

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Cherokee County

Honorable R. Keith Kelly, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ROBERT LAWRENCE HAWKINS,

APPELLANT.

APPELLATE CASE NO. 2021-000913

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

**STATE’S EXHIBITS 5 (CD), 7 (PHOTOGRAPH), 8 (PHOTOGRAPH),
9 (PHOTOGRAPH), 14 (BOOKING PHOTOGRAPH), 15 (FACEBOOK POST),**

1 STATE OF SOUTH CAROLINA
2 COUNTY OF CHEROKEE

IN THE GENERAL SESSIONS
7th JUDICIAL CIRCUIT

3 STATE OF SOUTH CAROLINA,
4
5 Plaintiff,

ORIGINAL

6 vs.

CASE NO. 2019-GS-11-01519

7 ROBERT LAWRENCE HAWKINS,
8 Defendant.

9
10 HEARING BEFORE: HONORABLE R. KEITH KELLY

11 DATE: April 13, 2021

12 TIME: 4:12 PM

13 LOCATION: Cherokee County Courthouse
14 125 E. Floyd Baker Blvd
15 Gaffney, SC 29340

16 REPORTED BY: LORA L. McDANIEL,
17 Registered Professional Reporter

18
19 APPEARANCES:

20 ATTORNEYS FOR THE PLAINTIFF
21 KIMBERLY L. LESKANIC, ESQ.

22 ATTORNEYS FOR THE DEFENDANT
23 TRACY G. RACINE, ESQ.

STATE OF SOUTH CAROLINA vs. ROBERT HAWKINS

1 MS. LESKANIC: Robert Hawkins.

2 THE COURT: Solicitor.

3 MS. LESKANIC: May it please The Court, Your Honor.
4 Before you is Robert Hawkins. He's been charged with armed
5 robbery. He is next on the trial docket. I believe that trial
6 is going to begin -- possibly the motions tomorrow afternoon
7 and the jury Thursday morning.

8 We had extended an offer of ten years. As The
9 Court is aware, armed robbery carries a minimum of ten, maximum
10 of 30 years in prison and 85 percent no parole offense. And I
11 was wanting The Court to inquire as to whether Mr. Hawkins was
12 accepting or rejecting the State's offer.

13 THE COURT: All right. Madam clerk, if you'll
14 swear Mr. Hawkins for me.

15 THE CLERK: Please raise your right hand.

16 ROBERT HAWKINS

17 being first duly sworn, testified as follows:

18 THE COURT: Sir, you may lower your hand. You are
19 Mr. Robert Hawkins?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You are represented by Ms. Racine?

22 THE DEFENDANT: Yes.

23 THE COURT: The State tells me there's an offer
24 made. Sir, you do not have to accept it. I'm here to inquire:
25 Do you accept their offer or you reject it?

1 THE DEFENDANT: I reject the offer.

2 THE COURT: All right, sir. Don't be offended, but
3 let me ask you: Are you under the influence or are you taking
4 any medication, any substance that would affect your thinking
5 ability? No?

6 THE DEFENDANT: No, sir.

7 THE COURT: You know what you're doing here today?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Ms. Racine represents you?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Have you discussed this with her?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right, sir. Having your
14 discussions, I don't know what they were, but you had plenty of
15 time to talk with her?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right, sir. This is your decision
18 and your decision alone?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: All right, sir. Tomorrow afternoon
21 we're probably going to take up motions probably close to 3:30,
22 3:45, something like that tomorrow afternoon. So you be
23 wherever she asks you to be, and I intend to pick the jury on
24 Thursday morning at 9:00 a.m.

25 THE DEFENDANT: Yes, sir.

STATE OF SOUTH CAROLINA vs. ROBERT HAWKINS

1 THE COURT: Okay. With you or without you.

2 THE DEFENDANT: All right.

3 THE COURT: Okay.

4 MS. LESKANIC: Thank you, Your Honor.

5 (The hearing was concluded at 4:13 p.m.)

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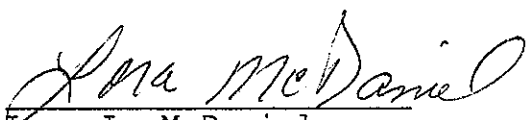
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CERTIFICATE OF REPORTER

I, Lora McDaniel, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

I further certify that I am neither related to, nor counsel for, any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 18th day of October, 2021 at Spartanburg, Spartanburg County, South Carolina.


Lora L. McDaniel,
Registered Professional Reporter
My Commission expires:
August 9, 2026

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

3
4 STATE OF SOUTH CAROLINA,) TRANSCRIPT
5 PLAINTIFF,) OF
6 VS.) RECORD
7 ROBERT LAWRENCE HAWKINS,)
8 DEFENDANT.) 2019-GS-11-1519

9
10 April 15th - 16th, 2021
11 Gaffney, South Carolina

12 B E F O R E:

13 THE HONORABLE R. KEITH KELLY, JUDGE; and a jury.

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

15 KIM LESKANIC and MATT KENDALL
16 ASSISTANT SOLICITORS
17 Attorneys for the State

18 TRACY RACINE and RUSS RACINE
19 ESQ.
20 Attorneys for the Defendant

21
22
23 PAMELA E. GREEN
24 Circuit Court Reporter
25

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P R O C E E D I N G S

THE COURT: Ladies and gentlemen, good after -- well
good morning. Good morning.

we are here to pick, pick a jury on the next matter
which is the State of South Carolina versus Robert Lawrence
Hawkins. It is alleged that Mr. Hawkins did, in Cherokee
County, South Carolina, on or about July 3 of 2019, commit
the criminal offense known as armed robbery.

Mr. Hawkins has entered a plea of not guilty to this
indictment, and he is presumed innocent of the, of the
allegations contained in the indictment. I will say this
more than once during the proceeding. This indictment is a
piece of paper. It is a charging instrument that brings
Mr. Hawkins before the Court for trial. It is not evidence
against him. Again, he has entered a plea of not guilty and
he is presumed, under our law, to be innocent of the
allegations contained in the indictment.

You were previously sworn and you remain sworn. Once
again, there's some questions I'm required by law to ask.

Is there any member of this jury panel who is related
by blood or marriage to Robert Lawrence Hawkins, if so,
please stand.

(WHEREUPON, there was no response.)

THE COURT: Is there a member of this jury panel who

1 has a social or personal relationship with Robert Lawrence
2 Hawkins, if so, please stand.

3 (WHEREUPON, there was no response.)

4 THE COURT: The following is a list of potential
5 witnesses:

6 Whitney Dunn.

7 Neil Patel.

8 Alpa Patel.

9 Jennifer Hawkins.

10 Jerica Hawkins.

11 Jerry Donald Hawkins.

12 Brad Ellenberger.

13 Elaine Ellenberger.

14 A representative from the Cherokee County Detention
15 Center.

16 Brandon Peeler or other representative from Cherokee
17 County 9-1-1.

18 Ken Sibley.

19 Dee Haney.

20 Brandon Gardner.

21 David Owens.

22 Richard Burgess.

23 Is there any member of this jury panel who is related
24 by blood or marriage to any of those potential witnesses?

25 I don't know who all will testify and who will not.

1 But anyone related by blood or marriage to any of the
2 potential witnesses, please stand.

3 (WHEREUPON, there was no response.)

4 THE COURT: Is there any member of this jury panel who
5 has a personal or social relationship with any of those
6 potential witnesses, if so, please stand.

7 (WHEREUPON, one juror responds.)

8 THE COURT: Okay. Ma'am, your number please?

9 THE JUROR: 151.

10 THE COURT: I'm sorry. I'm -- I can't --.

11 THE JUROR: 151.

12 THE COURT: 151.

13 With who?

14 THE JUROR: Whitney Dunn.

15 THE COURT: Would that interfere with your ability to
16 be fair and impartial in the trial of this case?

17 THE JUROR: No, sir.

18 THE COURT: Thank you. You may stay with us.

19 I'm gonna ask the lawyers to introduce themselves.

20 Ladies first.

21 SOLICITOR LESKANIC: May it please the Court.

22 Thank you, Your Honor.

23 Good morning, ladies and gentlemen, and my name is Kim
24 Leskanic and I am deputy solicitor here for Cherokee County.

25 SOLICITOR KENDALL: Good morning, ladies and gentlemen.

1 My name is Matt Kendall and I'm assistant solicitor here in
2 Cherokee County.

3 THE COURT: Yes, ma'am.

4 MRS. RACINE: Morning. My name's Tracy Racine and I'm
5 an attorney from Fort Mill, South Carolina.

6 THE COURT: Thank you.

7 Any member of this jury panel have a personal or --
8 related to any of the lawyers in this matter, please stand.

9 If you, if you have a relation with them.

10 (WHEREUPON, there was no response.)

11 THE COURT: Anyone have a social or personal
12 relationship with any of the lawyers in this matter, if so,
13 please stand.

14 (WHEREUPON, one juror responds.)

15 THE COURT: Yes, sir, your number please?

16 THE JUROR: 104. I serve on a church committee with
17 Ms. Leskanic.

18 THE COURT: Would that interfere with your ability to
19 be fair and impartial?

20 THE JUROR: No, sir.

21 THE COURT: Sir, you may stay. Thank you.

22 Is there any member of this jury panel who has ever
23 sought legal advice from any of these lawyers, whether that
24 be about a criminal matter, a real estate transaction, a
25 will, or just had a legal question?

1 Ever sought legal advice from any of these lawyers, if
2 so, please stand.

3 (WHEREUPON, there was no response.)

4 THE COURT: Any member of this jury panel, you,
5 yourself, ever been a commissioned law enforcement officer
6 whether that be military police, municipal officer, county
7 or state officer, wildlife, DNR, any kind of federal agent,
8 anyone, please stand.

9 (WHEREUPON, there was no response.)

10 THE COURT: Anyone have a friend or family member
11 employed by the seventh circuit solicitor's office, if so,
12 please stand.

13 (WHEREUPON, there was no response.)

14 THE COURT: Anyone have a family or friend employed in
15 the law offices of Mr. -- of Mrs. Tracy Racine, if so,
16 please stand.

17 (WHEREUPON, there was no response.)

18 THE COURT: Is there any member of this jury panel ever
19 been, you, yourself, ever been prosecuted by the seventh
20 circuit solicitor's office, if so, please stand.

21 (WHEREUPON, there was no response.)

22 THE COURT: Any member of the jury panel have a family
23 member or friend, I will not ask the details, a family
24 member or friend prosecuted by the seventh circuit
25 solicitor's office, if so, please stand.

1 (WHEREUPON, there was no response.)

2 THE COURT: Any member of this panel ever been
3 subpoenaed by any of these three lawyers to testify in any
4 kind of a case, whether that's a criminal case or a civil
5 case, if so, please stand.

6 (WHEREUPON, there was no response.)

7 THE COURT: Any member of this jury panel a, either a
8 financial contributor or a volunteer to pro-law enforcement
9 agent -- not agencies, but things like Sheriff's
10 Association, Mothers Against Drunk Driving, Citizen Against
11 Crime, any such similar organization, please stand.

12 (WHEREUPON, there was no response.)

13 THE COURT: Is there any member of this panel know of
14 any reason why he or she should not serve as a juror in the
15 case of the State of South Carolina versus Robert Lawrence
16 Hawkins, if so, please stand.

17 (WHEREUPON, there was no response.)

18 THE COURT: Anything from the State?

19 SOLICITOR LESKANIC: No, Your Honor. Thank you.

20 THE COURT: From the defense?

21 MRS. RACINE: No, sir.

22 THE COURT: Okay.

23 MRS. RACINE: Thank you.

24 THE COURT: It's five and ten?

25 SOLICITOR LESKANIC: Five and ten, Your Honor.

1 THE COURT: Okay. We ready?

2 SOLICITOR LESKANIC: Yes, sir.

3 THE COURT: Madam Clerk.

4 (WHEREUPON, a jury panel was seated at this time.)

5 THE COURT: Anything from the state?

6 SOLICITOR LESKANIC: No, Your Honor.

7 THE COURT: Anything from the defense?

8 MRS. RACINE: No, Your Honor.

9 THE COURT: Okay. Thank you.

10 (Pause.)

11 THE COURT: Juror Number 1, Mr. Steven Acker or Acker,
12 sir, where are you?

13 THE JUROR: Acker.

14 THE COURT: Would, would you serve as our jury foreman?

15 THE JUROR: Absolutely.

16 THE COURT: Thank you. It's -- we alternate between a
17 forelady and a foreman. I had a forelady that's on the jury
18 that's out right now. And so I'm gonna make you the foreman
19 when we come back.

20 Sir, if you don't mind, I'm gonna ask you, when we come
21 back, if you would sit on the very corner where the lady in
22 the white is. That is the foreperson's chair.

23 Ma'am, I'm gonna ask you to always sit there. That's
24 the alternate's chair.

25 Everybody else I'm gonna ask you to sit where you are

1 and they're gonna spray that chair for you. Every evening
2 they spray and wipe down. But, in an abundance of caution,
3 you see the shields and everything, in an abundance of
4 caution, if you would just kindly sit in the chair that
5 you're in for the duration of the trial as you come and go.
6 If you would sit in that chair please.

7 All right. With that, I'm gonna release you for lunch.
8 We've got a few matters we're gonna take care of before we
9 break for lunch. I'm gonna ask you to be back at 2:30.
10 We're gonna be here at 2:00. But I'm not gonna keep you
11 sitting back there while we do a few nuts and bolts things.
12 So if you'll take a good long lunch. Be back at -- be back
13 some time before 2:30.

14 We're all adults. I'm not gonna tell you when to be
15 here. But be back in time enough to, to get you a drink of
16 water and use the facilities, whatever you might need to do.
17 There's some coffee around here if you want some but we
18 can -- we're gonna accommodate you.

19 With that, the bailiff's are gonna tell you where they
20 want you to come.

21 You want them to come to the side door?

22 THE BAILIFF: Side door, yes, sir.

23 THE COURT: Yes, sir.

24 They want you to come to the side door on the building.
25 They'll be a bailiff there to let you in. You have a -- you

1 have to have a key fob to come through there. They'll bring
2 you in and bring you -- there's a set of stairs behind this
3 wall here by my chambers over here. There's a set of stairs
4 and you're gonna come up those -- just use those stairs to
5 come up.

6 All right. And the bailiffs will meet you there some
7 time between 2:00 and 2:30.

8 All right. If you'll take your jury out.

9 THE BAILIFF: What time, Judge?

10 THE COURT: They're gonna -- they'll be -- we're gonna
11 be back in here at 2:30 with the jury. We'll be here at
12 2:00.

13 THE BAILIFF: Okay.

14 THE COURT: Jury at 2:30.

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

17 THE COURT: Okay. We have a verdict. So we've got to
18 get them in here. We can talk any time over lunch if we
19 need to talk. We can talk any time over -- we're gonna eat
20 some lunch. We got a verdict. So we got to get --.

21 MRS. RACINE: Oh, okay.

22 THE COURT: But we can talk at 2:00 or 1:30.

23 Y'all want to talk then?

24 I brought my lunch. I'm not going anywhere.

25 MRS. RACINE: Okay. So be back at about 1:30?

1 THE COURT: You want to meet back at 1:30?

2 SOLICITOR LESKANIC: That's fine. I'm gonna be here.
3 I bring mine too.

4 THE COURT: I'm gonna be here.

5 MRS. RACINE: All right. I'll see you at 1:30. Thank
6 you.

7 (WHEREUPON, this case was in recess for the lunch
8 hour.)

9 (WHEREUPON, Court's Exhibit Nos. 1 through 5 were
10 marked for identification purposes only at this time.)

11 THE COURT: Okay. The court reporter's ready. It's
12 about two o'clock. We want to go ahead and put a couple
13 things on the record.

14 Solicitor.

15 SOLICITOR LESKANIC: May it please the Court, Your
16 Honor.

17 The State versus Robert Lawrence Hawkins is being
18 called for trial on his charge of armed robbery on
19 Indictment 2019-GS-11-01519. Mr. Hawkins is not present in
20 the courtroom today. The state is respectfully requesting
21 that we be allowed to proceed with a trial in absence.

22 Mr. Hawkins was here earlier this week, spoke with Your
23 Honor. At that time he rejected the State's offer of 10
24 years and stated that he wanted to proceed to trial.

25 My recollection is that Your Honor questioned him about

1 that, and told him that he would be next up for trial, and
2 that his case would proceed whether he was present or not.
3 He also had a bond sheet that he signed and on that bond
4 sheet it states that, if his case is called for trial, and
5 he fails to appear, that his case can be tried in his
6 absence. And we are respectfully requesting the opportunity
7 to go forward.

8 Thank you.

9 THE COURT: Okay. Mrs. Racine.

10 MRS. RACINE: Thank you, Your Honor.

11 May it please the Court.

12 At this time, Your Honor, I would actually like to make
13 a request for a continuance in this case. My client was
14 sick yesterday and in the hospital. I have not been able to
15 get in touch with him today. I don't know if he's still
16 ill. I don't know where he is. I don't know. I don't
17 know.

18 I have contacted him. His phone has gone straight to
19 voice mail every time I texted him. He was suppose to
20 report today for a drug test. He did not show up for that.
21 I do have acknowledgment that he knew to be here.

22 But, Your Honor, it's just -- given the fact that I
23 can't get in touch with him, I don't know if anything's
24 wrong with him. He also is giving up his, his right to
25 potentially testify on his behalf and also to help me with

1 his defense. without him here, you know, they're things
2 that he may want to know that I don't know.

3 I believe we marked several exhibits including the
4 transcript from Tuesday's hearing where Your Honor told him
5 that he would be tried in absentia if he didn't show up. I
6 believe there's a bond sheet that's been marked as an
7 exhibit, a text message acknowledging that he knew to be
8 here or he knew to be at the jail today to take a test.

9 THE COURT: I'm, I'm gonna -- I have several Court
10 Exhibits to---

11 MRS. RACINE: Okay.

12 THE COURT: ---to -- I'm gonna put in the record.

13 MRS. RACINE: Okay.

14 THE COURT: But you are seeking a, a continuance on his
15 behalf because you have no idea whether or not he's
16 voluntarily absented himself?

17 MRS. RACINE: Yes, sir, I am.

18 THE COURT: Okay.

19 SOLICITOR LESKANIC: If the State could inquire of Mrs.
20 Racine if she has attempted to contact any of the family
21 members. I know from our conversation yesterday that she
22 was in communication with his girlfriend I believe Tiffany
23 Carson, also goes by Tiffany Webb, to see if she has
24 answered calls today or any other family members. It's my
25 understanding that Mr. Hawkins resides with Miss Webb and

1 her parents, Brad and Elaine Ellenberger, and whether any of
2 those individuals are answering their phone today.

