

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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Jun 10 2022

APPEAL FROM EDGEFIELD COUNTY
Court of Common Pleas
Debra R. McCaslin, Circuit Court Judge

S.C. SUPREME COURT

Appellate Case No. 2021-001426

K.C. Langford.....Petitioner,

v.

State of South Carolina,.....Respondent.

Appendix Volume I of III

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STATE OF SOUTH CAROLINA
COUNTY OF EDGEFIELD

COURT OF GENERAL SESSIONS

STATE)
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)
 V.)
)
 KC LANGFORD AND)
 BRYAN JORDAN PHILLIPS)
)
 DEFENDANTS.)

TRANSCRIPT OF RECORD
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MAY 17, 2010
EDGEFIELD, SOUTH CAROLINA

B E F O R E:

THE HONORABLE WILLIAM P. KEESLEY, JUDGE.

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

ERVIN J. MAYE, ASSIST. SOLICITOR
ATTORNEY FOR THE STATE

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RANDALL D. WILLIAMS, ESQUIRE
ATTORNEY FOR DEFENDANT BRYAN JORDAN PHILLIPS

STACY L. SHEPPARD
CIRCUIT COURT REPORTER

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WITNESSES DIRECT CROSS REDIRECT RECROSS

(There were no witnesses.)

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| 6 | | (There were no exhibits.) | | |
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1 (The following proceedings were held on May
2 17, 2010.)

3 THE COURT: Did y'all have a motion?

4 MR. WILLIAMS: Yes, sir, Your Honor. As the
5 Court is likely aware, I filed a written motion, I
6 believe, it was January the 14th of 2010. At which
7 time, we requested a speedy trial on behalf of my
8 client, Mr. Bryan Jordan Phillips, as it pertained
9 to several indictments under which he stood accused.

10 Furthermore, Judge, I was appointed to
11 Mr. Phillips July 20th of 2009. And there have been
12 a number of communications between myself, as well
13 as the Solicitor's office, as well as the Court with
14 regard to having his case tried.

15 Based upon my calculation, he's been in jail
16 since September of 2008. I believe it was September
17 20th -- 28th of 2008, and to date, he has no bond.
18 And, essentially, we were prepared to defend his
19 case on this date. And beyond no control of our
20 own, the State has been unable to bring this case
21 before the Court.

22 Judge, we would ask that the Court would
23 consider two things on behalf of my client:
24 Initially, we would ask the Court to consider that
25 even the penalty of dismissal is appropriate when

1 the case is not brought in a timely manner. We
2 certainly believe 20 months is a substantial enough
3 period of time to give the State an opportunity to
4 prepare its case and prosecute it.

5 If the Court sees not fit to dismiss the case,
6 we would ask certainly that a bond that's affordable
7 be given to my client. It's my understanding he is
8 a person of humble means and these are somewhat
9 serious charges. However, he is a lifetime resident
10 of Edgefield County and he's substantially supported
11 by his mother, who is present here today, Ms. Janie
12 Robinson. She has been in touch with my office on a
13 couple of different occasions and I've talked to her
14 as well.

15 Judge, we would ask the Court to consider
16 imposing a bond that would be sufficient to insure
17 his return to court and one that would also be
18 affordable in that he will be able to actually get
19 out on these charges.

20 Additionally, we would like to renew our motion
21 for a speedy trial in the event the Court does not
22 see fit to grant a bond. And that's the substance
23 of our motions, Your Honor.

24 **THE COURT:** Do you have similar motions?

25 **MR. CALHOUN:** Yes, Your Honor. My two motions

1 mirror those of Mr. Williams with the exception that
2 my client had filed his own speedy trial motion, so
3 we would like to renew that motion.

4 In regards to the bond, he also has been in
5 jail since September of 2008. He feels that he
6 might be able to post a 20,000, ten percent bond,
7 but he is asking the Court for a personal
8 recognizance bond until the Solicitor's office is
9 able to move the -- or decide what they're going to
10 do with the Alvin P. case.

11 **THE COURT:** What's the State's position?

12 **MR. MAYE:** Your Honor, the State was prepared
13 to call these two cases for trial today. Obviously,
14 the codefendant in this case, he's 19 years of age,
15 he's younger than these two individuals, had no
16 prior record, had previously -- had given a
17 statement implicating both himself and these two
18 individuals. He has indicated, law enforcement has
19 provided information to us, that these two
20 individuals had been exhorting him and pressuring
21 him not to testify and telling him if he just keeps
22 his mouth shut, none of them are going to be in
23 trouble.

24 Both of these individuals have records. Mr.
25 Langford has records for use of vehicle without

1 owner's consent. He got three years. His probation
2 was revoked in 2003. He got a three year sentence.
3 In July of '06, he got a receiving stolen goods
4 \$5,000 or more, five years suspended on a year with
5 five years probation. He has a Richmond County,
6 Georgia record, possession of drugs and criminal
7 interference with government property out of '03.

8 Mr. Bryan Phillips has a record for
9 distribution of cocaine and distribution of
10 proximity that he received a YOA in 2006.

11 Your Honor, we believe that the defendant's
12 decision to reverse his initial decision to
13 cooperate is brought on in large part because of
14 pressure brought to bear because of these two
15 individuals. We are now faced with trying the
16 individual that was going to previously be a
17 testifying witness in this case. We're already
18 setting that for the next term of court, Your Honor,
19 to try him.

20 We still intend to go forward with the cases
21 against Mr. Phillips and Mr. Langford. The victims
22 are very much afraid of these two individuals. We
23 believe that they are at the root of the cooperating
24 witness' decision not to testify against them, to
25 reverse his previous decision to testify and

1 cooperate against them. We believe either through
2 pressure or threats, they have been able to persuade
3 him not to do so and we don't think that they should
4 be rewarded for that. We'll try them at the very
5 first opportunity.

6 MR. WILLIAMS: Your Honor, in the face of what
7 the Solicitor just said, I just have to say this:
8 The codefendant has an inviolate right to remain
9 silent pursuant to the Fifth Amendment as the
10 Solicitor well knows.

11 Furthermore, Judge, he's been in Saluda
12 County's Detention Center and I don't know what
13 pressure my client, who's in Edgefield County, could
14 bring to bear on an inmate in the Saluda Detention
15 Center some 20 miles away. So I would suggest to
16 the Court that there has been no such threats, no
17 such pressures have been brought to bear on his
18 decision, not from my client.

19 MR. CALHOUN: Your Honor, I'd like to add that
20 the victims in this case could not identify any of
21 the three defendants. And they're really of no help
22 in the prosecution of this case as far as
23 determining who the three people were that robbed
24 them, so I don't believe that they're at any risk
25 from our folks by providing their testimony because

1 their testimony is largely unhelpful in regards to
2 prosecuting him and the three defendants. I don't
3 feel that there's a risk to the victims in this case
4 in this regard.

5 THE COURT: Is there some interpreter issue in
6 this trial that you all mentioned to me last week --
7 or mentioned to my law clerk last week?

8 MR. MAYE: No, sir, Your Honor. We had an
9 interpreter come. We have someone that's assisting
10 us with talking with the victims. And we have a
11 certified court interpreter that does not know any
12 of the facts, is not associated with either us or
13 the defense that the Court -- that the Clerk of
14 Court arranged to come here.

15 And we just -- having someone -- that South
16 Carolina didn't have anybody that was on the court
17 reporter -- I mean, the interpreter's list for
18 Mandarin/Chinese and we had to get someone from out
19 of state, that's been the only issue. But we've
20 arranged to have that individual appear for Alvin
21 P. , who's neither one of their clients, trial
22 at the very next term of court, which is our first
23 opportunity.

24 We've attempted obviously to call Alvin's case
25 at this term of court, but the lawyer that had been

1 appointed to him had only had his case for
2 approximately eight days and obviously the posture
3 of that changed at the last minute. He is not
4 prepared to go forward or we would try his case at
5 this term of court.

6 **THE COURT:** But you had to get an interpreter
7 from some other state was my point.

8 **MR. MAYE:** Yes, from Georgia.

9 **THE COURT:** It's not like you've got 25 Spanish
10 interpreters you can call upon.

11 **MR. MAYE:** No, we had to get someone. But we
12 have made arrangements, he indicates at the very
13 next term of court, he can come and is going to put
14 that on his calendar to be here for us to proceed
15 against Alvin P. because this all -- Your
16 Honor, all this changes is the order in which we
17 intend to proceed against these defendants. We're
18 going to try Alvin P. first and then these
19 other two defendants.

20 **THE COURT:** And this codefendant, he's housed
21 in Saluda?

22 **MR. MAYE:** We moved him, Your Honor, because
23 law enforcement received information from the jail
24 that these two individuals were putting pressure on
25 him not to testify and we moved him to Saluda at the

1 request of local law enforcement who moved him to
2 Saluda for that very purpose.

3 THE COURT: When?

4 MR. MAYE: He was moved to Saluda -- I do not
5 know the date, Your Honor, but I can find out when
6 he was moved.

7 MR. WILLIAMS: Your Honor, I can tell you. I
8 believe he was put in Saluda County May 28th of
9 2009, just about a year ago.

10 THE COURT: Has he been housed in Edgefield at
11 all in preparation of the trial, Mr. Williams?

12 MR. WILLIAMS: Your Honor, it's my
13 understanding he was, but according to my client,
14 they were segregated from one another. I believe
15 each of them were segregated one from the other so
16 that there wouldn't be the possibility to bring that
17 kind of pressure.

18 MR. MAYE: Your Honor, it was my understanding
19 they were all housed here in Edgefield. I have no
20 idea how they were segregated.

21 Law enforcement received information that they
22 were pressuring that cooperating codefendant and, as
23 a result, he was moved to Saluda and that's all of
24 the information that I had. But they did receive
25 some active information that that was taking place

1 because we moved him for that very purpose and asked
2 that Edge -- I mean, that Saluda keep Alvin P.
3 at that point in time, Your Honor. But we're going
4 to try him as quickly as the Court schedule allows
5 for us to do so, Your Honor.

6 Your Honor, I was provided with some sort of
7 statement that was purported to be by the
8 cooperating witness, Alvin P. , today that was
9 not obtained by either of the attorneys in this
10 case, Your Honor, is my understanding. I don't
11 think it was obtained by any of the attorneys, but
12 was obtained by one of the two defendants in this
13 case, Your Honor, a statement that looks like it was
14 drafted in -- I don't know where it was drafted, but
15 it is a very poorly written statement that indicates
16 that these individuals were not involved that I was
17 provided today. And I don't know who that was
18 obtained by, but I don't think it was obtained by
19 either of the attorneys. I think it was obtained by
20 one of these two individuals.

21 And like I said, I was not aware of that until
22 today the absolute -- the content of it. And I was
23 unaware that they extracted any information, but
24 like I said, that's the only information that I had
25 regarding any contact between them.

1 **THE COURT:** You all had told me just before the
2 break that you were notified, the State was notified
3 at the last moment that this codefendant was not
4 going to testify. And you put on the record that
5 the attorney had asked for a continuance and had
6 only had the discovery for eight days.

7 You had something, Mr. Williams?

8 **MR. WILLIAMS:** Your Honor, I just had one
9 thing, it was more of a procedural or administrative
10 kind of issue. If the Court considers bond, I did
11 want to bring it to the Court's attention that there
12 were a number of indictments against my client that
13 I don't think were offered for trial. I think it
14 was only the armed robbery and burglary that were
15 offered for trial or that you were going to call for
16 trial.

17 **MR. MAYE:** And kidnapping and some other
18 charges. It was kidnapping and possession of a
19 weapon during the commission of a violent crime,
20 assault and battery with intent to kill. There were
21 a number of charges that were potentially against
22 all of them.

23 They've been indicted on a multitude of
24 offenses, some of those overlap. And I was going --
25 intended to proceed today for burglary first and

1 armed robbery in this case, Your Honor, mainly
2 because I had some problem with the wording of the
3 indictments. And so if they're tried in a
4 subsequent term of court, I'm not sure exactly what
5 series of indictments we'd try. All of them arise
6 out of the same incident.

7 I think criminal conspiracy was also indicted.
8 There were a number of charges all flowing from this
9 August 14, 2008 incident.

10 THE COURT: But the motions relate to all of
11 the charges that's pending against --

12 MR. WILLIAMS: All charges, yes, sir.

13 THE COURT: And both motions relate to all of
14 the charges that are pending?

15 MR. CALHOUN: Yes, Your Honor.

16 THE COURT: Well, I need that paperwork because
17 when I do the orders, I have to recite all of the
18 cases that it refers to and I just wrote these down
19 that were handed to me, that's all I knew about.

20 MR. WILLIAMS: Your Honor, and if I have an
21 opportunity to make a copy of this, you know, as it
22 relates to the charges and which ones purport to
23 represent each indictment, I'll do that.

24 THE COURT: All right. Is KC Langford, is it K
25 and C? Are those abbreviations or is his name just

1 KC?

2 DEFENDANT: KC.

3 THE COURT: Like Harry S Truman, there's
4 nothing for the S.

5 DEFENDANT: Yes, sir.

6 THE COURT: I just wanted to make sure because
7 I didn't see anything anywhere except KC, I didn't
8 see a full name. So that is his actual name, those
9 two letters, KC?

10 MR. CALHOUN: Yes, sir.

11 THE COURT: All right. I'll notify you of a
12 decision in writing. Y'all get me those indictment
13 numbers and everything. Thank you.

14 MR. MAYE: Thank you, Your Honor.

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END OF PROCEEDINGS

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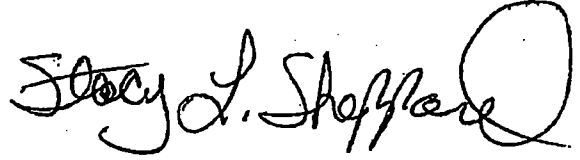
C E R T I F I C A T E

STATE OF SOUTH CAROLINA
COUNTY OF EDGEFIELD

I, the undersigned, Stacy L. Sheppard, Circuit Court Reporter for the Eleventh 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 the evidence introduced in the hearing of the captioned cause, relative to appeal in the Criminal Court for Edgefield County, South Carolina, on the 17th of May, 2010.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

September 23, 2011



Stacy L. Sheppard, RPR
Circuit Court Reporter

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STATE OF SOUTH CAROLINA
COUNTY OF EDGEFIELD

COURT OF GENERAL SESSIONS

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 BRYAN JORDAN PHILLIPS)
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 DEFENDANTS.)

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08-GS-19-673
10-GS-19-272, 273, 278
08-GS-19-718, 723
10-GS-19-274, 277

JANUARY 23, 2011
EDGEFIELD, SOUTH CAROLINA

B E F O R E:

THE HONORABLE WILLIAM P. KEESLEY, JUDGE; AND A
JURY.

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

ERVIN J. MAYE, ASSIST. SOLICITOR
ATTORNEY FOR THE STATE

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ATTORNEY FOR DEFENDANT K.C. LANGFORD

RANDALL D. WILLIAMS, ESQUIRE
ATTORNEY FOR DEFENDANT BRYAN JORDAN PHILLIPS

STACY L. SHEPPARD
CIRCUIT COURT REPORTER

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1 (The following proceedings were held on
2 September 7, 2010.)

3 **THE COURT:** All right. The jury panel is
4 qualified.

5 Ladies and gentlemen, what we're going to do
6 now is we're going to turn from the more general
7 things that we covered this morning to specific
8 cases.

9 Now, what will happen is that the prosecutor
10 will advise me about any case that he may have to
11 call that involves a jury trial and I'll be asking
12 you questions. The purpose of these questions is to
13 find out from you any information that you may be
14 able to share with us about any possible connection
15 you may have to the case or anybody in it, any
16 knowledge you may have about the case, whether
17 anybody's discussed anything with you, whether
18 you've been exposed to any media coverage of the
19 case, if you're connected, related to anybody in the
20 case. If you keep in mind that the goal of all of
21 this is for us to have a jury serving that is fair
22 and impartial, I think the questions will make more
23 sense to you.

24 Remember that you're under oath. Remember that
25 this is a court of record, so everything you say is

1 taken down so I have to identify who is speaking
2 first for the record. So identify yourself when I
3 call on you, listen carefully to the question that's
4 directed to you and answer that question.

5 If I ever limit your response, for example, if
6 I ever say to answer a question just yes or no and
7 you feel that you cannot adequately answer the
8 question within the limitation I place on you, come
9 down front and give me the full answer. I want you
10 to give me the full answer, but don't just blurt it
11 out in front of everybody, otherwise you defeat the
12 purpose of my limitation.

13 All right. Solicitor, call your case.

14 **MR. MAYE:** State now calls for trial indictment
15 2010-GS-19-272, the State versus K.C. Langford, III,
16 an indictment for burglary in the first degree;
17 indictment 2010-GS-19-278, the State versus K.C.
18 Langford, III, an indictment for kidnapping;
19 indictment 2010-GS-19-273, the State versus K.C.
20 Langford, III, an indictment for armed robbery;
21 indictment 2008-GS-19-673, the State versus K.C.
22 Langford, III, an indictment for criminal
23 conspiracy; indictment 2010-GS-19-274, the State
24 versus Bryan Jordan Phillips, an indictment for
25 burglary in the first degree; indictment

1 2010-GS-19-277, the State versus Bryan Jordan
2 Phillips, an indictment for kidnapping; indictment
3 2008-GS-19-723, the State versus Bryan Jordan
4 Phillips, an indictment for armed robbery;
5 indictment 2008-GS-19-718, the State versus Bryan
6 Jordan Phillips, an indictment for criminal
7 conspiracy.

8 All of these charges have been true billed by
9 the Grand Jury of Edgefield County. The State now
10 calls these series of charges to trial.

11 **THE COURT:** All right. Mr. Williams, which
12 defendant do you represent?

13 **MR. WILLIAMS:** Your Honor, I represent
14 Mr. Bryan Jordan Phillips.

15 **THE COURT:** Mr. Calhoun, you represent
16 Mr. Langford?

17 **MR. CALHOUN:** Yes, Your Honor, K.C. Langford.

18 **THE COURT:** Thank you.

19 Ladies and gentlemen of the jury panel, please
20 give me your attention. We're about to qualify a
21 jury that's going to hear cases against two
22 defendants and there are eight separate charges,
23 four against each defendant.

24 Now, ladies and gentlemen, throughout this
25 trial, these cases maintain their designation of

1 being separate and distinct, each of them is
2 separate and distinct. Each defendant is separate
3 and distinct. You have to evaluate each case that
4 is alleged by the State on its own merit or lack of
5 merit. These cases are merely being tried together
6 for purposes of convenience.

7 I'm going to read to you the indictments and
8 then I'm going to give you some instructions related
9 to the indictments.

10 Indictment 2010-GS-19-272 is captioned the
11 State versus K.C. Langford, III. That indictment
12 alleges that in Edgefield County, K.C. Langford,
13 III, along with one or more persons, on or about
14 August 14, 2008, willfully and unlawfully entered
15 during the nighttime without consent and with the
16 intent to commit a crime therein the residence of,
17 and I'm probably going to mispronounce a lot of
18 these names, Ji Quing, Q-u-i-n-g, Chen, C-h-e-n,
19 which is in violation of code section 16-11-311
20 subsection (a) of the South Carolina Code of Laws.
21 That's an indictment for burglary in the first
22 degree.

23 Indictment 278, the charge is kidnapping
24 against Mr. Langford. It's alleged that K.C.
25 Langford, III, along with one or more other persons,

1 did in Edgefield County on or about August 14, 2008,
2 unlawfully seize and confine, inveigle, decoy,
3 kidnap, abduct or carry away one Ji, J-i, Quing,
4 Q-u-i-n-g, Chen; Ai, A-i, Ming, M-i-n-g; Guany,
5 G-u-a-n-y, Xing Li, that's G-u-a-n-y X-i-n-g L-i;
6 Lin, L-i-n, Yan, Y-a-n, Fung, F-u-n-g; Selina,
7 S-e-l-i-n-a, Li; and/or Winson, W-i-n-s-o-n, Li,
8 without authority of law and without consent by the
9 following means: It's alleged that the defendant,
10 with the use of a firearm and/or physical force, did
11 hold those persons against their will and would not
12 let them leave their residence, which is alleged to
13 be in violation of 16-3-910 of the Code of Laws of
14 South Carolina.

15 Indictment 273 charges Mr. Langford with armed
16 robbery. That indictment alleges that K.C.
17 Langford, III, along with one or more other persons
18 in Edgefield County on or about August 14, 2008,
19 while armed with a deadly weapon and by means of
20 force or intimidation, feloniously took from the
21 person or presence of the victim, Ji Quing Chen,
22 approximately \$3,000 in United States currency with
23 the intent to deprive Mr. Chen permanently of that
24 property, which is alleged to be in violation of
25 section 16-11-330 subsection (a).

1 And then there's a charge, indictment 673, for
2 criminal conspiracy against Mr. Langford. It's
3 alleged that K.C. Langford did in Edgefield County
4 on or about August 14, 2008, unlawfully and
5 willfully unite, combine, conspire, confederate,
6 agree and/or have a tacit understanding with Alvin
7 P. and Bryan Phillips for the purpose of
8 accomplishing the crime of armed robbery. That's an
9 indictment for criminal conspiracy.

10 And then I have four indictments which are all
11 captioned the State versus Bryan Jordan Phillips.
12 In indictment 274, it's alleged that Bryan Jordan
13 Phillips, along with one or more other persons, did
14 in Edgefield County on or about August 14, 2008,
15 willfully and unlawfully entered during the
16 nighttime without consent with the intent to commit
17 a crime therein the residence of Ji Quing Chen in
18 violation of section 16-11-311 subsection (a) of the
19 South Carolina code.

20 Another indictment charges Mr. Phillips with
21 kidnapping. It alleges that in Edgefield County on
22 or about August 14, 2008, Bryan Jordan Phillips,
23 along with one or more other persons, unlawfully
24 seized and confined, inveigled, decoyed, kidnapped,
25 abducted or carried away Ji Quing Chen, Ai Ming,

1 Guany Xing Li, Lin Yan Fung, Selina Li and/or Winson
2 Li without authority of law and without consent by
3 the following means: It's alleged that the
4 defendant used a firearm and/or physical force to
5 hold those persons against their will and would not
6 let them leave their residence.

7 Indictment 723 alleges armed robbery. That
8 indictment charges that Bryan Jordan Phillips, along
9 with one or more persons, did in Edgefield County on
10 or about August 14, 2008, while armed with a deadly
11 weapon and by means of force or intimidation,
12 feloniously take from the person or presence of
13 Mr. Ji Quing Chen approximately \$3,000 of United
14 States currency with the intent to deprive Mr. Chen
15 permanently of that property.

16 And indictment 718 is for criminal conspiracy.
17 It alleges that Bryan Jordan Phillips did in
18 Edgefield County on or about August 14, 2008,
19 unlawfully and willfully unit, combine, conspire,
20 confederate, agree and/or have a tacit understanding
21 with Alvin P. and K.C. Langford, III for the
22 purpose of accomplishing the crime of armed robbery.

23 Now, upon their arraignments on these charges,
24 both defendants have entered pleas of not guilty.
25 Each is presumed to be innocent. The State has

1 brought these charges and the State has the entire
2 burden of proof and the State has to prove every
3 essential element of each offense charged against
4 each individual beyond a reasonable doubt.

5 I'm going to be asking you a series of
6 questions. If any of these questions apply to you
7 or you have doubt about whether they apply to you,
8 please stand and follow the procedure that I
9 outlined for you earlier.

10 Is Bryan Jordan Phillips in the courtroom?

11 **MR. WILLIAMS:** Yes, Your Honor.

12 **THE COURT:** Mr. Phillips, I need for you to
13 stand, sir, and face that direction so the jury can
14 see you.

15 Thank you very much, sir. You may be seated.

16 Is there any member of the jury panel who is
17 related by blood or marriage or connected by
18 employment with Mr. Bryan Jordan Phillips; if so,
19 please stand?

20 (There was no response.)

21 **THE COURT:** Mr. Phillips will be represented by
22 Mr. Randall Williams.

23 Is K.C. Langford, III in the courtroom?

24 **MR. CALHOUN:** Yes, Your Honor.

25 **THE COURT:** Mr. Langford, I need for you to do

1 likewise, please stand and face the jury.

2 Thank very much, sir.

3 Is there any member of the jury panel who is
4 related by blood or marriage or connected by
5 employment with the defendant, K.C. Langford, III;
6 if so, please stand?

7 (Juror stands.)

8 **THE COURT:** Your name please, ma'am?

9 **JUROR:** Denise Yeldell.

10 **THE COURT:** Ms. Yeldell is juror number 124.
11 What's your situation, ma'am?

12 **JUROR:** I'm related to him by -- that's my
13 cousin on my mother's side.

14 **THE COURT:** Mr. Langford is your cousin?

15 **JUROR:** Yes, sir.

16 **THE COURT:** All right. Ms. Yeldell, I'm going
17 to have to set you aside on this case. I need for
18 you just to stay. Don't discuss anything at all
19 with your fellow jurors about your relationship with
20 Mr. Langford or anything about this matter, if you
21 know anything about it, okay.

22 **JUROR:** Yes, sir.

23 **THE COURT:** 124 is set aside on the first
24 trial.

25 Mr. Langford will be represented by Mr. Mark

1 Calhoun.

2 Thank you very much.

3 Ladies and gentlemen, do any of you know
4 anything at all about this matter? Has anybody
5 talked to you about it? Have you overheard anybody
6 talking about it? Have you, to the best of your
7 recollection, heard, seen or read anything about
8 this matter through any media source or any other
9 source? If you know anything whatsoever about this
10 matter, please stand.

11 (Juror stands.)

12 **THE COURT:** Would you come down front please,
13 ma'am? The attorneys may join me on the side, if
14 you like.

15 (Whereupon, the following bench conference
16 was held on the record.)

17 **THE COURT:** What's your name, ma'am?

18 **JUROR:** Deborah Weaver.

19 **THE COURT:** 121. And what do you know about
20 this matter, Ms. Weaver?

21 **JUROR:** I live in Johnston where this incident
22 happened and I read about it in the newspaper.

23 **THE COURT:** Okay. Do you recall which
24 newspaper?

25 **JUROR:** I believe it was Citizens News. I'm

1 not sure.

2 THE COURT: Do you recall any specifics about
3 what you read?

4 JUROR: No, just that it was a robbery.

5 THE COURT: To the best of your recollection,
6 has anybody talked to you about this matter?

7 JUROR: No.

8 THE COURT: Have you talked to anybody else
9 about the matter?

10 JUROR: No.

11 THE COURT: Do you know anyone involved in the
12 case? Do you know the purported victim or do you
13 know either of these defendants?

14 JUROR: Well, I heard the people that own the
15 Chinese restaurant just -- that's all I know. I
16 don't know them personally.

17 THE COURT: You just heard it was the people
18 that owned the Chinese restaurant?

19 JUROR: Yes.

20 THE COURT: Is there anything at all about what
21 you may have heard, seen or read about this incident
22 that would in any way affect your ability to be a
23 fair and impartial juror in this case?

24 JUROR: No.

25 THE COURT: If you're a juror on the case, you

1 understand that you'll be under an oath where you're
2 promising us that you'll decide the case based on
3 the evidence and the law?

4 **JUROR:** Yes.

5 **THE COURT:** You understand the evidence comes
6 in the courtroom?

7 **JUROR:** Yes.

8 **THE COURT:** Would you be able to put aside
9 anything you may have seen, heard or read about this
10 case through any other source and decide this case
11 based only on the evidence and the law?

12 **JUROR:** Yes.

13 **THE COURT:** Any doubt at all about that?

14 **JUROR:** No doubt.

15 **THE COURT:** Okay. Thank you very much, ma'am.

16 (The bench conference was concluded.)

17 **THE COURT:** Ms. Weaver is 121. She's eligible
18 to serve.

19 All right. The following persons have been
20 identified as potential witnesses for the State --
21 do y'all want me just to read all of the potential
22 witnesses, everybody, and not designate --

23 **MR. WILLIAMS:** That suits me, Your Honor.

24 **THE COURT:** Is that okay?

25 **MR. CALHOUN:** That's fine, Your Honor.

1 **THE COURT:** Let me back up then. The following
2 persons have been identified as potential witnesses
3 in the case. We never know before a trial exactly
4 who might be a witness might actually testify, but
5 these are the potential witnesses that have been
6 identified to the Court.

7 Now, if I mispronounce somebody's name, which
8 if I don't, I'll be shocked, you all feel free to
9 correct me, don't think you're going to insult the
10 Court.

11 **MR. MAYE:** You may be on your own on that, Your
12 Honor.

13 **THE COURT:** All right. Well, if any of these
14 people are present in the courtroom as his or her
15 name is called, then I need that person to stand and
16 face toward the jury.

17 If I see somebody standing, ladies and
18 gentlemen of the jury, that's behind you or to your
19 side and you don't see them, I'll point out the fact
20 that they're standing, all right. It's not unusual,
21 as a matter of fact, it's more common that the
22 people are not present during this part of the
23 process. I wish we could have everybody here. But
24 if I call out a name and you're not certain if that
25 person rings a bell with you, I'll try to get more

1 identifying information so you'll know, especially
2 if it's a common name, so you'll know if that's the
3 person that you're thinking of.

4 All right. The following persons have been
5 identified as potential witnesses: Li, L-i, Juan,
6 J-u-a-n, Xin, X-i-n; Chen, C-h-e-n, Jin, J-i-n,
7 Q-i-n-g; Alvin P. ; Yan Fang Lin, who is
8 female; Li Ai Ming; Mike Perry; Roosevelt Young,
9 Mr. Young is to my left; Lamaz Robinson, thank you;
10 Veronica Phillips; Chris Wash; Zac Strom; Joseph
11 Stevens; Willie Chad Shealey; Gustav Sawvell, it's
12 G-u-s-t-a-v S-a-w-v-e-l-l; Darren Quarles; Ms.
13 Ergle.

14 Do y'all have anymore identifying information
15 about Ms. Ergle?

16 **MR. WILLIAMS:** Janice.

17 **THE COURT:** Janice Ergle? Is she here?

18 **MR. WILLIAMS:** She's not.

19 **THE COURT:** All right. Folks, I've read to you
20 all the names that's been provided to me as
21 potential witnesses in the cases. And if you are
22 related by blood or marriage or connected by
23 employment with any of the potential witnesses in
24 the case, please stand.

25 (Jurors stand.)

1 **THE COURT:** Your name, please?

2 **JUROR:** Rachel Raines.

3 **THE COURT:** Ms. Raines is juror number 89.

4 What's your situation, please?

5 **JUROR:** I know Roosevelt.

6 **THE COURT:** Okay. In what capacity do you know

7 him?

8 **JUROR:** Am I allowed to say that?

9 **THE COURT:** Come down front, we'll talk about
10 that. The lawyers can join me on the side.

11 (Whereupon, the following bench conference
12 was held on the record.)

13 **THE COURT:** Ms. Raines, does he bank with
14 y'all?

15 **JUROR:** Yes.

16 **THE COURT:** Is that what you were asking about?

17 **JUROR:** Yeah, because I'm not allowed to --

18 **THE COURT:** I understand. Are you, yourself,
19 in any way financially dependent upon him?

20 **JUROR:** Huh-huh.

21 **THE COURT:** Say yes or no.

22 **JUROR:** No.

23 **THE COURT:** Is there anything at all about your
24 relationship with Mr. Young, your experiences with
25 him that would in any way affect your ability to be

1 a fair and impartial juror in the case?

2 **JUROR:** No.

3 **THE COURT:** If you're sitting on this jury,
4 would you be at all concerned about what he may
5 think of your decision?

6 **JUROR:** No.

7 **THE COURT:** So you can decide the case without
8 regard to what he may think of you?

9 **JUROR:** Yes.

10 **THE COURT:** Do you have any doubt whatsoever
11 about your ability to be fair and impartial?

12 **JUROR:** No.

13 **THE COURT:** Have you formed in your own mind or
14 expressed to anyone else any opinions about whether
15 he's believable or not?

16 **JUROR:** No.

17 **THE COURT:** Okay. Thank you very much.

18 Ms. Raines is juror number 89. She's eligible
19 to serve.

20 **JUROR:** M.L. Ryan.

21 **THE COURT:** Ms. Ryan is juror number 97.
22 What's your situation?

23 **JUROR:** I know Zac Strom. My husband works
24 with him at Edgefield County Water Authority. He's
25 one of his supervisors.

1 **THE COURT:** Your husband is a supervisor of Zac
2 Strom?

3 **JUROR:** Uh-huh.

4 **THE COURT:** Is there anything at all about your
5 relationship or experience with Mr. Strom or with
6 your husband that would affect your ability to be
7 fair and impartial as a juror in the case?

8 **JUROR:** No.

9 **THE COURT:** Can you decide the case without
10 regard to what Mr. Strom may think of your decision?

11 **JUROR:** Yes.

12 **THE COURT:** If you're a juror on the case, you
13 understand you'll be under an oath where you're
14 promising us that you'll decide the case based on
15 the evidence and the law?

16 **JUROR:** Yes.

17 **THE COURT:** You understand those things come in
18 the courtroom?

19 **JUROR:** Yes.

20 **THE COURT:** If you're sitting on that jury,
21 would you be in any way concerned about what
22 Mr. Strom may think of your decision?

23 **JUROR:** No.

24 **THE COURT:** Have you ever formed in your own
25 mind or expressed to anyone else an opinion as to

1 whether Mr. Strom is a believable person?

2 **JUROR:** No.

3 **THE COURT:** Do you have any doubt at all about
4 your ability to be fair and impartial?

5 **JUROR:** No.

6 **THE COURT:** Thanks very much.

7 Ms. Ryan's number 97. She's eligible to serve.

8 (The bench conference was concluded.)

9 **THE COURT:** What was the name of the business
10 with which these folks are affiliated; do y'all
11 know?

12 **MR. YOUNG:** I'm sorry, Your Honor?

13 **THE COURT:** The name of the business with which
14 they were affiliated, do you know the name of their
15 restaurant?

16 **MR. MAYE:** I do not. I know it's a Chinese
17 restaurant in Johnston, that's all I know. To tell
18 you the name of it, I do not know.

19 Do you know?

20 **MR. ROBINSON:** It's the Hong Kong Chinese
21 Restaurant, Your Honor.

22 **THE COURT:** Ladies and gentlemen, do any of
23 you, any of your immediate family members, any of
24 your close, personal friends, to the best of your
25 knowledge, have any relationship with a restaurant

1 business in Johnston known as the Hong Kong Chinese
2 Restaurant, that would include if you're a supplier
3 or a employee, former employee, any kind of
4 connection with that business, please stand?

5 (There was no response.)

6 **THE COURT:** Do any of you have any connection
7 of any kind with the Johnston Police Department; if
8 so, please stand?

9 (There was no response.)

10 **THE COURT:** Any of you have any connection of
11 any kind with the Edgefield County Sheriff's Office;
12 if so, please stand?

13 (Juror stands.)

14 **THE COURT:** What's your name, sir?

15 **JUROR:** Patrick Fay.

16 **THE COURT:** Number 30. What's your situation,
17 Mr. Fay?

18 **JUROR:** My sister-in-law is a member of the
19 sheriff's department.

20 **THE COURT:** I'm going to set you aside on this
21 case, okay.

22 **JUROR:** Yes, sir.

23 **THE COURT:** Just stay with us. Don't discuss
24 anything about your sister-in-law or her situation
25 with your fellow jurors.

1 Any of you have any connection with the South
2 Carolina Law Enforcement Division commonly known as
3 SLED; if so, please stand?

4 (There was no response.)

5 **THE COURT:** All right. The State will be
6 represented by Mr. Ervin Maye. Mr. Maye is an
7 Assistant Solicitor with the Eleventh Judicial
8 Circuit Solicitor's Office. The elected Solicitor
9 is Mr. Donny Myers.

10 Mr. Young, you're just helping with the jury?

11 **MR. YOUNG:** Yes, sir.

12 **THE COURT:** Mr. Frank Young is going to
13 participate in jury selection, but I think that's
14 his only involvement in the case. He also is an
15 Assistant Solicitor.

16 All right. Ladies and gentlemen, I'm going to
17 pose questions. And we'll -- I do this question in
18 every single case. Sometimes there are lots of
19 responses, sometimes there's few. We'll see how it
20 goes. I'll tell you how we go from there. This is
21 a multipart question, so listen to all of the parts.

22 Have any of you, have any of your immediate
23 family members, any of your close, personal friends,
24 to the best of your knowledge, ever been the victim
25 of any crime of violence, or have any of you, any of

1 your immediate family members, any of your close,
2 personal friends ever been accused of having
3 committed a crime of violence, any crime involving
4 violence; if so, please stand?

5 (Jurors stand.)

6 **THE COURT:** We're going to talk about it up
7 front.

8 All right. Would you three ladies form a line
9 over here for me. The lawyers may join me on the
10 side.

11 And just to make sure I'm clear on this, have
12 any of you ever been the victim of or accused or any
13 of your immediate family members or close, personal
14 friends ever been the victim of or accused of
15 committing an act of burglary, any crime of violence
16 or burglary?

17 (Whereupon, the following bench conferences
18 were held on the record.)

19 **THE COURT:** Your name again?

20 **JUROR:** Deborah Weaver.

21 **THE COURT:** 121. What's your situation?

22 **JUROR:** I have a first cousin who was
23 incarcerated for rape. He's out now, but he served
24 time.

25 **THE COURT:** Do you know how long ago that would

1 have been?

2 JUROR: About eight, nine years ago.

3 THE COURT: Was it in Edgefield County?

4 JUROR: Yes.

5 THE COURT: Do you know who arrested him?

6 JUROR: I don't remember.

7 THE COURT: Were you involved in the case in
8 any way?

9 JUROR: No.

10 THE COURT: If it were to turn out that your
11 first cousin was arrested by one of the law
12 enforcement entities involved in this case --

13 JUROR: He was arrested, I'm pretty sure, by
14 somebody from Johnston, one of the officers from
15 Johnston.

16 THE COURT: All right. If he was arrested by
17 the Johnston Police and prosecuted by the Eleventh
18 Judicial Circuit Solicitor's Office, which would be
19 the norm --

20 JUROR: Right.

21 THE COURT: -- is there anything about any of
22 that that affects your ability to be a fair and
23 impartial juror in the case?

24 JUROR: No.

25 THE COURT: What's your cousin's name?

1 **JUROR:** Jimmy Weaver.

2 **THE COURT:** Is there anything at all about your
3 experience with him or relation with him or his case
4 that would in any way affect your ability to be fair
5 and impartial as a juror in this case?

6 **JUROR:** No, sir.

7 **THE COURT:** Any doubt in your mind?

8 **JUROR:** No doubt.

9 **THE COURT:** Thanks very much.

10 Ms. Weaver is 121. She's eligible to serve.

11 Yes, ma'am. What's your name, please?

12 **JUROR:** Virginia Almond.

13 **THE COURT:** Ms. Almond is juror number 1.

14 What's your situation please, ma'am?

15 **JUROR:** My sons were the victim of a child
16 molester.

17 **THE COURT:** Was that in Edgefield County?

18 **JUROR:** Yes, sir.

19 **THE COURT:** Any arrests made?

20 **JUROR:** Yes, sir.

21 **THE COURT:** What happened to the cases?

22 **JUROR:** He was a juvenile. He was convicted,
23 but he was released when he turned 21.

24 **THE COURT:** Is there anything at all about that
25 experience or your relationship with your sons that

1 affects your ability to be fair and impartial in
2 this case?

3 JUROR: I don't know because I feel like my
4 blood pressure is boiling right now.

5 THE COURT: You have some doubt?

6 JUROR: I do.

7 THE COURT: Do you think that would involve any
8 criminal case?

9 JUROR: I don't know.

10 THE COURT: You don't know?

11 JUROR: (Juror shook head.)

12 THE COURT: I'm just going to cut you loose for
13 the whole week because I think it will probably
14 affect you. Do you want to go out this way?

15 JUROR: Huh-huh. My purse is that way.

16 THE COURT: Well, I can let you go back in and
17 take a break if you need it.

18 JUROR: That's okay.

19 THE COURT: Are you sure?

20 JUROR: (Juror nodded head.)

21 THE COURT: Thank you very much. You're free
22 to go.

23 Ms. Almond is juror number 1. She's excused
24 for the week.

25 JUROR: Number 33, Tina Gaines.

1 **THE COURT:** Okay. Ms. Gaines is 33.

2 What's your situation?

3 **JUROR:** I'm employed with Aiken County DSS. I
4 work at the North Augusta office where several years
5 ago the gentleman came in and, I don't want to say
6 gentleman, but a man came in and killed three
7 coworkers. I was not employed at the time, but a
8 lot of the coworkers were there at the time, so I
9 have issues with the whole work place violence.

10 **THE COURT:** Is there anything about that
11 experience that affects your ability to be a fair
12 and impartial juror in the case?

13 **JUROR:** Honestly, yes. I'm going to be honest.

14 **THE COURT:** Would that relate to any criminal
15 case you think?

16 **JUROR:** I think as far as -- I don't know if it
17 happened at a work place, but when you're talking
18 about the restaurant, any type of work place I have
19 issues with that, yeah, because of the circumstance,
20 one of my co-workers, her cousin was killed.

21 **THE COURT:** Yes, ma'am. It's very
22 understandable. I'm just trying to see -- I think I
23 can cut you loose for the rest of the week.

24 **JUROR:** I just don't think I can be impartial.

25 **THE COURT:** I'll turn you loose for the rest of

1 the week, okay. Thank you.

2 Ms. Gaines is juror number 33. She's excused
3 for the term.

4 Yes, ma'am, what's your name?

5 JUROR: Brenda Brown.

6 THE COURT: 10. Ms. Brown, what's your
7 situation?

8 JUROR: My son was selling drugs.

9 THE COURT: Your son was selling drugs?

10 JUROR: Selling drugs.

11 THE COURT: Did he get arrested?

12 JUROR: Yeah, he made time.

13 THE COURT: How old is your son?

14 JUROR: He's 32.

15 THE COURT: Was he arrested by the sheriff's
16 office or who?

17 JUROR: He turned hisself in and (inaudible).

18 THE COURT: And what did you say about the
19 police?

20 JUROR: Huh?

21 THE COURT: You said he turned himself in and
22 then you said something about the police.

23 JUROR: Oh, yeah, he turned himself in to the
24 school district in Edgefield County. He was selling
25 drugs near the school.

1 **THE COURT:** What's his name?

2 **JUROR:** Richard Brown.

3 **THE COURT:** Is there anything at all about that
4 situation or your relationship with him that affects
5 your ability to be a fair and impartial juror in the
6 case?

7 **JUROR:** No.

8 **THE COURT:** If he was prosecuted here in
9 Edgefield County, you understand the same
10 prosecutor's office would be handling it?

11 **JUROR:** (Juror nodded head.)

12 **THE COURT:** Is that a yes?

13 **JUROR:** Yes.

14 **THE COURT:** Is there anything at all about the
15 fact that the same people who prosecuted your son
16 would be prosecuting this case, would it affect your
17 ability to be fair and impartial?

18 **JUROR:** No.

19 **THE COURT:** Do you have any doubt whatsoever
20 about your ability to be fair and impartial?

21 **JUROR:** No.

22 **THE COURT:** Thank you very much. Just have a
23 seat back there, please.

24 Ms. Brown is juror number 10. She's eligible
25 to serve.

1 Yes, sir. What's your name, sir?

2 JUROR: Kevin Chinn.

3 THE COURT: 18. What's your situation,
4 Mr. Chinn?

5 JUROR: I'm related to William Warren.

6 THE COURT: Who is that?

7 JUROR: He's my uncle. I guess he was charged
8 with attempted murder.

9 THE COURT: I don't know anything about that.
10 Is it pending?

11 JUROR: Well, he, actually, he just got out.

12 THE COURT: Okay. So he was convicted of
13 attempted murder -- I mean, assault and battery with
14 intent to kill?

15 JUROR: (Juror nodded head.)

16 THE COURT: Was that in Edgefield County?

17 JUROR: Yes, it was.

18 THE COURT: Do you know who arrested him?

19 JUROR: I'm not sure.

20 THE COURT: Did he have a jury trial or plead
21 guilty or what; do you remember?

22 JUROR: I don't think so. I wasn't in the
23 state when it happened.

24 THE COURT: Is there anything about your
25 situation with him or his experience that affects

1 your ability to be a fair and impartial juror in the
2 case?

3 **JUROR:** No, I don't think so.

4 **THE COURT:** Do you understand if he was
5 prosecuted in Edgefield County, the same
6 prosecutor's office would be doing his case that
7 will be doing this case?

8 **JUROR:** Yeah.

9 **THE COURT:** Is there anything about that that
10 affects your ability to be fair and impartial?

11 **JUROR:** No.

12 **THE COURT:** So do you have any doubt in your
13 mind at all about your ability to be a fair and
14 impartial juror?

15 **JUROR:** No.

16 **THE COURT:** Thank you very much.

17 Mr. Chinn is number 18. He's eligible to
18 serve.

19 Yes, ma'am, what's your name?

20 **JUROR:** Velma Lakes.

21 **THE COURT:** Juror number 65. What's your
22 situation, Ms. Lakes?

23 **JUROR:** I had a brother that got CDVs and one
24 was child support. It happened in Aiken County.

25 **THE COURT:** Did he go to jail?

1 **JUROR:** Uh-huh.

2 **THE COURT:** Is there anything at all about
3 those experiences or your relationship with your
4 brother that affects your ability to be a fair and
5 impartial juror in the case?

6 **JUROR:** No, sir.

7 **THE COURT:** Any doubt in your mind?

8 **JUROR:** No, sir.

9 **THE COURT:** And did he get sent to prison or
10 did he just do his time in local jail?

11 **JUROR:** Local jail.

12 **THE COURT:** You weren't the victim in any of
13 those, were you?

14 **JUROR:** No, sir.

15 **THE COURT:** Were you involved in any of the
16 cases or anything?

17 **JUROR:** No, sir.

18 **THE COURT:** Any doubt whatsoever about your
19 ability to be fair and impartial?

20 **JUROR:** What do you mean?

21 **THE COURT:** Do you have any doubt in your mind
22 about your ability to be a fair and impartial juror
23 in these cases?

24 **JUROR:** Oh, no, sir.

25 **THE COURT:** Thank you.

1 Ms. Lakes is juror number 65. She's eligible
2 to serve.

3 Yes, ma'am. What's your name, please?

4 **JUROR:** Peggy Cockrell, 19.

5 **THE COURT:** Okay. Ms. Cockrell, what's your
6 situation?

7 **JUROR:** I got a nephew that's done everything
8 in the book. As a matter of fact, he's been to
9 prison. He's getting ready to go back probably.

10 **THE COURT:** Has he committed burglaries?

11 **JUROR:** That's the only thing, burglaries
12 assault.

13 **THE COURT:** He has or has not?

14 **JUROR:** Has.

15 **THE COURT:** In Edgefield County?

16 **JUROR:** Yes.

17 **THE COURT:** What's his name?

18 **JUROR:** Jason Booth.

19 **THE COURT:** Is there anything at all about your
20 relationship with him that affects your ability to
21 be a fair and impartial juror in the case?

22 **JUROR:** No.

23 **THE COURT:** Anything about his experiences that
24 affect your ability to be a fair and impartial juror
25 in the case?

1 **JUROR:** No.

2 **THE COURT:** If he's prosecuted by the same
3 people that will be prosecuting these gentlemen,
4 would that affect your ability to be fair and
5 impartial?

6 **JUROR:** No.

7 **THE COURT:** Any doubt whatsoever about your
8 ability to be a fair and impartial juror?

9 **JUROR:** Repeat the question.

10 **THE COURT:** Any doubt in your mind about your
11 ability to be a fair and impartial juror in these
12 cases?

13 **JUROR:** No.

14 **THE COURT:** Were you the victim in any of this?

15 **JUROR:** No.

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

17 Ms. Cockrell is juror number 19. She's
18 eligible to serve.

19 Yes, ma'am. Tell me your name, please.

20 **JUROR:** 84, Peeler.

21 **THE COURT:** Patricia R. Peeler, 84. Yes,
22 ma'am.

23 **JUROR:** I just have a question. You talking
24 violent, my late husband shot up a bar. It was more
25 property damage than people damage many, many years

1 ago.

2 **THE COURT:** Shot up a bar.

3 **JUROR:** Uh-huh.

4 **THE COURT:** Was he arrested?

5 **JUROR:** Yeah, and got probation. He was drunk.

6 **THE COURT:** Is there anything at all about that
7 experience that affects your ability to be a fair
8 and impartial juror in this case?

9 **JUROR:** No.

10 **THE COURT:** Any doubt in your mind?

11 **JUROR:** Huh-huh. I just wanted to know if that
12 was considered violent. I thought it was violent,
13 he had a gun, you know.

14 **THE COURT:** Yes, ma'am. You did what you were
15 supposed to. Thank you.

16 Ms. Peeler is 84. She's eligible to serve.

17 What's your name?

18 **JUROR:** Beatrice Ryan.

19 **THE COURT:** 96. What's your situation, Ms.
20 Ryan?

21 **JUROR:** I have a brother that was convicted of
22 burglary some years ago.

23 **THE COURT:** Did he go to jail?

24 **JUROR:** Yes.

25 **THE COURT:** What's his name?

1 **JUROR:** Tommy Butler.

2 **THE COURT:** Anything at all about that
3 experience that affects your ability to be a fair
4 and impartial juror in this case?

5 **JUROR:** No, sir.

6 **THE COURT:** If the same -- it was in Edgefield
7 County?

8 **JUROR:** Yes.

9 **THE COURT:** If the same office prosecuted your
10 brother that's prosecuting these gentlemen, would
11 that affect your ability to be fair and impartial as
12 a juror?

13 **JUROR:** No, sir.

14 **THE COURT:** Do you have any doubt whatsoever
15 about your ability to be a fair and impartial juror
16 in this case?

17 **JUROR:** No, sir.

18 **THE COURT:** Thanks very much.

19 Ms. Ryan is juror number 96. She's eligible to
20 serve.

21 (The bench conferences were concluded.)

22 **THE COURT:** Have any of you formed or expressed
23 any opinions about these cases; if so, please stand?

24 (There was no response.)

25 **THE COURT:** Are any of you aware of any

1 interest, bias or prejudice that you might have for
2 or against the State, for or against either
3 defendant, for or against anyone or any entity
4 involved in these cases; if so, please stand?

5 (There was no response.)

6 **THE COURT:** Can each of you give both the State
7 of South Carolina and the defendants, Mr. Langford
8 and Mr. Phillips, a fair and impartial trial? If
9 you know of any reason why you cannot, please stand
10 now.

11 (There was no response.)

12 **THE COURT:** Further questions from the State?

13 **MR. MAYE:** Nothing from the State, Your Honor.
14 Thank you.

15 **THE COURT:** Further questions from the
16 Defendant Phillips?

17 **MR. CALHOUN:** No, Your Honor.

18 **THE COURT:** Further questions from Defendant
19 Langford?

20 **MR. WILLIAMS:** Actually, it's Defendant
21 Phillips. No, Your Honor.

22 **THE COURT:** The jury panel is qualified. How
23 many people do I have?

24 **THE CLERK:** Thirty-two.

25 **THE COURT:** All right. I set aside a couple of

1 y'all for the trial. Who did I set aside on this
2 particular trial?

3 Would y'all have a seat on the back row back
4 there by Mr. Bull, the gentleman in the burgundy
5 coat.

6 Okay. Well, we'll have to make the effort.
7 Are y'all ready to strike? The strikes are 20 and
8 10.

9 Okay. I'm assuming that's a yes. I didn't
10 hear any response.

11 **MR. MAYE:** The State's ready, Your Honor.

12 **THE COURT:** Have y'all got it worked out
13 between the two of you? Are you going to exercise
14 your strikes jointly?

15 **MR. WILLIAMS:** Your Honor, we hadn't talked
16 about it, but I intended to exercise mine
17 independently quite honestly.

18 **THE COURT:** Then we'll just do -- let's see
19 who's got the lower numbered indictments. Mr.
20 Langford.

21 All right. So what we'll do, Madame Clerk, is
22 we'll draw the names -- if y'all want a minute to
23 talk about the strikes, I'll be happy to let you
24 talk.

25 (Pause.)

1 **THE COURT:** Ladies and gentlemen, the way that
2 we draw juries in criminal court in South Carolina
3 is that your name will be called. As your name is
4 called, I need for you to gather up your personal
5 belongings, go to the nearest aisle. If the nearest
6 aisle to you is the center aisle, come down the
7 center aisle. If the nearest aisle to you is over
8 there, come around this way. Come all the way
9 around to the front here. And I need you to stand
10 right in front of the clerks, then turn around and
11 face that door, the back door, front door, whatever
12 you want to call it, so that I'm looking straight at
13 your back.

14 When you get down here, the Clerk is going to
15 ask questions. She's going to ask the State's
16 attorney first, then she's going to ask
17 Mr. Langford's attorney, then she's going to ask
18 Mr. Phillips' attorney. If no strike has been
19 exercised, you'll go through all three, obviously
20 you stop if there's a strike.

21 So when you get down here, she's going to ask
22 questions of the attorneys and based on their
23 responses, you're going to be told either to return
24 to your seat in the courtroom or have a seat over
25 here in the jury box.

1 (Whereupon, a brief conversation was held
2 with the Judge and the Clerk off the record.)

3 **THE COURT:** To be honest with you, I've never
4 had this before, but I just went by the lowest
5 number indictment. I don't know any fairer way to
6 do it. I can flip a coin, but I don't think I can
7 find any case law if I start looking for case law
8 and nobody's objected to that procedure.

9 So here's what we're going to do. Come down
10 front, bring your personal belonging because your
11 next stop may be over here, all right.

12 Now, as you already heard me say, I have 30
13 strikes -- there are 30 strikes here because of the
14 way this case is called for trial, but I never know
15 if the strikes will be exercised or not exercised,
16 don't be upset if you get struck, all right. What
17 we have to do is we have to make the effort.

18 Obviously, if all of the strikes are exercised,
19 I've got to have 42 people at a minimum to have a 12
20 person jury, which is what's required in the United
21 States for criminal court -- or in South Carolina
22 for criminal court and I don't have 42 people, but I
23 don't know how many strikes will be exercised. So
24 we're going to go through this, bear with us.

25 Madame Clerk, if you've got a question, let me

1 know because I may not have made myself clear.

2 **THE CLERK:** I'll try.

3 **THE COURT:** If you hear your name called, come
4 on down.

5 **THE CLERK:** Juror 102, David L. Shuster. He
6 was excused. Juror 43, Katherine A. Yonce.

7 (Whereupon, Katherine A. Yonce, a white
8 female, was called forward.)

9 **THE CLERK:** What sayeth the State?

10 **MR. MAYE:** Please present the juror.

11 **THE CLERK:** What sayeth the defense L?

12 **THE COURT:** Langford.

13 **MR. CALHOUN:** Please excuse the juror.

14 **THE COURT:** Have a seat back in the jury --
15 back in the courtroom, please.

16 **THE CLERK:** Juror number 5, Carla W. Bates.

17 (Whereupon, Carla W. Bates, a white female,
18 was called forward.)

19 **THE CLERK:** What sayeth the State?

20 **MR. MAYE:** Please present the juror.

21 **THE CLERK:** What sayeth the defense, Langford?

22 **MR. CALHOUN:** Please excuse Ms. Bates.

23 **THE COURT:** Return to your seat in the
24 courtroom, please.

25 **THE CLERK:** Juror number 8, Ruth B. Bledsoe.

1 (Whereupon, Ruth B. Bledsoe, a white female,
2 was called forward.)

3 **THE CLERK:** What sayeth the State?

4 **MR. MAYE:** Please present the juror.

5 **THE CLERK:** What sayeth the defense, Langford?

6 **MR. CALHOUN:** Please excuse Ms. Bledsoe.

7 **THE COURT:** Return to your seat in the
8 courtroom, please.

9 **THE CLERK:** Juror number 75, Carolyn A.
10 Mitchum.

11 (Whereupon, Carolyn A. Mitchum, a white
12 female, was called forward.)

13 **THE CLERK:** What sayeth the State?

14 **MR. MAYE:** Please present the juror.

15 **THE CLERK:** What sayeth the defense, Langford?

16 **MR. CALHOUN:** Please excuse Ms. Mitchum.

17 **THE COURT:** Return to your seat in the
18 courtroom, please.

19 **THE CLERK:** Juror 53, Alex W. Hillary.

20 (Whereupon, Alex W. Hillary, a black male,
21 was called forward.)

22 **THE CLERK:** What sayeth the State?

23 **MR. MAYE:** Please present the juror.

24 **THE CLERK:** What sayeth the defense, Langford?

25 **MR. CALHOUN:** Please present the juror.

1 **THE CLERK:** What sayeth the defense, Phillips?

2 **MR. WILLIAMS:** Seat him.

3 **THE COURT:** Have a seat in the jury box,
4 Mr. Hillary, please.

5 **THE CLERK:** Juror 38, Stacy H. Gore.

6 (Whereupon, Stacy H. Gore, a white female,
7 was called forward.)

8 **THE CLERK:** What sayeth the State?

9 **MR. MAYE:** Please present the juror.

10 **THE CLERK:** What sayeth the defense, Langford?

11 **MR. CALHOUN:** Please excuse the juror.

12 **THE COURT:** Return to your seat in the
13 courtroom, please.

14 **THE CLERK:** Juror 121, Deborah A. Weaver.

15 (Whereupon, Deborah A. Weaver, a black
16 female, was called forward.)

17 **THE CLERK:** What sayeth the State?

18 **MR. MAYE:** Please present the juror.

19 **THE CLERK:** What sayeth the defense, Langford?

20 **MR. CALHOUN:** Please present the juror.

21 **THE CLERK:** What sayeth the defense, Phillips?

22 **MR. WILLIAMS:** Seat her.

23 **THE COURT:** Have a seat in the jury box please,
24 Ms. Weaver.

25 **THE CLERK:** Juror number 65, Velma M. Lakes.

1 (Whereupon, Velma M. Lakes, a black female,
2 was called forward.)

3 **THE CLERK:** What sayeth the State?

4 **MR. MAYE:** Please excuse the juror from the
5 trial of this case.

6 **THE COURT:** Return to your seat in the
7 courtroom please, ma'am.

8 **THE CLERK:** Juror 18, Kevin L. Chinn.

9 (Whereupon, Kevin L. Chinn, a black male,
10 was called forward.)

11 **THE CLERK:** What sayeth the State?

12 **MR. MAYE:** Please present the juror.

13 **THE CLERK:** What sayeth the defense, Langford?

14 **MR. CALHOUN:** Please present the juror.

15 **THE CLERK:** What sayeth the defense, Phillips?

16 **MR. WILLIAMS:** Seat him.

17 **THE COURT:** Have a seat in the jury box,
18 please.

19 **THE CLERK:** Juror 97, M.L. Ryan.

20 (Whereupon, M.L. Ryan, a white female, was
21 called forward.)

22 **THE CLERK:** What sayeth the State?

23 **MR. MAYE:** Please present the juror.

24 **THE CLERK:** What sayeth the defense, Langford?

25 **MR. CALHOUN:** Please present the juror.

1 **THE CLERK:** What sayeth the defense, Phillips?

2 **MR. WILLIAMS:** Seat the lady.

3 **THE COURT:** Have a seat in the jury box please,
4 ma'am.

5 **THE CLERK:** Juror 117, Richard H. Walters.

6 (Whereupon, Richard H. Walters, a white
7 male, was called forward.)

8 **THE CLERK:** What sayeth the State?

9 **MR. MAYE:** Please present the juror.

10 **THE CLERK:** What sayeth the defense, Langford?

11 **MR. CALHOUN:** Please excuse the juror.

12 **THE COURT:** Return to your seat in the
13 courtroom, please.

14 **THE CLERK:** Juror number 96, Beatrice Ryan.

15 (Whereupon, Beatrice Ryan, a black female,
16 was called forward.)

17 **THE CLERK:** What sayeth the State?

18 **MR. MAYE:** Please present the juror.

19 **THE CLERK:** What sayeth the defense, Langford?

20 **MR. CALHOUN:** Please present the juror.

21 **THE CLERK:** What sayeth the defense, Phillips?

22 **MR. WILLIAMS:** Seat her.

23 **THE COURT:** Have a seat in the jury box please,
24 ma'am.

25 **THE CLERK:** Juror number 19, Peggy L. Cockrell.

1 (Whereupon, Peggy L. Cockrell, a white
2 female, was called forward.)

3 **THE CLERK:** What sayeth the State?

4 **MR. MAYE:** Please present the juror.

5 **THE CLERK:** What sayeth the defense, Langford?

6 **MR. CALHOUN:** Please excuse the juror.

7 **THE COURT:** Return to your seat in the
8 courtroom, please.

9 **THE CLERK:** Juror number 47, Anthony R.
10 Hammond.

11 (Whereupon, Anthony R. Hammond, a white
12 male, was called forward.)

13 **THE CLERK:** What sayeth the State?

14 **MR. MAYE:** Please present the juror.

15 **THE CLERK:** What sayeth the defense, Langford?

16 **MR. CALHOUN:** Please excuse the juror.

