who have testified during the trial of the case.

7 I charge you and emphasize to you, ladies and
8 gentlemen, that the fact that the defendant did not testify
9 in this case is not a factor to be considered by you in any
10 way in your deliberations and in your consideration on the
11 question of the guilt or innocence of the defendant. It
12 must not be considered by you in any manner whatsoever. A
13 defendant has the constitutional right to remain silent.
14 And the assertion of that right must not be considered by
15 you in any way in your deliberations.

16 I repeat, under that oath which each of you took as
17 jurors, you are to draw no conclusion whatsoever from the
18 fact that the defendant in this case did not testify. The
19 fact that the defendant did not testify should not even be
20 discussed in your jury room. The burden of proof, as I have
21 stated to you, is on the State of South Carolina. The
22 defendant is not required to prove his innocence. The
23 burden of proof remains on the State to prove guilt by
24 evidence, satisfying you of that guilt beyond a reasonable
25 doubt.

1 I charge you, ladies and gentlemen, that a statement or
2 statements alleged to have been made by the defendant have
3 been admitted into evidence in this case. While the Court
4 has determined, as a matter of law, that the statements are
5 admissible, I instruct you that you as a jury make the
6 ultimate decision of whether or not the defendant made any
7 statement or statements.

8 If the defendant did make a statement or statements and
9 you so find, you must also determine whether the statement
10 or statements were made by the defendant voluntarily and of
11 his own free will. This means that the statement or
12 statements were not caused by pressure, force, fear,
13 threats, coercion or intimidation or by hope of a promise of
14 leniency or reward of any kind.

15 In determining whether the statement or statements were
16 voluntary, you may consider, based on evidence introduced
17 during the trial of the case, both the characteristics of
18 the defendant and the details of the questioning.

19 Some of the factors introduced into evidence that you
20 may consider in looking at voluntariness are, one, the age
21 of the defendant, the defendant's education or lack of
22 education, the defendant's mental ability or capacity, the
23 defendant's IQ or intelligence, the defendant's background
24 and environment, the place and length of detention, the
25 nature of the questioning, the advice, or lack thereof, to

1 the defendant of his constitutional rights including, but
2 not limited to, the right to remain silent; that any
3 statement could be used against him in a court of law; the
4 right to have a lawyer present; that if he could not afford
5 a lawyer, a lawyer would be appointed to represent him
6 without any cost; and that he could stop making a statement
7 at any time.

8 You must carefully consider, as a jury, all of the
9 surrounding circumstances, based on evidence introduced
10 during the trial of the case before you give any weight to
11 any alleged statement.

12 The State has the burden of proving beyond a reasonable
13 doubt that the alleged statement or statements were
14 voluntary. If you determine they were, you may give the
15 statement or statements any further consideration that you
16 as a jury deem proper. You must decide what weight, if any,
17 should be given to the alleged statement or statements. If
18 you determine the alleged statement or statements were not
19 the free and voluntary statement or statements of the
20 defendants, you should not consider the statement or
21 statements at all.

22 I charge you, ladies and gentlemen, that mere presence
23 at the scene of a crime is not sufficient to prove someone
24 guilty of a crime. A defendant's presence where a crime is
25 being committed, or mere association with a person who

1 commits a crime, does not make a defendant an accomplice or
2 an aider or abettor of the person committing the crime.

3 The burden is on the State to prove every element of
4 the crime charged. And if you find, after reviewing all the
5 evidence that the State has proved that the defendant was
6 only merely present at the scene of the crime, that they
7 have not proved beyond a reasonable doubt any other
8 participation in the crime, then you must find the defendant
9 not guilty. The law is that proof of mere presence at the
10 scene of the crime is not sufficient to find someone guilty.

11 I charge you, ladies and gentlemen, that if a crime is
12 committed by two or more people who are acting together in
13 committing a crime, the act of one is the act of all. A
14 person who joins with another to commit an unlawful act is
15 criminally responsible for everything done by the other
16 person which happens as a probable or nature consequence of
17 the acts done in carrying out the common plan or common
18 purpose.

19 For example, two people can be guilty of killing
20 another person when only one of the two people had a gun,
21 there was only one bullet in the gun, and only one of the
22 two people fired the shot that caused the death. If two or
23 more people are together, acting together, assisting each
24 other in committing the offense, the act of one is the act
25 of all or, as it is sometimes said, "The hand of one is the

1 hand of all."

2 Prior knowledge that a crime is going to be committed,
3 without more, is not sufficient to make a person guilty of
4 that crime. Mere knowledge that another person is going to
5 commit a crime, even if the defendant is present when the
6 crime is committed, is not sufficient to convict the
7 defendant as a principal. Guilt, as a principal, is shown
8 by actual or constructive presence at the scene, as a
9 result of prior arrangement. Therefore, a finding of a
10 prior arranged plan or common scheme is necessary for a
11 finding of guilt as a principal. The State must prove
12 beyond a reasonable doubt by competent evidence the theory
13 of the hand of one is the hand of all.

14 A principal in a crime is one who either actually
15 commits the crime or who is present aiding and abetting or
16 assisting in committing the crime. When a person does an
17 act in the presence of and with the assistance of another,
18 the act is done by both. When two or more, acting with a
19 common plan, a common intent, are present at the commission
20 of a crime, it does not matter who actually commits the
21 crime. All are guilty. The hand of one is the hand of all.

22 Present at the commission of a crime mean to be
23 sufficiently near to aid and abet and assist in the
24 commission of the crime. However, mere presence at the
25 scene of a crime is not sufficient to convict one as a

1 principal on the theory of aiding and abetting. Intent is
2 also a necessary element. For there must have been a common
3 design or common intent to commit the crime, and the crime
4 must have been committed pursuant thereto with the person
5 aiding and abetting by some overt act.

6 Intent means intending the result which actually
7 occurs, not accidentally or involuntarily. Intent may be
8 shown by acts and conduct of the defendant and other
9 circumstances from which you may naturally and reasonably
10 infer intent. The State must prove these elements beyond a
11 reasonable doubt.

12 Now, ladies and gentlemen, I've used the word to you
13 "intent" in order to establish criminal liability for any
14 criminal offense. Criminal intent is required. For
15 example, the mental state required to be proven by the State
16 for any particular time, and I'll give you examples of
17 criminal intent. It might be purpose; it might be
18 knowledge; it might be recklessness; it might even be
19 criminal negligence. Those are examples of criminal intent.
20 Criminal intent must be proven by the State beyond a
21 reasonable doubt. Criminal intent is always a matter that
22 must be determined by the jury, from the circumstances
23 surrounding the situation, based on the evidence introduced
24 during the trial of the case.

25 Now, ladies and gentlemen, there is no way to prove

1 intent to a mathematical certainty. There is no way that
2 medical science can dissect a person's brain and determine
3 what that person had in mind. So the law says, ladies and
4 gentlemen, that criminal intent may be inferred from the
5 circumstances shown to have existed, based on the evidence
6 introduced during the trial the case.

7 This, ladies and gentlemen, is how you as a jury make
8 the determination of whether or not any element in any crime
9 requiring a certain intent was present. It is not
10 necessary, ladies and gentlemen, to establish intent by
11 direct evidence. But intent may be established by
12 inference, in the same way as any other fact, by taking into
13 consideration the acts of the parties, and all the facts and
14 consideration and circumstances of the case, based on
15 evidence introduced during the trial of the case.

16 Criminal intent is a mental state, a conscious
17 wrongdoing. It is up to you, the jury, from the evidence,
18 to determine what the defendant intended to do, based on the
19 circumstances shown to have existed from evidence introduced
20 during the trial of the case.

21 Criminal intent can arise from an action or even a
22 failure to act. It may arise from negligence, recklessness
23 or an indifference to duty or to consequences considered by
24 the law to be the equivalent of criminal intent.

25 Now, ladies and gentlemen, I charge you that there are

1 several indictments or multiple indictments, five in all in
2 this case, and they allege different offense against the
3 defendant. The charges are, first, that the defendant,
4 Stevie Lamont Aiken, is charged in one indictment with
5 assault and battery with intent to kill as to Margaret
6 Gooding.

7 In another indictment, the defendant, Stevie Lamont
8 Aiken, is charged with indictment with possession of a
9 weapon during commission of a violent crime. That
10 indictment requires that you be guilty of a violent crime.
11 I'll explain that to you in a moment.

12 Third indictment, the defendant, Stevie Lamont Aiken,
13 is charged in an indictment with armed robbery.

14 Fourth indictment, the defendant, Stevie Lamont Aiken,
15 is charged in indictment with kidnapping; as to Margaret
16 Gooding.

17 And in the final indictment, the defendant, Stevie
18 Lamont Aiken, is charged with the offense of burglary in the
19 first degree.

20 Now, each of those five charges is a separate and
21 distinct offense. And you must decide each charge
22 separately on the evidence and the law applicable to it,
23 uninfluenced by your decision as to any other charge, with
24 the exception of possession of a weapon during the
25 commission of a violent crime because in order to find the

1 defendant guilty of that, you must first find the defendant
2 guilty of a violent crime.

3 If you find the defendant guilty or not guilty of
4 assault and battery with intent to kill, or the lesser-
5 included offense to assault and battery with intent to kill,
6 which is assault and battery of a high and aggravated
7 nature, you will be asked to write a verdict -- and your
8 foreman will be checking on the verdict form. You'll be
9 asked to find a verdict, guilty or not guilty, as to each
10 separate offense or lesser-included offense. So you'll be
11 writing "guilty" or "not guilty" as to each or any lesser-
12 included offense. Guilty or not guilty of armed robbery;
13 guilty or not guilty of kidnapping; guilty or not guilty of
14 first-degree burglary; guilty or not guilty of possession of
15 a weapon during commission of a violent crime. You will be
16 asked by the Court to write a separate verdict for each
17 charge, following the instructions that I have given you on
18 your verdict form.

19 I'll now define the offenses for you. Let's begin with
20 assault and battery with intent to kill. The defendant has
21 been charged with one indictment with the offense of assault
22 and battery with intent to kill. In order to prove assault
23 and battery with intent to kill, the State must prove beyond
24 a reasonable doubt that the defendant committed an unlawful
25 act of a violent nature to the person of another with malice

1 aforethought.

2 Now, for the offense of assault and battery with intent
3 to kill, let's break down that offense. An assault occurs
4 when a person unlawfully attempts or offers to commit a
5 violent injury upon another person and had the present
6 ability to complete the attempted injury. An assault is the
7 intentional creation of a reasonable fear of immediate
8 bodily harm. It is not necessary that the attempted injury
9 or harm actually take place. For example, if I walk up to
10 you right now, and when I'm within arm's reach of you, I
11 draw my fist back to hit you. That is an assault, ladies
12 and gentlemen of the jury.

13 A battery is the unlawful touching of another person by
14 a person who has committed the assault. An unlawful
15 touching can be caused by a part of the accused's body or by
16 any object the accused puts in motion. A battery is the
17 completion of the assault by using or applying force to
18 another person, however slight, in a rude, angry or
19 resentful manner without legal justification for doing so.
20 Using my earlier example, if I carry through after I walk up
21 to you with arm's length, and if I carried through and
22 strike you, hit you, that is the battery.

23 Malice is hatred, ill-will. Malice is hostility
24 towards another person. It is the intentional doing of a
25 wrongful act without just cause, without excuse, and with an

1 intent to inflict an injury or under the circumstances the
2 law will infer an intent.

3 Malice aforethought does not require, ladies and
4 gentlemen, that malice exists for any particular time before
5 the act is committed. But malice must exist in the mind of
6 the defendant just before and at the time of the act being
7 committed. Therefore, there must be a combination of this
8 previous evil intent or hostility and the act.

9 Malice aforethought may be expressed or malice
10 aforethought may be implied. The terms "express" and
11 "implied" do not mean different forms or kinds of malice,
12 but merely the manner in which malice may be shown to exist.
13 That is, either by direct evidence or by the facts and
14 circumstances, or inference from the facts and circumstances
15 which are proof.

16 Express malice is shown when a person speaks words
17 which express hatred or ill-will or hostility for another
18 person. Or when the person prepared beforehand to do the
19 act, which was later accomplished. For example, lying in
20 wait for a person, or any other act of preparation, going to
21 show from the evidence that the deed was within the
22 defendant's mind, would be express malice.

23 Malice may also be inferred from conduct, showing a
24 total disregard for human life. If facts are proved beyond
25 a reasonable doubt, sufficient to raise an inference of

1 malice to your satisfaction, this inference would be simply
2 an evidentiary fact to be considered by you, along with all
3 the other evidence in the case, and you give it the weight
4 you decide it should receive.

5 I charge you, ladies and gentlemen, and I emphasize
6 this to you, because I've had juries ask me this question.
7 For the offense of assault and battery with intent to kill,
8 a specific intent to kill is not an element of assault and
9 battery with intent to kill. But there must be, ladies and
10 gentlemen, a general intent to commit serious bodily injury.
11 Intent means intending the result which actually occurs, not
12 accidentally, not involuntarily.

13 Intent may be shown by acts and conduct of the
14 defendant and other circumstances from which you may
15 naturally and reasonably infer intent. Evidence of the
16 character of the assault, the character of the instrument
17 used, the manner in which it was used, the purpose to be
18 accomplished, and the resulting wounds or injuries may be
19 considered in determining the intent with which the assault
20 was committed. Intent may be inferred when it is
21 demonstrated that the defendant voluntarily and willfully
22 commits an act, the natural tendency of which is to destroy
23 another's life.

24 Now, should you decide from the evidence and
25 considering the offense of assault and battery with intent

1 to kill, that the defendant is not guilty of that offense,
2 you may consider the lesser-included offense of assault and
3 battery of a high and aggravated nature. If you find that
4 the State has not proven that the defendant is guilty of
5 assault and battery with intent to kill, you must then
6 determine whether the State has proven that the defendant is
7 guilty of assault and battery of a high and aggravated
8 nature.

9 Assault and battery of a high and aggravated nature
10 includes all of the elements of assault and battery that
11 I've just give you. In other words, all the elements of
12 assault and battery with intent to kill, except malice
13 aforethought. In addition, the State must prove beyond a
14 reasonable doubt an aggravating circumstances for assault
15 and battery of a high and aggravated nature.

16 I charge you, ladies and gentlemen, in this case, the
17 defendant is charged with possession of a weapon during the
18 commission of or attempt to commit a violent crime. The
19 State must approve for this offense beyond a reasonable
20 doubt that defendant was in possession of a firearm or
21 visibly displaced what appeared to be a firearm, or visibly
22 displayed a knife during the commission of a violent crime.

23 A firearm is any machine gun, automatic rifle,
24 revolver, pistol or any other weapon which will, is designed
25 to or may be readily converted to expel a projectile.

1 A knife means an instrument or tool with a sharp
2 cutting blade, whether or not fastened to a handle, which
3 can be used to inflict a cut or a slash or a wound.

4 In order to find the defendant guilty of this offense,
5 possession of a weapon during the commission of a violent
6 crime, you must first find the defendant guilty of
7 committing a violent crime.

8 I charge you, ladies and gentlemen of the jury, that
9 the offenses of kidnapping, assault and battery with intent
10 to kill, burglary first degree and armed robbery are violent
11 crimes under the laws of the State of South Carolina. I
12 charge you, ladies and gentlemen, the defendant is charged
13 with the offense of kidnapping. For this offense, the State
14 must prove beyond a reasonable doubt that the defendant
15 knowingly and unlawfully seized, confined, inveigled,
16 decoyed, kidnapped, abducted or carried away another person
17 without authority of the law.

18 To do a thing unlawfully is to do it willfully against
19 the law. Knowingly means with knowledge, consciously, not
20 accidentally. Seize means to take hold of suddenly or
21 forcibly. Confine means to limit, restrict or enclose
22 within bounds, imprison or shut or keep in. Inveigle means
23 to lure, entice or lead astray by false representations,
24 promises or other deceitful means. Decoy means to lure, or
25 as if by decoy. A decoy is something to entice a person

1 into a trap. Kidnap is to remove a person against his or
2 her will by unlawful force or by fraud. Abduct means to
3 carry off secretly or by force for an illegal purpose.
4 Carry away means to remove.

5 The State does not have to prove for the offense of
6 kidnapping that the defendant did all of these things.
7 Instead, if you as a jury find beyond a reasonable doubt
8 that the defendant did any of these things, you may find the
9 defendant guilty of kidnapping. Something is done without
10 authority or law is something that which the law does not
11 sanction, which the law does not permit, allow, condone or
12 provide justification for. The kidnapping does not have to
13 be for any personal or monetary gain for any illegal
14 purpose, but it may for any reason whatsoever.