3 THE COURT: Any contact with them?

4 MRS. RACINE: Yes, Your Honor. I called my client
5 today at 8:06AM. I did not get an answer. I called Tiffany
6 Carson, one minute, also today at 8:06AM. I called Elaine
7 Ellenberger, who is Tiffany's mother, today at 12:43PM. Did
8 not get an answer. And I called Bradley Ellenberger, who is
9 Tiffany Carson's father, today at 9:30AM and at 12:44PM and
10 did not get an answer on either of those phones.

11 THE COURT: Well, and, additionally, and I don't know
12 for sure, but I'm, I'm presuming that the three individuals
13 that were seated behind the state earlier this morning are
14 his parents and his sister?

15 Was that---

16 SOLICITOR LESKANIC: That is correct, Your Honor. His
17 mother, his father, and his sister are three of the state's
18 witnesses.

19 THE COURT: Yes. And they were present in the
20 courtroom earlier today before we picked the jury.

21 This court is gonna deny the defense's request for a
22 continuance. On 13 April I advised Mr. Hawkins to be in
23 this courtroom around 3:30 or 3:45PM for pretrial motions on
24 the next day, which would of been yesterday.

25 Mr. Hawkins was advised by his lawyer, his lawyer to be

1 here as well. And I also advised him that the case would be
2 called for trial today, 15 April, with him or without him
3 and I'm including all of the Court's premarked exhibits and
4 one of them is Madam Court Reporter's transcript which will
5 attest to that.

6 Mr. Hawkins was physically present in this courtroom
7 with his lawyer, Mrs. Racine, and, by email or text message
8 yesterday afternoon, this Court was advised that Mr. Hawkins
9 was sick and it was later learned that Mr. Hawkins presented
10 to the emergency room along with his fiancée and/or
11 girlfriend. It was alleged he had a fever of 101 to 102.
12 Personnel at the emergency room provided our Clerk of Court
13 with information that Mr. Hawkins did not have a fever.

14 Mrs. Racine sent another text message actually present
15 in this courtroom when she sent it to his female/girlfriend
16 of Mr. Hawkins to report to the Cherokee County Sheriff's
17 office jail at nine o'clock AM this morning for a COVID-19
18 rapid test. He failed to do so and this Court inquired
19 about that several times this morning before we proceeded
20 with the trial previous to this one.

21 Mrs. Racine has now advised that she can not reach
22 Mr. Hawkins via text or telephone nor any of the
23 girlfriend/fiancée family members and she has no where -- no
24 idea about his whereabouts.

25 This Court looks to State versus Ravenel at 387 S.C.

1 449, that's a 2010 case, for guidance. That opinion was
2 written by Judge Huff of the Court of Appeals, and the Court
3 also looks to Rule 16 of our criminal rules.

4 In looking at Ravenel, it appears that in order to
5 claim the protection afforded by the rule of law that a
6 criminal defendant may be tried in his absence only upon a
7 trial court's finding that the defendant has received the
8 requisite notice of his right to be present and advisement
9 of the trial will proceed in his absence if he failed to
10 attend. Notice of a term of court in which a defendant will
11 be tried is sufficient notice to enable a defendant to make
12 an effective waiver of his right to be present at his trial.

13 Further, a bond form, which is also included in the
14 exhibits, may provide notice that a defendant can be tried
15 in absentia and may serve as the requisite warning that he
16 be tried in his absence should he fail to appear. The
17 deliberate absence of a defendant who knows that he stands
18 accused in a criminal case, and that his trial will begin
19 during a specific period of time, indicates nothing less
20 than an intention to obstruct the orderly process of
21 justice.

22 This Court takes judicial notice of the transcript of
23 13 April, 2021, wherein Mr. Hawkins was sworn and
24 acknowledged his trial would proceed today with him or
25 without him. Further this Court finds Mr. Hawkins' lawyer

1 advised him to be here today for trial, that he was released
2 without admission from the hospital emergency room last
3 evening, that it appears to be that he presented to the
4 hospital in an effort to prolong his trial, that he failed
5 to follow this court's directive to present himself to the
6 Cherokee County Sheriff's Office jail for a rapid, a rapid
7 COVID test this morning, that he failed to return text
8 messages or calls to his lawyer, and that he has offered no
9 evidence to suggest he has not voluntarily absented himself
10 from this court.

11 Therefore, this court finds that the defendant, Robert
12 Hawkins, was advised to be here today. He was advised his
13 trial would proceed with him or without him, that he
14 acknowledged the instructions, and that he has voluntarily
15 absented himself thereby waiving his Constitutional right to
16 be present at every stage of his trial.

17 So, the motion is denied and we will proceed to trial
18 in his absence.

19 Solicitor, anything else?

20 SOLICITOR LESKANIC: Yes, Your Honor.

21 I filed four written motions with regard to this case.
22 Three of the motions somewhat go together and I think I can
23 handle them altogether.

24 One is a motion to exclude third party guilt. One is a
25 motion in limine to prevent the mentioning of the name

1 Michael Mosier, and the third is requesting a Neil versus
2 Biggers hearing in the event the defense wanted to enter a
3 one photo lineup of, of Mr. Mosier.

4 And just to give a little bit of background to this, in
5 this case, this is an armed robbery that happened at a store
6 in Cherokee County. The defendant went into the store armed
7 with a gun. He leaves the store. There is a Timothy
8 Benninger who apparently was on scene and saw the defendant
9 or a person running from the store and getting into an SUV
10 with a woman and a small child. He proceeded to follow that
11 vehicle into North Carolina where he says the male part
12 leaned out the window and fired a shot at him.

13 I actually spoke briefly with Ms. Benninger this
14 morning, and he told me that that was his opportunity to
15 view him was very quick when the shooter/robber was inside a
16 vehicle traveling down the roadway. Mr. Benninger was in
17 his vehicle giving chase and he said I saw him for a brief
18 second when he leaned out the window and then he shot and I
19 ducked.

20 Mr. Benninger's windshield was shot through and then he
21 apparently went home, took that vehicle home, and returned
22 to the store on his motorcycle. He went in and he told
23 police that he had given chase to that vehicle, gave a
24 description of the vehicle, and described those events that
25 had happened.

1 Because the shooting happened in North Carolina, I
2 believe this is the reason, a North Carolina deputy arrived
3 at the store. I've spoken with that deputy as well. He
4 never had any interaction with Michael Mosier but apparently
5 Michael Mosier was stealing some cars in North Carolina and
6 may have been seen in a Mitsubishi. He didn't know if it
7 was a car or an SUV. Our case it was an SUV.

8 So, he pulls up his phone and produces one picture of a
9 person that he says is Michael Mosier, shows it to
10 Mr. Benninger, and Mr. Benninger says that's him, I
11 guarantee it. But I don't think there's any other evidence.

12 Mr., Mr. Benninger told me that he had a very brief
13 opportunity to see him. He told me this morning he could
14 not be sure but I know he's not here to testify.

15 But it's the State's position that, under third party
16 guilt, unless and until Mrs. Racine can produce the
17 necessary evidence to, under a Neil versus Biggers, to
18 establish that the photo was shown was not unduly
19 suggestive, that it does not come in, and also that a name,
20 Michael Mosier, can not come in under third party guilt
21 which would just cause confusion and misleading the jury on
22 bare suspicion without proving that up.

23 So, unless and until the defense can have an out of the
24 presence of the jury proffer of this testimony, we would
25 request an order that the name Michael Mosier and this other

1 photograph that was shown that night not be mentioned to the
2 jury unless and until the defense can show that it is
3 reliable testimony.

4 Thank you.

5 THE COURT: Mrs. Racine, I don't know if that's an
6 issue now or not.

7 MRS. RACINE: Thank you, Your Honor.

8 well, at this point, after speaking with Mr. Gunter
9 (phonetic) this morning, I don't intend to call him as a
10 witness, and I don't see any need to mention Michael
11 Mosier's name. I would, however, like the opportunity to
12 request Deputy or Detective Owens and Sibley about
13 interviewing people on the scene that night and if anyone
14 identified someone other than my client. I will not mention
15 Michael's Mosley's (sic) name but I think, you know, as part
16 of my client's defense, he's at least entitled to have the
17 jury know that somebody identified somebody that night and
18 it was not him even though I will not say Michael Mosley.

19 THE COURT: well, solicitor.

20 SOLICITOR LESKANIC: Your Honor, that's the purpose of
21 the third party guilt motion. That doesn't specifically
22 reference Michael Mosier. That's the guilt of any third
23 party and, again, I think that the only evidence that could
24 be presented to a jury is that which is reliable and
25 trustworthy, and the fact that Mr. Benninger has been

1 apparently released and I know from speaking to him this
2 morning that his, or at least what he told me this morning,
3 and I state to you as an officer of the court, is that he
4 can't be a hundred percent sure that he picked out the right
5 person. He got a glimpse while he was being shot at, and so
6 the -- and we don't have the photograph that, that he was
7 shown.

8 I just don't think they're the indicias of reliability
9 that are necessary, and this is a prime example of what
10 third party guilt is meant to exclude.

11 THE COURT: Yeah. we'll -- let's -- we'll see how the
12 testimony goes but there's not gonna be any mention of
13 Mr. Mosier or, or anybody identifying somebody else at this
14 point in time until, until you got something more than that.
15 So, I'm not -- I don't think -- let you cross-examine them
16 did -- when somebody else identified them. That's just too
17 broad.

18 Now, if they -- if, if Mr. Benninger, as we talked
19 yesterday, we were off the record, but as were talking
20 yesterday, if Mr. Benninger will come in and say it
21 definitely was not your client, that, that's fair game.
22 That's a, that's a -- that's an in court. I'm looking at
23 him right here but he's not here.

24 SOLICITOR LESKANIC: Right.

25 THE COURT: But you're saying Mr. Benninger -- I think

1 that's what we talked about yesterday where he -- you, you
2 get to ask the question and you're -- everybody's stuck with
3 his answer. That's him or it's not him. That creates a
4 question of fact for the jury but we can't just throw out
5 that there was somebody else identified.

6 SOLICITOR LESKANIC: And clear -- I'm sorry.

7 Go ahead, Mrs. Racine.

8 MRS. RACINE: Okay. One of the issues we have is
9 Detective Glover is unavailable. He is the one with the
10 photo and apparently he does have access to that photo. He
11 could produce it. He's just unavailable today and tomorrow.
12 There is a brief picture of that photo on the video,
13 Detective Sibley's body cam, very brief. You can see just a
14 little bit and Mr. Benninger says several times that's him,
15 that's him, I know that's him. He was extremely sure that
16 night that it was Mr. Mosier in that picture.

17 THE COURT: well, if -- you have the video?

18 MRS. RACINE: I do.

19 THE COURT: Okay. We can -- we can do the Neil v.
20 Biggers hearing as to whether or not -- it's just -- it's --
21 but it's just one picture, right?

22 I mean it's not a lineup.

23 MRS. RACINE: It is not a lineup, no. Your Honor, it
24 is not.

25 SOLICITOR LESKANIC: And additionally, Your Honor, I, I

1 don't believe she'll be able to get that in through officers
2 because anything the officers were told I would make a
3 hearsay objection.

4 THE COURT: Yeah. Yeah.

5 SOLICITOR LESKANIC: Just wanted to place that on the
6 record as well.

7 THE COURT: well, let's see what happens with Mr.
8 Benninger, if, if anything, because that, that will control
9 that picture I guess.

10 SOLICITOR LESKANIC: And, again, my concern with that,
11 I do not have Mr. Benninger on my witness list. We
12 attempted to locate him and we were unable to and I don't
13 believe his name was mentioned to our jury pool as being a
14 potential witness at the start of this case.

15 THE COURT: I don't know if she's gonna use him or not.
16 We were off the record earlier and---

17 SOLICITOR LESKANIC: I just wanted to bring to the---

18 THE COURT: ---and Mrs. Racine said she didn't know at
19 this point.

20 MRS. RACINE: After speaking with him earlier, Your
21 Honor, I don't believe I will be using him.

22 THE COURT: okay. All right. well then that will
23 pretty much take care of the motion then. But there won't
24 be any talk about somebody else.

25 SOLICITOR LESKANIC: Thank you, Your Honor.

1 The last motion that I had refers to a motion in limine
2 regarding a lineup that was shown to the clerk of the store,
3 Whitney Dunn. Ms. Dunn was shown a six person lineup by
4 Detective Dee Haney. However, in that lineup, Mr. Hawkins,
5 who she did select, was in a landscape format and the other
6 five individuals were in a portrait format.

7 I am not attempting to introduce that lineup because I
8 think that that makes it unduly suggestive. I don't think
9 that it was a proper lineup. So, I'm not attempting to get
10 that before the jury.

11 However, I made the motion to make sure that all
12 parties are clear. I wouldn't want any statement made by
13 the defense that Ms. Dunn failed to pick the defendant out
14 because, in fact, she did select him and I just want what
15 goes to the jury to be accurate information. I've had this
16 before where something may not be admissible to the jury but
17 we all know the real facts and make sure that that's the
18 only thing presented.

19 THE COURT: I don't recall there being a question about
20 that yesterday.

21 Is there -- is that an issue?

22 MRS. RACINE: No, sir, Your Honor. I, I agree that
23 that was a very suggestive lineup. I would ask that, since
24 Ms. Leskanic is admitting it's a suggestive out-of-court ID,
25 that if my client should show up, that Ms. Dunn not be

1 allowed to identify my client in court as a result of that
2 photo lineup. Under State v. Simmons, Your Honor, I believe
3 that would be the case that we're --.

4 SOLICITOR LESKANIC: Well, in this case, Your Honor,
5 there's a video of the defendant. So, her ID is not just
6 based on the lineup but she had the opportunity to view him
7 and has the, the video and the photographs. But I don't
8 know, because when I saw Mr. Hawkins, his appearance has
9 greatly changed. I don't know that Ms. Dunn would be able
10 to identify him anyway, and I haven't had the opportunity to
11 ask her to due to Mr. Hawkins absence.

12 THE COURT: Okay. If he shows up, then that's an
13 issue. I just wrote under advisement on that one. We'll
14 address that.

15 MRS. RACINE: Your, Your Honor, also she gave differing
16 descriptions of him the night this happened versus her
17 written statement. I would ask that those different
18 descriptions do be allowed in even though there's the lineup
19 issue. I would ask that I be allowed to question her about
20 her different descriptions.

21 THE COURT: Well, that would -- is that contained in a
22 statement, a written statement or something?

23 MRS. RACINE: She wrote a statement in October and then
24 she gave a statement to the police that night describing the
25 individual who was there.

1 THE COURT: Okay. I mean so that's inconsistent?

2 SOLICITOR LESKANIC: I mean that's fair---

3 THE COURT: That's fair.

4 THE JUROR: -- if she wants to ask her how she
5 described him that night.

6 THE COURT: Yeah.

7 SOLICITOR LESKANIC: I think that's proper
8 cross-examination.

9 THE COURT: Yeah, that's an out-of-court -- that's an
10 inconsistent statement. You certainly can go there.

11 Is there anything else?

12 I think that's it.

13 SOLICITOR LESKANIC: That's all of the State's motions,
14 Your Honor.

15 THE COURT: Anything from the defense?

16 MRS. RACINE: Nothing at this, at this time, Your
17 Honor.

18 THE COURT: Okay. It's 15 after. So, the jury was
19 told to be back at 2:30.

20 They're not back yet, are they?

21 THE BAILIFF: Not all of them.

22 THE COURT: Not all of them.

23 Okay. We'll stand at ease. Everybody can get a drink
24 of water.

25 Anybody need anything?

1 we'll -- as soon as we get them back we'll start.

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

3 (WHEREUPON, State's Exhibit Nos. 1 through 13 were
4 marked for identification purposes only at this time.)

5 SOLICITOR LESKANIC: May it please the Court?

6 THE COURT: Yes, ma'am.

7 SOLICITOR LESKANIC: Due to the fact that the defendant
8 is not present, I was planning on having Major Anderson with
9 the Cherokee County Detention Center put in the photograph
10 of the defendant that was taken when he was arrested on this
11 charge of armed robbery and put the date that the photograph
12 was taken so that family members can say the person who was
13 arrested on this is the person who's on the video and it's
14 Robert Lawrence Hawkins. Since I don't have him here in
15 court, I wanted the jury to feel confident that the person
16 that has been charged with the crime is the person that
17 we're trying for it and who's being identified on video, and
18 the defense has an objection to that.

19 THE COURT: Okay.

20 MRS. RACINE: Your Honor, that is a very prejudicial
21 photo. It's a mugshot. I think that automatically tends to
22 show some degree of guilt. I think, in their minds, when a
23 jury sees that, that they say oh, it's a mugshot, they
24 automatically go guilty. Your Honor, I just -- I don't
25 think that that picture should be allowed in evidence. It's

1 too prejudicial.

2 THE COURT: Well, did -- would it be better if it were
3 a photo copy in black and white?

4 MRS. RACINE: May I take a look at it?

5 SOLICITOR LESKANIC: And, Your Honor, may I just
6 comment on that?

7 THE COURT: Yeah.

8 SOLICITOR LESKANIC: I mean this isn't a mugshot to
9 show that he's been arrested on other charges. This is --
10 they know he's been arrested for armed robbery. I'm gonna
11 tell them that.

12 THE COURT: Right.

13 SOLICITOR LESKANIC: That's why he's on trial.

14 THE COURT: Right.

15 SOLICITOR LESKANIC: That is the photograph that was
16 taken for this charge. Not a mugshot from a prior or
17 subsequent arrest. So, I don't think -- frankly I think the
18 State's even allowed to use the word mugshot. I'm not going
19 to. I'm gonna say booking photo. But, in this case, it's
20 not in reference to prior or subsequent criminal conduct.
21 It is he was arrested on this charge and I think that's
22 completely appropriate in this case.

23 THE COURT: Okay.

24 MRS. RACINE: Your Honor, I just -- I think that it's
25 still more prejudicial than probative. They already know he

1 was arrested. He's obviously been charged with a crime.
2 showing him a or showing them a mugshot just, again,
3 reinforces the fact that he is a criminal in, in their
4 minds, and I just think that's -- that goes too far.

5 THE COURT: Okay. Can we make a photo copy of that
6 please?

7 SOLICITOR LESKANIC: We have a black and white copy,
8 Your Honor, of -- I just --.

9 THE COURT: Give, give me the citation. State v.
10 Taylor.

11 THE LAW CLERK: It's gonna be State v. Taylor, 360 S.C.
12 74. That is a Supreme Court -- South Carolina Supreme Court
13 case in 2004. Judge -- Justice Waller wrote the opinion.

14 THE COURT: Introduction of a mugshot of a defendant is
15 reversible error unless the state has, has a demonstrative
16 need to introduce the photograph. Two, the photograph shown
17 to the jury does not suggest the defendant has a criminal
18 record. And, three, probative value. Introduced in such a
19 way as to -- as -- the photograph is not introduced in a
20 such a way it will draw attention to the forum or
21 implication.