17 **THE COURT:** Return to your seat in the
18 courtroom, please.

19 **THE CLERK:** Juror 1 was excused. Juror number
20 72, Sandra M. McDaniel.

21 (Whereupon, Sandra M. McDaniel, a white
22 female, was called forward.)

23 **THE CLERK:** What sayeth the State?

24 **MR. MAYE:** Please present the juror.

25 **THE CLERK:** What sayeth the defense, Langford?

1 **MR. CALHOUN:** Please excuse the juror.

2 **THE COURT:** Return to your seat in the
3 courtroom please, ma'am.

4 **THE CLERK:** Juror 113, Ervin M. Talbert.

5 (Whereupon, Ervin M. Talbert, a black male,
6 was called forward.)

7 **THE CLERK:** What sayeth the State?

8 **MR. MAYE:** Please present the juror.

9 **THE CLERK:** What sayeth the defense, Langford?

10 **MR. CALHOUN:** Please present the juror.

11 **THE CLERK:** What sayeth the defense, Phillips?

12 **MR. WILLIAMS:** Seat him.

13 **THE COURT:** Have a seat in the jury box,
14 please.

15 **THE CLERK:** Juror number 98, James H. Satcher,
16 III.

17 (Whereupon, James H. Satcher, III, a white
18 male, was called forward.)

19 **THE CLERK:** What sayeth the State?

20 **MR. MAYE:** Please present the juror.

21 **THE CLERK:** What sayeth the defense, Langford?

22 **MR. CALHOUN:** Please present the juror.

23 **THE CLERK:** What sayeth the defense, Phillips?

24 **MR. WILLIAMS:** Seat him.

25 **THE COURT:** Have a seat in the jury box,

1 please.

2 **THE CLERK:** Juror number 39, Phillip A. Greene.

3 (Whereupon, Phillip A. Greene, a white male,
4 was called forward.)

5 **THE CLERK:** What sayeth the State?

6 **MR. MAYE:** Please present the juror.

7 **THE CLERK:** What sayeth the defense, Langford?

8 **MR. CALHOUN:** Please present the juror.

9 **THE CLERK:** What sayeth the defense, Phillips?

10 **MR. WILLIAMS:** Excuse the gentleman from the
11 trial of this particular case.

12 **THE COURT:** Return to your seat in the
13 courtroom, please.

14 **THE CLERK:** Juror number 64, Lanette Lacharite,
15 L-a-c-h-a-r-i-t-e.

16 (Whereupon, Lanette Lacharite, a white
17 female, was called forward.)

18 **THE CLERK:** What sayeth the State?

19 **MR. MAYE:** Please present the juror.

20 **THE CLERK:** What sayeth the defense, Langford?

21 **MR. CALHOUN:** Please present the juror.

22 **THE CLERK:** What sayeth the defense, Phillips?

23 **MR. WILLIAMS:** Court's indulgence one moment.

24 **THE COURT:** Yes, sir.

25 (Pause.)

1 **MR. WILLIAMS:** We're going to excuse the lady
2 from the trial of this particular case.

3 **THE COURT:** Return to your seat in the
4 courtroom, please.

5 **THE CLERK:** Juror 32, Gustave Frazer.

6 (Whereupon, Gustave Frazer, a black male,
7 was called forward.)

8 **THE CLERK:** What sayeth the State?

9 **MR. MAYE:** Please present the juror.

10 **THE CLERK:** What sayeth the defense, Langford?

11 **MR. CALHOUN:** Please present the juror.

12 **THE CLERK:** What sayeth the defense, Phillips?

13 **MR. WILLIAMS:** Seat the juror, please.

14 **THE COURT:** Have a seat in the jury box,
15 please.

16 **THE CLERK:** Juror number 10, Brenda M. Brown.

17 (Whereupon, Brenda M. Brown, a black female,
18 was called forward.)

19 **THE CLERK:** What sayeth the State?

20 **MR. MAYE:** Please excuse the juror from the
21 trial of this case.

22 **THE COURT:** Return to your seat in the
23 courtroom, please.

24 **THE CLERK:** Juror number 67, Christopher D.
25 Locklair.

1 (Whereupon, Christopher D. Locklair, a white
2 male, was called forward.)

3 **THE CLERK:** What sayeth the State?

4 **MR. MAYE:** Please present the juror.

5 **THE CLERK:** What sayeth the defense, Langford?

6 **MR. CALHOUN:** Please excuse the juror.

7 **THE COURT:** Return to your seat in the
8 courtroom, please.

9 **THE CLERK:** Juror 116, Gail H. Thorne.

10 (Whereupon, Gail H. Thorne, a white female,
11 was called forward.)

12 **THE CLERK:** What sayeth the State?

13 **MR. MAYE:** Please present the juror.

14 **THE CLERK:** What sayeth the defense, Langford?

15 **MR. CALHOUN:** Please present the juror.

16 **THE CLERK:** What sayeth the defense, Phillips?

17 **MR. WILLIAMS:** We're going to excuse the lady
18 from the trial of this particular case.

19 **THE COURT:** Return to your seat in the
20 courtroom please, ma'am.

21 **THE CLERK:** Juror 48, Regina Harrell.

22 (Whereupon, Regina Harrell, a white female,
23 was called forward.)

24 **THE CLERK:** What sayeth the State?

25 **MR. MAYE:** Please present the juror.

1 **THE CLERK:** What sayeth the defense, Langford?

2 **MR. CALHOUN:** Please present the juror.

3 **THE CLERK:** What sayeth the defense, Phillips?

4 **MR. WILLIAMS:** We're going to seat the lady.

5 **THE COURT:** Have a seat in the jury box,
6 please.

7 **THE CLERK:** Juror number 84, Patricia R.
8 Peeler.

9 (Whereupon, Patricia R. Peeler, a white
10 female, was called forward.)

11 **THE CLERK:** What sayeth the state?

12 **MR. MAYE:** Please present the juror.

13 **THE CLERK:** What sayeth the defense, Langford?

14 **MR. CALHOUN:** Please present Ms. Peeler.

15 **THE CLERK:** What sayeth the defense, Phillips?

16 **MR. WILLIAMS:** We're going to excuse the lady
17 from the trial of this particular case.

18 **THE COURT:** Return to your seat in the
19 courtroom please, ma'am.

20 **THE CLERK:** Juror 91, Jerry A. Richardson.

21 (Whereupon, Jerry A. Richardson, a white
22 male, was called forward.)

23 **THE CLERK:** What sayeth the State?

24 **MR. MAYE:** Please present the juror.

25 **THE CLERK:** What sayeth the defense, Langford?

1 **MR. CALHOUN:** Please present Mr. Richardson.

2 **THE CLERK:** What sayeth the defense, Phillips?

3 **MR. WILLIAMS:** Seat the gentleman.

4 **THE COURT:** Have a seat in the jury box,
5 please.

6 **THE CLERK:** Juror 89, Rachel L. Raines.

7 (Whereupon, Rachel L. Raines, a white
8 female, was called forward.)

9 **THE CLERK:** What sayeth the State?

10 **MR. MAYE:** Please present the juror.

11 **THE CLERK:** What sayeth the defense, Langford?

12 **MR. CALHOUN:** Please present Ms. Raines.

13 **THE CLERK:** What sayeth the defense, Phillips?

14 **MR. WILLIAMS:** I'm going to excuse the lady
15 from the trial of this particular case.

16 **THE COURT:** Return to your seat, please.

17 **THE CLERK:** Juror 62, Richard J. Koenig.

18 (Whereupon, Richard J. Koenig, a white male,
19 was called forward.)

20 **THE CLERK:** What sayeth the State?

21 **MR. MAYE:** Please present the juror.

22 **THE CLERK:** What sayeth the defense, Langford?

23 **MR. CALHOUN:** Please present Mr. Koenig.

24 **THE CLERK:** What sayeth the defense, Phillips?

25 **MR. WILLIAMS:** Present the gentleman, seat him.

1 **THE COURT:** Have a seat in the jury box,
2 please.

3 **THE CLERK:** Juror 49, Doresa A. Hartley.

4 (Whereupon, Doresa A. Hartley, a black
5 female, was called forward.)

6 **THE CLERK:** What sayeth the State?

7 **MR. MAYE:** Please present the juror.

8 **THE CLERK:** What sayeth the defense, Langford?

9 **MR. CALHOUN:** Please present the juror.

10 **THE CLERK:** What sayeth the defense, Phillips?

11 **MR. WILLIAMS:** Seat the lady.

12 **THE COURT:** All right. We'll see if we can get
13 an alternate. The strikes are one for each. Go
14 ahead.

15 **THE CLERK:** Juror number 70, Willie E. Maddox.

16 (Whereupon, Willie E. Maddox, a black male,
17 was called forward.)

18 **THE CLERK:** What sayeth the State?

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

21 **THE COURT:** Return to your seat in the
22 courtroom.

23 Are there any matters to take up prior to the
24 jury being sworn including composition of the panel,
25 from the State?

1 **MR. MAYE:** Beg the Court's indulgence.

2 (Pause.)

3 **MR. MAYE:** Your Honor, we've got a Batson
4 motion.

5 **THE COURT:** I didn't hear you, I'm sorry.

6 **MR. MAYE:** I do have a motion regarding
7 composition.

8 **THE COURT:** From the defense, do y'all have any
9 matters to take up regarding the composition?

10 **MR. CALHOUN:** No, Your Honor, not from
11 Mr. Langford.

12 **MR. WILLIAMS:** And not from -- the composition
13 of the jury, no, sir, Your Honor.

14 **THE COURT:** Ladies and gentlemen, I realize
15 it's one o'clock and I told you we break for lunch
16 at 1:00, but let me find out what the situation is.

17 You 12 folks I need to send back to the jury
18 room. Do not discuss this case in any way at all,
19 don't talk about the people involved, the type of
20 case it's alleged to be, don't talk about anything
21 related to this case in any way. I'll get you back
22 out here as quickly as I can.

23 If any of you have cell phones, they should be
24 turned off and not used. I'll have to give you a
25 more specific instruction about that when you come

1 out.

2 Watch your step, there's two steps down,
3 there's steps up over here and be very careful. If
4 you'll follow the bailiff, she'll take you back to
5 the jury room.

6 (The jury retires to the jury room.)

7 **THE COURT:** Ladies and gentlemen, those of you
8 who were not selected on this jury at this point, I
9 apologize to you in advance for what I'm about to
10 tell you. The only motion I can think of that would
11 come up at this point in time would be something I
12 would have to take up outside of your presence. I
13 don't have anywhere to send you except outside. So
14 I need for you, if you're here for jury duty, to
15 step outside.

16 Don't discuss the case in any way. And as soon
17 as I find out what's going on for sure, I'll bring
18 you back in and tell you where we're going from
19 there, all right. Thank you. If you're here for
20 jury duty, you've got to leave the courtroom.

21 (The remaining jury panel leaves the
22 courtroom.)

23 **THE COURT:** All right. What do you have,
24 Solicitor?

25 **MR. MAYE:** Your Honor, I'd like for them to

1 articulate race and gender neutral reasons for the
2 strikes. We have 15 strikes and -- exercised
3 jointly between the two. I'd like for them to
4 exercise neutral reasons for the strikes.

5 **THE COURT:** I'm going to have to break for
6 lunch I think so we can do this.

7 **MR. MAYE:** And I apologize, Your Honor.

8 **THE COURT:** Bring them back in.

9 (The remaining jury panel returns to the
10 courtroom.)

11 **THE COURT:** All right. Ladies and gentlemen,
12 an issue has been raised that I'm going to have to
13 decide and it usually takes a while to decide it.
14 And I cannot let you go until I have decided it, so
15 I'm going to have you come back after lunch, all
16 except the three that I set aside.

17 Didn't I set three aside?

18 **BAILIFF:** One you set aside for the week.

19 **THE COURT:** All right. Never mind then, that's
20 fine.

21 The two of you who were set aside on this
22 trial, should be the two folks on the back row, you
23 were given a card when you came in this morning. On
24 one side of it is a telephone number, call that
25 number tonight after 6:00 and follow the

1 instructions. It may tell you to come back in
2 tomorrow, it may tell you to call the next day after
3 6:00, it may tell you that you're through for the
4 week. I don't know what it'll say. You two got it
5 straight?

6 **JUROR:** Yes, sir.

7 **JUROR:** Yes, sir.

8 **THE COURT:** Call that number tonight after
9 6:00. You don't have to come back after lunch
10 today, all right. You two are free to go.

11 The rest of you folks, I need you back at 2:30.
12 Don't discuss the case, don't let anybody discuss it
13 with you, don't try to look up anything about the
14 case, don't try to do any Internet searches, don't
15 do anything at all to try to find out anything about
16 this case or let anybody talk to you about it, all
17 right. I need you back at 2:30. Thank you.

18 (The remaining jury panel was excused for
19 lunch.)

20 (The jury returns to the courtroom.)

21 **THE COURT:** All right. Ladies and gentlemen,
22 there's some issues that I have to address and they
23 frequently take a good while to do. I'm going to
24 have you go to lunch on your own and ask you to be
25 back at 2:30. I seriously doubt that I'm going to

1 be able to get to you right at 2:30, that's the
2 quickest I can possibly get to you, all right. So
3 please understand, be patient with me. I promise
4 you we'll be working, we won't be goofing off.

5 Now, during this break, do not discuss this
6 case among yourselves, don't discuss it with anybody
7 else, don't let anybody discuss it with you. If
8 anybody attempts to discuss the case with you,
9 report that to me so that I can deal with it.

10 To give an example of what I mean about
11 discussing it with anybody else, you can tell a
12 family member or a friend that you're on a jury, but
13 you cannot tell them anything about what the case is
14 alleged to be about or who's in it, nothing that
15 would in any way identify the type of case it is or
16 the specific case it is.

17 Do not let yourself be exposed to any media
18 coverage. I don't know if there will be any media
19 coverage of this trial, but if there is any, get
20 away from it and report to me at the first
21 opportunity what you may have seen, heard or read
22 through the media.

23 Don't do any independent investigation related
24 to this case. Now, I'm going to read to you at some
25 point something that the Supreme Court has put out

1 that I'm supposed to read to you about cell phones
2 and computer searches and things like that. Do not
3 go on the Internet and try to look up anything about
4 this case, don't do any independent investigation,
5 don't talk to people about the case, don't let
6 yourselves be exposed to any media coverage. There
7 is a local Internet information provider, news
8 provider, more than one actually, do not under any
9 circumstances look on any site that covers the news
10 in Edgefield County.

11 When you come back, don't come in the
12 courtroom, come directly to the jury room. The
13 bailiff will show you how to do that as you leave.

14 You're on your own for lunch. I need you back
15 in that jury room at 2:30 just follow the bailiff,
16 please.

17 (The jury was excused for lunch.)

18 **THE COURT:** All right. I need you all back in
19 place at 2:15. At that time, I need the defense
20 attorneys to be prepared to give me a racially
21 neutral and gender neutral reason for the exercise
22 of the strikes. 2:15. Thank you.

23 (Whereupon, there was a luncheon recess.)

24 **THE COURT:** All right. The State has raised
25 the issue related to the exercise of preemptory

1 challenges by the defense. The defense had a total
2 of 20 strikes. The defendants did not agree to
3 exercise their strikes jointly.

4 Quite frankly, I've never had that happen
5 before. Every case I've ever had civil or criminal
6 where there were multiple defendants or multiple
7 parties, there was an agreement. So being
8 confronted with that and not having time to look
9 anything up, I just said, well, there's ten and ten
10 strikes.

11 I believe, if my numbers are correct, that
12 Mr. Langford exercised all ten of his strikes; is
13 that right?

14 **MR. CALHOUN:** Yes, Your Honor.

15 **THE COURT:** And Mr. Phillips, he exercised five
16 of his?

17 **MR. WILLIAMS:** Yes, Your Honor.

18 **THE COURT:** We ran right up to the lunch hour,
19 actually a little past it, and so I sent the jury
20 that was drawn and had them in the jury box, sent
21 them to the jury room, sent the jury venire to
22 lunch, told them to be back at 2:30. It's now 2:46.
23 They're standing outside, which I don't really like
24 having a bunch of jurors standing outside, but it's
25 taken me that long just to go through the sheer

1 numbers of this and put all this together so we can
2 deal with it in an appropriate fashion.

3 I told the 12 that were chosen on the jury --
4 we were unable to get an alternate because there was
5 only one person left and the State struck that
6 person, so we just have the 12 jurors. I told the
7 jury that was chosen to be back also at 2:30, go on
8 to lunch, gave them instructions about not having
9 any communications or any exposure to any media and
10 told them that I probably would not get to them at
11 2:30, but that would be the earliest I could
12 possibly get to them.

13 I asked the lawyers, the defendants to be back
14 at 2:15, which they were. I drove straight out, got
15 something to eat, didn't eat out there, came
16 straight back.

17 Here's where we are. It's a three step
18 process. As I understand it, if you all know
19 anything different, you can tell me, but the first
20 step is that the opponent of the challenge has to
21 make out a prima facie case of racial or gender
22 discrimination. I've looked at the strikes and it
23 appears to me that the defense struck 15 people, all
24 of whom were white. The defense struck ten females,
25 four males total. I'll go through each one of these

1 separately in a moment.

2 I don't know how to do this except to do it
3 right away, so it's going to take some time. And
4 I'm probably, if I get past the first hurdle, I'm
5 probably going to have to send the rest of the jury
6 venire home. And if I grant the motion, bring them
7 back in the morning because I can't have them
8 standing around outside for two hours while we go
9 through this.

10 As I have this information, there are seven
11 blacks and five whites on the jury. There are seven
12 males, four of them being black, three being white.
13 There are five females, three of them being black,
14 two white.

15 The way that the jury was chosen in order was
16 that the first juror seated was Mr. Alex Hillary,
17 juror number 53, a black male. He works in building
18 services at the Aiken County Public Schools.

19 The second juror chosen was a black female,
20 Deborah Weaver, juror number 121. She works at
21 Milliken. She also indicated during our discussions
22 that she had a first cousin who was incarcerated for
23 criminal sexual conduct and was incarcerated
24 apparently upon being arrested in the City of
25 Johnston. When I say incarcerated, I think that's

1 past tense. I don't think he's currently
2 incarcerated. She gave us the cousin's name.

3 The next juror seated was a black male, juror
4 number 18, Kevin Chinn. Mr. Chinn works at Urban
5 Outfitters. He is related to a defendant in an
6 assault and battery with intent to kill case who got
7 prison time and just recently was released.

8 The next juror seated is a white female, juror
9 number 97, M.L. Ryan. She works at the Savannah
10 River Site. I think, however, that she works in
11 some sort of medical field at the burn center that's
12 affiliated there. Her husband is a supervisor of
13 one of the State's witnesses and she also indicated
14 that she had applied to work at the Federal
15 Correctional Institution and I think she's supposed
16 to start there later this month.

17 The next juror seated is juror number 96, black
18 female, Beatrice Ryan. She works in home health
19 care. Her brother was convicted of burglary.

20 The next juror seated juror number 113, Ervin
21 Talbert, black male, who works for a Manpower
22 Service Agency. I think he said he works in the
23 field of carpentry. I wasn't real clear about that.

24 The next juror seated is juror number 98, a
25 white male, James H. Satcher, III, who is a farmer.

1 The next juror seated was Gustave Frazer, juror
2 number 32, a black male who works at the Savannah
3 River Site.

4 The next juror seated was a white female,
5 Regina Harrell, juror number 48. She works at the
6 Senior Living Center.

7 The next juror seated was juror number 91,
8 Jerry Richardson, a white male who works at a tires,
9 brake service. He indicated that when he was a
10 juvenile, he was charged with having a bomb at
11 school in the State of Georgia. He was convicted of
12 criminal trespass and got a probationary sentence.
13 And when we ran his criminal record, nothing showed
14 up, so it appears -- I allowed him to be found to be
15 qualified as a juror because his only conviction was
16 for trespass as a juvenile and it doesn't show up at
17 all on our criminal records. He probably was in
18 some sort of program where his record was clean.

19 The next juror seated was a white male, juror
20 number 62, Richard Koenig, who is self-employed as
21 an investor.

22 And the last juror seated is juror number 49,
23 Doresa, D-o-r-e-s-a, Hartley, black female who works
24 at Kimberly Clark.

25 The reason I'm going through all of this

1 obviously is because the general test is whether you
2 have a similarly situated juror on the jury, you
3 compare that juror situation to the jurors who were
4 stricken.

5 The way that I have the strikes being exercised
6 is that the first four people who were brought up
7 were all white females. The first was juror number
8 43, Katherine Yonce, who's a registered nurse. She
9 was struck by Defendant Langford.

10 The second juror was juror number 5, Carla
11 Bates, a white female who is a site manager at
12 Circle K Convenience Store. She indicated in 1979,
13 she had been charged with assault and battery of a
14 high and aggravated nature, but she was convicted on
15 simple assault. And in 1980, she was convicted of
16 simple possession of marijuana. Obviously, those
17 convictions are 30 and 31 years ago.

18 The next juror who came up was Ruth Bledsoe,
19 juror number 8, a white female who teaches school in
20 Greenwood.

21 The next juror who came up is juror number 75,
22 Carolyn Mitchum, white female who is retired from
23 CMC Manufacturing in Trenton.

24 So the first four people who came up were
25 struck by Defendant Langford.

1 The next juror who came up was Mr. Hillary and
2 he was seated, a black male, juror number 53.

3 The next juror who came up was Stacy H. Gore,
4 juror number 38 who is a white female. Ms. Gore is
5 a housewife. I don't think she's ever worked
6 outside of the home. And her husband's a
7 contractor. She was struck by Defendant Langford.

8 The next juror who came up is Deborah Weaver, a
9 black female, juror number 121, who was seated.

10 The next juror who came up was Velma Lakes,
11 juror number 65, a black female who was struck by
12 the State.

13 The next one was Kevin L. Chinn, juror number
14 18, a black male who was seated.

15 The next white female, M.L. Ryan, juror number
16 97, was seated.

17 The next juror who came up was Richard Walters,
18 white male, juror number 117. He is an engineer at
19 Westinghouse. He was struck by Defendant Langford.

20 The next juror who came up was Beatrice Ryan,
21 juror number 96, a black female. She was seated on
22 the jury.

23 The next juror was Peggy Cockrell, a white
24 female, juror number 19. She is an administrative
25 assistant at the Department of Transportation. She

1 indicated she has a nephew in prison for burglary
2 and assault.

3 The next juror who came up was Anthony R.
4 Hammond, juror number 47, a white male. He is in
5 lumber sales. He was struck by Defendant Langford.

6 The next juror is juror number 72, a white
7 female, Sandra McDaniel. She is in the mortgage
8 department of a bank and she was struck by Defendant
9 Langford.

10 The next juror was Ervin Talbert, 113, black
11 male. He was seated.

12 The next juror 98, James H. Satcher, III, white
13 male, he was seated on the jury.

14 The next juror who came up was Phillip A.
15 Greene, juror number 39, a white male. He works at
16 PCS Nitrogen. He was struck by Defendant Phillips.

17 The next juror that came up was a white female,
18 juror number 64, Lanette Lacharite,
19 L-a-c-h-a-r-i-t-e. She is a legal secretary in
20 Augusta. I guess in Augusta. I think they have an
21 office in Aiken, too.

22 The next juror who came up was Gustave Frazer,
23 a black male, juror number 32. He was seated.

24 The next juror who came up was Brenda Brown,
25 juror number 10, a black female. She was struck by

1 the State.

2 The next juror was Christopher D. Locklair,
3 juror number 67, a white male. He was struck by
4 Defendant Langford. Mr. Locklair works heavy
5 equipment at the Savannah River Site.

6 The next juror who came up was Gail Thorne,
7 juror number 116, a white female. She was struck by
8 Defendant Phillips. She works in the lab at the
9 Edgefield County Hospital.

10 The next juror was seated, that's juror number
11 48, Regina Harrell, white female.

12 The next juror, juror number 84, white female,
13 Patricia Peeler, she was struck by Defendant
14 Phillips. She works in bookkeeping at the
15 university hospital.

16 Let's just say she was an interesting lady.
17 She indicated that -- she came up in response to a
18 question about if any of her family members had ever
19 been involved in any type of crime of violence or
20 accused of any crime of violence. She indicated
21 that her late husband, quote, shot up a bar,
22 apparently went in there and fired numerous shots
23 inside of the bar. He got probation. She didn't
24 know if that was violent or not, but anyway,
25 Mr. Phillips struck her.

1 Juror number 89 -- the next juror was Richard
2 -- Jerry A. Richardson who was seated, juror number
3 91, a white male.

4 Then the fifth juror stricken by Mr. Phillips
5 was Rachel Raines, a white female, juror number 89.
6 She is a bank teller.

7 Then the next two were seated, that's Richard
8 Koenig, juror number 62, a white male, and Doresa
9 Hartley, 49, a black female.

10 So of the five strikes exercised by Defendant
11 Phillips, four are against females, all five were
12 against whites.

13 Of the ten strikes exercised by Defendant
14 Langford, the first four were females. There were
15 five total -- six against females and all ten were
16 against whites.

17 (Pause.)

18 **THE COURT:** The first black that come up was a
19 black male, he was put on the jury. The second
20 black that come up was a black female, she was put
21 on the jury. The third black that come up was a
22 black female that was struck by the State. The
23 fourth black that come up was a black male who was
24 seated on the jury. The next black person to come
25 up was a black female who was seated on the jury.

1 The next black person that come up was a black male
2 who was seated on the jury. The next person, black
3 person to come up was a black male who was seated on
4 the jury. The next black person who appeared was a
5 black female that was struck by the State.

6 The first white juror -- when the first white
7 juror was seated, Mr. Langford had exercised five of
8 his strikes, Mr. Phillips none, the State had
9 exercised one.

10 After that white juror was seated,
11 Mr. Langford -- a white male came up, Mr. Langford
12 struck him. The next black person that was a juror
13 -- was seated on the jury, excuse me. The next
14 white person who came up was a white female struck
15 by Mr. Langford. The next white person who came up
16 was a white male struck by Mr. Langford. The next
17 white person that came up was a white female struck
18 by Mr. Langford. The next black person that come up
19 was a juror, seated on the jury. The next white
20 person who came up was a white male who was seated
21 on the jury.

22 At that time, Mr. Langford had exercised nine
23 of his ten preemptory challenges. Mr. Phillips had
24 exercised none. The State had exercised one.

25 I think I've put everything on the record. I

1 can go on through -- I've gone through every juror
2 that was struck. Mr. Langford ran out of strikes.
3 The last strike was exercised on a white male. In
4 the interim, Mr. Phillips had exercised two strikes
5 against whites. The Court finds that there is a
6 prima facie case of both racial and gender
7 discrimination in the exercise of the strikes.

8 It's now ten minutes after 3:00. What I have
9 to do at this point is I have to give the defendants
10 the opportunity, this is the second phase of this,
11 and shift the burden over to them to give me a
12 racially neutral, gender neutral explanation for the
13 exercise of their strikes. If I find that, in fact,
14 those are racially neutral and gender neutral, I
15 then decide whether the State in this instance can
16 prove purposeful racial or gender discrimination.
17 So the burden is going to be on the defense.

18 And if I find that they've given me racially
19 neutral and gender neutral explanations, then the
20 burden will shift to the State to prove that it was
21 purposeful discrimination. That's the way I
22 understand the law. You all can tell me if I'm
23 wrong.

24 Logistically, I've got an issue. That jury's
25 been out there now for 40 minutes and in the

1 sunshine. I can keep these jurors back here.
2 Obviously, if I rule -- if I deny the Batson motion,
3 then we can start up with the jurors that we have.
4 If I grant the Batson motion, then we bring them all
5 back in the morning and try to draw again if y'all
6 want to go through that effort.

7 I will entertain whatever you all want. It's
8 just I'm thinking this is going to take at least
9 another hour. Hopefully, I'm wrong. Any
10 suggestions or you just want me to go ahead and make
11 the call?

12 **MR. MAYE:** I'd like for you to make the call.

13 **MR. CALHOUN:** That's fine, Your Honor.

14 **THE COURT:** Bring those jurors in, please,
15 outside.

16 (The jury venire enters the courtroom.)

17 **THE COURT:** All right. Ladies and gentlemen,
18 I'm going to explain to you where we are
19 procedurally, logistically, as much as I can. And
20 I'm not trying to hide anything from you.
21 Hopefully, I'll have an opportunity later to explain
22 to you what we're doing, but I cannot explain to you
23 now. If I could, I wouldn't have to have you
24 standing outside.

25 An issue has been raised and I have to make

1 rulings upon them. When this type of issue is
2 raised, it takes a great deal of time and effort to
3 go through everything that I have to go through. It
4 is that thing that I told you that can come up
5 during a trial and I'm in a better position to make
6 a ruling if I get a little chance to get to know
7 you.

8 Now, what I did after I sent you out, I had the
9 12 jurors in the back, I told them that this was
10 going to be a rather lengthy process. I had them go
11 to lunch like you did, told them to be back at the
12 same time you were to come back. I had the lawyers
13 here sooner. I ran straight out, got a sandwich,
14 came straight back, didn't eat there, I ate on the
15 way back. And as soon as I got back, I started
16 pouring into this. I've been on the bench ever
17 since.

18 I can't work any faster than I'm working. I've
19 done as much as I can do. It's a three step
20 process. I've gotten through step one. I couldn't
21 let you go until I made a decision on step one.
22 Now, we have to go into step two and depending on
23 how step two goes, we'll see if we go into step
24 three.

25 The long and short of it is this. I don't see

1 any way that I'm going to get through step two much
2 less step three any quicker than I got through step
3 one. So my choice is to leave you standing out
4 there or let you go home or wherever you want to go.
5 So I'm going to let you folks go in a little bit and
6 I'm going to put you on a telephone call-in system
7 because depending upon how these rulings go, I may
8 need to bring you back. I wish I knew more, but
9 we're in the middle of something.

10 So I told you at the outset I'd put you on a
11 telephone call-in system anyway, so here it goes.
12 I'm going to abbreviate this a little bit, but
13 probably not as much as you'd like me to.

14 You were given a card this morning. On that
15 card, there is a telephone number. Now, what you're
16 going to be asked to do is to call that number
17 tonight after 6:00 and follow the instructions. It
18 may tell you to come in tomorrow. It may tell you
19 to come -- to call back tomorrow after a certain
20 time. It may tell you that you all are through and
21 you don't have to worry about me anymore. I don't
22 know what it will say. If I knew what it would say,
23 I'd tell you now, okay.

24 Now, before I let you go, I want to explain to
25 you a little bit about the history of how this came

1 to be, this call-in system. I found that if I take
2 about ten minutes and explain this to the jury, we
3 don't have problems. If I leave it out, I always
4 have problems. It doesn't matter if I'm holding
5 court in Charleston or if I'm holding court in
6 Oconee, we have problems. So here it goes:

7 When I was a lawyer practicing in this
8 courtroom around -- wherever I went to practice, the
9 way that judges dealt with juries is they brought
10 the juries in every morning and every afternoon and
11 the jury just sat there. So that's the way it
12 worked.

13 We would go about our business. At some point
14 in time if a case got called and needed a jury, the
15 jury would say -- the judge would say, all right,
16 ladies and gentlemen of the jury, we're going draw a
17 jury. If not, the judge would say at some point, go
18 to lunch, be back at 2:00, 2:30. 2:00, 2:30 gets
19 here, the jury would sit there for a while, same
20 thing go on. Maybe around 4:00, the judge would
21 say, go on home, be back in the morning. That's the
22 way they did it everywhere.

23 Well, about the time that I became a judge most
24 counties were going away from that system because
25 while it's real convenient for us to have you

1 sitting there all the time, it's real inconvenient
2 for you. And we can function without requiring you
3 to be there all the time, but once we turn a jury
4 loose, things tend to shut down on us. We have to
5 have the certainty that we can call a jury trial if
6 we need to. And when we deal with as many people as
7 we deal with, things change all the time, people get
8 sick, all kinds of things happen and we might have
9 to go to another case. So we started using this
10 call-in system and it works great. The jurors love
11 it.

12 And one other big benefit from it is that while
13 the money that you're going to be paid for jury duty
14 is what I call Happy Meal money, it's next to
15 nothing to you, when you add it up over the course
16 of a year with all the juries, it really adds up.
17 It saves a lot of tax payer money if we do it this
18 way, but primarily it was put in place for your
19 benefit.

20 So right now I'm going to insult your
21 intelligence. I apologize in advance for doing it.
22 Here it goes: This system works great, but it only
23 works if you call. As obvious as that should be,
24 there may be times this week when I tell you what I
25 think is likely to happen and I've had jurors

1 numerous times say, well, you said you didn't think
2 such and such so I didn't bother to call. Well, if
3 I knew what to tell you, I wouldn't have you
4 calling, I'd just tell you. So you have to call.

5 Which gets me to point two, if you're supposed
6 to be here and you're not here, I send somebody to
7 get you. All those people whose names were called
8 this morning who weren't here, somebody's been in
9 touch with them. And if we hadn't found them yet,
10 we're still looking for them. So that's not a
11 threat, that's just the way it is. And some people
12 seem to be just utterly shocked when they find a
13 sheriff knocking on their door.

14 Which gets me to point three, and by the way
15 we'd call before we come to get you, but gets me to
16 point three. If you have some true emergency that
17 arises this week that prevents you from being here,
18 I'm used to dealing with that if y'all let me know
19 what's going on, so have somebody call the clerk's
20 office and tell us about it. If you've got a
21 stomach virus, I don't want it either, so -- but
22 just call and tell us, all right. Call the clerk's
23 office and let them know what's going on.

24 Which gets me to the next point, you only get
25 the little juror pay you get and you only get a slip

1 from the clerk if you need it for your boss for the
2 days you're actually up here. So if the message
3 says we don't need you on a particular day and you
4 can otherwise go to work, you need to go to work.
5 If you work a third shift job or you're a long
6 distance truck driver or something like that, stay
7 and talk to me and I'll tell you what we usually do
8 with folks in those positions.

9 But I have had, never in Edgefield County,
10 actually never in any small counties, I have had
11 people who, for instance, I might turn the jury
12 loose on a Tuesday or a Wednesday and that person
13 gets paid by their employer while they're on jury
14 duty and they decide to take the rest of the week
15 off and tell their boss that they were on jury duty
16 and get real mad at me when I won't give them a slip
17 to verify that. Folks, that's not going to happen.
18 If you can otherwise go to work, go to work.

19 Which gets me to the next point, I promise you
20 as soon as I know that I don't need you anymore, I
21 will have the clerk put on that machine that you are
22 through. You don't have to call in anymore. You
23 don't have to come back anymore. You don't have to
24 worry about me for at least three years.

25 Now, the last thing I'm going to say in case I

1 do not see you again is thank you. Now, folks, I
2 don't say that enough I know, but I really think it
3 cheapens it when I sit up here and repeatedly thank
4 folks for performing their civic duty. We're very
5 blessed in this society that we live in a country
6 where we resolve our disputes in a fashion like this
7 and the only reason it works is because people like
8 you come away from everything else they have to do
9 in their lives. And I'm not just blowing smoke when
10 I say that. I believe that with all my heart and
11 soul. So I thank you and I promise you that I'll do
12 what I can not to waste your time.

13 All right. Any questions about the call-in
14 system before I let you go?

15 Anybody who works a third shift job, something
16 like that, you stay and talk to me. Otherwise, call
17 tonight after 6:00, follow the instructions. If
18 this trial goes as anticipated, I don't know that I
19 will see you again. If things take a curve, you'll
20 be back in the morning. If things take a curve
21 later on, you might be back Thursday. We'll just
22 see how it goes, all right. Thank you.

23 (The jury venire was excused.)

24 **THE COURT:** All right. Let's take five
25 minutes.

1 (Brief Recess.)

2 **THE COURT:** All right. Are y'all ready to
3 start?

4 (There was no response.)

5 **THE COURT:** All right. Mr. Calhoun, I need a
6 racially neutral and gender neutral reason for
7 striking Katherine Yonce, juror number 43.

8 **MR. CALHOUN:** Yes, Your Honor. Ms. Yonce is a
9 nurse at Aiken Regional Medical Center. This is --
10 my client is charged with a violent crime. A lot of
11 victims of violent crimes are brought into the
12 hospital, particularly if she works as an E.R. nurse
13 and I thought that might give her some apprehension
14 or prejudice against my client because he's accused
15 of a violent crime.

16 **THE COURT:** All right. What about juror number
17 5, Carla Bates?

18 **MR. CALHOUN:** Your Honor, Ms. Bates stated
19 during the voir dire that she had a relative that
20 had some criminal charges that was convicted of
21 simple assault and marijuana. I thought that was a
22 little relevant, but that's not the reason I struck
23 her. The reason I struck her is in watching her
24 through the voir dire process not just when she came
25 up and spoke to the Judge, but I, of course, watched

1 the jurors as they were sitting in the back of the
2 jury room and when she came up and stood in front of
3 us when her name was called, she appeared to be
4 nervous and she was doing some eye rolling and
5 genuinely acted like she didn't want to be here, so
6 I struck her.

7 **THE COURT:** She said she was convicted of
8 simple assault and marijuana.

9 And what about Ruth Bledsoe, juror number 8?

10 **MR. CALHOUN:** Two reasons I struck her, Your
11 Honor, number one, she's a school teacher. In my
12 20, 21 years of doing this, I've never had luck with
13 a school teacher sitting on jury panels of crimes
14 where I'm defending someone. I think they're good
15 for prosecution, but I don't have luck with them.

16 The other reason is I had a gentleman who I
17 think first name was Butch, Butch Bledsoe, that was
18 an opposing party on a case many years ago that was
19 from this area. And I thought there was a chance, I
20 know that there are some Bledsoes in this part of
21 the state, but I thought there's a chance that they
22 might be related.

23 **THE COURT:** All right. Carolyn Mitchum, juror
24 number 75.

25 **MR. CALHOUN:** Which juror number, Your Honor?

1 **THE COURT:** 75.

2 **MR. CALHOUN:** 75? Beg the Court's indulgence.

3 **THE COURT:** She was the fourth strike, Carolyn
4 A. Mitchum. She was retired from CMC in Trenton.

5 **MR. CALHOUN:** Your Honor, Ms. Mitchum, I asked
6 my client, as I do throughout this process, whether
7 or not he wanted me to strike her or not and he
8 indicated that he wanted me to strike her.

9 **THE COURT:** Anything else?

10 **MR. CALHOUN:** No, Your Honor, that's it.

11 **THE COURT:** Stacy Gore, juror number 38.

12 **MR. CALHOUN:** Your Honor, Ms. -- that lady was
13 struck for demeanor. I tried to make eye contact
14 with all of these prospective jurors. I could not
15 get her to make eye contact with me or my client.
16 She would not face us. She turned and faced away
17 from us, so I always take that as sign of some form
18 of hostility towards me and/or my client or his
19 co-defendant.

20 **THE COURT:** All right. And Richard Walters who
21 is juror number 117.

22 **MR. CALHOUN:** The main reason I struck juror
23 number 117 is that he's 62 and this case is going to
24 take a number of days to try. I always want a juror
25 that's going to give their full undivided attention

1 to all the evidence which is going to be thrown at
2 them over at -- at a number of days, but he also
3 would not make any eye contact with me, made the
4 attempt to do so. He wouldn't turn and face us when
5 we were speaking to him, but he wasn't facing the
6 prosecution either. He just kind of stared forward,
7 but I couldn't get any eye contact with him.

8 **THE COURT:** Peggy Cockrell, juror number 19.

9 **MR. CALHOUN:** This lady came up during voir
10 dire and stated that she had a nephew, as you're
11 aware, who had been to prison for burglary. I
12 couldn't hear everything that she said to you as I
13 struggled to hear everything that everybody said to
14 you when you were talking to them, but I wrote down
15 that she seemed to have some hostility towards her
16 nephew for going to jail for burglary and I thought
17 that that might translate over to how she felt about
18 my client who's also charged with burglary as one of
19 the offenses that he's here for today.

20 **THE COURT:** Anthony Hammond, juror number 47.

21 **MR. CALHOUN:** Yes, sir. Your Honor, I was able
22 to make eye contact with Mr. Allen -- is it Allen?

23 **THE COURT:** Anthony.

24 **MR. CALHOUN:** Anthony?

25 **THE COURT:** Yes.

1 **MR. CALHOUN:** And that's why I struck him. He
2 looked at me in an unfriendly or a hostile manner.
3 I don't know him, so I certainly can't say it's my
4 fault, but he seemed to have some animosity either
5 towards me or my client who was sitting right beside
6 me.

7 **THE COURT:** Sandra McDaniel, juror number 72.

8 **MR. CALHOUN:** A couple of reasons I struck her,
9 Your Honor, I wasn't successful in making any eye
10 contact with her, but I'd decided beforehand that if
11 she was called, I probably would, that this is the
12 reason why, when she was sitting in the courtroom
13 during voir dire and you were speaking to the jury
14 panel, I noticed that she was very animated in how
15 she would respond to everything that you said. She
16 was constantly nodding her head in agreement with
17 what you said or back and forth in disagreement.
18 And her facial expressions were very animated where
19 she would laugh at some things and then she would
20 act surprised at others.

21 And I just felt that if she was put on the jury
22 panel, that that type of response to everything that
23 is said might make her, what I would call, an overly
24 analytical person. I don't want an overly
25 analytical person sitting on the jury of any case

1 because I find that they tend to pick issues and
2 evidence apart too much or not likely to make
3 decisions based on the plain meaning or the evidence
4 that they have before them.

5 **THE COURT:** All right. And Christopher
6 Locklair, juror number 67.

7 **MR. CALHOUN:** Yes, Your Honor. I tried to make
8 some eye contact with this client (sic) also. He
9 wouldn't do so. When he was called up before me and
10 my client, he would not face in our direction. He
11 faced away in the direction of the prosecutor -- of
12 the prosecution.

13 **THE COURT:** Any jurors that -- any of the black
14 jurors that didn't make eye contact with you or
15 faced away from you that were seated on the jury?

16 **MR. CALHOUN:** None that I can specifically
17 remember, Your Honor, that wouldn't look at me.

18 I'd also like to point out that we sat five
19 jurors on the jury panel that we did not strike and
20 all of the prosecution strikes were used against the
21 African-Americans.

22 **THE COURT:** Okay. Mr. Williams, I need a
23 reason, racially neutral reason for Phillip Greene.

24 **MR. WILLIAMS:** Your Honor, this particular
25 juror -- as is always my custom, I always ask for

1 the input of my client. And, Judge, this is in fact
2 his day in court and the reason why it takes me a
3 little longer is because I do ask for the input of
4 my client. My client indicated that he didn't like
5 the fact that Mr. Greene was smiling. When he stood
6 there anticipating being whether seated or excused,
7 he continued to sort of smile. My client indicated
8 to me that he didn't like that, so we struck him.

9 **THE COURT:** All right. 64.

10 **MR. WILLIAMS:** The reason why I chose to strike
11 this particular juror, Your Honor, is because she's
12 employed by a law firm. And if my legal assistant
13 is any indicator as to how they -- how legal
14 assistants sometimes truly feel about your clients,
15 I just thought it would be best that I not seat her.

16 **THE COURT:** 116, Gail Thorne.

17 **MR. WILLIAMS:** I believe Ms. Thorne was
18 employed in the laboratory at the hospital. I
19 believe it's Edgefield Hospital, if I'm not
20 mistaken. And because of that, I had some concerns
21 that she may have, in fact, had some exposure to
22 violence and did not want to take a chance on her
23 being biassed against my client because of her
24 experience as a hospital employee.

25 **THE COURT:** Patricia Peeler, juror number 84.

1 **MR. WILLIAMS:** Number 84. My client indicated
2 to me that he did not like the manner in which the
3 juror appeared. He says that -- he indicated to me
4 that she appeared as though she may not be alert.
5 And I took that into consideration, as well as the
6 fact that she is now 64 years old and basically
7 struck her with my client's input and considering
8 the fact that she is getting somewhat aged.

9 **THE COURT:** Rachel Raines, juror number 89.

10 **MR. WILLIAMS:** I recall in the side bar this
11 particular juror indicated that Investigator
12 Roosevelt Young banked with the bank that she was
13 employed at. And Investigator Young is a
14 charismatic fellow and outside of this courtroom,
15 he's a very likable guy, so I wouldn't want to have
16 her likely -- the likelihood that she likes him
17 affect her position as to what he would say about my
18 client or against my client.

19 That was all, wasn't it?

20 **THE COURT:** Yes, sir.

21 **MR. WILLIAMS:** Thank you.

22 **MR. CALHOUN:** Your Honor, I'm sorry to
23 interrupt, but I would like to add something to my
24 previous responses for number 75, 67 and 72. Those
25 are juror numbers --

1 **THE COURT:** Carolyn Mitchum was 75.

2 **MR. CALHOUN:** Yes, sir.

3 **THE COURT:** 67 is Christopher Locklair. And
4 72, is that what you said?

5 **MR. CALHOUN:** 72, 67 and 75.

6 **THE COURT:** All right.

7 **MR. CALHOUN:** On those three jurors, my client
8 also requested that those jurors be struck as he did.
9 juror number 117 that I had told the Court
10 previously about.

11 **MR. WILLIAMS:** And may I just put this one
12 issue on the record, Judge?

13 **THE COURT:** Yes, sir.

14 **MR. WILLIAMS:** I indicated to my client that we
15 could not excuse jurors on the basis of race or
16 gender. I made that abundantly clear to him and I
17 believe he understood that.

18 **THE COURT:** All right. Well, with regard to
19 the people who are employed in the medical fields
20 and their possible involvement or contact with
21 victims of violence, the only person that I see on
22 the jury who may work in some sort of a capacity
23 like Savannah River Site, M.L. Ryan, white female,
24 juror number 97, but she really didn't say anything
25 about working in the burn center. And she also said

1 that she's planning to go to work at the Federal
2 Correctional Institution and she's white. So she is
3 -- she could be interpreted being similarly
4 situated, she's in the same race and she's female.
5 And I'm assuming that the objection is for the
6 number of females that were stricken and the number
7 of whites that were stricken.

8 Beatrice Ryan is on the jury, she's a black
9 female, juror number 96. She works in the home
10 health care industry, but there's -- I didn't see
11 any indication she's a nurse in my materials. The
12 only one that tangentially might deal with medical
13 field would be -- other juror would be Regina
14 Harrell who is sitting on the jury, juror number 48,
15 she's also a white female. She works at a senior
16 living center. So I don't see anybody similarly
17 situated there.

18 As far as teachers, Mr. Hillary is on the jury,
19 juror number 53, black male, but he's not a teacher.
20 He works for the building services at schools.

21 All right. So let's just do it this way.
22 Katherine Yonce, juror number 43, the Court finds
23 that there is a racially and gender neutral reason
24 to exercise that strike.

25 With regard to Carla Bates, juror number 5,

1 there were other people who had been -- who had
2 relatives who were charged with crimes who are on
3 the jury, one is Deborah Weaver, 121, whose first
4 cousin was incarcerated for criminal sexual conduct
5 is a black female. But there's a white male, Jerry
6 Richardson, 91, who is on the jury. He was charged
7 over 30 years ago with that incident with the school
8 when he was a juvenile. By the time that he got to
9 Mr. Richardson however, Mr. Langford was out of
10 strikes. And, again, he's a white male. Her
11 demeanor, the attorney indicated she was nervous,
12 she acted in an odd way to him and that's gender and
13 racially neutral.

14 I mentioned the next one, Ruth Bledsoe, is a
15 teacher at Greenwood. I don't see any other jurors
16 who were similarly situated with a different race on
17 the jury. The reason related to being a teacher is
18 gender neutral and race neutral, that -- moreover
19 that the reason advocated about Butch Bledsoe might
20 be related, I really don't know. My guess is that
21 they're not a very close family if their family --
22 if there's a relationship there at all, but the
23 attorney would have no way of knowing that.

24 I know a little bit about the situation with
25 Dr. Bledsoe as far as just discussions on the

1 street. I know his family very well. He was in
2 high school when I was in high school. I think it's
3 sufficient to say there's probably a lot of emotion
4 related to that incident. And if there was any
5 concern of that incident, it's not a very good -- a
6 lot of emotion related to the situation is related
7 to Dr. Bledsoe and if there's any concern that
8 somebody might be related to him, I can understand
9 why that strike would be exercised.

10 With Carolyn Mitchum, it's always difficult
11 when the only reason given is that the client wanted
12 the juror stricken, but there was some reasoning
13 advanced for most all of these, if not all of them.
14 The Court finds in totality of the circumstances,
15 this is a racially neutral and gender neutral
16 explanation.

17 With regard to Stacy Gore, that's another one
18 that's demeanor and eye contact, faced away from
19 them, and it was a racially neutral and gender
20 neutral reason given there.

21 With engineer Richard Walters, the 62 year old
22 part is a little hard to swallow, but the eye
23 contact and their overall observations about his
24 demeanor are racially neutral.

25 Mr. Hammond said -- they took it -- he referred

1 to they said their interpretation of his body
2 language was hostile towards them. I can't say that
3 I observed him, but I'm looking at people's back, so
4 it's hard for me to say. Anyway, that's a racially
5 and gender neutral reason -- well, it's a racially
6 neutral reason. He's a male gender as well, but I
7 don't think male is being raised.

8 Sandra McDaniel is a white female, 72, the
9 observation of the attorney is about how she
10 reacted, how she was animated, the client was
11 uncomfortable with her mannerisms and how she was
12 acting and the attorney's experience with people of
13 that nature tended to focus on certain things and
14 become overly analytical is racially neutral and
15 gender neutral.

16 Christopher Locklair, juror number 67, the eye
17 contact, the client did not want him and would not
18 face toward them, again those are racially neutral
19 reasons.

20 And Peggy Cockrell, juror number 19, there's a
21 specific tie in there to burglary. With regard to
22 the jurors who were actually seated, those who said
23 that they had relatives who were in jail or had been
24 incarcerated, none of them related to a burglary.
25 It was criminal sexual conduct and assault and

1 battery with intent to kill, simple assault I think
2 -- I'm sorry, that's somebody else.

3 I apologize, there is a similarly situated,
4 Beatrice Ryan, juror number 96, black female, her
5 brother was convicted of burglary.

6 Ms. Cockrell was burglary and assault, her
7 nephew, was burglary and assault. And the
8 interpretation of the attorney was that it was
9 hostility towards the nephew. It was not
10 demonstrated by others. The Court believes those
11 are racially neutral and gender neutral reasons.

12 On the reasoning advanced by the attorney for
13 Mr. Langford, Phillip Greene, juror number 39, it's
14 based on the input of the client and the fact that
15 the juror apparently was smiling and the client felt
16 that that was inappropriate in the situation. The
17 Court finds that to be racially neutral.

18 Lanette Lacharite, juror number 64, is a white
19 female. She works at a law firm, that's racially
20 and gender neutral.

21 Gail Thorne, 116, works in a lab at a hospital.
22 The lab obviously at the hospital is closely tied in
23 with the emergency room and would be dealing with
24 matters, as advanced by the attorney, matters where
25 people were brought in as victims of violence.

1 Patricia Peeler is the lady who -- juror number
2 84, she works at university hospital as a
3 bookkeeper. Her mannerisms were interesting. And
4 without going into anymore detail than that, the
5 Court finds that there's a racially neutral and
6 gender neutral explanation on that.

7 64 years old, again, you've got some other
8 people on here who seem to be that old or close to
9 it, I don't know that I can buy the age argument.

10 And then Rachel Raines, juror number 89, is a
11 bank teller, but she had indicated she knows
12 Roosevelt Young, who was seated as the lead -- as
13 one of the lead investigators in the case, one of
14 the first names that I read out, was in the
15 courtroom during the voir dire, so that's a
16 gender neutral -- excuse me -- a racially neutral
17 reason.

18 All right. Solicitor, it shifts to you. What
19 proof do you have that it was purposeful
20 discrimination?

21 **MR. MAYE:** Your Honor, juror number 117, a
22 white male was struck. I note he's an engineer at
23 SRS. The stated reasons that he struck him is he
24 would not face anyone and he was 62 years old. If
25 you look down at juror number 32, who is a black

1 male, also employed at SRS, and you have juror
2 number 67 that is also a worker at SRS, here you
3 have three people that all work at SRS, Your Honor.

4 The eye contact or no eye contact, it went back
5 and forth. You have either smiling or hostile or
6 wouldn't look at anyone. But they said number 62 he
7 struck him because of his age and because he
8 wouldn't face anyone. At times -- they said that he
9 didn't look at anyone. At times, they said that he
10 looked at the State or he would not make eye
11 contact.

12 We would maintain that striking those three
13 people, that the two that work at SRS that are white
14 males were struck strictly on that basis. They all
15 work at the same place. Juror number 32 is 61 years
16 old, there's a year difference in between them, Your
17 Honor.

18 I know that in the cases that I have read in
19 the past they said that a third party's assertion
20 that he did not want somebody -- that they didn't
21 want somebody alone is not a race or gender neutral
22 reason. I could not say that Investigator Robinson
23 said no and that's ultimately what you have with
24 juror number 75, client said strike him. That's
25 what you have with at least one other of the jurors

1 on here, my client did not like her appearance,
2 juror number 84, and the client said no. That's
3 essentially the only reason proper for juror number
4 84, my client didn't like her appearance, said no.

5 75 is another juror that that was proffered as
6 a reason, my client said no -- well, excuse me --
7 that's the one I hit to begin with. The client said
8 strike, which is neither a racially gender neutral
9 reason.

10 I note 52 percent of the 29 jurors prior to the
11 alternates were struck that were white in this case,
12 15 of 29. 11 of the 14 white females were struck,
13 Your Honor.

14 We just maintain that numerous of these reasons
15 proffered contradict each other. If they looked
16 over there and gave eye contact, then they were
17 hostile and they didn't want them. If they refused
18 to look, they didn't want them for that reason as
19 well.

20 I just think this going back and forth, this
21 eye contact thing just goes back and forth depending
22 on the juror. If they didn't look, that's a bad
23 sign. If they did look, it's a bad sign. A juror
24 smiling is a bad sign versus a juror that is
25 hostile. I just think that these are pretextual

1 reasons. I'd certainly abide by whatever the
2 Court's rulings are.

3 And those are the most egregious ones that I
4 can see are three people all that work for SRS, seem
5 to be similarly situated. The only other
6 distinction they managed to juror number 17 is he
7 said he would not make eye contact. And as to juror
8 117, said he wouldn't face anyone, there was
9 nothing, he was just neutral on that. We'd maintain
10 that his age at 62, which was the only other
11 proffered reason and the other juror that works at
12 61 that is a black male that -- is 61 years old and
13 works at SRS, we would maintain that those are
14 evidence of a bias in this in striking the jurors.

15 **THE COURT:** Well, they never said anything
16 about SRS. And the age issue, as I've already tried
17 to indicate, I really can't buy that. But they came
18 down with that Batson decision. And when they came
19 out with Batson, a whole lot of people immediately
20 started questioning where are you going to draw the
21 line, what are you going to do? And I'm pretty sure
22 that there was a fairly strong dissent in that case
23 which said that this actually, while it may have
24 been intended to be something to help minorities,
25 was in fact going to have the opposite effect.

1 Well, it started out pretty narrowly and then,
2 I haven't looked at this in years, but it started
3 out pretty narrowly and then it started getting
4 expanded, it got expanded to include gender. At
5 first, you were looking at the race of the
6 defendant. Well, that got expanded to where it
7 doesn't matter about the race of the defendant, it
8 was the right of the juror to serve on the jury. So
9 the analysis got changed there.

10 Then it got -- I may not have the chronology
11 right, but it got expanded to gender. It got
12 expanded to civil court. And I think what we're
13 starting to see now is a reining in of this because
14 the most recent cases have gone through painting
15 this in a much different light than when it was --
16 where it was, say, eight years ago. Basically, what
17 it states now in the most recent cases that I see is
18 that there has to be -- there should be this
19 inherent discriminatory intent that's obvious and
20 that it -- that what is advanced with a
21 fundamentally implausible explanation for the
22 strike.

23 This State versus Cochran is one of the cases
24 from the Court of Appeals and one of the factors
25 they focus in on is that the defense didn't exercise

1 all of its strikes. If they wanted to strike in a
2 racially discriminatory manner, they could have
3 taken the 20 strikes, they could have struck all of
4 the whites. And we wouldn't have gotten a jury,
5 number one, because we didn't have enough numbers.
6 So they focused in on that.

7 And they talked about what the ultimate makeup
8 of the jury was. And as I went through, it takes a
9 while to go through all of this stuff, but I've got
10 to do my job, it's seven blacks, five whites, seven
11 males, five females. Of the males, you've got four
12 black, three white. Of the females, you've got
13 three black, two white. Pretty close numbers there.
14 And I've broken down the order in which the strikes
15 were exercised.

16 I mean, it's a little bit troubling that the
17 first four out of the box so to speak, now it's out
18 of the computer, but the first four out were white
19 females and they were struck by one defendant. But
20 the reasons advanced in my mind do not demonstrate a
21 discriminatory intent and certainly not one that
22 arises from a determination that that's inherent
23 because of a fundamentally implausible explanation.

24 Plus, now the burden has shifted over in this
25 instance to the State and what was talked about

1 about SRS was not even mentioned by the defense.
2 What was talked about about age, I've already said I
3 can't really accept that. I mean, I'm 57, so when
4 y'all start telling me a 62 year old can't
5 concentrate, that's getting a little touchy. You'll
6 get there before you know it.

7 I mean, one of the men is an engineer at SRS.
8 I think he can concentrate. But as far as how you
9 observed him, how his demeanor was, what his
10 appearance was, how he interacted with you all, how
11 you all -- what vibe you got from him, all of those
12 sorts of things, I'm not really in a position to
13 determine if the State has disproved what's been
14 said or has proven that that was racially motivated.

15 Now, having said all of that, there were a lot
16 of people when Batson first came out, and I have to
17 follow the precedent whether I agree with it or not,
18 there were a lot of people when Batson first came
19 out said, you know, you need to either go with the
20 first 12 out of the box, let the judge -- you can
21 make a motion before the judge to set them aside for
22 cause because they cannot be indifferent to the
23 cause and take the first 12 out of the box or else
24 if you extend Batson to its logical extreme, it's
25 going to become an absurdity. So I think what we're

1 seeing now is a reining in of where that thing was
2 headed. Now, I've given my little lecture, that's
3 all I've got to say except the motion is denied.

4 All right. You said you had something you need
5 to bring up with me.

6 **MR. WILLIAMS:** Yes, sir.

7 **THE COURT:** What is it?

8 **MR. WILLIAMS:** Your Honor, as it relates to my
9 client's position, he indicates to me that he does
10 have some concerns about your ability to fairly and
11 earnestly try the issues joined in the cases against
12 him.

13 As this Court is well aware, my client has been
14 incarcerated on this charge for just about two
15 years, almost two years, and we have made a number
16 of motions regarding bond. And my client has
17 indicated to me that it's his position that based on
18 the facts, there has been no identification by any
19 of the victims regarding himself, furthermore there
20 has been no prior history of his crimes in his past
21 which indicate any violence and your refusal to
22 allow him to have a bond or to continue to deny his
23 bond he has indicated to me that he believes that
24 somehow perhaps you are biased against him. And he
25 has indicated to me that based upon his right to

1 have a fair and impartial trial, he would ask that
2 this Court would recuse itself.

3 **THE COURT:** Does the State want to be heard?

4 **MR. MAYE:** Yes, sir, Your Honor. Beyond the
5 fact, Your Honor, that some judge has got to hear
6 motions for bond is just a function of who the chief
7 judge is in this case. And like I said, I think
8 that that's something that any criminal defendant
9 could lodge because bail is going to have to be
10 addressed by someone, Your Honor.

11 We certainly would not, based on our experience
12 and -- or mine in being around Your Honor for nearly
13 20 years in the courtroom here, I've never seen any
14 evidence of Your Honor's bias in setting bond or
15 anything that would indicate a lack of fairness by
16 this Court. And I think that that would just open
17 Pandora's box to allow someone that they can assert
18 that I was denied bond and that somehow means that
19 the court is biased. I think that's an invalid
20 argument, especially knowing the history of Your
21 Honor in setting bonds and the Court's reputation
22 for fairness and we would certainly maintain that
23 that's a specious reason to have His Honor recuse
24 himself in this case.

25 **THE COURT:** Anything else, Mr. Williams?

1 **MR. WILLIAMS:** No, sir, Your Honor.

2 **THE COURT:** Do you want your client to say
3 anything?

4 **DEFENDANT:** Yes, sir, Your Honor. Judge
5 Keesley, it have been two years I've been
6 incarcerated, bond denied, pose a danger to my
7 community, no evidence, DNA, no photo lineup. The
8 State have an unreliable witness. I don't
9 understand how I pose a danger to my community. My
10 charge is not dismissed due to unduly dilatory
11 circumstances. I came to court last, the court term
12 in May and they needed an interpreter, which is --
13 he was unuseful. He wouldn't do no good for them.

14 **THE COURT:** That's not what I understood. The
15 interpreter was here at great expense to the county.