15 I charge you, ladies and gentlemen, that defendant is
16 charged in an indictment with armed robbery. In order to
17 prove this offense, the State must first prove beyond a
18 reasonable doubt that the defendant took personal property
19 from the person or presence of another person.

20 Property is in the presence of a person, if it is
21 within the person's reach, inspection, observation or
22 control, so that the person could, if not overcome with
23 violence or prevented by fear, keep possession of the
24 property.

25 The State must also prove for armed robbery beyond a

1 reasonable doubt that the defendant carried the property
2 away, intending to permanently deprive the owner of the
3 property and to keep the property from the defendant's own
4 use, or to keep the property for the defendant's own use.
5 The slightest removal of the property or the complete
6 possession of the property, even for an instant, by the
7 defendant is sufficient to show a taking and carrying away
8 of the property.

9 The taking and carrying away of the property must have
10 been done with violence and it must be -- or by putting the
11 owner of the property in fear of violence.

12 Finally, the State must prove beyond a reasonable doubt
13 that the defendant either was armed with a deadly weapon
14 during the robbery or alleged, either by his action or
15 words, that he was armed while using a representation of a
16 deadly weapon or any objection which a person present during
17 the commission of the robbery reasonably believed to be a
18 deadly weapon.

19 The display of a deadly weapon is not required to prove
20 armed robbery, words coupled with a representation that the
21 defendant possess a deadly weapon are enough, if it leads a
22 victim to reasonably believe the defendant is armed. A
23 deadly weapon is any article, instrument or substance which
24 is likely to cause death or great bodily harm. Whether an
25 instrument has been used as a deadly weapon depends on the

1 facts and circumstances of each case.

2 I charge you, ladies and gentlemen, the defendant is
3 charged in this case with the offense of first degree
4 burglary. For this offense, the State must prove beyond a
5 reasonable doubt that the defendant entered the dwelling
6 without consent. A dwelling is any building or portion of a
7 building in which a person ordinarily sleeps. A building
8 constructed as a dwelling that has never been occupied
9 cannot be considered a dwelling for purposes of burglary,
10 but a building is a dwelling, even if the residents are
11 temporarily absent from the building.

12 In order to prove that the defendant entered the
13 dwelling, the State does not have to show even that the
14 defendant's entire body entered the dwelling. The smallest
15 entry is sufficient. It may any part of the body, such as a
16 hand or foot, or even as an instrument, such as a hook or
17 other instrument. In addition, the State does not have to
18 prove that force was used to gain entry for burglary. If a
19 person enters a building by using deception, truck or
20 misrepresentation to get consent to enter, this is an entry
21 without consent.

22 Next for this offense, the State must prove beyond a
23 reasonable doubt that the defendant intended to commit a
24 crime, either a felony or a misdemeanor, at the time of
25 entering the dwelling without consent. The mere entry into

1 a dwelling without consent is not burglary. If the intent
2 to commit a crime was formed after the entry, it is not
3 burglary. On the other hand, if the defendant intended to
4 commit a crime at the time of the entry, it is a burglary,
5 even if the intent was abandoned after entering the
6 dwelling. It does not matter that the intended crime was
7 not completed.

8 Intent, as I have already charged you, may be shown by
9 acts and conduct of the defendant, based on the evidence
10 introduced during the trial of the case.

11 Finally, for the offense of burglary first degree, the
12 State must prove beyond a reasonable doubt that either, one,
13 when entering, while in the dwelling or when fleeing, the
14 defendant or an accomplice was armed with a deadly weapon or
15 explosive. A deadly weapon is any article, instrument or
16 substance which is likely to cause death or great bodily
17 harm. Or when entering or while in the dwelling or when
18 fleeing, the defendant or an accomplice cause physical
19 injury to anyone not participating in the crime.

20 Or when entering, while in the dwelling, or when
21 fleeing, the defendant or an accomplice use, or threaten to
22 use a dangerous object. Or when entering, while in the
23 dwelling or when fleeing, the defendant or an accomplice
24 display what was or appeared to be a knife, pistol,
25 revolver, rifle, shotgun, machine gun or other firearm. Or

1 the defendant entered or remained in the dwelling in the
2 nighttime. Nighttime is the period between sunset and
3 sunrise, during which there is not enough daylight to
4 recognize a person's face, except by artificial light or
5 moonlight.

6 Now, Mr. Foreman and ladies and gentlemen of the jury,
7 I told you, Mr. Foreman, I would prepare a verdict form for
8 you, and I've done so. Please do not pay any attention to
9 the order in which I wrote the form's verdict. I obviously
10 had to write one before the other and the order has no
11 significance whatsoever.

12 I've made a caption on your verdict form. I put "State
13 of South Carolina County of Hampton." I put "Court of
14 General Sessions," which is criminal court. I listed all
15 five indictment numbers, and I listed this case, which is:
16 "The State of South Carolina v. Stevie Lamont Aiken,
17 defendant." And I wrote the words "verdict" under the
18 caption.

19 Question one: "We, the jury, by unanimous consent find
20 the defendant, Stevie Lamont Aiken, in Indictment Number
21 2010-GS-2500026." The first form of verdict would be
22 "guilty of assault and battery with intent to kill." If
23 that be your form of verdict, Mr. Foreman, you would check
24 for the jury on the line beside that form of verdict. Under
25 question one, the second form of verdict under "We, the

1 jury, by unanimous consent find the defendant, Stevie Lamont
2 Aiken, in Indictment Number 2010-GS-2500026, not guilty of
3 assault and battery with intent to kill." If that be your
4 form of verdict, Mr. Foreman, you would check on the line
5 beside that form of verdict.

6 If you find the defendant not guilty of assault and
7 battery with intent to kill, you would then consider
8 question two. Question two is: "We, the jury, by unanimous
9 consent, find the defendant Stevie Lamont Aiken," and then I
10 wrote you a note in parenthesis. "If you find the defendant
11 guilty of assault and battery with intent to kill, you do
12 not need to answer the question of guilty or not guilty of
13 the lesser-included offense of assault and battery of a high
14 and aggravated nature." But if you find the defendant in
15 question one not guilty of assault and battery with intent
16 to kill, you would answer question two.

17 First form of verdict under question two is: "Guilty
18 of the lesser-included offense of assault and battery of a
19 high and aggravated nature." If that be your form of
20 verdict, Mr. Foreman, you would check on the line beside
21 that form of verdict for the jury under question two.

22 Second form of verdict under question two is: "Not
23 guilty of the lesser-included offense of assault and battery
24 of a high and aggravated nature." That be your form of
25 verdict, you would check on the line beside that form of

1 verdict. You cannot find both forms of verdict; you must
2 find one or the other, Mr. Foreman and ladies and gentlemen
3 of the jury.

4 Question three: "We, the jury, by unanimous consent,
5 find the defendant, Stevie Lamont Aiken, in Indictment
6 Number 2010-GS-2500028." First form of verdict is "guilty
7 of armed robbery." If that be your form of verdict, you
8 would check on the line beside that form of verdict.

9 Under question three, the second form of verdict, "We,
10 the jury, by unanimous consent, find the defendant, Stevie
11 Lamont Aiken, in Indictment Number 2010-GS-2500028, not
12 guilty of armed robbery." That be your form of verdict, you
13 would check on the line beside that form of verdict.

14 Question four: "We, the jury, by unanimous consent,
15 find the defendant, Stevie Lamont Aiken, in Indictment
16 Number 2010-GS-2500029." First form of verdict is "guilty
17 of kidnapping." If that be your form of verdict, you would
18 check on the line beside that form of verdict.

19 Under question four, the second form of verdict under
20 the words "We, the jury, by unanimous consent, find the
21 defendant, Stevie Lamont Aiken, in Indictment Number 2010-
22 GS-2500029, would be not guilty of kidnapping." That be
23 your form of verdict, you would check on the line beside
24 that form of verdict.

25 Question five: "We, the jury, by unanimous consent,

1 find the defendant, Stevie Lamont Aiken, in Indictment
2 Number 2010-GS-2500030." The first form of verdict is
3 "guilty of burglary in the first degree." If that be your
4 form of verdict, you would check on the line beside that
5 form of verdict.

6 The second form of verdict under question five is "not
7 guilty of burglary in the first degree." If that be your
8 form of verdict, you would check on the line beside that
9 form of verdict.

10 Question six. This is the offense involving possession
11 of a weapon during the commission of a violent crime. And
12 I've written the words, "We, the jury, by unanimous consent,
13 find the defendant, Stevie Lamont Aiken, in Indictment
14 Number 2010-GS-2500027." And I wrote you a note in
15 parenthesis: "You may only find the defendant guilty of
16 possession of a weapon during a violent crime if you have
17 previously found him guilty of either kidnapping, assault
18 and battery with intent to kill and not the lesser-included
19 offense, burglary in the first degree and/or armed robbery,"
20 because those four offenses are violent offenses under the
21 laws of the State of South Carolina.

22 Under question six, the first form of verdict is
23 "guilty of possession of a weapon during commission of a
24 violent crime." The second form of verdict under question
25 six is "not guilty of possession of a weapon during the

1 commission of a violent crime."

2 If you do not find the defendant guilty of one of the
3 violent crimes, you must find the defendant not guilty of
4 possession of a weapon during the commission of a violent
5 crime."

6 You would then sign your name, Mr. Foreman, on the line
7 where I have typed the words "Foreperson." And you would
8 fill in today's date, Mr. Foreman, which is March the 9th,
9 2011.

10 When you have reached a verdict, you have filled out
11 the verdict form, you will knock on your jury room door,
12 inform the bailiff that you've reached a verdict and we will
13 bring you back into the courtroom in order to publish your
14 verdict.

15 Now, Mr. Foreman and ladies and gentlemen of the jury,
16 your verdict must be unanimous. That is, it must be the
17 verdict of each and every one of you. All 12 of you must
18 agree on a verdict.

19 Now, Mr. Foreman, ladies and gentlemen, I've now
20 charged you on the law in order to help guide you to a fair
21 and, hopefully, just result in this case. You're the judges
22 of the facts in this case. And so based on your
23 determination of the facts in this case and on the law, as
24 I've explained it to you, you're soon going to begin your
25 deliberations.

1 Now, I want to remind each of you that each of you have
2 been selected as fair and impartial jurors. You took and
3 oath to fairly and to impartially try and determine the
4 facts of this case. And when you comply with that oath, no
5 one can criticize your verdict, ladies and gentlemen. You
6 are to decide this case based solely on the evidence that
7 you've heard or seen during the trial of this case.

8 You must decide the issues in this case, ladies and
9 gentlemen, without any bias, without any prejudice towards
10 either party in this case. You cannot allow yourself to be
11 governed by prejudice. You cannot allow yourself to be
12 governed by any bias for or against any person. Or you
13 cannot allow yourself to be governed by public opinion or by
14 emotion or any other factor that is not in evidence in the
15 trial of this case.

16 Both the defendant and the State of South Carolina have
17 the absolute right to expect that each of you, as jurors,
18 will carefully, that each of you will impartially consider
19 all of the evidence in this case, and that you will follow
20 the law, as I have now instructed it to you to be in
21 reaching your verdict in this case.

22 Now, Mr. Foreman and ladies and gentlemen of the jury,
23 I'm going to ask you at this time to retire to your jury
24 room. Do not begin your deliberations. I may have to bring
25 you back into the courtroom for some brief additional

1 instructions. When it is time for you to begin your
2 deliberation, I will send your verdict form into you by the
3 bailiff, along with all the exhibits which have been
4 introduced into evidence during the trial of the case, and
5 have the bailiff inform you, you may then commence your
6 deliberations.

7 You may retire to your jury room at this time. My
8 alternate jurors, please remain with me.

9 (1:53 P.M., 3-9-11, WHEREUPON THE JURY EXITS THE
10 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
11 RECORD.)

12 THE COURT: (To the alternate jurors) On behalf of
13 Hampton County and this Court, I want to thank you very much
14 for your patience and your service this week. I promised
15 you I'd get you home early this week. This concludes your
16 service for the week. Your exempt from jury service for
17 three years, by virtue of your being here this week. All a
18 Judge can ask of a jury is that they listen and listen
19 carefully, and you did that. On behalf of this Court and
20 this county, I thank you for that service.

21 Now, if either of you need a work excuse for serving on
22 the jury this week, Mylinda, they need to go downstairs?

23 MS. NETTLES: Yes, sir.

24 THE COURT: If you'll go downstairs to the Clerk's
25 Office, we'll be happy to provide you with one. Now, your

1 lunch is going to be provided for you to take with you. You
2 cannot go back into the jury room. Thank you for your
3 service. Did we treat you okay?

4 ALTERNATIVE JURORS: (ALL IN AGREEMENT.)

5 THE COURT: Good. I like to hear that. Mylinda does
6 such a good job taking care of my jury, and I appreciate
7 your service. Thank you very much. You're excused from the
8 courtroom. You may leave through this door at this time.

9 (ALTERNATE JURORS LEAVE THE COURTROOM.)

10 THE COURT: Any exceptions or additions to the charge
11 from the State of South Carolina?

12 SOLICITOR STONE: No, sir.

13 THE COURT: Any exceptions or additions to the charge
14 from the defendant?

15 MR. PLEXICO: No, Your Honor.

16 THE COURT: I'd ask you both to come forward. Certify
17 on the record you're satisfied the court reporter has all
18 the exhibits. Put the exhibits back in the box. And then
19 certify to me that the court reporter has the exhibits and
20 you have no objection to the bailiff taking the verdict form
21 and the exhibits into the jury, and the bailiff informing
22 the jury that they may now commence their deliberation.

23 Please come forward.

24 (BRIEF PAUSE WHILE EXHIBITS ARE PUT IN ORDER AND
25 ACCOUNTED FOR.)

1 MR. PLEXICO: I'm happy with what I see here, Judge.

2 THE COURT: All right. You better check them because
3 every now and then, you know, y'all take one back and put it
4 inside your file, and then accuse us of losing it.

5 Although, I will say that every now and then, we might lose
6 one ourselves. Becky, I think -- let me check again, One
7 through Thirty-nine?

8 COURT REPORTER: Yes, sir.

9 THE COURT: With sub-parts to Thirty-seven and Thirty-
10 five? Those are the only sub-parts. Thirty-seven is A
11 through G, and Thirty-five is A through D.

12 COURT REPORTER: And Thirty-four is also A through C.

13 THE COURT: Oh, Thirty-four has got B and C. A, B and
14 C?

15 COURT REPORTER: Yes.

16 (Off the record, briefly.)

17 THE COURT: All right.

18 SOLICITOR STONE: Yes, sir.

19 THE COURT: Is the Solicitor satisfied that we have all
20 exhibits?

21 SOLICITOR STONE: Yes, sir.

22 THE COURT: Do you have any objection to the bailiff
23 taking the exhibits and the verdict form into the jury and
24 telling the jury they may now commence their deliberations?

25 SOLICITOR STONE: None.

1 THE COURT: Is the defendant satisfied we have all
2 exhibits?

3 SOLICITOR STONE: Yes, Your Honor.

4 THE COURT: Do you have any objection to the bailiff
5 taking the verdict form and the exhibits into the jury and
6 telling the jury they may now commence their deliberations

7 MR. PLEXICO: No, Your Honor.

8 THE COURT: Hold on a second, gentleman. On the
9 record, because I didn't want to stop this trial, I called
10 Mr. Stone, the Solicitor, and Mr. Plexico, to a sidebar
11 before I began my charge. Mr. Plexico asked for the right,
12 because he rested, to renew his motions for directed verdict
13 at the conclusion of all the evidence, based on the
14 sufficiency of the evidence.

15 I denied those motions, just as I did the motions that
16 he made in Court at the conclusion of the State's case. I
17 told Mr. Plexico I would mark those motions heard, and then
18 made contemporaneously, because of our rule, as if made at
19 the conclusion of all the evidence, so I didn't have to send
20 the jury out, to hear those motions, and bring them back in,
21 so they could stay in, following the arguments of the
22 attorneys and my charge on the law.

23 Have I accurately stated what occurred at the bench,
24 Solicitor?

25 SOLICITOR STONE: You have. And the State consents.

1 THE COURT: Yes, you did. Mr. Plexico, have I
2 accurately stated what occurred at the bench?

3 MR. PLEXICO: Yes, Your Honor.

4 THE COURT: Very well. Take them into the jury and
5 tell them they may commence their deliberations.

6 (2:00 P.M., THE EXHIBITS AND VERICT FORM ARE TAKEN TO
7 THE JURORS BY THE BAILIFF.)

8 MR. PLEXICO: Your Honor?

9 THE COURT: Yes, sir.

10 MR. PLEXICO: I believe there was one sidebar we needed
11 to put on the record, when I was questioning Mr. Harris
12 about the ---

13 THE COURT: Hold on a second. That door is open.

14 (Door is closed.)