22 Let me ask this, what if the photograph was redacted to
23 remove the shroud?

24 SOLICITOR LESKANIC: I'm still gonna be asking if
25 that's his booking photo. I mean unless the defense is not

1 gonna raise any issue during trial that we haven't proven up
2 that -- who Robert Hawkins is. My witnesses are gonna look
3 at the video and they're gonna say that individual is Robert
4 Lawrence Hawkins, and if the defense is going to admit that
5 is their client, who is not present, is Robert Lawrence
6 represents Hawkins, but I, I am attempting to show that the
7 person my witnesses are identifying is the person who was
8 arrested for this offense so that there's no question in the
9 jury's mind because he's not here.

10 MRS. RACINE: Your Honor, it's Ms. Leskanic's decision
11 to move forward on this case without my client here. She
12 could of used the opportunity, had he been sitting here, to
13 point out to the jury that that is Mr. Hawkins. She's,
14 she's the one who choose to move forward on the case. But I
15 think it's just prejudicial since he's not here.

16 (Pause.)

17 THE COURT: Okay. Okay. Looking at that case, it's a
18 little different. The facts there the defendant was
19 actually in court. His mugshot photo was introduced but it
20 wasn't from that incident. It was from the year or
21 thereabouts prior to. So it, so it -- and it had dates on
22 the -- I think it's a Spartanburg case but in it showed that
23 he had prior a record.

24 This -- I'm -- this one, number one, has no dates on it
25 and I'm told that it is from this arrest, this booking, not

1 some other arrest.

2 SOLICITOR LESKANIC: That is correct, Your Honor. I
3 have Major Anderson from the detention center and his very
4 brief testimony will be that he keeps records at the
5 detention center. And, in this case, can he state who was
6 arrested and charged with this armed robbery, does he have
7 his booking photo, and what day was he booked in, which is
8 August the 12th of 2019.

9 THE COURT: Okay. I'm gonna allow in the black and
10 white. We'll put this one in the record if, if you -- in
11 case it needs -- somebody needs to look at it later.

12 SOLICITOR LESKANIC: Can I request to have that marked
13 as State's Exhibit 14 I believe?

14 (WHEREUPON, the color booking photograph was marked as
15 Court's Exhibit No. 6 for identification purposes only.)

16 THE COURT: Everybody ready now?

17 MRS. RACINE: Yes, Your Honor.

18 THE COURT: We'll have the jury.

19 SOLICITOR LESKANIC: May I just ask what is our mask
20 and distance for opening, Your Honor?

21 I wasn't in here for Mr. Bane's---

22 THE COURT: Oh, yeah, you can, you can take it down and
23 just stand away.

24 SOLICITOR LESKANIC: Just kind of stand out in here.
25 Thank you.

1 THE COURT: When you're talking to the jury, if you
2 want to take it down, and the witnesses are being instructed
3 to move theirs down for the court reporter.

4 MRS. RACINE: One more question, Your Honor.
5 How would you like me to address my client's not here?
6 I don't want them to think that this is my client.

7 THE COURT: Just introduce him as your co-counsel.

8 MRS. RACINE: Okay. All right.

9 THE COURT: Yeah, co-counsel, paralegal.

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

12 THE COURT: Okay. Okay. Yes. If anyone needs water
13 or throat lozenges -- you need some water, ma'am?

14 THE JUROR: Yes.

15 THE COURT: We can. Certainly. We'll get you some.
16 If anyone needs anything, I already -- I had a note
17 here that -- okay.

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

20 SOLICITOR LESKANIC: Thank you, Your Honor.

21 THE COURT: Ladies and gentlemen, they'll be times that
22 I have to talk to the lawyers privately about a matter.

23 Madam Clerk, will you swear this jury to try this case?

24 (WHEREUPON, the jury was placed under oath at this
25 time.)

1 THE CLERK: You may be seated.

2 THE COURT: Thank you.

3 I wrote myself a note to tell you this right the first
4 thing. If you have trouble seeing or hearing, if you will
5 raise your hand. Get out -- get my attention, our
6 attention, the bailiff's attention so we can rectify that.
7 we're all using these panels now, and, and you're gonna be
8 looking at some -- maybe on the screen here. But if you
9 have trouble seeing or hearing, if you will raise your hand.
10 And if you need some water or something, just kind of get
11 our attention.

12 Ladies and gentlemen, you are now the jury in this
13 case. This is the matter of the State of South Carolina
14 versus Robert Lawrence Hawkins, and you are now the jury in
15 this case, and I'm gonna take a few minutes to tell you a
16 few things about your duties and give you some instructions.
17 At the end of this trial I will give you more detailed
18 instructions but we'll do those before you begin your
19 deliberation.

20 This is a criminal case that has been brought by the
21 state of South Carolina. Sometimes I refer to the State as
22 the prosecution or the government. The defendant has been
23 charged by the State of South Carolina with armed robbery.
24 It is alleged that he did, in the County of Cherokee, State
25 of South Carolina, on or about July 3 of 2019, commit this

1 criminal offense.

2 The indictment, I told you earlier, is simply a
3 description of the charge made against the defendant. It is
4 not evidence. The defendant has entered a plea of not
5 guilty to the charge and denies committing the crime. He is
6 presumed innocent and he may not be found guilty by you
7 unless all of you, all 12 of you, find that the state has
8 proven his guilt beyond a reasonable doubt.

9 South Carolina law makes you, the jury, the finders of
10 the facts. You 12 alone are the finder of the fact and it
11 will be your duty to decide from the evidence what the facts
12 are. You will hear the evidence, decide what the facts are,
13 and apply those facts to the law that I will give you at the
14 close of this case, and that is how a jury reaches a
15 verdict.

16 In doing so, you must follow the law whether you agree
17 with it or not. The evidence will consist of testimony of
18 witnesses, documents, or other items received into evidence
19 as exhibits and any facts on which the lawyers agree are
20 stipulated.

21 The same law that makes you 12 the finder of the facts
22 makes me the judge of the law. Our rules of evidence
23 control what can be received in -- into evidence, and, by
24 that, I mean one of these books, the Rules of Evidence.

25 When a lawyer asks a question or offers an exhibit into

1 evidence, and a lawyer on the other side thinks it is not
2 permitted by the rules, that lawyer may object. This simply
3 means that the lawyer is requesting that I make a decision
4 on a particular rule of evidence. State Law forbids a trial
5 judge from making a comment to a jury about a fact in a
6 case.

7 Therefore, because it may be necessary for me to
8 comment on a fact in applying our rules of evidence, it may
9 be necessary for me to talk with the lawyers outside of your
10 hearing by having what's known as a bench conference, which
11 you just witnessed, while you are present in the courtroom
12 or by excusing you from the courtroom. The purpose of these
13 conferences is to decide how certain evidence is to be
14 treated under the rules and to avoid confusion and error.

15 Now, certain things are not evidence. Statements,
16 arguments, questions, and comments by the lawyers
17 representing the parties is not evidence. Objections are
18 not evidence. Lawyers have a duty to their client to object
19 when they believe something is improper under the rules.
20 You should not be influenced by an objection.

21 If I sustain an objection, you must ignore the question
22 or exhibit and must not try to guess what the answer might
23 have been or what the exhibit might have been. If I
24 overrule the objection, the evidence will be admitted but do
25 not give it special attention because it calls for an

1 objection.

2 Testimony that I strike in the record or tell you to
3 disregard is not evidence and it must not be considered by
4 you. Anything you see or hear about this case outside of
5 this courtroom is not evidence unless I specifically tell
6 you otherwise during the trial.

7 Furthermore, a particular item of evidence is sometimes
8 received for a limited purpose. That is it can be used only
9 for a particular purpose and no other purpose. I will tell
10 you when that occurs and instruct you on the purpose for
11 which the item can and can not be used. And, finally, some
12 of you may have heard the terms direct evidence and
13 circumstantial evidence.

14 Direct evidence is testimony by a witness about what
15 that witness personally saw, or heard, or did.
16 Circumstantial evidence is indirect evidence. It is proof
17 of one or more facts from which one can find or infer
18 another fact.

19 You may consider both direct and circumstantial
20 evidence. State Law permits you to give equal weight to
21 both but it is for you to decide how much weight to give any
22 evidence.

23 In deciding what the facts are, you have to decide what
24 testimony you believe and what testimony you do not believe.
25 You may believe everything a witness says or only part of it

1 or none of it. In deciding what to believe, you may
2 consider the following factors:

3 witnesses ability to see or hear the things about which
4 he or she testified, the quality of the witnesses memory,
5 the manner in which the witness testifies, whether or not
6 the witness has an interest in the case or a motive, bias,
7 or prejudice, or whether the witness has been contradicted
8 by other witnesses, and how reasonable the witnesses
9 testimony is when considered in light of all evidence which
10 you believe.

11 It is my duty and my responsibility to rule as a matter
12 of law as to whether certain testimony is admissible. But
13 once that testimony is admitted, whether or not you believe
14 it is solely for you 12 to determine.

15 To ensure fairness, you, as jurors, must not talk among
16 yourselves about this case or about anyone involved with it
17 until the case is ended, has ended -- this case itself in
18 the courtroom has ended and you are retiring to the, to the
19 jury room to deliberate. Please do not talk with anyone
20 else about the case or anyone who has anything to do with
21 the case until the trial has ended and you have been
22 discharged as jurors.

23 Anyone includes members of your family, your friends.
24 You are certainly welcome to tell them that you are a juror
25 but do not tell them anything about this case until after

1 the case has ended and you have been discharged as a juror.

2 Do not anyone -- let anyone talk to you about the case
3 or let -- about anyone having something to do with it. And
4 if someone should try to talk to you about that, please
5 report that to me immediately.

6 During this trial, do not talk or speak with the
7 parties or the lawyers or the witnesses. You should not
8 pass the time of day with them. It is important not only
9 that you do justice but that you also give the appearance of
10 doing justice. If a person from one side of the case sees
11 you talking to a person from the other side, even if it's
12 simply to pass the time of day, an unwarranted and
13 unnecessary suspicion about your fairness might be aroused.
14 If a lawyer, party, or witness does not speak to you in the
15 hallway or in the parking lot, it is because they're not
16 suppose to talk with you.

17 Do not read any news stories or articles about the case
18 or anyone involved with it or listen to any radio or
19 television or newspaper report or account. Do not research
20 on the Internet do -- about the case or consult any blogs,
21 dictionaries, or reference materials and please do not make
22 any investigation of this case on your own. We ask you and
23 tell you to please don't make up your minds about what, what
24 the verdict should be until you go to the jury room and
25 discuss this case with your fellow jurors.

1 Ladies and gentlemen, I'm often asked about note
2 taking. You are not to take notes during the trial of this
3 case and the reason is we want you to pay close attention to
4 each witness as he or she testifies and not be fixated on
5 taking notes.

6 The first step in this trial will be opening
7 statements. The state, in its opening, will tell you about
8 the evidence that it intends to put before you so that
9 you'll have an idea about what the state's case is going to
10 be. Just as the indictment is not evidence, neither is the
11 opening statement. The purpose is to help you understand
12 what the evidence will be and what the state will try to
13 prove.

14 After the state's opening statement, defense's lawyer
15 may, if he -- if she chooses, make an opening statement. At
16 this point in the trial no evidence has been put before you.

17 Next the state will offer evidence that it says will
18 support the charge against the defendant. The state's
19 evidence will consist of testimony by witnesses and it may
20 include documents or other exhibits.

21 I remind you that the defendant is presumed innocent
22 and the state must prove the guilt of the defendant beyond a
23 reasonable doubt. The defendant does not have to prove his
24 innocence. After you have heard all of the evidence from
25 both sides, the state and the defense will be given the

1 final time to make arguments to you often known as closing
2 statements. I just told you opening statements by lawyers
3 are not evidence and the same applies to closing statements.
4 They are not evidence. In the closing arguments the lawyers
5 will attempt to summarize and help you understand the
6 evidence that was presented.

7 The final part of a trial occurs when I instruct you
8 about the rules of law that you are to use in reaching your
9 verdict. After hearing my instructions, you will leave the
10 courtroom together then to make your decision by
11 deliberating in the jury deliberation room.

12 Any objections to anything I told the lawyer -- the
13 jury?

14 SOLICITOR LESKANIC: Not by the State, Your Honor.

15 MRS. RACINE: No, Your Honor.

16 THE COURT: Okay. Ready?

17 SOLICITOR LESKANIC: Yes, Your Honor.

18 THE COURT: Give your attention, ladies and gentlemen,
19 to the State, to the State.

20 SOLICITOR LESKANIC: May it please the Court?

21 THE COURT: Yes, ma'am.

22 SOLICITOR LESKANIC: Thank you, Your Honor.

23 Good afternoon, ladies and gentlemen. I'm Kim Leskanic
24 with the solicitor's office and I know I can speak for
25 everyone in here. We appreciate your patience today.

1 Things don't always run on the time schedule that we think
2 it's going to but your appearance here is very important.

3 This case is an armed robbery. Robert Lawrence Hawkins
4 was charged with an armed robbery that occurred here in
5 Cherokee County back on July 3rd of 2019.

6 It happened at Mom's Stateline Grocery Store in Boiling
7 Springs. I don't know if any of you are familiar with that.
8 The clerk, Whitney Dunn, it was a little before nine
9 o'clock. She was counting up the lottery and what she
10 thought was a customer came into the store but it wasn't.

11 It was Robert Hawkins. He had a pistol in his pants.
12 He pulled that pistol out. He pointed it at Whitney Dunn
13 and told her I'm gonna make this easy for you. Put a
14 plastic bag on the counter and pretty much said give me all
15 the money.

16 She had a gun pointed at her. She did what he said.
17 She took money out of the register because he refused to
18 touch the register. He didn't want to touch anything. She
19 put the money in his plastic bag. He took the bag and he
20 left the store.

21 There was video surveillance at the store though.
22 Camera footage right at the register where he was standing.

23 Ms. Dunn didn't know who he was but the video footage,
24 they took some still shots from it, and they used one of
25 those still shots with our Facebook, social media, and put

1 that out there. Does anybody know who this is. Can you
2 help us find this person who robbed Whitney Dunn and robbed
3 the store.

4 And there was a person who called the police. And that
5 was Robert Hawkins' mother. She recognized her son and she
6 called 9-1-1 and she said I need to report something because
7 the person I see in this Facebook photo is my son.

8 Not only did she do that but she reached out to the
9 clerk through Facebook Messenger and talked to her about
10 what happened and what her son had done. Not only did she
11 recognize the photograph but his sister did as well. She
12 works at Food Lion in Blacksburg. She was shown the
13 Facebook photo. Said that's my brother and she reported
14 that to law enforcement.

15 His father is also here to testify before you, ladies
16 and gentlemen, because he has seen the video and he has seen
17 the still photos, and a mother, and a father, and a sister
18 know their son. They know their brother and he's here to
19 tell you that that's his son also.

20 He's charged with armed robbery because back on
21 July 3rd, 2019, he decided to rob a store armed with a gun,
22 and you're gonna hear from his family who had to do what
23 they thought was right and report to police what Robert
24 Lawrence Hawkins had done.

25 At the conclusion of the case I'll have an opportunity

1 to talk with you again and we'll talk about the charges, and
2 the law, and your possible verdicts. But, again, we
3 appreciate your time and attention.

4 Thank you.

5 THE COURT: Yes, ma'am.

6 MRS. RACINE: Thank you, Your Honor.

7 Please the Court.

8 THE CLERK: You want some cough drops?

9 THE JUROR: Huh?

10 THE CLERK: Would you like some cough drops?

11 THE JUROR: I have some.

12 THE CLERK: Okay. All right. Well, just let us know
13 if you need any more water.

14 okay?

15 THE JUROR: Okay. Thank you.

16 MRS. RACINE: Good afternoon. My name's Tracy Racine.
17 I represent the defendant in this case, Mr. Robert Hawkins.

18 Sitting with me at the table today is Russ Racine who
19 is assisting with this case. My client is not here. He did
20 not appear in court today.

21 At the end of the trial Judge Kelly will tell you that
22 the fact that Mr. Hawkins is not present may not be
23 considered against him in any manner whatsoever. But I
24 wanted to go ahead and tell you that so you can keep that in
25 mind the whole time you're here listening to the, the facts

1 of this case.

2 Just cause he's not here doesn't mean he's guilty. In
3 fact, he is presumed innocent unless or until Ms. Leskanic
4 can convince you beyond a reasonable doubt that he's guilty.

5 He's, he's presumed innocent now. He was presumed
6 innocent when he was arrested, and he'll be presumed
7 innocent until you get back into the jury room and start
8 deliberating the facts of the case.

9 You're going to hear a lot of testimony today, probably
10 tomorrow too, and I ask that you keep an open mind. Pay
11 attention to everything and I just -- I want to thank you
12 for your service and just thank you for keeping your open
13 mind and keeping it -- the fact that my client is presumed
14 innocent.

15 Thank you.

16 SOLICITOR LESKANIC: The state calls Major Stephen
17 Anderson.

18 STEPHEN ANDERSON, being first duly
19 sworn, testified as follows:

20 THE COURT: officer, tell me who you are and spell your
21 last name please and speak a little louder than usual.

22 THE WITNESS: Stephen Anderson. I'm the jail director
23 major at the detention center in Cherokee County, and my
24 last name is A-N-D-E-R-S-O-N.

25 THE COURT: Thank you. solicitor.

Stephen Anderson - Direct examination
By Solicitor Leskanic

1 SOLICITOR LESKANIC: Thank you, Your Honor.

2 (WHEREUPON, a booking photograph was marked as State's
3 Exhibit No. 14 for identification purposes only at this
4 time.)

5 DIRECT EXAMINATION

6 BY SOLICITOR LESKANIC:

7 Q Major Anderson, is one of your duties at the detention
8 center to maintain records?

9 A Yes, ma'am.

10 Q Okay. And did you maintain records in this case and
11 bring to Court what we asked you to bring to Court today?

12 A Yes, ma'am.

13 Q All right. I'm gonna show you -- if I may approach the
14 witness, Your Honor?

15 THE COURT: Yes, sir.

16 Q What's been marked State's Exhibit 14, can you take a
17 look at that and just tell me if you recognize that?

18 A Yes, ma'am.

19 Q All right. Is, is this a photo of Robert Lawrence
20 Hawkins?

21 A Yes, ma'am, that is a photo of Robert Lawrence Hawkins
22 taken---

23 MRS. RACINE: Objection, Your Honor. I'd like to renew
24 my earlier objection regarding this matter.

25 THE COURT: Yes, ma'am, and it's overruled.

Stephen Anderson - Direct examination
By Solicitor Leskanic

1 MRS. RACINE: Thank you, Your Honor.

2 A It was taken at the detention center upon his arrest.

3 Q Okay. The arrest for this charge---

4 A Yes, ma'am.

5 Q ---of armed robbery and on what day was that photograph
6 taken?

7 A August the 12th, 2019.

8 SOLICITOR LESKANIC: Okay. Your Honor, at this time I
9 would offer State's Exhibit 14 for admission.

10 THE COURT: Over defense counsel's objection.

11 MRS. RACINE: Thank you, Your Honor.

12 SOLICITOR LESKANIC: Thank you, Your Honor.

13 (WHEREUPON, State's Exhibit No. 14 was received into
14 evidence at this time.)