16 **DEFENDANT:** Well, my understanding the
17 continuance was for an interpreter. But my
18 co-defendant was not willing to testify, pleading
19 the fifth. The charge was not dismissed. That's
20 all, Your Honor.

21 **THE COURT:** The order that I issued at that
22 time was that issues arose. It was scheduled to be
23 tried. There was an interpreter in Mandarin Chinese
24 who had been brought in from another state, that
25 there was some change in -- what I was being told

1 was there was some change related to a witness and
2 that that witness had to have an attorney and that
3 that attorney had just been appointed and had only
4 had eight days of discovery and that that's why the
5 trial did not go forward and -- well, I mean it's
6 set forth in the order. I'm sure you've got a copy
7 of it.

8 I don't expect there to be agreement, but I
9 mean I haven't got anything against you. There's no
10 bias against you. I just have to make calls. And
11 the fact that there's no DNA and no photo lineup,
12 probably well over 70 percent of the cases I do
13 don't have any DNA or photo lineups.

14 So if I were in your position, I'd probably be
15 extremely upset about sitting in jail for two years
16 and wouldn't understand why the judge wouldn't let
17 me out of jail, but it's not anything directed
18 towards you personally.

19 And if the motion is for me to recuse myself,
20 the motion is denied. It's preserved for the
21 record. If there is some issue, you can take it up
22 with the court above me, but what I understood there
23 was a co-defendant who had given statements that
24 implicated the other two co-defendants.

25 **DEFENDANT:** Yes, sir, Your Honor --

1 **MR. WILLIAMS:** Thank you, Your Honor.

2 **THE COURT:** Do y'all have pretrial issues other
3 than what we just did?

4 **MR. MAYE:** Nothing that I'm aware of, Your
5 Honor.

6 **THE COURT:** There's no need for a Denno
7 hearing? There's no need for a Neil versus Biggers
8 hearing on identity, there's none of that?

9 **MR. WILLIAMS:** Your Honor, I believe I know my
10 colleague well enough, but I would certainly trust
11 that based on the information of the victims, there
12 will not be an in-court identification which he will
13 solicit from them because we would object to it on
14 the basis that we don't believe there is any
15 evidence of an identification that they will be able
16 to offer. And I believe and I trust that the
17 Solicitor would not seek to have that done in the
18 course of this trial and certainly I would object to
19 it.

20 **THE COURT:** Well, they can't. If there's going
21 to be an in-court identification by anybody other
22 than a co-defendant who knew these two men
23 beforehand, you've got to have a Biggers hearing.

24 **MR. MAYE:** We do not have that issue, Your
25 Honor.

1 **THE COURT:** All right.

2 **MR. WILLIAMS:** I just wanted to clear it up,
3 Judge.

4 **THE COURT:** You're doing your job.

5 Do y'all want to make opening statements? Do
6 you want me to send this jury home after I give them
7 their instructions? What do you want to do? It's
8 25 till 5:00.

9 **MR. MAYE:** Your Honor, I think it would be
10 prudent in this case to begin in the morning. I
11 can't imagine it would be smart to begin at this
12 hour, especially as long as they've waited today.
13 We'd just prefer to start in the morning if that
14 pleases the Court.

15 **THE COURT:** All right. Mr. Calhoun, what do
16 you want to do?

17 **MR. CALHOUN:** Start in the morning is fine,
18 Your Honor.

19 **THE COURT:** Mr. Williams?

20 **MR. WILLIAMS:** Your Honor, that pleases me as
21 well.

22 **THE COURT:** Bring the jury in for me please,
23 sir.

24 (The jury returns to the courtroom.)

25 **THE COURT:** All right. Ladies and gentlemen --

1 where is Mr. Hillary? Mr. Hillary, I'm going to
2 make you the foreman of the jury. When you all --
3 I'm going to let y'all go home in a little bit,
4 okay. When you come back tomorrow into the
5 courtroom, be the last one in and you'll have to sit
6 on the front row on this end throughout the trial,
7 all right.

8 The rest of you folks will be able to sit
9 anywhere you like in the jury box. The only thing I
10 ask of you is it's much better if people don't walk
11 across each other. We had an incident in Lexington
12 where a lady broke her ankle and I don't want that
13 happening to any of you. So if you have a favorite
14 chair, it's best if you kind of space yourselves out
15 before you go in the jury box and just file all the
16 way down, but leave that seat on the end of the
17 front row vacant for the foreman throughout the
18 trial.

19 Now, I'm very sorry that you've been back there
20 that long. I promise you that we have been working
21 as hard as we could work to get you out here. We
22 came back early. All I did was go out, grab a
23 sandwich and eat it on the way back to the
24 courthouse and I've been working since.

25 I thought we might be able to get the opening

1 statements done this afternoon and we just, we're
2 not going to be able to do that. So we have worked
3 through all of the issues that we had to work
4 through. It was a lot of extra things that I had to
5 do. I can explain it to you at the end of the
6 trial, but I can't explain it now.

7 Now, before I let you go home for the night, I
8 need to explain some things to you. I need you back
9 here in the morning at 9:30. I need you in that
10 jury room at 9:30. If you have some true emergency
11 that arises that prevents you from being here,
12 please make sure that you call the clerk's office
13 and let us know what's going on because we can't do
14 anything unless all 12 of you are here. I have no
15 alternate in this case, I ran out of jurors, so I
16 can't do a thing unless I've got 12.

17 Now, you cannot discuss this case in any way
18 among yourselves. You cannot discuss the case in
19 any way with anybody else. I've told you already
20 and I'll have to tell you again tomorrow, but you
21 cannot let anybody else know what case you're on,
22 what it's alleged to be about, who's involved in it.
23 You can tell somebody you're on a jury, but you
24 can't tell them what it's about. If anybody
25 attempts to contact you and discuss the case with

1 you, report that to me so I can deal with it.

2 If there's any media coverage of the trial, get
3 away from it, don't let yourselves be exposed to it
4 any further and then report to me at the first
5 opportunity what you may have seen, heard or read
6 through the media.

7 Don't do any independent investigation. Now, I
8 used to give a jury an instruction about independent
9 investigation and then the Supreme Court of our
10 state came out with an expanded one. So I'm going
11 to read theirs to you, but I'm going to give you
12 mine first.

13 When I say don't do any independent
14 investigation, what I mean is things like this:
15 I've told juries before once you find out where this
16 is alleged to have occurred, don't go out there and
17 look around. When you take your oath, you're going
18 to promise us that you'll decide the case based on
19 the evidence and the law and those things are going
20 to come to you in this courtroom. We want you to
21 use your common sense, but the evidence comes to you
22 in this courtroom not from what somebody else
23 somewhere else said or wrote, okay. So don't do any
24 independent investigation.

25 Don't go on the Internet and try to look up any

1 kind of articles that might in any way relate to
2 this matter.

3 I've talked to you about media coverage. It's
4 very important during any trial that you stay away
5 from any media coverage of that trial, so do not go
6 on any Internet web sites or any news reporting
7 services or anything that might be covered in this
8 trial. At the end of the week when the case is
9 over, you can look at anything you want to. You can
10 talk to anybody you want to, but while you're on
11 this jury, don't do any of those things.

12 Now, the situation with the advent of smart
13 phones and cell phones and all those sort of devices
14 has really created a new arena for us in court. I
15 got one right here, but it's been such a problem
16 that the Chief Justice came down with some specific
17 directives and hers are much more finely worded than
18 mine, but some people get mad when the bailiffs
19 start telling them don't use your cell phones and
20 things like that. Well, the bailiffs are doing what
21 the Chief Justice told us all we have to do and
22 there's a good reason for it.

23 So I'm supposed to instruct you about the
24 following things: While you're on the jury and
25 until your service is concluded, you are not to

1 discuss the case with others including other jurors
2 except as directed by the court. And I'll tell you
3 when you can start talking about the case. You
4 won't have any doubt about that.

5 You're not to read or listen to any news
6 reports about the case. You're not to use a
7 computer, a cell phone or any other electronic
8 device with communication capabilities while
9 attending the trial or during your deliberations.
10 You may use those devices during lunch breaks and
11 extended breaks, but not to obtain or disclose
12 information prohibited about the case.

13 Now, in these great big trials you see and hear
14 about the problems in other states were that jurors
15 are sitting there sending out information about a
16 trial during a trial. We hadn't had that in South
17 Carolina, but you can see how this could really
18 become a problem.

19 You're not to use a computer, a cell phone or
20 another electronic device with communication
21 capabilities or any other method to obtain or
22 disclose information about the case when you're not
23 in court. And information about the case includes
24 the following things, but it's not just limited to
25 these: That's information about a party, a witness,

1 an attorney or a court officer, news accounts of the
2 case, information collected through juror research
3 on other topics or any topics raised or testimony
4 offered by a witness.

5 One time I had a witness go on line and look up
6 a legal term in a legal dictionary. We had to have
7 a whole day's worth of hearings on that to basically
8 find out that what she read was the same thing I
9 told her, but while we're doing that, everybody's
10 sitting around with nothing but time on their hands
11 waiting for that to be done.

12 You're not to disclose any information that you
13 might collect through juror research on any topic
14 that you might think would be helpful in deciding
15 the case and you're not to try to find any. So like
16 I said, don't go try to look up legal terms or legal
17 definitions or anything like that. I'm the judge of
18 the law and I'm going to tell you the law at the end
19 of the trial. The facts are going to come to you
20 from the witnesses and the exhibits admitted in the
21 trial.

22 You are perfectly qualified to do your jobs.
23 You don't need to be doing any independent
24 investigation.

25 Now, later on I'll be able to give you a

1 shorthand version of that and we won't have to go
2 through it so much and I hate to be doing that this
3 late in the day.

4 Have you got any questions before I send you
5 home?

6 (There was no response.)

7 **THE COURT:** When you come in in the morning,
8 we'll put you under a different oath. We'll put you
9 under an oath as a trial jury. Then I'll give you
10 instructions that'll take about ten minutes and then
11 you'll hear the opening statements from the
12 attorneys and we'll get started into the case.

13 I'll try to keep you abreast of how we proceed
14 periodically, how we're going and what it looks like
15 as far as when you might get the case. But I, like
16 you, am going to be hearing this case for the first
17 time. So thank you very much. I'm terribly sorry
18 about your wait and I look to see you in the morning
19 at 9:30, please be in that jury room. Follow the
20 bailiff.

21 (The jury was excused for the day.)

22 **THE COURT:** Do they have all the clothes they
23 need to be dressed out in the morning, your clients?

24 **MR. CALHOUN:** The clothes he has on his back
25 right now are the clothes he has.

1 **THE COURT:** Has he got family here?

2 **MR. CALHOUN:** I think his mother.

3 **THE COURT:** Sheriff, do y'all take care of it
4 -- are they both staying in Edgefield or is one in
5 Saluda?

6 **MR. WILLIAMS:** These two are in Edgefield, Your
7 Honor.

8 **THE COURT:** Sheriff Dobey, make sure you get
9 with them so they'll be dressed out like they want
10 to be dressed out in the morning and up here so that
11 the jury won't be running into them, okay.

12 All right. 9:30.

13 **MR. MAYE:** May it please the Court, Your Honor.
14 I know we do have the interpreter here. Would it
15 save time to have him sworn or put under oath now or
16 do you want to do that in the morning? He is here.
17 I don't know if you have to do that or they have to
18 take an oath for interpreters. It's been a while
19 since I've done it with an interpreter. I don't
20 know what the Court has them do.

21 **THE COURT:** Is there going to be any issue
22 about the qualification of the interpreter?

23 **MR. WILLIAMS:** I mean, I just want to know
24 generally if he fits the statute. I don't --

25 **MR. CALHOUN:** If he's court certified, I don't

1 have any issue with him.

2 **THE COURT:** I prefer to swear the interpreter
3 in front of the jury.

4 **MR. MAYE:** Okay.

5 **THE COURT:** If there's a hearing that we need
6 to do beforehand, y'all can be here at 9:15.

7 **MR. MAYE:** I'm unaware of it, Your Honor. I
8 just -- it's been so long since I've done anything
9 with an interpreter, I didn't remember what --

10 **THE COURT:** I have to put something on the
11 record and it'll take maybe five minutes if there's
12 no issue. If there's an issue, then, you know, it
13 may take longer.

14 **MR. WILLIAMS:** Again, you know, I hadn't seen
15 his résumé or anything of that nature and --

16 **THE COURT:** Is it a man or a woman?

17 **MR. MAYE:** It's a man and he's here.

18 **THE COURT:** Can they go talk to him?

19 **MR. MAYE:** Certainly.

20 **THE COURT:** Well, why don't y'all just talk to
21 him and meet me here at, let's just say, about 9:20
22 in the morning and if there's an issue, you can let
23 me know then, okay.

24 **MR. WILLIAMS:** Yes, sir. Thank you, Your
25 Honor.

1 **THE COURT:** All right. Thank you.

2 **MR. MAYE:** Thank you, Your Honor.

3 (Whereupon, the proceedings were concluded
4 for September 7, 2010.)

5 (The following proceedings were held on
6 September 8, 2010.)

7 **THE COURT:** All right. Yesterday when I made
8 those rulings related to the Denno -- excuse me --
9 to the Batson issue, I just want to make it clear, I
10 did evaluate those both collectively and
11 individually as far as the defendants. I think I
12 put all of that on the record, but I want to make
13 sure that I stated that I did both evaluations.

14 Now, what's the situation with the interpreter?
15 Did y'all have a chance to talk to him?

16 **MR. WILLIAMS:** Yes, Your Honor.

17 **THE COURT:** And is there any question about his
18 qualifications?

19 **MR. WILLIAMS:** Your Honor, there does continue
20 to be a question about his qualification.

21 **MR. CALHOUN:** If I may, Your Honor, this is my
22 experience and knowledge on the use of interpreters
23 in circuit court and other courts in the State of
24 South Carolina. If an interpreter is certified in
25 the State of South Carolina, he, of course, is

1 certified from court administration. However, the
2 other states including all of the southeastern
3 states are in a pact whereas if an interpreter is
4 certified in one state court, then he's also allowed
5 to testify in another state court, but he does --
6 and the information that I received from the
7 interpreter yesterday was he felt that he was
8 certified -- he thought he was certified, but he
9 wasn't sure whether it was North Carolina or
10 Maryland.

11 I know that each of those states do -- of
12 course, they do have certification, but the
13 certification has to be renewed on an annual basis.
14 I think they use the fiscal year. And proof of
15 certification is simply a letter from court
16 administration of that state on state letterhead
17 stating that the person is certified and gives the
18 dates of certification when it expires and when the
19 certification has to be renewed. So if he does have
20 proof for certification, which I'm assuming he does
21 in either North Carolina or Maryland, then he would
22 be certified to testify in South Carolina in circuit
23 court.

24 (Pause.)

25 **MR. CALHOUN:** And I was able to locate the

1 telephone number for court administration in
2 Maryland late last evening. I was informed that you
3 could call and determine if someone is certified in
4 that state. And I do have that phone number for the
5 Court's information in case you'd like it.

6 (Pause.)

7 **THE COURT:** What's the interpreter's name?

8 **MR. CALHOUN:** It's Ming Louie. L-o-u-i-e is
9 the last name.

10 **THE COURT:** M-i-n-g?

11 **MR. CALHOUN:** Yes, sir.

12 **THE COURT:** Bring him out here.

13 (The interpreter enters the courtroom.)

14 **THE COURT:** What is your name, sir?

15 **INTERPRETER:** Ming Louie, M-i-n-g, L-o-u-i-e.

16 **THE COURT:** Swear him in please, Madame Clerk.

17 **MING LOUIE,**

18 having been duly sworn, testified as follows:

19 **THE COURT:** Can you all voir dire him about his
20 qualifications? Do you want to do that?

21 **MR. CALHOUN:** Yes, sir.

22 **THE COURT:** Go ahead.

23 **VOIR DIRE**

24 **BY MR. CALHOUN:**

25 **Q** Mr. Louie, where do you live?

1 **A** Right now I'm living in Charlotte, North
2 Carolina.

3 **Q** Okay. Have you ever received certification for
4 Mandarin or Cantonese Chinese language in the State
5 of North Carolina?

6 **A** No.

7 **Q** Okay. Have you obtained that in another state,
8 that certification?

9 **A** No.

10 **Q** Okay. So you don't -- you're not certified in
11 Mandarin or Cantonese Chinese language in the State
12 of North Carolina or Maryland; is that correct?

13 **A** That's correct, yes.

14 **THE COURT:** I didn't hear his answer.

15 Would you say that again, please?

16 **INTERPRETER:** No, I did not receive any
17 certification.

18 **BY MR. CALHOUN:**

19 **Q** So have you ever applied for certification
20 through any court administrations in any states of
21 the United States?

22 **A** No.

23 **Q** Okay. And you're not certified in the State of
24 South Carolina in any foreign language?

25 **A** No, because no such program available for

1 certification.

2 Q Where? In which state?

3 A In Maryland and North Carolina for Chinese.

4 Q So you're saying that you weren't allowed to be
5 certified --

6 A There's no such a program --

7 Q -- in the State of North Carolina?

8 A There's no such a program, no.

9 Q Did you ever apply for certification in any
10 state of the United States --

11 A No.

12 Q -- to be an interpreter of Mandarin or
13 Cantonese language?

14 A No.

15 Q So, in fact, you don't know whether or not the
16 court administrations would allow you to be
17 certified; is that correct?

18 A Yeah, that's correct, yes.

19 MR. CALHOUN: That's all I have, Judge.

20 THE COURT: Do you have any questions of the
21 witness?

22 MR. WILLIAMS: Just one.

23 VOIR DIRE

24 BY MR. WILLIAMS:

25 Q You have not been certified in any of the

1 district courts or federal courts of the United
2 States, have you?

3 A No.

4 Q And you've never applied?

5 A No.

6 MR. WILLIAMS: Thank you, sir.

7 THE COURT: Does the State have any voir dire?

8 MR. MAYE: Just a little bit.

9 VOIR DIRE

10 BY MR. MAYE:

11 Q Have you previously served as an interpreter in
12 court situations before?

13 A Yes.

14 Q Approximately how many times have you served as
15 an interpreter in court systems?

16 A Over 50 times.

17 Q Over 50 times?

18 A Yes.

19 Q Each of those times were you given some -- in
20 the past, have you previously been given an oath
21 that you were to interpret correctly from Chinese to
22 English and from English to Chinese and back and
23 forth?

24 A Yes.

25 Q Have you taken that oath before?

1 A Yes.

2 Q Okay. And you've done that approximately 50
3 times?

4 A Yeah, more than.

5 Q Okay. Have you spoken with the victims in this
6 case to introduce yourself to them in this case?

7 A Yes.

8 Q Okay. But you haven't talked to them about any
9 of the facts underlying this case, have you?

10 A No.

11 Q Okay. Were you able to communicate with them
12 effectively and were you able to understand them and
13 what dialect of Chinese do they speak?

14 A Mandarin.

15 Q They speak Mandarin?

16 A Yes.

17 Q Okay. Did you have any problem communicating
18 with them?

19 A No.

20 Q Okay. Would you have any problem interpreting
21 what they say and interpreting back and forth from
22 Chinese to English and English to Chinese in this
23 court setting here?

24 A No.

25 Q And you could do so truthfully and take an oath

1 that you would accurately do that here today?

2 A Yes.

3 MR. MAYE: Thank you.

4 VOIR DIRE

5 BY THE COURT:

6 Q Mr. Louie, how much education do you have?

7 A I have a master degree in chemistry at Penn
8 State University.

9 Q And how old are you?

10 A (No response.)

11 Q How old are you?

12 A I'm sorry. 61.

13 Q And where were you born?

14 A Canton, China.

15 Q What is your native tongue?

16 A Chinese.

17 Q And what's the difference between Chinese and
18 Mandarin Chinese?

19 A Just different dialect. Mandarin is the
20 national language dialect.

21 Q I'm sorry. I can't hear you.

22 A Mandarin is the national dialect.

23 Q Mandarin is the national dialect?

24 A Yes.

25 Q So is that what you learned growing up?

1 **A** We learned both, the local dialect and also the
2 national dialect.

3 **Q** How long did you live in China?

4 **A** Twenty years roughly.

5 **Q** Where did you go from there?

6 **A** United States.

7 **Q** So you lived in the United States around 40
8 years?

9 **A** Yes.

10 **Q** How did you come to start doing interpreting
11 services?

12 **A** I was in Maryland at that time and there was
13 need for a Chinese interpreter in the local court,
14 so I just got into it at that time. There's not
15 many Chinese available at that time.

16 **Q** Roughly how long ago was that?

17 **A** Probably 1996, around 1996.

18 **Q** And how often have you interpreted or
19 translated in court settings since 1996?

20 **A** It's on-call basis, probably ten times a year.

21 **Q** About ten times a year or about ten times
22 total?

23 **A** Ten times a year.

24 **Q** Other than Maryland where have you interpreted
25 in courts?

1 **A** Delaware, the State of Delaware, and also State
2 of North Carolina.

3 **Q** What level of court; do you know?

4 **A** Mostly circuit court and some law office and a
5 police office.

6 **Q** So of the roughly 50 plus times that you've
7 done this, those have not always been in court or
8 they have been?

9 **A** Most of them in court.

10 **Q** Have you ever not been qualified by a judge?

11 **A** No.

12 **Q** So every time that you were offered as an
13 interpreter or translator, the judge qualified you?

14 **A** Yes.

15 **Q** Who did you talk to in this case in Chinese,
16 Mandarin Chinese?

17 **A** I don't know the name.

18 **Q** How many people?

19 **A** Three.

20 **Q** And what setting were you in when you were
21 talking with them?

22 **A** Just -- I just introduced myself, my name, and
23 what do I come here for.

24 **Q** Who else was there?

25 **A** I don't know the name.

1 Q Do you know what their jobs were, why they were
2 there?

3 A I think it's the prosecutor.

4 Q The prosecutor?

5 A Yeah, prosecutor.

6 Q Now, these three people with whom you talked,
7 you indicated to the prosecutor when he questioned
8 you a moment ago that you had no difficulty
9 communicating with them; is that correct?

10 A That's correct.

11 Q Did they appear to have any difficulty
12 communicating with you?

13 A No.

14 Q Was there anything about their particular
15 dialect that was different than what you were
16 accustomed to?

17 A No.

18 Q Are you related to them in any way?

19 A No.

20 Q Are you in any way financially dependent upon
21 them?

22 A No.

23 Q Had you ever met them before you were brought
24 here to translate?

25 A No.

1 Q Did you try to give them any type of legal
2 advice or any other advice?

3 A No.

4 Q Do you have any interest in this litigation, in
5 this case?

6 A No.

7 Q Do you know either of the defendants over
8 there?

9 A No.

10 Q Have you ever talked with either of those
11 gentlemen?

12 A No.

13 Q Other than yesterday had you ever talked to
14 their attorneys?

15 A Yes.

16 Q In person or by phone?

17 A In person.

18 Q Do you recall what you talked about?

19 A Just about getting my information from me about
20 my background.

21 Q Okay. What did you give them?

22 A My résumé.

23 Q Your résumé?

24 A Yes.

25 Q Do you have it with you?

1 **A** No. The defense attorney has it.

2 **Q** Which attorney is it?

3 **MR. CALHOUN:** May I approach?

4 **THE COURT:** Yes, sir.

5 **BY THE COURT:**

6 **Q** What is Cantonese?

7 **A** Just one of the dialect in China.

8 **Q** So there's a dialect related to the Canton
9 area?

10 **A** Yes.

11 **Q** And there's a Mandarin dialect?

12 **A** National.

13 **Q** That's the national. And you went to secondary
14 and presecondary schools in Hong Kong?

15 **A** Yeah. I graduated from high school there.

16 **Q** What language do they speak in Hong Kong?

17 **A** Mostly Cantonese.

18 **THE COURT:** Make me a copy of this.

19 (Pause.)

20 **Q** These three individuals that you talked to, can
21 they speak any English.

22 **A** I'm sorry?

23 **Q** Can they speak any English?

24 **A** Very minimal.

25 **Q** Very limited?

1 **A** Yeah. I didn't talk to them that long, so I
2 don't know the capability.

3 **Q** Do you feel that you're fluent in Chinese and
4 Mandarin Chinese?

5 **A** Yes.

6 **Q** And do you feel that you're fluent in English?

7 **A** Yes.

8 **Q** All right. Just to make certain that I have it
9 straight, you are not on the list of certified
10 interpreters at South Carolina Court Administration
11 or any other states?

12 **A** That's correct.

13 **Q** Do you have any friends to reward or any
14 enemies to punish in this matter?

15 **A** No.

16 **Q** Do you have any interest whatsoever in the
17 outcome of this matter?

18 **A** No.

19 **Q** Have you ever read the ethical rules related to
20 interpreters in South Carolina?

21 **A** No.

22 **THE COURT:** Do any of you have any questions in
23 light of the Court's questions before I print this
24 out and show it to him?

25 **MR. CALHOUN:** I have a few more, Your Honor.

1 RE-VOIR DIRE

2 BY MR. CALHOUN:

3 Q Mr. Louie, I understand that you've never been
4 certified in the state courts of South Carolina, but
5 you have testified in the state courts of North
6 Carolina and Maryland; is that correct?

7 A Yeah.

8 Q Were all of those issues or instances where you
9 were certified was it always in circuit court?

10 A Mostly district and circuit, mostly district
11 and circuit.

12 Q I'm sorry?

13 A District court and circuit court.

14 Q Okay. So you're saying you testified in the
15 federal district court?

16 A No, state.

17 Q Did you ever testify in a magistrate's court?

18 A No.

19 Q You never testified in magistrate's court?

20 A No.

21 Q Only in district court?

22 A District and circuit court at state level.

23 Q And some of the 50 instances you discussed
24 earlier was sometimes in the law offices of an
25 attorney; is that correct?

1 **A** Yes, sometimes, yes.

2 **Q** Or sometimes in a police department?

3 **A** Yes.

4 **Q** For law enforcement?

5 **A** Yes.

6 **Q** Are you able to cite, translate English into
7 Mandarin or Cantonese?

8 **A** Yes.

9 **Q** Are you able to cite, translate a document that
10 is in Mandarin or Cantonese into English?

11 **A** Yes.

12 **MR. CALHOUN:** That's all I have, Judge.

13 **THE COURT:** Anyone else, any questions of the
14 witness in light of the Court's questions or Mr.
15 Calhoun's questions?

16 **MR. MAYE:** None from the State, Your Honor.

17 Thank you.

18 **MR. WILLIAMS:** Nothing from Defendant Phillips,
19 Your Honor.

20 **THE COURT:** Mr. Louie, I'm going to have the
21 Clerk of Court print out some rules that were put
22 forth by the South Carolina Supreme Court for
23 professional conduct for court interpreters.
24 They're a little bit lengthy. They're not terribly
25 lengthy. They go through explaining all of the

1 things that they expect you to do ethically if you
2 perform this function.

3 And there is one section that I'll go ahead and
4 mention here so the attorneys can be prepared to
5 argue it to me, but there is a section in there that
6 if an interpreter is utilized as part of the
7 investigation, that can create a conflict of
8 interest. So I've looked at the statute, and the
9 statute is 15-27-155, if an interpreter is not on a
10 list, the court can still qualify that person to
11 serve if the interpreter meets the requirements of
12 subsection (B).

13 Subsection (B) is that the person has to be 18
14 years of age or older. He's not a family member of
15 the party or a witness. He is an instructor of a
16 foreign language at an institution of education; or
17 that he has educational training or experience that
18 enables him to fluently speak a foreign language and
19 interpret the language of another person. He cannot
20 be confined to an institution.

21 You're not in jail anywhere, are you?

22 **INTERPRETER:** No.

23 **MR. MAYE:** Your Honor, may I question the Clerk
24 of Court briefly?

25 Madame Clerk, where were you able to obtain his

1 information from in seeking an interpreter?

2 **THE CLERK:** I'm really not sure. I can't
3 remember if I called Greenville, South Carolina, the
4 clerk's office, because we searched diligently for a
5 Chinese interpreter.

6 **MR. MAYE:** I just could not remember if you got
7 it from court administration or where you
8 obtained --

9 **THE CLERK:** No. Court administration did not
10 have any Chinese interpreters. South Carolina does
11 not have any that are certified.

12 **MR. MAYE:** Thank you.

13 **THE COURT:** All right. We're at ease.

14 During the break, Mr. Louie, during this break,
15 I'm going to give you this piece of paper, but I
16 don't want you talking to anybody about your
17 testimony, okay?

18 **INTERPRETER:** Okay.

19 **THE COURT:** We have to get it printed out
20 before I can give it to you.

21 (Brief Recess.)

22 (Court's Exhibit Number 1, résumé of Ming
23 Louie, marked for identification purposes.)

24 **THE COURT:** All right. Mr. Louie, have you had
25 a chance to read through those ethical rules?

1 **INTERPRETER:** Yes, I did.

2 **THE COURT:** And are you willing to abide by all
3 of those?

4 **INTERPRETER:** Yes, I do.

5 **THE COURT:** And you understand, I'm not going
6 to try to go through all of them, but you understand
7 that it makes a very strong point in there that your
8 job is to translate. It's not to give legal advice.
9 It's not to go off on some tangent, but it's to be
10 verbatim.

11 **INTERPRETER:** Yes.

12 **THE COURT:** All right. Does the State have
13 anything else related to qualifications?

14 **MR. MAYE:** Nothing from the State, thank you.

15 **THE COURT:** Does the defense have anything
16 related to qualifications, any objections that you
17 want to put on the record?

18 **MR. CALHOUN:** Just for the record, we'll have
19 to state our objection to his certification for
20 Mr. Langford.

21 **MR. WILLIAMS:** Your Honor, I did have a couple
22 of matters that I thought the rules raised or the
23 ethical rules raised that I might be able to inquire
24 of the witness.

25 **THE COURT:** Certainly.

1 RE-VOIR DIRE

2 BY MR. WILLIAMS:

3 Q Mr. -- I believe it's Louie?

4 A Yes.

5 Q Now, had you previously met with the Solicitor
6 and the witnesses in this case?

7 A No.

8 Q You had not previously met with them before?

9 A No, except yesterday.

10 Q Except for yesterday?

11 A Yeah.

12 Q Did you previously meet with them in May of
13 this year?

14 A No.

15 Q Did not. Did you speak with them regarding
16 this case?

17 A No.

18 Q On yesterday when you met with them, were there
19 any matters that you all discussed regarding the
20 prospective testimony that the witnesses would give
21 in this proceeding?

22 A No.

23 Q Did you offer to them any opinions with regard
24 to the nature of this proceeding?

25 A No.

1 Q Might I ask you what, if anything, did you all
2 discuss on yesterday?

3 A Nothing related to the case except introduce me
4 to the -- introduce me to the three people, Chinese
5 people.

6 Q All right. And the Solicitor, did he in any
7 way let you know what this case involved?

8 A Just briefly about this robbery.

9 Q Okay.

10 A Yeah. That's it.

11 Q And you in no way discussed that with the three
12 witnesses in this matter?

13 A No.

14 MR. WILLIAMS: All right. Thank you, Your
15 Honor. Those are the only questions. For the
16 record, I do object to his qualification.

17 THE COURT: All right. Mr. Louie, since
18 Mr. Williams brought that part up, I'm glad he did,
19 I want to make sure I cover that with you. As you
20 read in those ethical rules, it can be a conflict of
21 interest if you are involved in the investigation of
22 the case, if you become involved in that process, if
23 you're part of interpreting during the investigatory
24 process. Do you feel that you have any sort of
25 interest whatsoever in the outcome of this case?

1 **INTERPRETER:** No.

2 **THE COURT:** Do you feel that you're affiliated
3 in any way with the State in this case?

4 **INTERPRETER:** No.

5 **THE COURT:** Do you feel that you're affiliated
6 in any way with the defense in this case?

7 **INTERPRETER:** No.

8 **THE COURT:** You can be neutral and interpret
9 and translate these words verbatim without regard to
10 what either side may think if you've got an option
11 of choosing one word or another -- let me start
12 over. I'm sorry, that's a terrible question.

13 In translation, I understand you may be able to
14 pick one word, there might be another word that
15 might be suitable and you have to quickly decide
16 which word to use in translation. Is that a fair
17 statement?

18 **INTERPRETER:** Yes.

19 **THE COURT:** Do you feel that anything that has
20 happened thus far, either your involvement with the
21 State or your involvement with the defense, would
22 affect you in choosing which word to use?

23 **INTERPRETER:** Can you repeat that again?

24 **THE COURT:** Would you choose a word more
25 favorable to the State or more favorable to the

1 defense?

2 **INTERPRETER:** No.

3 **THE COURT:** All right. The way I read those
4 ethical rules, it listed certain things that could
5 disqualify a person, would be a conflict of
6 interest, but at the end, it had an explanation, I
7 don't have it in front of me, but it had an
8 explanation that the mere fact that one of those
9 things might exist is not in and of itself proof of
10 a conflict of interest.

11 I find beyond a reasonable doubt that Mr. Ming
12 Louie is qualified as an interpreter and translator
13 from Chinese and Mandarin Chinese to English and
14 vice versa, that he has the requisite requirements
15 even though he's not listed on the list of qualified
16 interpreters. He's over 18 years of age. He's not
17 related as a family member or otherwise to any party
18 or witness. And he has educational training and
19 experience that enables him to fluently speak both
20 languages or all languages that are an issue here
21 and interpret the language for the persons involved
22 including the Court. He's been qualified previously
23 in other courts. He's never been denied
24 qualification.

25 My conversations with the Clerk before this

1 trial were very brief, but basically I understood
2 there was difficulty in even locating someone. She
3 has provided me a list of interpreters that she
4 obtained from court administration. It's a 2009
5 list, which is when this would have been -- the
6 effort to obtain an interpreter would have been
7 going on.

8 And it's a situation where there's nobody
9 listed in there in Chinese. They're almost all
10 Spanish. There's a few French and Haitian dialect,
11 but there are no people on the list that we have for
12 Chinese. I think the Clerk's office did a diligent
13 search and only came up with a grand total of about
14 two names.

15 And this gentleman when he was checked out,
16 came out to be highly qualified. He has advanced
17 degrees which would require him to be able to be
18 fluent in both languages in order to practice his
19 profession in the United States and to get his
20 education. These languages are his -- of Chinese,
21 Mandarin Chinese are his native tongue.

22 I used some different words during my
23 questioning of him that were not routine sort of
24 easy words and he never in any way hesitated. The
25 only time he hesitated was when I asked stupid

1 questions or multiple part questions. So I'm
2 satisfied beyond a reasonable doubt that he's
3 qualified as an interpreter and translator and he
4 understands his role.

5 I want the ethical things that I gave him to
6 review made a court's exhibit. I want his résumé
7 made a court's exhibit and I have signed a written
8 order as required by our rules which will be made
9 part of the record.

10 (Court's Exhibit Number 2, ethical rules for
11 interpreters, marked for identification purposes.)

12 **THE COURT:** Mr. Louie, if you'd just -- where
13 are they going to be? Are you going to have them in
14 here during the court session?

15 **MR. MAYE:** Your Honor, I'm not going to have
16 them in for opening statement or proceedings, that
17 would be meaningless to them as they sit there. So
18 I'm just going to leave them in the family court
19 chambers until we need them was my plan.

20 **THE COURT:** All right. You all may need to
21 tell me logistically during one of the breaks how
22 you plan -- where you plan to have him sitting, how
23 you all plan to deal with it. I mean, I know we've
24 done a trial before translating to Spanish where a
25 gentleman actually had headsets and they sat over

1 there in the jury box, but those were defendants.

2 **MR. MAYE:** Your Honor, I guess we'll propose
3 that we'll let him sit close enough by to be able to
4 make the translation. They're soft spoken people
5 and he's going to have to sit close enough to be
6 able to hear them and for them to hear him.

7 **THE COURT:** All right. Mr. Louie, I want you
8 to stay in the courtroom initially while I'm talking
9 to the jury because I want to tell them who you are.
10 Fine with me if you stay there. If, after I finish
11 talking to the jury, you prefer to go back here
12 until we need you, that's fine too, all right.

13 **INTERPRETER:** All right. Thank you.

14 **THE COURT:** But if you'd just sit on the front
15 row over there for me.

16 All right. Is the State ready for the jury?

17 **MR. MAYE:** The State's ready, Your Honor.

18 Thank you.

19 **THE COURT:** Defense?

20 **MR. CALHOUN:** Ready, Your Honor.

21 **MR. WILLIAMS:** As to Defendant Phillips, ready,
22 Your Honor.

23 **THE COURT:** Bring the jury in, please.

24 (The jury enters the courtroom at 11:05
25 a.m.)

1 **THE COURT:** All right. Ladies and gentlemen,
2 the first order of business is I have to have you
3 placed under the oath of a trial jury. I need for
4 you to stand please and raise your right hand, the
5 Clerk will administer your oath.

6 (The jury was duly sworn by the Clerk of
7 Court at 11:06 a.m.)

8 **THE COURT:** All right. Ladies and gentlemen, I
9 had you come in today at 9:30. I had the attorneys
10 come in a little bit earlier than that. When we
11 left last night, there was a possibility of an
12 issue, but we really didn't know if there was going
13 to be an issue that I would have to address. As you
14 can guess, there was, so that's why you've been
15 sitting back there for an hour and a half.

16 And what I want to do at this point before I go
17 into my general explanation is explain to you
18 something that will become obvious to you during the
19 trial of the case and that is some of the witnesses
20 in this case do not speak English. I'm informed
21 that they speak Chinese or a dialect of Chinese.
22 And so I'm going to introduce to you Mr. Ming Louie,
23 this gentleman here.

24 Thank you, sir. You may be seated.

25 He has been qualified by the Court as a

1 translator and interpreter. When those particular
2 witnesses are on the stand or if they desire to be
3 in the courtroom, my understanding is that they're
4 going to opt to remain out, but if they want to be
5 in the courtroom, they have a right to be. If they
6 are, he has to translate everything that's said. So
7 if that becomes a distraction to you, you let me
8 know and we'll try to make adjustments, but you're
9 going to hear somebody else talking in different
10 dialects. Also -- or different languages.

11 Also, I'm going to ask the attorneys in
12 phrasing their questions to be mindful of the fact
13 that somebody's having to translate, so the
14 questions may come out a little slower than what
15 they normally would.

16 All right. Now, we're about to start into the
17 trial of these cases. And as I told you, you've got
18 two separate defendants. Their cases are separate
19 and distinct. They're evaluated separately on their
20 own merit or lack of merit as far as the cases go.
21 The cases are evaluated on their own merit or lack
22 of merit.

23 Each defendant has separate indictments. Each
24 indictment is separate and distinct, remains that
25 way throughout. Each is evaluated on its own merit

1 or lack of merit.

2 So if I use the phrase "case" in the singular,
3 please understand that I'm referring to all of the
4 cases. Sometimes I might just use a singular
5 phrase, but never mistake the fact that all of these
6 cases are separate and distinct and the two
7 defendants are separate and distinct.

8 Now, what I'm going to do is I'm going to start
9 out by explaining to you how we normally operate
10 court. I mentioned this to you briefly yesterday.
11 Then I'm going to tell you how the case will begin.
12 I'm not going to go through the whole process, the
13 whole procedure, but I'm going to tell you how we'll
14 get started.

15 As I told you, we normally bring the jury in
16 about 9:30 each morning. We normally go until one
17 o'clock to break for lunch. Usually I give the jury
18 at least an hour, sometimes up to an hour and a half
19 for lunch. And we usually break for the day between
20 5:00 and 5:30 with the jury. Once I give you the
21 case to decide, we typically wait on you to decide.
22 But you know as much as I know about how your day is
23 likely to go right now.

24 The way the case is going to begin is that I
25 will first recognize the attorneys to make their

1 opening statements to you. In these opening
2 statements, the attorneys are not permitted to
3 engage in argument. Opening statements are
4 introductions, outlines, overviews, but they cannot
5 extend to what we call argument.

6 When the opening statements are finished, then
7 I'm going to call upon the Solicitor representing
8 the State to present his cases. The State brought
9 these charges against these defendants and the State
10 has the entire burden of proof.

11 The defendants are presumed to be innocent.
12 The State has got to prove every essential element
13 of each offense charged beyond a reasonable doubt,
14 so I'm going to call upon the State to present
15 evidence in an attempt to meet that burden.

16 When the State finishes putting up its case in
17 chief, the Solicitor will advise me that the State
18 rests. At that point, I'm going to have to send you
19 out of the courtroom and I'm going to have to
20 discuss some legal matters with the attorneys. When
21 you come back in, I'll tell you where we go from
22 there, but that's how we're going to get started
23 with this trial.

24 Now, folks, it's really important that you
25 understand some things. First, that oath that you

1 just took was one in which you've promised us that
2 you're going to decide these cases based on the
3 evidence and the law. So you need to know where
4 those things come from.

5 The law comes from me. It's my job to decide
6 what law applies to these cases and tell it to you
7 at the end of the trial.

8 The evidence comes from the sworn testimony of
9 witnesses. Evidence can also come in the form of
10 exhibits. An exhibit can be anything tangible
11 that's marked in the record. It can be a
12 photograph, a map, a chart, anything tangible.

13 If something is an exhibit, you will have it
14 with you in the jury room when you decide the cases.
15 The reason I'm telling you that is because it's not
16 unusual for an attorney to have something like a
17 small photograph, show it to you from a distance or
18 hand it into the jury box and ask you to circulate
19 it around so that you're trying to look at what
20 they've handed you and also pay attention to what's
21 going on up here on the jury box -- in the witness
22 stand, excuse me. So please understand that all of
23 the exhibits are back in the jury room when you
24 decide the case so you can look at it as much as you
25 like.

1 You need to understand that what the lawyers
2 say is not evidence. I want you to pay close
3 attention to what the attorneys say, but understand
4 what comes out of their mouths is not evidence. The
5 evidence comes from the witnesses and the exhibits.
6 There is one exception to the rule about what the
7 lawyers saying not being evidence and if we come
8 upon it, I'll tell you about it, otherwise I won't
9 burden you with it.

10 Now, it's also very important that you
11 understand that there are two judges in the
12 courtroom. I'm the judge of the law. I've already
13 told you at the end of the trial, I'm going to tell
14 you the law that applies to the cases. It's also my
15 job to rule on legal issues as they arise in the
16 trial. It's my job to maintain order and preside
17 over the trial.

18 You're the other judge. You have to understand
19 that you are the only judge of the facts. Only you
20 are going to get to decide what evidence is
21 believable. Only you are going to get to decide
22 what weight, if any, should be put on any evidence.
23 That's entirely your prerogative and I am not going
24 to invade your province.

25 Now, I want to give you by way of example and

1 explanation a scenario so that you may understand a
2 little bit more about our differing roles. From
3 time to time during the trial, one side or the
4 other, one attorney or the other may feel that
5 something is trying to be put before the jury that
6 does not fit within the rules for the jury to
7 consider. And if an attorney feels that way, the
8 attorneys have taken oaths just like you have taken
9 an oath and I've taken an oath and the attorney has
10 an obligation to stand up and object.

11 Now, if the attorney does that, then I have to
12 decide whether that thing fits within the rules for
13 the jury to consider. I may send you out of the
14 courtroom to do that. It goes quicker if I do it
15 that way.

16 Now, we never know going into a trial if we're
17 going to have one objection or 101 objections, so
18 there's no way for us to know. If I have to send
19 you out of the courtroom a lot, just chalk it up to
20 good exercise and don't worry about what we're doing
21 out here just let me do my job.

22 Now, if I sustain the objection, what that
23 means is that I have agreed with the attorney who
24 raised the objection that that is not something
25 that's proper for the jury to consider and you

1 should disregard it totally, put it out of your mind
2 because it's not proper for you to consider.

3 But if I overrule the objection and I let it
4 come before you, I want to make sure you understand
5 that I have not given one second of thought as to
6 whether or not that thing is believable because
7 that's not my job. It will not have crossed my mind
8 to think about whether that thing should be given
9 any weight and if so, how much because that's not my
10 job, that's your job. All I've done is looked very
11 narrowly with tunnel vision to decide does that
12 thing fit within the rules for the jury to consider
13 and if I believe that it does, I let it come before
14 you and then you decide whether it's believable or
15 not and you decide what weight, if any, to put on it
16 if it is believable.

17 So I'm not going to invade your province, but
18 don't ever misunderstand a ruling I make as passing
19 on the facts of the case because that won't be
20 crossing my mind. You're the sole judges of the
21 facts.

22 All right. Now, while you've promised us that
23 you are to decide these cases based on the evidence
24 and the law and you have to do that, as I mentioned
25 to you yesterday, we're not asking you to leave your

1 common sense at home. We want you to use your
2 common sense, use your sense of logic and reason and
3 your good judgment. It just makes good common sense
4 that you keep an open mind about these cases and you
5 don't make up your mind until you've heard all of
6 the evidence and you know what law applies to the
7 cases.

8 So there's a rule that I've mentioned to you
9 that I have to repeat now and it is very hard to
10 follow. That rule is that you are not to discuss
11 these cases in any way among yourselves until I tell
12 you to, don't talk about the people involved, what
13 the case is about, don't talk about anything related
14 to the cases until I tell you to. And when I tell
15 you to begin your deliberations, we wait on you.

16 Now, that's hard to follow because you 12 folks
17 may feel you've got little in common except you all
18 live in Edgefield County and you all got picked to
19 hear these cases, so the logical thing you're going
20 to want to talk about during any break you may have
21 is what just happened in the courtroom. You've got
22 to resist that temptation and not talk about the
23 case until I tell you to.

24 Now, very quickly, you're not to discuss the
25 case with anybody else until the week is completely

1 over and you've been discharged from this jury. If
2 anybody attempts to contact you and discuss the case
3 with you, report that to me so I can deal with it.
4 Do not allow yourselves to be exposed to any media
5 coverage of the trial. If you are, get away from
6 it, don't let yourselves be exposed to it further
7 and report to me what you may have seen, heard or
8 read through the media. Do not go on any Internet
9 sites that cover local news events in Edgefield
10 County throughout the trial, just avoid those
11 completely. And the last thing is to thank you.

12 Folks, I usually tell juries at this point that
13 I'll do everything in my power not to waste your
14 time. You folks might not believe me because you
15 sat around all afternoon and sat around an hour and
16 a half this morning. I promise you that I can tell
17 time. And I promise you that it drives me crazy
18 when a jury is sitting back there waiting on us.

19 But I also can tell you this. I've been around
20 this for a long time. I've been a judge 19 years.
21 I've been out of law school now for 32. Some weeks
22 everything just goes smooth and no issues come up
23 and other weeks it just kind of -- we kind of have
24 things constantly arising and you just have to deal
25 with them and move on.

1 But I can make you this promise, if you're
2 waiting on us, we're working. There will never be a
3 time when we're out here telling jokes and drinking
4 coffee while you're back there waiting on us. If
5 you're waiting, we're working. That's all I can
6 promise you is we'll work as hard as we can to get
7 you out here so you can finish your duties and go on
8 with your life. So I thank you.

9 All right. To honor my commitment to you all
10 not to waste your time, I'm going to be quiet now.
11 I'm going to invite your close attention and ask you
12 please to listen to the opening statements of the
13 State's counsel and both defense counsel.

14 Mr. Maye.

15 **MR. MAYE:** May it please the Court, Your Honor.

16 (Pause.)

17 **THE COURT:** Mr. Maye, you're recognized.

18 OPENING STATEMENT

19 **MR. MAYE:** I was going to say good morning,
20 ladies and gentlemen, but I looked over there, it's
21 almost good afternoon. I guess we're still in that
22 time.

23 You can already tell that this process is not
24 going quickly. And I know that each of the 12 of
25 you that are going to go back in that jury room and

1 deliberate, several weeks ago or however long ago it
2 was that you got your jury summons, I doubt anybody
3 leapt for joy when they opened that letter and saw
4 they'd been summoned up here for jury duty because
5 it's a big responsibility because you're taken away
6 from what you normally would have been doing this
7 week. Whether it was being with your families,
8 going to work, doing whatever your normal activities
9 are, you're taken away from what you would have been
10 doing to come up here and sit, just as the Judge
11 told you, as the facts of this case -- judges of the
12 facts of this case, completely removed from what you
13 would have been doing.

14 It's the last compulsory public service that
15 we've got, no more draft. They said people used to
16 have to go out and work on the roads or pay a tax to
17 get somebody else to do it, this is it. And this is
18 serious business that we're about up here.

19 My name is Ervin Maye and I'm an assistant
20 solicitor. And I work for your elected Solicitor,
21 Mr. Donny Myers, who's out of Lexington. He's got
22 Lexington, McCormick, Edgefield and Saluda Counties.
23 And for about the past 16 years, I've been helping
24 him take care of McCormick, Edgefield and Saluda
25 Counties. It's always nice to be here.

1 We're going to get straight to it. The State's
2 got the burden of proof in this case and we welcome
3 it.

4 Seated over here at the State's table with me
5 are law enforcement officers that were involved in
6 this, Lamaz Robinson, who's an investigator with the
7 Johnston Town Police Department, and Mr. Zac Strom
8 over here that was formerly a sheriff's deputy for
9 Sheriff Dobey here in Edgefield County. He's not
10 employed in that capacity now.

11 Over there at the defense table, two young men,
12 Bryan Phillips and K.C. Langford. Mr. Langford's
13 closest to you. They're seated over here between
14 their attorneys in this case.

15 You've already heard the indictments get
16 published in this case before we selected the jury.
17 They're charged with armed robbery, which is exactly
18 -- the Judge is going to tell you at the conclusion
19 of all the evidence that you'll hear, he's going to
20 go through in great detail and tell you what the law
21 is in this case. It's no secret as to armed
22 robbery, somebody took up a weapon and took money or
23 goods away from somebody else and that's what these
24 two are charged with, armed robbery, burglary in the
25 first degree.

1 The Judge is going to go through and talk with
2 you about burglary, but there's certain aggravating
3 circumstances that in this, they're charged with
4 burglary first degree which means the burglary
5 occurred during the nighttime, also charged with
6 kidnapping.

7 The Judge is going to go through and charge you
8 with what kidnapping is. Most of you know what that
9 is, the general connotation be, get somebody, hold
10 them for ransom. But the Judge is going to charge
11 you with the law in this case, basically kidnapping,
12 if you restrain anybody or hold them against their
13 will for any length of time, they're charged with
14 kidnapping.

15 They're also charged with criminal conspiracy.
16 I submit to you you're going to learn in this case
17 that conspiracy is basically just agreeing. For
18 whatever length of time before, they're going that
19 we're going to go do some unlawful or criminal act,
20 that for some brief period of time or any period of
21 time, they agreed ahead of time they're going to go
22 and carry out some criminal act.

23 The Judge has already told you that some of the
24 witnesses in this case don't speak English.
25 Specifically, there's an interpreter brought up here

1 that's going to interpret several of the witnesses
2 what they've got to say in this case back and forth
3 from Chinese to English.

4 But if you go back down here in the town in
5 Johnston on the left-hand side of the road, there's
6 a little Chinese restaurant. If you go back and
7 forth there, I'm sure most of you have seen it.
8 It's called the Hong Kong Restaurant, Chinese
9 restaurant. Two couples basically run that. It's a
10 father, a mother, their son and his wife.

11 And their names are tough, I'm going to tell
12 you up front in this case. The Judge had some
13 trouble pronouncing it and I would too. The father
14 there his name is Ji Qing Chen. And his wife, and
15 to tell you the truth, I'm just going to have to
16 refer to them as Mr. and Ms. Chen, that's about the
17 best I can do in this case because it's tough to
18 pronounce these names. His son's name is Li Guan,
19 and I am going to guess is, Xi, X-i is his last
20 name. And I'm going to refer to him as Mr. Li and
21 his wife as Ms. Li.

22 But seven days a week from about 10 o'clock in
23 the morning until on over about 11 o'clock at night,
24 they run this Chinese restaurant. They go back and
25 forth there. And they live just around the corner.

1 If you go by leaving from the courthouse here with
2 the Chinese restaurant on your left on Main Street
3 there in Johnston, you turn back to the left on
4 Butler Street and you go back just a street or two
5 and they live there at the corner of Academy Street
6 and another street.

7 And just over beyond them are the housing
8 authority apartments just within walking distance
9 there. You go back there to those housing authority
10 apartments, you're going right by their house there
11 on the corner. It's a little gray framed house and
12 you're going to see photographs of it.

13 And you're going to learn on the date that this
14 took place on August the 14th of 2008, they were
15 closing up their restaurant and that night they were
16 closing about 10:30 and that at that time, the son,
17 Mr. Li, he's got two children and his mother and his
18 wife kind of alternate, there's usually three of
19 them at the time up there at the restaurant you're
20 going to learn, and on this particular day, the
21 mother, the father and their son were running the
22 restaurant. And Mr. Li, his wife, the mother of his
23 two children, was there at the house on Academy
24 Street.

25 But they left out about 10:30 that night and

1 they had about \$3,000 in a bag that was proceeds
2 from the restaurant. And they're going to tell you
3 that one of the reasons that they brought home money
4 in this case, this is a Thursday night going into a
5 Friday, was they were going to pay for some supplies
6 and so they brought home more money than they
7 usually would have. But they had about \$3,000 in a
8 bag and the three of them left the restaurant. And
9 it didn't take but just a minute or two to come
10 around the corner there and go back to their house.

11 Just a few minutes after 10:30 as they got
12 home, they pulled up in the yard and started to get
13 out. Now, Mr. Chen, the older gentleman there, the
14 father of the clan, he's got a little vegetable
15 garden over on the side of his house where he grows
16 some of the vegetables you're going to hear in this
17 case that they use there in the Chinese restaurant
18 right there in the corner of his yard.

19 Now, it's dark. They get home, they go in with
20 the bag and take it inside. And Mr. Chen, he cuts
21 across the front porch and walks around the corner
22 of the house over to where his vegetable garden is
23 because he's going to water the vegetables in this
24 case. And as he gets around the corner there, he's
25 jumped by three men who's got masks on. They put a

1 gun on him. They pound on him and hit him. One of
2 them hits him in the back of the head. They hold
3 him down and they start screaming for money.

4 You're going to learn that his son, Mr. Li,
5 after a little bit wonders what's going on with him
6 and comes out to check on him. Now, just a few
7 moments have passed at this point, but his son comes
8 out looking for his daddy to see what's going on
9 because he knows something's up because he's been
10 delayed out there. He calls for him. He doesn't
11 hear anything and he walks on around the corner and
12 these same three men get a hold of him with the same
13 demand. They make him lie down on the ground at
14 gunpoint and they're screaming wanting money,
15 Where's the money, where's the money.

16 To back up a little bit, you're going to learn
17 that as they came home that night as they did many
18 nights when they walked back and forth, they're
19 being watched for some period of time, because
20 you're going to hear the testimony in this case of
21 Mr. Alvin P. who's one of the three
22 individuals that's charged in this armed robbery,
23 burglary, the whole incident there on the 14th.

24 Alvin P. has already pleaded guilty at
25 this point in time to armed robbery. He hadn't been

1 sentenced yet. He was charged with all of these
2 things, armed robbery, he was charged with burglary,
3 he was charged with assault and battery with intent
4 to kill for hitting the man out in the yard,
5 criminal conspiracy, possession of a weapon during
6 the commission of a violent crime. All of those
7 things he was charged with for his part in what went
8 on there on the 14th.

9 He's already pleaded guilty to armed robbery
10 and he hadn't been sentenced in this case. And
11 these other charges you're going to learn from his
12 testimony up here, they haven't been disposed of.
13 They're still hanging out there over his head.
14 You're going to hear -- he's going to testify as the
15 State's witness in this case.

16 He's going to tell you that in the weeks prior
17 to the 14th of August in 2008, he and his cousin,
18 Bryan Phillips, who lived right there in that
19 housing authority that was there within walking
20 distance, he lived in that housing authority
21 apartment complex there as did Veronica Phillips,
22 his sister. And Alvin P. was then 17 years
23 old. You're going to hear he was a student at
24 Thurmond. Just before school started back, he would
25 have been starting his senior year shortly

1 thereafter. Alvin's sister, Veronica, had a child
2 and her boyfriend, K.C. Langford, the fellow that's
3 sitting over here closest to you, he hung out there.

4 Alvin P. is going to tell you in this
5 case that his mother lived out in the country, that
6 she had a job that she worked and they had a house
7 that was outside of the city limits here in
8 Johnston, but he had a room and he stayed with his
9 sister very frequently and that Bryan Phillips and
10 K.C. Langford and Alvin all hung out together
11 frequently. And, in fact, later on that night, K.C.
12 Langford he stayed on over at Veronica Phillips'
13 house as he sometimes did.

14 But he's going to tell you in the weeks
15 preceding this taking place, that he and Bryan had
16 been watching and had seen that these Chinese people
17 were coming home at the same time and they were
18 carrying in a bag and they began to suspect that
19 what they were doing was bringing in money. He's
20 going to tell you, Alvin is, that Bryan said, I
21 think they're bringing in money. I don't think
22 they're putting it in the bank. I think in this bag
23 that they're bringing in when they come home and
24 they carry in is cash. And they began to talk about
25 how they needed money and what they were going to

1 do.

2 This culminated on the 14th, they got together.
3 And on over some time before 10:30, they had some
4 discussion that they were going to carry out a
5 robbery. And Alvin P. is going to get up and
6 tell you that he had a .40 caliber handgun that he
7 had taken out of an automobile and that he'd been
8 hiding it out in the woods and alternately keeping
9 it at home, that his sister had children and he
10 wasn't keeping it there at the house. At 17 years
11 old, he wasn't going to get seen by either his mom
12 or his sister with this gun, but that he was hiding
13 it and he had a .40 caliber handgun.

14 He's going to tell you that that night they got
15 together and talked about tonight's the night we're
16 going to do it, because they knew the Chinese people
17 would be coming home shortly. And they began
18 discussing doing this robbery and they decided that
19 they would wear masks. And Alvin P. is going
20 to tell you how he went and he got a ski mask that
21 he put on. He's going to tell you how Bryan
22 Phillips got a ski mask and he put it on.

23 He's going to tell you that shortly before the
24 time that they got ready to go and carry out and
25 conduct this armed robbery and robbing the Chinese

1 people over at their residence, that K.C. Langford
2 was there as well and they talked to him about what
3 they were getting ready to do. He asked them, What
4 are y'all going to do? They said, We're going over,
5 we're going to rob these Chinese people. He said,
6 I'm going, too.

7 He knew what they were going to do. He got
8 ready with them and he went back in the house and he
9 got him a black T-shirt that he tied up around his
10 face where it would conceal his features and that
11 the three of them left from over there at the area
12 around the apartments where Bryan lived and Veronica
13 lived and they walked right there behind the house.

14 And you'll see on the map there's no distance
15 to walk over there, but they walked down to that
16 house at the corner. And they eased around behind
17 there in the dark and they sat and they waited there
18 in the back of the yard for the Chinese people to
19 come home from work because they knew they'd be
20 coming home shortly. And that's where we pick back
21 up with Mr. Chen getting home, going around to get
22 the vegetables, to water them and these three
23 individuals get them.

24 But as they've got Mr. Chen and his son,
25 Mr. Li, there laying on the ground, they're

1 screaming at them, Where's the money, where's the
2 money? What you're going to learn is they can't
3 speak English and so they babble away to them and
4 they can't really understand what they're saying,
5 but they decide that the money's in the house.

6 And K.C. Langford runs around while they're
7 holding Mr. Li and Mr. Chen down there at gunpoint
8 after they've already hit Mr. Chen and they run up
9 in the house, K.C. Langford does, where the two
10 women are and the two children are all up inside the
11 house. K.C. Langford goes and he grabs up this bag
12 that suspected had the money in it and he runs back
13 outside and they all run off down the street.

14 Alvin's going to tell you that they ran down
15 the street a little bit and made a circle and kind
16 of came back. He's going to tell you the route that
17 they ran and they end up back over there around the
18 apartment complex. He's going to tell you that
19 shortly thereafter they split the money up. He got
20 rid of the mask, he got rid of the gun and that not
21 long after then, his mother had to go on and she
22 needed to be at work at 11 o'clock and that Bryan
23 left from where they were, but K.C. Langford and
24 Alvin went back over to Veronica's house.

25 Now, Veronica was getting ready to drive her

1 mother back out in the country to get something that
2 she needed before she went to work. The robbery
3 took place shortly after 10:30, got called in about
4 10:42. They end up back at Veronica's house. They
5 need to take her mother, Alvin and Veronica's
6 mother, on to work. So K.C. and Alvin get in the
7 car with her and their mother and they leave.

8 But by this time, the Johnston Police
9 Department, the Edgefield Sheriff's Department, Zac
10 Strom is working that night, they know that they've
11 got a robbery that took place there, ■ Academy
12 Street, at the Chinese people's house so they begin
13 to make a perimeter around there. They start
14 looking and checking because they're looking for
15 three people.

16 At this point in time, the only description
17 they have, the individuals have masks on their face.
18 And the Chinese people are not going to be able to
19 give you any identification other than they were
20 three black males and that's all they can tell given
21 the fact that they were wearing masks in this case
22 and that's all they're going to tell you is they got
23 robbed and it was by three black males, that's who
24 they were looking for.