15 THE COURT: Yes, sir.

16 MR. PLEXICO: When I was cross-examining Mr. Harris
17 about the amount of time that he could receive on the
18 offenses, and the Solicitor objected. At that point in
19 time, we had a sidebar. And I would have objected under
20 Mizelle in the confrontation clause to his objection, or
21 justified my questioning. And I just wanted that clearly on
22 the record, Your Honor.

23 THE COURT: All right. And let me tell you this. I
24 sustained the objection to your soliciting the penalty for
25 the offenses involved in this case. You entered into it by

1 saying "You have a lawyer. You knew how serious this was.
2 And do you know how much the penalty is for burglary or for
3 armed robbery." I let you get away with one question. When
4 you went to the second offense, there was an objection by
5 the Solicitor. I sustained the objection. I do not believe
6 the jury should be considering what the maximum penalty is
7 for an offense in their deliberation on the guilt or
8 innocence of the defendant. And for that reason, I
9 sustained the objection, and I want to make sure there is a
10 complete and accurate record of our sidebar.

11 We'll be in recess while we await the jury's verdict.

12 (3:38 P.M., WHEREUPON, A NOTE IS RECEIVED BY THE COURT
13 FROM THE JURY.)

14 THE COURT: Let the record reflect that I have a note
15 from the jury. "We request the court reporter transcript of
16 Mr. Antley's testimony." Any objection from the State to
17 making the jury's note a Court exhibit?

18 SOLICITOR STONE: No, sir.

19 THE COURT: From the defendant?

20 MR. PLEXICO: No, Your Honor.

21 THE COURT: Madame Clerk, would you hand it to the
22 court reporter. Will be Court's Exhibit Number Two.

23 MR. PLEXICO: Without objection.

24 (Court Exhibit Two, jury note, received into evidence.)

25 THE COURT: All right. I understand I have my jury.

1 Court Reporter has cued Mr. Antley's testimony. I'll
2 explain to them that you don't type a transcript quite this
3 fast, Ms. Hill, but that we can give them an audio recording
4 of the transcript. Bring me the jury, please.

5 (4:40 P.M., 3-9-11, WHEREUPON, THE JURY ENTERS THE
6 COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

7 THE COURT: Mr. Foreman, ladies and gentlemen of the
8 jury, I received your note and you wrote that you wanted a
9 transcript of Mr. Antley's testimony. Of course, the court
10 reporter hasn't had an opportunity -- she's been in court;
11 we're still working -- to type a transcript. We can play an
12 audio recording of Mr. Antley's transcript. Would that
13 suffice?

14 MR. FOREMAN: Yes, sir.

15 THE COURT: Very well. Madam Court Reporter, please
16 play the testimony of Greg Antley.

17 (At 4:42 p.m., audio recording of Mr. Antley's
18 testimony is replayed for the jury. The audio recording
19 ends at 5:07 p.m.)

20 THE COURT: Mr. Foreman, have we answered your question
21 now?

22 MR. FOREMAN: Yes, sir.

23 THE COURT: You may return to your jury room and
24 continue your deliberation.

25 (5:07 P.M., 3-9-11, WHEREUPON THE JURY EXITS THE

1 COURTROOM AND THE FOLLOWING PROCEEDINGS ARE HELD ON THE
2 RECORD.)

3 THE COURT: Any exceptions or additions to the Court's
4 comments to the jury from the State?

5 SOLICITOR STONE: No, sir.

6 THE COURT: From the defendant?

7 SOLICITOR STONE: No, Your Honor.

8 THE COURT: We'll be at ease in this case while we wait
9 the jury's verdict.

10 (WHEREUPON, THE COURT PROCEEDS WITH OTHER NON-JURY
11 MATTERS, OUTSIDE THE PRESENCE OF A JURY.)

12 (5:35 P.M., WHEREUPON, THE COURT IS INFORMED THAT THE
13 JURY HAS REACHED A VERDICT.)

14 THE COURT: All right. We've got a verdict. Now,
15 ladies and gentlemen, when the verdict is published, I do
16 not allow any kind of emotion or outburst. If you can't
17 control your emotions, get out and get out now, because I'll
18 enforce that with the contempt powers of my Court. There is
19 to be absolutely no comment on any verdict.

20 THE COURT: Becky, are you ready?

21 COURT REPORTER: Yes, sir.

22 THE COURT: Billy, are you ready? Bring us the jury.

23 (5:40 P.M., 3-9-11, WHEREUPON, THE JURY ENTERS THE
24 COURTROOM AND THE FOLLOWING IS HELD ON THE RECORD.)

25 MADAME CLERK: Mr. Foreman, have you reached a verdict?

1 MR. FOREMAN: Yes, ma'am.

2 THE COURT: You may publish the verdict. Defendant
3 will rise with his attorney. Madame Clerk will publish the
4 verdict.

5 MADAME CLERK: State of South Carolina, County of
6 Hampton, v. Stevie Lamont Aiken, We, the jury, by unanimous
7 consent find the defendant, Stevie Lamont Aiken, in
8 Indictment Number 2010-GS-25-00026, guilty of assault and
9 battery with intent to kill.

10 We, the jury, by unanimous consent, find the defendant,
11 Stevie Lamont Aiken, in Indictment Number 2010-GS-25-00028,
12 guilty of armed robbery.

13 We, the jury, by unanimous consent, find the defendant,
14 Stevie Lamont Aiken, in Indictment Number 2010-GS-25-00029,
15 guilty of kidnapping.

16 We, the jury, by unanimous consent, find the defendant,
17 Stevie Lamont Aiken, in Indictment Number 2010-GS-25-00030,
18 guilty of burglary in the first degree.

19 We, the jury, by unanimous consent, find the defendant,
20 Stevie Lamont Aiken, in Indictment Number 2010-GS-25-00027,
21 guilty of possession of a weapon during a violent crime.
22 Signed by Troy Thompson, foreman, in Hampton, South
23 Carolina, March the 9th, 2011.

24 THE COURT: Ladies and gentlemen of the jury, if this
25 be your verdict, would you each indicate by raising your

1 right hand?

2 (TWELVE JURORS RAISE THEIR HANDS.)

3 THE COURT: Thank you. Let the record reflect, 12
4 hands were raised in response to the Court's question. Mr.
5 Plexico, anything further from the jury?

6 MR. PLEXICO: Yes. We'd like to have the jury polled,
7 Your Honor.

8 THE COURT: Madame Clerk, would you please poll the
9 jury? Ladies and gentlemen of the jury, what's going to
10 happen now, this Clerk is going to call your name. She's
11 going to ask you -- when your name is called, to stand.
12 She's going to ask you, was this your verdict, which we need
13 a response orally from you. And is it still your verdict,
14 to which we need a response orally from you.

15 Madame Clerk, poll the jury.

16 MADAME CLERK: Terrie Hill, was this your verdict?

17 JUROR: Based on what the SLED agent said, solely only.

18 MADAME CLERK: Is it still your verdict?

19 JUROR: Unless you bring another new affirmation to the
20 table.

21 MADAME CLERK: Thank you. Michael ---

22 MR. PLEXICO: Your Honor ---

23 THE COURT: Just a moment. Don't make a comment, Mr.
24 Plexico, unless there's an objection.

25 MR. PLEXICO: There is.

1 MADAME CLERK: All right. I'll take it in just a
2 moment. Ma'am, let me ask you. Sit back down, sir.

3 You stand up, ma'am, if you would. In answer to what
4 the Clerk said, "Was this your verdict," I need a "yes" or
5 "no."

6 JUROR: It's yes, based on what ---

7 THE COURT: All right. I understand. You don't have
8 to tell me what it's based on. Is it still your verdict,
9 yes or no?

10 JUROR: Yes. Unless you ---

11 THE COURT: I don't want you to give me an explanation.
12 You're not required to. You can, if you want to, but you're
13 not required to. It's just a yes or no; you understand?

14 JUROR: Yes, sir.

15 THE COURT: Pardon?

16 JUROR: Yes, based on the information that was
17 currently --- based on what the SLED agent said.

18 THE COURT: I understand. Based on the evidence in the
19 trial?

20 JUROR: Yes, sir, from what the SLED agent said.

21 THE COURT: Thank you. You may be seated. Proceed,
22 Madame Clerk.

23 MADAME CLERK: Michael Wallace, was this your verdict?

24 JUROR: Yes, ma'am.

25 MADAME CLERK: And is it still your verdict?

1 JUROR: Yes, ma'am.
2 MADAME CLERK: Jamie Sauls, is this your verdict?
3 JUROR: Yes, ma'am.
4 MADAME CLERK: Is it still your verdict?
5 JUROR: Yes, ma'am.
6 MADAME CLERK: Troy Thompson, was this your verdict?
7 JUROR: Yes, ma'am.
8 MADAME CLERK: And is it still your verdict?
9 JUROR: Yes, ma'am.
10 MADAME CLERK: Palicia Owens, was this your verdict?
11 JUROR: Yes.
12 MADAME CLERK: Is it still your verdict?
13 JUROR: Yes.
14 MADAME CLERK: Stacy Wilson, was this your verdict?
15 JUROR: Yes, it is.
16 MADAME CLERK: And is it still your verdict?
17 JUROR: Yes, it is.
18 MADAME CLERK: Daniel Mixon, was this your verdict?
19 JUROR: Yes, ma'am.
20 MADAME CLERK: Is it still your verdict?
21 JUROR: Yes, ma'am.
22 MADAME CLERK: Jerome Buckner, is this your verdict?
23 JUROR: Yes, ma'am.
24 MADAME CLERK: Is it still your verdict?
25 JUROR: Yes, ma'am.

1 MADAME CLERK: Ray McAlhaney, is this your verdict?

2 JUROR: Yes, ma'am.

3 MADAME CLERK: Is it still your verdict?

4 JUROR: Yes, it is.

5 MADAME CLERK: Leslie Gant, is this your verdict?

6 JUROR: Yes, ma'am.

7 MADAME CLERK: Is it still your verdict?

8 JUROR: Yes, ma'am.

9 MADAME CLERK: Sekani Fields, was this your verdict?

10 JUROR: Yes, ma'am.

11 MADAME CLERK: And is it still your verdict? Need to
12 speak up a little bit.

13 JUROR: Yes, ma'am.

14 MADAME CLERK: Janice Fields, was this your verdict?

15 JUROR: Yes, ma'am.

16 MADAME CLERK: Is it still your verdict?

17 JUROR: Yes, ma'am.

18 THE COURT: Mr. Plexico, the jury's been polled; the
19 verdict stands. Anything further from the jury, before I
20 excuse them?

21 MR. PLEXICO: No, Your Honor.

22 THE COURT: Mr. Foreman and ladies and gentlemen of the
23 jury, on behalf of Hampton County, I want to thank you for
24 your service. Mr. Plexico, you and your client may be
25 seated. You know, and I told my alternate jurors this

1 before they left the courtroom today, all the Court can ask
2 of the jury is that you listen. Listen to the evidence and
3 use your good, common sense and decide what you think is
4 fair, based on the evidence. I watched all 12 of you during
5 the trial, and that's exactly what you did. On behalf of
6 Hampton County and this Court, I want to thank you for your
7 service.

8 Now, I told you I'd get you home early this week. This
9 concludes your service for the balance of the week. This
10 also means that you're exempt from jury duty, should you
11 claim your exemption, for three years, by virtue of your
12 service this week.

13 If you need a work excuse from serving on the jury this
14 week, Mylinda wants you to go to ---

15 MADAME CLERK: I'll be by the door, Judge.

16 THE COURT: All right. She'll be outside this door.
17 Pumpkin will be outside this door. If anybody needs a work
18 excuse, when you leave, we'll be happy to provide a work
19 excuse to you for serving on the jury.

20 Now, ladies and gentlemen, very often people are very
21 curious after a verdict. And the reason I stop this nice
22 lady at the end is because you don't owe an explanation to
23 anybody. What goes on in that jury room, it's entirely up
24 to y'all. You don't have to go tell anybody about it. And
25 no one can force you to. That's why we ask the yes and no

1 question, and that's why I wanted her to understand that.

2 Now, if she wants to, that's fine. But you don't have to.

3 There will be some people that may want to talk to you.

4 If you want to talk to them about your deliberations and

5 your verdict, you may do so. If you don't want to talk to

6 them, you do not have to do so. If somebody tries to

7 persist in making you talk to them, and you don't want to

8 talk to them, please get me the name, and I'll handle that

9 matter for you, because you certainly do not have to do so,

10 if you do not want to. Does everybody understand that?

11 (JURORS NOD IN AGREEMENT.)

12 THE COURT: And if you need to reach me, all you have

13 to do is contact Mylinda. I can promise you, she can find

14 me 24 hours a day, at any time. So just contact your Clerk

15 of Court and let me know. Does everyone understand that?

16 (JURORS NOD IN AGREEMENT.)

17 THE COURT: On behalf of Hampton County and this Court,

18 I want to thank you for your service. As I told you before

19 we began, without you, ladies and gentlemen of the jury,

20 justice can never be accomplished in a courtroom, and I

21 thank you for that service.

22 Now, what's going to happen is I'm going to hear post-

23 verdict motions, if there are any. After that, sentencing

24 will occur in this case. If you would like to stay for

25 sentencing, you may do so. You can come and my officers

1 will escort you. You can have a seat right in the back of
2 the courtroom, if you'd like, or you may remain in the jury
3 box, if you like. And the officers will assist you to your
4 cars in leaving.

5 If you do not wish to stay for sentencing, you
6 certainly don't have to. But it's going to happen in just a
7 couple of moments, and I invite you to stay, if you would
8 like to do so. If you do not, you may leave the courtroom
9 at this time, through this door. Anyone that would like to
10 leave, may leave at this time. Everyone else, remain
11 seated.

12 (THEREFORE, JURORS LEAVE THE COURTROOM.)

13 THE COURT: All right. Mr. Plexico, are there any
14 post-verdict motions from the defendant?

15 MR. PLEXICO: Your Honor, we renew all of our prior
16 motions, and that's all that I have at this time.

17 THE COURT: Very well. Solicitor, you, Mr. Plexico and
18 defendant come around for sentencing. Mr. Plexico, for the
19 reasons I stated at the close of the State's case and for
20 the reasons I gave you in conference at the bench on the
21 record at the close of all the evidence, your motions for, I
22 assume you're moving for a new trial or arrest of judgment
23 post-verdict, and those motions are respectfully denied,
24 based on the sufficiency of the evidence. I believe there
25 was overwhelming evidence of the defendant's guilt, and I

1 decline to disturb the jury's verdict.

2 You got a sentence sheet, Solicitor?

3 SOLICITOR STONE: No. They're being filled out now,
4 Your Honor, and I need to pick up a document in here.

5 THE COURT: You may.

6 (BRIEF PAUSE.)

7 THE COURT: Mylinda.

8 MADAME CLERK: Yes, sir.

9 THE COURT: I'm handing you and checking each one
10 individually to verify, the foreman has now signed each one
11 of the indictments and signed his name and dated it.

12 All right. Let the record reflect that my law clerk,
13 Nick Rivera, has had the foreman of the jury sign all five
14 indictments, to reflect in writing the exact same verdict
15 that was reflected on the verdict form that the jury brought
16 back to the courtroom. It was published by the Clerk and
17 confirmed by the polling of the jury. I'm now ready to
18 proceed to sentencing. Solicitor, you got a sentence sheet
19 for me?

20 SOLICITOR STONE: Yes, sir. Think we had to do them
21 individually on the indictment.

22 THE COURT: I understand. There are five indictments,
23 Solicitor.

24 (BRIEF PAUSE.)

25 THE COURT: Mr. Plexico, make sure that the top four of

1 the sentence sheet contains the information from your client
2 before it's handed up.

3 (SOTTO VOICE DISCUSSION BETWEEN MR. PLEXICO AND MR.
4 AIKEN.)

5 SOLICITOR STONE: I'll hand these up to Your Honor for
6 your review.

7 THE COURT: Thank you, sir. All right. Solicitor ---

8 SOLICITOR STONE: Yes, sir.

9 THE COURT: --- I recognize that there are members in
10 the courtroom of the victim's family. Do they wish to be
11 heard as part of sentencing?

12 SOLICITOR STONE: Ms. Taylor, Suzette Taylor, who
13 testified, would like to be heard at this time, Your Honor,
14 or at any time that you would hear from her.

15 THE COURT: I'll be happy to hear from her. Ask her to
16 come forward.

17 (MS. TAYLOR COMES FORWARD.)