15 SOLICITOR LESKANIC: Nothing further of this witness.

16 Please answer any questions that Mr. or Mrs. Racine may
17 have for you.

18 MRS. RACINE: I have no questions for this witness.

19 THE COURT: Thank you.

20 officer, you may step down. Please be careful.

21 THE WITNESS: Thank you, sir.

22 THE COURT: State calls Whitney Dunn.

23 WHITNEY DUNN, being first duly
24 sworn, testified as follows:

25 THE CLERK: Watch your step.

Whitney Dunn - Direct examination
By Solicitor Leskanic

1 THE COURT: Ma'am, if you will tell me your name.
2 spell your last name and speak a little louder than usual
3 please.

4 THE WITNESS: My name is Whitney Dunn. D-U-N-N.

5 THE COURT: Thank you.

6 Solicitor.

7 SOLICITOR LESKANIC: Thank you, Your Honor.

8 DIRECT EXAMINATION

9 BY SOLICITOR LESKANIC:

10 Q Ms. Dunn, could you please tell the ladies and
11 gentlemen of the jury where you are currently employed?

12 A Currently I'm employed at Subway.

13 Q Okay. And how long have you been working at Subway?

14 A Twelve years.

15 Q Okay. Did you, at one time, work at Mom's Stateline
16 Grocery?

17 A I did.

18 Q Okay. And where is that located?

19 A Right on the North Carolina/South Carolina state line
20 in Cherokee County.

21 Q Okay. Located in Cherokee County, South Carolina,
22 correct?

23 A Right.

24 Q All right. And how long did you work there?

25 A About two years.

Whitney Dunn - Direct examination
By Solicitor Leskanic

1 Q Were you working there on July 3rd of 2019?

2 A Yes, ma'am.

3 Q What were your duties at the Stateline Grocery?

4 A Cashier.

5 Q Okay. I want to show you and show the jury the photos.
6 If I may orient them.

7 I show you State's Exhibits 1 through 4. If you'll
8 take your time and look through those and just tell me if
9 you recognize those and you don't have to tell me what they
10 are yet. Just first tell me whether or not you recognize
11 what they are.

12 A I do.

13 Q Okay. And do those photographs accurately show -- well
14 first tell me what do they show.

15 What are those photographs of?

16 A A picture of the outside of the store. A picture of
17 the front door that go into the store. A picture of the
18 front counter from a customer's view, and then a picture of
19 the -- up from the other side of the counter --

20 Q Okay.

21 A -- where I stand.

22 Q And do those photographs accurately show Mom's
23 Stateline Grocery the street view and inside the store?

24 A Yes.

25 SOLICITOR LESKANIC: Okay. Your Honor, at this time

Whitney Dunn - Direct examination
By Solicitor Leskanic

1 I'd offer State's Exhibit 1 through 4 for admission.

2 MRS. RACINE: Without objection.

3 THE COURT: Without objection, 1 through 4 admitted.

4 (WHEREUPON, State's Exhibit Nos. 1 through 4 were
5 received into evidence at this time.)

6 SOLICITOR LESKANIC: All right. May I publish, Your
7 Honor?

8 THE JUROR: Yes, ma'am.

9 Q Okay. And, Ms. Dunn, if you need to step down. I'm
10 gonna place these photographs up here for the jury to see.
11 If you need to step down to see them, please feel free to do
12 so. Just watch your step.

13 A I can see them.

14 Q I'm showing you State's Exhibit 1 and can you just tell
15 the ladies and gentlemen -- can you bring one of those
16 lights back up?

17 I think that's good.

18 That's State's Exhibit 1. Can you please tell the jury
19 what we're looking at there?

20 A That's the store on the left side and then straight
21 back is North Carolina.

22 Q Okay. So, the store's located in South Carolina but
23 straight down the road you head into North Carolina.

24 Is that correct?

25 A Yes, ma'am.

Whitney Dunn - Direct examination
By Solicitor Leskanic

1 Q okay. All right. State's Exhibit 2.

2 A That's the front doors going into the store.

3 Q okay. And what goes immediately to the right as soon
4 as you come into the doors?

5 A Immediately to the right is the counter right there
6 where you check out.

7 Q okay. So that's normally where you are behind the
8 register at that counter as soon as you walk in?

9 A Right.

10 Q state's Exhibit 3.

11 A That's the front counter. That's where a customer
12 would be standing.

13 Q okay. And state's Exhibit 4.

14 A That's where you step up to walk behind the counter.

15 Q okay. And do you know, from the, the floor of the
16 store and then the step up, that's where you were on that
17 step up?

18 A Correct.

19 Q All right. And do you know how tall that step up is?

20 A Four or five inches.

21 Q okay. Four to five inches.

22 okay. All right. Now how tall are you?

23 A 5'10".

24 Q okay. All right. I want to take you back to the
25 evening of July 3rd of 2019.

Whitney Dunn - Direct examination
By Solicitor Leskanic

1 okay. Were you working that evening?

2 A Yes.

3 Q Do you remember what time the store would close?

4 A The store closes, closes at 9:00.

5 Q It closes at 9:00.

6 okay. If you would, tell the ladies and gentlemen of
7 the jury what happened to you that evening.

8 A I was counting down the lottery. It was right before
9 closing. I was writing down lottery numbers and counting
10 that down and getting ready to close.

11 what I thought was a customer walked in. So I stepped
12 to the register. As he walked up to the register, he pulled
13 a gun out of his pants and laid a plastic bag on the counter
14 and told me to put -- he said I'm gonna -- his exact words
15 were I'm gonna make this really simple and put -- the bag
16 was there. So, I tried to first hand him the whole drawer
17 out of the register, and he said no, put it in the bag. I'm
18 not touch anything.

19 So, I started taking the money out and putting it in
20 the bag. Before I got to the ones he said that's good and
21 he went to walk out, and there were two people walking in.
22 He turned and looked at me and his exact words were don't
23 say shit to these customers coming in and he left.

24 Q Okay. Did those customers come in?

25 A Yes.

Whitney Dunn - Direct examination
By Solicitor Leskanic

1 Q okay. And then did those customers leave before police
2 arrived?

3 A They did.

4 Q okay. What did you do after, after that happened?

5 A I called 9-1-1.

6 Q And you reported this to police?

7 A I did.

8 Q All right. How did you feel when this happened?

9 A Terrified.

10 Q okay. Had you ever been robbed before either at subway
11 or at the convenience store?

12 A No.

13 Q okay. What kind of thoughts went through your mind?

14 A Do what he says and don't die.

15 Q okay. Did you see him touch anything when he was in
16 the store?

17 A No.

18 Q All right. Does the store have video --

19 A They do.

20 Q -- surveillance?

21 Did the video surveillance capture most or all of what
22 happened that night?

23 A Yes.

24 Q All right. Have you had an opportunity to review the
25 video surveillance that was taken in this case?

Whitney Dunn - Direct examination
By Solicitor Leskanic

1 A I have.

2 SOLICITOR LESKANIC: Okay. Your Honor, may I approach?

3 THE COURT: Sure.

4 Q Okay. Ms. Dunn, I'm gonna show you what's been marked
5 state's Exhibit 5 and can you tell me what this is?

6 A It's the video I watched.

7 Q All right. And how do you know that it's the video you
8 watched?

9 A I put my initials on the DVD after I watched it.

10 Q Okay. Your -- and does this video accurately show what
11 happened that night inside the store?

12 A It does.

13 Q Okay. Does it show everything that happened inside the
14 store that night?

15 A It doesn't show him walking through the door.

16 Q Coming in or leaving?

17 A Coming in.

18 Q Okay. So, the first few moments are not on the video?

19 A Correct.

20 SOLICITOR LESKANIC: Okay. Your Honor, at this time I
21 would offer State's Exhibit 5 for admission.

22 MRS. RACINE: Your Honor, I'd like to object to that
23 exhibit.

24 THE COURT: And the objection?

25 MRS. RACINE: May I approach, Your Honor?

Whitney Dunn - Direct examination
By Solicitor Leskanic

1 THE COURT: Sure.

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

4 SOLICITOR LESKANIC: Thank you, Your Honor.

5 THE COURT: Go ahead, solicitor.

6 SOLICITOR LESKANIC: Your Honor, I was moving State's
7 Exhibit 5 in for admission.

8 THE COURT: And it's over objection.

9 SOLICITOR LESKANIC: Thank you, Your Honor.

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

12 SOLICITOR LESKANIC: May I publish?

13 THE COURT: Yes, ma'am.

14 SOLICITOR LESKANIC: Thank you.

15 Okay. Ms., Ms. Dunn, looking at this, can you explain
16 to the jury what's going on at this point, and if you need
17 to step down to see you may.

18 A I can see. He's already got the gun out and the bag's
19 on the counter. That's why -- when he's telling me to put
20 the money in the bag.

21 Q Okay. So that is a gun in his hand that we see?

22 A Yes.

23 Q And that plastic bag is on the counter is what he
24 produced for you to put the money in?

25 A Yes.

Whitney Dunn - Direct examination
By Solicitor Leskanic

1 Q Is that correct?

2 Okay. Now, at the very end of the video we see it
3 pulling away from a computer screen.

4 Can you explain to the jury what's going on there, how
5 this recording was made?

6 A Neil, my boss at that store, was unable to get a actual
7 DVD burned from his camera system. So, he had to use his
8 cell phone to record the screen --

9 Q Okay.

10 A -- instead of burning a DVD.

11 Q All right. So that video came from a cell phone
12 recording of the actual camera system.

13 A Correct.

14 Q Is that correct?

15 And you were there. Does that show what happened?

16 A It does.

17 Q Okay. I want to show you what's been marked State's
18 Exhibit 8 and 9.

19 If you could take a look at those and tell me if you
20 recognize those.

21 A Yes.

22 Q Okay. And what do they show?

23 A Just still shots of what was in the video.

24 Q Okay. Do both of them show what was in the video?

25 A They do.

Whitney Dunn - Direct examination
By Solicitor Leskanic

1 SOLICITOR LESKANIC: Okay. Your Honor, at this time
2 I'd offer State's Exhibits 8 and 9 for admission.

3 THE COURT: Objection, any?

4 MRS. RACINE: Objection, Your Honor. I know those are
5 from the video we just watched. I don't -- I think we've
6 already seen those.

7 THE COURT: Are those stills from the video?

8 SOLICITOR LESKANIC: I'm, I'm gonna go over that with
9 her or I'll wait and offer it for admission in just a moment
10 if you would like.

11 THE COURT: All right. I'll leave it until she lays a
12 foundation.

13 Q Okay. I'd, I'd like you to look again at State's
14 Exhibit 8.

15 Can you tell me what the defendant is doing in that
16 picture?

17 A He's pulling the gun from his pants.

18 Q Okay. And how is that related on the video?

19 Do you see that image on this video?

20 A I think this is a -- like seconds before the video
21 picked up on his phone.

22 Q Okay. So tell the jury again exactly what you were
23 doing when he walked in.

24 A When he walked in, I was standing to the side counting
25 lottery numbers.

Whitney Dunn - Direct examination
By Solicitor Leskanic

1 Q okay.

2 A when he walked in, he walked up to the counter. I'm
3 walking up to the register and he's pulling the gun from his
4 pants.

5 Q okay. So was that immediately when he walked in?

6 A Immediate when he got up to the counter.

7 Q okay. All right. And then State's Exhibit 9.

8 A This is him holding the gun waiting for the money.

9 SOLICITOR LESKANIC: okay. All right. Your Honor, at
10 this time I would offer State's Exhibits 8 and 9 for
11 admission.

12 MRS. RACINE: Without objection, Your Honor.

13 THE COURT: Without objection.

14 (WHEREUPON, State's Exhibit Nos. 8 and 9 were received
15 into evidence at this time.)

16 SOLICITOR LESKANIC: One second.

17 (Pause.)

18 Q So, to your knowledge, what was done with the still
19 shots that were taken from the video recording?

20 A Neil sent one to my phone.

21 Q okay. And, and what did you do with that?

22 A I did send the picture to one of my friends who made a
23 Facebook post --

24 Q okay.

25 A -- asking if anybody knew who that was.

Whitney Dunn - Direct examination
By Solicitor Leskanic

1 SOLICITOR LESKANIC: Okay. Your Honor, I'd like to --
2 you to see State's Exhibit 6.

3 MRS. RACINE: Objection, Your Honor.

4 THE COURT: What's, what's the objection?

5 MRS. RACINE: The language in this Facebook photo, Your
6 Honor, is very, very prejudicial to my client. Also Miss
7 Christina Sliney is not here to verify that she is the one
8 who, in fact, posted this.

9 May I approach, Your Honor?

10 THE COURT: Yes, ma'am.

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

13 SOLICITOR LESKANIC: Thank you, Your Honor.

14 THE COURT: Mr. Foreman, ladies and gentlemen, we're
15 close to taking our break. I'm gonna talk about one of
16 these matters with the lawyers outside your presence. But
17 if the -- I try to keep us past 3:30 in the afternoon, take
18 a break, and then we'll take about 15 minutes or so, may,
19 maybe 18, and then we'll resume for the end of the day.

20 I need to ask is there anyone on the jury who is a
21 smoker and you desire to smoke?

22 (WHEREUPON, one juror raises their hand.)

23 THE COURT: Would you like to smoke, sir?

24 THE JUROR: Yes, sir.

25 THE COURT: Okay. They'll escort you out of the

Whitney Dunn - Direct examination
By Solicitor Leskanic

1 building. There's a designated area somewhere for, for that
2 purpose but they'll -- an officer will have to go with you.
3 They won't leave you alone you being on the jury.

4 Don't talk about the case. We're certainly not at the
5 end. We're just getting started with the case. They'll be
6 water back there. There might be a soda if you want --
7 someone wants, wants a soda or coffee, whatever you might
8 need. Restrooms, of course. Let us know of anything that
9 you do need.

10 Mr. Foreman, if you'd take your jury out.

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

13 THE COURT: Okay. Ma'am, I'm gonna let you step down.
14 We're gonna take a break here in -- just in a moment and
15 don't talk to anyone about your testimony. You're not
16 through testifying but I'm gonna talk with the lawyers for a
17 moment first.

18 Okay. Yes, ma'am, Mrs. Racine.

19 MRS. RACINE: Thank you, Your Honor.

20 The photos that Ms. Leskanic wishes to enter is very
21 inflammatory. I, I believe it states that -- well, I don't
22 believe but I think it says something like a scumbag robbed
23 the store. That's prejudicial. It's inflammatory also. He
24 fired through someone's windshield.

25 That's hearsay. This person wasn't there. She didn't

Whitney Dunn - Direct examination
By Solicitor Leskanic

1 see it. She's just posting what she heard from somebody who
2 heard it from who knows who.

3 Also, the woman who supposedly posted that, she's not
4 here to lay the foundation to say yes, in fact, I did get
5 that, get that photo, and I did post it on my Facebook page.
6 We don't -- they don't know where she it. We don't know if
7 it was audit -- if it was edited. Anything could of been
8 done to it.

9 Your Honor, I don't -- I just don't think that should
10 come in. I think it's highly prejudicial to my client.

11 THE COURT: Okay. Solicitor.

12 SOLICITOR LESKANIC: Your Honor, I'm sorry but all
13 these exhibits were premarked and Mrs. Racine had these and
14 did, did not raise any pretrial motions. So, I apologize
15 for the -- doing this now.

16 But that Ms. Dunn is -- has testified that she got the
17 picture from Mr. Patel from the video and she sent it to a
18 friend. The friend posted it on Facebook. What this is is
19 it's the connector. But Whitney Dunn got the picture from
20 Mr. Patel. Ms. Sliney isn't creating this photograph.
21 She's putting it out there on social media, and it's because
22 it was out there on social media that triggered other people
23 to see the photograph.

24 But we've, we've shown with the video that the video
25 matches the photograph. And as far as the, the language in

Whitney Dunn - Direct examination
By Solicitor Leskanic

1 the Facebook post, this is just the first I've heard any
2 defense objection to that where we could of addressed that
3 before now.

4 THE COURT: Okay. Let me take a look at that. Chris
5 has got a case pulled up over there.

6 Is -- let's do this before we break.

7 Are there other photographs that are objectionable?

8 Yes?

9 MRS. RACINE: Yes, sir, Your Honor. The -- well, the
10 Facebook post that we're -- I'm objecting to was used as the
11 basis for my client's mother identifying him. And so I
12 believe that it -- that Facebook photo can't be verified
13 cause this woman who posted it is not here to testify that
14 she, in fact, posted it, where she got the photo, or
15 anything else.

16 So, therefore, Your Honor, I would say that photo's
17 out, and, as a result, anything Mrs. Hawkins said that she
18 saw is on Facebook identifying her son should also be out.
19 If the Facebook photo can't be proven and verified by the
20 person who posted it, then she would have never seen that
21 photo. She would of never called the police. I, I just
22 think that that's an issue, Your Honor.

23 There's also photos 11, 12, and 13. They're just
24 photos that say -- two of them -- two of them just say
25 Robert Hawkins. There's, there's nothing to indicate where

Whitney Dunn - Direct examination
By Solicitor Leskanic

1 they came from. It's just pictures that say of Robert
2 Hawkins.

3 It looks like photos -- Facebook photos but I can't
4 tell. It doesn't have a Facebook page. It doesn't have
5 anything to identify where they came from, and then No. 13
6 is just a picture of a ring. Again -- there's -- again,
7 there's nothing there to say whose ring it is, who took the
8 picture, where it was, where it was taken. There is nothing
9 to identify anything in that except for the ring, and I, I
10 just don't find that there's any relevance to any of these
11 photos, and I just don't feel like, with just those photos,
12 any kind of proper foundation can be laid to get them in
13 evidence. They're just random pictures.

14 THE COURT: I don't know what the foundation -- the
15 state hasn't laid a foundation for any of those yet but we
16 haven't gotten there.

17 okay. Let's everybody take about 10, 10 or 12 minutes.

18 SOLICITOR LESKANIC: And, Your Honor, if I may?

19 THE COURT: Yes.

20 SOLICITOR LESKANIC: I mean the original source -- I
21 think the objection to Ms. Sliney would be here would be
22 that she doesn't know where it came from. I have Mr. Patel
23 and I have Whitney Dunn who are saying this is where the
24 photo originated. It originated from this armed robbery
25 video. She is just reposting a video that Whitney Dunn can,

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1 can testify to.