25 So just a few minutes, just about 11 o'clock,

1 Zac Strom stops the car that's got Alvin P. in
2 it, K.C. Langford still with him just a few moments
3 after this robbery took place, got reported about
4 10:42 and he stops them just a little bit before 11
5 o'clock. He stops the vehicle and starts talking to
6 them.

7 Now, Veronica's in the car, mom's in the car.
8 K.C. Langford is still with Alvin P. just a
9 few minutes later in that automobile. And he stops
10 them, two reasons, he's looking, making sure there's
11 nobody in that automobile because he's made a
12 perimeter around there. He stops them over there
13 near the bus garage, which is not far away, but he
14 talks to them at that point in time. And the only
15 thing he can do is just basically check their
16 identification and to ask them if they've seen
17 anything and he does and he lets them go.

18 Some days go by beyond that evening and
19 Investigator Roosevelt Young, who's a narcotics
20 officer in this case, gets a tip from an informant
21 that he needs to talk to Alvin P. . And he
22 brings Alvin P. in and he talks to him and he
23 interviews him.

24 Alvin tells him the whole story, tells him how
25 they got together that night, how he and Bryan,

1 that's his cousin, planned it, talked about it, how
2 they got together, what they did, talks about K.C.
3 Langford getting involved in it and goes through all
4 the details with Investigator Young in this case.
5 And you're going to hear the facts from the stand in
6 this case.

7 As I told you, Alvin P. has already pled
8 guilty in this case and he's going to get up and
9 tell you about his role in it. He's going to tell
10 you about Bryan Phillips, his cousin's, role in it.
11 And he's going to tell you about his sister's
12 boyfriend, K.C. Langford, and his role in it.

13 At the conclusion of all the evidence in this
14 case, we'll come back and we're going to ask for
15 guilty verdicts in this case for armed robbery, for
16 burglary, for kidnapping, for criminal conspiracy.

17 I appreciate your close attention in this case
18 and we're mindful that you've been taken away from
19 what you normally would have been doing this week.
20 All that we ask that you do is come back with a
21 verdict that speaks the truth at the conclusion of
22 all this evidence.

23 **THE COURT:** Thank you, Mr. Maye.

24 Mr. Calhoun, you're recognized for your opening
25 statement.

1 **MR. CALHOUN:** May it please the Court, Your
2 Honor.

3 **THE COURT:** Yes, sir.

4 **MR. CALHOUN:** This is my first opportunity to
5 introduce myself to you. My name is Mark Calhoun
6 and I represent Mr. Langford. He goes by K.C.
7 Langford. I'm his attorney in this case.

8 And, first, let me say that myself and
9 Mr. Williams and Mr. Maye, we're attorneys here.
10 We're advocates. We're not witnesses. We don't
11 give you evidence. The only evidence that comes out
12 of this case comes from the folks that take this
13 stand right here. We're advocates for our clients.
14 We argue the law to you on our client's behalf.

15 The Judge is the ruler of the law. If anything
16 I say conflicts with what the Judge says, then by
17 all means go with what he says. I promise you it
18 will not be intentional.

19 But the course of this trial, if you've never
20 sat in on one, and most folks haven't, is that
21 witnesses will be called to testify and that's where
22 the evidence comes from. And at the end of the
23 case, all the lawyers will have a chance to come
24 back up here and argue those facts to you in
25 conjunction with the law that the Judge gives you

1 and then it's your job and your duty as jurors to
2 apply the facts to the law and make your decision.

3 Now, Mr. Maye just told you a great story about
4 all of this stuff that happened, but there is a
5 problem with that story and that's why we're here
6 today. The problem with that story is that all of
7 this information you were just given a broad
8 overview of comes from one person, Alvin P.
9 the person who admits that he robbed these folks
10 that night. All of the information you're going to
11 here comes from his mouth and there's nothing to
12 corroborate it or support it.

13 You're going to have to make a decision as to
14 whether or not you believe this guy. You're going
15 to have to ask yourself, what does this person have
16 to gain or lose by giving this testimony? It's
17 called credibility. You're going to have to decide
18 how credible you think Alvin is.

19 And another big thing is burden of proof.
20 Burden of proof is nothing -- I think too many
21 people in our criminal justice system overlook that.
22 It's the huge, defining thing that makes the United
23 States' criminal justice system the best in the
24 world.

25 And this is why, this is a great -- what I

1 think, is a good example. My favorite author is
2 Charles Dickens. He was, you know, back in England.
3 He wrote his books back in the 1800s. And he did a
4 great job in telling a story, but, you know, back in
5 the 1800s not many people could read anywhere. Even
6 though England was the richest country in the world,
7 not many people could read. So he was writing these
8 books for the upper class, the people who were
9 educated, but what he did in his stories is he told
10 them about all the social wrongs that went on in
11 England, the way the poor were taken advantage of
12 and victimized by the wealthy and by the powerful.

13 When Charles Dickens was a young man, his
14 father was thrown in a debtor's prison for not,
15 allegedly, not paying a debt he owed. Well, back
16 then, you know, women couldn't work and if a man was
17 put in a debtor's prison, well the whole family went
18 with him, his wife and his children all lived in
19 that jail cell for months or years until someone
20 paid his debt. That happened to Mr. Dickens.

21 Now, the problem with this system that, their
22 criminal justice system, is that to get a person
23 thrown in debtor's prison, all the person had to do
24 is make an accusation. All they had to do is go to
25 the local constable and say, Mr. So and so owes me

1 \$50. And the constable would go to this person and
2 go, okay, well, give me the \$50 or we're going to
3 put you in jail until we do get the \$50.

4 There was no requirements that it be true. All
5 you had to do was make an accusation. And if the
6 person was from a segment of society where he didn't
7 have money, he didn't have -- he couldn't afford to
8 hire a lawyer or he couldn't protect himself if he
9 couldn't prove that the accusation was wrong, he
10 went to jail, that's how their criminal justice
11 system worked.

12 Well, the folks who -- the founders of our
13 country said that's not right. You can't do that.
14 The burden of proof to prove that someone did
15 something wrong and committed a crime is on the
16 police. It's not on the individual. The individual
17 doesn't have to do anything to prove that he's not
18 guilty of what he's accused of. My client,
19 Mr. Langford, doesn't even have to be here today,
20 okay.

21 The burden is on law enforcement to prove that
22 the person did whatever they accused them of doing
23 wrong and that burden of proof is something that
24 attaches to a person the moment they're accused of a
25 crime. It's been described as a veil that covers

1 them, the veil of innocence. They're presumed
2 innocent until and unless they are proven guilty,
3 okay.

4 As my client, Mr. Langford, sits there today,
5 he's an innocent person under the law, okay. And
6 that veil of innocence cannot be removed unless the
7 police convince you beyond any reasonable doubt that
8 he's guilty of each and every element of all the
9 crimes he's accused of.

10 It's a heavy burden and it should be that way
11 because it protects folks who can't protect
12 themselves. That's how our criminal justice system
13 is designed. And it's your duty as jurors to make
14 sure that that's how people are treated who are
15 accused of crimes, okay.

16 And Mr. Dickens lived the rest of his life, you
17 know, he was a workaholic. He was one of these guys
18 that from the time he was a young man to literally
19 the day he died, he was constantly working on a
20 novel. His last novel was unfinished because he
21 died before he finished it because he remembers what
22 it was like to be a young man and have to live under
23 those conditions. He was scared to death for the
24 rest of his life of not having any money and it made
25 him a successful author.

1 So please remember that it's the State's burden
2 to put evidence before you, credible, solid evidence
3 that you can hang your hat on that you have no
4 reasonable doubt to that Mr. Langford is guilty of
5 what he's accused of because this case is, it is --
6 it's really very simple and I think you're going to
7 see that through the testimony. It really just
8 comes down to whether or not you feel that you can
9 unequivocally believe Alvin P. and what he
10 says, okay.

11 Mr. Maye says, well, Mr. Phillips, he's pled
12 guilty. Well, guess what, he hasn't been sentenced.
13 He hasn't gone in front of a judge and been
14 sentenced. That's where the bad stuff comes, okay.
15 That's not going to be done until some other day.
16 And what happens in that sentencing is going to be
17 contingent on what Mr. Phillips does today, okay.
18 He's got a huge, huge dog in this fight and you need
19 to remember that when you're listening to him
20 testify, okay, please do.

21 And all I can ask you to do as the jury is what
22 everybody asks juries to do is just please pay close
23 attention, which I know you will. And I'm convinced
24 that after you listen to Alvin P. tell you his
25 side of the story and do what he has to do to

1 protect himself, that you'll be convinced that
2 Mr. Langford is not one of the gentlemen that was
3 there with him that night. Thank you.

4 **THE COURT:** Thank you very much, Mr. Calhoun.
5 Mr. Williams, you're recognized for your
6 opening statement.

7 **MR. WILLIAMS:** If it pleases the Court, Your
8 Honor.

9 **THE COURT:** Yes.

10 **MR. WILLIAMS:** Mr. Foreman, ladies and
11 gentlemen of the jury, I have the opportunity to
12 address you now. My name is Randall Williams and I
13 practice law right here in Edgefield. It's a
14 strange thing to come behind Mr. Calhoun and both
15 Mr. Maye who are very well-spoken guys, but I'm just
16 an 'ol boy from Saluda, so I use certain phrases and
17 terms that may not be quite as eloquent as those of
18 my colleagues.

19 But I will say this, that my preacher, he has
20 always used this particular term or this particular
21 phrase, it says, There's so much good in the worst
22 of us, there's so much bad in the best of us that it
23 leaves little room for any of us to stand in
24 judgment of the rest of us. But that's exactly what
25 we're doing here today asking you all to stand in

1 judgment and that's a heavy duty, burden and quite
2 attached I submit to you.

3 I'm going to ask you to take very seriously the
4 oath that you have taken and I'm going to ask you to
5 consider certain things that have already been
6 touched upon and that is the credibility of the
7 witnesses who take this stand, the motivations that
8 they have to say one thing or another.

9 And there's one other very important thing that
10 I'm going to ask you to also consider is
11 Investigator Roosevelt Young, who was mentioned by
12 the Solicitor, and the informant tip that he
13 received, okay. Well, an informant, in my
14 experience, is usually someone who's trying to save
15 his hide and he will give up anybody, anything that
16 he thinks will save his hide. The truth of it
17 doesn't have to even register in his mind and will
18 not register in his mind, but how can I save my
19 hide.

20 I suggest to you that what you will see is that
21 Alvin Phillips, 17 years old at the time, was
22 approached by law enforcement to include a SLED
23 agent by the name of Mike Perry, okay, Investigator
24 Chris Wash of the sheriff's office, a 17-year-old
25 boy. There's already information plant -- and I

1 want you to pay particular attention to the dates in
2 which these things occur.

3 There was an old lawyer from Horry County by
4 the name of J. Reuben Long. The detention center is
5 named after him out in Horry County. I certainly
6 hope no one's ever had the pleasure of knowing that.
7 But in any event, J. Reuben Long said, In order to
8 know which way the wind is blowing, you have to look
9 at the little things. You don't look at the trunks
10 of the trees, but rather you look at the leaves, the
11 little twigs and then you can tell the way the wind
12 is blowing. You can see the direction of the wind
13 by looking at the little things.

14 Now, I'm going to ask y'all to consider the
15 little things because there are going to be some
16 dates that are going to create certain patterns of
17 behavior in the State's witnesses, okay.

18 August the 14th is when this allegedly
19 occurred, August the 14th, but there was not an
20 arrest until September, I believe, 29th of 2008,
21 some -- more than a month later, okay. And, also,
22 you're going to see that that so-called informant,
23 it was his information that pushed this
24 investigation toward my client, Mr. Bryan Jordan
25 Phillips.

1 Ladies and gentlemen, I ask that you take your
2 oath seriously, that you presume my client innocent.
3 Just as Mr. Calhoun asked you, presume my client
4 innocent.

5 And why do we do that? Of course, he's already
6 told you that we live in, I believe, the greatest
7 nation on this earth. And our founders had a
8 substantial belief in fairness, fundamental
9 fairness.

10 And as I look around the walls of this
11 courtroom and I look at these great men, these great
12 thinkers, they all believed in the notions of
13 justice. And in this system of justice that we
14 have, we're to presume citizens accused innocent as
15 though I had brought my client into this courtroom,
16 it's described as a robe of righteousness, as though
17 I brought him into this courtroom veiled in which
18 you could not see and you would not know whom was
19 behind the veil or who it was behind the veil. I
20 think that that is the best way you can truly
21 presume one innocent.

22 Just take it out of your mind who you see, what
23 you see. Pretend as though you cannot see anyone
24 and that you're not sure if it's a preacher behind
25 that veil. You're not sure if it's a doctor behind

1 that veil. You're not sure if it's someone you know
2 well behind that veil. That's how you presume
3 someone innocent. You give him that benefit of the
4 doubt. You give him that robe of righteousness and
5 that's what I'm asking you to do on behalf of my
6 client Bryan Phillips.

7 It's already been discussed, I'm not going to
8 belabor the point, but I believe once this case gets
9 underway, you will see that it's going to be very
10 difficult, very difficult for a young man to be
11 absolutely believable who has a number of charges
12 pending against him, okay. Mr. Calhoun described it
13 as a huge dog in this fight. I describe it as a
14 sledge hammer sitting over his head. You do what I
15 say or what we want you to do or else we're going to
16 lower the boom on you. I believe that we'll be able
17 to show that to you.

18 I thank you for your time. I thank you for
19 this opportunity to address you. Thank you.

20 **THE COURT:** Thank you, Mr. Williams.

21 Solicitor, who's your first witness?

22 **MR. MAYE:** Mr. Ji Quing Chen.

23 **THE COURT:** Does he have difficulty with
24 English?

25 **MR. MAYE:** We definitely need the interpreter.

1 He doesn't speak a word of English.

2 **THE COURT:** Folks, we've got to get set up out
3 here. I promise you you won't be back there more
4 than ten minutes. If you are, I'll bring you out
5 and send you to lunch, all right, but let us get set
6 up. And then we've got to give the interpreter an
7 oath in your presence and we'll do the first witness
8 and then at some point around one o'clock, break for
9 lunch. Don't discuss the case. Just step back
10 there briefly while we get set up, all right.

11 (The jury retires to the jury room.)

12 **THE COURT:** Court's at ease for ten minutes.

13 (Brief recess.)

14 **THE COURT:** If y'all need time to talk, that's
15 fine, but I'm going to send the jury to lunch, okay.

16 **MR. WILLIAMS:** Yes, sir.

17 You don't have any problem with that, do you?

18 **MR. MAYE:** No, I don't have any problem,
19 whatever y'all want to do, doesn't make a difference
20 to me.

21 **MR. CALHOUN:** Judge, we wanted to bring this to
22 your attention before you do send them to lunch. We
23 would like to do a proffer of Alvin P. s'
24 testimony, so maybe you can take that into
25 consideration when you tell them what time to get

1 back. I don't know what order they're going to be
2 calling their witnesses, but before Mr. Phillips
3 testifies, we would like to do that.

4 **MR. WILLIAMS:** On the basis of statements that
5 he had made, that we believe he made prior to
6 actually offering testimony against our clients at
7 his plea.

8 **MR. MAYE:** I've got three Chinese witnesses
9 before he testifies. We can go on and do our
10 Chinese witnesses and we're done with our
11 interpreter at that point in time as far as I know.

12 **THE COURT:** Let's do that after that. I can
13 send the jury home early if I need to or something.
14 I really don't understand what it is you all are
15 going to ask me to do. If he gave inconsistent
16 statements, that's a jury issue. It's not really
17 anything for me.

18 **MR. WILLIAMS:** I guess the issue is is I just
19 want to make sure that he doesn't allege that he
20 didn't write it is what I'm concerned about.

21 **THE COURT:** He did not write a written
22 statement that you have?

23 **MR. WILLIAMS:** Yes, Your Honor.

24 **MR. MAYE:** Your Honor, I think the issue is the
25 defendants -- the allegation is the defendants got

1 him to sign a statement and I think they're wanting
2 to get involved into some hearsay from that, but I
3 think we can do that. It will be a while before
4 they testify. By the time we got direct and through
5 cross, we're going to be into this afternoon before
6 we ever get to that point.

7 (The jury returns to the courtroom.)

8 **THE COURT:** During the break, some initial
9 delays came up, so I'm going to send you to lunch.
10 I need you back at 1:45. Don't discuss the case.
11 Please be back in the jury room at 1:45. I think
12 I've allowed plenty of time. Any questions?

13 (There was no response.)

14 **THE COURT:** All right. Please be in the jury
15 room at 1:45. Remember all of those admonitions
16 about not discussing the case and not allowing
17 yourselves to be exposed to any media coverage.
18 Thank you.

19 (The jury was excused for lunch.)

20 **THE COURT:** Do you need them to talk to your
21 clients up here? Are they transporting them --

22 **MR. WILLIAMS:** Right here is fine.

23 **THE COURT:** Y'all just work it out with
24 security, okay.

25 Court's in recess until 1:45.

1 (Whereupon, there was a luncheon recess.)

2 **THE COURT:** Is the State ready for the jury?

3 **MR. MAYE:** The State's ready, Your Honor.

4 **THE COURT:** Are you ready, Mr. Calhoun?

5 **MR. CALHOUN:** Yes, sir.

6 **THE COURT:** Mr. Williams?

7 **MR. WILLIAMS:** Yes, sir, Your Honor.

8 **THE COURT:** All right. Now, the interpreter is
9 just going to be interpreting for the witnesses,
10 correct?

11 **MR. MAYE:** That's correct.

12 **THE COURT:** So the purported victims, they
13 understand they won't have the benefit of
14 interpreting during the trial?

15 **MR. MAYE:** Yes, they do. I have an interpreter
16 that is with them, but she's not going to be
17 interpreting live. The State will call Mr. Ji Quing
18 Chen first, I think, is the one we're calling first.

19 **THE COURT:** Bring the jury in, please.

20 **MR. WILLIAMS:** Before the jury is brought, Your
21 Honor, on behalf of my client, I'm going to move to
22 sequester the witnesses from the courtroom.

23 **THE COURT:** Who are they?

24 **MR. MAYE:** The victims. I think they've got a
25 right to be present if they want to and

1 sequestration wouldn't extend to them. The only one
2 I have, I guess it would extend to, would be Zac
3 Strom and I'll ask him to leave.

4 **THE COURT:** Mr. Strom, I need you to step in
5 the back. You can't discuss your testimony with
6 anybody or you can't discuss anything with anybody
7 else that happened in the courtroom.

8 **MR. WILLIAMS:** Thank you, Your Honor.

9 **THE COURT:** The other ones, if they're victims,
10 purported victims, the Victim Bill of Rights gives
11 them the right to stay in the courtroom.

12 **MR. WILLIAMS:** Yes, sir.

13 **THE COURT:** Plus, they said they don't speak
14 English or at least some of them don't.

15 **MR. MAYE:** Very limited.

16 **MR. WILLIAMS:** The only concern I have is that
17 the testimony might become somewhat influenced even
18 though it's being translated. I was concerned that
19 it might become influenced one by the other, but
20 given that they are all victims, I understand the
21 Court's ruling.

22 **THE COURT:** Well, we amended the constitution
23 in South Carolina to give them the right to stay in
24 the courtroom. I think I can still exclude them,
25 but I never do. It's a constitutional -- bring the

1 jury in.

2 (The jury returns to the courtroom.)

3 **THE COURT:** All right. Ladies and gentlemen,
4 I've been informed the first juror -- excuse me --
5 the first witness is someone who will require
6 translation. And I've already introduced you to
7 Mr. Ming Louie. He's going to be placed under the
8 oath of a translator first and then the State will
9 call its first witness.

10 Madame Clerk.

11 (Whereupon, the interpreter was duly sworn
12 by the Clerk of Court.)

13 **THE COURT:** All right. Ji Quing Chen.

14 JI QUING CHEN,

15 having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. MAYE:

18 (Through the interpreter)

19 **Q** Sir, would you tell the ladies and gentlemen of
20 the jury where you're originally from?

21 **A** China.

22 **Q** How long have you been in the United States?

23 **A** Over 20 years.

24 **Q** What is your place of business? What do you do
25 as a business?

- 1 A In restaurant.
- 2 Q Where? What city is this restaurant in?
- 3 A Hong Kong Restaurant.
- 4 Q Hong Kong Restaurant, okay. On August 14,
- 5 2008, the day of this incident --
- 6 A I'm sorry, repeat that please.
- 7 Q On August the 14th of 2008, the day this
- 8 incident took place, who all was working with him at
- 9 the restaurant?
- 10 A Myself, my son and my wife.
- 11 Q What are their names?
- 12 A Li Ai Ming, Li Guan Xin.
- 13 Q About what time did they leave the restaurant
- 14 that day?
- 15 A Roughly around ten o'clock, 10:30.
- 16 Q Where did they go when they left the
- 17 restaurant?
- 18 A Go home.
- 19 Q Where was his residence? Where did he live in
- 20 Johnston?
- 21 A Near the restaurant.
- 22 Q Near the restaurant, okay. What happened when
- 23 they got home?
- 24 A Both of them had went into the house.
- 25 Q Who went into the house?

1 **A** Two of them went into the house.

2 **Q** Tell me the name, which two?

3 **A** Li Ai Ming and Li Guan Xin.

4 **THE COURT:** Say that again. Which two in the
5 house?

6 **INTERPRETER:** Li Ai Ming and Li Guan Xin.

7 **THE COURT:** That's number one and number five
8 on the list.

9 BY MR. MAYE:

10 **Q** What did he do when he got home?

11 **A** I'm sorry?

12 **MR. MAYE:** It's kind of hard to do this through
13 the interpreter.

14 **Q** What did you do when you first got home at your
15 residence?

16 **INTERPRETER:** Excuse me, I have to understand
17 what he's saying.

18 (A conversation was held between the
19 interpreter and the witness.)

20 **THE COURT:** Hold on a minute. You have to do
21 this verbatim, you understand?

22 **INTERPRETER:** All right.

23 **THE COURT:** Pose your question again.

24 BY MR. MAYE:

25 **Q** Let me ask a short question. What was the

1 first thing you did when you arrived home?

2 A They poured water, watering.

3 Q Watering what?

4 A When I see them and I stop watering.

5 Q What was he watering?

6 A Next to the house.

7 Q Okay. Who did he see? What is a description
8 of who he saw at the corner of the house?

9 A Three black guys.

10 Q Okay. What happened when he saw the three
11 black men?

12 A He forced me down and took my wallet.

13 Q What happened next?

14 THE COURT: I didn't understand, I'm sorry.
15 Say it again.

16 INTERPRETER: He pressed me down and took my
17 wallet.

18 BY MR. MAYE:

19 Q What happened next?

20 A And he pointed a gun on my head.

21 Q Did he receive any injury?

22 A He hit my head.

23 Q Okay. What happened next?

24 A I was stayed there for a while and then my son
25 come out.

1 Q Was he -- were you able to leave from where the
2 three men were?

3 A No. He pressed me down.

4 Q What happened when your son came outside?

5 A He saw I'm real dangerous -- I mean, danger, he
6 saw me I'm in danger.

7 Q What happened next when his son came outside?

8 A He was pressed down by -- he was down again.

9 Q Who was pressed down again?

10 A The three black guys.

11 Q Who did the three black guys press down other
12 than him?

13 INTERPRETER: I asked him to repeat.

14 THE COURT: Shirley, can you turn that thing up
15 anymore?

16 (Pause.)

17 MR. MAYE: Other than you --

18 THE COURT: Wait a minute. I didn't get his
19 last answer.

20 What was his last question?

21 COURT REPORTER: Who did the three black guys
22 press down other than him?

23 INTERPRETER: The three black guy press me and
24 my son.

25 BY MR. MAYE:

1 Q What happened next?

2 A My son said, If you need money, you can go
3 inside the house and get it.

4 Q Okay. Were the three black men speaking to
5 him?

6 A No. I don't understand English.

7 Q After your son told the men that they could go
8 inside, what happened next?

9 A That the two guy go and get the bag. One stay
10 outside and one go inside the house.

11 Q Okay. What was taken from you directly?

12 A My wallet.

13 Q What was in your wallet?

14 A License, credit card, cash, 300 dollar cash.

15 **THE COURT:** How much cash?

16 **INTERPRETER:** Three hundred dollar. And, also,
17 cigarettes and lighter.

18 BY MR. MAYE:

19 Q Okay. After the man went inside, what was the
20 next thing that happened?

21 A They took the wallet and then three of them ran
22 away.

23 **MR. MAYE:** Answer any questions the defense has
24 for you.

25 **THE COURT:** All right. Cross.

1 **MR. CALHOUN:** Please the Court.

2 **CROSS-EXAMINATION**

3 **BY MR. CALHOUN:**

4 **Q** Sir, I read the police investigative report.

5 **A** The police have report.

6 **Q** The police report. And the only description
7 you gave the police officers --

8 **MR. CALHOUN:** Your Honor, I'm going to break up
9 my questions so the interpreter can remember all the
10 words to make it easier for the interpreter.

11 **INTERPRETER:** Okay. Yeah.

12 **BY MR. CALHOUN:**

13 **Q** The only description that you gave the police
14 officers was that it was three black men that robbed
15 you that night, correct?

16 **A** He took my wallet and cigarettes.

17 **Q** Please answer the question yes or no. Isn't it
18 true that the only description you gave the police
19 officers that night was that three black men robbed
20 you?

21 **A** Yes.

22 **Q** Yes. You didn't give the police officers the
23 height of any of these three men; isn't that
24 correct?

25 **A** No.

1 Q And you didn't tell the police officers what
2 types of clothes either of these three men were
3 wearing; isn't that correct?

4 A No.

5 Q Did you describe to the police officers what
6 types of shoes any of these three men were wearing?

7 A No.

8 Q Did you describe the type of voices that they
9 spoke in, whether it was a high voice or a low
10 voice?

11 A No.

12 Q Did you attempt to give the police any type of
13 weight of any of these three gentlemen?

14 A No.

15 Q Did you describe their builds as being slim or
16 heavy or fat or anything of that nature?

17 A No.

18 Q Did you tell the police whether or not any of
19 them were wearing jewelry such as a ring or a
20 necklace or a bracelet?

21 A No.

22 Q Did you describe their accent, whether it was a
23 southern accent or a northern accent or anything of
24 that nature?

25 A No.

1 Q You've testified that one of the gentlemen went
2 inside the house to find the bag; is that correct?

3 A Yes.

4 Q So this gentleman went inside the house, then
5 afterwards, I assume, came outside the house with a
6 bag of money?

7 A One bag, took the one bag.

8 Q Okay. And was he inside the house for ten
9 minutes?

10 A No.

11 Q Five minutes?

12 A Very quickly, came out very quickly.

13 Q Okay. How many minutes was he inside the
14 house?

15 A I don't know. I didn't have a watch.

16 Q Okay. Is it possible he was inside the house
17 for as long as five minutes?

18 A Probably not.

19 Q Okay. Thank you. Finally, you told the jury
20 that amongst some other items that were removed,
21 such as your wallet, that a package of cigarettes
22 was taken from you?

23 A Yes.

24 Q And what brand of cigarettes was that?

25 A Marlboro.

1 Q And can you describe the lighter that was taken
2 from you?

3 A White.

4 Q Excuse me?

5 A White.

6 Q A white lighter?

7 A White lighter.

8 Q Did the lighter have a brand?

9 A No.

10 MR. CALHOUN: All right. Thank you.

11 That's all I have, Your Honor.

12 THE COURT: Thank you.

13 Mr. Williams.

14 MR. WILLIAMS: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. WILLIAMS:

17 Q Sir, I just have a few questions. You
18 described the individuals as three black guys to the
19 police officers?

20 A Yes.

21 Q Now, this would have been in the nighttime,
22 would it not?

23 A Yes.

24 Q Were you able to make out any distinguishing
25 details of their faces?

1 **A** Face covered.

2 **Q** Were you able to see if any of the gentlemen
3 might have had dental work that contained gold?

4 **A** Face covered.

5 **Q** Were you able to notice the colors of their
6 respective eyes?

7 **A** No. He only see the hands, black.

8 **Q** And would their hands look something like -- or
9 would have looked something like my hands?

10 **A** Darker than that.

11 **Q** They were darker than my hands?

12 **A** Yeah.

13 **Q** Did you see only one gun?

14 **A** Yeah, only see one gun. I don't see the
15 others.

16 **THE COURT:** Say that again, please.

17 **INTERPRETER:** I only see one gun.

18 **BY MR. WILLIAMS:**

19 **Q** All right. And the gunman, the one with the
20 gun is the one that stayed with you; is that right?

21 **A** Yes, he pointed it at me.

22 **MR. WILLIAMS:** Court's indulgence, Your Honor.

23 **THE COURT:** Yes.

24 (Pause.)

25 **BY MR. WILLIAMS:**

1 Q As it relates to the number of people who
2 entered into your home, how many foreigners or
3 outsiders entered into your home?

4 A Will you --

5 Q Do you need me to repeat that question?

6 A Yeah, please.

7 Q How many of the three black men actually went
8 inside of your home?

9 A One.

10 Q Just one?

11 A Yeah, one rush inside and took the bag.

12 Q And to your recollection, did the one that
13 rushed inside have a gun?

14 A I did not see it.

15 Q And no doubt the respective hands of all of
16 them were darker than mine (indicating)?

17 A Yes. At nighttime, especially at nighttime.

18 Q Did you notice the length of any of the black
19 men's hair?

20 A I cannot see it.

21 Yeah, I was scared and I was pressed down. I
22 was afraid to look at them.

23 **THE COURT:** What was the last thing you said?

24 **INTERPRETER:** I was afraid to look at them. I
25 was pressed down.

1 **THE COURT:** Afraid to do what?

2 **MR. WILLIAMS:** Afraid to look at them. He was
3 pressed down.

4 Thank you, Your Honor. I have no further
5 questions.

6 **THE COURT:** Redirect.

7 **MR. MAYE:** Just a couple.

8 REDIRECT EXAMINATION

9 BY MR. MAYE:

10 **Q** Did you have the benefit of an interpreter to
11 talk to the police that night at all?

12 **A** No.

13 **Q** Was it daytime or nighttime?

14 **A** Nighttime.

15 **MR. MAYE:** Nothing else.

16 **THE COURT:** Recross.

17 **MR. CALHOUN:** Briefly, Your Honor.

18 RECCROSS-EXAMINATION

19 BY MR. CALHOUN:

20 **Q** Sir, you're not telling this jury that you were
21 not able to communicate with the police that night,
22 are you?

23 **A** I cannot speak English.

24 **Q** Well, someone told the police that you were
25 robbed, correct?

1 **A** Yes.

2 **Q** Someone that could speak English, correct?

3 **A** I don't know how to speak English.

4 He said, well, my son report to the police.

5 **Q** Your son was interpreting for you?

6 **A** Yeah, my son interpreted for me.

7 **Q** So your son had the opportunity to tell the
8 police everything that you saw and experienced that
9 night, correct?

10 **A** My son report to the police.

11 **Q** I can't hear you.

12 **A** My son report to the police.

13 **Q** Okay. And you told your son what happened that
14 night, correct?

15 **A** Yes.

16 **MR. CALHOUN:** Thank you. That's all I have,
17 Judge.

18 **THE COURT:** Mr. Williams.

19 **MR. WILLIAMS:** Nothing further.

20 **THE COURT:** Anything else of the witness?

21 **MR. MAYE:** No. Thank you.

22 **THE COURT:** Tell him thank you. He may step
23 down.

24 Call your next witness.

25 **MR. MAYE:** State call Li Guan Xin.

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LI GUAN XIN,
having been duly sworn, testified as follows:

THE COURT: Ask him what his name is.

INTERPRETER: Li Guan Xin.

DIRECT EXAMINATION

BY MR. MAYE:

(Through the interpreter)

Q What do you do for a living?

A I work in a restaurant.

Q Where is the restaurant?

A Johnston, Hong Kong.

Q Would that be Johnston, South Carolina?

A Yes.

Q Okay. What is the name of the restaurant?

A Hong Kong.

Q Okay. Do you know what county Johnston is in?

A What is that?

Q Where were they living -- where was he living
at the time?

A Johnston, Edgefield.

Q Okay. Where were you, your wife, your mom,
your children and your father all living at that
time, what address?

A We live next to the restaurant, about one
minute driving distance.

- 1 Q Okay. Was the place the police responded to
2 the place where they were robbed and living?
- 3 A Yes.
- 4 Q Who went to work that day on August the 14th of
5 2008? Who ran the store, the Hong Kong?
- 6 A Me, my mother and my father.
- 7 Q Okay. What, if anything, did y'all bring --
8 did you three bring home with you from the
9 restaurant?
- 10 A A bag.
- 11 Q What was in the bag?
- 12 A Money.
- 13 Q How much money was in the bag?
- 14 A Three thousand.
- 15 Q How do you know how much money was in that bag?
- 16 A Because I know that next day I have to pay the
17 worker money.
- 18 Q Who put the money in the bag?
- 19 A I.
- 20 Q What time did you leave to go home from work
21 that day?
- 22 A Roughly 10:30.
- 23 Q What happened when you first got home?
- 24 A My father tend to the flower and the three guy
25 come. They have a point (inaudible) --

1 **COURT REPORTER:** I'm sorry, can you repeat that
2 for me?

3 **INTERPRETER:** The three guy have a gun point at
4 me and ask me to come over.

5 BY MR. MAYE:

6 **Q** When you first got home, where did you go to
7 start with?

8 **A** I go in the house.

9 **Q** Why did you go outside?

10 **A** My father's outside and didn't come in and I
11 went out to see him.

12 **Q** What happened when you first got outside, when
13 you went outside?

14 **A** That's when I saw a person point a gun at me
15 and asked me to come over.

16 **Q** Other than your father, how many people were
17 there?

18 **A** Three.

19 **Q** What did they all do after they pointed the
20 gun -- after one pointed the gun at you?

21 **A** He asked me to come over and kneel down.

22 **Q** What did they say?

23 **A** Where's the money.

24 **Q** How many times did they say that, more than
25 once?

- 1 A Yes.
- 2 Q What did you do when they demanded money?
- 3 A I say it's in the house.
- 4 Q Were you and your father free to leave while
- 5 they were pointing the gun at you and holding you on
- 6 the ground?
- 7 A We are scared. We did not move.
- 8 Q What happened next?
- 9 A That's when they rushed into the house.
- 10 Q How many men went in the house?
- 11 A Two. One did not go in, one went inside to get
- 12 the bag.
- 13 Q Only one went inside to get the bag?
- 14 A Yes.
- 15 Q What was the next thing you saw?
- 16 A They take the bag and they make a little noise
- 17 and then they quickly went away.
- 18 Q When the one man ran out of the house, what did
- 19 the two that were holding you and your father down
- 20 do?
- 21 A They ran away together.
- 22 Q How much English can you speak?
- 23 A Little bit.
- 24 Q Was it daytime or nighttime when the men held
- 25 them down at gunpoint?

1 **A** Nighttime.

2 **Q** Were the men black men or white men?

3 **A** Black guy. I kind of see his hands black.

4 **Q** After the men left, what did you do?

5 **A** Report -- call the police.

6 **Q** Who called the police?

7 **A** Me.

8 **Q** What all was taken by the men, three of them
9 collectively, what was everything that was taken?

10 **A** The bag and then my father's wallet.

11 **Q** Was anything taken from you?

12 **A** No.

13 **MR. MAYE:** Answer any questions the defense has
14 for you.

15 **THE COURT:** Mr. Calhoun.

16 **MR. CALHOUN:** May it please the Court.

17 **CROSS-EXAMINATION**

18 **BY MR. CALHOUN:**

19 **Q** Was anything taken from you other than your
20 wallet?

21 **A** It's a big bag and a small bag.

22 **Q** A paper and a small pen were taken from you?

23 **A** There's a paper inside, too.

24 **THE COURT:** What did you say?

25 **INTERPRETER:** Paper inside the bag.

1 BY MR. CALHOUN:

2 Q There's a paper inside the bag is that what
3 he's saying?

4 A Yes.

5 Q Okay. And a pen was taken from him; is that
6 correct?

7 A I don't know.

8 Q You're the one that called the police?

9 A Yes.

10 Q Did you tell the police the height of any of
11 these three gentlemen that you claim robbed you?

12 A No.

13 Q Did you tell the police the color of the shirt
14 of any of the three men that robbed you?

15 A No.

16 Q Did you tell the police the type or color of
17 the pants of any of these three men?

18 A No.

19 Q Did you describe the length of their hair?

20 A No.

21 Q Did you tell them about any jewelry any of them
22 may have been wearing?

23 A No.

24 Q Did you tell them whether any of these guys had
25 a watch on?

1 He knows five dollars, doesn't he?

2 A Yes.

3 Q Exactly. I want to make sure I'm very clear on
4 this. Do you recall if more than one person went
5 into your home?

6 A Say one more time, please.

7 Q Does he recall if more than one black male
8 entered his home?

9 A What that mean?

10 Q I'm sorry?

11 A I repeat the question.

12 Q Sure.

13 A One person went into.

14 Q Were you able to tell the individual where the
15 bag was kept?

16 A One more time?

17 Q Were you able to tell the individual that went
18 into the home where the bag was kept?

19 A No.

20 Q Other than the black male that went into the
21 home, who was already inside the home while both he
22 and his father were outside?

23 A My mother and my daughter in the house.

24 Q Not his wife?

25 A No.

- 1 Q Does his mother speak English?
- 2 A No.
- 3 Q How old is his daughter?
- 4 A She's over three years old.
- 5 Q Right now today she's three years old?
- 6 A Over four years, over four years now.
- 7 Q At the time of this incident, how old was his
- 8 daughter?
- 9 A Three, over three years old.
- 10 Q Where was the bag kept?
- 11 A It's on top of the desk and you can see it when
- 12 you go in inside.
- 13 Q Could you see anything other than their hands,
- 14 the black males?
- 15 A No.
- 16 Q Who called the police?
- 17 A Me.
- 18 Q What did you report?
- 19 A I say three black guy rob us.
- 20 Q And tell him I'm not trying to be cute, but he
- 21 didn't speak Mandarin when he called 9-1-1, did he?
- 22 A No.
- 23 Q What was taken from your person?
- 24 A No.
- 25 Q Nothing?

1 **A** No.

2 **Q** Are you absolutely certain that two individuals
3 remained outside while one individual went inside?

4 **A** One person inside, one person outside. And
5 then another person press me.

6 **Q** All right. So there's no doubt that there were
7 three in your mind?

8 (A conversation was held between the
9 interpreter and the witness.)

10 **MR. WILLIAMS:** Your Honor, I object to a
11 conversation between the two.

12 **THE COURT:** It's got to be verbatim, whatever
13 he asks, you translate, whatever he says, you --

14 **INTERPRETER:** Can I repeat it? Okay, yes.

15 **THE COURT:** Ask your question.

16 **MR. WILLIAMS:** Thank you, Your Honor.

17 **BY MR. WILLIAMS:**

18 **Q** Are you absolutely certain that there were
19 three individuals involved in this incident?

20 **A** Yes.

21 **Q** How many guns, if any, did you see?

22 **A** He only saw one.

23 **Q** Could you make out the characteristics of the
24 gun?

25 **A** I don't remember.

1 Q Was it black or silver?

2 A I don't know.

3 Q Could you tell if it was square or a revolver?

4 A I don't remember.

5 Q Are you absolutely certain you saw a gun?

6 A Yes.

7 MR. WILLIAMS: Court's indulgence, Your Honor.

8 THE COURT: Yes.

9 (Pause.)

10 MR. WILLIAMS: Thank you, sir.

11 THE COURT: Redirect.

12 MR. MAYE: Just very briefly.

13 REDIRECT EXAMINATION

14 BY MR. MAYE:

15 Q Name everyone that was on the property either
16 inside or outside the house other than the three men
17 that robbed you, all family members that were there?

18 A Me and my father outside, my mother and my
19 daughter were inside the house.

20 Q Where was your wife?

21 A He besides me did not see the robbery. She did
22 not see the robbery.

23 Q Was she on the property?

24 A Yes, outside in the garden.

25 Q What were the names of everyone that was there

1 including his wife who walked outside?

2 A Yan Fang Lin.

3 Q Who is that?

4 A My wife.

5 Q What is your daughter's name?

6 A Selina Li.

7 Q What was your father's name?

8 A Ji Quing Chen.

9 Q What is your name?

10 A Li Guan Xin.

11 MR. MAYE: Nothing else. Thank you.

12 THE COURT: Recross.

13 MR. CALHOUN: No, Your Honor.

14 MR. WILLIAMS: No, sir.

15 THE COURT: Tell him thank you. He may step
16 down.

17 Ladies and gentlemen, we're going to take a ten
18 minute break, then we'll get you back out here.
19 Don't discuss the case.

20 (The jury retires to the jury room.)

21 THE COURT: Are there other witnesses that
22 require an interpreter?

23 MR. MAYE: One more.

24 THE COURT: Court's in recess for ten minutes.

25 (Brief recess.)

1 (Court's Exhibit Number 3, jury note, marked
2 for identification purposes.)

3 **THE COURT:** Is the State ready for the jury?

4 **MR. MAYE:** The State's ready.

5 **THE COURT:** Defense?

6 **MR. WILLIAMS:** Yes, sir.

7 **THE COURT:** Do y'all have enough legal pads and
8 all for them?

9 **THE CLERK:** Yes, sir.

10 **THE COURT:** I got a note during the break from
11 the foreman indicating that the jury wanted note
12 pads and pens so they can take notes. The note from
13 the foreman is right there if anybody wants to look
14 at it, but that's basically what it says. It's a
15 Court's Exhibit.

16 All right. Bring the jury in.

17 (The jury returns to the courtroom.)

18 **THE COURT:** Mr. Foreman, I received a note from
19 the jury indicating that there's a question about
20 whether you all can take notes and I had the Clerk
21 get legal pads for you or paper and pen. It's fine
22 with me if you take notes. I do have to give you
23 the following instructions, though.

24 Judges who do not allow jurors to take notes,
25 the reason they give most often for not allowing

1 that is that they're concerned that when you go back
2 to deliberate, that a juror who has something
3 written down will be given an undue amount of
4 deference by the other jurors who don't have things
5 written down, in other words, that you will unduly
6 yield to what's written. I don't buy into that at
7 all. You know what you remember. You know what
8 you're strongly convinced about. It's perfectly
9 fine with me if you take notes.

10 They tell us that if we allow you to take
11 notes, that we have these rules: First, during any
12 break when you leave the courtroom, just leave your
13 notes in your chair upside down. So you'll need to
14 write your name somewhere where it can be seen.

15 During overnight breaks, extended breaks, the
16 bailiff will take up your notes. We do not read
17 them. We don't ever read your notes, but we'll take
18 them up and then give them back to you after that
19 long break. When you do go back to the jury room to
20 deliberate on these cases, you are allowed to take
21 your notes with you then.

22 During the deliberations, however, you cannot
23 physically show your notes to anyone else. You may
24 look at your notes and then you may say whatever you
25 like, but you cannot turn the notes to somebody and

1 say, see, I wrote it down right here. You can't
2 physically show your notes to somebody else.

3 And then, thirdly, after the trial is over, you
4 have to give the notes to the bailiff or the Clerk
5 of Court and we destroy them. We shred them or we
6 tear them into little pieces. So if, for any
7 reason, you might have made a note on something that
8 you need to keep, let us know that because we'll
9 take a black magic marker and obliterate whatever
10 you wrote. So the notes are destroyed after the
11 trial.

12 But with those three caveats, you're perfectly
13 welcome to take notes. Everybody who wanted a pad
14 and pencil, did you get it? And if you change your
15 mind later and you want to get something to take
16 notes on, just let us know, we'll be happy to get it
17 for you.

18 All right. Call your next witness.

19 **MR. MAYE:** The State calls Li Ai Ming.

20 **LI AI MING,**

21 having been duly sworn, testified as follows:

22 **THE COURT:** What is your name?

23 **INTERPRETER:** Li Ai Ming.

24 **MR. CALHOUN:** Your Honor, I hate to object
25 here, but I think the interpreter needs to be

1 instructed that he needs to get a verbal response
2 from her before he answers questions. She did not
3 give a verbal response as to whether or not she took
4 the oath.

5 She needs to open her mouth and say something
6 before you can say yes or no or answer questions for
7 her.

8 **INTERPRETER:** She did say her name.

9 **MR. CALHOUN:** I didn't see her lips moving.

10 I mean, based on what I just saw, she did not
11 take the oath, Your Honor.

12 **THE COURT:** I can't get into the middle of
13 that. All I can do is reiterate what I said before
14 is to give a verbatim translation.

15 Madame Clerk, do the oath again.

16 LI AI MING,

17 having been duly sworn, testified as follows:

18 **THE COURT:** Answer the question.

19 **INTERPRETER:** Yes.

20 **MR. CALHOUN:** Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY MR. MAYE:

23 (Through the interpreter)

24 **Q** On August the 14th of 2008, the day of this
25 incident, who was working at the store?

1 **A** Me, my husband and my son, three of us.

2 **Q** Who was keeping your son's children?

3 **A** My daughter-in-law.

4 **Q** About what time did you leave and go back to
5 your house at Academy Street?

6 **A** Roughly 10:35.

7 **Q** Who all lived at that house at [REDACTED] Academy
8 Street?

9 **A** My daughter-in-law, my granddaughter, three of
10 us. My daughter-in-law take care of the children in
11 the house.

12 **Q** Did her -- did your husband and your son and
13 you all live there at that residence at [REDACTED] Academy
14 Street?

15 **A** Yes.

16 **Q** When you came home from work that night shortly
17 after 10:30, what happened, what did you do?

18 **A** When we get home, I and my son went into the
19 house and then my husband outside take care of the
20 flower.

21 **Q** Okay. What happened next?

22 **A** About five minutes, my son find out that my
23 husband is not entered the house and he went out.

24 **Q** What happened next?

25 **A** My son went out and I don't know what happened

1 and then suddenly somebody come in, enter the house.

2 Q Was it somebody other than your son or your
3 husband?

4 A My son and my husband was outside.

5 Q Who came into the house? What was the -- what
6 did the person look like that came in the house?

7 A Bad guy, he's covered the face.

8 Q Okay. What did he do when he came in the
9 house?

10 A I said, hmm, hmm, I'm scared. He saw the bag
11 by the desk and he took it.

12 Q During the time the man was in the house, was
13 she free to leave? Could they leave the house?
14 During the time the man came into the house, could
15 she leave the house?

16 INTERPRETER: Can I repeat?

17 MR. MAYE: Yes.

18 A I scared and I don't want to move.

19 Q Okay. Did that keep her or anyone else in the
20 house from leaving?

21 A I scared and I don't want to move.

22 Q Was anything else taken other than the bag?

23 A No. He just grab the bag and ran.

24 MR. MAYE: Answer any questions the defense
25 has.

1 **THE COURT:** Cross.

2 **MR. CALHOUN:** Please the Court.

3 **CROSS-EXAMINATION**

4 **BY MR. CALHOUN:**

5 **Q** Ma'am, you saw a man come in the house and take
6 a bag off the desk?

7 **A** Yes.

8 **Q** Did you give the police a description of that
9 man?

10 **A** My son talk to the police.

11 **Q** Did you give the police a description of the
12 man who took the bag off the desk?

13 **A** My son told the police.

14 **Q** Did you give a description to your son of the
15 man that took the bag off the desk?

16 **A** Yeah, I told my son.

17 **Q** Okay.

18 **MR. CALHOUN:** That's all I have, Judge.

19 **THE COURT:** Mr. Williams.

20 **CROSS-EXAMINATION**

21 **BY MR. WILLIAMS:**

22 **Q** Good afternoon, ma'am. Now, you are Li Ai
23 Ming?

24 **A** Yes.

25 **Q** And this incident was very scary for you, was

1 it not?

2 **A** Yes. I scared for 30 days.

3 **Q** Thirty days. I just have a few questions I
4 want to ask you, okay?

5 **A** Yeah.

6 **Q** Is that okay?

7 **INTERPRETER:** I said please face me.

8 **Q** All right. The individual who came into your
9 home, were you able to make any of his facial
10 features out or recognize or discern any of his
11 facial features?

12 **A** I just have the cover on the face. I didn't
13 see much.

14 **Q** As it relates to your home, where is this desk?
15 As it relates to the front door into your home,
16 where is the desk?

17 **A** The bag's on the desk and he come in and took
18 the bag.

19 **Q** All right. As it relates to the position in
20 your home, is the desk right in the front area or is
21 it further in the back of the home?

22 **A** It's close to the door, very close to the door.

23 **Q** All right. And was it your custom or -- was it
24 your custom to bring that kind of cash home and
25 leave it right there on that desk?

1 A Yes. Yes.

2 Q Were you able to discern whether or not the
3 individual spoke at all? Did the individual speak
4 to you? That's a question.

5 A I'm sorry?

6 Q Did the individual who entered your home speak
7 to you at all?

8 A No.

9 Q Did the individual who entered your home was he
10 as tall or as heavy, I doubt it, as I am?

11 A I didn't see it clearly. I was scared.

12 Q Are you certain that the individual who entered
13 your home was a black person?

14 A Yes.

15 Q Okay. Do you believe the person was male or
16 female?

17 A Male.

18 Q What makes you believe they were male?

19 A He didn't have much hair and I believe he's
20 male.

21 Q Were the individual's hands lighter or darker
22 than my hands?

23 A I didn't see it clearly.

24 Q Did the individual who came into your home have
25 a gun?

1 **A** No.

2 **Q** Did the individual who came into your home have
3 any kind of weapon?

4 **A** I did not see it.

5 **MR. WILLIAMS:** Court's indulgence.

6 **THE COURT:** Yes, sir.

7 (Pause.)

8 **BY MR. WILLIAMS:**

9 **Q** I have one final question. Does your son speak
10 English?

11 **A** Speak a little bit, just some little bit in
12 general.

13 **Q** When he called 9-1-1, he was speaking English,
14 wasn't he?

15 **A** Yes.

16 **MR. WILLIAMS:** I have nothing further.

17 **THE COURT:** Redirect.

18 **MR. MAYE:** Nothing else, Your Honor. Thank
19 you.

20 **MR. CALHOUN:** No, Your Honor.

21 **THE COURT:** Thank you, you may step down.

22 Is there any further need for the interpreter.

23 **MR. MAYE:** No, sir, Your Honor, not as far as
24 the State's concerned.

25 **THE COURT:** Any further need for the

1 interpreter that you're aware of?

2 MR. CALHOUN: No, Your Honor, not for
3 Mr. Langford.

4 MR. WILLIAMS: Not for Mr. Phillips.

5 THE COURT: Thank you, you're free to go. You
6 need to get with the Solicitor about the proper
7 forms to submit, okay.

8 INTERPRETER: All right.

9 THE COURT: Thank you.
10 Call your next witness.

11 MR. MAYE: The State calls Alvin P.

12 (State's Exhibit Numbers 1 through 4,
13 photographs, marked for identification.)

14 ALVIN P.
15 having been duly sworn, testified as follows:

16 THE COURT: What's your name, sir?

17 THE WITNESS: Alvin P.

18 THE COURT: All right. Mr. P. , is your
19 lawyer in the courtroom?

20 THE WITNESS: Yes, sir.

21 THE COURT: All right. Answer Solicitor Maye's
22 questions.

23 DIRECT EXAMINATION

24 BY MR. MAYE:

25 Q Mr. P. , just introduce yourself to the

1 ladies and gentlemen of the jury. Tell them where
2 you've grown up and gone to school and who your
3 family members are here.

4 A My name is Alvin P. I grew up
5 in Johnston at ■ Sherrill Lane, off Long Cane. I
6 went to school at Strom Thurmond High School.

7 Q Who is your mother?

8 A Vanessa Phillips.

9 Q Okay. What other family members do you have,
10 Alvin?

11 A My sister name is Veronica Phillips. My aunt's
12 Janie Robinson, Brenda Phillips.

13 Q Mr. Phillips, let me ask you this back on
14 August the 14th of 2008, were you in school or were
15 you out of school at that time?

16 A I was in school.

17 Q Okay. You were in school. Was it summer time,
18 were you out for the summer at that point in time?

19 A Yes, sir.

20 Q Okay. What year were you finishing up and what
21 year were you getting ready to start?

22 A I was finishing up the 11th, getting ready to
23 start the 12th.

24 Q Okay. What school were you going to?

25 A Strom Thurmond High School.

1 Q Okay. Where were you living, what living
2 arrangements did you have? Where were you typically
3 staying at that point in time back on August the
4 14th of 2008?

5 A At my sister house.

6 Q Okay. Tell the ladies and gentlemen of the
7 jury where your sister was staying.

8 A [REDACTED] Ouzts Street in Johnston, South Carolina.

9 Q Okay. If you leave the courthouse here and you
10 go down through Main Street in Johnston, get down to
11 the main drag, where do you go to get to where your
12 sister was living? How would you go there?

13 A You go down 121, go through the town of
14 Johnston and turn off on Academy Street and you
15 turn -- make a left on Ouzts.

16 Q Okay. So when you stayed over there, where did
17 you usually stay? Did you have a room that you
18 stayed in there?

19 A Yes, sir.

20 Q Okay. Who else was living at that house other
21 than your sister? Did she have children?

22 A Yes, sir, two children.

23 Q She had two children?

24 A Two sons.

25 Q All right. Let me ask you this. How do you

1 know Bryan Phillips and who is he to you?

2 A He's my first cousin.

3 Q Okay. Where was he living at that time?

4 A With his mother.

5 Q Was it in the same housing authority complex
6 there?

7 A Yes, sir.

8 Q He was living right there. He's your first
9 cousin. Were y'all regularly seeing each other
10 during that time?

11 A Yes, sir.

12 Q Were y'all friends and did you do things
13 together on a regular basis?

14 A Yes, sir.

15 Q Okay. How do you know K.C. Langford? Who is
16 he to you?

17 A My sister, my sister baby daddy. He got a baby
18 by my sister.

19 Q Okay. That had been her boyfriend at one time
20 too, hadn't it?

21 A Yes, sir.

22 Q Okay. Was he somebody that you were regularly
23 around and seeing on a regular basis?

24 A Yes, sir.

25 Q Okay. In fact, the night that this took place

1 where did he actually stay that night later on?

2 Where did he spend the remainder of the night?

3 A At my sister house.

4 Q Did he sometimes come over and stay and visit
5 with y'all?

6 A Yes, sir.

7 Q Okay. Let me ask you this. Let me show you
8 four photographs here that have been marked for
9 I.D., State's 1, State's 2, 3 and 4. Do you
10 recognize that residence there?

11 A Yes, sir.

12 Q Look through each of those photographs, 1
13 through 4 there, just thumb through them briefly.

14 A (Witness complies.)

15 Q Is that the gray wooden house at ■ Academy
16 Street?

17 A Yes, sir.

18 Q Okay. Back in August of 2008, who was living
19 in that house?

20 A Chinese people.

21 Q Okay. How did you know the Chinese people or
22 how had you seen them? Had you ever been to their
23 restaurant?

24 A Yes, sir.

25 Q Had you seen them -- how far is it from where

1 Veronica, your sister, and Bryan lived there in the
2 apartment complex, how far is it over to [REDACTED] Academy
3 Street?

4 A Probably about a minute away, a minute or
5 two --

6 Q Is it within walking distance?

7 A Yes, sir.

8 Q Within easy walking distance, isn't it?

9 A Yes, sir.

10 Q If I can get you to come down here if you
11 would. Just come off the stand.

12 A (Witness leaves the witness stand.)

13 Q Let's look here on this map. If this is the
14 main intersection there in Johnston there at the
15 railroad tracks, where is the restaurant that the
16 Chinese people ran?

17 A (Witness indicates.)

18 Q Okay. Is that the Hong Kong place right there?
19 Is that fairly on this --

20 COURT REPORTER: I can't hear what he's --

21 THE COURT: He's not saying anything at this
22 point.

23 She's got her back to y'all and y'all have got
24 that piece of board between her, she can't see.

25 MR. MAYE: I'll try to reposition it.

1 BY MR. MAYE:

2 Q If this is ■ Academy Street here, roughly on
3 this map, where are the apartments where Veronica
4 and you stay and Bryan lived over there, about where
5 is it on the map?

6 A Somewhere in this area right there
7 (indicating).

8 Q Okay. Go back to your seat.

9 A (Witness resumes the witness stand.)

10 Q Had you seen the Chinese people prior to August
11 the 14th of 2008, had you seen them coming and going
12 between the restaurant and their house?

13 A Yes, sir.

14 Q Who else had noticed them coming and going in
15 between their house?

16 A My cousin, Bryan Phillips.

17 Q Okay. Prior to August the 14th of 2008, what
18 conversations did y'all have about the comings and
19 goings of the Chinese people in between their house
20 and the restaurant? What conversations did you
21 have?

22 A We said that we thought that they might have --
23 be bringing their money home.

24 Q Okay. What led y'all to believe and what
25 conversations did y'all have that indicated to you

1 and Bryan that they were bringing money? What did
2 y'all notice and what did you see?

3 **A** We noticed that they didn't go to the bank
4 after work.

5 **Q** Okay.

6 **A** And they always brought a black bag home with
7 them after work.

8 **Q** Okay. Based on y'all's observations and seeing
9 that, what discussions did y'all have about the
10 Chinese people?

11 **A** He said he -- my cousin said that -- he had
12 told me one time that he had needed some money and
13 he said that he believed that they bring their money
14 home.

15 **Q** Okay. Did y'all have discussions about
16 potentially robbing the Chinese people?

17 **A** Yes, sir.

18 **Q** Did y'all talk about that prior to August the
19 14th, 2008?

20 **MR. CALHOUN:** Objection as to leading, Your
21 Honor.

22 **THE COURT:** Sustained.

23 **MR. CALHOUN:** Request that he not direct the
24 witness' testimony.

25 **THE COURT:** Sustained. Phrase your question in

1 a nonleading fashion.

2 MR. MAYE: I understand.

3 BY MR. MAYE:

4 Q Prior -- when, prior to August the 14th of
5 2008, did y'all begin talking about this?

6 A Probably about a month earlier.

7 Q Okay. When, before this incident took place,
8 was the last time that y'all had any discussions
9 about it?

10 A Repeat the question again.

11 Q Prior to you going to [REDACTED] Academy Street there
12 that night on August the 14th of 2008, what
13 discussions did you and Bryan have about what y'all
14 were going to do that night?

15 A We said we was going to wait -- go to their
16 house before they come home and go rob them.

17 Q Okay. What was happening there just prior to
18 y'all going to the house at [REDACTED] Academy Street to
19 rob them, what were y'all doing?

20 A Getting ready.

21 Q Okay. What did y'all do in order to get ready
22 to go do this?

23 A He called me and I went in the house and went
24 in the closet where I hid my --

25 Q Who called you?

1 **A** My cousin, Bryan Phillips.

2 **Q** Okay. Who all was around the house there where
3 you and your sister, Veronica, were staying at that
4 time, who was around there?

5 **A** My mother, my two nephews and K.C. Langford.

6 **Q** Where was your mother working at the time?

7 **A** Milliken in Johnston.

8 **Q** Okay. Tell the ladies and gentlemen of the
9 jury everything y'all did to get ready to go do this
10 robbery.

11 **A** I went in the house. He called me. I don't
12 know exactly what he did. I know when we met up, he
13 had his ski mask. Well, I went in the house, went
14 in the closet, went in the shoe box where I hid my
15 gun at and got my gun and the ski mask out the shoe
16 box and met him on the front porch.

17 **Q** What kind of gun did you have, Alvin.

18 **A** .40 caliber.

19 **Q** Okay. Was Bryan Phillips, your cousin, aware
20 that you had this gun?

21 **A** Yes, sir.

22 **Q** Had y'all had discussions about that?

23 **A** Yes, sir.

24 **Q** Okay. Who else ended up going with you when
25 y'all went to go do this robbery of the Chinese

1 people?

2 A K.C. Langford.

3 Q Okay. How did K.C. Langford get involved in
4 y'all going and doing this robbery?

5 A Before we left, we was fixing to get ready to
6 leave, he came outside and asked us where we were
7 going and we told him we was going to rob the
8 Chinese people. He said he was going too, to hold
9 up, to wait on him. So he went in the house and got
10 ready.

11 Q What did K.C. Langford do to get ready once
12 y'all told him that y'all were going to do this
13 robbery, what did he do?

14 A Changed clothes, put on a dark shirt.

15 Q Okay.

16 A And got a dark shirt, I guess, to put around
17 his face.

18 Q He got a dark shirt to put over his face?

19 A Yeah, as in black.

20 Q Okay. About when did y'all leave there, from
21 the area of the apartment complex, to go over to [REDACTED]
22 Academy Street to do this robbery?

23 A Probably about between ten o'clock and 10:30.

24 Q Okay. Who all was with you when you left over
25 there to go rob them? Name everybody that was along

1 with you.

2 A Me, Bryan Phillips, K.C. Langford.

3 Q Okay. Where did y'all go once you got to [REDACTED]

4 Academy Street, where did y'all go?

5 A To the front yard of the Chinese people house.

6 Q Okay. Let me show you State's Exhibit Number

7 3. Is that a fair and accurate view of the front of
8 the house?