18 MS. TAYLOR: I'm Suzette Taylor.

19 THE COURT: Yes, ma'am.

20 MS. TAYLOR: I want you to understand when placing your
21 sentence, that this -- these men disrupted my mother's life
22 completely. It was her will to live in Miley for the rest
23 of her life. And when they took her away in that car, she
24 has never returned. She will never return because she can't
25 face it. She lives in an assisted living home now. She has

1 someone that has to spend every night with her because she
2 lives in fear. It has affected all of us: my husband, my
3 daughter, my aunt and uncle. I mean, we don't have the same
4 life that we had before this man came into it. And I would
5 just like for you to consider that when you decide on his
6 fate.

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

8 SOLICITOR STONE: I do not believe so. No, sir, Your
9 Honor.

10 THE COURT: Anything you want to tell me before I hear
11 any mitigation from Mr. Plexico?

12 SOLICITOR STONE: Your Honor, I believe you have heard
13 all about this case.

14 THE COURT: I know all about this case.

15 SOLICITOR STONE: Except for his criminal record, which
16 I would like to tell you, sir.

17 THE COURT: Yes, sir. He did not testify, and I was
18 aware that he had a record. And for the sake of the fact
19 that -- I always say this at this point, Solicitor, because
20 I still have jurors in the courtroom and in the jury box --
21 and as they know, the defendant has a constitutional right
22 to remain silent. And the defendant chose, knowing that he
23 had a criminal record, which could have come out in the
24 evidence, had he testified, not to testify in this case,
25 which was his decision. Tell me his record.

1 SOLICITOR STONE: He has a 1993 burglary in the second
2 degree and grand larceny; a '95 accessory before the fact of
3 strong arm robbery; a '96 probation violation, receiving
4 stolen goods, two counts, and an unlawful weapons
5 possession; a 2000 forgery; a 2001 petty larceny, simple
6 assault and forgery. In 2003, he was convicted of four more
7 forgeries. In 2004 -- I apologize; that was the Department
8 of Corrections entering in, so those were the same number of
9 forgeries. He has a breach of the peace, driving under
10 suspension in 2006. It appears there are two other
11 forgeries in 2007 and one in 2008.

12 THE COURT: Burglary, robbery, receiving stolen goods,
13 forgery, breach of the peace, petty larceny.

14 SOLICITOR STONE: Yes, sir. Strong armed robbery, did
15 we get?

16 THE COURT: Accessory.

17 SOLICITOR STONE: Accessory before the fact to strong
18 armed robbery.

19 THE COURT: Strong arm robbery.

20 SOLICITOR STONE: Yes, sir.

21 THE COURT: Very well. Mr. Plexico, happy to hear from
22 you in mitigation.

23 MR. PLEXICO: Thank you, Your Honor. I believe the
24 serious charges of those, the first ones he's named, that
25 happened when my client was a juvenile, Your Honor. I'd

1 like for you to take that into consideration.

2 THE COURT: The burglary and the robbery charges took
3 place in the '90s. Is that right, Solicitor?

4 SOLICITOR STONE: 1993 was the burglary, Sir; 1995 was
5 the accessory before the fact to strong arm robbery; and the
6 1996 charges for the receiving stolen goods and the
7 probation violations.

8 THE COURT: Very well.

9 SOLICITOR STONE: And the weapons charge, I apologize.

10 MR. PLEXICO: Your Honor, my client's here with Rachel
11 today, Judge. She's seated in the back and everybody's
12 really heartbroken over this verdict. He's here with his
13 mother-in-law and his father-in-law, Judge. He has three
14 children. This will be devastating on everyone's life, as
15 it was on Ms. Gooding's life. We're asking you to be as
16 merciful as possible.

17 He worked as a diesel mechanic, as well as a cement
18 finisher. He had a steady job at M&M Concrete; worked there
19 for five years. This is a serious matter and we're asking
20 you to be as merciful as possible in regards to all that's
21 involved.

22 THE COURT: Very well. Be happy to hear anything you
23 wish to tell the Court prior to sentencing. Does your
24 client wish to address the Court?

25 MR. PLEXICO: I do not believe so, but I will check

1 again.

2 (SOTTO VOICE DISCUSSION BETWEEN MR. PLEXICO AND MR.
3 AIKEN.)

4 MR. AIKEN: Go ahead and speak?

5 THE COURT: Speak in the microphone. State your name.

6 MR. AIKEN: I can turn around to the family?

7 THE COURT: Pardon? No, sir. You talk to me. You
8 don't talk to anybody else, but me.

9 MR. AIKEN: I'd like to say I'm sorry. But I know I
10 ain't did nothing, so I'm gonna back up, so ---

11 THE COURT: Mr. Plexico, how long has your client been
12 in custody?

13 MR. PLEXICO: He has been in custody, I think, Judge,
14 since 12/8/2009. And I would ask that you allow him credit
15 for time served. I do not have the day-to-day calculation.

16 JAIL PERSONNEL: Four hundred and fifty-six days. Four
17 hundred and fifty-six days.

18 THE COURT: Four hundred and fifty-six days.

19 (BRIEF PAUSE.)

20 THE COURT: Come on up to the microphone, Mr. Aiken.
21 Can you hear me all right?

22 MR. AIKEN: Yes, sir.

23 THE COURT: Mr. Aiken, I, and I say this for the family
24 and people that have been here throughout the trial,
25 including members of your family. I've been on the bench

1 for 11 years; I've practice law for 25 to 30 years before I
2 was elected to the bench. I do not know that I have seen a
3 criminal case as a judge with stronger evidence than was
4 presented by the State of South Carolina. There is
5 absolutely no doubt. Now, it doesn't mean every case is
6 perfect. Your lawyer was a tremendous advocate for you and
7 the jury obviously considered the evidence. But I can tell
8 you that I believe there was overwhelming evidence of your
9 guilt.

10 There is no doubt in this Court's mind that you are
11 guilty of each of the offenses for which you were charged,
12 based on the evidence presented by the State. It was
13 thorough. It was investigated by the Hampton County
14 Sheriff's Department, Colleton County Sheriff's Department,
15 South Carolina Law Enforcement Division. And although I
16 don't normally mention this, it was done thoroughly, and
17 thank goodness, there was no loss of human life. I
18 understand, of course, that does not mean that does not
19 leave a family with scars. That does not leave a family
20 with pain. That does not leave a family in the same
21 condition the family was in prior to these horrible acts
22 being committed. And I'm completely aware of that, and I
23 take that into consideration in my sentence.

24 I also take into consideration, Mr. Aiken, your
25 previous criminal record. I have listened to the Solicitor

1 tell me -- and I recognize your lawyer wants me to at least
2 acknowledge that you were a juvenile -- but you have
3 previously been convicted of burglary, robbery, receiving
4 stolen goods and forgery. All of those offenses involving
5 theft, all of which were a plague on communities. When
6 people try to commit those types of crimes, it places people
7 in fear; it places them in a position where they feel they
8 can't live in their home without fear. I take that into
9 consideration in my sentence as well.

10 In Indictment 2010-GS-25-00029, State v. Stevie Aiken,
11 indictment for kidnapping, sentence in this Court is:
12 Defendant is committed to the State Department of
13 Corrections for the maximum allowed by law, 30 years.

14 On Indictment 2010-GS-25-00030, burglary first degree,
15 State v. Stevie Aiken, sentence in this Court is: Defendant
16 is committed to the State Department of Corrections for a
17 term of 35 years.

18 On Indictment 2010-GS-25-00028, armed robbery, State v.
19 Stevie Aiken, sentence in this Court is: Defendant is
20 committed to the State Department of Corrections for a term
21 of 20 years, the maximum allowed by law.

22 On Indictment 2010-GS-25-00026, assault and battery
23 with intent to kill, sentence of this Court is: Defendant
24 is committed to the State Department of Corrections for a
25 term of 20 years, the maximum allowed by law.

1 On Indictment 2010-GS-25-00027, possession of a weapon
2 during the commission of a violent crime, sentence in this
3 Court is: Defendant is committed to the State Department of
4 Corrections for a term of five years, the maximum allowed by
5 law.

6 Mr. Aiken, those sentences will run concurrent to each
7 other. You are to be given by statute credit for time
8 served. That will be pursuant to 24-13-40. That is to be
9 calculated and applied by the State Department of
10 Corrections.

11 There being no further business in regards to this
12 case, as to this case, this Court now stands adjourned.

13 SOLICITOR STONE: Thank you, Your Honor.
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VOLUNTARY STATEMENT

DATE December 7, 2009 TIME 840 PM PLACE HCSO Substation
Stevie Aiken, am 30 years old and I live at 609 North St
Walterboro, SC 29488

I am giving this statement to Sgt Jamison I.D. D3, who has identified himself as a Deputy Sheriff w/ HCSO and he has duly warned me that I have the following rights: that I have the right to remain silent and not make any statement at all; that any statement I make may be used against me at my trial; that any statement I make may be used as evidence against me in court; that I have the right to have a lawyer present to advise me prior to and during any questioning; that if I am unable to employ a lawyer, I have the right to have a lawyer appointed to advise me prior to and during any questioning and that I have the right to terminate the interview at any time.

Prior to and during the making of the statement, I have and do hereby knowingly, intelligently, and voluntarily waive the above explained rights and I do make the following voluntary statement to the aforementioned person of my own free will and without any promises or offers of leniency or favors, and without compulsion or persuasion by any person or persons whomsoever:

I called my brother (Derrick Aiken) on Sunday, Dec. 6th, and asked him to drop us (me, Nate) off at Miley Cross Roads at the train tracks. Me and Nate stood in Ms. Goodings yard for about two hours. Nate went in the woods to use the bathroom. The tissue is still there. I showed Nate where the phone line was and he cut the line with the scissors. The dog started barking, and this is when Nate and I went by the room window. We couldn't hear nothing so we went to the window where the light was and Nate threw a brick in the window. The brick broke the window. He threw a whole brick and then a half a brick in the window. The lady came to window and said she didn't have anything. Then she shot out the window once. She almost hit Nate in the head. I went around to the back of the house to see if someone was coming out of the door. No one came out, as I was walking back to the side of the house, the back door came open. The lady (Ms. Gooding) said don't hurt me. She went back in and locked the door. I heard another shot. Ms ^{SLA} Gooding was shooting again. I was in the path. She came back to the back door and started yelling

I have read this statement consisting of 3 page(s), each page of which bears my signature, and I do affirm that all facts and statements contained herein are true and correct.

Stevie Aiken
Signature of person making voluntary statement

The above warnings were given by and this voluntary statement was taken by

Larry Jamison
Witness

[Signature]
(This must be one and the same person as named above)

VOLUNTARY STATEMENT

2073

DATE December 7, 2009 TIME 840 PM. PLACE HCSO Substation
 I, Stevie H. Ken, am 30 years old and I live at 609 70th St
Walterboro, SC 29488

I am giving this statement to Sgt. Jamison I.D. 03, who has identified himself as a Deputy Sheriff w/ HCSO

and he has duly warned me that I have the following rights: that I have the right to remain silent and not make any statement at all; that any statement I make may be used against me at my trial; that any statement I make may be used as evidence against me in court; that I have the right to have a lawyer present to advise me prior to and during any questioning; that if I am unable to employ a lawyer, I have the right to have a lawyer appointed to advise me prior to and during any questioning and that I have the right to terminate the interview at any time.

Prior to and during the making of the statement, I have and do hereby knowingly, intelligently, and voluntarily waive the above explained rights and I do make the following voluntary statement to the aforementioned person of my own free will and without any promises or offers of leniency or favors, and without compulsion or persuasion by any person or persons whomsoever:

For her neighbors. I came out the path and she pointed the gun at me and pulled the trigger but it would not fire. I shot in her direction and I believe it hit the shed on the neighbors house. She went back to her room and I heard a shot. The next thing I know, she was coming out the back door with blood on her leg, and she threw the gun on the ground. She layed on the ground and said don't hurt me anymore. Nate went and got the car and backed it up by where she was on the ground. He took the wheel chair and the two water bottles out the trunk and sat them on the ground at the corner of the house. We (me, the lady, & Nate) went to Walterboro. I was driving the car and Nate was in the front passenger seat. Nate had picked up her gun and he had it in the car. Nate went in the house twice before we left. He went in one time to get her wallet & keys and the second time to get her check book. I drove Inders Hwy back to Walterboro and turned right at the court house. I turned left at the Bobops Amoco and then turned by the two trailers and stopped at the dumpster. Nate threw the guns in the ~~SLA~~ dumpster.

I have read this statement consisting of 3 page(s), each page of which bears my signature, and I do affirm that all facts and statements contained herein are true and correct.

Stevie H. Ken
 Signature of person making voluntary statement

The above warnings were given by and this voluntary statement was taken by

Josh Jamison
 Witness

(This must be one and the same person as named above)

VOLUNTARY STATEMENT

3073
449

DATE December 7, 2009 TIME 840 P.M. PLACE HCSO Substation

I, STEVE Aiken, am 30 years old and I live at 609 Furth St.
Walterboro, SC 29488

I am giving this statement to Sgt. Jamison I.D. D3, who has identified himself as a Deputy Sheriff w/ HCSO

and he has duly warned me that I have the following rights: that I have the right to remain silent and not make any statement at all; that any statement I make may be used against me at my trial; that any statement I make may be used as evidence against me in court; that I have the right to have a lawyer present to advise me prior to and during any questioning; that if I am unable to employ a lawyer, I have the right to have a lawyer appointed to advise me prior to and during any questioning and that I have the right to terminate the interview at any time.

Prior to and during the making of the statement, I have and do hereby knowingly, intelligently, and voluntarily waive the above explained rights and I do make the following voluntary statement to the aforementioned person of my own free will and without any promises or offers of leniency or favors, and without compulsion or persuasion by any person or persons whomsoever:

Nate and I started arguing about taking the lady to the hospital. I told him to take her to the hospital, and Nate said he wasn't taking her. I started walking to my house. Nate came behind me in the car. We argued again. He pulled off and I didn't see him again until that morning at Williams Seafood. He showed me a check (personal check, BB&T with two names Jessie + Margaret Gooding). I don't remember the last name of the Jessie person. The check was made out to Nathan Harris for \$6,000.00. He said the check was from last night and he was going to cash it at BB&T. He used my phone to call a taxi. A blue taxi came and picked him up. I gave him \$5 for the taxi. About 20 minutes later, Nate came back and he said, he couldn't cash the check because they (BB&T) couldn't contact Ms. Gooding. Nate walked around and about two hours later the ^{AT SLT} police (Blacks Gold, SLED, Hampton Co.) swarmed the place and took Nate in cuffs. Jimmy Rhoden called me and told me the police wanted to talk to me. I told him to tell the police I was going to my house. I met the police at my house. Nate name is Nathan Harris.

SLA

SLA

I have read this statement consisting of 3 page(s), each page of which bears my signature, and I do affirm that all facts and statements contained herein are true and correct.

Steve Aiken
Signature of person making voluntary statement

The above warnings were given by and this voluntary statement was taken by

Jed Jamison
Witness

(This must be one and the same person as named above)

VOLUNTARY STATEMENT

DATE December 7, 2009 TIME 1010 PM PLACE HCSO Substation
 I, STEVE H. KEIL, am 30 years old and I live at 609 7th St
Walterboro, SC 29488

I am giving this statement to Sgt. Jamison I.D. D3, who has identified himself as a Deputy Sheriff w/HCSO and he has duly warned me that I have the following rights: that I have the right to remain silent and not make any statement at all; that any statement I make may be used against me at my trial; that any statement I make may be used as evidence against me in court; that I have the right to have a lawyer present to advise me prior to and during any questioning; that if I am unable to employ a lawyer, I have the right to have a lawyer appointed to advise me prior to and during any questioning and that I have the right to terminate the interview at any time.

Prior to and during the making of the statement, I have and do hereby knowingly, intelligently, and voluntarily waive the above explained rights and I do make the following voluntary statement to the aforementioned person of my own free will and without any promises or offers of leniency or favors, and without compulsion or persuasion by any person or persons whomsoever:

me and Nate went back to the dumpsters at Bobops Amoco around 8 or 9 this morning after he came to my house. He said we had to get those guns out the trash. I rode my bicycle and he walked. I put Nate in the dumpster and he found the guns (.32 revolver black w/brown handle - 9mm black automatic). He gave the guns to me. I took 9mm to my brother (Derrick) ~~when I saw him on his~~ ^{SLA} when I saw him on his lunch break. I stopped him on Hampton Street. I told him to keep it. I took the .32 revolver to my house and put it in the big couch.

SLA

SLA

I have read this statement consisting of 1 page(s), each page of which bears my signature, and I do affirm that all facts and statements contained herein are true and correct.