2 This is the photo I received. This is the photo I sent
3 to my friend. So, I have a feeling, if I had Ms. Sliney
4 here instead of Mr. Patel and Ms. Dunn, it would be well,
5 she doesn't know where the picture came from. We have the
6 original source of where the picture came from, which is the
7 best evidence to produce to the jury.

8 MRS. RACINE: And, Your Honor, why not just have the
9 photo Ms. Dunn posted be entered into evidence?

10 why go with the picture posted by somebody who
11 allegedly got it from her and then posted the inflammatory
12 language on there?

13 You, you know, if Ms. Dunn is the one who had the
14 photo, and she's the one who posted it, and her friend then
15 reposted it, where's Ms. Dunn's photo?

16 SOLICITOR LESKANIC: I, I have that as the next
17 exhibit, Your Honor. But in, in this case, the reason for
18 the Facebook photo is that is what the family members saw in
19 order to identify him. So, I'm trying to present the full
20 presentation of the facts and circumstances to the jury.

21 Thank you.

22 THE COURT: Thank you.

23 All right. Let's take a few minutes.

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

25 THE COURT: Okay. The Court has taken the objection

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1 under advisement.

2 The foundation for State's Exhibit 6 for the picture
3 was laid prior the introducing the video itself. This
4 picture is a still frame, still shot from the video which is
5 in evidence. The image is clearly relevant under Rule 401
6 where it has a direct bearing upon and tends to establish or
7 make more or less probable the matter in controversy, State
8 v. Lyles, 379 S.C. 328.

9 witness Dunn sent it to her friend as I understand it.
10 witness Dunn sent it to her friend who posted it on social
11 media. There is no challenge to its authenticity. However,
12 Rule 901(a) says the requirement of authenticity or
13 identification as, and here we talk about authenticity, as a
14 condition precedent to admissibility is satisfied by
15 evidence sufficient to support a finding that the matter in
16 question is what its proponent claims it to be.

17 Also, you have to read 9(b)(9) of 901 as, as well.
18 Evidence describing a process or system used to produce a
19 result or showing of the process or system produces an
20 accurate result.

21 Here the picture is what the State purports it to be,
22 which is a picture of the robber. It's not ID --
23 identifying him. It is just a picture of a person who is
24 alleged to have robbed the store.

25 Also, and for everyone to State v. Green at 427 S.C.

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1 223, written by our Greenville Circuit Court judge, now
2 Court of Appeals, Gary Hill, as to authentication,
3 authentication on social media evidence, it's a fairly
4 recent case, Rule 901 is some -- is met with someone with
5 personal knowledge can testify the picture is what it is
6 claimed to be, which was affirmed by, also from Greenville,
7 Justice Kittredge, at 432 S.C. 97. Supreme Court affirmed
8 that and actually gave some kudos to Judge Hill for an
9 excellent opinion.

10 Also -- so, so the picture is coming in. However,
11 under Rule 403, solicitor, I'm gonna direct Madam Clerk and,
12 and give you a chance to be heard, but I'm, I'm gonna direct
13 Madam Clerk to cut off the heading here, the comments that
14 are made. Those could be prejudicial in this case unless
15 you have one that doesn't have it.

16 SOLICITOR LESKANIC: Oh, I, I did prepare one---

17 THE COURT: Okay.

18 SOLICITOR LESKANIC: ---thinking that that may be the
19 Court's ruling.

20 THE COURT: Okay.

21 SOLICITOR LESKANIC: And I've handed it to the defense.
22 I think they just had an overall objection to the Facebook
23 post. I handed it back to them and I did remove the
24 language about him being a scumbag and also about him
25 shooting --

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1 THE COURT: Yes.

2 SOLICITOR LESKANIC: -- at the car and just said
3 stateline, Stateline Grocery robbed --

4 THE COURT: Okay.

5 SOLICITOR LESKANIC: -- which I think is neutral and
6 describes the purpose of the photo.

7 THE COURT: Okay.

8 MRS. RACINE: Beg the Court's indulgence.

9 THE COURT: Yes, ma'am, certainly.

10 (Pause.)

11 MRS. RACINE: Your Honor, if we can take the word
12 robbed out, and just put the photo that says Mom's Stateline
13 convenience store on there so it identifies the location. I
14 think robbed is prejudicial. I think he's alleged to have
15 robbed it but I think it is -- in this picture that he
16 robbed it. It's just that he's the one who is alleged to
17 have robbed the store. I would have no problem with this
18 being addressed, the name of the, the name of the location
19 and the address.

20 I don't think share, share, share is needed. I think
21 that's just -- that's something that's superfluous and I
22 don't really think there's any need for this other photo. I
23 would have no problem with the photo, Christian Sliney and
24 the date, and just Mom's Stateline Convenience Store,
25 Boiling Springs Highway.

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1 THE COURT: Well, I'm -- I -- and you're protected on
2 the record. But I'm, I'm gonna allow this version of it in
3 because it is saying that mom -- it's not saying that, that
4 your client did this. In fact, it doesn't identify him at
5 all. It -- it's just what it purports to be that this
6 particular person, whoever he is, or she is, could well be
7 that it's a female, there's a ball cap, dark glasses, bulky
8 clothes but it just identifies a person as just saying
9 robbed a store.

10 So -- but you -- your, your objection's noted.

11 MRS. RACINE: Thank you, Your Honor.

12 THE COURT: Okay. And one other thing. I told y'all I
13 wanted to give you time. This would be a good time to do.
14 Since you object to the video, you did that at side bar, and
15 I want you to make sure you put that on the record so you'd
16 be protected.

17 MRS. RACINE: Okay. Yes. Thank you, Your Honor.

18 Find my notes. Give me just one minute.

19 (Pause.)

20 MRS. RACINE: Your Honor, with regard to that video,
21 the motion was made to exclude it based on the discovery
22 violations. Your Honor, Rule 5 says that within 30 days
23 after the Rule 5 is filed the State should provide evidence
24 to the defense.

25 Your Honor, the -- I filed a Rule 5 on November 25th,

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1 2020. I didn't receive the video until this past Monday,
2 April the 12th, 2021. This incident actually happened on
3 July 3rd of 2019. There's a note in, in one of their
4 investigative reports from Detective Haney from July 8th of
5 2019 that she was gonna go get the video at that time.

6 She didn't get it. Because of that, we don't even have
7 an original copy of that video. We have a cell phone copy
8 of a copy.

9 So, for that reason, Your Honor, from the discovery
10 violation and for the fact that it was provided so late,
11 despite the opportunity the State had to get that -- again,
12 I don't blame the solicitor's office for that. I do blame
13 the Cherokee County Sheriff's Office for the discovery
14 issue. I would just move, Your Honor, to keep that out of
15 evidence.

16 THE COURT: Solicitor.

17 SOLICITOR LESKANIC: Thank you, Your Honor.

18 May it please the Court.

19 The remainder of Rule 5 states that we have to turn
20 everything over in the possession of law enforcement. The
21 video was not in possession of law enforcement. Therefore,
22 Rule 5 is not applicable to this argument.

23 It was in the possession of Mr. Patel. And as soon as
24 we received the video from him, we turned that over to the
25 defense. The defense already had still photographs from the

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1 video.

2 I had spoken to Mrs. Racine and told her we were
3 attempting to get the video and hopeful to get the video.
4 She, she has the video. She received it the day that we
5 did. I know she's had an opportunity to review it and I did
6 inquire of Mrs. Racine, prior to attempting to place the
7 video in through Ms. Dunn, before the jury came in, I asked
8 do you want me to put Mr. Patel up to put the video in or
9 may I do it with Ms. Dunn because I don't want to call
10 Ms. Dunn and then have to take her down, call Mr. Patel, and
11 recall Ms. Dunn. And she stated that she had no objection
12 to me putting the video in with Ms. Dunn, which is what I
13 attempted to do and then the objection came.

14 Thank you.

15 THE COURT: Okay. Well, thank you. You're, you're on
16 the record and protected.

17 we've recently had the opportunity to do some research
18 on what is required and what is not required under Rule 5.
19 and subpoena power does exist for, for the defense. And
20 one -- some of the research indicated that, that the state,
21 it does not have it -- it's not -- this is a third party's
22 possession, which is Mr. Patel. It's not that the, the
23 solicitor's office had it. It's not that the sheriff's
24 Department has it. And that the, the defense has subpoena
25 power to get that too to subpoena it to the courtroom.

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1 But nonetheless, it was obtained and it was provided
2 and it was provided earlier this week. But I understand
3 that the still photos were still available and I -- and I,
4 and I don't know that there's anything on there that, that
5 wouldn't have already been there.

6 As far as it not being the original though, being a
7 video off Mr. Patel's phone, I would reference you to Rule
8 4 -- Rule 1004, admissibility of other evidence of, of
9 content and specifically number two. The original -- where
10 the original is not required or other evidence or contents
11 of a writing here recording or photograph is admissible if
12 no original came be obtained by any available judicial
13 process or procedure.

14 So, it falls up under 1004 and I've used that -- I've
15 seen that plenty of times where you have to make a picture
16 of a picture and you can not -- testimony from Ms. Dunn was
17 Mr. Patel's equipment simply would not burn a copy of the,
18 of the video itself. And certainly don't know that he could
19 bring their recording equipment to the Court and make it
20 play here.

21 But, again, on authenticity and its, its admissibility
22 are covered under our rules, on social media, and especially
23 with that more recent case, State versus Green. But I
24 wanted you to put that on the record so you were covered.

25 MRS. RACINE: Thank you, Your Honor.

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1 THE COURT: Thank you.

2 Anything further?

3 SOLICITOR LESKANIC: Just if we could have that
4 selected Facebook photo I assume marked as State's Exhibit 6
5 and possibly mark the one that is not gonna be used somehow
6 to indicate that that was not admitted in court. I don't
7 know how the Court or the court reporter wishes to handle
8 that. But I think it needs to be an exhibit and -- or if
9 you just want me to pull it.

10 THE COURT: You can just leave this one, leave it in
11 the record. I'll put No. 6 for -- as a Court's Exhibit?

12 You want to do that, Pam?

13 THE COURT REPORTER: Yes, sir.

14 THE COURT: Make this --?

15 SOLICITOR LESKANIC: No. 15. Thank you, Your Honor.

16 THE COURT: Thank you.

17 (WHEREUPON, the Facebook post was marked as State's
18 Exhibit No. 15 for identification purposes only at this
19 time. State's Exhibit No. 6 was now marked as Court's
20 Exhibit No. 7 for identification purposes only at this
21 time.)

22 THE COURT: Are we ready for the jury now?

23 SOLICITOR LESKANIC: State's ready, Your Honor.

24 MRS. RACINE: Yes, Your Honor.

25 THE COURT: okay. we'll have the jury.

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1 SOLICITOR LESKANIC: Can we have Ms. Dunn back on the
2 stand.

3 THE COURT: Yes, I'm sorry.

4 Yes, ma'am, please come. Be careful with the step. We
5 have two or three around here.

6 (WHEREUPON, the witness returns to the stand.)

7 (Whereupon, the following takes place within the
8 presence of the jury.)

9 THE COURT: Mr. Foreman, any matters for the jury?
10 Everybody's good?

11 THE JUROR: Everybody's good.

12 THE COURT: Thank you.

13 Solicitor.

14 SOLICITOR LESKANIC: Thank you.

15 May it please the Court.

16 CONTINUED DIRECT EXAMINATION

17 BY SOLICITOR LESKANIC:

18 Q Ms. Dunn, I was showing you a photo posted on Facebook
19 showing you State's Exhibit 15 now.

20 Can you look at that and tell me if you recognize that
21 photograph?

22 A I do.

23 Q Okay. And where did that photograph come from?

24 A This is the photo that Mr. Patel sent me the night of
25 the robbery.

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1 Q Okay. And I'm gonna also show you State's Exhibit 7
2 and let you take a look at that -- at this.

3 what is State's Exhibit 7?

4 A The same photo blown-up.

5 Q Okay. And what did you do with the -- and, and does
6 this photo and the Facebook photo accurately show the person
7 who robbed you on July 3rd of 2019?

8 A Yes.

9 Q Has anything been changed or altered about his
10 appearance before you sent this to Ms. Sliney?

11 A No.

12 Q Is this from the video recording that was made at the
13 time the robbery occurred?

14 A It is.

15 Q Okay. And you sent the picture that you received from
16 Mr. Patel to your friend, Ms. Sliney?

17 A Yes.

18 Q And Ms. Sliney then posted it to Facebook?

19 A Yes.

20 Q Okay. And is this the photograph that she posted?

21 A It is.

22 Q Did you see the photograph when she posted it?

23 A I did.

24 Q Do you still have a copy of the photograph in Facebook
25 or in your messages on your phone?

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1 A I do.

2 SOLICITOR LESKANIC: Okay. Your Honor, at this time we
3 would offer State's Exhibit 15 and State's Exhibit 7 for
4 admission as evidence.

5 MRS. RACINE: Without objection.

6 THE COURT: Without objection.

7 (WHEREUPON, State's Exhibit No. 7 and 15 were received
8 into evidence at this time.)

9 Q Okay. So I just want to clarify. Mom's Stateline
10 Grocery, Cherokee County, South Carolina?

11 A Yes.

12 Q The defendant person in State's Exhibit 7 is the person
13 who came in and robbed you?

14 A Yes.

15 Q Is that correct?

16 The person in State's Exhibit 15, that photograph, is
17 that the person who robbed you at gunpoint on July 3rd of
18 2019?

19 A Yes.

20 Q Did this person take money from the store after
21 pointing a gun at you?

22 A Yes.

23 Q He left the store with money that belonged to Mom's
24 Stateline Grocery.

25 Is that correct?

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By Solicitor Leskanic

1 A Yes.

2 Q Now, without telling me any content, did you receive a
3 message from a Jennifer Hawkins regarding this case?

4 A Yes.

5 Q Okay. And how did you receive that message?

6 A Facebook.

7 Q Okay. Facebook Messenger?

8 A Yes.

9 Q Okay. All right. If -- I think that's all the
10 questions I have for you. Please answer any questions that
11 Mrs. Racine or the Court may have.

12 THE COURT: Yes, ma'am.

13 MRS. RACINE: I don't have any questions for Ms. Dunn,
14 Your Honor.

15 THE COURT: All right. Thank you.

16 Ma'am, you may step down. Please be careful.

17 SOLICITOR LESKANIC: State calls Jennifer Hawkins.

18 THE CLERK: Mrs. Hawkins, do you think you can get in,
19 in there with your --?

20 THE WITNESS: With, with assistance, yes.

21 THE CLERK: Okay. I'll tell you, we'll let you get in
22 there and then I'll swear you in.

23 okay?

24 THE WITNESS: Okay.

25 JENNIFER HAWKINS, being first duly

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1 sworn, testified as follows:

2 THE CLERK: Have a seat and we'll help you down when
3 you --.

4 THE COURT: Mrs. Hawkins, if you will tell me who you
5 are, spell your last name for my court reporter, and talk a
6 little louder than usual please.

7 THE WITNESS: Okay. My name is Jennifer Hawkins. Last
8 name is H-A-W-K-I-N-S.

9 THE COURT: Thank you, Mrs. Hawkins.
10 solicitor.

11 SOLICITOR LESKANIC: Thank you.

12 For the record, I have State's Exhibit 5 with a paused
13 portion of the video on the screen.

14 DIRECT EXAMINATION

15 BY SOLICITOR LESKANIC:

16 Q Mrs. Hawkins, the first thing I'd like to do is show
17 you what's been marked State's Exhibit 14 --

18 A Uh-huh. (Affirmative).

19 Q -- and tell me if you recognize that.

20 A Yes.

21 Q And who is that?

22 A My son, Robert Hawkins.

23 Q Okay. What's his full name?

24 A Robert Lawrence Hawkins.

25 Q Okay. Is this the way that Robert or you call him --

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By Solicitor Leskanic

1 what do you---

2 A Robbie.

3 Q Robbie.

4 Is this the way that Robbie normally appears?

5 A No.

6 Q what do you notice different about this photograph?

7 A His hair's longer and facial hair.

8 Q Okay. And is that unusual for him?

9 A He doesn't like that at all.

10 Q okay. so did he normally have longer hair and facial
11 hair?

12 A No, ma'am.

13 Q what was his normal appearance?

14 A He wanted his hair cut really short, no little curls
15 poking out, and no facial hair.

16 Q okay. Can you tell me about Robbie growing up with
17 you?

18 Did he live with you --

19 A Yes, he did.

20 Q -- as a kid?

21 okay.

22 A Yes.

23 Q For how long?

24 A Right at 17 years.

25 Q okay. Did you still see him even recently?

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By Solicitor Leskanic

1 A Yes.

2 Q Okay. All right. So he grew up with you in the home
3 for 17 years?

4 A Yes, ma'am.

5 Q All right. I'm gonna ask you to look at the picture
6 and if you need to step down --.

7 A No, I can see.

8 Q I know you have difficulty.

9 Okay. This is State's Exhibit 5. It's a paused
10 picture and let me first ask you---

11 A Yes, ma'am.

12 Q ---I know that you've seen the video in the courtroom
13 today.

14 A Correct.

15 Q Have you had an opportunity to view this video before
16 you came to Court today?

17 A No. Oh, yes, in your office, yes.

18 Q Okay. So you have had an opportunity to look at this?

19 A Yes, ma'am.

20 Q As many times as you wanted?

21 A Correct.

22 Q Okay. Who is robbing Whitney Dunn at the Stateline
23 Grocery Store?

24 A My son, Robert Hawkins.

25 Q Okay. And on a scale of one to ten with ten being

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By Solicitor Leskanic

1 absolute certainty, how certain are you that that's your
2 son, Robert Hawkins?

3 A A hundred percent.

4 Q Okay. I want to go back to how you found out about
5 this.

6 Can you tell the jury how you found out that your son
7 committed this crime?

8 A Someone had posted on post -- on Facebook hey, is that,
9 that your son.

10 Q Okay. I'm gonna show you what's been marked State's
11 Exhibit 15.

12 A Uh-huh. (Affirmative).

13 Q Okay. If you'll take a look at that and can you---

14 A Yes.

15 Q ---see if that's the photograph that you saw?

16 A Yes.

17 Q Okay. And then what happened when you were shown that
18 photograph?

19 A I knew it was him. I looked at the ears. He has a --
20 very distinctive lips. He's got the baby face, the, the
21 signature of the backwards hat, and the, the handkerchief.

22 Q Okay.

23 A So these are signatures of his that I was used to
24 seeing on him and it just -- even, even the sunglasses. I
25 provided a picture when I called to 9-1-1 of another picture

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By Solicitor Leskanic

1 of him with the same sunglasses.