9 A Yes, sir.

10 Q Okay. At the time that y'all did this robbery,
11 what was different about this picture here in
12 between now and the time that you did the robbery?

13 A The bushes were higher.

14 Q You said the bushes were higher?

15 A Yes, sir.

16 Q Okay. Come down here if you would. Just stand
17 up here.

18 A (Witness leaves the witness stand.)

19 Q Which bushes are you talking about that were
20 higher? Point them out on here.

21 A (Witness complies.)

22 Q Okay. They were taller then than they are in
23 this photograph; is that correct?

24 A Yes, sir.

25 Q But this is the house at [REDACTED] Academy Street

1 that y'all went to?

2 A Yes, sir.

3 Q When y'all arrived, where did y'all go?

4 A Through the backyard, came up on the side, went
5 in the bushes right --

6 THE COURT: You've got to speak up.

7 BY MR. MAYE:

8 Q A little louder, say that again.

9 A Came through the backyard of the house, came up
10 the left side of the house, went in the bushes in
11 the front yard.

12 Q All three of you?

13 A Yes, sir.

14 Q Okay. Take the stand.

15 A (Witness resumes the witness stand.)

16 Q What was happening -- did you see anybody? Was
17 there anybody home when you first got there?

18 A I don't know.

19 Q Okay. What did the three of you do once you
20 got there and you're in the -- you said that you
21 came there and y'all got in those tall bushes. What
22 happened next? What was the next thing you saw?

23 A We waited until they came home. They came
24 home, we seen that it was -- it was more than one or
25 two of them in the car, so we said we wasn't going

1 to do it.

2 Q Okay.

3 A And then we was waiting on them to go in the
4 house so we could leave when one came around to
5 check on the garden, they had a garden they had on
6 the side we were, so when he came, I jumped out of
7 the woods -- we jumped out of the woods, but I had
8 the gun. I made him get on the ground. We asked
9 him where the money was, but we didn't understand
10 what he was saying because he was talking in --

11 Q What were you saying to him as you were
12 pointing the gun at him?

13 A Ask him where the money was.

14 Q Okay. Could you understand anything he was
15 saying back?

16 A No, sir.

17 Q Okay. What did the three of you continue to do
18 or what happened next with the three of you there?
19 Y'all got the man, what happened next?

20 A I made him get on the ground. We continued to
21 ask him where the money was. We couldn't understand
22 him. And then probably about a minute or two later,
23 another one came around the house. We made him get
24 on the ground beside the one we already had on the
25 ground, asked him where the money was. We couldn't

1 understand him either. And then --

2 Q Okay. What happened to the men? Did anything
3 happen to them while they were there?

4 A Yeah. One of them got hit in the back of the
5 head.

6 Q Who hit the man in the back of the head?

7 A Bryan Phillips.

8 Q Okay. How did he strike him or how did he hit
9 him?

10 A With his fist.

11 Q Okay. What happened to the man once he was
12 struck or hit by Bryan?

13 A He continued laying on the ground.

14 Q Okay. What was the next thing that any of the
15 three of you that were there did? What was the next
16 thing that you saw?

17 A K.C. Langford ran in the back of the house and
18 I didn't see him no more. I don't know what he did
19 inside.

20 Q Okay. When was the next time you saw K.C.
21 Langford?

22 A A couple seconds later. He was running up, I
23 think, Butler Street. And we left the people on the
24 ground and ran behind him.

25 Q What did he have with him as he went up Butler

1 Street?

2 A The black bag that the Chinese people had.

3 Q Okay. Did he have that with him when he
4 disappeared from your view around the front of the
5 house?

6 A No, sir.

7 Q Okay. So the next time you saw him, what did
8 he have with him?

9 A The black bag.

10 Q Okay. Once y'all saw that he had the bag, what
11 did you do?

12 A Ran behind him.

13 Q Okay. What was the next thing that happened?
14 Where did you go?

15 A We ran up Butler, made a left on, I don't know
16 what street it was.

17 Q Come down here, if you would, and show me or
18 just stand up here and show me on the map once y'all
19 left the house, which end of the house did you have
20 the two Chinese guys laying down, holding them?

21 A The left side.

22 Q Okay. Once y'all saw K.C. running with the
23 bag, which direction did y'all all go?

24 A (Inaudible.)

25 Q Okay.

1 **COURT REPORTER:** I didn't hear him.

2 **THE COURT:** I couldn't hear him. What did he
3 say?

4 **MR. MAYE:** He said, Up Butler.

5 **BY MR. MAYE:**

6 **Q** Once y'all ran up Butler, which direction did
7 you go?

8 **A** On the left (indicating).

9 **Q** Okay. Then which direction did you go?

10 **THE COURT:** I'm sorry, I can't hear him.

11 **BY MR. MAYE:**

12 **Q** You're going to have to speak up loud. Once
13 y'all ran up Butler, which direction did y'all go?

14 **A** Left.

15 **Q** Okay. Then where did you go?

16 **A** We made a left right here through the woods.

17 **Q** Where did you end up at traveling that
18 direction?

19 **A** Back on Academy.

20 **Q** Okay. Where did y'all go from there?

21 **A** To my cousin, Bryan, house.

22 **Q** Were the three of you all together at that
23 point in time?

24 **A** Yes, sir.

25 **Q** Okay. Go back and take the stand.

1 **A** (Witness resumes the witness stand.)

2 **Q** What was the next thing that happened, Alvin?

3 **A** We went in Bryan house to split the money up.
4 And me and K.C. went out the back door and Bryan --
5 we split the money up in Bryan room and me and K.C.
6 left out the back door, went --

7 **Q** About how much money did you get?

8 **A** About \$800.

9 **Q** About \$800. Did you stop and actually count it
10 or is that what you think you got it?

11 **A** It's somewhere in that range. I didn't
12 actually just count it.

13 **Q** Okay. Did you see anything else taken off of
14 the gentleman that you had down in the yard?

15 **A** No, sir.

16 **Q** Do you know whether or not -- could you see
17 everything that was happening there? Was it dark or
18 was it light over there?

19 **A** It was dark.

20 **Q** Okay. Who was holding the gun?

21 **A** I was.

22 **Q** Who was holding the man down on the ground, the
23 two men down on the ground?

24 **A** I was.

25 **Q** You were holding them on the ground, okay. Did

1 you take the billfold from the man that was on the
2 ground?

3 A No, sir.

4 Q Okay. When you got back to Bryan's house, did
5 y'all all take a share of the money?

6 A Yes, sir.

7 Q Okay. After y'all split the money up, what
8 happened next, Alvin?

9 A Me and K.C. went out the back door of Bryan
10 house and went to my sister house. Around that
11 time, she was fixing to take my mama to work.

12 Q Where was your mama working again?

13 A Milliken in Johnston.

14 Q Okay. So what did you and K.C. then do when
15 you learned that your sister was getting ready to
16 take your mom on to work?

17 A Went and got in the car and rode with her.

18 Q Okay. What happened when y'all were on that
19 ride?

20 A A police officer stopped us and ran --

21 Q Give a description of the police officer, what
22 did he look like?

23 A Just a average white, average white guy.

24 Q A white officer?

25 A Yes, sir.

1 Q Okay. What happened when he stopped y'all?

2 Don't go into what he said, but what happened when
3 he stopped y'all?

4 A He asked my sister for I.D. to check -- ran my
5 sister I.D. and K.C. Langford I.D.

6 Q Okay. Did he end up letting y'all go at that
7 point in time?

8 A Yes, sir.

9 Q Okay. What happened next?

10 A We rode to the country where my mama stay at on
11 ■ Sherrill Lane. She had to get her I.D., I.D.
12 badge for work. When we got there, me and K.C. told
13 my sister we was going to stay there until she come
14 back and pick us up.

15 Q Okay. Where did y'all end up at? Where did
16 y'all go back to that night?

17 A My sister house.

18 Q Okay. Where did K.C. Langford stay that night?

19 A My sister house.

20 Q Okay. Alvin, when was your first encounter
21 with law enforcement in relation to y'all carrying
22 out the robbery of the Chinese people on August the
23 14th of 2008? When were you first confronted by law
24 enforcement?

25 A I don't know exactly what day I was confronted.

1 Q Was it the next day, was it weeks later,
2 approximation?

3 A About a week, a week or so later, I don't know,
4 a week.

5 Q Okay. Some time after then, you went and
6 talked to law enforcement; is that fair?

7 A Yes, sir.

8 Q You don't know the -- do you know the exact
9 day?

10 A No, sir.

11 Q Okay. Which law enforcement officer do you
12 remember talking to there that you related this
13 incident to?

14 A Mr. Young, Roosevelt Young.

15 Q Did they give you your rights prior to talking
16 to you?

17 A Yes, sir.

18 Q Okay. And what did you tell Investigator Young
19 about the events of August the 14th of 2008?

20 A Told him what happened about the burglary.

21 Q Did you identify who all was involved in going
22 and doing this?

23 A Yes, sir.

24 Q Okay. I'm going to ask you to do this. Is
25 your cousin, Bryan Phillips, is he present here in

1 the courtroom?

2 A Yes, sir.

3 Q Could you point him out?

4 A Right there with the black tie on (indicating).

5 Q In relation to the four people sitting there,
6 the two gentlemen with the suits on the end, which
7 one is he?

8 A The one with the white shirt on with the black
9 tie.

10 Q That's your cousin, Bryan Phillips?

11 A Yes, sir.

12 MR. MAYE: Your Honor, I'd just like the record
13 to reflect that he's identified the defendant, Mr.
14 Phillips.

15 THE COURT: It's so noted.

16 BY MR. MAYE:

17 Q How about K.C. Langford? Is K.C. Langford
18 present here in the courtroom?

19 A Yes, sir.

20 Q How is he dressed and where is he seated?

21 A White shirt with black stripes with pink, sky
22 blue and white tie.

23 MR. MAYE: Your Honor, I'd like for the record
24 to reflect he's identified the defendant, K.C.
25 Langford, as well.

1 **THE COURT:** It's so noted.

2 **BY MR. MAYE:**

3 **Q** Are these two individuals, Bryan Phillips and
4 K.C. Langford, the two that prepared and went with
5 you there to rob the Chinese people on Academy
6 Street that night, August 14th, 2008?

7 **A** Yes, sir.

8 **Q** After you told Investigator Young about the
9 events of this, were you actually charged in
10 relation to going and doing this robbery and all?

11 **A** Yes, sir.

12 **Q** Okay. What all were you charged with?

13 **A** Armed robbery, first degree burglary, assault
14 and battery with intent to kill, kidnapping,
15 possession of a weapon during the commission of a
16 violent crime and I think criminal conspiracy.

17 **Q** Okay. You got charged with all of this?

18 **A** Yes, sir.

19 **Q** Okay. Some time prior to this date, several
20 weeks ago, did you go and enter a guilty plea to a
21 charge in relation to doing this robbery?

22 **A** Yes, sir.

23 **Q** What did you plead guilty to?

24 **A** Armed robbery.

25 **Q** Okay. At the time that you pleaded guilty to

1 armed robbery, you have all of these other charges,
2 to your knowledge, are those all still outstanding?

3 A Yes, sir.

4 Q Okay. Was anything promised to you in relation
5 to what your sentence would be when you pleaded to
6 armed robbery?

7 A No, sir.

8 Q Was anything promised to you in relation to
9 what would happen to all of the other outstanding
10 charges that you have?

11 A No, sir.

12 Q Okay. Did you agree to testify at that point
13 in time against your co-defendants, Mr. Phillips and
14 Mr. Langford?

15 A Yes, sir.

16 Q Is the information that you've given this jury
17 up here, is it the truth about what happened on the
18 14th of 2008?

19 A Yes, sir.

20 Q This is a silly question, but I've got to cover
21 this. The spot that -- ■ Academy Street in
22 Johnston where y'all did this robbery, what county
23 is that in?

24 A Edgefield.

25 MR. MAYE: Beg the Court's indulgence.

1 **THE COURT:** Yes, sir.

2 (Pause.)

3 **MR. MAYE:** Answer any questions the defense has
4 for you.

5 **MR. WILLIAMS:** Your Honor, may we approach?

6 **THE COURT:** Sure.

7 (Whereupon, a bench conference was held off
8 the record, in the presence of the jury, but out of
9 the hearing of the jury.)

10 **THE COURT:** All right. Ladies and gentlemen,
11 we're going to take a recess. I need you to step in
12 the jury room. Don't discuss the case.

13 (The jury retires to the jury room.)

14 **THE COURT:** Mr. Phillips, during this break,
15 you're not permitted to talk to anybody about your
16 testimony, okay.

17 **THE WITNESS:** Yes, sir.

18 **THE COURT:** Are you in custody?

19 **THE WITNESS:** Yes, sir.

20 **MR. MAYE:** Your Honor, I realize there's one
21 thing. I don't know if they would do this by
22 stipulation or not and they don't have to if they
23 don't want to, I marked those for I.D., I'd
24 officially move to admit those into evidence. I'm
25 going to attempt to do so.

1 I'd ask the Court to allow me to ask him that
2 additional question just to verify those unless
3 there's no objection to the photographs and I'll
4 leave that to the defense. They certainly don't
5 have to agree to that. The Court doesn't have to
6 let me do that. It's not the end of the world one
7 way or another, but I was going to attempt to do
8 that.

9 **THE COURT:** Is there any objection to the
10 photographs coming into evidence?

11 **MR. CALHOUN:** No objection from Mr. Langford.

12 **MR. WILLIAMS:** Your Honor, I don't object to
13 them.

14 **THE COURT:** Make sure we know which ones we're
15 talking about now.

16 **MR. MAYE:** 1 through 4. There are only four I
17 have for I.D.

18 **THE COURT:** But not that big board?

19 **MR. MAYE:** No. I just -- demonstrative
20 purposes.

21 **THE COURT:** Mark 1 through 4 in evidence
22 please, ma'am.

23 We're in recess. Y'all let me know when you're
24 ready, okay.

25 (State's Exhibit Numbers 1 through 4,

1 photographs, admitted into evidence.)

2 (Brief recess.)

3 **THE COURT:** Mr. Calhoun, are you ready for the
4 jury?

5 **MR. CALHOUN:** Yes, Your Honor.

6 **MR. MAYE:** May it please the Court, Your Honor.
7 I'm informed, I just wanted to take up prior to us
8 getting this, that they have a statement that was
9 purported, I don't know that it was authored by him
10 or they're purporting that it was signed by him or
11 authored by him. I wanted to take up any
12 impeachment or admissibility based on that
13 statement.

14 **THE COURT:** Do you know what he's talking
15 about?

16 **MR. CALHOUN:** Yes, Your Honor.

17 **MR. MAYE:** I have copies that I'll hand up.

18 **THE COURT:** All right. What's this about?

19 **MR. CALHOUN:** Your Honor, that's the statement
20 that Mr. Phillips provided to my client while they
21 were in jail.

22 And actually, Judge, I object to a proffer
23 being done now because I think Mr. Maye is doing it
24 now so he can coach his client as to what to say
25 about this statement. Mr. Maye has known about this

1 statement for a long period of time and if he wanted
2 to do a proffer, which we suggested to the Court
3 that we do before Mr. Phillips testify, then we
4 should have done so.

5 I think any testimony given now is going to be
6 done in preparation of Mr. Phillips, so I would
7 request that -- I object to us doing this proffer
8 now in the presence of Mr. Phillips right before he
9 testifies about something he's going to be crossed
10 on.

11 **THE COURT:** Well, do you know if he admits or
12 denies making the statement?

13 **MR. CALHOUN:** Well, I was told that he admits
14 that he signed it.

15 **MR. MAYE:** Your Honor, and I'm not -- we need
16 to ask him. I don't know -- it'd be hearsay and if
17 he didn't sign it, I can't unring the bell in front
18 of the jury. And it would certainly be improper to
19 put up a statement and plant the seed to the jury
20 that he made a statement that -- I don't know if he
21 wrote it, I don't know if he signed it, but they're
22 apparently going to attempt to -- these -- their
23 clients, I don't know how, they either extracted it
24 or they got this statement, they purport that it is,
25 I don't know if he made it or not or what the

1 circumstances were and I want to take that up
2 outside the presence of the jury because if it's not
3 admissible --

4 **MR. CALHOUN:** Your Honor --

5 **MR. MAYE:** -- I can't unring the bell.

6 **MR. CALHOUN:** -- this isn't a surprise
7 document. He's already talked to his client about
8 this. He knows exactly what his client is going to
9 say. And the fact that Mr. Maye knows that we're
10 going to possibly have it entered into evidence or
11 cross him on it, now he wants to do a proffer in the
12 presence of his client to prepare his testimony.
13 There's no other explanation for this being done
14 right now.

15 **MR. WILLIAMS:** Your Honor, I join Mr. Calhoun
16 in his assertion. And I would further suggest to
17 the Court that if we simply limit it to, is this
18 your signature, if that is significant, then I think
19 we can limit -- limit it to that. And if Mr. Maye
20 needs to expound upon it in recross, then he can do
21 that.

22 **MR. MAYE:** Your Honor, prior to today, I did
23 not know if they were going to attempt to use this
24 statement.

25 We were informed, law enforcement was informed

1 that these two individuals down in the jail were
2 pressuring him to sign a statement. He was moved to
3 Saluda at that time.

4 I didn't know whether they were actually going
5 to attempt to utilize it or not because this was not
6 the two lawyers that were involved in this. The two
7 defendants in this case were involved in either
8 obtaining or extracting this statement. I don't
9 know whether or not it's admissible or not, but I
10 wanted to take it up outside the presence of the
11 jury. And like I said, because this was certainly
12 done outside the attorneys -- I didn't know if they
13 were going to attempt to use it or not.

14 **THE COURT:** Why is this piece of paper --
15 what's cut off of this?

16 **MR. WILLIAMS:** Your Honor, this was how it was
17 given to me quite honestly.

18 **THE COURT:** Look and see if the copy I have has
19 everything on it that you have.

20 (Pause.)

21 **MR. WILLIAMS:** It doesn't seem to have the
22 signature portion, which was this corner.

23 **THE COURT:** Somebody make me a copy that has
24 everything on it, that piece of paper.

25 (Pause.)

1 (Defendant Phillips Exhibit Numbers 1 and 2,
2 statements, marked for identification.)

3 **THE COURT:** I'm looking at Rule 613 and I'm
4 struggling to find any reason to have an in camera
5 hearing on this. Motion is denied.

6 Bring in the jury.

7 **MR. MAYE:** Your Honor, the only thing I wanted
8 to make sure is I know these statements will elicit
9 responses that they were all incarcerated together
10 and they -- and statements that they made while they
11 were all incarcerated together and I would
12 anticipate that that's the way he's going to answer
13 those. And so I just wanted to make sure we didn't
14 step on any land mines in regard to that, but where
15 they were made, what was said, all of that is going
16 to be fair game, I would say, if they ask him about
17 those or the authorship of them. And I just wanted
18 to make sure that we brought that out prior to the
19 jury coming out.

20 **THE COURT:** I don't know how I can rule. I
21 mean, it depends on exactly how things develop as to
22 whether you get into any extrinsic evidence at all.

23 **MR. CALHOUN:** Mr. Maye doesn't know what I'm
24 going to ask him, Judge. I just think he's being
25 prepped right now. I mean, he doesn't even know if

1 I'm going to ask him any questions about this
2 statement. I mean, if this was done, it should have
3 been done before he testified on direct.

4 **THE COURT:** Well, he was saying that it may be
5 elicited that these two defendants are incarcerated.
6 I've got no way of knowing that. And I don't think
7 that would come as any shock to the jury with the
8 charges that are lodged against them, but I'll deal
9 with what comes up as it comes up. If I've got to
10 do what ifs, you know, we'll be here next December
11 going through this.

12 **MR. CALHOUN:** Yes, sir.

13 **MR. MAYE:** Thank you, Your Honor.

14 **THE COURT:** All right. Bring the jury in.

15 (The jury returns to the courtroom.)

16 **THE COURT:** All right. Cross-examination.

17 **MR. CALHOUN:** If it please the Court.

18 **THE COURT:** Yes, sir.

19 CROSS-EXAMINATION

20 BY MR. CALHOUN:

21 **Q** Mr. Phillips, my name is Mark Calhoun and I'm
22 representing K.C. Langford on this case. You've
23 already testified to the jury that you've already
24 gone in front of a judge and pled guilty to armed
25 robbery, correct?

1 **A** Yes, sir.

2 **Q** But, in fact, you have some other charges,
3 right?

4 **A** Yes, sir.

5 **Q** You got a burglary first degree charge?

6 **A** Yes, sir.

7 **Q** You got a kidnapping charge?

8 **A** Yes, sir.

9 **Q** You have a criminal conspiracy charge?

10 **A** Yes, sir.

11 **Q** You've got a use of firearm during the
12 commission of a crime charge, correct?

13 **A** Yes, sir.

14 **Q** And last is you have an assault and battery
15 with intent to kill charge; isn't that correct?

16 **A** Yes, sir.

17 **Q** But the only charge that you've pled guilty to
18 is the armed robbery charge?

19 **A** Yes, sir.

20 **Q** That's right. And after today, you're
21 expecting those other charges to be dismissed,
22 correct?

23 **A** Yes, sir, I hope so.

24 **Q** Please look at me and not the prosecutor.

25 **THE COURT:** What's your answer?

1 What did he say?

2 BY MR. CALHOUN:

3 Q What was your answer? You're expecting the
4 other charges to be dismissed, correct?

5 A Yeah, I hope so.

6 Q All right. Thank you. Now, you're not any
7 stranger to the criminal justice system, correct?
8 You've been arrested before other than this offense?

9 A Yes, sir.

10 Q That's correct. Okay, and you turned 17 in the
11 year 2008; is that right?

12 A Yes, sir.

13 Q What month did you turn 17?

14 A December.

15 Q December?

16 A Yes, sir.

17 Q Okay. So in the year 2008, you were also
18 convicted of shoplifting, correct?

19 A Yes, sir.

20 Q And you were also convicted of larceny that
21 year; isn't that correct?

22 A Yes, sir.

23 Q And on at least one of those charges, you went
24 in front of a judge and you pled guilty too, right?

25 A Yes, sir.

1 Q And when you went in front of that judge and
2 you pled guilty to that charge, that judge sentenced
3 you that same time, right?

4 A Yes, sir.

5 Q He told you what your punishment was going to
6 be so to speak?

7 A Yes, sir.

8 Q Okay. But on this case, you haven't been
9 sentenced, have you?

10 A No, sir.

11 Q Okay. They're waiting until after today before
12 we find out what your punishment is going to be,
13 right?

14 A Yes, sir.

15 Q Some time after today, you're going to go back
16 in front of the Judge with Mr. Maye and your
17 punishment is going to be decided then; isn't that
18 correct?

19 A Yes, sir.

20 Q And all that depends on what you say today,
21 right?

22 A (No response.)

23 Q Yes or no?

24 A Repeat the question.

25 Q And what your punishment is at sentencing

1 depends on what you say today when you testify, yes
2 or no?

3 A I guess so. I don't really know.

4 Q Okay.

5 MR. MAYE: Your Honor, I'm going to object to
6 that. He ought to be allowed to explain his answer
7 in this case and not ask a yes or no question,
8 something that might necessarily elicit a yes or no
9 question. That was not a yes or no question. And I
10 object to that form of it, him not being allowed to
11 explain and being insistent that he answer the
12 question either yes or no.

13 THE COURT: The objection is overruled. He
14 said he did not know.

15 MR. CALHOUN: Thank you, Your Honor.

16 BY MR. CALHOUN:

17 Q Mr. Phillips, there's one thing that I found
18 interesting about your testimony is the use of a
19 gun.

20 A Yes, sir.

21 Q Now, you told the jury that when these folks
22 are being rob, that you were pointing the gun at
23 them, right?

24 A Yes, sir.

25 Q And you were threatening them when you were

1 pointing that gun at them, weren't you?

2 A Yes, sir.

3 Q And I assume you were threatening to kill them;
4 is that right?

5 A No, sir.

6 Q No. You were pointing a gun at them and you
7 weren't threatening to kill them. Were you
8 threatening to hurt their feelings?

9 A No, sir.

10 Q What were you threatening to do?

11 A I just asked for the money.

12 Q Okay. And in the written statement that you
13 gave to the police later on, you told the police
14 that it was your gun, didn't you?

15 A Yes, sir.

16 Q In fact, in your statement, you wrote, Then I
17 threw my gun in a trash can along with my mask,
18 didn't you say that?

19 A Yes, sir.

20 Q But when you testified to this jury a moment
21 ago, you told the jury that it was somebody else who
22 cracked that gun over that poor Chinese man's head;
23 isn't that right?

24 A Yes, sir.

25 Q So when the really violent, vicious action took

1 place, it wasn't you, was it, it was somebody else?

2 **A** Sir? Repeat the question, what you said again.

3 **Q** I'll be glad to. So even though you obviously
4 had the gun at the beginning and the end of the
5 robbery when the most violent act occurred, cracking
6 someone over the head with a pistol, that wasn't
7 you, was it?

8 **A** No, sir.

9 **Q** Okay. Now, remember, Mr. Phillips, you're
10 under oath today and you're sworn to tell the truth;
11 do you understand that?

12 **A** Yes, sir.

13 **Q** Okay. The last time or should I say the first
14 and only time this case was called to trial, you
15 were here back in May of this year, weren't you? Do
16 you remember being brought over here for a trial in
17 May of this year for this trial?

18 **MR. MAYE:** Your Honor, objection. I've got a
19 matter to take up at side bar.

20 **THE COURT:** No. I want whatever y'all want to
21 tell me on the record.

22 **MR. MAYE:** That's fine, Your Honor.

23 **THE COURT:** Ladies and gentlemen, I have to
24 send you to the jury room. Don't discuss the case.

25 (The jury retires to the jury room.)

1 **THE COURT:** Yes, sir.

2 **MR. MAYE:** Your Honor, I would object to any
3 reference to a case being called previously or
4 events or trials involving the scheduling trials
5 that are outside the facts of this case, Your Honor.
6 I don't think that they have any relevance and I
7 can't imagine it's anything -- for any other purpose
8 than to put something forward that would be
9 inadmissible. Whether or not another trial took
10 place or whether or not something was continued or
11 postponed wouldn't have any relevance to the facts
12 of this case.

13 **THE COURT:** Do you want to be heard?

14 **MR. CALHOUN:** Yes, Your Honor. I believe that
15 Mr. Phillips' voracity to tell the truth is
16 extremely relevant. It's what the whole case is
17 riding on.

18 He refused to testify in May and then the case
19 was continued as you remember. He's given
20 conflicting statements since that time as to whether
21 or not my client was or was not involved in the
22 crime. His credibility is the single most important
23 issue of the case and that's what it is relevant to.

24 **MR. WILLIAMS:** I join Mr. Calhoun in that
25 assertion. I think it's purely an issue of

1 credibility. And I think any time you have a
2 witness who has vacillated, Your Honor, in his
3 statements whether they be affirmatively or
4 negatively, I think that goes absolutely to the
5 heart of that witness' credibility.

6 **THE COURT:** Anything else, Mr. Maye?

7 **MR. MAYE:** Nothing else, Your Honor.

8 **THE COURT:** The objection's overruled.
9 Bring the jury back.

10 (The jury returns to the courtroom.)

11 **THE COURT:** Objection's overruled. You may
12 continue, Mr. Calhoun.

13 **MR. CALHOUN:** Thank you, Your Honor. May it
14 please the Court.

15 **THE COURT:** Yes, sir.

16 BY MR. CALHOUN:

17 **Q** Mr. Phillips, as I was previously asking you a
18 few minutes ago, do you remember when this case was
19 called for trial back in May of this year?

20 **A** Yes, sir.

21 **Q** Okay. And you remember being brought up here?

22 **A** Yes, sir.

23 **Q** Right. And you came up with your lawyer,
24 right?

25 **A** Yes, sir.

1 Q All right. And on that day, Mr. Maye was
2 expecting you to testify against Mr. Langford,
3 correct?

4 A Yes, sir.

5 Q And you decided you weren't going to testify
6 against Mr. Langford that day, correct?

7 A Yes, sir.

8 Q All right. You refused to testify that day,
9 correct?

10 A Yes, sir.

11 Q All right. And back in March of 2009, do you
12 remember signing your name to a statement that said
13 that Mr. Langford and Bryan Phillips were not guilty
14 of what they're charged with?

15 A Yes, sir.

16 Q You remember that. Do you remember saying that
17 you gave a false statement saying that they were; do
18 you remember that?

19 A Yes, sir.

20 Q Okay. But now you're telling the jury today
21 that they were the gentlemen that were with you that
22 night?

23 A Yes, sir.

24 Q And have you told the jury that your sister
25 used to date Mr. Langford?

1 **A** No, sir.

2 **Q** And that they have a child together?

3 **A** Yes, sir, I told them they had a child
4 together.

5 **Q** But their relationship has since ended,
6 correct?

7 **A** Yes, sir.

8 **Q** Okay. Do you think you've earned the deal that
9 you got today?

10 **A** Sir?

11 **Q** Look at me not Mr. Maye. Do you think you
12 earned the deal that you've gotten today?

13 **A** I don't know what the deal is.

14 **Q** Do you think you've earned it?

15 **A** Sir?

16 **Q** Do you think you've earned it, yes or no?

17 **A** I don't know.

18 **Q** You don't know?

19 **A** No, sir.

20 **MR. CALHOUN:** Okay. That's all I have, Judge.

21 **THE COURT:** Mr. Williams.

22 **MR. WILLIAMS:** Thank you, Your Honor.

23 CROSS-EXAMINATION

24 **BY MR. WILLIAMS:**

25 **Q** Mr. Phillips, how old are you today?

1 **A** Nineteen.

2 **Q** You're 19. And you say Veronica Phillips is
3 your sister?

4 **A** Yes, sir.

5 **Q** And your mother is -- is her name Brenda
6 Phillips?

7 **A** Vanessa Phillips.

8 **Q** Vanessa Phillips. Are you familiar with a
9 Joseph Patrick Stevens?

10 **A** No, sir.

11 **Q** Do you know a Patrick Stevens, Pat Stevens?

12 **A** Yes, sir.

13 **Q** Okay. Who is pat Stevens?

14 **A** My cousin.

15 **Q** He's your cousin?

16 **A** That's my cousin baby daddy.

17 **Q** He's your cousin's baby's father?

18 **A** Yes, sir.

19 **Q** Okay. Now, Mr. Calhoun asked you if you recall
20 signing a statement in which you indicated that both
21 his client, as well as my client had no involvement
22 in this situation; do you recall that?

23 **A** Yes, sir.

24 **Q** Okay. If I show you what's been marked as
25 Defendant's 1-P and 2-P, would you take a moment to

1 look at those?

2 A (Witness complies.)

3 Q Do you recognize those?

4 A Yes, sir.

5 Q And did you sign these items?

6 A Yes, sir.

7 Q Okay. And do these statements in sum or in
8 total say --

9 MR. MAYE: Your Honor, I'm going to object. If
10 he wants to move them into evidence, but to publish
11 them at this point in time, if they want to move
12 them and admit them into evidence, they're not in
13 evidence.

14 MR. WILLIAMS: I offer them.

15 MR. MAYE: If you're offering them into
16 evidence, that's fine.

17 THE COURT: Do y'all want to do something or do
18 you want me to rule?

19 MR. WILLIAMS: Your Honor, I'm going to offer
20 them into evidence at this time.

21 THE COURT: And you have no objection, Mr.
22 Maye?

23 MR. MAYE: No, I don't have any objection.

24 THE COURT: Do you have any objection, Mr.
25 Calhoun?

1 **MR. CALHOUN:** No objection.

2 **THE COURT:** All right. Mark those two in
3 evidence, Madame Court Reporter.

4 (Defendant Phillips Exhibit Numbers 1 and 2,
5 statements, admitted into evidence.)

6 **BY MR. WILLIAMS:**

7 **Q** You are able to read and write, aren't you?

8 **A** Yes, sir.

9 **Q** Okay. If you don't mind, the item that's on
10 top, can you tell me what that's marked as?

11 **A** Defendant, it has 2.

12 **Q** All right. Defendant's 2-P; is that right?

13 **A** Yes, sir.

14 **Q** Would you read -- would you publish that into
15 the record or would you simply read it?

16 **A** Yes, sir. I, Alvin P. --

17 **THE COURT:** Speak up. I can't hear you.

18 **THE WITNESS:** I, Alvin P. , do state that
19 neither K.C. Langford or Bryan Phillips were
20 involved in any armed robbery, kidnapping, assault
21 and battery or burglary in August 14, '08. And I,
22 Alvin P. , do so with my own free will. The
23 date, I can't really see it. The signature.

24 **BY MR. WILLIAMS:**

25 **Q** You don't see the date? Does that look like

1 January 29th, 2009?

2 A Yes, sir, it could be January 2009.

3 Q You don't deny that you signed that, do you?

4 A No, sir.

5 Q Now, I'm going to hand you what has been marked

6 and offered into evidence as Defendant's Exhibit

7 1-P. You recognize that document as well, don't

8 you?

9 A Yes, sir.

10 Q Read that into this court's record as well.

11 A Sworn affidavit of Alvin P. I, Alvin

12 P. , do hereby solemnly swear that -- solemnly

13 swear this testimony is made upon my own free will.

14 I, Alvin P. , on 9/28 of '08, made a false

15 statement against K.C. Langford and Bryan Phillips.

16 Further, I, Alvin P. , state that I was

17 not -- I was not in my right state of mind when I

18 made the statement against Bryan Phillips and K.C.

19 Langford. The statement that I, Alvin P. ,

20 made is all untrue. Therefore, I pray that all

21 charges against K.C. Langford and Bryan Phillips be

22 dismissed to bring about the end of justice. Date

23 3/31/09, respectfully submitted, Alvin P.

24 Q That was made of your own free will and accord,

25 wasn't it?

1 A Sir?

2 Q That was made of your own free will and accord,
3 was it not?

4 A (No response.)

5 Q You freely did that, did you not?

6 A Signed it?

7 Q Yes, sir.

8 A Yes, sir.

9 Q Now, let me ask you, you were, in fact,
10 interviewed on September the 29th of 2008; is that
11 right?

12 A Yes, sir.

13 Q Now, is there -- is this the same statement you
14 were speaking of when you said September 28th of
15 2008, the same statement which was given to
16 Investigator Young?

17 A Are you saying is this the same statement?

18 Q No, no. I'm asking that you were speaking of
19 the same statement that was given to Investigator
20 Young on September 29th of 2008?

21 A I don't understand the question.

22 Q Do you understand my question?

23 A No, sir.

24 Q Okay. If you don't understand my question,
25 just simply tell me you don't understand my

1 question, okay?

2 A Yes, sir.

3 Q Don't look at the prosecutor, look at me.

4 A Yes, sir.

5 Q Are we clear?

6 A Yes, sir.

7 Q Okay. The question I'm asking you, sir, and
8 I'm going to let you take an opportunity to look at
9 that, you, in fact, gave a statement to Investigator
10 Roosevelt Young, Investigator Lamaz Robinson and
11 Investigator Perry of SLED, did you not?

12 A Yes, sir.

13 Q All right. And the statement that you were
14 speaking of in that statement is that same
15 statement?

16 A No, sir.

17 Q It's not. Well, what were you speaking of?

18 A I was speaking of, in that statement, of the
19 armed robbery. This is --

20 **THE COURT:** I can't hear him. I'm sorry.

21 **THE WITNESS:** In the statement I gave
22 Mr. Robinson, I was speaking of the armed robbery.
23 In this statement, I'm speaking of the armed robbery
24 too, but --

25 BY MR. WILLIAMS:

1 Q The statement that was previously given, right?

2 A Sir?

3 Q The statement that was previously given to
4 Investigator Young and Investigator Robinson, that's
5 what you're talking about in that statement, isn't
6 it?

7 A Yes, sir, armed robbery, the armed robbery.

8 Q Right. One was actually dated September the
9 29th of 2008, was it not?

10 A I think so. I don't really know for sure.

11 MR. WILLIAMS: Court's indulgence.

12 THE COURT: Yes, sir.

13 (Pause.)

14 MR. WILLIAMS: I'm going to ask the court
15 reporter to mark these items.

16 THE COURT: For identification?

17 MR. WILLIAMS: I intend to offer them, Your
18 Honor.

19 THE COURT: Show them to opposing counsel.

20 (Pause.)

21 THE COURT: Any objection?

22 MR. MAYE: No objection if they want to put
23 them in evidence.

24 THE COURT: Without objection, mark those into
25 evidence, please, ma'am.

1 (Defendant Phillips Exhibit Number 3, waiver
2 of rights, and Defendant Phillips Exhibit Number 4,
3 statement dated 9/29/08, admitted into evidence.)

4 BY MR. WILLIAMS:

5 Q Do you recognize these documents?

6 A Yes, sir.

7 Q Okay. Now, I want you to tell this jury how
8 many people were present when you gave that
9 statement?

10 A One..

11 Q Other than yourself?

12 A Two.

13 Q Was there a SLED investigator there as well,
14 Investigator Perry?

15 A Yes, sir..

16 Q So how many people were there other than
17 yourself?

18 A When I gave the statement?

19 Q Yes, sir.

20 A One other than myself.

21 Q All right. Help me out. Was Investigator
22 Roosevelt Young there?

23 A Yes, sir.

24 Q Was Investigator Lamaz Robinson there?

25 A Yes, sir. He wasn't there when I gave the

1 statement.

2 Q Okay. But he did, in fact, witness your
3 statement, did he not?

4 A Yes, sir.

5 Q So he came in later?

6 A Yes, sir.

7 Q All right. Investigator Perry, did he, at some
8 point, come there?

9 A Yes, sir.

10 Q Was he there when you gave the statement?

11 A No, sir.

12 Q Just Investigator Young?

13 A Yes, sir.

14 Q Just yourself and Investigator Young?

15 A Yes, sir.

16 Q And Investigator Young, he's a narcotics agent
17 in this county, isn't he?

18 A Yes, sir.

19 Q He's from Johnston too, isn't he?

20 A Yes, sir.

21 Q All right. Do you know if Pat Stevens has ever
22 worked with Investigator Young?

23 A No, sir.

24 Q You don't know it?

25 A No, sir.

1 Q How old were you at the time of this incident?

2 A Seventeen.

3 Q I want to go through your indictments. You've
4 been indicted for armed robbery; isn't that right?

5 A Yes, sir.

6 Q You talked to your lawyer about this charge?

7 A Yes, sir.

8 Q Okay. Do you know this charge could carry up
9 to 30 years in the penitentiary?

10 A Yes, sir.

11 Q This is the one you actually have entered a
12 plea to, isn't it?

13 A Yes, sir.

14 Q You know it carries a mandatory minimum of ten
15 years?

16 A Yes, sir.

17 Q There's a charge of kidnapping. You hadn't
18 pled to this charge, have you?

19 A No, sir.

20 Q You realize that could carry up to 30 years in
21 the penitentiary?

22 A Yes, sir.

23 Q You do know that?

24 A No, sir, not for sure.

25 Q You're not for sure?

1 A No, sir.

2 Q Would it surprise you to know that it could
3 carry up to 30 years?

4 A Yes, sir.

5 Q That would surprise you. All right. Assault
6 and battery with intent to kill, do you know what
7 that could carry?

8 A No, sir.

9 Q If I told you that could carry up to 20 years
10 in the penitentiary, would that shock you?

11 A Yes, sir.

12 Q That would shock you? Your lawyer hadn't
13 talked to you about that, what those penalties could
14 be?

15 A No, sir.

16 Q Did he talk to you about the penalty for
17 burglary, burglary first degree?

18 A No, sir.

19 Q Suffice it to say, you know it could carry a
20 lot of time, don't you?

21 A Yes, sir.

22 Q Up to 15 years to 30 years or even life in
23 prison; do you realize that?

24 A (No response.)

25 Q You've also been indicted for the offense of

1 possession of a firearm during a violent crime.

2 Now, you freely admit you possessed a firearm,

3 didn't you?

4 A Yes, sir.

5 Q You hadn't pled guilty to that crime though,

6 have you?

7 A No, sir.

8 Q That carries a mandatory of five years, did you

9 realize that?

10 A No, sir.

11 Q I'm just going to count these indictments if

12 you don't mind.

13 You have seven charges that you are facing here

14 in Edgefield County, don't you? These are all your

15 charges, aren't they?

16 A Yes, sir.

17 Q All right. You admit that you had the gun, you

18 admit that you actually held Mr. Chen down.

19 A Yes, sir.

20 Q But, yet, you've only entered a guilty plea to

21 one of these charges; isn't that right?

22 A Yes, sir.

23 Q All right. Now, are you holding out the hope

24 that you will only get a minimal amount of time?

25 A Repeat the question again, sir.

1 Q Are you hopeful, sir, that you will only get a
2 small amount of time?

3 A Yes, sir.

4 Q All right. Why are you hopeful or what makes
5 you so hopeful?

6 A I guess because I'm telling the truth I guess.

7 Q Because you're telling the truth or because
8 you're telling the story that the Solicitor wants
9 you to tell?

10 A Because I'm telling the truth.

11 Q Okay. Now, have you rehearsed your testimony?

12 A (No response.)

13 Q Look at me. Have you rehearsed your testimony?

14 A Yes, sir.

15 Q All right. Who did you rehearse it with?

16 A (Witness indicating.)

17 Q The Solicitor?

18 A Yes, sir.

19 Q All right. That's what I thought.

20 **THE COURT:** Hold on just a second, please.

21 Ladies and gentlemen of the jury, I need to ask
22 you to step in the jury room. Don't discuss the
23 case.

24 (The jury retires to the jury room.)

25 **THE COURT:** All right. Ladies and gentlemen, I

1 realize there's a lot of emotion that can surround a
2 case such as this. There's a lot of room for strong
3 feelings and sometimes those things get displayed.
4 But in a courtroom, you have to maintain decorum.

5 You know, the folks over here to my left were
6 showing far too much animation during that last
7 testimony. One lady was literally bobbing up and
8 down nodding her head. You cannot do that, that
9 would be the same as if I let y'all walk in here
10 with signs, holding them up saying he's telling the
11 truth or he's a liar.

12 If you can't stay still and stay quiet and not
13 show signs of approval or disapproval, I'll have to
14 remove you from the courtroom. And if it gets to be
15 a bigger issue than that, I can put you in prison
16 for six months without a jury trial. So just try to
17 maintain, please, a proper courtroom decorum.

18 We're going to take a short break while the
19 jury is out.

20 During the break, Mr. Phillips, you cannot
21 discuss your testimony with anyone.

22 Five minutes or so.

23 (Brief Recess.)

24 **THE COURT:** Mr. Williams, I'll let you repeat
25 yourself a little bit if you need to since I

1 interrupted you.

2 **MR. WILLIAMS:** Yes, sir. Thank you.

3 **THE COURT:** All right. Bring the jury in,
4 please.

5 (The jury returns to the courtroom.)

6 **THE COURT:** You may continue, Mr. Williams.

7 **MR. WILLIAMS:** Thank you, Your Honor.

8 **BY MR. WILLIAMS:**

9 **Q** Mr. Phillips, you have, in fact, prepared for
10 your testimony in this case prior to today?

11 **A** Yes, sir.

12 **Q** In fact, when you entered your plea of guilty,
13 you entered your plea not here in Edgefield County,
14 did you?

15 **A** No, sir, McCormick.

16 **Q** You had the privilege of entering your plea of
17 guilty over in McCormick County?

18 **A** Yes, sir.

19 **Q** Okay. Now, Mr. Calhoun had earlier asked you
20 also that previously when we were here on May the
21 17th, you refused to testify, didn't you?

22 **A** Yes, sir.

23 **Q** Now, you indicated that you're telling the
24 truth; is that right?

25 **A** Yes, sir.

1 Q In these statements, you said you hereby
2 solemnly swear; is that right? In this statement,
3 I, Alvin P. , do hereby solemnly swear. Isn't
4 that what you said?

5 A (No response.)

6 Q In this statement, you just admitted to me that
7 you signed this freely.

8 A Yes, sir.

9 Q Okay. Now, when you swear, you swear to tell
10 the truth, don't you?

11 A Yes, sir.

12 Q Okay. How many truths are there?

13 A One.

14 Q There's only one truth, isn't it?

15 A Yes, sir.

16 Q Okay.

17 MR. WILLIAMS: Court's indulgence.

18 THE COURT: Yes, sir.

19 (Pause.)

20 MR. WILLIAMS: Thank you, Your Honor.

21 THE COURT: Redirect.

22 MR. MAYE: Just a couple.

23 REDIRECT EXAMINATION

24 BY MR. MAYE:

25 Q Who wrote out that statement that -- these two

at here that the defense gave you saying they
n't do this, who wrote these out?

I don't know.

4 Q Where did you get them from? What were the
5 circumstances of those statements being generated?
6 Did you write them?

7 A No, sir.

8 Q These are not your words at all, are they?

9 A No, sir.

10 Q Someone else wrote this. Where were you and
11 what were the circumstances about that?

12 A I was in Edgefield County.

13 Q Okay.

14 A In my room.

15 Q And how did those get presented to you?

16 A K.C. Langford.

17 Q K.C. Langford brought those to you?

18 A Yes, sir.

19 Q Why did he want you to sign those?

20 A Keep him and Bryan Phillips from getting in
21 trouble.

22 Q Keep them from getting in trouble?

23 A Yes, sir.

24 Q Okay. What did he tell you would happen if you
25 signed those statements?

1 A That nobody will be in trouble.

2 Q That no one would be in trouble?

3 A Yes, sir.

4 Q Alvin, at the time that this happened in
5 August, were these two men your friends?

6 A Yes, sir.

7 Q You never wanted anybody to get in trouble with
8 this, did you, especially not your friends, did you?

9 A No, sir.

10 Q And it's not been easy having to testify
11 against them, has it?

12 A No, sir.

13 Q So they asked you to sign those statements
14 there telling you no one would get in trouble?

15 A Yes, sir.

16 Q Are those true, the ones that you signed here?
17 Who was with you when you did the robbery?

18 A Bryan Phillips and K.C. Langford.

19 Q Is what you've told the jury up here under oath
20 today testifying live before them is that true? Are
21 these the two gentlemen that were with you when you
22 did the robbery?

23 A Yes, sir.

24 Q Then those statements they asked you to sign
25 they're false, aren't they?

1 A Yes, sir.

2 Q Did you sign them to please them? Were they
3 pressuring you to sign those?

4 A No, sir.

5 Q They told you if you sign them, nobody would be
6 in trouble?

7 A Yes, sir.

8 Q Didn't end up being good advice, did it?

9 A No, sir.

10 Q But you've had the advice of a lawyer, haven't
11 you? And you've entered a guilty plea, haven't you?

12 A Yes, sir.

13 Q At this point in time, all you can do is hope
14 for the best. Are you telling the truth?

15 A Yes, sir.

16 Q Were you ever asked by anybody from the
17 prosecution's side or the police to tell any lies?

18 A No, sir.

19 Q Is this statement that K.C. Langford gave to
20 you is that a lie?

21 A Yes, sir.

22 Q It's a lie because who was with you when you
23 did the robbery?

24 A Bryan Phillips and K.C. Langford.

25 Q You've never wanted to tell on them at all,

1 have you?

2 A No, sir.

3 Q In fact, you wish this whole thing would go
4 away for all of you, don't you?

5 A Yes, sir.

6 Q When you were preparing for your testimony or
7 when you were interviewed by Roosevelt Young or when
8 you were interviewed by SLED or anybody else, did
9 anybody ever ask you to say anything other than the
10 truth?

11 A No, sir.

12 Q Were you informed to tell the truth no matter
13 what it was when you were preparing for your
14 testimony?

15 A Yes, sir.

16 Q Have you told the truth up here in front of
17 this jury?

18 A Yes, sir.

19 Q You were previously asked in this case kind of
20 a two part question. Who hit the man when y'all
21 were out there at the scene there in the dark, who
22 hit him?

23 A Bryan Phillips.

24 Q Okay. Did you ever hit him with a gun?

25 A No, sir.

1 Q Was he ever hit with a gun?

2 A No, sir.

3 Q Okay. So when you were asked about who hit him
4 with a gun, no one ever hit him with a gun, did
5 they?

6 A No, sir.

7 Q The only blow that was struck on either one of
8 the Chinese people were struck by who?

9 A Bryan Phillips.

10 Q Okay.

11 MR. MAYE: That's all I have. Thank you.

12 THE COURT: Mr. Calhoun, do you have any other
13 questions of the witness?

14 MR. CALHOUN: I do, Your Honor.

15 RE-CROSS-EXAMINATION

16 BY MR. CALHOUN:

17 Q Mr. Phillips, I noticed when you were just
18 testifying with Mr. Maye, you weren't looking over
19 at us, were you?

20 A No, sir.

21 Q Because you knew what to say when Mr. Maye was
22 asking the questions, right?

23 A Sir?

24 Q You knew what to say when Mr. Maye was
25 suggesting the answers to the questions to you,

1 right?

2 A (No response.)

3 Q Now, you're looking back at Mr. Maye again.

4 Why are you doing that?

5 A (No response.)

6 Q You don't know?

7 A No, sir.

8 Q There's lots of things that you can call
9 someone that robbed someone -- robs people with a
10 pistol, threatens their lives and hits them with it,
11 but you know what one of the things that you call
12 them is? You call them the leader. You call them
13 the leader of the enterprise, that's who the gunman
14 is. Do you agree with that?

15 A Yes, sir.

16 Q And you were the gunman, weren't you?

17 A Yes, sir.

18 Q Okay. And the leader, you're telling this jury
19 all of a sudden is the guy who in prison is being
20 forced to sign statements that he didn't want to
21 sign. Is that what you're telling these folks?

22 A Yes, sir.

23 Q That's what you telling them, okay. But you
24 admit that you signed that statement, didn't you?

25 A Yes, sir.

1 Q And you admit in that statement that
2 Mr. Langford didn't do anything wrong; isn't that
3 correct?

4 A No, sir.

5 Q That's not what your statement says?

6 A I admitted I signed the statement.

7 Q Okay. Well, you can read, right?

8 A Yes, sir.

9 Q And you read it before you signed it at a
10 minimum --

11 A Yes, sir.

12 Q -- if you didn't write it?

13 A Yes, sir.

14 Q So you know what you were signing your name to,
15 right?

16 A Yes, sir.

17 MR. CALHOUN: That's all I have.

18 THE COURT: Mr. Williams, do you have anything
19 else from this witness?

20 MR. WILLIAMS: Just briefly.

21 RECROSS-EXAMINATION

22 BY MR. WILLIAMS:

23 Q At the Edgefield County Jail, is there
24 something known as segregation where folks are
25 segregated one from another?

- 1 A In certain spots, yes, sir.
- 2 Q Speak up for me, I couldn't hear you.
- 3 A In certain spots, yes, sir.
- 4 Q Okay. Were you not segregated from these two
5 gentlemen?
- 6 A No, sir.
- 7 Q You were not?
- 8 A No, sir, from one of them.
- 9 Q I'm sorry?
- 10 A From only one.
- 11 Q You were only segregated from one of them?
- 12 A Yes, sir.
- 13 Q Okay. I'm going to ask you to turn your
14 attention back to an earlier point in time in which
15 you had another attorney. You had Attorney Seigler,
16 did you not?
- 17 A Yes, sir.
- 18 Q Okay. Some point in the year 2009, Mr. Seigler
19 no longer represented you; isn't that right?
- 20 A Yes, sir.
- 21 Q And that was because you wouldn't cooperate and
22 testify against these two gentlemen. Isn't that
23 part of the reason why he didn't want to continue to
24 represent you or you didn't want him to continue to
25 represent you?

1 **A** No, sir.

2 **Q** What was the reason?

3 **A** Because at the time he just -- at the time, Mr.
4 Seigler just wanted me to plead guilty.

5 **Q** Okay. He just wanted you to plead guilty and
6 you did. You pled guilty with Mr. Johnson as your
7 attorney, did you not?

8 **A** Yes, sir.

9 **Q** Okay. Wasn't nothing else Mr. Seigler wanted
10 you to do?

11 **A** Sir?

12 **Q** There wasn't something else that Mr. Seigler
13 wanted you to do?

14 **A** No, sir.

15 **Q** He didn't expect your cooperation against our
16 clients like you're doing today. He didn't talk to
17 you about that at all?

18 **A** Yes, sir.

19 **Q** He did, didn't he?

20 **A** Yes, sir.

21 **Q** All right.

22 **MR. WILLIAMS:** I don't have any other
23 questions.

24 **THE COURT:** Any other questions of the witness?

25 **MR. MAYE:** None. Thank you.

1 **THE COURT:** Any other questions of the witness,
2 counsel?

3 **MR. CALHOUN:** One more question, Judge. I
4 promise, I'll finish.

5 RE-RECROSS-EXAMINATION

6 **BY MR. CALHOUN:**

7 **Q** Mr. Phillips, when you prepared and signed
8 these statements back in March of last year, that
9 was before you'd cut the deal with the prosecutor;
10 isn't that correct?

11 **A** (No response.)

12 **Q** You signed that statement before you cut your
13 deal with the prosecutor; isn't that correct?

14 **A** Yes, sir.

15 **MR. CALHOUN:** Okay. Thank you.

16 **THE COURT:** Anything else?

17 **MR. WILLIAMS:** No, sir, Your Honor.

18 **THE COURT:** Anything else?

19 **MR. MAYE:** One thing.

20 RE-REDIRECT EXAMINATION

21 **BY MR. MAYE:**

22 **Q** You don't have any deal with the prosecution in
23 this case, do you? Have you ever been promised
24 anything?

25 **A** No, sir.

1 MR. MAYE: Nothing else.

2 THE COURT: Anything else?

3 MR. CALHOUN: No, Your Honor.

4 MR. WILLIAMS: Judge, I'm sorry.

5 THE COURT: That's all right. Go ahead.

6 RE-RE-CROSS-EXAMINATION

7 BY MR. WILLIAMS:

8 Q You don't have a deal with the, Solicitor?

9 A No, sir.

10 Q You've got seven indictments and you've only
11 pled guilty to one and you're telling us you don't
12 have a deal with the Solicitor?

13 A No, sir. I still got the other ones pending, I
14 think.

15 Q Why didn't you just enter a plea to all of
16 them?

17 A I don't know.

18 Q You don't know, is that your answer?

19 A Yes, sir.

20 MR. WILLIAMS: Thank you, sir.

21 THE COURT: If y'all have original indictments,
22 don't take them.

23 MR. WILLIAMS: I don't, Judge, that was my
24 doing.

25 THE COURT: If they're copies, that's fine.

1 Anything else of the witness?

2 **MR. MAYE:** Nothing.

3 **THE COURT:** Anything else of the witness?

4 **MR. CALHOUN:** No, Your Honor.

5 **THE COURT:** All right. Any other witnesses for
6 the State?

7 **MR. MAYE:** Your Honor, probably so.

8 **THE COURT:** I mean, we're going to have to
9 break for the day. I just need to know if --

10 **MR. MAYE:** I'm not resting now, Your Honor. I
11 would decline doing that. Thank you.

12 **THE COURT:** All right. Ladies and gentlemen, I
13 need you in the jury room, please, in the morning at
14 9:30. I don't know of any reason for any delays,
15 but I'll look for you at 9:30 in the morning. Thank
16 you. Have a pleasant evening. Don't discuss the
17 case in any way. If you took notes, leave them
18 here.

19 (The jury was excused for the day.)

20 **THE COURT:** You can step down. Thank you.

21 Court's in recess until 9:30 in the morning.

22 (Whereupon, the proceedings were concluded
23 for September 8, 2010.)

24 *****

25 *****

1 (The following proceedings were held on
2 September 9, 2010.)

3 **THE COURT:** Is the State ready for the jury?

4 **MR. MAYE:** State's ready for the jury.

5 **MR. CALHOUN:** Ready for Mr. Langford, Judge.

6 **MR. WILLIAMS:** Ready for Defendant Phillips.

7 (The jury enters the courtroom at 9:37 a.m.)

8 **THE COURT:** All right. Call your next witness,
9 Solicitor.

10 **MR. MAYE:** The State calls Zac Strom.

11 JUSTIN ZACHARY STROM,

12 having been duly sworn, testified as follows:

13 **THE CLERK:** Have a seat. State your full name
14 and spell your last name, please.

15 **THE WITNESS:** Justin Zachary Strom, S-t-r-o-m.

16 DIRECT EXAMINATION

17 BY MR. MAYE:

18 **Q** Mr. Strom, if you would, tell the ladies and
19 gentlemen of the jury about your background in law
20 enforcement and how you became involved in this case
21 on August the 14th of 2008.

22 **A** I worked for the Edgefield County Sheriff's
23 Office for approximately four years. And the date
24 in question, we were on routine patrol when we get a
25 call out of Johnston of an armed robbery. As

1 Edgefield County Sheriff's Office, we do assist
2 Johnston with perimeters and things of that nature.

3 We, you know, I believe Mr. Robinson here
4 advised us that there was three black males that had
5 just robbed the Chinese people at their residence on
6 Butler Street -- or Academy Street I think it is.
7 And we were in the area doing our routine patrol,
8 setting up perimeters, waiting on the dog team to
9 come out when I seen a vehicle coming up Roland
10 Avenue.

11 Q Let me stop you here. Were you -- what type of
12 vehicle were you in? How were you dressed? What
13 was the circumstances about -- were you on routine
14 patrol? What were you doing?

15 A Yes. I was in a marked Crown Vic. I was
16 wearing a marked sheriff's office uniform plainly
17 marked as Edgefield County Sheriff's Deputy.

18 Q When you say, We were in the area, who else was
19 in the area? Did you have more than one deputy
20 working the road that night?

21 A Yes, sir, myself, Sergeant Blasco and Deputy
22 Chad Shealey.

23 Q Once y'all got that call, what steps did y'all
24 take to assist the Town of Johnston?

25 A At that time, we immediately set up a perimeter

1 approximately four or five mile radius.

2 Q About what time did the call come in, the
3 initial call, the 9-1-1 call? Did you have that
4 information?

5 A Yes, sir. It was approximately around 10:40,
6 10:45. I mean, it was right in that window.

7 Q Okay. So what steps did you take based on your
8 experience and training in order to assist? What
9 did you do?

10 A At that particular time, like I say, I got
11 approximately two or three miles from the actual
12 scene of the crime, set up perimeter, riding roads,
13 you know, shining spotlights in the woods looking
14 for, you know, three black males on foot possibly
15 running. Several other deputies were actually
16 stopping people out walking in town, running I.D.s,
17 getting names, questioning. I --

18 Q Why do y'all do that? What's the purpose in
19 that?

20 A Mainly, you know, if you happen to run across a
21 suspect, you know, you can apprehend him, just
22 someone walking down the street may have seen
23 something. And, you know, there's been countless
24 times that people have, you know, I've seen so and
25 so, or, you know, seen someone laying in the bushes

1 over there or, you know, that's actually helped us
2 out in other cases.

3 Q Were some of the stops merely to ask people if
4 they'd seen anything?

5 A Sure. Yes.

6 Q Okay. What stop was of significance now, on
7 looking back at it, what stop was of significance to
8 you that night?

9 A Significantly later learning that Mr. K.C.
10 Langford and Mr. Alvin P. were in the vehicle
11 that I stopped, you know.

12 Q Okay. Tell the ladies and gentlemen of the
13 jury about the circumstances of you stopping the
14 vehicle, when you stopped it, who was in that
15 vehicle and where you were.

16 A Okay. The initial call that we received came
17 in around 10:45. We immediately set up a perimeter.
18 It was around 11 o'clock when I stopped the vehicle
19 on Roland Avenue right in front of the school bus
20 shop. I approached the vehicle. There was two
21 black males sitting in the back seat, two black
22 females in the front seat.

23 You know, in that situation, when I saw the
24 vehicle, immediately I said I need to check this
25 vehicle out. You know, 15 minutes ago we just had

1 an armed robbery, you know, this is a back road
2 leading into Saluda County. I said this is a
3 vehicle I need to check out and possibly ask if they
4 had seen anything.

5 I stopped the vehicle, get I.D.s from the
6 driver, Ms. Veronica Phillips, and I get an I.D.
7 from Mr. K.C. Langford, run the I.D.s, they come
8 back clear. At that point, I asked them if they
9 have anything -- I mean, if they had seen anything,
10 you know, anyone running in the area, seen anybody
11 looked suspicious, I specifically said three black
12 males dressed in black. They stated, no, they did
13 not. There was -- Mr. Alvin Stevens was in the back
14 seat --

15 Q Who?

16 A I'm sorry. Alvin P. was in the back seat
17 with Mr. K.C. Langford. And Veronica Phillips was
18 in the driver's seat and I believe her mother was in
19 the passenger seat. I asked them where they were
20 headed. They said they were going to Oak Dale
21 Drive, to a residence on Oak Dale Drive. At that
22 time, I had no reason to question them any further.
23 I had no reason to get them out of the car at that
24 time. I told them they were free to leave and I
25 continued patrolling the area.

1 Q Approximately 15 minutes -- of the people that
2 are involved in this case, approximately 15 minutes
3 later, who was together there?