Steve H. Keil
 Signature of person making voluntary statement

The above warnings were given by and this voluntary statement was taken by

Larry Jamison
 Witness

Steve H. Keil
 (This must be one and the same person as named above)

WITNESSES

C. Solomon, HCSO

Singleton

The State of South Carolina

County of Hampton

COURT OF GENERAL SESSIONS

November Term 2010

THE STATE

vs.

Stevie Lamont Aiken

Indictment for

Assault / Assault and battery with Intent to Kill
(ABWIK)

SC Code: 16-03-0620
CDR Code:0014

ARREST WARRANT NUMBER

N100409

Date of Arrest: December 8, 2009

ACTION OF GRAND JURY

TRUE BILL

Sharon S. Moody
-person of Grand Jury
Date: NOV 9 2010

VERDICT

Guilty

person of Petit Jury
Date: 3/9/11

NDICT

STATE OF SOUTH CAROLINA)
COUNTY OF HAMPTON)

INDICTMENT
2010-GS-25-00026

At a Court of General Sessions, convened on November 9, 2010, the Grand Jurors of Hampton County present upon their oath:

Assault / Assault and battery with Intent to Kill (ABWIK)

That in Hampton County, South Carolina, on or about December 7, 2009, the Defendant, Stevie Aiken, with malice aforethought, did commit an unlawful act of a violent nature upon the victim, Margaret Gooding, to wit: the Defendant did shoot the victim; all in violation of the Common Law of South Carolina and Section 16-03-620 of the Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Isaac M. Stone, III, Solicitor
14th Judicial Circuit

STATE OF SOUTH CAROLINA)
COUNTY OF HAMPTON)

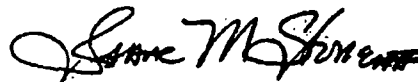
INDICTMENT
2010-GS-25-00026

At a Court of General Sessions, convened on November 9, 2010, the Grand Jurors of Hampton County present upon their oath:

Assault / Assault and battery with Intent to Kill (ABWIK)

That in Hampton County, South Carolina, on or about December 7, 2009, the Defendant, Stevie Aiken, with malice aforethought, did commit an unlawful act of a violent nature upon the victim, Margaret Gooding, to wit: the Defendant did shoot the victim; all in violation of the Common Law of South Carolina and Section 16-03-620 of the Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Isaac M. Stone, III, Solicitor
14th Judicial Circuit

DOCKET NO. 2010-GS-25-00027

The State of South Carolina

County of Hampton

COURT OF GENERAL SESSIONS

March Term 2010

THE STATE

vs.

Stevie Lamont Aiken

Indictment for

Weapons / Poss. weapon during violent crime,
if not also sentenced to life without parole or
death

SC Code: 16-23-0490
CDR Code: 0549

WITNESSES

C. Solomon, HCSO

ARREST WARRANT NUMBER

N100410

Date of Arrest: December 8, 2009

ACTION OF GRAND JURY

TRUE BILL

Sharon S. Moody
Foreperson of Grand Jury
Date: MAR 25 2010

VERDICT
Guilty

[Signature]
Foreperson of Petit Jury
Date: 3/24/11

INDICT

STATE OF SOUTH CAROLINA)
)
COUNTY OF HAMPTON)

INDICTMENT
2010-GS-25-00027

At a Court of General Sessions, convened on March 25, 2010, the Grand Jurors of Hampton County present upon their oath:

Weapons / Poss. weapon during violent crime, if not also sentenced to life
without parole or death

That in Hampton County, South Carolina, on or about December 7, 2009, the Defendant, Stevie Lamont Aiken, did possess a gun or visibly display what appeared to be a gun during the commission, or attempted commission, of a Burglary in the 1st degree, a violent crime. This is in violation of 16-23-490 of the South Carolina Code of Laws, (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Isaac M. Stone, III, Solicitor
14th Judicial Circuit

STATE OF SOUTH CAROLINA)
COUNTY OF HAMPTON)

INDICTMENT
2010-GS-25-00027

At a Court of General Sessions, convened on March 25, 2010, the Grand Jurors of Hampton County present upon their oath:

Weapons / Poss. weapon during violent crime, if not also sentenced to life
without parole or death

That in Hampton County, South Carolina, on or about December 7, 2009, the Defendant, Stevie Lamont Aiken, did possess a gun or visibly display what appeared to be a gun during the commission, or attempted commission, of a Burglary in the 1st degree, a violent crime. This is in violation of 16-23-490 of the South Carolina Code of Laws, (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Isaac M. Stone, III, Solicitor
14th Judicial Circuit

WITNESSES

C. Solomon, HCSO

The State of South Carolina

County of Hampton

COURT OF GENERAL SESSIONS

March Term 2010

REST WARRANT NUMBER

N100411

Date of Arrest: December 8, 2009

THE STATE

vs.

Stevie Lamont Aiken

ACTION OF GRAND JURY

TRUE BILL

Sharon S. Moody
Foreperson of Grand Jury
Date: MAR 23 2010

VERDICT

Indictment for

Robbery / Armed Robbery, robbery while armed
or allegedly armed with a deadly weapon

SC Code: 16-11-0330(A)
CDR Code: 0139

Foreperson of Petit Jury
Date:

NDICT

STATE OF SOUTH CAROLINA)
COUNTY OF HAMPTON)

INDICTMENT
2010-GS-25-00028

At a Court of General Sessions, convened on March 25, 2010, the Grand Jurors of Hampton County present upon their oath:

Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

That on or about December 7, 2009, in Hampton County, South Carolina, at [REDACTED] [REDACTED] Road, by use of force, threats or intimidation and while armed with a deadly weapon, to wit: a gun, the Defendant, Stevie Lamont Aiken, did take and carry away goods and/or monies from the person or immediate presence of Margaret Gooding with the intent to permanently deprive him of possession thereof, in violation of Section 16-11-330(A) of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Isaac M. Stone, III, Solicitor
14th Judicial Circuit

STATE OF SOUTH CAROLINA)
COUNTY OF HAMPTON)

INDICTMENT
2010-GS-25-00028

At a Court of General Sessions, convened on March 25, 2010, the Grand Jurors of Hampton County present upon their oath:

Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

That on or about December 7, 2009, in Hampton County, South Carolina, at [REDACTED] [REDACTED] Road, by use of force, threats or intimidation and while armed with a deadly weapon, to wit: a gun, the Defendant, Stevie Lamont Aiken, did take and carry away goods and/or monies from the person or immediate presence of Margaret Gooding with the intent to permanently deprive him of possession thereof, in violation of Section 16-11-330(A) of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Isaac M. Stone, III, Solicitor
14th Judicial Circuit

DOCKET NO. 2010-GS-25-00029

The State of South Carolina

County of Hampton

COURT OF GENERAL SESSIONS

March Term 2010

THE STATE

vs.

Stevie Lamont Aiken

**Indictment for
Kidnapping / Kidnapping**

SC Code: 16-03-0910
CDR Code:0095

WITNESSES

C. Solomon, HCSO

REST WARRANT NUMBER

N100412

Date of Arrest: December 8, 2009

ACTION OF GRAND JURY

TRUE BILL

Sharon D. Moody
Foreperson of Grand Jury
Date: **MAR 28 2010**

VERDICT

Guilty

Sharon D. Moody
Foreperson of Petit Jury

Date: *3/19/10*

NDICT

STATE OF SOUTH CAROLINA)
COUNTY OF HAMPTON)

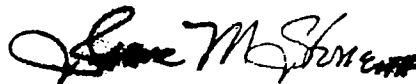
INDICTMENT
2010-GS-25-00029

At a Court of General Sessions, convened on March 25, 2010, the Grand Jurors of Hampton County present upon their oath:

Kidnapping / Kidnapping

That in Hampton County, South Carolina, on or about December 7, 2009, the Defendant, Stevie Lamont Aiken, unlawfully did seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Margaret Gooding, without authority of law; all in violation of Section 16-3-910 of the Code of Laws of South Carolina; (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Isaac M. Stone, III, Solicitor
14th Judicial Circuit

STATE OF SOUTH CAROLINA)
COUNTY OF HAMPTON)

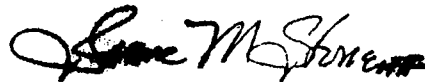
INDICTMENT
2010-GS-25-00029

At a Court of General Sessions, convened on March 25, 2010, the Grand Jurors of Hampton County present upon their oath:

Kidnapping / Kidnapping

That in Hampton County, South Carolina, on or about December 7, 2009, the Defendant, Stevie Lamont Aiken, unlawfully did seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Margaret Gooding, without authority of law; all in violation of Section 16-3-910 of the Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Isaac M. Stone, III, Solicitor
14th Judicial Circuit

WITNESSES

C. Solomon, HCSO

The State of South Carolina

County of Hampton

COURT OF GENERAL SESSIONS

March Term 2010

THE STATE

VS.

Stevie Lamont Aiken

Indictment for

Burglary / Burglary (After June 20, 1985) - First degree

SC Code: 16-11-0311
CDR Code:0079

ARREST WARRANT NUMBER

N100413

Date of Arrest: December 8, 2009

ACTION OF GRAND JURY

TRUE BILL

Sharon S. Moody
Foreperson of Grand Jury
Date: MAR 25 2010

VERDICT *Guilty*

[Signature]
Foreperson of Petit Jury
Date: 3/24/10
INDICT

STATE OF SOUTH CAROLINA)
COUNTY OF HAMPTON)

INDICTMENT
2010-GS-25-00030

At a Court of General Sessions, convened on March 25, 2010, the Grand Jurors of Hampton County present upon their oath:

Burglary / Burglary (After June 20, 1985) - First degree

That in Hampton County, South Carolina, on or about December 7, 2009, the Defendant, Stevie Lamont Aiken, did enter the dwelling of Margaret Gooding, located at [REDACTED] Road, without consent and with the intent to commit a crime therein. That, in addition, the entry was during nighttime hours and Defendant was armed with a deadly weapon. All in violation of S. C. Code of Laws §16-11-311.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Isaac M. Stone, III, Solicitor
14th Judicial Circuit

STATE OF SOUTH CAROLINA)
COUNTY OF HAMPTON)

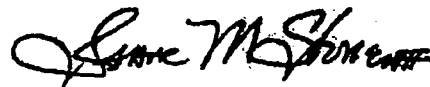
INDICTMENT
2010-GS-25-00030

At a Court of General Sessions, convened on March 25, 2010, the Grand Jurors of Hampton County present upon their oath:

Burglary / Burglary (After June 20, 1985) - First degree

That in Hampton County, South Carolina, on or about December 7, 2009, the Defendant, Stevie Lamont Aiken, did enter the dwelling of Margaret Gooding, located at [REDACTED] Road, without consent and with the intent to commit a crime therein. That, in addition, the entry was during nighttime hours and Defendant was armed with a deadly weapon. All in violation of S. C. Code of Laws §16-11-311.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Isaac M. Stone, III, Solicitor
14th Judicial Circuit

STATE OF SOUTH CAROLINA

COUNTY OF Hampton
 STATE VS.
Stevie Aiken

AKA:

Race: B Sex: M Age: 31DOB: [REDACTED] SS# [REDACTED]

Address:

City, State, Zip:

DL#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Assault & Battery w/ Intent to Killin violation of § 16-3-620 of the S.C. Code of Laws, bearing CDR Code # 0014

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-4
 w/minor 1st or Lowd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initiThe plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State

ATTEST:

Logette, TamearaSC Bar# 77421

Defendant

Attorney for Defendant

SC Bar

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 20 days/months/years on ☐ under the Youthful Offender Act not to exceed _____ year

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: 2010-65-25-00029, 2010-65-25-00037☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ 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 (Criminal 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: \$ _____

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	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def./Prob)	\$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)	\$4/Yea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL		\$ 133.90

Clerk of Court/ Deputy Clerk

Court Reporter:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS2500026A/W#: N100409Date of Offense: 12/7/2009S.C. Code § : 16-03-0620CDR Code #: 0014

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Condition Discharge, § 44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code:

Sentence Date:

3/14/2011

TRUE COPY
 FILED IN COURT FOR
 NAME OF COUNTY S.C.
 DATE

STATE OF SOUTH CAROLINA

COUNTY OF Hampton
STATE VS.
Stevie Aiken

AKA:

Race: B Sex: M Age: 31

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: [REDACTED]

DL#: N/A

SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Possession weapon comm. of a violent crimein violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 05-49☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-4The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initThe plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State

ATTEST:

Leggett, Tamcka

SC Bar#

Defendant

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 yeaand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; 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 the State Department of Corrections.☐ 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 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$ 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	\$	
§ 56-1-286 (DUI Breath Test)	\$25	\$	
Proviso 47.9 (Public Def/Prob)	\$500	\$	
§ 14-1-212 (Law Enforce. Funding)	\$25	\$	25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$	
§ 50-21-114 (DUI Breath Test Fee)	\$50	\$	
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$	
Proviso 90.5 (SCCJA Surcharge)	\$5	\$	5.00
§ 44-53-450(C) (Conditional Discharge)	\$350	\$	
3% to County (if paid in installments)		\$	3.90
TOTAL		\$	133.90

Clerk of Court/ Deputy Clerk

Court Reporter: Becky HillMelinda D. Needles

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS2500027A/W#: N100410Date of Offense: 12/7/2009S.C. Code § : 16-23-0490CDR Code #: 0549

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

w/minor 1st or Lewd Act)

☐ §17-25-4

(defendant's init

☐ Recommendation by the State2010-65-25-00029, 2010-65-25-00032010-65-25-00026, 2010-65-25-0005

§ 24-13-40 to be calculated and applied

PTUP

 days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly pmts. of \$ beginning \$ paid to Public Defender FundOther: ☐ Condition Discharge, § 44-53-45(XC) requires \$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 0122Sentence Date: 3/19/2011A TRUE COPY
CLERK OF COURT FOR
HAMPTON COUNTY, S.C.
DATE 3-19-11

STATE OF SOUTH CAROLINA

COUNTY OF Hampton
STATE VS.Stevie Aiken

AKA:

Race: B Sex: M Age: 21

Address:

Zip:

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Armed Robberyin 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) ☐ § 17-25-4The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's init)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State

ATTEST:

Legelte, Tameaka

SC Bar#

Defendant

Attorney for Defendant

SC Bar

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed yeaand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; 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: 2010-65-25-00030☒ The Defendant is to be given credit for time served pursuant to S.C. Code 2010-65-25-00026, 2010-65-25-00027, 2010-65-25-00028 § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ 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 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)	\$	\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

Clerk of Court/ Deputy Clerk

Court Reporter:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS2500028A/W#: N100411Date of Offense: 12/7/2009S.C. Code §: 16-11-0330(A)CDR Code #: 0139

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS days/hours Public Service EmploymentObtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly or monthly pmts. of \$ beginning\$ paid to Public Defender FundOther: ☐ Condition Discharge, § 44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Crde:

Sentence Date:

01220
3/9/2011

STATE OF SOUTH CAROLINA

COUNTY OF Hampton
STATE VS.Stevic Aiken

AKA:

Race: B Sex: M Age: 31DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip: [REDACTED]DL#: 12A SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Kidnappingin violation of § 16-3-910 of the S.C. Code of Laws, hearing CDR Code # 0095
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-47
w/minor 1st or Lewd Act)The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initi.The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State

ATTEST:

Logette, Tameaka

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, 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 _____ year
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 the State Department of Corrections.☐ 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 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)		\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

Clerk of Court/ Deputy Clerk

Court Reporter: Becky Hill

IN THE COURT OF GENERAL SESSIONS

3045INDICTMENT/CASE#: 2010GS2500029A/W#: N100412Date of Offense: 12/7/2009S.C. Code §: 16-03-4910CDR Code #: 0095

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS2010-65-25-00028, 2010-65-25-000302010-65-25-00026, 2010-65-25-00027

§ 24-13-40 to be calculated and applied

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly

pmts. of \$ _____ beginning

\$ _____ paid to Public Defender Fund

Other:

☐ Condition Discharge, § 44-53-450(C) requires
\$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code: 0122Sentence Date: 2/10/2011A TRUE COPY
CLERK OF COURT FOR
HAMPTON COUNTY, S.C.
DATE

STATE OF SOUTH CAROLINA

COUNTY OF Hampton
 STATE VS.
Stevie Aiken

AKA:

Race: B Sex: M Age: 31DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip: [REDACTED]DL#: ~1A SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Burglary 1st Degreein violation of § 16-11-311 of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ § 17-25-4

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initThe plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State

ATTEST:

Jessie Tarnaka

SC Bar#

Defendant

Attorney for Defendant

SC Bar

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 35 days/months/years or ☐ under the Youthful Offender Act not to exceed yearand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; 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: 2010-65-25-00028, 2010-65-25-0002☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ 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 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)	\$	\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

Clerk of Court/Deputy Clerk

Court Reporter: Becky Hill

IN THE COURT OF GENERAL SESSIONS

IS - LifeINDICTMENT/CASE#: 2010GS2500030A/W#: N100413Date of Offense: 12/7/2009S.C. Code §: 16-11-0311CDR Code #: 0079

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly pmts. of \$ beginning \$ paid to Public Defender FundOther: ☐ Condition Discharge, § 44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 0122Sentence Date: 2/10/2011

TRUE COPY
 FILED OF COURT FOR
 HAMPTON COUNTY, S.C.
 2-11-11

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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

April 13th, 2012


Elizabeth A. Franklin-Best
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

RECEIVED

APR 22 2013

STATE OF SOUTH CAROLINA

S.C. Supreme Court

IN THE COURT OF APPEALS

Appeal from Hampton County

Perry M. Buckner, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

STEVIE LAMONT AIKEN,

APPELLANT

FINAL BRIEF OF APPELLANT

SUSAN B. HACKETT
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial court judge err, and was Aiken denied his right to confront the witnesses against him, when the trial court judge prohibited trial counsel from cross-examining a key state's witness, and co-conspirator to these crimes, about the potential sentences he could receive for his participation in these crimes?