2 Q Okay. So when you saw this photograph, what did you
3 do?

4 A I called 9-1-1 and told them that was my son.

5 Q Okay. And then I'm gonna show you what's been marked
6 State's Exhibit 10.

7 You want to take a look at that please --

8 A Yes, ma'am.

9 Q -- and tell me if you recognize that.

10 A Yes, ma'am, that's the picture.

11 Q Okay. That's what picture?

12 A The one I sent to 9-1-1, the ones I spoke to, and this
13 is the sunglasses.

14 Q Okay.

15 A Yes, ma'am.

16 SOLICITOR LESKANIC: All right. Your Honor, at this
17 time I would offer State's Exhibit 10 for admission.

18 THE COURT: Any objection?

19 MRS. RACINE: Without objection.

20 THE COURT: Without objection, State 10.

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

23 SOLICITOR LESKANIC: Okay. May I publish, Your Honor?

24 THE COURT: Yes, ma'am.

25 Q Hold it up for right now.

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1 So when you saw the post on Facebook, you knew it was
2 Robbie --

3 A Yes.

4 Q -- you called police and you even sent them a
5 photograph of your son in what appeared to be the same
6 sunglasses from the robbery.

7 Is that correct?

8 A Correct.

9 Q Okay. What else did you do, Mrs. Hawkins?

10 A I contacted different members of the family and I
11 didn't say is this Robbie. I said who does that look like.
12 Robbie. What's he doing in the store. I mean what's,
13 what's the point of you sending a picture. You don't see
14 the gun. And I told them my son -- the store's been robbed
15 and they're saying this person that I'm seeing in this
16 picture robbed it. That's Robbie. Why would he rob? We
17 would of loaned him money.

18 Q Okay.

19 A If -- he just needed to ask, he could of got it.

20 Q All right. Did you contact anyone other than 9-1-1
21 about this---

22 A Yes, ma'am.

23 Q ---and family members?

24 who else did you reach out to?

25 A Other, other than family members?

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By Solicitor Leskanic

1 Q Yes, ma'am.

2 A Friends where he had grew up---

3 Q Okay.

4 A ---in Gaffney.

5 Q Did, did you reach out to the store owner---

6 A Yes, ma'am.

7 Q ---or to the clerk?

8 A Yes, I did.

9 Q Okay. And what was the reason for that?

10 A First off, I wanted to make sure that the picture I was
11 seeing was a true pic -- picture, that it wasn't something
12 that was just put on there as a joke.

13 Q And what would make you think that?

14 Did you have a conversation---

15 A The a---

16 Q ---with Robbie about it?

17 A I'm one of these criminal people that watch TV a lot
18 and I love it, and there's always something about oh, well,
19 it was -- there's something added to it, something took
20 away. There's something to be changed on it, and the lady,
21 Whitney, was nice enough to tell me, she said yes, ma'am,
22 that's the picture, and she described to me what happened to
23 her, and I apologized to her.

24 Not that anything I'd done in the raising of my son was
25 my fault for the -- Robbie as in mother. I felt her pain

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1 and I would not want my child robbed. And I contacted
2 Mr. Patel also. He was very kind and he said -- basically
3 told me the same thing, that he was not there when it
4 happened.

5 MRS. RACINE: Objection, Your Honor. Hearsay.

6 THE COURT: Okay. Don't tell us what anybody said.

7 Q Okay. But you contacted Mr. Patel---

8 A Mr. Patel.

9 Q ---as well?

10 A Yes.

11 Q Okay. Do you know if Robbie was working during this
12 time?

13 A No, ma'am, he was not.

14 Q Okay. Do you have -- well, do you know where he was
15 living at the time?

16 A Yes, he was living with Tiffany Webb, which was his
17 girlfriend, and her family.

18 Q Okay. And do you have any idea how far their home is
19 in proximity to the store?

20 A I want to say about 15 minutes and I'm guessing. I'm
21 not exactly sure.

22 Q Okay. But about 15 minutes from there?

23 A Uh-huh. (Affirmative).

24 Q Okay. I'm gonna show you what's been marked State's
25 Exhibit 13 and tell me if you can recognize that.

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1 A Yes, ma'am.

2 Q Okay. And what is this?

3 A This is the engagement ring that was shown to me by
4 Miss Webb on July the 28th that my son bought for her and
5 proposed to her on her birthday, [REDACTED] [REDACTED].

6 MRS. RACINE: Objection, Your Honor. Relevance.

7 THE COURT: Well, let's, let's see if she makes it
8 relevant.

9 SOLICITOR LESKANIC: Okay.

10 THE COURT: Go ahead.

11 Q So this was -- you were told this was given to him on
12 her birthday on [REDACTED] [REDACTED]?

13 A By Tiffany Webb and my son was standing right there,
14 yeah, and my---

15 Q So two days after the robbery --

16 A Yes.

17 Q -- he provided this to her?

18 A Yes.

19 Q Okay.

20 A For her birthday.

21 Q And he was not employed at the time?

22 A No, ma'am.

23 SOLICITOR LESKANIC: Okay. Your Honor, at this time we
24 offer State's Exhibit 13---

25 THE COURT: Okay.

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1 SOLICITOR LESKANIC: ---for admission.

2 THE COURT: This is addressed to relevance. She said
3 it's not relevant.

4 MRS. RACINE: That's correct.

5 SOLICITOR LESKANIC: would you like me to --.

6 THE COURT: Yes, ma'am.

7 SOLICITOR LESKANIC: well, Your Honor, he's unemployed,
8 and, on July 3rd, there's a robbery at the store where
9 money is taken, and on July 5th he's able to provide an
10 engagement ring to his girlfriend.

11 THE COURT: You want to be heard?

12 MRS. RACINE: Your Honor, he, he could of got that
13 money from anywhere. That's just speculative as to where
14 the money came from. Just father -- his future
15 father-in-law could of given him the money. He could of
16 found the money. Just because someone robbed the store, and
17 two days later he proposed to his girlfriend, that -- that's
18 pure speculation, Your Honor. We're, we're -- there's
19 nothing that ties the two definitively together.

20 THE COURT: well, relevant evidence -- relevant
21 evidence, under Rule 401, means evidence having any tendency
22 to make existence of a fact and the consequences to the
23 determination of the action more or less probable than it
24 would be without the evidence.

25 I'm gonna overrule the objection of relevancy. It is

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1 relevant.

2 SOLICITOR LESKANIC: Thank you, Your Honor.

3 MRS. RACINE: Thank you, Judge.

4 SOLICITOR LESKANIC: So, we offer State's Exhibit 13
5 for admission.

6 MRS. RACINE: It is admitted with -- over the objection
7 of defense counsel.

8 SOLICITOR LESKANIC: Thank you, Your Honor.

9 (WHEREUPON, State's Exhibit No. 13 was received into
10 evidence at this time.)

11 Q Okay. Mrs. Hawkins, I'm gonna ask you to look at
12 State's Exhibit 11 and 12 and tell me if you recognize
13 those.

14 A Yes, ma'am, I do.

15 Q Do you know where those photographs came from?

16 A I believe one was taken at my daughter's house or maybe
17 both of them.

18 Q Well, I mean the location where they were stored.

19 A Oh Facebook.

20 Q Okay.

21 A Of course, yeah.

22 Q Okay. So those are Facebook photographs?

23 A Yes.

24 Q And who are the photographs of?

25 A Robert Hawkins, my son.

Jennifer Hawkins - Direct examination
By Solicitor Leskanic

1 Q okay. And can you describe kind of the difference --
2 well, let me, let me offer these for admission.

3 A Okay.

4 Q But State's Exhibit 11, that is a photograph of your
5 son, Robert Hawkins?

6 A Yes, sir.

7 Q And State's Exhibit 12 is as well?

8 A Yes, ma'am.

9 SOLICITOR LESKANIC: Okay. Your Honor, at this time we
10 would offer State's Exhibit 11 and 12 for admission.

11 MRS. RACINE: Without objection.

12 THE COURT: State's 11 and 12 are in without objection.

13 (WHEREUPON, State's Exhibit Nos. 11 and 12 were
14 received into evidence at this time.)

15 Q okay. Can you tell the jury about State's Exhibit 11,
16 what you notice about this and --?

17 A Clean cut face, short hair, and I'm not for sure what
18 they call that, a doo-rag that he had on. He always kept it
19 very close to his skin. This is how he liked looking.

20 Q Okay. And now I'm gonna show you State's Exhibit 12.

21 A Yeah, this is where he started to grow a mustache and a
22 beard, had the glasses on, and a Savage hat on.

23 Q Was that photograph taken before or after the armed
24 robbery at Mom's Stateline Grocery?

25 A After.

Jennifer Hawkins - Direct examination
By Solicitor Leskanic

1 Q okay. When did you notice Robbie changing his
2 appearance?

3 A After he got out of jail.

4 Q And after the robbery?

5 A Yes, ma'am.

6 Q I'm gonna show you -- I, I know that you've seen these
7 before but I just want to give you one opportunity. State's
8 Exhibit 7, 8, 9, 15, and 5.

9 A Uh-huh. (Affirmative).

10 Q Take your time, look at everything, and please tell the
11 ladies and gentlemen of the jury who is on the video and in
12 the photographs.

13 A In 15, Robert Hawkins, eight, Robert Hawkins, nine,
14 Robert Hawkins, and this one also Robert Hawkins, my son.

15 Q Okay. And I'm sorry. State's Exhibit 5. That's No.
16 5.

17 A Yes, Robert Hawkins.

18 Q Thank you, Mrs. Hawkins. Please answer any questions
19 the defense or the Court may have for you.

20 MRS. RACINE: I don't have no questions, Your Honor.

21 THE COURT: Ma'am, you may step down but we're gonna
22 give you some assistance.

23 okay?

24 THE WITNESS: Thank you.

25 THE COURT: officer.

Jerry Hawkins - Direct examination
By Solicitor Leskanic

1 Short witness.

2 SOLICITOR LESKANIC: Yes, sir.

3 State calls Jerry Donald Hawkins.

4 JERRY HAWKINS, being first duly
5 sworn, testified as follows:

6 THE COURT: Sir, if you would tell me your name and
7 spell your last name and speak louder than usual please.

8 THE WITNESS: Jerry Hawkins. H-A-W-K-I-N-S.

9 THE COURT: Thank you, Mr. Hawkins.

10 Yes, ma'am.

11 SOLICITOR LESKANIC: Thank you, Your Honor.

12 May it please the Court.

13 THE COURT: Yes, ma'am.

14 DIRECT EXAMINATION

15 BY SOLICITOR LESKANIC:

16 Q Mr. Hawkins, who are you to Robert Lawrence Hawkins?

17 A I'm his father.

18 Q Okay. I'm gonna show you first what's marked State's
19 Exhibit 14.

20 Do you recognize this person?

21 A Yes, ma'am, that's Robert.

22 Q Okay. That's your son?

23 A Yes, ma'am.

24 Q And I would like you to look -- and I believe you've
25 had an opportunity to review photographs and video before

Jerry Hawkins - Direct examination
By Solicitor Leskanic

1 coming into the courtroom today?

2 A Yes, ma'am.

3 Q And you've also had an opportunity to view it while
4 you're in the courtroom.

5 Is that correct?

6 A Yes, ma'am.

7 Q Okay. Can you tell the ladies and gentlemen of the
8 jury who robbed Mom's Stateline Grocery on July 3rd, 2019?

9 A That's my son in the picture.

10 Q Okay.

11 A That's Robert Hawkins.

12 Q Okay. And you've had an opportunity to look at all of
13 the State's Exhibits?

14 A Yes, ma'am.

15 Q Please answer any questions the defense may have.

16 MRS. RACINE: No questions, Your Honor.

17 THE COURT: Thank you.

18 Sir, you may step down. Please be careful.

19 You got another one?

20 SOLICITOR LESKANIC: Yes, sir.

21 THE COURT: Yes, ma'am.

22 SOLICITOR LESKANIC: Jerica Hawkins.

23 JERICA HAWKINS, being first duly
24 sworn, testified as follows:

25 THE COURT: Ma'am, if you would tell me your name

Jerica Hawkins - Direct examination
By Solicitor Leskanic

1 please and spell your last name and speak louder than usual.

2 THE WITNESS: Jerica Hawkins. H-A-W-K-I-N-S.

3 THE COURT: Thank you.

4 Solicitor.

5 SOLICITOR LESKANIC: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 BY SOLICITOR LESKANIC:

8 Q Miss Hawkins, how are you related to Robert Lawrence
9 Hawkins?

10 A I'm his sister.

11 Q okay. Did, did y'all grow up together in the same
12 house?

13 A We did.

14 Q And how long did y'all live together?

15 A About 14 years.

16 Q okay. Did you ever then reside together as adults?

17 A Yes, we did.

18 Q okay. So, would you say you've spent the greater
19 portion of your life living with him?

20 A Yes, ma'am.

21 Q All right. I'm gonna start by showing you State's
22 Exhibit 14.

23 A Uh-huh. (Affirmative).

24 Q Do you recognize the person in this photo?

25 A Yes.

Jerica Hawkins - Direct examination
By Solicitor Leskanic

1 Q And who is that?

2 A That is my brother, Robert Hawkins.

3 Q Okay. Can you tell the jury a little bit about how you
4 found out about this case and became involved in it?

5 A Yes. So, I was at work. I work at Food Lion and one
6 of my coworkers actually showed me the post that was shared
7 on Facebook, and I instantly recognized that it was, in
8 fact, my brother and then I reported it. One of my
9 coworkers got in touch with a detective for me and I made
10 the report.

11 Q Okay. And you've had -- let me just show you State's,
12 State's Exhibit 15.

13 A Uh-huh. (Affirmative).

14 Q If you will take a look at that?

15 A Yes, ma'am.

16 Q And can you tell the jury what that is?

17 A It is the post that I saw shared on Facebook.

18 Q Okay. Is that the photograph that you looked at to
19 identify your brother?

20 A Yes, ma'am.

21 Q Okay. And were there any identifying features that
22 made you immediately know that that was your brother?

23 A Yes, ma'am, the, the lips, the, the hat, the
24 sunglasses, and the bandanna.

25 Q Okay. Was that his typical style of dress?

Jerica Hawkins - Direct examination
By Solicitor Leskanic

1 A Yes, ma'am.

2 Q All right. On a scale of one to ten with ten being
3 absolute certainty that that's your brother on State's
4 Exhibit 5 committing the armed robbery, and in the
5 photograph that you're holding, how---

6 A A ten.

7 Q Okay.

8 A Yes, ma'am.

9 Q Okay. That's all the questions I have for you. If you
10 would, please answer any questions of the defense.

11 MRS. RACINE: I have no questions for Miss Hawkins,
12 Your Honor.

13 THE COURT: Thank you.

14 Miss Hawkins, you may step down. Please be careful.

15 THE WITNESS: Thank you.

16 THE COURT: You need some assistance?

17 THE WITNESS: No.

18 THE COURT: Okay. Anybody else short?

19 SOLICITOR LESKANIC: Can we -- if we have a, a moment,
20 Your Honor?

21 Could we -- may we approach?

22 THE COURT: Sure.

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

25 SOLICITOR LESKANIC: Your Honor, at this time the State

1 rests.

2 THE COURT: State rests.

3 Okay. Ladies and gentlemen, Mr. Foreman, ladies and
4 gentlemen, the State has now rested its case and what that
5 means is that the State does not intend to call anymore
6 witnesses or put in any more evidence. They have rested.
7 So they will not be putting in any more documents, pictures,
8 evidence, or testimony at this time, which brings us to a
9 matter of law.

10 As I told you, I'm the judge of the law. So, there are
11 certain matters that we have to take up outside of your
12 presence and we're at -- close to the end of the day anyway.
13 That's why I kept asking if they had a short witness. We're
14 getting close to 5:00.

15 With that, we're gonna recess -- I'm gonna let you
16 recess a little bit earlier. We're gonna take up these
17 matters so that we'll be ready to go first thing in the
18 morning and not have to waste any time.

19 So, I'm gonna release you for the evening. I want you
20 to have a good evening. Don't try to learn anything about
21 the case. Don't try to, to do any research. Don't read
22 anything about it in any newspaper that might, that might
23 come out or be published or radio, TV. I don't know if
24 they'll be any coverage at this point. But, if so, please
25 don't pay attention to it. Save that and, and read it

1 later.

2 Again, please be reminded of my charge to you. You can
3 not talk to this about your family members or anyone else
4 until the case is ended. Once it's over, you're free to
5 talk about it as much or as little as you choose but not
6 until then.

7 So, with that, Mr. Foreman, if you'll take the jury out
8 and be dismissed for the evening. Be back in the morning
9 ready to work at 9:00. I will be here by 8:00. The lawyers
10 will be here between 8:00 and 8:15. But I won't need you
11 until 9:00.

12 Thank you.

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

15 THE COURT: Okay. All right. We still got a few
16 minutes here. So the State has now rested.

17 Is there any motion from the State?

18 SOLICITOR LESKANIC: Nothing from the State, Your
19 Honor.

20 THE COURT: Okay. From defense.

21 MRS. RACINE: Your Honor, first of all, I'd just like
22 to renew all the objections that I raised earlier and also,
23 Your Honor, a directed motion for directed verdict.

24 THE COURT: Yes, ma'am.

25 All right. You want to heard be -- the State want to

1 be heard on the defense's directed verdict motion?

2 SOLICITOR LESKANIC: I believe that if there's any
3 evidence favorable to the state the case goes to the jury.
4 In this case, we have video evidence of the robbery and the
5 robber, and have three family members identify Robert
6 Hawkins as the person in that video and still photographs.
7 I believe we've had a sufficient showing of to get us to the
8 jury.

9 THE COURT: All right. The directed verdict motion is
10 denied. The state -- the court does not weigh the evidence.
11 The court merely looks for a scintilla or any evidence,
12 whichever standard, they're the same as far as I'm
13 concerned, any evidence, a scintilla of evidence and there
14 is. That makes it a question of fact or a finding of fact,
15 which is for the jury.

16 As for all motions being renewed, they are renewed, all
17 objections, and motions were -- are renewed and you are
18 preserved there and they're denied for the reasons
19 heretofore enunciated.

20 Does the state -- does the defense intend to call any
21 witnesses?

22 MRS. RACINE: No, Your Honor.

23 THE COURT: Okay. Would the defense like to rest?

24 MRS. RACINE: Yes, Your Honor.

25 THE COURT: Okay. Defense rests.

1 okay. Now, to protect you, everybody, is there
2 anything from the state?

3 SOLICITOR LESKANIC: No, Your Honor.

4 THE COURT: Okay. From the defense?

5 Now that you have rested, would you like to renew your
6 motions and your objections -- and your -- yeah, your
7 motions?