4 A It was Alvin P. and K.C. Langford and
5 Veronica Phillips and her mother.

6 MR. MAYE: Okay. Answer any questions the
7 defense has for you.

8 THE COURT: Mr. Calhoun.

9 MR. CALHOUN: Beg the Court's indulgence.

10 THE COURT: Yes, sir.

11 (Pause.)

12 CROSS-EXAMINATION

13 BY MR. CALHOUN:

14 Q Mr. Strom, you were looking for robbers from a
15 robbery that had occurred about 15 minutes earlier;
16 is that correct?

17 A Yes, sir.

18 Q Would you agree with me that in 15 minutes
19 those robbers could be almost all the way to
20 Batesburg-Leesville by then?

21 A If they were in a vehicle, I suppose so.

22 Q Instead the people that you stopped were only a
23 minute away from where the robbery occurred, is that
24 right, after 15 minutes?

25 A Yes, sir, I suppose so.

1 Q And what was the description? Who were you
2 looking for when you were looking for these robbers?

3 A Three black males dressed in black.

4 Q You were looking for three black males, that's
5 your description?

6 A That's the description we were given.

7 Q Okay. Well, did you ask the victims or did
8 anybody from the sheriff's department ask the
9 victims if they had any better description than
10 three black males?

11 A I did not ask the victims, but I never went to
12 the actual scene. I set up a perimeter.

13 Q Did y'all think to ask what color or what
14 length their hair was?

15 A Like I say, I set up a perimeter. I was given
16 instructions through my sergeant to set up a
17 perimeter and start combing the area.

18 Q Did you think to ask what the robbers took,
19 what they might have in their possession that came
20 from the victims; did you know that?

21 A No, sir.

22 Q You did not, okay. You had all the folks get
23 out of the car, though, didn't you?

24 A No, sir, no one exited the vehicle.

25 Q You didn't have anybody exit the vehicle?

- 1 **A** No, sir.
- 2 **Q** You're positive about that?
- 3 **A** Yes, sir.
- 4 **Q** Okay. Did you see anybody in the car with a
5 pack of Marlboro cigarettes?
- 6 **A** No, sir.
- 7 **Q** Did you see anybody in the car that may have
8 had a white lighter in their possession?
- 9 **A** No, sir.
- 10 **Q** You did not. Did you even know that a pack of
11 Marlboro cigarettes and a white lighter was taken
12 off one of the victims?
- 13 **A** No, sir.
- 14 **Q** Did you know that wallets were taken off the
15 victims?
- 16 **A** No, sir.
- 17 **Q** Did you know anything at all about what was
18 stolen?
- 19 **A** No, sir -- uh, money. I do know they said they
20 stole money.
- 21 **Q** Well, your testimony was that the reason you
22 did these stops after the robbery was, quote, If you
23 find the suspect, you can apprehend them.
- 24 **A** Yes, sir.
- 25 **Q** Is that correct?

1 **A** Yes, sir.

2 **Q** But you can't really find the suspect if you
3 don't know what they look like or what they stole
4 from the victim; isn't that correct?

5 **A** That's correct.

6 **Q** In addition to Alvin P. , Bryan Phillips,
7 Mr. Langford, Veronica Phillips -- is that right?
8 She was in the car?

9 **A** Yes, sir.

10 **Q** And there were two other women?

11 **A** No, sir. No, sir.

12 **Q** Who were the other women in the car?

13 **A** It was Veronica Phillips, another female in the
14 passenger seat I believed to be her mother. There
15 was Alvin P. and K.C. Langford in the back
16 seat.

17 **Q** So there were two women in the car, right?

18 **A** Two women in the front seat, two men in the
19 back seat.

20 **Q** And the other woman you don't know her name?

21 **A** No, sir.

22 **MR. CALHOUN:** Okay. That's all I have.

23 **THE COURT:** Mr. Williams.

24 ****

25 ****

1 CROSS-EXAMINATION

2 BY MR. WILLIAMS:

3 Q Mr. Strom, now at the time you say you were a
4 deputy sheriff in this county, right?

5 A Yes, sir.

6 Q All right. Now, could you tell me Oak Dale
7 Drive, where is that?8 A That is at the end of Roland Avenue directly
9 across Monument -- Monument Run is parallel to Oak
10 Dale.

11 Q All right. Does Oak Dale intersect Monument?

12 A Yes, that's correct, come off Roland pass the
13 school bus shop, go across Monument and straight on
14 to Oak Dale. It's a gravel road going into Saluda
15 County.16 Q So once you cross over Monument, it's not long
17 if you drive down Oak Dale, what, an eighth of a
18 mile, you're in Saluda County?19 A I'm not sure exactly where the county line
20 comes, but it's not far, no, sir.

21 Q It's very near, isn't it?

22 A Yes, sir.

23 Q Let me ask you this. Do you know where
24 Milliken is?

25 A Yes, sir.

1 Q Where is Milliken in Johnston?

2 A Milliken in Johnston is on the four lane on
3 Highway 23 headed back towards Edgefield.

4 Q All right, sir. To the best of your knowledge,
5 a vehicle leaving Johnston in the direction they
6 were headed would they be going further away from
7 Milliken or getting near or toward it based upon the
8 manner and the direction in which they were
9 traveling?

10 A The vehicle that I stopped?

11 Q That's right.

12 A That was going away from Milliken.

13 MR. WILLIAMS: All right. Thank you, sir. I
14 don't have any other questions.

15 THE COURT: Redirect.

16 MR. MAYE: Nothing else, Your Honor. Thank
17 you.

18 THE COURT: Thank you, sir. You may step down.
19 Call your next witness.

20 MR. MAYE: Beg the Court's indulgence.

21 (Pause.)

22 MR. MAYE: State calls Investigator Lamaz
23 Robinson.

24 THE COURT: Come around, please.

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LAMAZ ROBINSON,

having been duly sworn, testified as follows:

THE CLERK: State your full name and spell your last name, please.

THE WITNESS: It's Lamaz Robinson,
R-o-b-i-n-s-o-n.

DIRECT EXAMINATION

BY MR. MAYE:

Q Investigator Robinson, tell the ladies and gentlemen of the jury about your background in law enforcement, where all you've worked, where you were employed back in August, where you're currently employed.

A I've been in law enforcement for approximately seven years now. I worked in Johnston for the last past six years. I worked in Saluda County for a year. I was employed at Johnston Police Department in the capacity of investigator back in August the 14th of 2008.

Q Okay. Let me ask you this. August the 14th of 2008, did you respond out to [REDACTED] Academy Street where the Chinese people live?

A I did.

Q Okay. Were you able to meaningfully communicate with the people beyond getting a bare

1 framework of what was going on?

2 **A** No. There was a great language barrier that
3 was there.

4 **Q** Okay. What were you able to do once you got
5 out to the scene? What were you able to do other
6 than to find out they got robbed basically?

7 **A** Yeah. I found out they got robbed and they
8 were able to just tell me that it was three black
9 men and they had a gun and that they ran. At that
10 point in time, I notified Chief Aston and went
11 through all the protocols of notifying the sheriff
12 and his command staff through dispatch and asked for
13 a dog team.

14 **Q** Investigator Robinson, were you familiar with
15 the Chinese people? I mean, did you know their
16 names or anything like that?

17 **A** I don't know their names. I am familiar with
18 them.

19 **Q** Had you been eating in the restaurant and been
20 ordering in there and at least had exposure to them
21 through being in Johnston for all that time?

22 **A** Yes, sir.

23 **Q** Okay. When you were confronted with trying to
24 communicate with them, what information were you
25 able to glean? I mean, what were you able to get

1 given the language barrier?

2 A Like I said, I wasn't able to get much other
3 than the fact that they had been robbed, said three
4 black males had a gun and took the money and ran.

5 Q Were you able to get anything about whether or
6 not their faces were being able to be seen or
7 anything like that? Were you able to get anything
8 like that?

9 A No, sir. Officer Campbell is the one who
10 initially responded. I came out of Edgefield to
11 respond to his request.

12 Q As to questions like did they have watches,
13 jewelry, facial hair, all of those details, the
14 normal questions that you would be able to ask a
15 victim that spoke English, were you able to ask them
16 those sorts of questions?

17 A No.

18 Q Were you -- when was the first time that you
19 were ever able to have any meaningful communication
20 between you and the victims? How long after the
21 fact was that?

22 A That was over a year and something after the
23 fact when we found someone from USC.

24 Q Was there a difficulty in finding anybody that
25 could translate to talk to them at all?

1 **A** Yes.

2 **Q** Okay. Were you finally able to find someone
3 and how were you able to do that to have any
4 communication with them?

5 **A** Yes, we were able to find someone by calling a
6 professor over at the University of South Carolina
7 in Columbia and he directed us to someone who could
8 speak Chinese. We attempted to call someone that
9 night, but the lady that we called, she can only
10 speak Spanish.

11 **Q** Okay. Was that very limiting in what
12 information that you were able to obtain as opposed
13 to what you would have been able to obtain typically
14 based on your experience and training?

15 **A** Yes.

16 **Q** How was that different? What differences would
17 there have been if you had responded to a normal
18 investigation given the fact that your --

19 **MR. CALHOUN:** Objection to leading the witness,
20 Your Honor.

21 **THE COURT:** State your question in a nonleading
22 fashion, please.

23 **BY MR. MAYE:**

24 **Q** What differences were there in between this
25 investigation and a normal investigation?

1 **A** This investigation is due to the fact that the
2 language barrier, most people that we come in
3 acquaintance with we can speak English, they can
4 translate back and forth from English with us. We
5 can ask them questions in English, they can give us
6 answers in English. With these particular
7 individuals, they were speaking Chinese. We wasn't
8 able to ask them any questions or receive any
9 answers from them that we would have understood what
10 they were saying.

11 **Q** What were you able to accomplish or do that
12 night then given that barrier?

13 **A** Very little. Like I said, the only thing we
14 did was when they said they was robbed by three
15 black males, had a gun, at that point in time, the
16 only thing we could do is call out the dog team and
17 see if we was able to track and get anything on the
18 tracking.

19 **Q** Were you able to have any success with the dog
20 team?

21 **A** No, sir.

22 **Q** Were you able to have any success with anything
23 that you did there that night?

24 **A** No, sir.

25 **Q** Okay. When was the first time that you got any

1 movement on this case after the time of the incident
2 on August the 14th of 2008?

3 **A** The first time that we ever got any type of
4 leeway on this case is I was approached by
5 Investigator Roosevelt Young and SLED Agent Michael
6 Perry on September the 29th of 2008. And they
7 informed me that they had some information and they
8 talked to some people and that's when they spoke
9 with Mr. Alvin P. and he confessed to this.

10 **Q** Who else did he implicate other than himself?

11 **A** He implicated Mr. K.C. Langford and Bryan
12 Phillips.

13 **Q** Okay. What about Alvin P. implicating
14 himself -- what did you do based on getting his
15 statement? Did you get the statement that's already
16 in evidence here?

17 **A** Yes. I received that statement from
18 Investigator Young.

19 **Q** Who did you first talk to that night, what were
20 the circumstances? Who did you first talk to?

21 **A** On the day of this statement that was given?

22 **Q** Yes.

23 **A** I never actually had any talks with anyone.
24 The first person that came to our office to be
25 interviewed was Veronica Phillips.

1 Q Okay. So Veronica Phillips was there?

2 A Yes.

3 Q When and how much later did Alvin P. come
4 up there?

5 A Approximately maybe an hour later if so.

6 Q Okay. Were you provided with a copy of the
7 statement that Alvin P. gave?

8 A I was. I actually read Alvin his Miranda
9 rights and then Investigator Young and Agent Perry
10 talked to him, then Investigator Young by himself.

11 Q Did y'all threaten him or coerce him in any way
12 in order to try to get him to talk?

13 A No, sir.

14 Q Were any promises made to him in order to try
15 to induce him to give a statement?

16 A No, sir.

17 Q Okay. But as a result of that, he gave you the
18 statement; is that correct?

19 A Yes.

20 Q Okay. What charges did you cause to be
21 instituted based on your responsibilities as an
22 investigator in this state -- in this case, what
23 charges?

24 A All three subjects was charged with armed
25 robbery, burglary in the first degree, kidnapping,

1 assault and battery with intent to kill, possession
2 of a weapon during the commission of a crime and
3 criminal conspiracy.

4 Q Okay. What about that statement --

5 A And kidnapping. I'm sorry.

6 Q What about that statement gave it any special
7 significance to you when Alvin gave that statement?
8 I mean, what about it gave you significant -- did
9 you think was significant?

10 A Well, during my course of the investigation,
11 often times when someone is involved in something,
12 they don't normally implicate themselves. He
13 implicated himself and these other two, Bryan and
14 K.C., in this that happened, that was of
15 significance to me --

16 MR. CALHOUN: Objection, Your Honor. He's ask
17 -- he's giving an expert witness to the jury,
18 "normally what happens on these cases", there's no
19 normal on a criminal case. If he's going to
20 establish himself as some sort of expert, a
21 foundation needs to be laid.

22 MR. MAYE: He's not giving an opinion, Your
23 Honor. He's not issuing any opinion. I asked him
24 what was significant about that investigation in
25 regard to him getting charges.

1 **THE COURT:** It sounds to me like he's
2 attempting to bolster or offer evidence about the
3 credibility of another witness, which is improper.
4 That witness testified, the jury can evaluate
5 whether that witness was credible or not, whether
6 this man believed him or not is irrelevant. Go
7 ahead.

8 **BY MR. MAYE:**

9 **Q** Was the statement that he gave, Alvin P.
10 did it implicate himself?

11 **A** It did.

12 **Q** Who else did it implicate?

13 **A** K.C. Langford and Bryan Phillips.

14 **Q** What else were you able to do on the case,
15 Investigator Robinson?

16 **A** That's all -- after I charged these
17 individuals, I did nothing else until we got an
18 interpreter that was able to speak and we went back
19 and spoke with the victims in further detail.

20 **Q** Was there ever any attempt on your part to get
21 Alvin P. to color his testimony in any
22 direction? Did you ever ask him to do anything?

23 **A** No, sir.

24 **MR. MAYE:** Answer any questions the defense
25 has.

1 **THE COURT:** Cross, Mr. Calhoun.

2 **MR. CALHOUN:** Please the Court.

3 **THE COURT:** Yes, sir.

4 **CROSS-EXAMINATION**

5 **BY MR. CALHOUN:**

6 **Q** Mr. Robinson, the victims made a 9-1-1 phone
7 call, correct?

8 **A** Yes, sir.

9 **Q** And these 9-1-1 operators are trained to get
10 certain information before they send an officer out
11 to the scene of the crime, correct?

12 **A** Yes, sir.

13 **Q** And amongst the information they collect from
14 the caller is the person's full name, right?

15 **A** Yes, sir, in some cases.

16 **Q** They also get a complete address, correct?

17 **A** Not necessarily, sometimes that shows up on the
18 CAD system. I know they do ask sometime, I don't
19 know what all is asked during a 9-1-1 --

20 **Q** You don't think a 9-1-1 operator is going to
21 ask someone their address when they're calling to
22 report a crime?

23 **A** I don't know what all they're asked when
24 they're calling to report a crime. I've never been
25 a 9-1-1 --

1 Q To the best of your knowledge, they'd probably
2 want to know --

3 A I know that --

4 Q -- when they call --

5 THE COURT: Y'all are talking over each other,
6 stop it. Put your question to him. Mr. Robinson --

7 MR. CALHOUN: My apologies, Judge, if I was
8 cutting him off --

9 THE COURT: -- don't answer --

10 MR. CALHOUN: Go ahead and finish your answer,
11 please.

12 THE COURT: You're cutting me off. Put your
13 question to him. And you don't answer until he's
14 finished his question. The court reporter can't
15 take down two or three people talking at the same
16 time.

17 All right. Mr. Calhoun, pose your question.

18 THE WITNESS: My answer is I don't know what
19 all the 9-1-1 caller asked during the 9-1-1 call.
20 From my understanding that when someone calls in
21 9-1-1 from a landline phone, that it does show up on
22 the CAD system where they call from.

23 BY MR. CALHOUN:

24 Q But I think it's reasonable to assume that the
25 9-1-1 operator might say, Where are you so we can

1 send a police officer out to your location.

2 A That's reasonable, yes, sir.

3 Q Okay. All right. Thank you. And the 9-1-1
4 operator is also going to want to know what the
5 crime is, correct?

6 A Yes, sir.

7 Q What the person is saying the defendant, the
8 criminal, has done to them, correct?

9 A Right.

10 Q And the 9-1-1 operator would typically ask for
11 a description of the defendant too, correct?

12 A Some cases, yes, sir.

13 Q Yes, sir. But you know what a BOLO is, right?

14 A Yes, sir.

15 Q Okay. BOLO is an abbreviation for Be On The
16 Lookout, correct?

17 A That's correct.

18 Q And a BOLO is something that is typically put
19 out on the radio so other officers in the area can
20 be looking for these people that the victim says
21 just robbed them?

22 A Yes, sir.

23 Q Okay. And you can't do a BOLO unless you have
24 a good description, right?

25 A I disagree with that.

1 Q Okay. Well, was this BOLO three black males?

2 A Yes, sir, it was.

3 Q Okay. Well, if the area has a lot of black
4 folks living in that area, wouldn't that be the same
5 as putting out a BOLO for three people wearing
6 orange at a Clemson game?

7 A It could be.

8 Q That would be kind of hard to find the
9 defendants under those -- with that type of
10 description, wouldn't you agree?

11 A I would agree, but the only thing we can go off
12 of at the time is what we've been given and the BOLO
13 was given that three black males that had on black
14 with a 1059, which is a gun.

15 Q Well, clearly, the person who called in and
16 made the 9-1-1 call, clearly he could speak English
17 pretty well; isn't that correct?

18 A No. He could speak English okay, not well.

19 Q Well, he gave all of this information to the
20 9-1-1 operator over the telephone; isn't that right?

21 A No, sir, that's not right.

22 Q Okay. How did the police department get this
23 information?

24 A The police department did not know that it was
25 an armed robbery until the police department

1 actually got there. Dispatch gave it out to us as a
2 larceny.

3 Q Okay. So the police department showed up and
4 then they found out it was an armed robbery?

5 A Right.

6 Q And did you speak to the victim about that?

7 A I did after Officer Campbell did. After I got
8 there, I spoke with him.

9 Q And Officer Campbell did first?

10 A Yes.

11 Q And which one of the victims gave you this
12 information, what was his name?

13 A The son.

14 Q The son, okay. And the son is the one that
15 made the 9-1-1 call, correct?

16 A From my understanding, yes.

17 Q You were sitting here when he testified
18 yesterday, right?

19 A Yes.

20 Q Okay. So the son actually called in and made
21 the 9-1-1 call?

22 A Yes.

23 Q And then when you showed up at the scene, y'all
24 spoke to him?

25 A Right.

1 Q Okay. And you got all of the information you
2 just testified to about from that son?

3 A I did.

4 Q Now, were you the chief investigator on this
5 case?

6 A I was the investigator on the case. We worked
7 together on it.

8 Q Well, there's been testimony that one of the
9 defendants went inside the house and looked around
10 for a bag of money and he came out with it; isn't
11 that correct?

12 A Yes, sir. There was testimony that a subject
13 went into the house and took a bag of money.

14 Q Okay. And there's been testimony that there
15 were people hiding in the bushes and possibly trying
16 to get into the house before the victims showed up,
17 correct?

18 A Yes, sir.

19 Q Okay. So we know that the defendants were
20 outside the perimeter of the house, correct?

21 A Yes, sir.

22 Q And we know that there was at least one person
23 that went inside the house, correct?

24 A Yes, sir.

25 Q Did you find any fingerprints inside the house?

1 **A** No, sir.

2 **Q** Outside the house?

3 **A** No, sir.

4 **Q** Did you find any type of DNA evidence inside or
5 outside the house?

6 **A** No, sir.

7 **Q** Okay. Did you look for any hair follicles to
8 do a hair follicle test?

9 **A** No, sir.

10 **Q** Was there any forensic evidence done on this
11 case that could corroborate that K.C. Langford or
12 Bryan Phillips were in the vicinity of the house
13 that night?

14 **A** No, sir. The only thing that was done, like I
15 said, was if you read the report, the photographs of
16 shoe prints and there was nothing to compare a shoe
17 print to.

18 **Q** Okay. Mr. Robinson, do you have any
19 corroborating evidence whatsoever from your
20 investigation that indicates what Bryan -- I'm sorry
21 -- what Alvin P. testified to yesterday is the
22 truth?

23 **A** Do I have any corroborating evidence?

24 **Q** Yes.

25 **A** I've spoke to -- I didn't speak to anybody,

1 someone else spoke to Mr. Bryan Phillips.

2 **MR. MAYE:** I'm going to ask him not to say
3 anything that anybody -- any witnesses have said,
4 any hearsay. I'd just ask -- direct that he not do
5 that.

6 **THE COURT:** Do y'all want me to get involved in
7 this?

8 **MR. WILLIAMS:** Your Honor, I just want him to
9 steer clear of it, that's the only thing.

10 **THE COURT:** I have no idea what y'all are
11 talking about, but, ladies and gentlemen, disregard
12 completely the last statement of the witness.

13 **MR. CALHOUN:** Thank you, Judge. I don't
14 either.

15 BY MR. CALHOUN:

16 **Q** Have you -- has your investigation revealed any
17 evidence, fingerprints, shoe prints, DNA evidence,
18 hair follicle samples, anything that would lead you
19 to believe that K.C. Langford was at that house that
20 night?

21 **A** Yes.

22 **Q** Okay. Well, tell me was it fingerprints?

23 **A** No.

24 **Q** What forensic evidence do you have?

25 **A** I don't have any forensic evidence.

1 Q Well, that's my question.

2 A I took your question to be is there any
3 fingerprints, hair follicles or anything that will
4 lead me to believe that K.C. was at the house that
5 night and my answer to that is yes.

6 Q Okay. Well, let me make the question more
7 specific for you again. Do you have any fingerprint
8 evidence?

9 A No.

10 Q Okay. Do you have any DNA evidence?

11 A No.

12 Q Did you look for shoe prints outside the house?

13 A Yes.

14 Q Did you find any that matched K.C. Langford?

15 A No.

16 Q Did you find any hair follicles inside or
17 outside the house that could be matched to K.C.
18 Langford?

19 A No.

20 Q Any other forensic evidence you, as an
21 investigator, could think of that could put
22 Mr. Langford at the house that night?

23 A No.

24 Q You have nothing, do you?

25 A No, not forensic, no.

1 **MR. CALHOUN:** Okay. Thank you.

2 **THE COURT:** Mr. Williams.

3 **CROSS-EXAMINATION**

4 **BY MR. WILLIAMS:**

5 **Q** Investigator Robinson, you don't have any
6 evidence which would indicate, forensic evidence,
7 that would indicate that my client, Bryan Phillips,
8 was there at that home either, do you?

9 **A** No forensic evidence, no.

10 **Q** Other than the statement of Alvin P.
11 which is in evidence right before you.

12 **A** Uh-huh.

13 **Q** Is that yes?

14 **A** Yes, sir.

15 **Q** All right. That's the only thing that you have
16 that ties my client to this crime at all, isn't it?

17 **A** Yes, sir, that ties your client, yes, sir.

18 **Q** Let me ask you this. Are you familiar with a
19 Joseph Patrick Stevens?

20 **A** I know Joseph Patrick Stevens, yes.

21 **Q** All right. And to your knowledge was Joseph
22 Patrick Stevens the source of information that led
23 to Alvin P. ?

24 **A** Yes, I later learned that.

25 **Q** Do you know if Joseph Patrick Stevens has

1 worked or acted as an informant for a law
2 enforcement agency in this county?

3 A I don't.

4 Q Okay. Are you familiar with Investigator
5 Roosevelt Young?

6 A I am.

7 Q What's his primary job in this county?

8 A He works in the narcotic division.

9 Q And how does he do his job effectively?

10 A Sir, that would be a question that you'd have
11 to pose to him. I don't actually know how he does
12 his job.

13 Q Come on now, you're an investigator, right?

14 A I am. I've never been trained in the field of
15 narcotics.

16 Q Okay. But you're familiar with law enforcement
17 operations, aren't you?

18 A Yes.

19 Q Okay. Is it common, sir, for informants to
20 work in the narcotics side of law enforcement?

21 A I would assume so, yeah. Like I said, I have
22 never worked narcotics, so I've never used any
23 informants.

24 Q Okay. You've come here to this courthouse a
25 number of times, haven't you?

- 1 **A** Uh-huh.
- 2 **Q** Is that yes?
- 3 **A** Yes, sir.
- 4 **Q** Okay. And you've watched this prosecutor
5 prosecute a number of cases, haven't you?
- 6 **A** I've seen him prosecute cases, yes.
- 7 **Q** And you've actually seen Investigator Young
8 testify as a witness for the State in a narcotics
9 case, haven't you?
- 10 **A** I have.
- 11 **Q** And you've seen informants come into this
12 courtroom, haven't you?
- 13 **A** To be honest with you, Mr. Williams, no.
- 14 **Q** You have not?
- 15 **A** No, sir.
- 16 **Q** Okay. Well, have you heard of it or would it
17 surprise you to know that it does happen?
- 18 **A** No, it wouldn't surprise me.
- 19 **Q** All right. Now, I'm going to question you a
20 little bit about your experience. You say you --
- 21 **A** Yes, sir.
- 22 **Q** What did you do at Saluda for that first year?
- 23 **A** I worked in dispatch in the detention center.
- 24 **Q** Dispatch and detention?
- 25 **A** Yes.

1 Q Okay. When you came to Johnston, what did you
2 do?

3 A Road patrol.

4 Q Okay. All -- still you're a certified law
5 enforcement officer in this state, aren't you?

6 A Yes, sir.

7 Q Trained by SLED?

8 A No, sir, trained by the criminal justice
9 academy.

10 Q Well, trained by the South Carolina Criminal
11 Justice Academy, all right.

12 A Yes, sir.

13 Q Under the supervision and guidelines set by
14 SLED, though, aren't they?

15 A Set by the training counsel of -- which is
16 composed of law enforcement that the Governor
17 appoints.

18 Q All right. Is Joseph Patrick Stevens a friend
19 of yours?

20 A A friend of mine?

21 Q Yes.

22 A No.

23 Q Okay. Do you believe he's a friend of
24 Mr. Chris Wash's, Captain Chris Wash's?

25 A I don't know what their friendship is, but you

1 ask me my believability, no.

2 Q Do you think he's a friend of Investigator, is
3 it, Mike Perry that was involved in this one?

4 A SLED agent, yes. Do I think he's a friend of
5 his?

6 Q SLED Agent Perry's?

7 A No.

8 Q But it was Investigator Young who brought this
9 information to you, right?

10 A Investigator Young and Agent Perry.

11 Q Right. And they had, in fact -- in the
12 statement that you have, they had, in fact, gotten
13 this statement from Alvin P. ?

14 A Correct.

15 Q All right. Let me ask you this. You heard the
16 testimony on yesterday, didn't you?

17 A Yes, sir.

18 Q Okay. The wife, to your knowledge, she
19 remained in the house the entire time?

20 A To my knowledge, yes.

21 Q All right. Alvin's 17 years old at the time of
22 this incident, right?

23 A Correct.

24 Q And when he got to you or the information had
25 gotten to you, he had already been interviewed by

1 Investigator Roosevelt Young and SLED Agent Mike
2 Perry?

3 A Right. I was there at my office when they
4 interviewed him. I just was not part of the
5 interview.

6 Q Okay. Were you in the room with them?

7 A No.

8 Q Okay. The two of them were in the room?

9 A No.

10 Q Who was in the room?

11 A Investigator Young.

12 Q And?

13 A That's it. That's the only person --

14 Q No, no, no, it had to be someone other than
15 Investigator Young now. Is that all that was there?

16 A That was all that was in the room when they
17 interviewed Alvin, yes.

18 Q All right. Who was in the room?

19 A Investigator Young interviewed him. I read
20 him --

21 Q No, no, no, listen to my question.

22 **THE COURT:** Don't cut him off.

23 **MR. WILLIAMS:** I'm sorry.

24 **BY MR. WILLIAMS:**

25 Q Who was in the room at the time of the

1 interview with Alvin P. ? Name all of the
2 people that were in the room.

3 A Investigator Young was the only one who
4 interviewed Mr. Phillips.

5 Q And Mr. Phillips was there as well?

6 A Yes, and Mr. Phillips.

7 Q So it was just two people?

8 A Yes.

9 Q What was Investigator Perry doing?

10 A He was in my office with me.

11 Q SLED Agent Perry, I'm sorry. All right. Did
12 Alvin know where he was? Where did this interview
13 occur?

14 A At the conference room of the Johnston Town
15 Hall.

16 Q Okay. That's where you all are, right? That's
17 where your office is, isn't it?

18 A Yes. It's in that building.

19 Q Okay. So he was at the police station, wasn't
20 he?

21 A Yes, sir.

22 Q All right. And there was information that
23 Investigator Young had gleaned from, likely, Joseph
24 Patrick Stevens, right?

25 A Yes, sir.

1 Q All right. And he had Alvin in the room at the
2 police department; is that right?

3 A That's correct in the conference room.

4 Q And you were there? You were there?

5 A Was where?

6 Q You were there at the town hall?

7 A Yeah.

8 Q In Johnston?

9 A I was at work that day, yes.

10 Q Okay. Agent Perry was there?

11 A Right.

12 Q What other law enforcement officers were there?

13 A Chief Aston was working also and maybe one
14 other officer was working, if I'm not mistaken. Who
15 that was, I don't recall.

16 Q All right. And you didn't bring him in with a
17 blindfold on, did you? Alvin I'm speaking of.

18 A We didn't bring him in at all. He came in
19 freely and voluntarily.

20 Q Okay. Well, he didn't come in with a blindfold
21 on, did he?

22 A No.

23 Q All right. So he knew where he was and he knew
24 who all was there?

25 A That's correct.

1 Q Did you have your pistol on your side?

2 A Probably so.

3 Q Did Agent Perry have his pistol on his side?

4 A Probably so.

5 Q All right. Did those other officers, Chief
6 Aston and the other officers that might have been
7 working, did they have their pistols on their side?

8 A Probably so.

9 Q Y'all are police officers, aren't you?

10 A Yes, sir.

11 Q My friend, Mr. Pox, he's got a pistol on his
12 side sitting right there, doesn't he?

13 A He does.

14 Q All right. You think that young fellow was
15 impressed by you all?

16 A Because we had pistols on, no.

17 Q You don't believe so?

18 A No.

19 Q One other question I want to follow up on. In
20 Saluda, you worked as a jailer and as a dispatch
21 person?

22 A Dispatch and then I went to the jail to work.

23 Q And when Mr. Calhoun was questioning you just a
24 moment ago, you said you knew very little about
25 9-1-1 protocol; is that right?

1 A I did.

2 Q I'm sorry?

3 A I did.

4 Q You did?

5 A Yeah. I said I knew very little what they
6 asked.

7 Q No, no. The question he asked you was, did you
8 know anything about 9-1-1 protocol. Do you recall
9 the answer you gave him?

10 A The question that I recall him asking me is do
11 they ask certain questions when a 9-1-1 call comes
12 in and I said I don't know what all they ask. But
13 to clarify the answer to that question, I didn't
14 work in dispatch for very long. I was transferred
15 to the detention center by Sheriff Booth because
16 they needed help at the detention center, so I never
17 went to 9-1-1 training or a 9-1-1 school.

18 Q All right. But you did have some working
19 knowledge of 9-1-1 dispatch?

20 A Very little.

21 Q Okay. Do you know anything about drum
22 majoring?

23 A Yes, sir. I can tell you a lot about that.

24 Q Okay. I hear you.

25 **MR. WILLIAMS:** I have nothing further.

1 **THE COURT:** All right. Redirect.

2 **MR. MAYE:** Nothing else, Your Honor. Thank
3 you.

4 **THE COURT:** Do you have anything else, Mr.
5 Calhoun?

6 **MR. CALHOUN:** Beg the Court's indulgence.

7 **THE COURT:** Yes, sir.

8 (Pause.)

9 **MR. CALHOUN:** A couple questions, Judge.

10 RE CROSS-EXAMINATION

11 **BY MR. CALHOUN:**

12 **Q** Mr. Robinson, other than you, was there a chief
13 investigator on this case?

14 **A** No, sir. I was deemed as the chief
15 investigator.

16 **Q** The home of the victims, was it checked for
17 fingerprints? Did someone even do a fingerprint
18 check?

19 **A** No.

20 **Q** Did someone do a DNA check?

21 **A** No.

22 **Q** Did someone check the house or the grounds for
23 foreign hair follicles?

24 **A** No.

25 **Q** Or any hair follicle that may not have matched

1 those of the victims?

2 **MR. MAYE:** Asked and answered, Your Honor, all
3 of these.

4 **THE COURT:** Overruled. You may answer the
5 question.

6 BY MR. CALHOUN:

7 **Q** What about shoe prints?

8 **A** Like I said, we photographed shoe prints.
9 There was nothing to compare a shoe print to.

10 **Q** So you did take photographs of shoe prints,
11 right?

12 **A** Right.

13 **Q** You just couldn't find a print that would match
14 those of Mr. Langford, correct?

15 **A** No.

16 **Q** That means you could not find the match to
17 those of Mr. Langford, correct?

18 **A** No.

19 **MR. CALHOUN:** Court's indulgence.

20 (Pause.)

21 **Q** Why did Alvin P. come to the sheriff's
22 department that day?

23 **A** To the police department? I assume
24 Investigator Young, after he spoke with Ms.
25 Phillips, asked to speak to him.

1 Q So someone called him on the phone?

2 A I'm assuming so. I don't know how that
3 actually went down.

4 MR. CALHOUN: Okay. That's all I have, Judge.

5 THE COURT: Anything else of the witness?

6 MR. MAYE: Yes, sir, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. MAYE:

9 Q The shoe prints you took photographs of, do you
10 even know whether or not those have any relevance to
11 this case?

12 A No.

13 Q What kind of foot traffic is in that area in
14 between the apartment complex and downtown?

15 A A lot.

16 Q Who lived in the apartment complex?

17 A Numerous of people lived in the apartment
18 complex.

19 Q Who involved in this case had connection with
20 the apartment complex there or was in and out of the
21 apartment complex based on your knowledge?

22 A Bryan Phillips, K.C. Langford and Alvin

23 P.

24 Q What connection were you aware of between Alvin

25 P. and these two individuals or what was his

1 connection with Bryan Phillips?

2 A I knew that him and Bryan was cousins and I
3 knew that he --

4 Q Where did Bryan live?

5 A On Ouzts Street with his mother.

6 Q What was his connection to K.C. Langford in
7 this case?

8 A I knew that K.C. dated his sister, Veronica.

9 Q Where do people walk coming back and forth
10 between the apartment complex and downtown in
11 Johnston?

12 A I would assume the walking actually takes place
13 along Butler Street and along -- Butler Street and
14 Ouzts Street actually runs together.

15 Q Would there be any significance to footprints
16 of people that live in the apartment complex that
17 close within walking distance of where they live?

18 A No.

19 Q Was there any comparison of anything -- nothing
20 you did excluded K.C. Langford in this case
21 involving footprints, did it?

22 A No.

23 Q There was nothing done with the footprints,
24 were there?

25 A No.

1 MR. MAYE: Thank you.

2 THE COURT: Anything further from the witness?

3 MR. CALHOUN: None from Mr. Langford.

4 THE COURT: Mr. Williams, do you have anything
5 further of this witness?

6 MR. WILLIAMS: Just one question.

7 RECROSS-EXAMINATION

8 BY MR. WILLIAMS:

9 Q Did you attempt to do a shoe comparison based
10 on any shoes that might have been owned by any of
11 the defendants?

12 A No.

13 MR. WILLIAMS: Thank you, sir.

14 THE COURT: Anything else of the witness?

15 MR. MAYE: Nothing else. Thank you.

16 THE COURT: Thank you, sir. You may step down.
17 Any further evidence from the State?

18 MR. MAYE: Nothing from the State, Your Honor.
19 Thank you.

20 THE COURT: All right. Ladies and gentlemen,
21 when I began explaining to you how the trial would
22 commence, I told you that when we reached this stage
23 where the State rests, that I have to discuss legal
24 matters with the attorneys. So that's where we are
25 now and I have to do that outside your presence.

1 This usually takes about 20 minutes. If it's going
2 to be substantially longer than that, I'll send word
3 to you, but I need you to step in the jury room and
4 not discuss the case. I'll get back to you as
5 quickly as I can. Thank you.

6 (The jury retires to the jury room.)

7 **MR. MAYE:** Your Honor, there's one housekeeping
8 matter. The court reporter asked me about those
9 four photographs that were in by stipulation. She
10 indicated that she may not have had that in the
11 record. I know I put them in for I.D. and then we
12 had a discussion about whether or not we stipulate
13 that they came in or I needed to -- I was going to
14 attempt to ask another question in order to get them
15 into evidence. She may not have that in the record
16 as she indicated that she did not. I want to be
17 sure that we address that.

18 **THE COURT:** Which four photographs?

19 **MR. MAYE:** State's 1 through 4.

20 **THE COURT:** My understanding was those were in
21 without objection.

22 **MR. CALHOUN:** No objection.

23 **MR. WILLIAMS:** That's right, Your Honor.

24 **THE COURT:** They're in evidence.

25 Motions?

1 **MR. CALHOUN:** Yes, Your Honor. At this time on
2 behalf of K.C. Langford, I want to move for a
3 directed verdict against the prosecution. Viewing
4 the evidence in the light most favorable to the
5 State, the prosecution's case comes solely off of
6 co-defendant testimony. There's no corroborating
7 evidence on the behalf of law enforcement that
8 supports or bolsters the fact that what Mr. Phillips
9 says is the truth, Your Honor.

10 Since this occurred in August of 2008,
11 Mr. Phillips has clearly waffled, putting it
12 lightly, as to whether or not my client was present
13 and involved in the armed robbery. He's given
14 written statements that his first statement to the
15 police was not true. The last time this case was
16 called to trial in May of this year, he also refused
17 to provide information that would indicate my client
18 was guilty and the case was continued.

19 Mr. Phillips has a criminal record in the short
20 period of time that he was a legal adult. In the
21 State of South Carolina, he'd already been convicted
22 of a couple of crimes of larceny. And I think that
23 his cross-examination indicated yesterday that he
24 wasn't being truthful with the Court.

25 The only other evidence that puts my clients in

1 the vicinity of the crime is the fact that they live
2 in the vicinity of the crime. I would argue to the
3 Court that if a person robbed someone, they wouldn't
4 stay a few minutes, and 15 minutes later, they
5 wouldn't stay essentially in the area of the crime,
6 they would leave at least for some period of time.
7 And if these guys were found 20 minutes from the
8 scene of the crime, that would be more indicative
9 that they were involved in the crime than the fact
10 that they stayed there.

11 There also isn't any evidence from the victims
12 that helps the prosecution's case in any manner
13 whatsoever. There's not even any evidence that the
14 other two co-defendants that were with Alvin
15 P. were male much less a description of a
16 black male. The only victim that testified as to
17 why they thought that the defendants were male was
18 because she said their hair was short.

19 For these reasons, we'd move for a directed
20 verdict against the prosecution.

21 **THE COURT:** Mr. Williams.

22 **MR. WILLIAMS:** Your Honor, I would like to echo
23 the arguments of Counsel Calhoun on behalf of my
24 client Bryan Phillips.

25 Your Honor, we believe that even given the

1 evidence in the light most favorable to the State
2 based upon the substantial lack of credibility of
3 the sole witness against my client, that this Court
4 has an affirmative duty to consider that and to
5 consider the fact that there is nothing, not a
6 scintilla of evidence which is beyond the statement
7 of Alvin P. that supports a conviction of my
8 client beyond a reasonable doubt. We don't believe
9 the State would be able to meet its burden and we
10 would ask the Court to direct a verdict of not
11 guilty. Thank you, Your Honor.

12 **THE COURT:** All right. Well, everything that
13 you all have mentioned those are jury issues.

14 The only question I have relates to this
15 kidnapping charge because I'm not sure who was in
16 the house or who wasn't in the house, who was held
17 against their -- I mean, certain people clearly they
18 were saying he held me down, the two who initially
19 testified, the two males, the father and the son. I
20 understand that kidnapping charge, but beyond that,
21 I'm kind of at a loss as to who may have been
22 subject to a kidnapping charge.

23 The indictment alleges -- I apologize to you
24 the charge is 20 pages long. I'm trying to find it.

25 **MR. MAYE:** May it please the Court, Your Honor.

1 **THE COURT:** Yes.

2 **MR. MAYE:** I directly asked the woman that was
3 in the house who all was in the house. She went
4 through, named everybody that was there. I asked
5 her were they free to leave. I mean, I specifically
6 asked her multiple times because I knew that was
7 something that we needed to prove. She indicated
8 that they were afraid, they could not leave with the
9 man there. I asked her directly that.

10 I asked her to name everyone that was in the
11 house. I asked her were she and the other residents
12 free to leave and she said no. There were in fear
13 from the man being in there and they would not have
14 been able to leave.

15 So it's whether or not there's any evidence.
16 And given the fact that she testified as to everyone
17 that was there at the house, that the other two --
18 there's clearly testimony on the record that the two
19 men were outside. She testified and named
20 everybody. I even had her name the children that
21 were involved in this case. She named everybody
22 else at the house. And I specifically asked her for
23 that purpose whether or not she or anyone else in
24 the house could leave and she said, no, they were
25 afraid. And I did so for that purpose, Your Honor,

1 because I knew that that would be an issue, the way
2 we had it worded in the indictment.

3 But as to kidnapping, it would be for any
4 length of time whether or not their ability to leave
5 or to go anywhere, whether or not that that was
6 impacted by the acts of any of the defendants
7 collectively under the hand of one, the hand of all,
8 they would all be guilty of kidnapping. But she
9 named all the residents of the house and I asked her
10 specifically were she and other residents free to
11 leave.

12 **THE COURT:** Well, y'all need to find that so
13 that I can see it because, you know, there was
14 testimony by one witness that I think he said his
15 sister didn't even know that the robbery was taking
16 place.

17 Now, I concede to you all that I get lost with
18 Chinese names. I apologize for my own ignorance and
19 I don't take any great pride in the fact that I get
20 confused. I don't think I'm the only one in the
21 courtroom who does, but that doesn't make it any
22 better.

23 Again, as to those two men, I understand the
24 charge. I'm not saying that the kidnapping charge
25 gets thrown out completely, but as far as what's

1 alleged in this indictment, you've got, in addition
2 to those two men, you've got somebody whose name is
3 spelled G-u-a-n-y Xing, X-i-n-g, Li and then another
4 person named Lin Yan Fung. There was mention about
5 Celine Li in the testimony, somebody said the name
6 Celine. And I guess I caught that because, though I
7 detest listening to her music, Celine Dion, I'm at
8 least familiar with that name. I think she's very
9 talented, I just can't stand her music. And Winson
10 Li. So y'all find it on there so I can look at it,
11 okay.

12 **MR. WILLIAMS:** Judge, I did want to follow up
13 on what I had -- and I was hoping the Court would
14 give us an opportunity to make an additional motion.

15 **THE COURT:** Y'all have got an opportunity to
16 make any motion you want.

17 **MR. WILLIAMS:** Your Honor, I would move to
18 quash the State's kidnapping indictment. We believe
19 that the evidence as presented does not comport with
20 the indictment as presented to the grand jury of
21 this county and I believe it's appropriate to quash
22 the State's indictment for kidnapping on that basis.

23 **MR. MAYE:** Your Honor, defects in an indictment
24 are waived prior to the swearing of the jury and
25 it's alleged in there, it's and/or any of those

1 people. And if that's any issue, I'll move to amend
2 it to only include the names of the two men and only
3 submit it as to kidnapping on them and redact the
4 names of the other parties in it. I think it's
5 covered from the record because I specifically asked
6 her to name every person.

7 **THE COURT:** Don't go through that again. I
8 heard that the first three times you told me.

9 **MR. MAYE:** Sorry, Your Honor.

10 **THE COURT:** Just find it in there if you want
11 to pursue it. If you just want to go against the
12 two men, that's fine, too. We can shortcut it. I
13 don't care. I'm just telling you I didn't hear them
14 say -- I heard the lady say she couldn't leave of
15 her own free will, she was scared, the lady who
16 testified. But who else was in that house, I don't
17 know.

18 **MR. MAYE:** And, Your Honor, at this time, I
19 would move to redact it to short circuit that to
20 save the Court time and to only include the two men
21 in this. And I'll redact those names to conform to
22 the evidence because the indictment's worded and/or
23 any of those people.

24 **THE COURT:** I'm not going to send the
25 indictment to the jury. I'm just saying when I do

1 the charge, the names that I would use would just be
2 the two men.

3 **MR. MAYE:** That's what I would propose.

4 **MR. WILLIAMS:** And my only objection to
5 allowing the State to do that, Judge, is he had
6 rested and I just want to note that for the record.

7 **THE COURT:** Well, that's fine, except the
8 indictment does state and/or. And and/or means any
9 or all or some.

10 **MR. WILLIAMS:** It does.

11 **THE COURT:** It doesn't just go in there and
12 allege that kidnapped Winson Li and then there's no
13 evidence of kidnapping Winson Li and I throw out the
14 indictment. We'd be on the same footing there. But
15 if he names 16 people and doesn't offer proof except
16 as to six of them, the indictment doesn't get thrown
17 out, but the jury doesn't get instructed about those
18 other folks.

19 **MR. WILLIAMS:** Thank you, Your Honor.

20 **MR. MAYE:** And, Your Honor, I apologize. One
21 of the barriers that we had in this, the challenge
22 with the names was at the time that we -- like I
23 said, it was a year later. We indicted this way
24 before we could get an interpreter that was capable
25 of giving us any communication. We did the best we

1 could and that's why I did it and/or. And I'll just
2 move to redact those other names and only submit it
3 against the two men that were outside, the father
4 and the son.

5 **THE COURT:** I'm not casting fault, believe me.
6 I understand, to a limited extent, what the
7 difficulties would be just from sitting through the
8 trial.

9 All right. Let's take a five minute break and
10 then I'm going to have to question the defendants as
11 to their rights concerning their ability to testify
12 or not testify and we'll go from there, okay.

13 **MR. CALHOUN:** Yes, sir.

14 **THE COURT:** Thank you.

15 Motions are denied in case there's any
16 uncertainty about that. Motions for a directed
17 verdict are denied. The motion to quash is denied.

18 (Brief Recess.)

19 **THE COURT:** All right. Mr. Langford,
20 Mr. Phillips, I have to go over some things with you
21 now. This is something I have to cover with
22 everybody who's on trial whether they're on trial
23 for a traffic offense or for murder. I need your
24 responses under oath, so I need each of you to raise
25 your right hand.

1 K.C. LANGFORD,

2 having been duly sworn, testified as follows:

3 BRYAN JORDAN PHILLIPS,

4 having been duly sworn, testified as follows:

5 **THE COURT:** Y'all can have a seat. Just speak
6 out loudly so the court reporter can take down what
7 we say, all right.

8 Now, gentlemen, we've reached the stage of the
9 trial where the State has rested. And the next
10 thing that would happen is that we would give you
11 the opportunity to present evidence for the jury to
12 consider. It doesn't change the burden of proof.
13 The burden is going to remain on the State, but you
14 can offer evidence for the jury to consider in
15 deciding whether the State has met its burden of
16 proof or failed to meet its burden of proof.

17 Do you understand where we are in the trial,
18 Mr. Langford?

19 **DEFENDANT LANGFORD:** Yes, sir.

20 **THE COURT:** Do you understand, Mr. Phillips?

21 **DEFENDANT PHILLIPS:** Yes, sir.

22 **THE COURT:** Now, in that regard, you may choose
23 to testify if you wish to testify or you may choose
24 not to testify. Whether you testify or not, you may
25 call other witnesses on your behalf. Do you

1 understand all of that, Mr. Langford?

2 **DEFENDANT LANGFORD:** Yes, sir.

3 **THE COURT:** Mr. Phillips?

4 **DEFENDANT PHILLIPS:** Yes, sir.

5 **THE COURT:** You must understand that no one can
6 force you to testify. You have an absolute right to
7 remain silent. And if you choose not to testify,
8 I'm going to tell that jury that they cannot hold
9 your silence against you in any way at all. They
10 can't discuss it in their deliberations and they're
11 not to let it enter their minds in making their
12 decisions on whether you are guilty or not guilty.

13 Do you understand all of that, Mr. Langford?

14 **DEFENDANT LANGFORD:** Yes, sir.

15 **THE COURT:** Mr. Phillips?

16 **DEFENDANT PHILLIPS:** Yes, sir.

17 **THE COURT:** Now, this decision about whether
18 you testify or not, it is your decision to make and
19 yours alone. As you very well know, you're the
20 people on trial and it's your call. I expect that
21 you might confer with your attorney, with family
22 members, with friends, with anybody whose opinion
23 you value on important decisions, but ultimately the
24 decision is yours to make and yours alone. You
25 understand, Mr. Langford?

1 **DEFENDANT LANGFORD:** Yes, sir.

2 **THE COURT:** Mr. Phillips?

3 **DEFENDANT PHILLIPS:** Yes, sir.

4 **THE COURT:** All right. Do either of them have
5 a criminal record that would subject them to
6 impeachment?

7 **MR. MAYE:** Both do, Your Honor. As to K.C.
8 Langford, Your Honor, he has a 6/11 of 2002 Aiken
9 County use of vehicle without permission. He got
10 three years suspended on probation for two years,
11 that's 6/11/2002. And on 6/3 of 2002, he got
12 convicted of criminal conspiracy. He got three
13 years suspended on the service of 58 days and three
14 years probation. 7/3 of 2006, he got a receiving
15 stolen goods \$5,000 or more out of Edgefield County.

16 Out of Georgia, Your Honor, he has a 2003
17 conviction of possession of cocaine with intent to
18 distribute and it says criminal interference with
19 government property 2/28/2003. This relates back to
20 that, Your Honor, but his probation was violated,
21 that wouldn't count. His probation was violated on
22 felony possession of cocaine with the intent to
23 distribute and it says possession of a firearm. I
24 know that that wouldn't be a consideration, but he
25 does have drug charges and the other ones that I

1 mentioned.

2 **THE COURT:** And what about Mr. Phillips?

3 **MR. MAYE:** As to Mr. Phillips, he has a -- two
4 counts, he has distribution of cocaine that he got a
5 YOA on on 10/3 of 2006. And then he's got a
6 proximity charge that was accompanying that 10/3 of
7 2006, Your Honor. He got a YOA on both a
8 distribution and a proximity.

9 **THE COURT:** All right. Mr. Calhoun, do you
10 want to be heard on whether your client should be
11 able to be asked about those things?

12 **MR. CALHOUN:** Your Honor, I discussed with my
13 client his decision on whether or not to testify in
14 great length and he's decided that he does not wish
15 to testify, if you'd like to ask him any questions
16 about that.

17 **THE COURT:** All right. Y'all have a seat.

18 All right. Mr. Langford, Mr. Phillips, I want
19 you to listen to this too, the rule about being able
20 to ask someone who testifies about any prior
21 criminal record is included in Rule 609 of the South
22 Carolina Rules of Evidence. And what it basically
23 provides is that if a witness testifies and the
24 witness has been convicted of a crime that was
25 punishable by imprisonment in excess of a year, that

1 person can be asked about that. If the crime
2 involved dishonesty or false statement, the person
3 can be asked about that regardless of whether it
4 carried more than a year.

5 Where the person who is the witness is a
6 defendant in the trial, which is a situation with
7 the two of you, there's an additional standard and
8 that is that the Court has to make a determination
9 that the probative value of admitting that evidence
10 outweighs its prejudicial effect to you.

11 So what would happen is this. I'll review your
12 prior record that's provided to me, if you dispute
13 what they tell me, you need to let us know, and I
14 will tell you whether or not the State can ask you
15 about those convictions if you take the witness
16 stand.

17 Do you understand what I've said so far,
18 Mr. Langford?

19 **DEFENDANT LANGFORD:** Yes, sir.

20 **THE COURT:** Mr. Phillips?

21 **DEFENDANT PHILLIPS:** Yes, sir.

22 **THE COURT:** And if I do allow them to ask you
23 questions about your prior criminal record, first of
24 all, they can't go into the details of it. They can
25 only ask you, for example, were you convicted in

1 such and such a year of such and such an offense.

2 And then I would tell the jury, when I instruct
3 the jury, I will tell them both immediately upon the
4 question being asked and answered. And then I would
5 tell them later, when I instruct the jury, I would
6 tell the jury that that evidence was admitted for a
7 limited purpose and it cannot be considered for any
8 other purpose except the limited purpose for which
9 it was admitted and that would be to evaluate the
10 credibility, the believability of your testimony.
11 Each of you, obviously, are separate, but that's the
12 instruction I will give the jury.

13 Do you understand all of that, Mr. Langford?

14 **DEFENDANT LANGFORD:** Yes, sir.

15 **THE COURT:** Mr. Phillips?

16 **DEFENDANT PHILLIPS:** Yes, sir.

17 **THE COURT:** And, Mr. Langford, they tell me
18 that you have -- there's also a ten year limitation
19 on this which I didn't mention, but everything that
20 I've been told about so far was within the last ten
21 years.

22 They tell me you were convicted in June of 2002
23 of use of vehicle without permission. If you were
24 to take the witness stand, I would allow the State
25 to ask you if you had such a conviction. You

1 understand that?

2 **DEFENDANT LANGFORD:** Yes, sir.

3 **THE COURT:** They tell me you were convicted of
4 criminal conspiracy in June of 2002. I would not
5 allow the jury -- I would not allow the State to ask
6 you about that because it's -- you're on trial for
7 conspiracy and I cannot make a determination that
8 the probative value of admitting that evidence would
9 outweigh its prejudicial effect to you. So if you
10 took the witness stand, they cannot ask you about
11 the prior conviction of criminal conspiracy. You
12 understand that?

13 **DEFENDANT LANGFORD:** Yes, sir.

14 **THE COURT:** Receiving stolen goods from July of
15 2006, I would allow the State to ask you about that
16 if you take the witness stand. You understand?

17 **DEFENDANT LANGFORD:** Yes, sir.

18 **THE COURT:** The cocaine charge and the
19 interference with government property and there was
20 some mention of a firearm charge, I would not allow
21 the State to ask you about those things if you take
22 the witness stand because I cannot determine that
23 the probative value of admitting it outweighs its
24 prejudicial effect to you. You understand that?

25 **DEFENDANT LANGFORD:** Yes, sir.

1 **THE COURT:** So if you take the witness stand, I
2 would let them ask you about use of vehicle without
3 permission and receiving stolen goods, but it would
4 be limited like I explained to you earlier. You
5 understand?

6 **DEFENDANT LANGFORD:** Yes, sir.

7 **THE COURT:** Mr. Phillips, they tell me that you
8 have a distribution of cocaine conviction and a
9 distribution of cocaine within proximity of a school
10 or playground from 2006. If you take the witness
11 stand, I'm not going to let them ask you about that.
12 Do you understand that, sir?

13 **DEFENDANT PHILLIPS:** Yes, sir.

14 **THE COURT:** All right. Now, when I say that
15 I'm not going to let them ask you about that,
16 gentlemen, you need to understand there is one
17 important thing. You cannot be asked about those
18 things that I said they cannot ask you about unless
19 you open the door for them to ask you about it.

20 And to give you an example of what I mean by
21 that, in previous trials, I've had situations where
22 somebody on trial was making their decision about
23 whether they were going to testify or not and I made
24 rulings and said the State could not ask that
25 defendant about those things. And then the

1 defendant gets on the witness stand and makes a
2 statement like I've never been in any trouble with
3 the law or I've never been arrested. Well, you
4 can't do that, that opens the door. It comes in for
5 a different reason then. It comes in on
6 credibility, but it comes in on a different
7 direction.

8 So unless you open the door, the things I've
9 just indicated to you the State will not be able to
10 ask you about. Do you understand all of that,
11 Mr. Langford?

12 **DEFENDANT LANGFORD:** Yes, sir.

13 **THE COURT:** Mr. Phillips?

14 **DEFENDANT PHILLIPS:** Yes, sir.

15 **THE COURT:** All right. There is a defense
16 exhibit, right?

17 **MR. MAYE:** Yes.

18 **THE COURT:** I realize it was only for one, but
19 it doesn't matter. So the State's going to get to
20 make the last closing argument.

21 **MR. WILLIAMS:** Your Honor, may I say, there's
22 two things, one of which is Mr. Phillips was not
23 specifically inquired upon by the Court regarding
24 his right to testify. And the other was -- I'll let
25 Mr. Calhoun make his own argument with regard to --

1 as I understood your ruling, that the State would
2 get last close because one defendant put evidence in
3 and not the other one?

4 **THE COURT:** Yes, sir. My understanding of the
5 law is that if either defendant, any defendant in a
6 joint trial offers any evidence, the State makes the
7 last argument. I think that's established in the
8 precedent. I mean, I can try to look it up.

9 **MR. MAYE:** State versus Payne, Lee and Kelsey
10 in McCormick in 1994.

11 **THE COURT:** I mean, you know, I was discussing
12 this with my law clerk, as you all know, I have a
13 new law clerk and we've been talking a lot about
14 things. I told him personally I never thought that
15 was that big a deal in almost every case, but that's
16 just a personal opinion. It doesn't amount to a
17 hill of beans except it's my personal opinion.
18 Y'all might feel differently.

19 But I don't make the calls on whether I think
20 it's important or not. I make the call based on the
21 precedent that's been established and that's my
22 understanding of the precedent. So if no testimony
23 is offered and no exhibits are offered by the
24 defense, either defendant, then the defense makes
25 the last closing argument, but otherwise the State

1 does. And since there are exhibits, then the
2 State's going to get to make the last closing
3 argument.

4 **MR. WILLIAMS:** I understand, Your Honor.

5 **THE COURT:** You said I didn't ask him
6 specifically about his right to testify?

7 **MR. WILLIAMS:** You did not.

8 **THE COURT:** Okay. Let me tell you how I
9 usually do it. Now, Mr. Calhoun has already made
10 his statement, but his client can change his mind
11 because I hadn't told y'all yet how I was going to
12 rule on the prior criminal record. What I usually
13 do now is give you all a chance to talk once I ask a
14 couple more questions and then you can tell me
15 whether you want to testify or not. It doesn't
16 matter and you can change your mind until you
17 actually come up here to testify. So I'm not quite
18 through yet, all right.

19 **MR. WILLIAMS:** Yes, sir. Thank you.

20 **THE COURT:** All right. Mr. Langford, as you
21 just heard me say, whatever decision you might have
22 made, you can change your mind. I'm not trying to
23 talk you into or out of testifying. I don't know
24 your case. I don't know your situation as well as
25 you and your attorney do and I don't have any input

1 into this except to make sure you understand what
2 your rights are. You can testify or you cannot
3 testify, but it has to be your own decision made of
4 your own free will. You understand?

5 **DEFENDANT LANGFORD:** Yes, sir.

6 **THE COURT:** So to this point, has anybody
7 exercised any type of improper influence over you to
8 get you to choose to testify or not testify?

9 **DEFENDANT LANGFORD:** No, sir.

10 **THE COURT:** Mr. Phillips, has anybody exercised
11 any improper influence over you to get you to choose
12 to testify or not testify?

13 **DEFENDANT PHILLIPS:** No, sir.

14 **THE COURT:** And you understand that whatever
15 decision you may have made in your own mind at this
16 point, if any, you can change your mind until you
17 actually come up here and get sworn and take the
18 witness stand. Mr. Phillips, you understand that?

19 **DEFENDANT PHILLIPS:** Yes, sir.

20 **THE COURT:** Well, gentlemen, what I'm going to
21 do at this point is I'm going to make a
22 determination and a finding that you understand that
23 you have a right to testify, you have a right not to
24 testify. You understand that nobody can force you
25 to testify, that if you choose not to testify, I'm

1 going to tell that jury they cannot hold your
2 silence against you in any way at all. And I'm
3 going to go beyond that, like I explained to you
4 before, that the decision about whether you testify
5 or not is your decision to make and yours alone.

6 You understand the rulings I've made about what
7 you could be asked about related to your prior
8 criminal record. You understand that this decision
9 should be yours and made of your own free will.

10 And I'm going to find at this point you don't
11 appear in any way to be under the influence of any
12 substance or to be suffering from any physical or
13 mental infirmities that would affect your ability to
14 think clearly. You seem to be very intelligent men.

15 I'm going to find that whatever decision you've
16 made is your own decision made of your own free will
17 and made freely, knowingly, voluntarily and
18 intelligently. So if anybody tries to improperly
19 influence you, you let me know immediately, all
20 right, Mr. Phillips?

21 **DEFENDANT PHILLIPS:** Yes, sir.

22 **THE COURT:** Mr. Langford?

23 **DEFENDANT LANGFORD:** Yes, sir.

24 **THE COURT:** Do y'all need some time to talk?

25 **MR. CALHOUN:** Yes, sir.

1 **THE COURT:** All right. We'll be at ease for a
2 few minutes.

3 **MR. WILLIAMS:** Your Honor, and there was one
4 issue that I'm having, but we can address it when
5 you come back out.