STATEMENT OF THE CASE

Stevie Lamont Aiken was indicted by the Hampton County grand jury for assault and battery with intent to kill, possession of a weapon during a violent crime, armed robbery, kidnapping, and burglary, first degree during the March and November, 2010 terms. He was tried before the Hon. Perry M. Buckner, III and a jury between March 7 -- 9th, 2011. He was represented by Stephen Plexico, Esquire. He was convicted and sentenced to 35 years for burglary, 30 years for kidnapping, 20 years for armed robbery, 20 years for assault and battery with intent to kill, and 5 years for possession of a weapon during the commission of a violent crime. The sentences were ordered to run concurrently.

This appeal timely follows.

ARGUMENT

The trial court judge erred, and Aiken was denied his right to confront the witnesses against him, when the trial court judge prohibited trial counsel from cross-examining a key state's witness, and co-conspirator to these crimes, about the potential sentences he could receive for his participation in these crimes.

The victim, Margaret Gooding, lived alone, and in the relatively isolated area of Miley, South Carolina, a small town outside of Walterboro. R. 125, ll. 13- 15. Around midnight, on December 6, 2009, her neighbor heard a gunshot. R. 127, l. 17- 128, l. 11. He looked across to the victim's home, and noticed that the lights were on inside her house. R. 129, ll. 1-3. Her neighbor then called her family members, Odis and Martha Ann Gooding, and told them that he heard a gunshot. They said they would call 911. The neighbor looked out the window again and saw that the victim's car was gone. R. 129, ll. 4-21.

The victim's sister-in-law testified that the victim was 79 years old, and in poor health. R. 134, l. 8- 135, l. 1. She also testified that she had spoken to her sister-in-law between 10:00 pm and 11:00 pm that evening. R. 135, ll. 13-20. After he received a phone call from the victim's neighbor, Odis Gooding traveled to the victim's home and saw that her bedroom window was broken out, and he observed bullet holes. R. 141, l. 4- 142, l. 12.

Corporal Bridges, with the Hampton County sheriff's office responded to the victim's home that night. He noticed that her car was gone. R. 150, l. 11 -- 155, l. 8. He also noticed that the door to her house was unlocked, and that there was a blood trail in the house. R. 156, l. 6 -- 159, l. 20. Once the officer noticed that her car was missing, the officer issued a "Be On the Lookout" ("BOLO") notification to other law enforcement agencies. R. 161, ll. 21-24.

Another officer testified that he identified blood at the victim's home. R. 164, 22 -- 25. He also noticed a bullet hole in the stove, located in the kitchen area. R. 169, 10 -- 12.

A crime scene investigator from the South Carolina Law Enforcement Division (SLED) located a fired bullet at the crime scene. R. 179, l. 11 -- 180, l. 25. He also recovered three shell casings outside the bedroom window. R. 187, l. 24 -- 188, l. 22. He located an additional bullet fragment in the backyard. R. 189, ll. 8-11. The SLED agent also took a firearm into his possession that evening. R. 189, l. 24 -- 193, l. 9.

Harold Groves owns a business outside of Walterboro. He was working on December 7, 2009, and noticed a white Buick sitting on the side of the road near his business. He noticed the car at around 8:30 that morning. He was on the phone with 911, when he heard a noise coming from the trunk of the car. Law enforcement officers arrived quickly and discovered the victim in the truck of the car. R. 196, l. 13 -- 205, l. 7. The victim had penetrating injuries to her abdomen, consistent with being shot. R. 221, ll. 16 --17.

Jimmy Roden testified for the State. He knew the victim because she "practically kind of raised" him. R. 228, ll. 16-17. He used to rake leaves for her. Around Thanksgiving, he did some landscaping work for her. R. 229, ll. 11 -- 19. Appellant was with him when they did the work. R. 231, ll. 2 -- 18. Roden introduced appellant to the victim. R. 231, l. 18 -- 232, l. 7. Roden and appellant discussed that the victim had checks in her house. R. 232, l. 13 -- 233, l. 15.

Nathaniel Harris also testified for the State. He admitted that he participated in these crimes. He testified that appellant was with him, but stated that he could not identify him in the courtroom. R. 237, l. 19 -- 238, l. 22. Harris pleaded guilty to these crimes, and received 20 years in prison. R. 239, ll. 1 -- 9. He testified that it was appellant's idea to

commit these crimes, and that he had appellant's brother, Derrick Aiken, take them to the location in his car. R. 239, l. 23 -- 240, l. 15. According to Harris, appellant had him cut the telephone line, and then locate a brick to throw through her bedroom window. Harris claimed that he refused to do so, and so appellant threw the brick himself. R. 241, l. 9 -- 242, l. 15. Harris also testified that appellant possessed the gun and shot the victim. R. 243, ll. 7 -- 17. Harris testified that appellant made him go into the house, steal the victim's purse, car keys, and her checkbook. R. 243, l. 18 -- 244, l. 16. He also testified that appellant made the victim climb into the trunk of the car. R. 246, ll. 18 -- 22.

Harris attempted to cash the victim's checks at a local bank the next day. R. 250, ll. 5 -- 9. At the bank, he was arrested by law enforcement officers, and transported to the Colleton County Jail. R. 250, l. 13 -- 251, l. 24. He gave a confession to law enforcement and implicated Aiken in these crimes. R. 252, ll. 9 -- 10. On cross-examination, Harris testified that he actually went to the victim's home with Derrick Aiken, appellant's brother. R. 259, ll. 2-7.

During his cross-examination of Harris, the following exchange occurred:

Q: All right. Well, look. You're looking at life on burglary; aren't you?

A: (NO RESPONSE).

Q: Aren't you?

A: I've been charged.

Q: Yes or no? Are you looking at life on burglary?

A: That's what it say -- that's what it said.

Q: Yes, sir. You're charged with burglary first, correct? You pled guilty to it, correct?

A: (The witness pauses.)

Q: Did you plead guilty in front of Carmen Mullen in this courtroom to burglary first?

A: (The witness pauses.)

Q: Yes or no?

A: No, I didn't plead guilty to burglary first.

Q: Did you please guilty to assault and battery with intent to kill Mrs. Margaret Gooding, standing here in this courtroom with Judge Carmen Mullen, the lady judge, seated where that judge is today?

A: Yes.

Q: Did you plead guilty to armed robbery?

A: Yes.

Q: And for armed robbery, you could get 10 to 30 years by itself; is that not correct, without—

THE COURT: Just a moment. Yes, sir.

DEP. SOL. THORNTON: Your Honor, it's always—

MR. PLEXICO: Your Honor, could we have a bench conference?

R. 268, l. 3- 269, l. 7.

At the conclusion of trial, the judge stated the following:

THE COURT: Hold on a second, gentlemen. On the record, because I didn't want to stop this trial, I called Mr. Stone, the Solicitor, and Mr. Plexico, to a sidebar before I begin my charge. Mr. Plexico asked for the right, because he rested, to renew his motion for directed verdict at the conclusion of all the evidence, based on the sufficiency of the evidence.

R. 425, ll. 8-14.

At that time, defense counsel also put on the record the sidebar conference that occurred in connection with the cross examination of Harris:

MR. PLEXICO: I believe there was one sidebar we needed to put on the record, when I was questioning Mr. Harris about the—

THE COURT: Yes, sir.

MR. PLEXICO: When I was cross examining Mr. Harris about the amount of time that he could receive on the offenses, and the solicitor objected. At that point in time, we had a sidebar. And I would have objected under Mizelle (sp.) and the confrontation clause to his objection, or justified my questioning. And I just wanted that clearly on the record, Your Honor.

THE COURT: All right. And let me tell you this. I sustained the objection to your soliciting the penalty for the offenses involved in this case. You entered into it by saying “You have a lawyer. You knew how serious this was. And do you know how much the penalty is for burglary or for armed robbery.” I let you get away with one question. When you went to the second offense, there was an objection by the solicitor. I sustained the objection. I do not believe the jury should be considering what the maximum penalty is for an offense in their deliberation on the guilt or innocence of the defendant. And for that reason, I sustained the objection, and I want to make sure there is a complete and accurate record of our sidebar.

R. 426, l. 10- 433, l. 10.

The trial court judge erred when he did not allow trial counsel to cross-examine a key state’s witness, and co-defendant, about the possible penalties he could receive for his participation in this crime, and when he made a deal with the solicitor’s office to testify against Aiken. A defendant has the right to cross-examine a witness concerning bias under the confrontation clause. Davis v. Alaska, 415 U.S. 308 (1974); State v. Brown, 303 S.C. 169, 399 S.E.2d 593 (1991). “‘On cross examination, any fact may be elicited which tends to show interest, bias, or partiality’ of the witness.” State v. Brewington, 267 S.C. 97, 101, 226 S.E.2d 249, 250 (1976) (quoting 98 C.J.S. Witnesses §560a (1957)). See Rule 608(c), SCRE (“Bias,

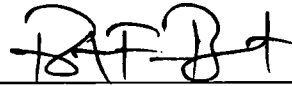
prejudice or any motive to misrepresent may be shown to impeach the witness either by examination of the witness or by evidence otherwise adduced.” State v. Mizzell, 349 S.C. 326, 331, 563 S.E.2d 315, 318 (2002). If a defendant establishes he was unfairly prejudiced by the limitation, it is reversible error. Brown, *supra*.

The South Carolina Supreme Court found, in Mizzell, *supra*, that the trial court judge erred when he did not allow trial counsel to cross-examine a witness charged with the same crimes as the defendant in that case as to the maximum punishment she faced if found guilty of the crime initially charged against her. In this case, trial counsel was not allowed to cross-examine a key state's witness, implicated in the same crimes and charged with the same offenses, who clearly made a deal with the state to avoid potential life sentence in exchange for his testimony against Aiken. “They threw out the burglary charge, and I plead guilty to it.” R. 269, ll. 20-21. As in Mizzell, the error unfairly prejudiced Aiken-- the denial of meaningful cross-examination in this case outweighed the state's interest in excluding the evidence. Id. at 332. Harris offered highly incriminating evidence against Aiken, and testified that Aiken engaged in the most egregious aspects of this crime (throwing the brick, shooting the gun, forcing the victim into the trunk). Aiken was denied his right to fully cross-examine Harris as to the benefits he received by agreeing to testify against him during his trial. Aiken was denied his right to confront the witnesses against him, and his trial was rendered fundamentally unfair. Respectfully, Aiken asks this Court to reverse his convictions and remand this case for a new trial.

CONCLUSION

For the preceding reason, Aiken respectfully asks this Court to reverse his convictions, and remand his case for a new trial.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'EAFB', is written over a horizontal line.

Elizabeth A. Franklin-Best
Appellate Defender

ATTORNEY FOR APPELLANT

This 25th day of April, 2012.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

A handwritten signature in black ink, appearing to read 'E. Franklin-Best', written over a horizontal line.

ELIZABETH A. FRANKLIN-BEST
Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, South Carolina 29211-1589

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Hampton County

Perry M. Buckner, Circuit Court Judge

THE STATE,

RESPONDENT,

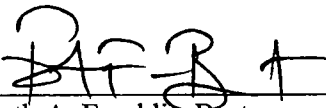
V.

STEVIE LAMONT AIKEN,

APPELLANT

CERTIFICATE OF SERVICE

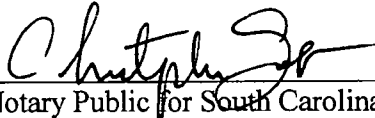
The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon Mark R. Farthing, Esquire, at Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, South Carolina 29201, this 25th day of April, 2012.



Elizabeth A. Franklin-Best
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 25th day of April, 2012.



Notary Public for South Carolina (L.S.)

My Commission Expires: May 16, 2021.



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

April 25, 2012

Mark R. Farthing, Esquire
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

Re: The State v. Stevie Lamont Aikens

Dear Salley:

Enclosed are two copies of the Final Brief of Appellant in the above-entitled case, which I have filed today with the South Carolina Court of Appeals.

Please call me if you have any questions.

Sincerely,

Elizabeth A. Franklin-Best
Appellate Defender

EAF/cms

Enclosure

RECEIVED

APR 22 2013

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

S.C. Supreme Court

Appeal from Hampton County
Honorable Perry M. Buckner, Circuit Court Judge

THE STATE,

Respondent,

vs.

STEVIE LAMONT AIKEN,

Appellant.

FINAL BRIEF OF RESPONDENT

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

MARK R. FARTHING
Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ISAAC McDUFFIE STONE, III
Solicitor, Fourteenth Judicial Circuit

Post Office Box 1880
Bluffton, SC 29910
(843) 255-5880

ATTORNEYS FOR RESPONDENT

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The trial judge did not abuse his discretion in prohibiting Appellant from cross-examining his accomplice about the potential sentencing ranges for each of the offenses Appellant and his accomplice were indicted for because all relevant testimony regarding the accomplice's potential for bias was already elicited during trial through the accomplice's testimony that he originally faced a maximum sentence of life imprisonment, he pled guilty in exchange for the dismissal of the first-degree burglary charge, and he was sentenced to a twenty-year term of imprisonment. Furthermore, even if the trial judge somehow erred in limiting Appellant's ability to cross-examine his accomplice, any error was harmless in light of the overwhelming evidence of Appellant's guilt and the fact Appellant was fully able to expose his accomplice's potential for bias through the cross-examination that was permitted.	
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STATEMENT OF ISSUE ON APPEAL

The trial judge did not abuse his discretion in prohibiting Appellant from cross-examining his accomplice about the potential sentencing ranges for each of the offenses Appellant and his accomplice were indicted for because all relevant testimony regarding the accomplice's potential for bias was already elicited during trial through the accomplice's testimony that he originally faced a maximum sentence of life imprisonment, he pled guilty in exchange for the dismissal of the first-degree burglary charge, and he was sentenced to a twenty-year term of imprisonment. Furthermore, even if the trial judge somehow erred in limiting Appellant's ability to cross-examine his accomplice, any error was harmless in light of the overwhelming evidence of Appellant's guilt and the fact Appellant was fully able to expose his accomplice's potential for bias through the cross-examination that was permitted.

STATEMENT OF THE CASE

In December of 2009, Appellant Stevie Lamont Aiken was arrested following an investigation into the discovery of an elderly woman suffering from gunshot wounds in the trunk of her abandoned car. In March of 2010, the Hampton County grand jury indicted Appellant for first-degree burglary, kidnapping, and possession of a weapon during the commission of a violent crime. In November of 2010, the Hampton County grand jury additionally indicted Appellant for armed robbery and assault and battery with intent to kill. On March 7, 2011, a jury trial was commenced in the Hampton County court of general sessions with the Honorable Perry M. Buckner, circuit court judge, presiding. At the conclusion of trial, the jury convicted Appellant as indicted. The trial judge sentenced Appellant to concurrent terms of imprisonment of thirty-five years for first-degree burglary, thirty years for kidnapping, twenty years for armed robbery, twenty years for assault and battery with intent to kill, and five years for possession of a weapon during the commission of a violent crime. Appellant then timely filed a notice of appeal.