8 MRS. RACINE: Yes, Your Honor. I would.

9 THE COURT: Okay. And they are denied for the same
10 reasons heretofore enunciated and you're protected.

11 Now --.

12 MRS. RACINE: Thank you, Your Honor.

13 THE COURT: Now we can get off-the-record here.

14 (WHEREUPON, an off-the-record discussion was held at
15 this time.)

16 THE COURT: See everybody in the morning.

17

18 (WHEREUPON, court was in recess for the evening.)

19

20

21

22

23

24

25

1 Friday, April 16th, 2021

2

3 THE COURT: Everybody's ready?

4 I think the jury's here.

5 THE BAILIFF: Yes, sir.

6 THE COURT: Everybody's ready.

7 All right. Don't forget I'm gonna call -- you know,
8 the State has now rested and I'm gonna call on you to rest
9 in front of the jury.

10 okay.

11 (WHEREUPON, the following takes place within the
12 presence of the jury.)

13 THE COURT: Good morning, ladies and gentlemen.

14 Mr. Foreman, any issues for the jury?

15 THE FOREMAN: None that were brought to my attention,
16 Your Honor.

17 THE COURT: Okay. Very good. Thank you.

18 All right. We're ready. The State has rested
19 yesterday. That brings us to the defense.

20 Mrs. Racine?

21 MRS. RACINE: Your Honor, at this time the defense
22 rests.

23 THE COURT: The defense rests?

24 MRS. RACINE: Yes, sir.

25 THE COURT: Okay. All right. Ladies and gentlemen,

1 the defense has rested. The defense is not choosing to
2 call -- it chose not to call witnesses or put up any
3 evidence nor are they required to do so. The burden,
4 remember, remains on the government to prove guilt beyond a
5 reasonable doubt.

6 So that means it's time for me to charge and then send
7 the case to you for your determination.

8 Mr. Foreman, ladies and gentlemen, you have seen and
9 heard the evidence presented as well as the -- no. You have
10 not. Ahead of myself. Thank you.

11 Give your attention to the lawyers. They're gonna make
12 their closing statements. I just was jumping the gun there.

13 SOLICITOR LESKANIC: That's all right.

14 THE COURT: I'm sorry.

15 SOLICITOR LESKANIC: May it please the Court, Your
16 Honor?

17 THE COURT: Yes, ma'am.

18 SOLICITOR LESKANIC: Thank you.

19 Good morning, ladies and gentlemen.

20 You heard all of the evidence that was presented
21 yesterday. I think what we were able to show to you is
22 that, on July 3rd, 2019, Whitney Dunn, who is here today,
23 was working as a cashier at Mom's Stateline Grocery here in
24 Cherokee County. She's also worked at Subway for 12 years.
25 She's a young woman working two jobs trying to make an

1 honest living.

2 And, on that evening, close to closing time, the
3 defendant, Robert Hawkins, came into the store, armed with a
4 gun, brought a plastic bag with him, put it down on the
5 counter, told her he's gonna make it easy for her, and she
6 said she was terrified. She tried to just hand him the
7 whole tray and he said I'm not touching anything. I want
8 you to put the money in the bag and he left the store with
9 the money.

10 That's what happened. There's video surveillance of
11 the armed robbery. You were able to see that, State's
12 Exhibit 5. You'll have that with you if you want to watch
13 that again in the jury room.

14 Whitney testified that he had a gun. You see the gun
15 on video. She testified that he brought in a plastic bag.
16 You see the plastic bag on the counter in the video. She
17 said her thought, do what he says, and don't die.

18 You saw the video. Whitney explained to you that the
19 video surveillance system captured the video but they were
20 unable to put that on a disk. So, the video was actually
21 recorded on Mr. Patel's phone. She told you that a portion
22 of that was missing, the very beginning, where he came in
23 and he pulled the gun out of his waistband.

24 But they were able to take still shots from the video
25 surveillance system and you'll see, and you'll have this

1 back here with you, State's Exhibit 8 shows him in there
2 pulling the gun out of his waistband just as she stated.

3 State's Exhibit 9, which is on the video, shows him
4 standing at the counter with the bag, with the gun in his
5 hand pointed at Whitney.

6 Exhibit 7, also from the video surveillance, is a
7 larger photograph of Robert Hawkins in the store. This is
8 the photograph that was used for the Facebook picture that
9 was sent out. This was captured from the video surveillance
10 system, sent to Whitney. She sent it to a friend of hers
11 who put it out on Facebook, and that's where you started
12 hearing from the defendant's family.

13 You heard from Jennifer Hawkins, his mother. Said I
14 raised him for 17 years and I've seen him even recently. He
15 has very distinctive lips. He would always wear that type
16 of handkerchief or bandanna, the sunglasses, the hat on
17 backwards. That's his signature look and that's a mother
18 telling you that and a mother knows her son.

19 She said that she is 100 percent sure it's her son,
20 Robert Hawkins, who robbed Whitney. She told you that he
21 wasn't working at the time of the robbery but he had given
22 his girlfriend a ring on July 5th, 2019, two days after this
23 armed robbery. She also told you that, after this armed
24 robbery, she noticed that he started changing his
25 appearance, growing a beard, letting his hair grow out, not

1 looking like he did on the video surveillance.

2 something that was very difficult for her and she
3 started tearing up, she looked at State's Exhibit 5, the
4 video, and she told you that's my son, Robbie Hawkins. She
5 went through State's Exhibit 5, 7, 8, 9, 11 and 15, all of
6 which you'll have, but she went through each one of those
7 photographs and told you that's my son and it was hard for
8 her through her tears, and it's a hard thing to have to put
9 her up.

10 You heard from his father, Don Hawkins, who came in,
11 told you I've had an opportunity to look at the video before
12 coming into Court. I've watched it while I'm in Court.
13 I've looked at all the pictures. I've had an opportunity to
14 look at them as long as I want to and that's my son. That's
15 Robert Hawkins.

16 Jerica Hawkins, the sister, say this Facebook post was
17 shown to me when I was at work at Food Lion. She works at
18 Food Lion in Blacksburg and she said as soon as I saw the
19 picture I knew that was my brother. I think her testimony
20 was I instantly recognized him as my brother, and she called
21 the police to let them know.

22 she referred to distinctive facial features and his
23 typical style of dress and she was 100 percent sure. She
24 said 10 out of 10 when I asked her.

25 Mrs. Racine is gonna get to talk to you when I finish,

1 and I don't have another opportunity to stand up, and I may
2 have responses to things that she says, but I don't get that
3 opportunity to stand back up. So I can try to anticipate
4 what she may say, but what I can tell you, if there's any
5 testimony that you want to rehear, you can rehear it.
6 You'll have all of the exhibits to go back with you that you
7 can look at to help you make your decision.

8 Sometimes there may be well, the state didn't produce
9 any DNA or they didn't give you any fingerprints, and I love
10 CSI as much as the next person and TV is for CSI. They
11 collect a piece of evidence, they punch it into a computer,
12 and you get a photo and the whole life story of someone.
13 But that's not real life and it's also not necessary when
14 you know who the suspect is.

15 DNA and fingerprints are great in cases where you're
16 trying to find out who committed a crime. But in this case
17 we have positive IDs as to who committed the crime, and it's
18 not a positive ID from someone who got a glimpse and saw
19 someone and came in here and said well, I saw him for five
20 seconds and that's who it is.

21 You heard from family who has lived with him. You
22 heard from a dad who had raised his son, and you heard from
23 a sister who grew up with him, and even lived with him as an
24 adult, and you heard from his mom who started to cry when
25 she told you what her son had done, a mom who was so certain

1 that it was her son that she called 9-1-1, and she sent them
2 a picture of her son, so certain that she reached out to
3 Mr. Patel, the owner of the store, to tell him that's my son
4 and I'm sorry, so certain that she Facebook messaged Whitney
5 Dunn to say that's my son and I'm sorry.

6 She was so certain that not only did she do those
7 things in 2019, but yesterday she came in here before the 13
8 of you and swore under oath to tell the truth and told you
9 that's my son. She did that without any hesitation,
10 100 percent sure, and, ladies and gentlemen, that's beyond
11 all doubt.

12 what do I have to prove in this case?

13 An armed robbery and I have to prove that beyond a
14 reasonable doubt. That's the State's burden is beyond a
15 reasonable doubt I have to prove that Robert Hawkins
16 committed the crime of armed robbery.

17 what does that mean?

18 I have to show that Robert Hawkins took personal
19 property from the presence of another person. He took money
20 from a store in the presence of Whitney Dunn. She had
21 control of that money and she gave it up because he pointed
22 a gun at her.

23 I have to prove that he carried the property away.
24 Whitney testified, after she put the money in the bag, he
25 ran away with it.

1 I have to prove that he used violence or put Whitney in
2 fear when he did this, and she told you do what he says and
3 don't die and I was terrified.

4 I have to show that he was armed with a deadly weapon
5 or used a representation of a deadly weapon or any object
6 Whitney believed to be a deadly weapon. She said he had a
7 gun. The video shows a gun but I don't have to prove what
8 kind of gun it was. I don't even have to prove it's a real
9 gun. I have to prove that he used something that she
10 thought was a deadly weapon and, because of that, she handed
11 over the money.

12 As I stated, the burden of proof for the State is proof
13 beyond a reasonable doubt.

14 What does that mean for you and the judge is gonna give
15 you instructions?

16 The wording that you're gonna hear, are you firmly
17 convinced?

18 Are you firmly convinced that Robert Lawrence Hawkins
19 is guilty of armed robbery of Mom's Stateline Grocery on
20 July 3rd, 2019?

21 Are you firmly convinced that Don Hawkins recognized
22 his son?

23 Are you firmly convinced that Jerica Hawkins can
24 recognize her own brother?

25 Are you firmly convinced that Jennifer Hawkins can

1 recognize her own son that she raised?

2 My burden is beyond a reasonable doubt. Their burden
3 to come in here and testify before you I submit was beyond
4 all doubt. They would not have been here to testify against
5 their son and their brother if they had the slightest
6 hesitation in what they were telling you, and I believe the
7 evidence presented supports a finding of guilty.

8 Thank you.

9 THE COURT: Yes, ma'am.

10 MRS. RACINE: Thank you, Your Honor.

11 Please the Court.

12 Good morning. First of all, I just wanted to thank you
13 for your time yesterday and today. I know you've been
14 listening to everything that the State has presented and the
15 facts of the case.

16 In a few minutes Judge Kelly's gonna get to read you
17 the law in the case, and I want you to pay attention to
18 that, and, just very briefly, I want you to please keep in
19 mind three things when you get this case and take it into
20 the jury room and start discussing it.

21 First of all, I know you-all have noticed that there's
22 been no client sitting at the table with me. Judge Kelly
23 will tell you, and I just want to emphasize again, that
24 Mr. Hawkins' absence can't be used against him, can't be
25 considered against him in anyway when you discuss this case

1 with regards to his guilt or innocence.

2 The number two thing I want you to please remember is,
3 at this moment, he is still considered an innocent man.
4 He's innocent unless or until Ms. Leskanic can convince you
5 beyond a reasonable doubt that he's guilty. But as it
6 stands right now, my client is still an innocent man.

7 And, finally and most importantly, when you go back and
8 start talking about this case, just please keep in mind all
9 of the elements of this crime. And if you feel that the
10 state has failed to convince you beyond a reasonable doubt
11 on every single element of this case, then you must find my
12 client not guilty and that's what I ask you to do today.

13 Thank you.

14 THE COURT: Thank you, ladies.

15 Mr. Foreman, ladies and gentlemen of the jury, you have
16 now seen and heard the evidence presented as well as
17 listened to the arguments of the lawyers. And it is now my
18 duty and my obligation to instruct you on the law. It will
19 then be your duty and obligation to begin your deliberations
20 through which process you will decide the facts, apply the
21 law as I now give it to you, and render a verdict.

22 It is your exclusive duty to determine what the facts
23 are in this case. You will do this based on your common
24 sense evaluation and examination of the testimony and the
25 evidence received during this trial. You 12 alone will

1 decide when effect, value, and weight is to be given to any
2 testimony or evidence received. Quite simply, your
3 obligation is to give both the state and this defendant a
4 fair and impartial trial based on the evidence presented and
5 the law in this case.

6 The indictment charges the defendant, Robert Lawrence
7 Hawkins, with the criminal offense of armed robbery.
8 Specifically, that he did, in the County of Cherokee, State
9 of South Carolina, on or about July 3, 2019, while armed
10 with a deadly weapon or while alleging either by action or
11 words that he was armed while using a representation of a
12 deadly weapon or any object which a person present during
13 the commission of the robbery reasonably believed to be a
14 deadly weapon, feloniously take from the person or presence
15 of Whitney K. Dunn, by means of force, violence, and/or
16 intimidation, goods or monies of Mom's Stateline Grocery,
17 such goods or money being described as cash, with the intent
18 to deprive the owner permanently of the property.

19 I remind you the fact that this defendant was arrested,
20 charged, and indicted is not evidence in the case and can
21 not be considered by you as evidence of guilt nor does it
22 create any presumption or inference of guilt. As I told you
23 yesterday, the indictment is simply a written instrument
24 which contains the charge made against him. It is a formal
25 document which brings him before the court.

1 The defendant has entered a plea of not guilty to the
2 indictment and that plea puts the burden on the State of
3 South Carolina to prove his guilt beyond a reasonable doubt.
4 A person charged with committing a criminal offense in South
5 Carolina is never required to prove himself innocent. I
6 charge you it is a cardinal and important and a vital rule
7 of law, in a criminal trial, that no matter what the
8 seriousness of the crime may be for which the defendant
9 stands charged he is always presumed to be innocent of the
10 crime for which the indictment was issued unless guilt has
11 been proven by you evidence satisfying you of guilt beyond a
12 reasonable doubt.

13 The presumption of innocence does not end when you
14 begin your deliberations. It accompanies the defendant
15 throughout the trial until you reach a verdict of guilt
16 based on evidence satisfying you of guilt beyond a
17 reasonable doubt. The presumption of innocence has been
18 described as a robe of innocence placed about his shoulders
19 which remains with him from the moment of arrest and
20 continues with him unless it has been -- and until it has
21 been stripped from his shoulders by evidence satisfying you
22 of guilt beyond a reasonable doubt.

23 The presumption of innocence is not a legal theory nor
24 is it a legal phrase. It is a substantial right to which
25 every defendant is entitled unless you 12 jurors are

1 satisfied from the evidence of his guilt beyond a reasonable
2 doubt.

3 I remind you that, during the trial, you and I have
4 certain duties to perform. As the trial judge, it is my
5 responsibility to preside over the trial of the case and
6 also I have the duty to rule on the admissibility of
7 evidence. You are to consider only the competent evidence
8 before you. If any evidence was ordered stricken from the
9 record, you must disregard that. You are to consider only
10 the testimony which has been presented from the witness
11 stand, the exhibits which have been made a part of the
12 record, and the stipulations of the lawyers.

13 Additionally, I have the duty to charge you on the law
14 in this case. As presiding judge, I am the sole judge of
15 the law and it is your duty, as jurors, to accept it and
16 apply it as I now give it to you. If you have any idea as
17 to what the law is or what the law ought to be or should be
18 and it does not agree with what I tell you the law is, you
19 must abandon your idea because you are sworn to accept the
20 law and apply it as I state it to you.

21 In every case tried in this courtroom before a jury,
22 you 12 become the sole and exclusive judge of the facts. A
23 trial judge in South Carolina can not make a comment or a
24 statement to a jury about a fact in a case. You 12 are the
25 sole judge of the facts and you are not to infer from

1 anything that I have said during the process -- progress of
2 this trial in ruling on admissibility of evidence that I
3 have an opinion about a fact in this case. The law of this
4 state does not allow me to have an opinion about a fact.
5 That matter is solely for you, the jury, to determine.

6 The State of South Carolina has the burden of proving
7 this defendant guilty beyond a reasonable doubt. Now, proof
8 beyond a reasonable doubt is proof that leaves you firmly
9 convinced of the guilt of this defendant. There are very
10 few things in the world that we know with absolute
11 certainty, and, in criminal cases, the law does not require
12 proof that overcomes every possible doubt.

13 A reasonable doubt may be described as the kind of
14 doubt that would cause a reasonable person to hesitate to
15 act. If you have a doubt as to the guilt of this defendant,
16 the defendant is entitled to a verdict of not guilty.
17 Reasonable doubt may arise from evidence in a case or from
18 the absence or lack of evidence in a case.

19 Based on your consideration of the evidence, if you are
20 firmly convinced the defendant is guilty of the crime, say
21 and find him guilty. But, on the other hand, if you think
22 there's a real possibility he is not guilty, say so and find
23 him not guilty. You 12 alone must make the determination of
24 whether or not reasonable doubt exists as to the guilt of
25 this defendant.

1 There are two types of evidence generally in a case and
2 they are known as direct evidence and circumstantial
3 evidence.

4 Direct evidence is testimony of a person who claims to
5 have actual knowledge of a fact such as an eye witness. It
6 immediately establishes the fact to be proven.

7 Circumstantial evidence is proof of a chain of facts
8 and circumstances indicating the existence of a fact. It is
9 evidence which immediately establishes collateral facts from
10 which the main fact may be inferred. Circumstantial
11 evidence is based on inference and not on personal knowledge
12 or observation.

13 The law of this state makes no distinction between the
14 weight or value to be given direct or circumstantial
15 evidence nor is a greater degree of certainty required of
16 circumstantial evidence. You should weigh all evidence, and
17 after doing so, if you are not convinced of the guilt of the
18 defendant beyond a reasonable doubt, you must find him not
19 guilty.

20 Under the constitution of our state, you 12 are the
21 finders of the facts, and, necessarily, you must determine
22 the credibility of the witnesses who have testified.
23 Credibility simply means believability. It becomes your
24 duty as jurors to analyze and evaluate the evidence and
25 determine which evidence is convincing to you.

1 In determining believability of witnesses, you may
2 believe one over several or several over one. You may
3 believe part of a testimony of a witness and reject the
4 remaining part of that same witnesses testimony. You may
5 believe a witnesses testimony in its entirety or you reject
6 that testimony in its entirety. Whatever your good judgment
7 and common sense tells you is believable testimony is the
8 testimony you should accept and reject all other testimony
9 which you find not to be credible or believable.

10 Now, under the laws of this state, a defendant may be
11 tried even if the defendant does not attend the trial. But
12 the fact that the defendant is not present may not be
13 considered against him in any manner whatsoever. Further, I
14 instruct you and emphasize the fact that the defendant did
15 not testify is not a factor to be considered by you in your
16 deliberations and, and in -- in your consideration of the
17 question of guilt or innocence. It must not be considered
18 in any manner. A defendant has a constitutional right to
19 remain silent and the assertion of this right must not be
20 considered in your deliberations.