6 **THE COURT:** Go ahead and tell me.

7 **MR. WILLIAMS:** I'm having a problem gaining
8 access to a witness that I intended to call, which
9 is Joseph Patrick Stevens. He was supposed to --
10 well, his supervisor was spoken to, I believe, by
11 Investigator Duran in Orangeburg and he told him
12 that he needed to be here.

13 I received a note from my office at 9:21 in
14 which Mr. Stevens called my office and indicated
15 that he was in Fresno, California and wouldn't be
16 back until Monday. I have a hard time reconciling
17 Orangeburg and Fresno unless somehow that was -- he
18 was flown from Orangeburg to Fresno, but I believe
19 he's in Orangeburg and should be on his way here.

20 I do have an alternative remedy, Your Honor,
21 which was to call instead Investigator Roosevelt
22 Young whom I concede that I did not place under
23 subpoena because he appeared on the State's witness
24 list and I quite frankly expected that he would be
25 here, but I should have done my own job and not

1 trusted that the State would call him.

2 **MR. MAYE:** Was Mr. Stevens under subpoena
3 because we might be able to --

4 **MR. WILLIAMS:** He is.

5 **MR. MAYE:** He was served?

6 **MR. WILLIAMS:** Yes.

7 **THE COURT:** See what you can find out. And,
8 Sheriff, help him locate this person, please. And
9 if I need to have him picked up, you can make a
10 motion for me to have him picked up and brought
11 here.

12 **MR. WILLIAMS:** Thank you, Your Honor.

13 **THE COURT:** But now if this is going to take a
14 while, y'all let me know because I don't want to
15 leave the jury sitting back there for an hour.

16 **MR. WILLIAMS:** Yes, sir.

17 **THE COURT:** All right. We're at ease.

18 (Brief recess.)

19 **THE COURT:** All right. My understanding is
20 that I'm going to let the jury go to lunch until
21 1:00 and then we'll see where we are at that point.
22 I think Investigator Young is on his way up here and
23 I think that might be sufficient from what
24 Mr. Williams is telling me. They're still tracking
25 down that other man.

1 **MR. WILLIAMS:** They are, Your Honor.

2 **THE COURT:** I think now there's something about
3 him being in Tennessee. So he must have a private
4 jet.

5 Bring the jury in.

6 (The jury returns to the courtroom.)

7 **THE COURT:** All right. Ladies and gentlemen,
8 we've run into another snag. It's going to be a
9 while before we can work our way through it, so I've
10 told the lawyers I'm just going to let you go on to
11 lunch. I think we've just about got this worked out
12 and that we'll be able to start up around one
13 o'clock. So I need you back in the jury room at one
14 o'clock. I apologize to you.

15 At the end of the trial, hopefully I'll have an
16 opportunity and you can have at me and I can explain
17 all the things that go on, but I've got two options,
18 I can keep you sitting back there in that room for
19 another 30 minutes and maybe we'll be ready to go or
20 I can let you go on till about 1:00 and be much more
21 confident that we'll be ready to go, so that's what
22 we're going to do. One o'clock. Don't discuss the
23 case, don't let anybody discuss it with you and
24 avoid any media coverage. Thank you very much.

25 (The jury was excused for lunch.)

1 **THE COURT:** All right. I was going to tell the
2 jury about the kidnapping indictment, but I need you
3 all to look at this over lunch because I'm still not
4 sure who is who. The names are spelled differently
5 on the witness list.

6 **MR. MAYE:** And, Your Honor, we did have
7 scrivener's problems with the spelling of their
8 names initially before we got the interpreter
9 involved.

10 **THE COURT:** Well, again, I guess I need to
11 learn Chinese because we're so in debt to them that
12 we might all be speaking Chinese before long, but
13 again it's my ignorance. I apologize that I'm not
14 more cultured than I am. You know, even Spanish
15 terms I get it confused because they put what we
16 would consider the last name, they don't put it
17 last. So sometimes I just get confused. I just
18 don't -- I want to make sure I don't say anything
19 wrong. Check the indictments and tell me -- I'm
20 assuming it's the son and the father.

21 **MR. MAYE:** Yes. Mr. Chen and Mr. Li is what we
22 were finally forced to call them because their last
23 names were unpronounceable. The Chinese expert told
24 me that often times the children take part of a
25 mother's name and I don't know how that goes. I

1 know there's something similar to that with Spanish
2 surnames, but that's what I am informed why their
3 names are no more similar than they are, but they
4 often take part of a mother's name.

5 **THE COURT:** Well, I'm sure people looking at us
6 from outside have as much or more difficulty with
7 the way we do things. There's a guy who used to
8 always talk about in all of his speeches, he would
9 eventually get around to mentioning something about
10 a study done about a tribe called the acirema and
11 all the strange things they would do. Then he would
12 tell you it was Americans. And he was using
13 descriptions from people who might not be familiar
14 with things as simple as brushing our teeth and
15 doing other things.

16 So it's a cultural thing and I'm certainly not
17 saying that our culture is in any way superior. I'm
18 just saying I want to make sure that I don't cause
19 any problems with the names that I use because they
20 don't match up. The indictment doesn't match what's
21 on here.

22 **MR. MAYE:** I understand, Your Honor. And by
23 that time, we had had some corrections as a result
24 of our benefit from the interpreter. We did the
25 best we could with the spellings of their names

1 prior to a year later getting an interpreter to help
2 us.

3 **THE COURT:** I'm not casting aspersions.

4 **MR. MAYE:** None taken, Your Honor. I was
5 equally in the dark about how to prepare the
6 indictments. We do have the correct parties
7 identified, but I was equally in the dark. Thank
8 you, Your Honor.

9 **THE COURT:** One o'clock.

10 (Whereupon, there was a luncheon recess.)

11 **THE COURT:** All right. Mr. Calhoun, does your
12 client wish to offer any evidence?

13 **MR. CALHOUN:** No, Your Honor, he does not wish
14 to testify.

15 **THE COURT:** Mr. Langford, you understand what
16 your attorney just told me?

17 **DEFENDANT LANGFORD:** Yes, sir.

18 **THE COURT:** Is that your own decision made of
19 your own free will?

20 **DEFENDANT LANGFORD:** Yes, sir.

21 **THE COURT:** All right. Thank you, sir.

22 Mr. Williams, does your side wish to offer any
23 evidence?

24 **MR. WILLIAMS:** My client does not intend to
25 testify, Your Honor. However, we do intend to offer

1 a witness.

2 **THE COURT:** Mr. Phillips, you understand your
3 attorney has told me you elected not to testify?

4 **DEFENDANT PHILLIPS:** Yes, sir.

5 **THE COURT:** Is that your own decision made of
6 your own free will?

7 **DEFENDANT PHILLIPS:** Yes, sir.

8 **THE COURT:** Thank you, sir.

9 Are you ready for the jury, Mr. Williams?

10 **MR. WILLIAMS:** Yes, Your Honor.

11 **THE COURT:** Bring in the jury.

12 (The jury returns to the courtroom.)

13 **THE COURT:** All right. Ladies and gentlemen of
14 the jury, I told you that when you came back after
15 that last part of the proceeding that I would tell
16 you where we go from here.

17 The State has rested and I need to explain a
18 couple of things to you. The first is that when I
19 read to you the indictments for kidnapping that have
20 been alleged against each defendant, I read to you a
21 series of names of the purported victims of the
22 kidnapping, the alleged kidnapping.

23 Now, as I will explain to you when I instruct
24 you on the law, an indictment is not evidence of
25 anything. An indictment is just a charging paper,

1 it's a notice. It's the formal means by which
2 someone is charged and brought to trial and put on
3 notice of what they should be prepared for related
4 to the trial.

5 Now, I read to you six names of purported
6 victims and they're Chinese names and I probably did
7 not do a very good job of pronouncing them. Those
8 indictments in this last proceeding have been
9 modified so that the kidnapping that is alleged is
10 alleged against two of those people. And it's an
11 and/or situation, either or both, okay, and that's
12 Li Yan Chen, who I'll loosely refer to as the son,
13 and the father, Ji Qing Chen. So those two are the
14 only people who remain as being alleged to be
15 purported victims of the kidnapping charges.

16 Now, folks, don't worry about why that is so.
17 It doesn't make the case any stronger or any weaker.
18 It doesn't make anything related to any of the other
19 charges any stronger or any weaker. It's just that
20 there's that modification related to those
21 indictments so that it's now alleged to be against
22 two purported victims and it's an either or
23 allegation.

24 The next thing I need to instruct you is this.
25 As I told you, ladies and gentlemen, the defendants

1 are presumed to be innocent. They have no
2 obligation to prove anything at all. And the State
3 has the entire burden of proof and has to prove the
4 guilt of the defendants beyond a reasonable doubt.

5 Now, I have been advised that neither defendant
6 is going to testify. And I need to give you an
7 instruction and it's very important that you pay
8 close attention to this instruction and that you
9 follow it.

10 I instruct you, ladies and gentlemen, and
11 emphasize to you that the fact that a defendant
12 elects not to testify is not a factor to be
13 considered by you in any way in your deliberations
14 and in your consideration on the question of whether
15 that defendant is guilty or not guilty. The
16 decision not to testify must not be considered by
17 you in any manner whatsoever against a defendant.

18 An accused has a constitutional right to remain
19 silent and the assertion of that right cannot and
20 must not be considered by you in any way in your
21 deliberations.

22 Under your oath, you are to reach no inference
23 and you are to draw no conclusion whatsoever from
24 the fact that a defendant elects not to testify.
25 His decision not to testify should not be discussed

1 by you in the jury room. It should not enter your
2 minds in making your decision on these cases. The
3 burden of proof, as I've told you, is entirely on
4 the State to prove every essential element of each
5 offense charged against each defendant beyond a
6 reasonable doubt and an accused has no obligation to
7 prove anything at all.

8 Now, my understanding is that the Defendant
9 Phillips is going to call one witness. This does
10 not change the burden of proof. The burden remains
11 entirely on the State as to every charge against
12 both defendants, but the defendant is permitted to
13 present evidence for you to consider in deciding
14 whether the State has met its burden of proof or has
15 failed to meet its burden of proof.

16 All right. Mr. Williams, you're recognized to
17 call your witness.

18 **MR. WILLIAMS:** Your Honor, I call to the stand
19 Investigator Roosevelt Young, the Edgefield County
20 Police Department -- Sheriff's Office.

21 ROOSEVELT YOUNG,

22 having been duly sworn, testified as follows:

23 **THE CLERK:** Have a seat. State your full name
24 and spell your last name, please.

25 **THE WITNESS:** Roosevelt Young, Y-o-u-n-g.

1 DIRECT EXAMINATION

2 BY MR. WILLIAMS:

3 Q Investigator Young, where are you employed,
4 sir?

5 A The Edgefield Sheriff's Office.

6 Q And how long have you been employed with the
7 Edgefield County Sheriff's Office?

8 A Fifteen years.

9 Q Did you have some law enforcement experience
10 prior to coming to work here at the Edgefield County
11 Sheriff's Office?

12 A Yes, sir, I did.

13 Q Where was that?

14 A I worked at the Johnston Police Department for
15 two years.

16 Q For a few years?

17 A Yes, sir.

18 Q So you have a total of about 18 years?

19 A Well, that was reserve time, but, yes, sir.

20 Q So you've been actively working in law
21 enforcement community for how many years?

22 A Seventeen.

23 Q Seventeen years?

24 A Yes, sir.

25 Q And you are a commissioned law enforcement

1 officer for the great State of South Carolina?

2 A Yes, sir.

3 Q You have the power to arrest?

4 A Yes, sir.

5 Q You have the power to investigate?

6 A Yes, sir.

7 Q All right. Presently do you hold any specific

8 assignments with the Edgefield County Sheriff's

9 Office or do you have any specific job title?

10 A Yes, sir. I work in narcotics. I'm an

11 investigator for narcotics.

12 Q Investigator for the narcotics division?

13 A Yes, sir.

14 Q Are you in any way a supervisor or have a

15 supervisory capacity?

16 A Yes, sir, I do.

17 Q And let me ask you this question. Are you the

18 most experienced narcotics investigator in the

19 sheriff's office?

20 A Yes, sir, I would say so at this point.

21 Q Okay. You just took an oath to testify

22 truthful?

23 A Yes, sir.

24 Q And you understand the gravity of that oath?

25 A Yes, sir, I do.

1 Q Do you know a Joseph Patrick Stevens?

2 A Yes, sir, I do.

3 Q Okay. You know about this case that we're
4 involved in, don't you?

5 A Yes, sir.

6 Q The case that involves my client, Bryan
7 Phillips?

8 A Yes, sir, I do.

9 Q All right. And you know about the case that
10 also involves one K.C. Langford?

11 A Yes, sir.

12 Q Did you in any way assist in the investigation
13 of the case involving my client?

14 A Yes, sir.

15 Q Okay. When this incident occurred back in
16 August of 2008, was any agency in the Edgefield
17 County law enforcement community able to make any
18 headway or basically make an arrest immediately
19 after this incident occurred?

20 A To my knowledge, no, sir.

21 Q Do you know about how long it was before an
22 arrest was made in this case after the August 14th,
23 2008 incident?

24 A No, sir.

25 Q Do you believe it was made within one week?

1 **A** It might be a little longer than that.

2 **Q** Okay. If I showed you the warrants that were
3 served upon my client -- you're familiar with
4 warrants and warrant procedures, aren't you?

5 **A** Yes, sir, I am.

6 **Q** Okay. And once a warrant is sought, it's
7 served, isn't it?

8 **A** That's depending on if they can find the
9 individual that they're looking for, yes, sir.

10 **Q** That's right. There was no indication that my
11 client was hard to find, was there?

12 **A** To my knowledge, no, sir.

13 **MR. WILLIAMS:** Court's indulgence.

14 **THE COURT:** Yes, sir.

15 (Pause.)

16 **MR. WILLIAMS:** Might I have this marked for
17 I.D. only?

18 **MR. MAYE:** Can I see what it is?

19 (Pause.)

20 (Defendant Phillips Exhibit Number 5, arrest
21 warrant, marked for identification purposes.)

22 **BY MR. WILLIAMS:**

23 **Q** Mr. Young, I'm going to hand to you what's been
24 marked as Defendant's Number 5 for I.D. only. Do
25 you recognize that?

- 1 A Yes, sir.
- 2 Q And it's a warrant, isn't it?
- 3 A Yes, sir.
- 4 Q When does it appear to have been served?
- 5 A September the 30th, 2008.
- 6 Q All right. So that would have been just about
- 7 six weeks after this incident allegedly occurred?
- 8 A Yes, sir.
- 9 Q Okay. Thank you, sir. Now, I'm going to ask
- 10 you, Joseph Patrick Stevens, was he working as an
- 11 informant for you?
- 12 A No, sir. I didn't have no charges on him or
- 13 anything at the time.
- 14 Q Had he previously worked as an informant for
- 15 you?
- 16 A No, sir.
- 17 Q Has he since worked as an informant for you?
- 18 A No, sir.
- 19 Q Is he your great friend?
- 20 A He's an acquaintance. I know him.
- 21 Q All right. Has he worked as an informant for
- 22 Investigator Warren Miller?
- 23 A No, sir.
- 24 Q Has he previously worked as an informant for
- 25 Investigator Warren Miller?

1 **A** No, sir.

2 **Q** All right. Did it not come to pass, sir, that
3 you revealed to Investigator Lamaz Robinson that
4 Joseph Patrick Stevens had certain information
5 regarding this crime that allegedly occurred in the
6 Town of Johnston?

7 **A** That's right.

8 **Q** All right. And you indicated to him that it
9 was information led to you or given to you by one
10 Joseph Patrick Stevens?

11 **A** Yes, sir.

12 **Q** Okay. All right. Would you consider Joseph
13 Patrick Stevens a good citizen?

14 **A** Yes, sir.

15 **Q** Okay. Has he ever been in this courthouse?

16 **A** I think he has, yes, sir.

17 **Q** Okay. Have you ever arrested him?

18 **A** No, sir.

19 **Q** What were the circumstances under which
20 Mr. Stevens revealed that information to you?

21 **A** At the time he had a family court bench warrant
22 and he just called me one morning and started giving
23 me information about that incident.

24 **Q** Okay. So he had something in which he believed
25 he might be able to receive some help with?

1 A There's no help for that because he still got
2 arrested for it.

3 Q I understand, but he had a problem, didn't he?
4 He had a problem. He had a legal problem?

5 A Yes, sir, he did. Yes, sir.

6 Q All right. With that legal problem, he sought
7 you out, did he not?

8 A Yes, sir.

9 Q Okay. And to your knowledge, when he sought
10 you out, he gave you the names of three individuals;
11 is that right?

12 A Yes, sir.

13 Q Okay. Mr. Joseph Patrick Stevens now, he gave
14 you the name of three individuals one being Alvin
15 P. ; is that right?

16 A Yes, sir.

17 Q One being Bryan Phillips; is that right?

18 A Yes, sir.

19 Q And one also being K.C. Langford?

20 A Yes, sir.

21 Q Okay. But that information was not gleaned
22 prior thereto by any law enforcement agency in this
23 county?

24 A No, sir. To my knowledge, no.

25 Q And was Mr. Stevens in the jail?

1 A No, sir.

2 Q He was not in the jail?

3 A No, sir, he was out.

4 Q But he knew about the bench warrant that he
5 had?

6 A Yes, sir.

7 Q Okay. Has any of his associates ever worked as
8 an informant for you? Are you aware of who he
9 associates with?

10 A No, sir, I'm not.

11 Q Are you certain about that, Mr. Young?

12 A I don't know who he associate (sic) with on a
13 daily basis.

14 Q All right. No one that he's closely associated
15 with has ever worked as an informant for you?

16 A I don't know who he's associated with,
17 Mr. Williams, so I can't answer that.

18 Q All right. Suffice it to say, you had three
19 names, did you not?

20 A Yes, sir.

21 Q Okay. And they were given to you by Joseph
22 Patrick Stevens?

23 A Yes, sir.

24 Q And he has some association with one of my
25 clients -- with Mr. Langford or my client, does he

1 not?

2 A Yes, sir. I think they're in the family some
3 kind of way.

4 Q Okay. Isn't it true that Mr. Alvin P. s'
5 sister, Veronica Phillips, is Mr. Stevens -- or had
6 been somehow associated with Mr. Stevens?

7 A Mr. Williams, I don't know who this man is
8 associated with, you know, with females.

9 Q Do you know Jackie Phillips?

10 A Yes, sir.

11 Q Was he not once upon a time married to her?

12 A He may have been, I don't know.

13 Q Did you arrest Mr. Stevens?

14 A When? When he called me?

15 Q After he gave you this information.

16 A No, sir.

17 Q Okay. But he had a bench warrant, didn't he?

18 A That's correct, yes, sir.

19 Q Okay. You are a commissioned law enforcement
20 officer in this county?

21 A Yes, sir.

22 Q Okay.

23 A He was arrested later on, but I didn't arrest
24 him that day that he called me.

25 Q Did you know about the warrant?

1 **A** No, sir. I don't -- that's a civil process.
2 I'm not in that.

3 **Q** All right. Could you not have called very
4 easily and found out if he had anything pending?

5 **A** Well, I didn't have a reason to inquire about
6 that prior to him calling me.

7 **Q** So out of the goodness of Joseph Patrick
8 Stevens' heart, he just called you and gave you some
9 information?

10 **A** Yes, sir. I was sitting in my office and my
11 phone rung. I didn't expect anything from him.

12 **Q** All right. Let me ask this question and I'm
13 going to leave you alone. When you're out doing
14 your job, the most effective way that you can do
15 your job is by enlisting the assistance of people
16 who are on the streets; isn't that true?

17 **A** Yes, sir.

18 **Q** Now, let me describe what I'm trying to say
19 just so that I'm very clear. You can most
20 effectively do your job by finding someone who may
21 have or who in fact has a pending charge; isn't that
22 right?

23 **A** Or they can find me.

24 **Q** Or they can find you.

25 **A** Yes, sir.

1 Q Okay. And, essentially, what transpires is is
2 they seek to help you and you say to them, I'll let
3 the Solicitor know that you cooperated. Isn't that
4 frequently the way you gain the assistance of
5 defendants or people who are on the streets who may
6 be involved in illicit drug activity?

7 A Yes, sir, but we don't promise them anything.
8 It's all up to the Solicitor's office.

9 Q I didn't suggest that you promised them
10 anything, did I?

11 A No, sir, you didn't. I just wanted to make
12 sure that we was clear.

13 Q No, sir. I didn't suggest that, did I?

14 A No, sir, you didn't.

15 Q Okay. Thank you. But you will tell them that
16 you'll let the Solicitor know they cooperated?

17 A Yes, sir.

18 Q Okay. All right.

19 MR. WILLIAMS: Court's indulgence, Your Honor.

20 THE COURT: Yes, sir.

21 (Pause.)

22 MR. WILLIAMS: Answer any questions the
23 Solicitor or Mr. Calhoun may have.

24 THE COURT: Cross.

25 ****

CROSS-EXAMINATION

1

2

BY MR. MAYE:

3

Q Investigator Young, when Joseph Patrick Stevens called you, he wasn't working as an informant for you at all, was he?

4

5

6

A No, sir.

7

Q He wasn't working off any charges at all, was he?

8

9

A No, sir.

10

Q And you didn't have any influence over whether or not he got arrested on a family court bench warrant or not, do you?

11

12

13

A No, sir.

14

Q You don't have any power or control or influence over what a family court judge does, do you?

15

16

17

A No, sir.

18

Q And your involvement in working informants doesn't have anything to do with what comes and flows from the family court, does it?

19

20

21

A No, sir.

22

Q A family court judge issues a bench warrant for somebody for whatever reason, I mean, they get picked up, right?

23

24

25

A Yes, sir.

1 Q And he did get picked up, didn't he?

2 A Yes, sir.

3 Q But he called you and he's got some association
4 with the family over there and gave you information
5 that K.C. Langford, Bryan Phillips and Alvin

6 P. were the ones that had done this robbery on
7 the Chinese people, didn't he?

8 A Yes, sir, he did.

9 Q Okay. And based on that, you conveyed that to
10 Investigator Robinson who was investigating this
11 case, right?

12 A Yes, sir.

13 Q And y'all went down to the Johnston Town Police
14 Department, didn't you?

15 A Yes, sir.

16 Q You brought in Veronica Phillips because that
17 was one of the names that he mentioned to you,
18 didn't he?

19 A Yes, sir.

20 Q Okay. So you brought her in. You talked to
21 her, right?

22 A Yes, sir.

23 Q And based on your conversations with her, y'all
24 called and wanted Alvin to come in, right?

25 A Yes, sir.

1 Q And he came in voluntarily, didn't he?

2 A Yes, sir.

3 Q You were there, Lamaz was there and --

4 A SLED Agent Perry was there.

5 MR. CALHOUN: I object. I'm not sure who's
6 testifying.

7 THE COURT: He's on cross now.

8 MR. MAYE: I'm asking leading questions.

9 MR. CALHOUN: Are you asking him questions?

10 BY MR. MAYE:

11 Q Is that right?

12 A Yes, sir, that's right.

13 THE COURT: He can ask leading questions, but
14 it does have to be a question.

15 BY MR. MAYE:

16 Q So now if I'm correct, you were there and the
17 SLED agent, Mike Perry, was there and Lamaz Robinson
18 was there, right?

19 A Yes, sir.

20 Q Okay. Y'all had already talked to Veronica
21 Phillips at that point in time, correct?

22 A Yes, sir.

23 Q When Alvin came in, y'all didn't bring him in
24 in handcuffs, did you?

25 A No, sir.

1 Q He came in on his own accord, didn't he?

2 A Yeah. We had to wait for him to get off the
3 bus.

4 Q Okay. But he came on down there at that point
5 in time, didn't he?

6 A Yes, sir.

7 Q Did you threaten him, did you coerce him, did
8 you try to intimidate him prior to talking to him?

9 A No, sir.

10 Q In fact, it's true in this case that he didn't
11 want to talk to Agent Perry and he didn't want to
12 talk to Lamaz. He was comfortable talking to you
13 and wanted to talk to you alone, didn't he?

14 A Yes, sir.

15 Q Because he was comfortable with you. He had --
16 he at least knew you and trusted you; isn't that
17 right?

18 A Yes, sir.

19 Q So he wanted to talk just to you, didn't he?

20 A Yes, sir.

21 Q When you talked to him, he confessed and
22 implicated himself completely in this robbery,
23 didn't he?

24 A Yes, sir, he did.

25 Q And he also implicated his cousin Bryan

1 Phillips, didn't he?

2 A Yes, sir.

3 Q And he also implicated K.C. Langford, didn't
4 he?

5 A Yes, sir.

6 Q And he went through in great detail and told
7 you all of the details about how they conducted and
8 carried out this robbery of the Chinese people;
9 isn't that right?

10 A Yes, sir.

11 Q Coincidentally, information that was spot on
12 with what you got from the confidential informant,
13 they matched up exactly, didn't they?

14 A Yes, sir.

15 Q So here you have Joseph Patrick Stevens that is
16 somehow affiliated with Veronica and his family
17 members because they're related. Bryan and Alvin
18 are related; isn't that correct?

19 A Yes, sir.

20 Q And, in fact, K.C. Langford's got a baby by
21 Veronica; isn't that right?

22 A To my knowledge, yes, sir.

23 Q Okay. And Joseph Patrick Stevens gives you the
24 information that solves this case; isn't that
25 correct?

1 A Yes, sir.

2 Q At any point in time when you were talking to
3 Alvin alone, did you try to get him to say anything
4 that was false?

5 A No, sir.

6 Q Did you try to intimidate him into saying
7 anything against any party that wasn't true?

8 A No, sir.

9 Q Did he sit down and tell you what had happened
10 himself or did you try to lead him into it?

11 A He told me step by step himself.

12 Q To ensure that he knew what his rights were and
13 that he knew the gravity of what was going on there,
14 you went through a written waiver of rights with him
15 prior to getting any of this information and him
16 confessing to you, didn't you?

17 A Yes, sir.

18 Q And you went through and you had him initial
19 everything. Did he understand all of his rights?

20 A Yes, sir, he did.

21 Q Did you tell him he had the right to remain
22 silent, that he didn't have to talk to you?

23 A Yes, sir.

24 Q Did you tell him that anything that he told you
25 could and was going to be used against him?

1 **A** Yes, sir.

2 **Q** Did you go through all of his Miranda warnings
3 there?

4 **A** Yes, sir.

5 **Q** Did you tell him he could stop answering
6 questions at any point in time if he wanted to?

7 **A** Yes, sir.

8 **Q** All of those rights?

9 **A** Yes, sir.

10 **Q** And after you did all of that, he confessed and
11 implicated himself, didn't he?

12 **A** Yes, sir.

13 **Q** And told you, in fact, he was the gunman,
14 didn't he?

15 **A** Yes, sir.

16 **Q** Told you that he had the gun, that he went,
17 everything that he did, didn't he?

18 **A** Yes, sir.

19 **Q** He didn't try to minimize his involvement or
20 participation in the crime any at all, did he?

21 **A** No, sir.

22 **Q** He did not try to put the gun in one of these
23 other fellows' hands at all, did he? He put it in
24 his own hands, didn't he?

25 **A** Yes, sir.

1 Q And the two people that he implicated was one,
2 Bryan, a cousin of his, and K.C. who was associated
3 with Veronica, his sister, had a baby by her; isn't
4 that correct?

5 A Yes, sir.

6 Q Did you have Alvin P. moved from the
7 Edgefield County Detention Center to the Saluda
8 County Detention Center --

9 A Yes, sir.

10 Q -- at some point in time during the pendency of
11 this case?

12 A Yes, sir.

13 Q Did you have concerns that he was being
14 intimidated and influenced into not testifying
15 against his co-defendants?

16 A Yes, sir. He was the only one cooperating at
17 the time and he was the youngest and the
18 vulnerablest (sic) one, so I decided to move him.

19 Q You decided to move him based on tips from an
20 informant and you, in fact, did that. You had him
21 moved over to the Saluda County Detention Center to
22 get him out of the Edgefield Detention Center,
23 didn't you?

24 A Yes, sir.

25 Q And, in fact, just before the trial in Saluda,

1 he didn't want to testify and we had to continue
2 this case; isn't that right?

3 A Yes, sir.

4 Q Investigator Young, did you do anything on
5 Joseph Patrick Stevens other than listen to what he
6 had to say to you, and he was eventually arrested
7 anyway on the bench warrant, correct?

8 A Yes, sir.

9 Q Okay. And he's never worked as an informant
10 for you and there was nothing that you could do to
11 reward or punish him at the time, was there?

12 A No, sir.

13 Q And, Investigator Young, it doesn't make much
14 difference anyway because the information that he
15 gave you was correct, wasn't it?

16 A Yes, sir.

17 MR. MAYE: That's all I have. Thank you.

18 THE COURT: Mr. Calhoun, do you have any
19 questions of this witness?

20 MR. CALHOUN: Yes, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. CALHOUN:

23 Q Mr. Young, you're not denying that Mr. Stevens
24 has had some trouble with the law before, are you?

25 A No, I'm not.

1 Q You're not. That's why he knows you, right?

2 That's how Mr. Stevens knows you?

3 A No, sir, I wouldn't say that.

4 Q Really?

5 A I mean, I know his family and I'd been knowing
6 him a while.

7 Q Well, the police serve bench warrants for
8 family court, right?

9 A Yes, sir.

10 Q And he called you about the bench warrant
11 because you're a police officer, right?

12 A He called to give me some information, yes,
13 sir.

14 Q Okay. And you're also aware that Mr. Phillips,
15 Alvin, has waffled many, many times over the last
16 two years about whether or not Mr. Langford and
17 Bryan have been involved in this; isn't that true?

18 A Yes, sir.

19 Q I mean, that's not a big secret?

20 A No, sir, no.

21 Q Okay. And you've already told the jury that
22 Alvin made it very clear to you that during the
23 robbery, he was the gunman, right?

24 A Yes, sir.

25 Q In fact, it was his gun?

1 **A** Yes, sir.

2 **Q** Okay. And you've been in law enforcement long
3 enough I know to know that these gentlemen were
4 segregated at the county jail?

5 **A** To a certain extent, yes, sir. It's not that
6 big down there.

7 **Q** They were kept apart?

8 **A** Yes, sir.

9 **MR. CALHOUN:** All right. Thank you. That's
10 all I have.

11 **THE COURT:** All right. Redirect.

12 **MR. MAYE:** Nothing else, Your Honor. Thank
13 you.

14 **MR. WILLIAMS:** Thank you, Your Honor.

15 REDIRECT EXAMINATION

16 **BY MR. WILLIAMS:**

17 **Q** I just want to be very clear on one issue.
18 When you were waiting on Alvin P. to get off
19 the bus, you had in mind that he was involved in
20 this incident, you had in mind that K.C. Langford
21 was involved in this incident and you also had in
22 mind that my client was involved in this incident;
23 did you not?

24 **A** Yes, sir.

25 **Q** Okay. Now, I just want to know something

1 that's very, I guess, very basic and it was, I
2 guess, touched upon by the Solicitor when he was
3 cross-examining you. You said Mr. Alvin P.
4 gave you his statement because he felt comfortable
5 with you; is that right?

6 A Yes, sir.

7 Q Did you feel comfortable with him?

8 A Yes, sir. I have a son the same age.

9 Q Okay. Do you believe or did you believe that
10 this investigation could lead to a point in time in
11 which this might come before a jury?

12 A Yes, sir, any case can come before a jury.

13 Q All right, sir. Does the Sheriff issue to you
14 any kind of audio recording device?

15 A Yes, sir.

16 Q Okay. Was Mr. Phillips' statement that was
17 freely given recorded?

18 A No, sir, it wasn't.

19 Q Was Mr. Phillips' statement in which he waived
20 his rights, was it video taped?

21 A No, sir.

22 Q Now, you have some video tape equipment?

23 A I don't think the police department where we
24 was located has the capability of a video system in
25 that room.

1 Q All right. But don't you have some video
2 equipment that's mobile?

3 A Personally the narcotics unit does, yes, sir.

4 Q Okay. Let me ask this question. You said you
5 had him moved to Saluda?

6 A Yes, sir.

7 Q That was on May 28th of 2009, was it not?

8 A I don't know the exact date.

9 Q Would it surprise you to know that it would
10 have been about May 28th of 2009?

11 A If that's what's on the paperwork,
12 Mr. Williams, that's what it is.

13 Q Was he not in the custody of the Saluda
14 Detention Center when he was here in May of 2010?

15 A I don't know, Mr. Williams.

16 Q You don't recall whether or not he was in the
17 custody of the Saluda Police Department in May of
18 this year when we were here previously for this
19 trial?

20 A Well, if he was -- yes, sir, he should have
21 been, yes, sir.

22 Q All right. But yet even then he was waffling
23 about whether or not he wished to offer testimony
24 against our clients, wasn't he?

25 A I think back and forth a time or two, yes, sir.

1 **MR. WILLIAMS:** Thank you, Investigator Young.

2 **THE COURT:** All right. Mr. Maye, do you have
3 anything else of this witness?

4 **MR. MAYE:** No. Thank you.

5 **THE COURT:** Mr. Calhoun, do you?

6 **MR. CALHOUN:** No, Your Honor.

7 **THE COURT:** Thank you, sir. You can step down.
8 Do you have any further evidence?

9 **MR. WILLIAMS:** No, sir, Your Honor. The
10 defense rests.

11 **THE COURT:** Thank you.

12 Is there any reply testimony?

13 **MR. MAYE:** Yes, sir, Your Honor. I do have a
14 reply witness and I'm going to need a moment to get
15 that witness.

16 **THE COURT:** Ladies and gentlemen, the next
17 stage of the trial is that now that the defense has
18 rested, the State gets an opportunity to put up
19 reply testimony. Reply testimony does not permit
20 the State to go back through everything. They can
21 only address things that were brought up in this
22 last part of the proceeding that you heard.

23 I have to ask you to step in the jury room. As
24 soon as they tell me they're ready, I'll send for
25 you. Don't discuss the case.

1 (The jury retires to the jury room.)

2 **THE COURT:** How long are you going to need, Mr.
3 Maye?

4 **MR. MAYE:** Just a few moments, Your Honor. I
5 have a witness that's an inmate. His name is Gustav
6 Sawvell and I'm going to give them a copy of his
7 record.

8 **THE COURT:** We're at ease.

9 (Brief Recess.)

10 **MR. CALHOUN:** Your Honor, I have a motion to
11 make before we bring the jury back in.

12 **THE COURT:** Yes, sir.

13 **MR. CALHOUN:** Your Honor, my understanding is
14 this witness is going to be called to testify as to
15 the written statement that Alvin P. gave when
16 he was in jail saying that my client and the other
17 Mr. Phillips was involved in the robbery. This was
18 the issue that was addressed actually when Alvin
19 P. testified. He stated that our clients
20 coerced him or forced him to sign the statement. He
21 didn't write it, but he did say that he put his name
22 on it. And this witness is being called to say that
23 basically that's not true.

24 That's an issue that the prosecution could have
25 and should have brought up or this witness' --

1 witness they should have called in their case in
2 chief and they chose not to and they closed their
3 case. Now the prosecution has called him as a reply
4 witness to Roosevelt Young where that issue was
5 never discussed. That's my first objection.

6 My second objection is to call this witness for
7 any reason is a violation of my Brady and Rule 5
8 motion. The first three items of my Brady motion
9 are asking for the names, addresses and telephone
10 numbers of any witnesses that are going to be called
11 to testify, the arrest record, the rap sheet of any
12 witnesses that are going to be called, which I was
13 just handed a few minutes ago, and any statements,
14 confessions or notes taken as a result of
15 discussions with these witnesses.

16 And this is all obviously being thrown on
17 myself and my client right now. So I would object
18 to this gentleman being called as a reply witness
19 because he's not replying to any information that
20 was discussed when Mr. Williams called his witness,
21 Roosevelt Young.

22 **THE COURT:** Do you have any input on this?

23 **MR. WILLIAMS:** Yes, Your Honor. I actually
24 join Mr. Calhoun on behalf of my client Phillips. I
25 don't think I even discussed anything other than

1 Joseph Patrick Stevens with regard to Investigator
2 Young.

3 I do know that when he was questioned by
4 Attorney Calhoun, there was some issue about
5 waffling, but that was it, nothing with regard --
6 nothing that should not and could not have been
7 addressed in the State's case in chief.

8 And I think it's -- and, furthermore, in
9 response to my Brady motion and Rule 5 request which
10 was filed and served upon the Solicitor some time
11 ago, this information was not even made known to me
12 and counsel until yesterday that that was a
13 prospect. And I certainly think that's unfair and
14 unduly surprising and we don't have an opportunity
15 to properly evaluate anything that the State might
16 present from this witness.

17 **THE COURT:** What was not made known until
18 yesterday?

19 **MR. WILLIAMS:** That this was even a prospective
20 witness in this -- or what his testimony may even
21 contain or relate to regarding him being on the
22 State's witness list when the case was called for
23 trial. I didn't even know who he was.

24 **MR. CALHOUN:** His name was first part on the
25 witness list on Tuesday. And I think on Tuesday,

1 Mr. Maye told us that that was going to be the
2 substance of his testimony.

3 MR. WILLIAMS: That was yesterday when he
4 actually told us what that was about.

5 MR. CALHOUN: Okay. Yesterday.

6 THE COURT: All right. Solicitor.

7 MR. MAYE: Yes, sir, Your Honor. The defense
8 put up two exhibits, Defense 1 and Defense 2. It is
9 my understanding, Your Honor, that I can put up
10 reply evidence to any evidence that the defense puts
11 up in this case, Your Honor. This witness is a
12 direct reply witness.

13 I've never talked to this witness nor have law
14 enforcement ever spoke to him prior to today. I was
15 informed he pleaded guilty at the last term of
16 court. I was informed by his attorney at that point
17 in time that he had been incarcerated with them and
18 he had information that could potentially be useful
19 to us regarding Alvin P. , K.C. Langford and
20 what went on between them in the jail, but he gave
21 no details of that. I didn't have any information.
22 I've never spoken with him, never talked to him
23 before until today.

24 Reply evidence in this case that was directly
25 made, I asked Investigator Young, who was their

1 witness and not mine, on cross-examination did he
2 have Alvin P. moved because he had information
3 from an informant that these individuals were
4 pressuring him to testify in this case. I asked
5 Investigator Young about that on cross-examination
6 and he was their witness and all, Your Honor.

7 They also brought up the fact that Investigator
8 Young in this case, Mr. Phillips' lawyer,
9 Mr. Williams, asked him directly, wasn't it true
10 that he was over there in Saluda during the last
11 term of court?

12 This witness not only has information about
13 them trying to intimidate him and not getting him to
14 testify, information involving these two State's --
15 I mean, these two defense exhibits about these
16 falsified, what we maintain are falsified
17 statements, but he has direct information on --
18 that's reply information that is involved with how
19 they were able to try to get word to him over in
20 Saluda that he needed to be quiet and not testify
21 before the last term of court.

22 I talked to him for the first time in between
23 lunch and right now. We maintain that that's reply
24 evidence in this case, Your Honor. We didn't have
25 anything to give them so far as Rule 5 or Brady

1 because we've never spoken with him.

2 I didn't know until this term of court -- I
3 thought at the last term of court that they were not
4 going to attempt to use these statements that we
5 maintain are false. I didn't realize until this
6 term of court that they intended to offer these
7 statements, Your Honor.

8 And his testimony is reply. He has information
9 that they were intimidating this kid and trying to
10 get him to lie involving these statements or
11 involving generating these statements that are
12 defense exhibits, which we would have -- the State
13 would respectfully suggest we've got a right to put
14 reply evidence up even if they've not called any
15 witnesses because they did put in evidence and this
16 is in reply to Defense 1 and 2.

17 And, additionally, we did discuss it.
18 Roosevelt Young discussed it with me. He was also
19 -- I don't know if it would be sur -- not sur-reply
20 evidence, but direct, redirect, I can't remember
21 what it would have been with three lawyers, but
22 Randy directly asked him, insinuating, well he
23 wouldn't have had access to try to intimidate him
24 because he was moved to Saluda.

25 He's got direct information on how they were

1 trying to get word to him to keep his mouth shut not
2 to testify and to lie in this case. And like I
3 said, it's not information that I had prior to today
4 nor did I realize it was going to be relevant in
5 this case because in all candor, Your Honor, I
6 thought they weren't going to use these two
7 statements.

8 These were not generated by the attorneys and
9 I'm in no way disparaging them at all. I don't
10 think that they would be involved in this in any
11 regard. These two defendants provided these to
12 their lawyers and they didn't send the investigator
13 to go talk with Alvin P. . These were obtained
14 by their clients and not the lawyers and I didn't
15 think they were going to use these. We maintain
16 they're false and I was surprised in fact, Your
17 Honor, that they even proffered them. I didn't
18 think they were going to. And this witness has
19 direct information on that.

20 Be happy to proffer his testimony here, let
21 them cross-examine him, think about it, do whatever
22 they want to do prior to that time, but like I said,
23 I had no idea that it was going to be an issue
24 because I thought they weren't going to use these
25 statements.

1 **MR. CALHOUN:** If I may, Your Honor, regardless,
2 they were still admitted in the prosecution's case
3 in chief and they closed their case. And if
4 Mr. Young (sic) did ask a question to Roosevelt
5 Young, it was his question. It was his question.
6 We did not raise any issues related to these
7 statements with Roosevelt Young.

8 **THE COURT:** I thought you asked a lot of
9 questions about that waffling and changing his
10 statements. I thought there were questions --

11 **MR. WILLIAMS:** Your Honor -- I'm sorry.

12 **THE COURT:** I thought there were questions that
13 were asked about Alvin P. changing his
14 statement and waffling and going back and forth on
15 his statements several times and also questions
16 about the trial previously had been scheduled and
17 then having to be postponed. I mean, I don't know
18 what the man's going to say, I'll have to hear it.

19 Now, as far as his argument about replying to
20 exhibits that were admitted, I don't accept that.
21 The exhibits were admitted during the State's case
22 in chief. If the defense had said they were not
23 going to put up anything, then they wouldn't get to
24 come up and say, okay, now we want to offer reply to
25 those two documents that were entered in the State's

1 case, but they were defense witnesses. So I don't
2 accept that argument.

3 But the argument that it's not responsive to
4 anything that was brought out in the defense's case,
5 now I realize we have two separate and distinct
6 defendants, I understand that, but I'm having a hard
7 time understanding how this would not go to the
8 issue of the waffling that's alleged to have
9 occurred and the changes of statements that are said
10 to have been made that were asked about as far as I
11 can recall by defense counsel.

12 **MR. WILLIAMS:** Your Honor, I believe the record
13 will speak for itself. I do not believe I opened
14 the door to that line of questioning, but I will say
15 that I believe the Solicitor is attempting to reply
16 to information that he, in fact, cross-examined
17 Mr. Young about. He's essentially trying to reply
18 to his own cross-examination and I believe the
19 record will speak --

20 **THE COURT:** How so? Because you lost me. I
21 don't recall -- how would the Solicitor benefit from
22 getting up and saying, My key witness --

23 **MR. WILLIAMS:** The Solicitor -- if I recall the
24 testimony, and, of course, the record will speak for
25 itself, the Solicitor, in fact, asked him about

1 moving the gentleman to Saluda County in his
2 cross-examination. I never raised that when I had
3 Mr. Young on direct -- on direct examination.

4 **MR. MAYE:** Your Honor, I am certain that
5 Investigator Young was directly asked about his
6 waffling. In fact, he was asked more than one time
7 about this witness waffling in this case.

8 **MR. CALHOUN:** He was, Your Honor. He was asked
9 by me. I remember asking the question, but this is
10 not a new issue. This was raised in great detail by
11 myself yesterday with Alvin P. . It was a huge
12 subject of cross-examination and it's not a new
13 issue. And Roosevelt Young wasn't asked to shed any
14 new light on that issue. He was just asked to
15 acknowledge that it had existed. His answer was a
16 yes and that's all he said.

17 **THE COURT:** All right. Make your proffer so I
18 can know what this is all about.

19 **MR. MAYE:** Okay.

20 **THE COURT:** Swear him in please, Madame Clerk.

21 GUSTAV PAUL SAWVELL,

22 having been duly sworn, testified as follows:

23 **THE CLERK:** State your full name and spell your
24 last.

25 **THE WITNESS:** Gustav Paul Sawvell. Last name

1 is S-a-w-v-e-l-l.

2 DIRECT EXAMINATION

3 BY MR. MAYE:

4 Q Mr. Sawvell, did you have an occasion during
5 both 2009 and up till this year in May to be
6 incarcerated in the Edgefield County Detention
7 Center with Alvin P. , Bryan Phillips and K.C.
8 Langford?

9 A Yes, sir.

10 Q Okay. During the time that you were
11 incarcerated, what did you hear from the, I guess,
12 the co-defendants of Alvin P. in this case?
13 What did you hear and which co-defendant did you
14 hear, what did you hear them say in regard to Alvin
15 P. testifying as to whether or not they wanted
16 him to testify and what they wanted him to do while
17 you were in the detention center?

18 A That they were going to write some letters to
19 somebody about them not doing the crime that they
20 were going to do, telling Alvin basically to lie.

21 Q They were telling him to lie?

22 A Yes, sir.

23 Q Okay. How often did this behavior occur that
24 they were trying to influence him -- or which one
25 was trying to influence him to lie and not to

1 testify?

2 A Mr. Langford.

3 Q Okay. What access did you have with
4 Mr. Langford?

5 A He'd come down to my room almost every night.

6 Q How often did this behavior about him trying to
7 get Alvin P. not to testify and to lie, how
8 often did that occur?

9 A About the whole time he was there.

10 Q Did it occur during a given week? Did it occur
11 multiple times during a given week?

12 A Multiple times, yes, sir.

13 Q Let me show you what's been marked Defense
14 Exhibit 1 and 2. Let you look at those.

15 A (Witness reviewing documents.)

16 Q During the time that you were a cellmate with
17 K.C. Langford, did you observe him preparing
18 documents in the name of Alvin P. dealing with
19 that same subject matter?

20 A Yes, sir.

21 Q Describe to the Court in detail what you saw
22 and observed and what he was doing and how you got
23 access to see that.

24 A They had some paperwork that they had filled
25 out just statements letting Alvin know what to say

1 when it was time to go to court, kind of like
2 coaching him, putting him on -- but the letters
3 weren't these here.

4 Q Did you see him working on other letters of the
5 same subject matter?

6 A Yes, sir.

7 Q Statements that purported to be from Alvin
8 P. that he was preparing?

9 A Yes, sir.

10 Q Okay. Was he trying to convince Alvin P.
11 not to testify in this case?

12 A Yes, sir.

13 Q Okay. Was Alvin P. moved to Saluda
14 County as a result of that?

15 A Yes, sir.

16 Q Okay. About when was he moved to Saluda
17 County; do you remember?

18 A About July.

19 Q In about July --

20 A Of '09.

21 Q You think it was about that time?

22 A Roughly.

23 Q Okay. Let me ask you this. What efforts did
24 he continue to do in order to influence him over in
25 Saluda County? What was he doing and what did he

1 share with you in regard to his attempts to continue
2 to influence him once he was moved over to Saluda?

3 A Phone calls through other people on the
4 outside, mainly his -- Alvin's sister.

5 Q What was he telling you that he was attempting
6 to do and what advice did he seek from you?

7 A He was -- kept telling his sister to let Alvin
8 know to not show up, tell them that he wasn't going
9 to be a witness to the case.

10 Q Okay. Right at the last term of court in May
11 in between the first week and the second week when
12 this trial was imminent, what steps was he taking
13 specifically to try to reach Alvin and get this
14 information to him and what, if any, statements or
15 documents did you see him preparing in preparation
16 for that?

17 A I didn't see any paperwork at that time. I
18 only heard the phone calls that he was making,
19 calling --

20 Q What was he saying?

21 A I didn't hear the whole conversation, just bits
22 and pieces telling his sister that, let Alvin know
23 that -- to say, hey, write up a piece of paper let
24 your lawyer know that you don't want to be a
25 witness, that you don't want to show up. If you

1 don't show up, we get to go scot-free.

2 Q He was telling him that if he didn't testify or
3 he didn't show up, he got to go scot-free?

4 A Yeah.

5 Q Okay. What advice did he seek from you or what
6 advice did you give him in regard to how he should
7 contact him with him in Saluda, it being at the 11th
8 hour right before trial?

9 A I really didn't give him much what to do.

10 Q You were not able to give him any advice as to
11 that?

12 A Yeah.

13 Q Was he attempting to do it in a written
14 fashion? Did you suggest to him that he do it in an
15 oral fashion or make a phone call rather than try to
16 do it in writing?

17 A He was going to write a letter to him and --

18 Q Who was he going to give that letter to?

19 A That I'm not sure of. I know he was going to
20 make a phone call, though, because I gave him a card
21 to make a call.

22 Q You gave him a card so he could make a call for
23 that purpose?

24 A Yeah. And he called up his -- Alvin's sister.

25 Q So you personally heard K.C. Langford attempt

1 on a repeated basis to get Alvin P. not to
2 testify and to lie?

3 A Yes, sir.

4 Q When -- let me ask you this. At the time that
5 you pleaded guilty in May, did you relate any of
6 this information or try to get any of this
7 information to law enforcement prior to pleading
8 guilty?

9 A No, sir.

10 Q After you pleaded guilty, how did you get the
11 information that you had? Had you already been
12 sentenced and pled guilty at that time?

13 A I've already been sentenced and pled guilty.

14 Q How did you get word to the State that you had
15 any information or that you had anything involved in
16 this, who did you contact?

17 A I talked it over with my lawyer on my way out.
18 I said something to my lawyer.

19 Q On your way out of here?

20 A On my way out.

21 Q But you had already been sentenced?

22 A Already sentenced.

23 Q Who was your attorney?

24 A Andy Anderson.

25 Q Okay. When is the first time that you and I

1 and Investigator Robinson ever spoke about this
2 matter?

3 A Today.

4 Q Have you ever related that to law enforcement
5 here on this case prior to today?

6 A No, sir.

7 MR. MAYE: Your Honor, that's basically the sum
8 and substance. We have more involving his prior
9 record, but as to the sum and substance of things
10 that we would deem that would be directly related to
11 him going over to Saluda, him waffling or
12 vacillating, we think that this directly impacts
13 that and would be reply testimony as to why he was
14 waffling and specifically attempts to continue to
15 contact him once he was moved over to Saluda.

16 THE COURT: Questions of the witness?

17 MR. CALHOUN: Your Honor, as I understand this
18 proffer, it's being done to determine whether or not
19 this witness' testimony is related to us asking
20 Roosevelt Young about the waffling of Alvin

21 P.

22 THE COURT: It's to make a proffer of whatever
23 you all want to make related to the issue that you
24 have raised.

25 MR. CALHOUN: Okay.

1 CROSS-EXAMINATION

2 BY MR. CALHOUN:

3 Q Mr. Sandhill?

4 A Sawvell.

5 Q Sawvell. You were in jail at the time for
6 criminal sexual conduct on a minor charge?

7 A Yes, sir.

8 Q How old was the victim in that case?

9 A Fifteen.

10 Q Fifteen. Was it a boy or girl?

11 A Female.

12 Q Female. All right. And you've got a history
13 of such criminal behavior, is that correct, in the
14 State of Florida?

15 A No, sir.

16 Q No.

17 A Assault and battery.

18 Q Okay. So you disagree with the information on
19 the NCIC report that the prosecutor has given to me?

20 A I don't know what you got.

21 Q You haven't looked at this rap sheet?

22 A No.

23 Q So your testimony as you just explained it
24 relates to how Mr. Langford and Bryan Phillips came
25 to be in possession of the statements you have in

1 front of you that were signed by Alvin P.

2 correct?

3 A Yes, sir.

4 Q And other than that information, do you have
5 anything else to offer this Court?

6 A Just the information I've given you, sir.

7 THE COURT: What did he say?

8 THE WITNESS: Just the information I'd given
9 you.

10 MR. CALHOUN: That's all I have, Judge.

11 THE COURT: Mr. Williams, do you wish to ask
12 this witness any questions?

13 MR. WILLIAMS: Your Honor, you know, I know the
14 Court hasn't ruled, but again I would ask the Court
15 to consider the record and the review of it because
16 I truly don't believe I raised anything that dealt
17 with those statements in my calling of Investigator
18 Young. I will ask him a few questions.

19 THE COURT: Yes, sir.

20 CROSS-EXAMINATION

21 BY MR. WILLIAMS:

22 Q Do you recall when it was you came to Edgefield
23 County Jail?

24 A May 9th, '09.

25 Q May 9th of 2009?

- 1 A Yes, sir.
- 2 Q Okay. And you remained incarcerated up through
- 3 what point in time?
- 4 A In Edgefield?
- 5 Q Yes, sir.
- 6 A About May 21st of '010.
- 7 Q Were you even in the Edgefield County Jail on
- 8 March 31st of 2009?
- 9 A No, sir.
- 10 Q Were you at all in the Edgefield County Jail on
- 11 January 29th of 2009?
- 12 A No, sir.
- 13 Q Where were you?
- 14 A On the outside.
- 15 Q On the outside. Where on the outside?
- 16 A At home, Johnston.
- 17 Q Charleston?
- 18 A Johnston.
- 19 Q Johnston. How did you wind up here in South
- 20 Carolina?
- 21 A A house.
- 22 Q A house. Whose house?
- 23 A Me and my wife's.
- 24 Q You and your wife's house?
- 25 A Uh-huh.

- 1 Q What's your wife's name?
- 2 A Jennifer Sawvell.
- 3 Q Does she still live in Johnston?
- 4 A Yes, sir.
- 5 Q Where in Johnston?
- 6 A Calhoun Street.
- 7 Q Calhoun Street. The victim, I'm not asking you
8 to identify her, but was she a neighbor of yours?
- 9 A No, sir.
- 10 Q Was she a relative?
- 11 A No, sir.
- 12 Q How long were you in jail for?
- 13 A I got sentenced to 15, sir.
- 14 Q Fifteen years?
- 15 A Yes, sir.
- 16 Q For lewd act on a minor?
- 17 A Yes, sir.
- 18 Q That's not classified as a violent crime, is
19 it?
- 20 A That's correct.
- 21 Q It is not?
- 22 A It is not a violent crime, that's right.
- 23 Q When do you expect to be paroled?
- 24 A If my memory is right, somewheres (sic) in
25 2012.

1 Q Do you expect that your presentation here today
2 might be something that you'd consider for your
3 parole eligibility?

4 A It could help who knows. Nothing's been
5 promised to me.

6 Q Did anybody teach you that phrase, Nothing's
7 been promised to me?

8 A Yeah.

9 Q Who taught you that?

10 A My grandma.

11 Q Well, that's probably good. You didn't listen
12 to your grandmama when you did this lewd act,
13 though, did you?

14 A No.

15 Q She didn't teach you that, did she?

16 A No.

17 Q You came to the jail May 9th; is that right?

18 A Yes, sir.

19 Q 2009?

20 A Yes, sir.

21 MR. WILLIAMS: Thank you.

22 THE COURT: Anything else to proffer?

23 MR. MAYE: Nothing else to proffer at this
24 time, Your Honor.

25 THE COURT: Any proffer?

1 **MR. CALHOUN:** Not for this witness, Judge.

2 **THE COURT:** Is he in your custody?

3 **OFFICER:** Yes, sir.

4 **THE COURT:** If that room is open right there,
5 open that door for me please and see if that room is
6 vacant, take him in there for me, okay.

7 (Witness leaves the courtroom.)

8 **THE COURT:** Do you have any additional argument
9 to make?

10 **MR. MAYE:** Your Honor, the only thing that we
11 would maintain is that this is directly in reply.
12 When they asked questions about this witness
13 waffling, when they asked questions about whether or
14 not why -- about him being moved over to Saluda with
15 the implication being to Investigator Young that
16 they would have no longer had access to him over in
17 Saluda, this information is directly in reply to
18 that. It is directly in reply to anything about
19 this guy waffling.

20 And the two statements that were admitted
21 earlier, he testified that he had seen them write --
22 him writing similar things with Alvin P. ' name
23 on them, Your Honor, and heard him on a daily basis
24 ask him to lie and not to testify or on a very
25 frequent basis, at least weekly, not to testify and

1 knew that he was moved. I would think that it's
2 directly in reply to that, Your Honor.

3 **THE COURT:** Any further argument?

4 **MR. CALHOUN:** Yes, Your Honor. The waffling is
5 not a new issue. It's an issue that was raised and
6 addressed in the prosecution's case in chief again,
7 simply is not new evidence.

8 And my objection, as you recall, was twofold.
9 I also have a strong objection to this as being
10 brought in violation of my Brady and my Rule 5
11 motion, Judge. This is a new guy, new information.
12 I've got a rap sheet that has some charges from
13 Florida on it, but it doesn't have what he's been
14 convicted of earlier this year in South Carolina.
15 This is a surprise witness that's being thrown in
16 that could have been attempted to be called in the
17 prosecution's case in chief and they chose not to.
18 They chose not to.

19 The statements that were put in yesterday were
20 put in with a prosecution's witness in their case in
21 chief. It's not a new issue by any means and it
22 wasn't fleshed out or elaborated on by my question,
23 my simple question to Roosevelt Young as to, Are you
24 aware that Alvin P. has waffled in the last
25 two years, which he said yes, he agreed to. That's

1 not a new issue.

2 **MR. WILLIAMS:** Your Honor, I guess my objection
3 is threefold. I renew my original objection in that
4 I truly don't believe I opened the door to that. It
5 was my witness and I think they have to be bound by
6 where I went with it. And I don't think I opened
7 the door to that.

8 Number two, the second issue is essentially we
9 really didn't know anything about this defendant
10 until yesterday -- or this witness until yesterday,
11 even what he might offer.

12 And finally, Judge, we are really not in a
13 position to figure out how this inmate was housed,
14 if he was segregated, if he was on lockdown, how
15 close was he to our clients. I mean, you know, I
16 think we're going to be essentially in a poor
17 position to defend our clients if this witness is
18 allowed to testify. Now, I can't do it now
19 certainly unless the Court sees fit to allow or to
20 force the sheriff's office to tell us how he was
21 situated. You know, I just don't know if that's
22 really fair to my client. Thank you, Your Honor.

23 **THE COURT:** I need some clarification. Today
24 is Thursday. How did you know to list this man on
25 Tuesday?

1 **MR. MAYE:** The only indication that I had that
2 he might potentially -- Your Honor, at the outset of
3 this case, I did not think that they were going to
4 offer -- I didn't think these two lawyers were going
5 to put those statements up from our conversations at
6 the last term of court.

7 I know that their clients elicited these and it
8 was not -- and like I said, I'm not disparaging
9 these two lawyers. These are two honorable guys and
10 I didn't think that they would have any party to
11 this and -- nor do I assert that they do now. I
12 know their clients had given them these documents
13 that I maintain that their -- that we believe that
14 their clients elicited. I know that they would not
15 have done so in this fashion.

16 I didn't believe they were going to be offered
17 at the trial last time or this time. I put
18 Mr. Sawvell down merely because Andy Anderson told
19 me at the last term of court that Sawvell might
20 potentially have some information involving these
21 guys and I put him down out of abundance of caution.
22 I had not talked to him. I didn't know the sum and
23 substance of the information beyond the fact that it
24 might somehow -- Andy Anderson indicated to me that
25 it might somehow relate to Alvin P. being

1 unwilling to testify in this case, but I had never
2 talked to him.

3 I didn't think it was any information that I
4 was going to be allowed to go into or that would
5 even be an issue in this trial because I didn't
6 think those documents were going in and I put him
7 down on the out chance that they did. At that time,
8 I had not talked to him. I did not know what he
9 said. He did not arrive here until today. But
10 there's wide open cross-examination in South
11 Carolina.

12 They called Investigator Young and they didn't
13 have to call him. They called him. It was an issue
14 during his testimony, this issue about him waffling,
15 the issue about them being in Saluda. I mean, they
16 did that strictly as strategy in order to get that
17 out in front of the jury and it was brought out.
18 They didn't have to ask those questions either on
19 redirect or anything else. They did that in an
20 attempt to score those points or get that
21 information out in front of the jury.

22 This witness has direct information on that. I
23 gave it to them -- I got it at lunchtime and I
24 proffered it ahead of time, Your Honor. I didn't
25 know that it was going to go in this direction and

1 that's often the nature of reply evidence. Once it
2 comes up -- I know the rules for reply witnesses are
3 not the same as they are for witnesses that you
4 intend to offer in your case in chief.

5 And like I said, I didn't have this information
6 until this afternoon. And I only had an indication
7 from the attorney that he might have some
8 information involving this issue, so I put him down
9 on Tuesday on my witness list. I didn't know if we
10 would get him here in time to talk to him or whether
11 or not that I would use him because I certainly
12 didn't -- at the outset of this case, I didn't
13 believe we were going to have these statements being
14 an issue or this issue about him waffling or
15 vacillating.

16 **THE COURT:** You really need to listen to my
17 question and answer my question and not give me a
18 whole argument every time I ask you a question. The
19 question was, how did you know on Tuesday to put
20 this guy's name down?