STATEMENT OF FACTS

Shortly before Thanksgiving Day in November of 2009, Jimmy Roden went to the home of seventy-nine-year-old Margaret Gooding ("Victim") in Miley, South Carolina, to perform landscaping work. (R. p. 134; pp. 229-231). Appellant Stevie Lamont Aiken accompanied Roden to Victim's house to assist with the job. (R. p. 231). Upon arriving, Roden knocked on Victim's door and introduced her to Appellant. (R. pp. 231-232). As Roden was speaking with Victim, he noticed some checks scattered around her home. (R. p. 232). He cautioned Victim to be more careful with the checks and commented to Appellant that Victim needed to be more careful. (R. pp. 232-233). The men then completed the landscaping work, and Victim paid them for their services with a check. (R. p. 235).

Subsequently, on December 6, 2009, Jarvis Barnes, Victim's next-door neighbor, was sleeping in his home when he was awakened by the sound of a gunshot around 11:00 p.m. or midnight.¹ (R. p. 125; pp. 127-128). Barnes initially believed the sound came from a deer hunter until he looked towards Victim's home and noticed all of the lights were on inside of the residence. (R. p. 128). Concerned, Barnes called Odis Gooding ("Odis"), Victim's brother-in-law, and reported what he heard at Victim's house. (R. p. 129; p. 141). Odis relayed the information to his wife, Martha Ann Gooding ("Martha Ann"), and she immediately attempted to call Victim. (R. p. 138). However, she received no response from Victim's home. (R. p. 138). Martha Ann then phoned Barnes and learned Victim's car, which had been in the yard when Barnes first called, was

¹ Notably, on December 6, 2009, the night of the incident, Appellant contacted Roden earlier in the day and inquired about Victim, asking if she had asked Roden to perform another job for her. (R. pp. 233-234).

missing.² (R. pp. 128-129; p. 138). After speaking with Barnes, Martha Ann called 911 and asked for law enforcement to check on Victim at her home. (R. p. 138; p. 141).

In the early morning hours of December 7, 2009, Corporal Michael Bridges of the Hampton County Sheriff's Office responded to Victim's residence and immediately noticed her car was missing. (R. p. 150; pp. 154-156). As he continued investigating, Corporal Bridges received no response from Victim when he called out for her, discovered Victim's front door was unlocked, and noticed Victim's bedroom window was shattered. (R. pp. 155-156; pp. 159-160). Based on the suspicious circumstances, Corporal Bridges requested back-up before proceeding into Victim's residence. (R. p. 156). Inside, he observed blood on the floor and discovered a blood trail as he moved through the house. (R. p. 156; p. 159).

Following Corporal Bridges' request for support, Captain Anthony Russell quickly responded to Victim's residence and immediately observed blood when he entered the home. (R. pp. 163-164). As he investigated the scene, he discovered Victim's phone line had been cut, two bricks had been thrown into Victim's bedroom from outside, and there were bullet holes in Victim's stove and bedroom door. (R. p. 166; pp. 168-169). Based on his observations, he requested assistance with the investigation from S.L.E.D. (R. p. 165).

Shortly thereafter, Karl Henley, a crime scene investigator from S.L.E.D., responded to Victim's residence. (R. pp. 171-172). During his investigation, he discovered several bullet holes inside Victim's home. (R. p. 175). Henley collected shell casings from outside Victim's bedroom window, fired bullets from Victim's stove and

² Victim owned a white Buick. (R. p. 148).

bedroom wall, and bullet fragments from Victim's backyard. (R. pp. 179-181; pp. 188-189). He then sent the collected evidence to S.L.E.D. for analysis. (R. pp. 185-186).

Later that morning, Harold Groves arrived at his business in Walterboro, South Carolina, around 8:30 a.m.³ (R. p. 196; p. 198). Upon arriving, he noticed a white Buick parked next to an old, abandoned building near his business. (R. p. 198). Curious as to what the vehicle was doing there, Groves' nephew, who also arrived for work that morning, approached the car and observed a cane inside. (R. pp. 199-200). However, no one was visible inside of the car, so Groves continued on with his day. (R. p. 200). Thereafter, at around 3:00 p.m., Groves was preparing to go home and noticed the white Buick was still parked near the abandoned building. (R. p. 200). Believing something was amiss, Groves checked on the car and noticed the keys were inside. (R. pp. 200-201). Groves then called 911 and waited on the police to arrive. (R. p. 201). While he did so, he could hear someone talking but could not locate the source of the sound. (R. p. 201).

Following Groves' 911 call, Detective Ray Taylor of the Colleton County Sheriff's Office quickly responded to the scene and observed the white Buick partially hidden behind an abandoned building. (R. pp. 213-215). As he approached the car, he heard sounds coming from the trunk. (R. p. 216). Detective Taylor retrieved the keys from inside of the car and opened the trunk. (R. p. 216). Inside, he found Victim. (R. p. 216). Victim had blood on her clothing and was suffering from two gunshot wounds to her abdomen. (R. pp. 216-217; p. 221). Victim informed the officer she had been in the trunk since the previous night. (R. p. 217). Shortly thereafter, paramedics responded to the scene, and Victim was transported to the hospital by a helicopter. (R. pp. 220-221).

³ The city of Walterboro is approximately thirty miles away from the town of Miley. (R. p. 261).

Later that day, Nathaniel Harris unsuccessfully attempted to cash a check stolen from Victim's residence at a bank in Walterboro. (R. p. 247; p. 250). Shortly after he left the bank, Harris was apprehended by law enforcement and transported back to Hampton County. (R. pp. 251-252; p. 330). Once there, Harris fully confessed to the crimes involving Victim and implicated Appellant as his accomplice. (R. p. 252; pp. 289-290).

Following Harris' confession, Lieutenant Allan Inabinett went to Appellant's residence in Walterboro and located Appellant nearby on a bicycle. (R. pp. 247-248; pp. 330-331). Appellant's residence was approximately a mile and half away from the area where Victim and her car were located. (R. p. 336). After finding Appellant, Lieutenant Inabinett made contact with him and followed him back to his house. (R. p. 331). Once there, Appellant placed something inside of the front door of his home before Lieutenant Inabinett arrested him and transported him back to Hampton County. (R. p. 331).

After arriving at the sheriff's department, Appellant was informed of his rights and agreed to speak with the officers. (R. pp. 285-286; pp. 314-315). Initially, Appellant denied any involvement in the crimes. (R. p. 296). However, Appellant eventually confessed to the crimes and made a statement to the officers admitting his guilt. (R. p. 287; pp. 298-299). Detective Leslie Johnson of the Hampton County Sheriff's Office recorded Appellant's statement as he relayed it to her, and Appellant signed each page of the confession. (R. p. 296; pp. 298-299). In the statement, Appellant claimed his brother drove him and Harris to Miley, where he and Harris went to Victim's house. (R. p. 301). Appellant claimed he showed Harris where Victim's phone line was and Harris cut the line. (R. p. 301). Appellant stated they then went to Victim's bedroom window and Harris threw two bricks inside. (R. p. 301). Appellant claimed Victim came to the

window, fired shots outside, came out of her back door, asked them not to hurt her, and then returned inside and locked the door. (R. p. 301). Appellant stated he heard another shot before Victim came back outside, called for her neighbors, and then attempted to shoot him. (R. p. 301). After Victim's gun would not fire, Appellant claimed he shot at Victim and believed he hit the neighbor's shed. (R. p. 301). Appellant stated Victim went back inside and he heard another shot. (R. p. 302). Appellant claimed Victim then came back outside bleeding, threw her gun down, and asked them not to hurt her any further. (R. p. 302). Appellant stated Harris then got Victim's car and they all drove to Waltherboro after Harris took the Victim's keys, wallet, and checkbook from her home. (R. p. 302). Once in Waltherboro, Appellant claimed Harris threw the guns in a dumpster. (R. p. 302). Appellant stated he wanted to take Victim to the hospital and Harris refused. (R. p. 302). Appellant claimed he and Harris then parted ways and he did not see Harris until the next morning when Harris showed him a check he said he was going to cash. (R. pp. 302-303). Appellant stated he spoke to Harris later and learned Harris could not cash the check. (R. p. 303). Appellant claimed Harris was then arrested a few hours later before he met with law enforcement at his house. (R. p. 303).

Following Appellant's statement, officers went to the dumpster where Appellant claimed the guns had been abandoned but could not locate them. (R. pp. 315-316). Detective Johnson questioned Appellant about the fact the guns could not be located where he said they would be, and Appellant admitted he retrieved the guns from the dumpster earlier that morning. (R. pp. 303-305). Appellant then stated he gave one of the guns to his brother and hid the other one in his couch cushions. (R. p. 303). Officers went to Appellant's residence and his brother's residence. (R. pp. 317-318; p. 320; p. 331). At Appellant's residence, officers located a revolver underneath the cushions of

Appellant's couch right next to the front door. (R. pp. 332-333). The gun hidden in Appellant's couch belonged to Victim. (R. p. 226). At Appellant's brother's residence, officers found a nine-millimeter handgun hidden in a plastic bag wrapped with a rag. (R. pp. 320-321; p. 333). Subsequent testing revealed the nine-millimeter handgun was used to fire the bullets recovered from inside Victim's home. (R. pp. 353-355).

Appellant was subsequently indicted for numerous offenses, including first-degree burglary, armed robbery, and kidnapping, and he proceeded to trial. (R. p. 57; pp. 451-465). During trial, in addition to the testimony of Victim's neighbors and family members and the testimony of the officers who investigated Victim's disappearance, Appellant's accomplice, Harris, testified for the prosecution. (R. p. 238). At the outset of his testimony, Harris admitted he was currently incarcerated after pleading guilty to crimes related to the kidnapping and robbery of Victim, which he stated he committed with Appellant. (R. p. 238). Harris further stated he received a twenty-year sentence for the crimes after pleading guilty. (R. p. 239).

Regarding the incident, Harris claimed Appellant came up with the idea to rob Victim after Appellant performed yard work for Victim. (R. pp. 239-240). Harris stated Appellant's brother drove them to Victim's house and Appellant had him cut Victim's phone line. (R. pp. 240-241). Harris testified Appellant threw a brick through Victim's window after he refused to do so, and Victim came to the window and fired a shot at them. (R. pp. 242-243). Harris stated Appellant then shot Victim. (R. p. 243). Harris claimed Victim then came outside and yelled for her neighbors, Appellant ran to her and ordered her to surrender, and Victim complied. (R. pp. 243-244). Harris testified Appellant sent him into Victim's home to retrieve her keys, purse, and checkbook, and Appellant forced Victim into the trunk of her car. (R. p. 244; p. 246). Harris claimed

they then returned to Walterboro, abandoned Victim's car next to an old building, and went to Appellant's home, which was nearby. (R. pp. 247-248). Harris stated Appellant would not allow him to release Victim from her trunk. (R. p. 248). Harris testified he then unsuccessfully attempted to cash a stolen check the next day, was arrested shortly thereafter, and confessed. (R. pp. 250-252).

On cross-examination, Harris admitted he was a dishonest thief but asserted he was not "gonna tell no story." (R. pp. 255-256). Subsequently, Harris acknowledged he was originally facing a potential life sentence on a first-degree burglary charge. (R. p. 268). Then, the following exchange occurred:

[Defense Counsel]: Did you plead guilty in front of Carmen Mullen in this courtroom to burglary first?

[Harris]: (The witness pauses.)

[Defense Counsel]: Yes or no?

[Harris]: No, I didn't plead guilty to burglary first.

[Defense Counsel]: Did you plead guilty to assault and battery with intent to kill Mrs. Margaret Gooding, standing here in this courtroom with Judge Carmen Mullen, the lady judge, seated where that judge is today?

[Harris]: Yes.

[Defense Counsel]: Did you plead guilty to armed robbery?

[Harris]: Yes.

[Defense Counsel]: And for armed robbery, you could get 10 to 30 years by itself; is that not correct, without –

[Trial Judge]: Just a moment. Yes, sir.

[Solicitor]: You Honor, it's always –

[Defense Counsel]: You Honor, could we have a bench conference?

(R. pp. 268-269). Upon defense counsel's request, a bench conference was conducted outside the jury's presence. (R. p. 269). Following the bench conference, defense counsel resumed with his cross-examination of Harris, and Harris admitted he also pled guilty to grand larceny and possession of a weapon during the commission of a violent crime. (R. p. 269). Harris further testified his deal with the solicitor's office was that the first-degree burglary charge was dismissed and he pled guilty. (R. p. 269).

Subsequently, the trial continued, and the jury began its deliberations. (R. p. 426). Defense counsel then noted his objection to the limitations placed on his cross-examination of Harris, stating:

When I was cross-examining Mr. Harris about the amount of time that he could receive on the offenses, the Solicitor objected. At that point in time, we had a sidebar. And I would have objected under Mizelle in the confrontation clause to his objection, or justified my questioning. And I just wanted that clearly on the record, Your Honor.

(R. p. 426). In response, the trial judge explained:

I sustained the objection to your soliciting the penalty for the offenses involved in this case. You entered into it by saying "You have a lawyer. You knew how serious this was. And do you know how much the penalty is for burglary or for armed robbery." I let you get away with one question. When you went to the second offense, there was an objection by the Solicitor. I sustained the objection. I do not believe the jury should be considering what the maximum penalty is for an offense in their deliberations on the guilt or innocence of the defendant. And for that reason, I sustained the objection, and I want to make sure there is a complete and accurate record of our sidebar.

(R. pp. 426-427). Thereafter, the jury convicted Appellant as indicted. (R. p. 430). The trial judge then sentenced Appellant to an aggregate term of imprisonment of thirty-five years. (R. pp. 445-446).

ARGUMENT

The trial judge did not abuse his discretion in prohibiting Appellant from cross-examining his accomplice about the potential sentencing ranges for each of the offenses Appellant and his accomplice were indicted for because all relevant testimony regarding the accomplice's potential for bias was already elicited during trial through the accomplice's testimony that he originally faced a maximum sentence of life imprisonment, he pled guilty in exchange for the dismissal of the first-degree burglary charge, and he was sentenced to a twenty-year term of imprisonment. Furthermore, even if the trial judge somehow erred in limiting Appellant's ability to cross-examine his accomplice, any error was harmless in light of the overwhelming evidence of Appellant's guilt and the fact Appellant was fully able to expose his accomplice's potential for bias through the cross-examination that was permitted.

Appellant contends the trial judge erred in limiting the scope of Appellant's cross-examination of his accomplice. Appellant maintains his trial was rendered fundamentally unfair because he was allegedly denied the right to fully cross-examine his accomplice in regards to the benefits that accomplice received for agreeing to testify against him.

Although the trial judge prohibited Appellant from eliciting testimony from the accomplice on the potential sentences the accomplice was originally facing for each of his indicted charges, the trial judge only did so after testimony was elicited from the accomplice during trial indicating the accomplice was originally facing a maximum sentence of life imprisonment, pled guilty for his participation in the crimes, and was serving a twenty-year sentence at the time of Appellant's trial. Based on the testimony elicited, any further testimony on the sentencing ranges for the indicted offenses was inappropriate, irrelevant, and prejudicial. Therefore, the trial judge did not abuse his discretion in placing reasonable limitations on the scope of cross-examination, and Appellant suffered no prejudice as a result of those limitations. Furthermore, even if the trial judge's limitations on cross-examination were somehow unreasonable and prejudicial, any error was harmless in light of the overwhelming evidence of Appellant's

guilt and the fact Appellant was fully able to cross-examine his accomplice in regards to the maximum sentence he was facing and the sentence he received in exchange for pleading guilty. Appellant's convictions should be affirmed.

A. Proper Limitation of the Scope of Cross-Examination

Pursuant to the Sixth Amendment of the United States Constitution, every criminal defendant has a right to "to be confronted with the witnesses against him" during trial. U.S. Const. amend. VI. "Specifically included in a defendant's Sixth Amendment right to confront the witness is the right to meaningful cross-examination of adverse witnesses." State v. Graham, 314 S.C. 383, 385, 444 S.E.2d 525, 527 (1994). This right guarantees to a criminal defendant the opportunity to cross-examine the witnesses against him concerning bias. State v. Gillian, 360 S.C. 433, 450, 602 S.E.2d 62, 71 (Ct. App. 2004), aff'd as modified, 373 S.C. 601, 646 S.E.2d 872 (2007); see also Rule 608(c), SCRE ("Bias, prejudice or any motive to misrepresent may be shown to impeach the witness either by examination of the witness or by evidence otherwise adduced.").

When cross-examining a witness in regards to the potential for bias, considerable latitude must be allowed. Gillian, 360 S.C. at 450, 602 S.E.2d at 71. Any fact may be elicited which tends to show interest, bias, or partiality of the witness. State v. Brewington, 297 S.C. 97, 101, 226 S.E.2d 249, 250 (1976). Limitations placed on a defendant's ability to cross-examine a witness constitute a Confrontation Clause violation when the defendant is prohibited from engaging in "**otherwise appropriate cross-examination**" designed to show a prototypical form of bias from which jurors could draw inferences relating to the reliability of the witness. Delaware v. Van Arsdall, 475 U.S. 673, 680 (1986) (emphasis added). "The appropriate question under a Confrontation Clause analysis is whether there has been any interference with the defendant's

opportunity for effective cross-examination at trial.” Gillian, 360 S.C. at 150, 602 S.E.2d at 71.