21 You are not -- you are -- under your oath, you are to
22 draw no conclusion whatsoever from the fact that he did not
23 testify. The fact that he did not testify should not be
24 discussed in the jury room. Remember, the burden of proof
25 is on the state to prove his guilt beyond a reasonable

1 doubt.

2 criminal intent is a necessary element of each crime
3 and must be proven by the state beyond a reasonable doubt.
4 criminal intent is a matter that must be determined by you,
5 the jury, from circumstances surrounding the situation.
6 There is no way to prove intent to a mathematical certainty.
7 Medical science can not dissect a person's brain and
8 determine what that person had in mind. so the law says
9 criminal intent may be inferred from the circumstances shown
10 to have existed.

11 Ladies and gentlemen, criminal intent is a state of
12 mind which, when operated jointly with an act, is the
13 commission of a crime. criminal intent is a mental state.
14 It is a conscience wrongdoing. so it's up to you 12 to
15 determine what this defendant intended to do based on the
16 circumstances shown to have existed.

17 I tell you the state must prove criminal intent beyond
18 a reasonable doubt just as it must prove every element
19 beyond a reasonable doubt. It is not necessary to establish
20 intent by direct or positive evidence but it may be
21 established by inference the same way as any other fact by
22 taking into consideration the acts of the parties and all
23 the facts and circumstances. The state may prove motive but
24 it is not necessary for the state to do so but they must
25 prove criminal intent.

1 Now, the defendant is charged with armed robbery. In
2 order to prove this offense, the State must first prove,
3 beyond a reasonable doubt, that this defendant took personal
4 property from the person or presence of another person.
5 Property is in the presence of a person if it is within that
6 person's reach, inspection, observation, or control so that
7 the person could, if not overcome with violence or prevented
8 by fear, keep possession of the property. The State must
9 also prove, beyond a reasonable doubt, this defendant
10 carried the property away intending to permanently deprive
11 the owner of the property and to keep the property for his
12 own use.

13 The slightest removal of the property or the complete
14 possession of the property, even for an instant by the
15 defendant, is sufficient to show a taking and carrying away
16 of the property. The taking and carrying away of property
17 must have been done with violence or by putting the owner of
18 the property in fear of violence.

19 And, finally, the State must prove, beyond a reasonable
20 doubt, the defendant was armed with a deadly weapon during
21 the robbery or that this defendant was armed while using a
22 representation of a deadly weapon or any object which a
23 person present during the commission of the robbery
24 reasonably believed to be a deadly weapon.

25 A deadly weapon is described as any article,

1 instrument, or substance which is likely to cause death or
2 great bodily harm. Whether an instrument has been used as a
3 deadly weapon depends on the facts and circumstances of each
4 case.

5 The following are examples of instruments which may be
6 deadly weapons:

7 A pistol, shotgun, rifle, dagger, knife, metal
8 knuckles, a razor, gasoline, fire bomb, or lighter fluid. A
9 gun may be a deadly weapon even if it is not operational.

10 You 12 have been selected as fair and impartial jurors
11 sworn to impartially try and determine the facts and you are
12 to decide this case according to the testimony you have
13 heard from the witnesses along with the other items
14 introduced into evidence.

15 Ladies and gentlemen, your verdict must be unanimous.
16 All 12 must agree.

17 Mr. Foreperson, while the -- when the jury agrees on
18 the verdict, I want you to indicate the verdict in the space
19 provided on the verdict form that I'm gonna explain
20 momentarily, knock on the jury room door, tell the bailiff
21 that the jury has reached a verdict, and we will return all
22 12 of you to the courtroom to receive your verdict.

23 Now, jury deliberations must be while all 12 are
24 together. So, if someone needs to refresh themselves,
25 smoke, get a drink of water, whatever that might be,

1 deliberations must cease until all 12 are together.

2 This is the verdict form of which I speak. My law
3 clerk has been with me all week. He prepares this in every
4 case that I try. It has the caption of the case here. It
5 has a number that merely means that it goes with this
6 indictment.

7 It says we, the jury, unanimously find the defendant,
8 Robert Lawrence Hawkins, on the charge of armed robbery, not
9 guilty or guilty. I tell you there is no significance to
10 not guilty and guilty being one above the other. It just
11 necessarily had to be one above the other and that's the way
12 I do it in every case that I try.

13 When the jury reaches its verdict, Mr. Foreman, you can
14 put a check mark, an X, an initial, however you choose to do
15 it, on whichever decision it is. Only thing I ask is that
16 it be unambiguous. It be very clear to Madam Clerk and
17 myself to which, which one it is. It then says I certify
18 this decision was the unanimous decision of this jury. It
19 has a place here for you to sign and put a date right here.

20 Okay. Now, I'm getting ready to send you back into the
21 jury room, all 13 of you. The lawyers are gonna come
22 forward when you leave, these exhibits, and they're not that
23 many. Sometimes we have a couple of hundred exhibits. The
24 lawyers are gonna come forward and get with my court
25 reporter and ensure that they're all there because it's so

1 very easy -- I practiced law in this courtroom many years.
2 It's so very easy to be talking in closing argument and hold
3 up a picture, walk back to the table, lay it down, and now
4 it's missing. The lawyers are gonna come up and ensure that
5 everything is there because it's your evidence.

6 When they tell me they have everything, we're gonna
7 give it to the bailiff.

8 The bailiff is gonna bring this form and that evidence
9 to you, Mr. Foreman.

10 Ma'am, when he does that, you're the alternate, you
11 will then leave. So, he brings the evidence and you will
12 leave with the bailiff and return to my courtroom. I'll
13 excuse you from here.

14 Okay. Wouldn't be proper for you to be with the 12 at
15 that point.

16 All right. Don't begin your deliberations until you
17 get the evidence.

18 Mr. Foreman, if you'll take the jury out.

19 (WHEREUPON, the following takes place outside the
20 presence of the jury.)

21 THE COURT: Anything from the State?

22 SOLICITOR LESKANIC: No, Your Honor.

23 THE COURT: And from defense?

24 MRS. RACINE: No, Your Honor.

25 THE COURT: All right. Ladies, if you'll ensure that

1 everything is there.

2 SOLICITOR LESKANIC: Judge?

3 THE COURT: Yes.

4 SOLICITOR LESKANIC: Mrs. Racine and I have looked at
5 all of the exhibits. We have exhibits 1 through 5. No. 6
6 is remaining with the court reporter. That was the Facebook
7 post that we kept out, and then we have Exhibits 7 through
8 15 in order for the jury.

9 THE COURT: Okay. If you'll bring the alternate out.

10 (WHEREUPON, the alternate juror was dismissed at this
11 time.)

12 THE COURT: Okay.

13 (Whereupon, the jury began deliberations at 9:37AM and
14 returned with a verdict at 9:51AM.)

15 THE COURT: Ready?

16 SOLICITOR LESKANIC: Yes, sir.

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

19 THE COURT: Mr. Foreman, has the jury reached its
20 verdict?

21 THE FOREMAN: We have, Your Honor.

22 THE COURT: If you'd hand that to the bailiff please.

23 (WHEREUPON, the foreman complies.)

24 THE COURT: Madam Clerk will publish.

25 THE CLERK: 2019-GS-11-1519, State of South Carolina

1 versus Robert Lawrence Hawkins, we, the jury, unanimously
2 find the defendant, Robert Hawkins, on the charge of armed
3 robbery, guilty. Signed by foreperson, Steven Acker.

4 Ladies and gentlemen of the jury, if this is still your
5 verdict, please indicate by raising your right-hand.

6 (WHEREUPON, all jurors raise their hands at this time.)

7 THE CLERK: Thank you.

8 THE COURT: Polling by the state?

9 SOLICITOR LESKANIC: No, Your Honor. Thank you.

10 THE COURT: Polling by the defense?

11 MRS. RACINE: No, Your Honor.

12 THE COURT: Thank you.

13 (WHEREUPON, the jury was dismissed at this time.)

14 THE COURT: Matters from the State?

15 SOLICITOR LESKANIC: No, Your Honor.

16 THE COURT: Anything from defense?

17 MRS. RACINE: No, Your Honor.

18 THE COURT: Okay. Very good.

19 Does the State wish to be heard?

20 SOLICITOR LESKANIC: May we have just a moment, Your
21 Honor?

22 THE COURT: Yes, ma'am.

23 (Pause.)

24 THE COURT: Yes, ma'am.

25 SOLICITOR LESKANIC: May it please the Court, Your

1 Honor.

2 THE COURT: Yes, ma'am.

3 SOLICITOR LESKANIC: Whitney Dunn and Neil Patel are
4 both in the courtroom. Mr. Patel owns Mom's Stateline
5 Grocery, and, of course, Whitney Dunn was the clerk who was
6 robbed back on July 3rd. I inquired of both of them
7 whether they would like to address, Your Honor. They do
8 not, but they have been here throughout the trial, and I
9 wanted to place that on the record.

10 The defendant's prior criminal history consists of a
11 simple possession of a scheduled VI controlled substance out
12 of North Carolina in 2016, a failure to appear on a
13 misdemeanor in 2019 also out of North Carolina, and also a
14 criminal contempt in 2019 out of North Carolina.

15 I guess we would ask for no contact with the -- with
16 this store in the future, Your Honor, with the victims. And
17 also the family members. I have to say that the mother was
18 concerned and inquired of me about a restraining order. So,
19 if that could be part of any sentence as well. I don't know
20 if Your Honor could do that but the mother did inquire about
21 that.

22 THE COURT: Okay.

23 SOLICITOR LESKANIC: So thank you.

24 THE COURT: Mrs. Racine.

25 MRS. RACINE: Your Honor, Your Honor, I just ask that

1 whatever sentence you choose to impose that you be as
2 lenience on my client as possible.

3 THE COURT: Thank you.

4 MRS. RACINE: Thank you.

5 THE COURT: Okay. Madam Clerk, if you'll seal the
6 sentence and issue a bench warrant for the defendant's
7 arrest.

8 Thank you.

9 Sentence will be opened in open court when he is
10 brought before the court.

11

12 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Cherokee County, South Carolina, on the 15th and 16th days of April, 2021.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

October 7th, 2021



PAMELA E. GREEN, Court Reporter

Cherokee County Courthouse

RANDOM STRIKE SHEET

133

JUDGE NAME : Kelly, R. Keith
 TRIAL TYPE : Criminal
 PANEL ID : 2019GS1101519
 COURTROOM CTRM

DESCRIPTION : State VS Robert Hawkins

Sorted by: Random Nbr
 Trial

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
1 Torres, Mandy G	151	H	F	()	(✓)	()	
2 Charbonneau, John F Jr.	18	W	M	(✓)	()	()	
3 Land, Kathy A	92	W	F	()	()	()	✓
4 Keener, Rhonda C	88	W	F	()	()	()	✓
5 Mccurry, Danny M	106	W	M	()	(✓)	()	
6 Lush, Larry E	99	W	M	(✓)	()	()	
7 Acker, Steven L	1	W	M	()	()	()	✓
8 Mcswain, Belinda M	109	W	F	(✓)	()	()	
9 Wheeler, Clarence L	159	W	M	()	()	()	✓
10 Crocker, Timothy L	33	W	M	()	()	()	✓
11 Harris, Laqunda M	62	B	F	(✓)	()	()	
12 Pennington, Ricky W	131	W	M	()	()	()	✓
13 Gibson, Danny R	54	W	M	()	()	()	✓
14 Mccraw, Jerry O	104	W	M	()	(✓)	()	
15 Wright, Julianne M	174	W	F	()	()	()	✓
16 Chitty, Charles C	20	W	M	()	()	()	✓
17 Berry, Michelle L	5	W	F	()	(✓)	()	
18 Childers, Jennifer W	19	W	F	()	()	()	✓
19 Lee, Phoua	95	H	F	()	()	()	✓
20 Mosley, Melissa D	113	W	F	(✓)	()	()	
21 Wilkie, Bridget M	165	W	F	()	()	()	✓
22 Gunter, Melynda J	59	W	F	()	()	()	✓
23 Henderson, Stephanie R	66	W	F	()	()	()	
24 Driskill, Joshua A	43	W	M	()	()	()	

**Cherokee County Courthouse
RANDOM STRIKE SHEET**

JUDGE NAME : Kelly, R. Keith
TRIAL TYPE : Criminal
PANEL ID : 2019GS1101519
COURTROOM CTRM

DESCRIPTION : State VS Robert Hawkins

Sorted by: Random Nbr
Trial

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
25 Presnell, Erica C	133	W	F	()	()	()	
26 Harris, Jack M Jr.	61	W	M	()	()	()	
27 Cobb, Timothy J	23	W	M	()	()	()	
28 Whiteside, Daniel S	164	W	M	()	()	()	
29 Palong, Sophie D	120	A	F	()	()	()	
30 White, Carolyn A	162	B	F	()	()	()	
31 Good, Aquinnda D	55	B	F	()	()	()	
32 Cox, Kelly J	30	W	F	()	()	()	
33 Bolin, Travis H	9	W	M	()	()	()	
34 Wilson, Denise D	169	W	F	()	()	()	
35 Foreman, Christopher M	52	W	M	()	()	()	

Total Number of Jurors:

35

**** END OF REPORT ****

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 -VS-)
)
 ROBERT HAWKINS,)
)
 DEFENDANT.)
 _____)

2019-GS-11-01519

TRANSCRIPT OF RECORD

AUGUST 10, 2021
GAFFNEY, SOUTH CAROLINA
(VIRTUAL HEARING)

B E F O R E:

THE HONORABLE MICHAEL G. NETTLES

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

ATTORNEY FOR PLAINTIFF:

KIMBERLY LESKANIC, ASST. SOL.

ATTORNEY FOR DEFENDANT:

TRACY RACINE, ESQ.

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

INDEX

WITNESS

PAGE NO.

CERTIFICATE OF REPORTER

6

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
-----------	--------------------	-----------	-----------------

(No Exhibits Were Presented During This Hearing)

1 **MADAM CLERK:** If you'll please raise your right hand,
2 Mr. Hawkins. Do you solemnly swear the information you give
3 to this Court to be the truth, the whole truth and nothing but
4 the truth so help you God?

5 **MR. HAWKINS:** Yes.

6 **MADAM CLERK:** You have to answer our loud.

7 **MR. HAWKINS:** Yes. Yes, ma'am.

8 **MADAM CLERK:** You may lower your hand.

9 **THE COURT:** Mr. Hawkins, how are you doing today?

10 **MR. HAWKINS:** I'm doing all right, I guess.

11 **THE COURT:** Good.

12 You were actually tried in your absence, and Judge Kelly
13 sentenced you in your absence. And it's my duty and
14 responsibility to issue the sentence. Pay very close
15 attention.

16 On indictment 2019-GS-11-01519, armed robbery, the
17 sentence of the Court is that you be committed to the State
18 Department of Corrections for a period of 25 years. You're to
19 be given credit for the time that you have already served.
20 Restitution is ordered in the amount of eight hundred and
21 nineteen dollars (\$819.00). Good luck to you.

22 **MR. HAWKINS:** Can I appeal this?

23 **THE COURT:** Yes, you can. You have ten days to appeal.

24 And ---

25 **MR. HAWKINS:** All right.

1 THE COURT: --- good luck to you.

2 **MR. HAWKINS:** Okay. I want to appeal this.

3 **MS. RACINE:** I'll give you a call, Mr. Hawkins. I'll
4 call you.

5 THE COURT: Okay.

6 MR. HAWKINS: Okay.

7 **THE COURT:** Yes, ma'am. Would you like to be heard?

8 **MS. RACINE:** No, sir, Your Honor. At this point
9 sentencing is done. I don't think there's anything I can say.
10 I will call Mr. Hawkins when this is over and talk to him
11 about appeal actions.

12 **THE COURT:** Okay. Thank you so much.

13 MS. RACINE: Yes. Thank you, Your Honor.

14 **THE COURT:** Thank you.

15 MS. LESKANIC: Thank you, Your Honor.

16 (Hearing Ended at 10:08 am)

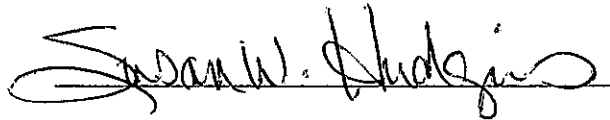
17 (End of Requested Transcript of Record)

Certificate of Reporter

I, the undersigned, Susan W. Hudgins, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Cherokee County, South Carolina, on the 10th day of August 2021.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

October 5, 2021

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

Circuit Court Reporter

WITNESSES

Cherokee County Sheriff's Office

Paul Smith

ARREST WARRANT NUMBER

2019A1110100939

ACTION OF GRAND JURY

FILED

Paul Smith

Foreperson of Grand Jury

Date: 10/24/19

VERDICT

Guilty

Paul Smith

Foreperson of Petit Jury

Date: 4/16/21

DOCKET NO. **19-GS-11-01519**

The State of South Carolina

County of Cherokee

Barry Bannette, Solicitor

COURT OF GENERAL SESSIONS

October 24, 2019 TERM

THE STATE

vs.

ROBERT LAWRENCE HAWKINS

Indictment for

ARMED ROBBERY

SC Code: 16-11-330 (A)

CDR Code: 139

Class FEL/A

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

2019 OCT 24 AM 10:58

BRANDY W. MCBEE

STATE OF SOUTH CAROLINA)
COUNTY OF CHEROKEE)
INDICTMENT

At a Court of General Sessions, convened on October 24, 2019, the
Grand Jurors of Cherokee County present upon their oath:

ARMED ROBBERY

That Robert Lawrence Hawkins did in Cherokee County on or about July 3, 2019, while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, feloniously take from the person or presence of Whitney Kaye Dunn, by means of force, violence, and/or intimidation, goods or monies of Mam's State Line Grocery, such goods or monies being described as follows: cash, with intent to deprive the owner permanently of such property, in violation of §16-11-330 (A), THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

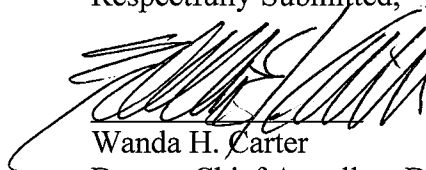
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Kimberly R. Kane
DEPUTY SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

RECEIVED

Dec 21 2021

SC Court of Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 21st day of December, 2021.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Dec 21 2021

SC Court of Appeals

Appeal from Cherokee County

Honorable R. Keith Kelly, Circuit Court Judge

THE STATE,

RESPONDENT,

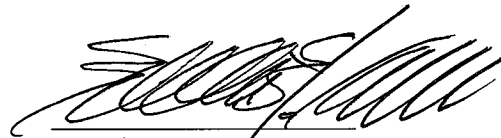
V.

ROBERT LAWRENCE HAWKINS,

APPELLANT.

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above referenced case has been served upon William M. Blitch, Jr., Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 21st day of December, 2021.



Wanda H. Carter
Deputy Chief Appellate Defender