However, although a defendant is entitled to an opportunity for meaningful cross-examination, the scope of that cross-examination still rests in the trial judge’s sound discretion. State v. Whitner, 380 S.C. 513, 519, 670 S.E.2d 655, 659 (Ct. App. 2008). A defendant’s right to confront the witnesses against him does not deprive the trial judge of his usual discretion in limiting the scope of cross-examination. State v. Turner, 373 S.C. 121, 130, 644 S.E.2d 693, 698 (2007). Trial judges may impose reasonable limitations on cross-examination designed to show bias “based on concerns about, among other things, harassment, prejudice, confusion of the issues, witness’s safety, or interrogation that is repetitive or only marginally relevant.” State v. Jenkins, 322 S.C. 360, 364, 474 S.E.2d 812, 814 (Ct. App. 1996). A trial judge is permitted to limit a defendant’s attempts to demonstrate bias on the part of a witness where there is a clear showing that the cross-examination is somehow inappropriate. Whitner, 380 S.C. at 519-520, 670 S.E.2d at 659. The limitation of cross-examination constitutes reversible error only if the defendant establishes unfair prejudice resulted from the limitation. State v. Brown, 303 S.C. 169, 171, 399 S.E.2d 593, 594 (1991).

In the case sub judice, Appellant’s accomplice, Harris, testified on direct examination that he was indicted for numerous offenses based on his participation with Appellant in the kidnapping, robbery, and burglary of their seventy-nine-year-old victim. Harris further testified he was incarcerated at the time of trial after pleading guilty to his charges in exchange for a twenty-year sentence. Thereafter, the trial judge permitted Appellant to elicit testimony from Harris on cross-examination that Harris was originally facing a maximum sentence of life imprisonment for his first-degree burglary charge

before he pled guilty to the other offenses. After eliciting this testimony, Appellant attempted to question Harris on the maximum potential sentence he had faced on the armed robbery charge, and the trial judge prohibited Appellant from doing so. The trial judge's decision to limit Appellant's cross-examination of Harris on the possible sentencing ranges for the other offenses Harris was originally facing, which included many of the same offenses for which Appellant was on trial, constituted a proper exercise of the trial judge's discretion regarding the scope of cross-examination.⁴

Typically, the jury is not entitled to learn the possible sentence a defendant might receive if convicted because the sentence is irrelevant to a finding of guilt or innocence. State v. Mizzell, 349 S.C. 326, 331, 563 S.E.2d 315, 318 (2002). " 'The purpose of preventing disclosure of the potential sentence facing the defendant is that such evidence is irrelevant to the jury and could possibly prejudice the State's right to a fair trial.' " Id. at 331, 563 S.E.2d at 317 (quoting Illinois v. Brewer, 245 Ill. App. 3d 890, 892, 615 N.E.2d 787, 790 (Ill. App. Ct. 1993)). However, when a defendant's right to **effectively** cross-examine an accomplice about possible bias outweighs the need to exclude evidence on the possible sentence for the charged offenses, the Confrontation Clause limits the rule precluding the admission of such evidence. Whitner, 380 S.C. at 520, 670 S.E.2d at 659.

In State v. Mizzell, the Mizzells and their co-defendant were charged with first-degree burglary, grand larceny, and possession of a firearm during the commission of a violent crime. Id., 349 S.C. at 329, 563 S.E.2d at 316. During trial, the co-defendant testified against the Mizzells and was permitted to testify he could receive a "long sentence" for the charged offenses. Id. at 334, 563 S.E.2d at 319. However, the trial

⁴ Regarding the differences in the offenses each of the participants in the crimes were charged with, Harris pled guilty to grand larceny while Appellant was not indicted for that offense. (R. p. 57; p. 269; pp. 451-465).

judge prohibited the Mizzells from asking the co-defendant, who had not yet pled guilty and had not agreed to a plea bargain, about the specific potential sentences he was facing for the charges. Id. at 330, 563 S.E.2d at 317. Subsequently, the Mizzells were convicted and appealed based on the limitations placed upon their cross-examination of the co-defendant. Id. at 330, 563 S.E.2d at 317.

On appeal, the Supreme Court reversed, finding the trial judge erred in limiting the Mizzells' ability to cross-examine their co-defendant. Id. at 333, 563 S.E.2d at 318. The Court noted: "Generally, a judge may prevent the introduction of evidence which informs the jury of the possible sentence defendants may receive if convicted because it is either irrelevant or substantially prejudicial." Id. However, under the circumstances of the Mizzells' case, the Court found the trial judge erred in limiting the cross-examination of the co-defendant about the potential sentence he was facing because "[t]he lack of a negotiated plea, if anything, creates a situation where the witness is more likely to engage in biased testimony in order to obtain a future recommendation of leniency." Id. Since the Mizzells' co-defendant had not pled guilty or reached a plea agreement, the Court determined testimony regarding his possible sentence for his indicted offenses was critical to the jury's ability to evaluate his potential for bias. Id.

Critically, unlike the situation in Mizzell, the jury in Appellant's case was not left with any ambiguity about the potential sentence Appellant's accomplice was originally facing. The trial judge specifically permitted Appellant to elicit testimony from Harris indicating Harris was originally facing a maximum possible sentence of life imprisonment before he pled guilty. Thus, as the jury was fully aware of the maximum sentence Harris had faced for the crimes before he pled guilty along with the fact his guilty plea allowed him to avoid a potential life sentence for the crimes, no further

testimony was needed in regards to the possible sentences Harris faced on his other charges to establish Harris had a motive to plead guilty and cooperate with the State. Therefore, the limitations placed on Appellant's cross-examination of Harris did not deprive the jury of the relevant information they needed to judge Harris' potential for partiality or bias. Cf. Brown, 303 S.C. 169, 399 S.E.2d 593 ("The fact Bethel was permitted to avoid a mandatory prison term of more than three times the duration she would face on her plea to conspiracy is critical evidence of potential bias that appellant should have been permitted to present to the jury."). Accordingly, Appellant's ability to effectively and meaningfully cross-examine Harris was not impaired.

Furthermore, again unlike the situation in Mizzell, Harris pled guilty before Appellant's trial and received a twenty-year sentence for the crimes prior to testifying in Appellant's case. Therefore, Harris' motive for providing biased testimony was greatly reduced by virtue of the fact his sentence, which had already been imposed and which he was serving at the time of Appellant's trial, was not dependent on any future recommendation from the solicitor for leniency. Cf. State v. Sims, 348 S.C. 16, 25, 558 S.E.2d 518, 523 (2002) ("There was the substantial possibility Peterson would give biased testimony in an effort to have the solicitor highlight to his future trial judge how he had cooperated in the instant case."). Harris had already been sentenced for his crimes prior to ever testifying in Appellant's case and had nothing to personally gain in regards to his sentence through testifying against Appellant during Appellant's trial. Accordingly, since Harris directly testified as to the sentence he already received for his crimes, any testimony on the sentence he was facing before pleading guilty was irrelevant to his motivation for testifying and did not have "a legitimate tendency to throw light on the accuracy, truthfulness, and sincerity" of his testimony. See Brewington, 297 S.C. at

101, 226 S.E.2d at 250 (“ ‘[A]s a general rule, anything having a legitimate tendency to throw light on the accuracy, truthfulness, and sincerity of a witness may be shown and considered in determining the credit to be accorded his testimony[.]’ ” (citations omitted)).

The trial judge only limited Appellant’s ability to cross-examine Harris after permitting Appellant to elicit all of the testimony necessary to establish any possibility of bias on Harris’ part. Thereafter, the trial judge properly exercised his discretion to prevent Appellant from eliciting testimony on the other possible sentences Harris had faced because that information was no longer necessary or relevant towards establishing Harris’ potential for providing biased testimony. See Gillian, 360 S.C. at 451, 602 S.E.2d at 71 (“[T]rial judges retain wide latitude insofar as the Confrontation Clause is concerned to impose reasonable limits on such cross-examination based on concerns about, among other things, harassment, prejudice, confusion of the issues, witness’ safety, or interrogation that is repetitive or only marginally relevant.”). In light of the testimony the trial judge permitted Appellant to elicit from Harris, the introduction of additional testimony regarding the potential sentences ranges of the offenses Harris was originally charged with was, at best, marginally relevant and only stood to confuse the issues and expose the jury to potentially prejudicial information completely irrelevant to their decision in Appellant’s case. Therefore, the testimony was no longer necessary or appropriate, meaning Appellant suffered no prejudice from its exclusion, and the trial judge did not abuse his discretion in reasonably limiting the scope of Appellant’s cross-examination of his co-defendant. See State v. Aleksey, 343 S.C. 20, 33-34, 538 S.E.2d 248, 255 (2000) (“The right to meaningful cross-examination of an adverse witness is included in the defendant’s Sixth Amendment right to confront his accusers. This does

not mean, however, that trial courts conducting criminal trials lose their usual discretion to limit the scope of cross-examination.” (citations omitted)); see also Mizzell, 349 S.C. at 331, 563 S.E.2d at 317 (requiring a defendant to establish he was unfairly prejudiced by a limitation placed upon cross-examination before he is entitled to reversal). Appellant’s convictions should be affirmed.

B. Harmless Error

Appellate courts will generally not set aside a judgment based on insubstantial errors not affecting the result. State v. Sherard, 303 S.C. 172, 176, 399 S.E.2d 595, 597 (1991). Error is harmless beyond a reasonable doubt if it does not contribute to the verdict. State v. Fletcher, 379 S.C. 17, 25, 664 S.E.2d 480, 484 (2008). The harmlessness of an error in the admission of evidence generally depends on the materiality of the error in relation to the case as a whole. State v. Haselden, 353 S.C. 190, 196, 577 S.E.2d 445, 448 (2003); see State v. Wiley, 387 S.C. 490, 497, 692 S.E.2d 560, 564 (Ct. App. 2010) (“No definite rule of law governs this finding; rather, the materiality and prejudicial character of the error must be determined from its relationship to the entire case.”). “When guilt has been conclusively proven by competent evidence such that no other rational conclusion can be reached, the Court should not set aside a conviction because of insubstantial errors not affecting the result.” State v. Bailey, 298 S.C. 1, 5, 377 S.E.2d 581, 584 (1989). Thus, when overwhelming evidence of guilt has been presented, any trial error may be harmless. State v. Gathers, 295 S.C. 476, 480-481, 369 S.E.2d 140, 143 (1988).

Critically, an error resulting from the placing of improper limitations on a defendant’s ability to cross-examine a witness during trial does not automatically warrant reversal and, instead, is subject to a harmless error analysis. State v. Clark, 315 S.C. 478,

481, 445 S.E.2d 633, 634 (1994). In determining whether such an error is harmless, the United States Supreme Court has identified the following factors to be considered: (1) the importance of the witness' testimony to the State's case; (2) whether the testimony was cumulative; (3) the presence or absence of evidence corroborating or contradicting the testimony of the witness on material points; (4) the extent of cross-examination otherwise permitted; and (5) the overall strength of the State's case.⁵ Van Arsdall, 475 U.S. at 684.

In the case at bar, even assuming the trial judge erred in limiting Appellant's ability to cross-examine his accomplice, any error was entirely harmless. The State's case against Appellant was overwhelmingly strong. Irrespective of Harris' testimony, the other evidence presented during trial left no doubt about Appellant's guilt or innocence. Most damagingly to Appellant, Appellant's signed confession was presented to the jury. In his confession, Appellant openly acknowledged he was involved in the burglary, armed robbery, and kidnapping of Victim. Also, he candidly admitted he, at a minimum, shot at his elderly, infirmed victim. Appellant's statement alone established his guilt for each and every indicted offense, corroborated his accomplice's testimony, and rendered his accomplice's testimony insignificant and largely cumulative to his own admissions.

In addition to Appellant's statement, the guns involved in the crime were discovered in the exact locations Appellant informed law enforcement they would be. The gun stolen from Victim was discovered in the cushions of Appellant's couch, and the gun that fired the shots into Victim's home was discovered hidden at Appellant's brother's residence. Furthermore, Victim's abandoned car, which contained Victim in the trunk, was discovered in close proximity to Appellant's residence. Coupled with

⁵ Notably, an appellate court is not confined to considering only these factors when conducting a harmless error analysis. See Graham, 314 S.C. at 386, 444 S.E.2d at 527 ("The list of factors as set out in Van Arsdall is not exhaustive.").

Appellant's confession, this evidence conclusively established Appellant's guilt. Cf. Sims, 348 S.C. at 26, 558 S.E.2d at 523-524 (finding any error in the improper limitation of the scope of Sims' cross-examination of a witness to be harmless in light of the fact the State's case against Sims was strong independent of the witness' testimony and due to the fact Appellant confessed to the crime to law enforcement).

Finally, notwithstanding the overwhelming evidence of Appellant's guilt, Appellant was fully able to expose his accomplice's potential for bias through the scope of cross-examination that was permitted. Harris testified he was facing a life sentence after he was indicted for the crimes, pled guilty to the offenses prior to Appellant's trial, and was sentenced to a twenty-year term of imprisonment. No further evidence was necessary to establish any potential for bias on the part of Harris, and Appellant has failed to offer any meaningful reason as to why the potential sentencing ranges for Harris' other indicted offenses would have had any additional impact on his potential for bias or lack of credibility. See Van Arsdall, 475 U.S. at 684 ("The correct inquiry is whether, assuming that the damaging potential of the cross-examination were fully realized, a reviewing court might nonetheless say that the error was harmless beyond a reasonable doubt.")

Even assuming the trial judge somehow erred in limiting the scope of Appellant's cross-examination of Harris, any error was entirely harmless. Harris fully acknowledged he was facing a life sentence before he pled guilty and received a twenty-year sentence prior to testifying in Appellant's trial. Testimony on the other sentences Harris was facing before he entered his guilty plea and was sentenced could not have had any impact of the jury's verdict, rendering any error in the trial judge's decision to prohibit Appellant from eliciting such testimony harmless. Appellant's conviction should not be reversed

for an insubstantial error that could not have impacted the outcome of his trial. Notwithstanding the fact the trial judge reasonably limited the scope of cross-examination, the limitations placed on Appellant's ability to cross-examine his accomplice did not warrant reversal. See Whitner, 380 S.C. at 521, 670 S.E.2d at 659-660 (finding any error in the limitation of the scope of cross-examination to be harmless where the limitation could not have reasonably affected the outcome at trial); State v. Curry, 370 S.C. 674, 682, 636 S.E.2d 649, 653 (Ct. App. 2006) (finding any error in the limitation of the scope of cross-examination of Curry's co-defendants about the sentences they faced was harmless because the co-defendants' testimony was cumulative to other testimony and Curry's guilt or innocence did not solely hinge on their testimony). Appellant's convictions should be affirmed.

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

ALAN WILSON
Attorney General

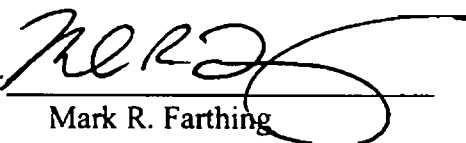
JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

MARK R. FARTHING
Assistant Attorney General

ISAAC McDUFFIE STONE, III
Solicitor, Fourteenth Judicial Circuit

BY:



Mark R. Farthing

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEYS FOR RESPONDENT

April 16, 2012

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Hampton County
Honorable Perry M. Buckner, Circuit Court Judge

THE STATE,

Respondent,

vs.

STEVIE LAMONT AIKEN,

Appellant.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

ALAN WILSON
Attorney General

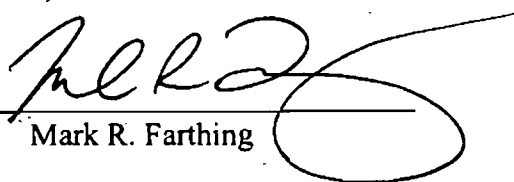
JOHN W. McINTOSH
Chief Deputy Attorney General

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Senior Assistant Deputy Attorney General

MARK R. FARTHING
Assistant Attorney General

ISAAC McDUFFIE STONE, III
Solicitor, Fourteenth Judicial Circuit

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PROOF OF SERVICE

I, Ellen R. DuBois, certify that I have served the within Final Brief of Respondent on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Elizabeth A. Franklin-Best, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.
This 16th day of April, 2012.



ELLEN R. DuBOIS
Legal Assistant

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727