21 **MR. MAYE:** Because Andy Anderson mentioned his
22 name to me in May.

23 **THE COURT:** And what did he tell you in May?

24 **MR. MAYE:** He told me that Sawvell potentially
25 had information involving the stuff that was going

1 on in the jail between these guys and that if we
2 wanted to talk to him to let him know.

3 **THE COURT:** And nothing happened between May
4 and the calling of this case this week?

5 **MR. MAYE:** No, it did not because I did not
6 think that they were going to use these statements.
7 I thought that this was stuff that the defendants
8 had done and I didn't dream that it was going to
9 come out in this trial. I just didn't think these
10 lawyers were going to offer it.

11 I mean, I know they are somewhat driven by what
12 their clients want them to do, but I didn't think it
13 was going to be an issue. I didn't think we would
14 be arguing about this, so I didn't talk to him. I
15 didn't go in between then. I didn't explore the
16 issue. I put his name down out of an abundance of
17 caution in case the trial drifted in that direction,
18 which I was, at the outset, was surprised that those
19 statements, that they attempted to put them in. I
20 thought it was a potential land mine for all of us.

21 **THE COURT:** Mr. Maye, I do not want to insult
22 you. I apologize if I come across that way, but,
23 please, I understood your argument the first five
24 times you made it. It's a quarter till 3:00 on
25 Thursday. The jury's been sitting back there I

1 don't know how long.

2 All right. What under Rule 5 are you claiming
3 has been violated? If you need time to look at it,
4 tell me, I'll give you a few minutes.

5 **MR. CALHOUN:** Your Honor, I filed my Brady and
6 Rule 5 motions back in December of 2008. I'm
7 entitled to know the names of any witnesses that
8 they're going to call long before the case is called
9 about a year and a half later. I'm entitled to know
10 whether or not they've got a rap sheet. I'm
11 entitled to have information about them, the
12 substance of any information they're going to
13 testify as to. This gentleman's name is in
14 absolutely -- it's on absolutely no document I've
15 been provided until today.

16 This case was called in May of this year. It
17 was continued, as you remember, because Alvin
18 P. wouldn't testify. His name wasn't brought
19 up then. Obviously, he wasn't going to testify and
20 I haven't heard anything about it until yesterday.

21 **MR. WILLIAMS:** And, Your Honor, just if I might
22 add one thing. The Solicitor's witness, the State's
23 witness, Alvin P. , acknowledged these
24 documents in the State's case in chief. If the
25 Solicitor believed that there was some problem with

1 him acknowledging them, then he should have elicited
2 that testimony from his witness at the time he had
3 him on the stand. I think this is an unfair
4 surprise to my client, as well as to Mr. Langford.

5 **THE COURT:** All right. You all have multiple
6 issues that you're raising and I'm trying to isolate
7 them so I can deal with them instead of just getting
8 the generic argument over and over again.

9 I'm reading Rule 5. I'm going to give you a
10 chance since you're on your feet, all of you, to
11 look at Rule 5. Tell me specifically where the
12 State has violated Rule 5. I don't think this is
13 exculpatory so tell me how it relates to Brady.

14 Now, you know, I know that there are going to
15 be changes in the criminal rules. I don't think
16 they can come soon enough. My personal opinion is
17 that criminal trials should be much more wide open,
18 should be much more like civil discovery. We ought
19 to have this information. It ought to be put out
20 there and everybody will know what's going on and I
21 think you will avoid a whole lot of situations and
22 probably have a whole lot more cases resolved by
23 guilty pleas and dismissals, but what I think
24 doesn't matter. What's in the law and what's in the
25 rules is what matters.

1 It's not the case in chief of the State. I
2 hear your argument that you all feel that they were
3 required to put this up in their case in chief. I'm
4 struggling to understand why. They don't have to
5 call that guy in their case in chief. And if they
6 did, I may envision some problems with their effort
7 to do that.

8 I still -- there's an old case that I want to
9 try to find and look up where -- it was not on this
10 issue, it was on, I think, a directed verdict or
11 something, but there was an inmate who was in one
12 place and there was a question about whether he
13 could hear the conversations that he actually
14 claimed to have heard. I can't remember enough
15 about the case to make any comment on it. I just
16 remember it was kind of an incredible case as far as
17 whatever the reviewing court was determining when
18 the fact finding court had apparently submitted that
19 issue to a fact finder.

20 But this witness has not said anything about
21 those two documents. He, in fact, the only thing he
22 said that I heard him say in the proffer is it
23 wasn't those documents. He said that he overheard
24 conversations that were made to Alvin's sister. I'm
25 really unclear as to how he or what he witnessed as

1 far as direct interaction between Mr. Langford and
2 Alvin P.

3 Did I say Stevens while ago?

4 **MR. MAYE:** One of the witnesses made that
5 mistake earlier. It planted a seed in my mind as
6 well.

7 **THE COURT:** Alvin Stevens is a well-known
8 gentleman from the Merryweather area. If I said
9 Stevens, it's just habit.

10 I'm going to give y'all a chance to look and
11 then come back out and I'll see if I can find that.
12 I mean, it is still bothersome to me and I still am
13 very uncomfortable with this concept that the
14 witness' name was put on the voir dire on Tuesday.
15 And it's troubling from both perspectives. It's
16 troubling from one perspective as the State's saying
17 they didn't have any idea what the guy might say.
18 And it's troubling from the defense perspective that
19 there's a claim that y'all had no idea what the guy
20 might say. That's hard to believe on both sides.
21 We're at ease.

22 (Brief Recess.)

23 **THE COURT:** Anything else you all want to put
24 on the record before I rule?

25 **MR. MAYE:** Your Honor, the only thing, the

1 Court's last comment before we left were you weren't
2 sure the source of his information. It was my
3 understanding that he did testify that some of the
4 source of his information in this was directly
5 talking with K.C., that he was present while he was
6 talking to Alvin, he was trying to get him not to
7 and that while he was direct -- that was direct
8 involvement, direct information and not just
9 listening to what was being said to his sister over
10 the phone, but that he had direct knowledge of that.

11 **MR. CALHOUN:** I have nothing to add, Your
12 Honor.

13 **THE COURT:** Anything else, Mr. Williams, before
14 I rule?

15 **MR. WILLIAMS:** No, sir, Your Honor.

16 **THE COURT:** All right. I'm going to tell you
17 that I may well be wrong in this. I think it's one
18 of those situations where it's possible to rule
19 either way. And I'm not trying to inject myself
20 into the trial, but there's a lot to me that's very
21 troubling about this aside from the things that I
22 mentioned before I stepped off the bench and had a
23 chance at reflection.

24 This may or may not be an issue, but it bothers
25 me, the concept bothers me. And here's the concept

1 that bothers me. The State chose to try these two
2 individuals together. And there's a famous case, a
3 Bruton case, B-r-u-t-o-n, and the analogy to that is
4 troubling to me and the reason is because what that
5 Bruton case stands for is the proposition that you
6 can't use a statement by one co-defendant in a joint
7 trial when that co-defendant cannot be
8 cross-examined because he's exercised his Fifth
9 Amendment privilege against self-incrimination. You
10 can redact things. You can do other things if it is
11 possible to do so, but the confrontation clause
12 protections are there.

13 Now, what is troubling to me is that these
14 allegations were directed towards one of the
15 co-defendants, Mr. Langford. The allegations
16 against Mr. Langford were not made against Mr. Bryan
17 Phillips. And I know this is speculation, but if
18 this man Mr. Sawvell is lying, Bryan Phillips is
19 sitting over there, he can't call Mr. Langford on
20 the stand to say that guy's lying, I never said
21 that, I never did that.

22 Now, I don't know where the truth is in any of
23 this, I've just got to rule, again, based on the
24 law.

25 The second thing is that's really troubling to

1 me is the hearsay that's wrapped up in all of this
2 and how these different individuals fit within the
3 definitions of the hearsay rule and the exceptions
4 to the hearsay rule because in some instances, I
5 think I'm really having to speculate as to whether
6 any of this stuff was ever communicated to Alvin
7 P. So I go back and I look at the dirty

8 transcript, that sounds like a pejorative term, but
9 it's not, the rough transcript notes that the real
10 time reporter has, and I went back and read and
11 Alvin P. said, I made these statements of my
12 own free will.

13 Now, it is possible under the rules to impeach
14 one's own witness. When I was the age of most of
15 you, we couldn't do that. We put a witness on the
16 stand, we'd vouch for their credibility. Now, one
17 can put a witness on the stand and impeach that
18 witness' credibility, but then you've got all these
19 overlays of hearsay and hearsay within hearsay and
20 who is the declarant and when is it being said.

21 I don't see a specific Rule 5 violation. As
22 far as Brady, I don't think it's exculpatory. As
23 far as it being in reply, I think there were
24 questions that were raised in the presentation of
25 the defense to which there could be reply testimony.

1 offered about the waffling, the motivation, the
2 reason why the person was taken to Saluda and all of
3 that, but that proffer was just not specific enough
4 on an issue this important for me to let it in. I
5 cannot let this in. So the objections are sustained
6 for the reasons I announced and also under Rule 403.

7 And, again, I realize I could rule the other
8 way, but you know, had Mr. Sawvell gotten up here
9 and been more clear and had more direct information
10 to link things specifically to Alvin P. and
11 had Alvin P. said something different perhaps
12 in his testimony, I could easily see ruling the
13 other way. I've just got to make a call.

14 Do you have -- I note the State's objection.

15 **MR. MAYE:** Your Honor, the only thing that I
16 would propose would be to ask him only about what he
17 directly heard and limit his testimony only, and if
18 we need to bring him back and ask him, only as to
19 what he directly heard him say to Alvin P.,
20 which would avoid any hearsay issues or anything
21 else and that would be my only thing that I would
22 ask to be allowed to do.

23 **THE COURT:** You can make it as a proffer, but
24 I'm not changing my ruling.

25 **MR. MAYE:** That's fine. There's no point in

1 that. I won't have any right to appeal anyway, so
2 it wouldn't help me.

3 **THE COURT:** You don't have any other witnesses?

4 **MR. MAYE:** No, sir.

5 **THE COURT:** Do y'all want to send this case to
6 the jury today?

7 **MR. CALHOUN:** I want to leave that to the
8 Court's discretion. It honestly doesn't matter to
9 me one way or the other, Judge.

10 **MR. MAYE:** Whatever the Court's call is, Your
11 Honor, leave that to the Court.

12 **MR. WILLIAMS:** Judge, I certainly have to agree
13 with my counsel. I was hoping we'd be through
14 today, but I don't want to overstep whatever the
15 Court decides.

16 **THE COURT:** Bring the jury in -- oh, wait, I'm
17 sorry. Are y'all ready to argue? I've got the
18 charge. It's 18 pages long or 19 pages long.

19 **MR. CALHOUN:** I'm ready, Judge. If you want to
20 do it today, I'm ready.

21 **MR. WILLIAMS:** Yes, sir.

22 (The jury returns to the courtroom.)

23 **THE COURT:** All right. Ladies and gentlemen,
24 that took an extended period of time for which I'm
25 very sorry. It's nobody's fault. We've been

1 working very hard. The end result of everything is
2 that you now have all of the evidence you're going
3 to have to decide these cases.

4 There are two stages that remain in this trial,
5 the closing arguments and the charge. In the
6 closing arguments, the attorneys are permitted to
7 use the art of advocacy to attempt to get you to see
8 things as they would like you to see them on behalf
9 of their respective positions. It doesn't change
10 the burden of proof. The burden of proof remains
11 entirely with the State.

12 After the closing arguments are made, then I
13 give you the law. I always take a brief recess
14 between when they finish talking and when I start
15 talking, usually it's very brief.

16 My intention at this point in time is to keep
17 going and give you this case today. If that creates
18 a major problem for any of you, during one of these
19 breaks, you can send me a note and I'll do what I
20 can do, but otherwise I intend to press on and get
21 this to you.

22 And to be quite honest with you, that does not
23 suit me. I have a volunteer court that I do in
24 Lexington on Thursday nights which would require me
25 to leave here by five o'clock to do that, but I've

1 kept you all waiting around so long that we're just
2 going to try to make the adjustments that are
3 necessary and keep going, but if it presents a major
4 problem for you, write me a note, let me know.

5 Okay. Do you want to open and close,
6 Solicitor?

7 **MR. MAYE:** I'm going to waive opening on the
8 law unless required to do so.

9 **THE COURT:** All right. Mr. Calhoun, are you
10 ready?

11 **MR. WILLIAMS:** Ready, Your Honor.

12 **THE COURT:** I invite your close attention,
13 ladies and gentlemen, to the closing arguments.

14 **MR. CALHOUN:** May it please the Court, Your
15 Honor.

16 **THE COURT:** Yes, sir.

17 CLOSING ARGUMENT

18 **MR. CALHOUN:** The first thing that I need to do
19 is thank y'all. I mean, you did exactly what I
20 asked you to do which is pay close attention and
21 each and everyone of you did and that was obvious
22 and that's all that any lawyer could ask from you at
23 this point.

24 Now, this is the end or the beginning of the
25 end I should say. Now, all three of the lawyers are

1 going to give what are called closing arguments and
2 they are arguments, okay. As I told you at the
3 beginning, we're advocates. We're not witnesses.
4 So if we say something about the facts of this case
5 that you remember differently from what that witness
6 said, well, the witness wins, okay.

7 I'm sure that none of us would do it
8 intentionally, but as you notice, we hear a lot of
9 stuff. And in my regard, I think you'll remember
10 things the way I remember the witnesses hear them,
11 but I am not a witness.

12 At the end of that after I give my and everyone
13 gives their closing arguments, the Judge is going to
14 instruct you on the law. That's also very important
15 because it gives you -- the Judge will tell you the
16 law that you apply on this case, the law that you
17 take whatever evidence you heard, those facts, you
18 apply it to what the Judge tells you your duties are
19 and how that's done is very important, okay.

20 So I'm first going to talk to you a little bit
21 about the law the Judge is going to discuss with you
22 before I get into the facts of this case before I
23 talk about the evidence. First is something that I
24 spent a lot of time talking about at the beginning
25 in my opening and that's the burden of proof.

1 In South Carolina, the United States, on a
2 criminal case, the burden of proof is what they call
3 reasonable doubt, the reasonable doubt standard.
4 It's your duty as jurors before you can convict
5 anyone of a crime, to believe that person is guilty
6 beyond any reasonable doubt. And those are the
7 words, Beyond any reasonable doubt.

8 Well, what is a reasonable doubt? I submit to
9 you this is what it is. It's reasonable doubt is
10 one that would cause a person to hesitate to act,
11 okay. That's simply what it is.

12 It's also been described as a doubt that you
13 can assign a reason to, all right. It doesn't
14 matter, you don't need 20 doubts or five doubts or
15 ten doubts. It doesn't matter after reviewing the
16 evidence, if whether you have one doubt that you can
17 assign a reason to or one doubt that causes you to
18 hesitate to act, it doesn't matter whether it's one
19 or ten. Your duty as jurors are to find
20 Mr. Langford not guilty. It's as simple as that.

21 Now, the burden of proof, the burden of proof
22 is on the prosecution. The burden of proof is, I
23 think, the most important thing for folks to
24 understand on these cases because what you're doing
25 today is something you've really never done before.

1 It goes against your nature, okay. It goes against
2 everybody's nature.

3 For example, when you get up in the morning and
4 you're eating your breakfast and you're reading a
5 newspaper, watching the news on T.V., you might see
6 an article about a person that's committed a
7 terrible crime and it'll say that the police have
8 arrested and apprehended that person and put them in
9 jail. Well, your natural reaction is you're going
10 to feel somewhat relieved. You're going to be like,
11 wow, I'm glad they caught that guy. I'm glad they
12 got that bad guy and put him in jail.

13 Well, the problem with that natural reaction is
14 that you're making an assumption. The assumption is
15 that the police have got the right guy, okay. They
16 don't always get the right guy.

17 So the burden of proof is exactly what I'm
18 saying when I was describing, when I was telling you
19 my little story about Charles Dickens. You know, he
20 lived in the richest country in the world in the
21 1800s, but because of the way things were done
22 there, if a person was accused of a crime and they
23 didn't have the ability, the money, the help to
24 defend themselves, then they would be convicted just
25 based on the accusation, okay. And the people who

1 started this country changed that.

2 So when you -- when we talk about the burden of
3 proof, you have to do basically what goes against
4 your natural nature. You have to examine the
5 evidence and be skeptical of it, criticize it, look
6 at it frontwards, backwards and sideways, okay, not
7 assume that whatever's told to you is the gospel
8 because these cases it's not. We're dealing with
9 people who are brought into courtrooms and they
10 testify and they have criminal backgrounds or they
11 have an ax to grind or whatever and you have to be
12 very skeptical of what you hear and that's what our
13 burden of proof is is that you don't assume that
14 everything you're told is the truth, okay.

15 Something else I mentioned to you in my opening
16 was credibility. And credibility is something that
17 you have to apply to all the witnesses that testify,
18 but you have to determine on your own how credible
19 or how believable you believe any witness is. And
20 when you do that, it's really pretty simple. Y'all
21 have actually been doing it your whole lives, okay,
22 when you talk to folks, but you look at that person
23 and at first you ask yourself what does he have to
24 gain or lose by giving his testimony, what's his dog
25 in this fight, okay. You look at their demeanor.

1 You look at the way they behave and act when they're
2 testifying, okay.

3 You know, the guy, you know, Alvin P. who
4 slumps down in the chair and doesn't want to make
5 eye contact and wants to only look at the prosecutor
6 when he's asking questions and not sure whether --
7 he's looking for direction as to what his answer's
8 supposed to be. I mean, you have, you know, that's
9 why they let us cross-examine these witnesses, you
10 know, rather than just letting a witness testify is
11 because these people do have ulterior motives and
12 there's things going on in their lives and there's
13 reasons why they might be embarrassed or ashamed to
14 say that they've done something or admit that
15 they've done something, okay.

16 And with credibility in mind and the reasonable
17 doubt standard, let's go through the evidence that
18 you've heard from Mr. Langford's perspective and
19 let's look at what we have here when it comes to
20 reasonable doubt, okay.

21 Now, obviously, the case is all about whether
22 or not you choose to believe what Alvin P.
23 says, okay. And what a lot of people tend to do and
24 I think it's human nature, but it's not proper on a
25 criminal case is you hear a guy get on the stand and

1 he's talking about a lot of things and you think,
2 well, you know, probably some of them are true, but
3 maybe not all of them are true.

4 It's like when you're -- you ask your child if
5 he ruined his supper by eating a cookie and he goes,
6 well, you know, mom, I ate a couple cookies, but I
7 didn't eat all the cookies, you know. In other
8 words, he ate a bunch of cookies, he just doesn't
9 want you to know that he ate all of them, admitting
10 some fault but not admitting the entire truth, okay.
11 That's what Alvin was doing.

12 And I submit to you that you don't convict
13 anybody of any crime when the guy's getting up there
14 and he's lying because how in the world can you
15 determine which part is true and which part is not
16 true? You can't. It's impossible and it goes
17 entirely against our standard of reasonable doubt,
18 okay.

19 Now, to put Alvin where he is where he finally
20 decided to testify against my client, some of it's,
21 I think, is fairly simple to figure out and some of
22 it is a mystery and it will be a mystery a hundred
23 years from now, but this is what we know. We know
24 that the victims were robbed that night, okay, and
25 they called the police. And we know that the son at

1 least could speak pretty good English because he got
2 on the phone and he told them his address and what
3 happened, you know, where they lived and all this
4 information. And the police were able to show up,
5 okay.

6 Now, something really important happened 15
7 minutes later is that Alvin P. was in a car
8 with his sister, Veronica, and some other woman
9 whose name we don't know and that my client was in
10 the car also and Alvin was there for sure, okay.

11 Now, the officers have already talked to the
12 victims and for some reason they have gotten no
13 description, okay. Now, that's important and that's
14 nobody's fault frankly but the police department.
15 When someone robs someone, you get a description.
16 If you don't know the person's name, you find out
17 what they look like, what kind of clothes were they
18 wearing, how tall were they, what color was their
19 hair, how long was their hair, did they have any
20 tattoos, did they have any jewelry.

21 I mean, these are questions, I mean, you just,
22 you ask, you have to ask them, but the only
23 description the police had was, well, it was three
24 black males. Well, if they had said it was three
25 white males or three white women or three black

1 women, I mean that's not a description. There's
2 black and -- there's black and white people all over
3 South Carolina. There's men and women all over
4 South Carolina. That's not even a description.
5 That helps nobody. That's a reasonable doubt.

6 And the reason -- the fact that the police
7 failed to get that information makes that car stop
8 15 minutes later so important because that Officer
9 Strom, I think his name, the former Deputy Strom who
10 had the suit on, the coat on, he said, well, you
11 know, I just let them go. If he had had a
12 description, he could have said, well, yeah, you
13 know, that guy was wearing a pair of white shoes or
14 that guy did have a red shirt on or, yeah, that guy
15 did have long hair or that guy had short hair, I do
16 remember one of them having a big gold bracelet.
17 That would have ended the case right there because
18 then we would have known whether or not the people,
19 the victims described to the police were the people
20 that were in the car 15 minutes later. And, again
21 -- and it helps us not at all, not one bit. That's
22 the reasonable doubt.

23 One of the victims had a box of Marlboro
24 cigarettes and a white lighter taken off of him,
25 okay. He testified to that. Now, they had a bag of

1 money stolen and they had a wallet stolen, but they
2 also had cigarettes and a lighter.

3 Now, the prosecutor might tell you, well,
4 they're going to hide the evidence. They're going
5 to hide the bag of money. Yeah, probably. They're
6 going to hide the wallets. Yeah, maybe, might keep
7 a credit card in their pocket, though, but they're
8 not going to hide a box of Marlboro cigarettes and a
9 white lighter. And Strom testified that he didn't
10 see that. They didn't have that. He didn't look --
11 I don't even know if he looked, he should have,
12 that's his job.

13 But this is all information, evidence that you
14 should have to make a huge decision because that guy
15 over there is charged with burglary first degree,
16 kidnapping, assault and battery with intent to kill.
17 I mean, this is probably the most important day of
18 his life what happens from this moment forward. And
19 when the police put that case in front of you, it's
20 their burden, it's their job to get you the evidence
21 that you need to make that decision. And the police
22 didn't give you that opportunity and there's not one
23 good excuse for it.

24 And I hope the prosecutor doesn't tell you,
25 well, it's because the victims couldn't speak

1 English. They could speak English. If they
2 couldn't speak English, the police never would have
3 shown up that night. They wouldn't have known where
4 to go or who to talk to or what happened. The
5 police had that information and that's the
6 reasonable doubt.

7 Now, Alvin P. has two women and a couple
8 of men in the car with him, okay. And some time
9 afterwards he comes forward and he says, yeah, I was
10 the gunman. I was the guy that stuck that pistol in
11 those people's faces and threatened their lives and
12 cracked that gun over that guy's head. I was the
13 gunman, I did it. And he gets charged with all of
14 these crimes and he's in a world of trouble.

15 He's 17 years old. He's already been convicted
16 of larceny and shoplifting and he's in a world of
17 trouble. And the only way he can help himself is to
18 work out some dirty deal with the prosecutor. And I
19 call it a dirty deal because it smells and this is
20 why it smells.

21 He's got all these charges, but you know what,
22 you're not allowed to walk into a courtroom and
23 plead guilty to burglary first degree and kidnapping
24 and armed robbery and all this stuff and say, but,
25 no, Judge, I'm not going to tell you who my two

1 co-defendants were. You can't do that. You've got
2 to give them somebody. You've got to give them two
3 people, okay. He had to. So the question is who's
4 it going to be? Who are the two people going to be?

5 Well, the police know that Mr. Langford was in
6 a car -- in the same car with him 15 minutes after
7 the robbery with these women. They know that, so,
8 of course, they're going to try to get Alvin to say
9 it was Mr. Langford, okay. Well, Alvin doesn't want
10 to say that. I mean, he wants to help get himself
11 out of a crime, but he obviously doesn't want to say
12 that and the reason he doesn't, because it's not
13 true. It's not true.

14 The victims say they weren't even sure if the
15 people that robbed, the -- they weren't -- they
16 weren't even sure if they were all men or women.
17 The lady said, The only reason I thought that they
18 were men is because their hair were short. They had
19 masks on.

20 It could have been the two women in the car.
21 It could have been anyone, but why Alvin picked
22 these two guys, I can't tell you for sure. I wish I
23 had the crystal ball where I could look into
24 people's minds and tell them why they do what they
25 do.

1 I know that my client used to date his sister
2 and they have a child together and that relationship
3 obviously ended badly and, yeah, that could be why,
4 but he had to give them somebody. If it was his
5 sister and the other woman who had masks on, then
6 obviously he's not going to tell on them, but he had
7 to give them somebody and he chose -- I submit to
8 you he chose a couple of people that he didn't like
9 because he could not get his deal unless he gave
10 them two other people, so it was just a matter of
11 who he chose.

12 And another reason this deal smells so bad, and
13 this is a huge reasonable doubt, is Alvin admitted
14 -- actually, you know, he did admit some things. He
15 said, you know, the first two times I was convicted
16 of crimes, I went into a courtroom and I went in
17 front of a judge and I pled guilty and the judge
18 sentenced me. He says, okay, this is your sentence.
19 This is your punishment. And he admitted that's
20 normal.

21 Well, that didn't happen on this case. He went
22 in front of a judge and had all these other very
23 serious charges dismissed, has his armed robbery
24 pending. And he's not expecting -- he said, I'm not
25 expecting to be convicted of anything other than

1 armed robbery.

2 **MR. MAYE:** Your Honor, I object to that.

3 There's no evidence in the record any charges have
4 ever been dismissed. I object to that. It's not in
5 the record.

6 **THE COURT:** I really can't get into the facts
7 of the case. The jury will have to remember the
8 testimony as it was presented.

9 **MR. CALHOUN:** I just said that Alvin said that
10 he's not expecting to be convicted of anything other
11 than armed robbery, that's his testimony.

12 So he doesn't get sentenced. And he told you
13 that that's not normal. Normally, the judge
14 sentenced him the same day. Just because he's got
15 to do what he feels that he has to do to make the
16 police happy, just so he doesn't get sent to jail on
17 all these other charges, okay. That's it. That's
18 why he didn't get sentenced that day. That's why he
19 hasn't been sentenced today. That's why his
20 sentencing will happen some time after this trial
21 just because he's got to make somebody happy to get
22 all these charges dismissed and before he goes back
23 in front of a judge with the prosecutor to determine
24 what his sentence is going to be.

25 That's a smelly transaction, okay. And it's

1 not the kind of transaction that you should use for
2 folks to get their testimony to try to convict other
3 people of a crime. He should have gone in front of
4 that judge, he should have taken his deal and he
5 should have been sentenced. And then maybe, then
6 maybe we would have had someone who didn't have a
7 dog in this fight, who didn't have, you know,
8 something hanging over his head, a big hammer, as
9 Mr. Williams said, that's going to come down on him
10 if he doesn't do what he feels like he has to do.

11 I mean, a person like that isn't, is not
12 credible. A person who can't answer my questions
13 without looking at the prosecutor and his lawyer
14 that was sitting right behind him is not credible.

15 Did you notice, when we talk about demeanor,
16 did you notice that when he was being questioned by
17 the prosecutor, by Mr. Maye, his eyes were focused
18 on Mr. Maye. He had -- Mr. Maye had his undivided
19 attention. But when myself or Mr. Williams were
20 asking him questions, I would ask him a question,
21 especially on the tougher questions, and he would --
22 I'd ask him a question, then he would just stare,
23 look at Mr. Maye like a deer caught in the
24 headlights, what do I say, what do I do.

25 That's not a believable -- that's not a

1 credible person. I mean, it's like -- I mean, you
2 see your children do that. That's not someone
3 that's telling the truth when they're waiting for
4 someone else to give them a response. It's just
5 simply not true.

6 And he's got his, you know, he's got his
7 sister, Veronica, who's dated the defendant. The
8 gunman that's -- that was my favorite. He said,
9 well, you know, I was holding the gun on him and I
10 was, you know, I was telling him to give me the
11 money and I was threatening him. And I told the
12 police in my written statement after the crime that
13 it was my pistol, that I took, quote, my pistol and
14 threw it in a trash can with my mask.

15 But when it came to the, what I argue to you
16 was the worst thing that happened that night to
17 those Chinese folks, when you take a gun and you
18 crack it over somebody's head, I promise you that
19 does not feel good, he didn't do that. You know,
20 that's, you know, the little kid not admitting that
21 he ate all of the cookies again. That's a person
22 lying to you, lying to you. And that's what the
23 prosecution's case is based on, okay.

24 The Judge is going to tell you that
25 Mr. Langford is not required to testify, that every

1 person is presumed innocent as you know. There's
2 nothing for Mr. Langford to address. There's no
3 accusations that he has to respond to. And he's
4 maintained his innocence on this case from the very
5 beginning. From the very beginning, he's maintained
6 his innocence for the last two years, okay.

7 And the prosecution simply has failed to meet
8 the burden of proof. There are so many doubts on
9 this case. There are so -- there just are so many
10 issues with trying to determine whether or not
11 someone is giving 100 percent believable, honest
12 testimony, you know.

13 You know, I don't have a problem with the
14 police. My dad was a law enforcement guy for 20
15 years. But, man, you know, if you're going to
16 accuse people of crimes and convict them, you know,
17 do it right, you know, get the evidence. Our state
18 has the resources to have law enforcement officers
19 get the evidence they need to convict people. And
20 you just, you can't accuse people of crimes and try
21 to send them away on this kind of evidence.

22 When the head investigator, you know, gets up
23 there and testifies that he doesn't think 9-1-1
24 operators were going to get -- should get a person's
25 address when a person reports a crime and then later

1 on admits that he used to be a dispatcher, I mean,
2 come on. I mean, I don't know why the police didn't
3 get the description of these guys. And I don't know
4 why when they stopped the car later on, they didn't
5 have the information they'd need that would have
6 answered all these questions that are hanging in the
7 air, but they didn't. They didn't.

8 And it's just not the fact that they're basing
9 their whole case on a guy that's a convicted
10 criminal who has been giving waffling statements,
11 has gave a written statement in March of last year
12 that my client did nothing wrong, that refused to
13 say that my client did anything wrong when this case
14 was first called for trial in May of this year, but
15 then he gets his deal and all of a sudden he's
16 willing to say that my client did something wrong, I
17 mean, that's just horse hockey. And I think you
18 know that it is.

19 The two most important people that didn't
20 testify today are logic and common sense. And every
21 one of y'all has it. And you apply that to what
22 you've heard today, what you've heard today, what
23 you remember and the law that the Judge gives you,
24 I'm convinced that you'll agree with me that K.C. is
25 not guilty of any of the charges he's accused of.

1 Thank you for your time.

2 **THE COURT:** Thank you very much.

3 Are you ready, Mr. Williams?

4 **MR. WILLIAMS:** Yes, sir, Your Honor.

5 **THE COURT:** You're recognized for your closing
6 argument.

7 **MR. WILLIAMS:** Thank you, Your Honor.

8 Mr. Foreman, ladies and gentlemen of the jury,
9 I have to echo the sentiment of the Court, the
10 prosecutor, my co-counsel. We thank you for your
11 service. We thank you for the attention that you've
12 paid. I've been watching and y'all have been
13 watching. I can see that you were paying very close
14 attention to the witnesses who took the stand. And
15 I am very appreciative of you for the attention that
16 you've paid.

17 On behalf of my client, Bryan Phillips, I have
18 to tell you that this case hinges upon a 17-year-old
19 young man who obviously has had some experience with
20 the criminal justice system and a police office
21 investigator who basically called him in. Police
22 officer had an informant's tip, he had it in mind
23 who the defendants were and he has a 17-year-old who
24 he waited to get off the bus to come in and testify,
25 or give a statement. Now, over the long haul since

1 about March or January of 2009, March of 2009, he's
2 given a different statement.

3 In law school, I took in the first year a class
4 called contracts and it was nothing at all about the
5 criminal courts or anything of that nature, but it
6 was about people in business and them reaching an
7 agreement. Well, there was this particular notion
8 that we studied about an offer and acceptance,
9 basically if I make an offer to the Solicitor and he
10 accepts and if there is sufficient consideration,
11 i.e. money or some agreement that some service will
12 be provided, that's consideration. Well, a contract
13 is essentially that, an offer, acceptance and
14 consideration. Those three things have to be there.

15 But I had a very interesting law professor. He
16 was kind of a peculiar guy and he was actually a
17 patent lawyer that went to Cal Tech, a very smart
18 guy. And he always talked about the vacillating
19 offerer, the vacillating offerer. He said, well,
20 when you have an offer that's made and then the
21 offerer changes his mind and says no, before you
22 accept, then there is no contract if he's
23 vacillating, vacillating, vacillating.

24 I submit to you that Alvin Stevens -- Alvin
25 P. , forgive me, is exactly that, a vacillating

1 offerer. And there is no credibility that you can
2 assign to it, none, zero. I'll tell you one thing
3 and then I'll tell you another.

4 What can you make of that, ladies and
5 gentlemen? I suggest to you that it's just like a
6 rocking chair, it'll keep you busy, but you won't go
7 anywhere with it. What he has suggested to you all
8 cannot be relied upon. What the State has depended
9 upon is absolutely his testimony and nothing else.

10 Now, does he have a reason to mislead you?

11 Well, I tried to get him to talk about that.

12 Absolutely. I think I counted off seven
13 indictments. He's got seven reasons to lie to you.

14 He understands that if he doesn't do exactly
15 what it is the State wants him to do, he's in too
16 deep now. He's given the statement. He's been
17 arrested. He's admitted his involvement. He's in
18 too deep now. What can he do other than try to save
19 his own hide? Ladies and gentlemen, that's all he's
20 doing, trying to save his own hide.

21 If you'll recall, I talked about a sledge
22 hammer. That sledge hammer is propped, cocked and
23 ready to be released. He's done what he had to do.
24 He's done what he had to do. Now, how does that
25 affect my client?

1 This notion of the presumption of innocence,
2 it's precious to our criminal justice system. It's
3 precious to our way of life. It's precious to me.
4 For I realize that but for the grace of God, I could
5 be sitting in the chair that my client's sitting in
6 right now.

7 I ask you to evaluate the credibility of this
8 witness Alvin P. . I ask you if he were the
9 pilot of a small aircraft and you saw him and you
10 know how he's waffled back and forth, would you get
11 on that plane with him? I ask you if he was a
12 surgeon and he's going to perform a surgery on one
13 of your loved ones, would you want him to be your
14 surgeon for your very life would depend on it?

15 Well, I submit to you, Mr. Foreman and ladies
16 and gentlemen of this jury, my client's very life
17 depends on the testimony that was given by this
18 young man and it has not been consistent in any way,
19 not in any way, not in any manner, but yet his very
20 life depends upon it.

21 Ladies and gentlemen, I ask you to consider the
22 conflicts in the statements that were given.
23 There's one thing I just want to point out to you.
24 All the while in his original statement, and it's in
25 evidence, Alvin P. said that the woman came

1 out. In his statement, he said that the lady came
2 out of the house, okay.

3 Well, he's been talking to the Solicitor. He's
4 been rehearsed on. Now the lady never came out of
5 the house. She stayed in the house, but his
6 statement says, The lady came out after the young
7 man came out. It's different today or it's
8 different yesterday when he testified.

9 Why is it different? I suggest to you it's
10 different because it needs to be different. It
11 needs to match up.

12 Ladies and gentlemen, I submit to you that what
13 they are doing is trying to cover it and make it
14 look like what they say it is. The police officers
15 had every opportunity to ask the right questions.
16 They had every opportunity to get better
17 descriptions. They failed to do that.

18 My good friend, Mr. Roosevelt Young, he
19 indicated to you that Mr. Stevens was just a good
20 samaritan. He just wanted him to know.

21 Ladies and gentlemen, he is a very good witness
22 and I couldn't really shake him on that. The only
23 thing I can ask you to do is bring your common sense
24 to the table and ask your very selves, is that
25 really what happened? Is that so? Did somebody

1 just say, hey, I've been sitting on this information
2 for six weeks and I'm going to call you up, help you
3 out? I ain't got no problems. Oh, that family
4 court bench warrant, that ain't nothing you can do
5 for me.

6 Ladies and gentlemen, I simply ask you to bring
7 your common sense to the table. Don't leave them
8 out here in this courtroom, take them with you into
9 the jury room.

10 Ladies and gentlemen, I ask that you would
11 consider the New International Version, I didn't get
12 the King James Version, but I would ask you to
13 consider Deuteronomy 19. It says, One witness is
14 not enough to convict a man accused of any crime or
15 offense he may have committed. A matter must be
16 established by the testimony of two or three
17 witnesses. I ask you to also consider Deuteronomy
18 17 --

19 **MR. MAYE:** Your Honor, at this point in time,
20 I'm going to object. This is improper argument,
21 religious quotes from the Bible. I object to that.
22 It's improper.

23 **THE COURT:** It's overruled.

24 Ladies and gentlemen, you have to decide the
25 case based on the law that I give to you and the

1 evidence. It's proper argument.

2 Go ahead.

3 **MR. WILLIAMS:** Deuteronomy 17 verse six says,
4 On the testimony of two or three witnesses, a man
5 shall be put to death, but no one shall be put to
6 death on the testimony of only one witness.

7 Now, ladies and gentlemen, the Solicitor and
8 this Court have already made it very clear that
9 that's just simply argument. I'm making an argument
10 to you. It's not the law. The Judge will give you
11 the law. He's going to ask you to presume my client
12 innocent. He's going to ask you to hold the State
13 to the very burden that it has and that's all I can
14 ask of you.

15 But I will say that other than the testimony of
16 one witness, there is no physical evidence, there is
17 no forensic evidence, just the testimony of one
18 vacillating witness. And, again, I ask you to
19 consider that the very life of my client rests in
20 the hands of that witness.

21 At this point, I'm going to take my seat and
22 entrust my client to you for I believe he's in good
23 hands. Thank you.

24 **THE COURT:** All right. Ladies and gentlemen,
25 we're going to take a very brief break. During this

1 break -- it's right at four o'clock now. Before you
2 go back there, let me just explain to you, I don't
3 know how long the last closing argument will be. My
4 charge is going to be 38 minutes. So just, for
5 example, if the Solicitor talks to you for 30
6 minutes and I talk to you for 38, it's going to be
7 after 5:00 before you get this. So if you need to
8 make phone calls, you might want to make them now.

9 Obviously, I'm not in any way suggesting how
10 long you should deliberate on any case, that's
11 completely up to you, but this is a good time to
12 make phone calls if you want to.

13 Likewise, I want to remind you of what I said
14 earlier. If you have a major problem with going
15 into tonight, you let me know now because I can stop
16 at a certain point and we can commence in the
17 morning at 9:30. I've got something scheduled at
18 9:00, but at 9:30, we can start back up. So you let
19 me know if any of you have a problem, but it has to
20 be in writing. You've got to put it on a piece of
21 paper.

22 All right. Follow the bailiff, don't discuss
23 the case.

24 (The jury retires to the jury room.)

25 **THE COURT:** Court's at ease for five minutes.

1 I mean, five minutes now unless the jury is still
2 tied up.

3 (Brief recess.)

4 **THE COURT:** Are you ready, Mr. Maye?

5 **MR. MAYE:** Yes, sir, the State's ready.

6 **THE COURT:** Thank you.

7 Bring the jury in.

8 I did not get notes from the jurors. They did
9 make phone calls. So, Madame Clerk, at some point,
10 you need to be prepared to order their dinner
11 depending on how things go.

12 (The jury returns to the courtroom.)

13 **THE COURT:** All right. Ladies and gentlemen,
14 you'll now hear the State's closing argument.

15 Mr. Maye.

16 **MR. MAYE:** May it please the Court, Your Honor.
17 Thank you.

18 Ladies and gentlemen, it's 4:18 here now. I'm
19 completely aware of the fact that you've been taken
20 away from what you normally would have been doing.
21 I told you that at the start. You got pulled away
22 from your jobs, from home. It's now pushing on 4:15
23 in the afternoon. And I told you this is the last
24 compulsory service that we have. And this is
25 exactly what it is, it's service. It is jury

1 service because you come up here to sit as the
2 judges of the facts in this case.

3 This is vitally important. A lot of the people
4 that are involved in this process are going to get
5 in their cars at the end of this week and go back to
6 other counties and other places, but all of you live
7 here in Edgefield County. Y'all have got a stake in
8 this community. This is vitally important. You
9 think of all the jurors that have come in here and
10 sat in this courtroom just like you have, the one
11 common thing that you all have is all of you live
12 here in Edgefield County, all of you. Y'all have
13 got to live here.

14 And down in Johnston, let's change gears a
15 little bit, in Johnston, there's a family full of
16 people out there running a Chinese restaurant,
17 working seven days a week that got robbed in this
18 case. They're there trying to scratch out a living,
19 working from sun up to sun down. They speak very
20 limited English, living around the corner there at
21 Academy Street going back and forth seven days a
22 week working in there, trying to scratch out a
23 living, bringing their money home.

24 Low and behold, in the midst of all of this,
25 here is Alvin P. and Bryan Phillips watching

1 what they're doing. And Alvin P. absolutely
2 did wrong. He's the man along with these other two
3 that decided they were going to go take the money
4 away from these people that were busting their hind
5 end to earn it. Absolutely, he did an armed
6 robbery. It's horrible. But he was with them.

7 The Chinese people going back and forth and
8 here these two are watching them coming and going
9 and seeing, you know, they're not going to the bank,
10 we can see that. They're bringing this bag in and
11 I'll bet they got money in it and we need money.
12 What are we going to do to get money? And Alvin
13 P. was right in the middle of it. What are we
14 going to do to get money? That's what this comes
15 down to is just utter greed.

16 Here is a family coming back to their home
17 where they all live together, mama, daddy, Mr. Li,
18 Mr. Chen, his poor wife in there with one of their
19 children, the mama there. And they come home that
20 night and what's this 'ol fellow do, he's raising
21 vegetables in the yard for his restaurant there, and
22 he comes in after working at 10:30 at night to go
23 out and water the vegetables. And what happens to
24 him? Three greedy rascals that want that money that
25 they made up there honestly in their restaurant,

1 these three guys are hiding in front of their
2 shrubbery in their house.

3 He got a view, he told you. You can bet one
4 thing, Alvin P. was there. He knows what
5 happens. One of the shrubs were taller than then,
6 they're different than in this picture. We saw them
7 coming back and forth. You can bet that he knew
8 what was going on.

9 And never mind the shots going in every
10 direction here as they attempt to put all this case
11 on trial up here from the defense, oh, yeah, maybe
12 he didn't do it. Yes, he did it. One side said,
13 oh, yeah, he did. He was the gunman, the trigger
14 man, had that gun. The other side saying, oh, well,
15 this was just a young man that they brought in,
16 jerked off the school bus who gave a false
17 confession: Two or three trains going in two or
18 three different directions just poking a hole at
19 anything.

20 Alvin P. was there. He was there with
21 Bryan Phillips, his cousin. He was there with K.C.
22 Langford, the man that had a child by his sister.

23 But, oh, they want to tell you there must have
24 been some kind of rift between them because he made
25 this up on K.C., had to be some kind of rift there.

1 It was so bad he spent the night there afterwards at
2 that house. When all the smoke cleared that night,
3 where did K.C. Langford stay? Right there at the
4 sister's house. He spent the night there. Wasn't
5 much of a rift. Wasn't much of anything he was mad
6 about.

7 He named not only himself in this case, but his
8 own family member, his cousin, and his sister's
9 boyfriend, father of her child that was staying
10 there at the house with them, riding in the car as
11 they took that mama as they were getting out of
12 there.

13 Here the Chinese people come home going out to
14 water these vegetables and here these three greedy
15 rascals are laying in wait for them. And when the
16 old fellow goes out to water the garden, they stick
17 a gun on him and slam him on the ground and start
18 screaming and yelling at him, Where's the money,
19 because that's what this case is about. It's about
20 greed. I want something that you've got and so I'm
21 going to ignore the law and I'm going to take it
22 from you with a gun.

23 And the Judge is going to tell you up here the
24 hand of one is the hand of all. It didn't matter
25 who went up in there in that house. It didn't

1 matter who was hitting him out there.

2 And Alvin told you they hit the old man, but
3 what did he tell you? Bryan Phillips whacked him in
4 the head, he punched him. Anything about anybody
5 hitting with a gun is a repetitive question coming
6 from a defense lawyer in this case, I hit him with a
7 gun. No witness ever testified that he hit anybody
8 with a gun.

9 He told you up here clearly Bryan punched him.
10 And they kept asking him, you even heard it on
11 closing argument up here, oh, hit him with that gun,
12 whacked him with that gun. There's nothing in the
13 record from that. Those are questions from a
14 defense lawyer. Nothing in that record about
15 anybody ever getting hit with a gun. But if you
16 tell something enough times and enough repetition,
17 you just hope you can sow those seeds out there and
18 they'll take root with somebody.

19 Y'all are too smart for that. The collective
20 wisdom of the 12 of you outstrips that of any one
21 person anywhere. And y'all have been listening to
22 what goes on up here, you know what the truth is and
23 y'all can sort out what the truth is and what lies
24 are up here, what's going on, what's actually
25 happening with the collective wisdom that you have.

1 Bryan Phillips punched that man in the head.
2 Alvin had the gun. Alvin didn't try to minimize his
3 involvement in this. He told Roosevelt Young up
4 there what he did. He implicated himself. It's not
5 that time honored defense that people give to the
6 police that SODDI defense, S-O-D-D-I, some other
7 dude did it, not me. They bring Alvin in in this
8 case and who does he implicate? Himself. Does he
9 minimize his involvement? Does he shuffle his feet
10 and go, oh, yeah, I went with them, but, you know, I
11 was just a lookout. I just stood over there on the
12 side of the road, you know, while they went and did
13 it. I didn't have a gun. He told on himself
14 ultimately.

15 Those statements have inherent truthfulness,
16 not somebody else did it, not trying to minimize my
17 involvement in this case, I did it. Those
18 statements have inherent truth because why in the
19 world would he start lying and telling half truths
20 at that point in time.

21 Three people did this. Two of them sit right
22 there. Alvin P. sits where he is. Two of
23 them are sitting right there. Three people did
24 this.

25 Poor old Chinese man is laying out there

1 screaming he does not speak English. They're
2 wanting money. Just greed. His son gets worried
3 about him and comes out to look for him. What do
4 they do? They jump him too and hold him down and
5 screaming -- he speaks more English than the rest of
6 them. Make no bones about it, they had to go Lord
7 knows where to get an interpreter that can even do
8 this. They can't hardly sort out how their names
9 are spelled. He speaks a little bit of English. I
10 think they refer to that as Chinese restaurant
11 English, number one, number two. He can tell you
12 about money. He doesn't speak much English.

13 He comes out, they're screaming and yelling at
14 me, Where is the money, where is the money? They
15 know what they're looking for because they already
16 know there's a bag there and they talked about it
17 ahead of time. They know money's in there, in the
18 house, in the house, there's money. There his wife
19 is inside and his child and his mama. And here they
20 are out there his daddy is laying down, he got
21 smacked in the head being held down. Here are three
22 masked men in their yard holding them down, wanting
23 their money.

24 Can you think of the angst and anxiety he had
25 at that point in time, going to send these guys into

1 his own house to get the money, his daddy laying
2 there with them holding a gun on him, his wife, his
3 child inside, his mama inside. And his only hope at
4 that point in time is hope that all they'll do is
5 just take the money and not kill them all. That's
6 what these people faced, people that live right here
7 in Edgefield County. You can't sugarcoat this.

8 Burglary, going in that house. Armed robbery,
9 the Judge is going to charge you with what the law
10 is in this case, armed robbery, taking up a gun and
11 taking something from somebody. Burglary, going in
12 the house at the nighttime, entering a dwelling with
13 the intent to commit a crime therein in the
14 nighttime and that's the aggravating circumstance.
15 And you can better believe it was nighttime 10:30 at
16 night in August.

17 We've got the burden of proof and I told you at
18 the outset we welcome it. The Judge is going to
19 charge you with what the law is.

20 And kidnapping, only the two people, only the
21 men are the ones you got for kidnapping at this
22 point in time because they clearly kidnapped them.
23 If you restrain or hold somebody against their will,
24 and the Judge will charge you with what kidnapping
25 is in great detail at the end of this argument, he's

1 going to give you the law, and if you hold anybody
2 against their will even for a moment in time, and
3 how long do you think that time was as he lay there
4 on the ground with that man with the gun as somebody
5 else ran in his house? How long do you think those
6 minutes were as he was held, as he held his breath
7 and hoped they didn't go in there and kill his wife,
8 his baby and his mama as they went in that house,
9 how long were those minutes? Those were the minutes
10 he was kidnapped.

11 Criminal conspiracy, that's agreement among
12 people that they're going to do an unlawful act, the
13 kind of agreement that takes place when people are
14 outside watching folks come and go and scheming with
15 greed in their hearts and abhorrence and malice in
16 their hearts, just meanness about how we're going to
17 take from somebody else what we want that we didn't
18 earn that they earned through the sweat of their
19 brow.

20 They planned it. They thought about it. They
21 schemed it. That's the crime of conspiracy. It's
22 an agreement. It's a plan. It's the getting
23 together on it. And it can last for a month as they
24 were out there watching these folks go back and
25 forth and figuring they weren't taking the money to

1 the bank or it can be for just a moment in time. It
2 can be when you leave and you see these guys go in
3 with a gun and masks, where are y'all going? We're
4 going to rob the Chinese people. Ooh, wait a
5 minute, I'll go with you. I'll go get me a shirt
6 and I'll wrap it around my face, Mr. K.C. Langford
7 in this case, and I'll go with you. That's all it
8 takes for criminal conspiracy, the agreement to go
9 do it.

10 He knew what they were going to do. He didn't
11 think that they were going to some Thursday night
12 supper. He didn't think they were going down to the
13 store. He got something to conceal his features to
14 hide himself to conceal this criminal act and he
15 covered up his face and he went. There's the
16 criminal conspiracy.

17 And they went down there and they carried this
18 out. They waited on the people, they jumped on
19 them. Mr. K.C. Langford, as Bryan Phillips, Alvin
20 P. cousin, lays there having knocked this man
21 in the head, Alvin's standing there with the gun and
22 he was sorry for doing that. He came up and
23 testified for the State that that was absolutely
24 sorry what he did, taking that gun and robbing this
25 man deplorable. Nobody's saying that that's a good

1 thing.

2 K.C. Langford runs in that house and gets that
3 bag and he is off to the races. He doesn't even go
4 back, just greed. He's got the money. He's off
5 down Butler Street. His two cohorts are there
6 holding the people in the yard and he's running down
7 the street with the bags the next time Alvin sees
8 him and trails right off.

9 And read that statement he gave, he tells all
10 this in his statement. He got up here under oath
11 and told y'all, he told Roosevelt Young back there,
12 look at the statements, look at the similarities.
13 He tells you with great detail, Alvin -- and he was
14 there. Never mind any of this nonsense about maybe
15 he wasn't there, maybe he just made this up and told
16 them because he was impressed that Lamaz Robinson
17 here had a big 'ol gun on his hip and this SLED
18 agent was there so he got up and implicated himself
19 just because he was scared and then the other side
20 telling you, oh, he was the gunman.

21 Two trains going in two different directions,
22 shoot holes in anything, put everybody on trial,
23 Alvin P. in this case. The police, oh, you
24 should have done this, you should have got that.
25 The prosecution, oh, he's looking for you, it's a

1 conspiracy, making up something on somebody.

2 Off to the races, up the street he goes,
3 Mr. K.C. Langford, with that bag of \$3,000 of their
4 money. And they got their billfold, they got their
5 cigarette lighter, they took what they could get and
6 they left. Thank goodness that's all they did.

7 They ran up the street there. And he can tell
8 you where they went, what direction they went and
9 where they ended back up at. There were three
10 people involved in this. It took three to do it,
11 two to hold these two men down, one to go in the
12 house, three people.

13 Alvin P. wasn't by himself. And they
14 want him to take the whole load and the whole ride
15 by himself, you can bet that, but he wasn't by
16 himself that night. He wasn't by himself hanging
17 around in those shrubs waiting for these people to
18 come home. He wasn't by himself carrying out this
19 crime. He wasn't by himself when they ran back to
20 the house and split up that money when everybody
21 took a portion. He wasn't by himself and he
22 shouldn't take the ride by himself. He shouldn't be
23 the only one that answers to this. There were two
24 other people and there they sit right there. They
25 took the proceeds of it and they committed a

1 man-sized crime, armed robbery, burglary, kidnapping
2 and conspiring to do it.

3 What happens next? After they split the money
4 up, they go back and Veronica Phillips is going to
5 take her mama and go to work. And quite naturally
6 having committed a crime like that, they're going to
7 get out of there if they can. And they weren't
8 going to make it running because they were looking.

9 No matter what limited description they had
10 from the police in this case, they weren't going to
11 hang around there with masks on. They weren't going
12 to hang around there with the evidence in their
13 hands. They needed to get out of there. So K.C.
14 Langford and Alvin decided it would be a good time
15 to ride to work with mama as they were taking mama
16 to work.

17 Now, I wonder how many times before then that
18 was so interesting to ride with their mama to go to
19 work --

20 **MR. CALHOUN:** Objection, Your Honor.

21 **THE COURT:** Yes, sir.

22 **MR. CALHOUN:** He's exceeding argument and
23 arguing facts not in evidence.

24 **THE COURT:** With regard to riding to work?

25 **MR. CALHOUN:** Regarding to take somebody's

1 mother to work, I don't even know who he's talking
2 about.

3 **THE COURT:** The objection's overruled. Go
4 ahead.

5 **MR. MAYE:** You take the facts as you remember
6 them. You heard what was going on up here. They
7 left up there because mama was going to work.
8 Veronica Phillips' mama was going to work. That's
9 the four of them that are in the car up there when
10 they get stopped by the deputy in this case and
11 that's what Alvin told you in this case, that's
12 where we went, we went. We needed to go get
13 something for her. And they were going to take her
14 on to work at this point in time, but they were
15 getting out of there.

16 That was pure happenstance that Zac Strom
17 stopped them. He's got them there. I really want
18 you to think about his. Who was there together
19 right before, minutes before this occurred at 10:30?
20 K.C. Langford, Bryan Phillips and Alvin P.
21 together. Who was still together, what, 10:42 call
22 comes in, stopped at 11 o'clock by Zac Strom, who
23 was still together? K.C. Langford and Alvin
24 Phillips still there together.

25 That's the thing about telling the truth, it

1 fits together on the time line whether you told it
2 back when it happened or you told it up here today,
3 it fits together. They were still there together.

4 They want to have you believe whatever
5 alternative theories they argue back up and forth
6 here, Alvin P. , yes, he did it, but oh, no, it
7 wasn't these two, it must have been some other guys.

8 Where did that come from? Who would that have
9 been? Bryan Phillips is together with him moments
10 before, K.C. Langford's together with him moments
11 afterwards, it fits together. Bryan Phillips lives
12 in the same apartment complex walking distance just
13 around the corner from there. It fits.

14 They get stopped by Strom. He doesn't know at
15 this point in time, they've got a very limited
16 description at that point in time. Lamaz Robinson
17 went and he told you, he got up here and he put his
18 hand on the Bible under oath just like anybody else
19 and he said this guy can't speak enough English to
20 give us much detail. They got as much as they could
21 get, nearly a year later before he could get any
22 meaningful information from him including how to
23 spell their names when they finally did get somebody
24 that could talk to them. He got what he could get.

25 But, oh, one side, the defense will tell you in

1 this case, oh, you know good and well that man can
2 speak better English than he was letting on. He's
3 hiding that, covering up, truth's not in him.

4 He gave him what he could give him. He spoke
5 Chinese restaurant English and he told them what he
6 could tell them and that's about all the police had
7 at this point in time, three black men wearing masks
8 and they got their money and that's about all they
9 could get because if they could have got more than
10 that, they would have tried.

11 It wasn't that they were apathetic and they
12 didn't care. They were able to glean enough
13 information and know they had a robbery, but the man
14 can't speak enough English to convey much. There
15 simply wasn't a whole lot they could do.

16 Oh, and they want to tell you, oh, they didn't
17 do this. Well, put the police on trial now. We put
18 up the evidence in this case, but, oh, put Alvin
19 P. on trial and put the police on trial. Oh,
20 they didn't do any DNA, they didn't get any hair
21 fibers. With the crime they had with high traffic
22 area there and people walking back and forth, their
23 footprints would have been meaningless. If they
24 could have gotten their feet off of there and tried
25 -- people walk and back and forth up here all the

1 time, these people are always in the apartment
2 complex walking back and forth wouldn't have meant a
3 thing.

4 The fellow ran in the house, they didn't break
5 in the house. What fingerprints would there be for
6 a man to run up inside that house, not break in and
7 pick up a bag and leave? There wasn't any DNA. He
8 wasn't bleeding. He didn't get socked in the head.
9 K.C. there, he was fit as a fiddle, there wouldn't
10 be any reason, he didn't get hit. He went up in
11 that house, where would there be any DNA?

12 This is not some fantasy world of crime scene
13 CSI that they can extract the evidence from the thin
14 air. Oh, where were the hair follicles and the hair
15 fibers? Where? Out there in that yard as they're
16 out there in the garden, out there as they were
17 laying in the grass?

18 There wasn't any forensic evidence to do or
19 forensic investigation that would have led to
20 anything. They jumped this man out there in the
21 yard and went up there in the house and he was in
22 there long enough to grab a bag and run back out.
23 No crime scene CSI, wouldn't have led to anything
24 and that's all they had because nothing happened
25 until a month later.

1 They gave Zac Strom the best information he
2 had. And by pure happenstance, like I said the
3 truth fits together just like Alvin P. said,
4 K.C. Langford and I are still together. Zac Strom
5 said who was in that car, K.C., even checked the
6 I.D.s, Alvin, Veronica and he said a female that he
7 assumed was the mother which dovetails right into
8 what Alvin said.

9 Pure happenstance that he stopped them just in
10 hopes that somebody would have seen something.
11 Operating on the thinnest shell or framework of what
12 that crime was, he did make the stop. He could come
13 up here and tell you that and help corroborate what
14 Alvin told you up here. And it rocks on for a month
15 because they've got nothing else.

16 Investigator Robinson, there was just nothing
17 else he could do until Roosevelt Young's phone rang.
18 And it doesn't make any difference what the
19 motivation of Mr. Stevens was when he called up
20 there and talked to Roosevelt whether or not he was
21 worried about getting a family court bench warrant
22 or thought Roosevelt could help him with that or
23 what the motive was. He even gave him accurate
24 information.

25 He called him and he said, someone that's

1 connected to their family, Mr. Stevens, who's he
2 name, those three, K.C., Bryan and Alvin. Those are
3 the names he gives him, apparently people that are
4 connected with their family. That's who he tells
5 Roosevelt Young that's who you need to talk to.

6 So what does Investigator Young do? He's a
7 policeman. He calls Lamaz. He gets him down there,
8 talks to Veronica. They get Alvin in there and what
9 does Alvin say? The same thing. Who are the people
10 that are involved? Roosevelt's already gotten the
11 information in this case from what Joseph Stevens
12 told him. And low and behold who does he say are
13 the three people that are involved? Exactly the
14 same thing that Stevens says, K.C. Langford, Bryan
15 Jordan Phillips and Alvin P.

16 And when Alvin gets in there against his own
17 interest, implicates himself. He didn't say, oh,
18 yeah, K.C. Langford did it and Bryan Jordan Phillips
19 and some other guy did it, but I don't know his name
20 or named somebody he had something against. He said
21 people that he obviously has affection for and is
22 conflicted about even getting up here and having to
23 testify against.

24 He told you and you can see it, you know good
25 and well the one really telling thing from his

1 testimony up here was, I asked him in this case, You
2 really wish this was just all over for all of you,
3 don't you? Yes. For them and for -- he doesn't
4 want to get them in trouble. They're his family
5 members. They're his friends. There K.C. is with
6 him in the car. Bryan is his cousin. They've got
7 family members in common that's been sitting up
8 here. You know good and well. In spite of all this
9 here, he told on himself.

10 They've got an absolute right to a jury trial.
11 They're absolutely within their rights to put the
12 State to proving it. They don't have to put up any
13 evidence in this case. But Alvin, in this case, he
14 told on himself. They don't have to do anything.
15 Alvin told on himself and implicated himself and he
16 didn't sugarcoat it. He didn't try to say, I didn't
17 have the gun. He didn't try to say anything to
18 distance himself from it. He went through
19 consistently what he did and he told on himself.
20 And he told on them as well and it matches up
21 exactly with the information that Roosevelt got from
22 Mr. Stevens. And Roosevelt Young got him to sign a
23 statement.

24 Now, I want you to think about the differences.
25 They're going to tell you, oh, he's vacillating and

1 they're different statements in this case and you
2 can look at this.

3 I want you to take a look at what you've got in
4 evidence here. In the cold light of day with all of
5 these people watching and witnesses signing these
6 forms, they went through with Alvin Stevens (sic)
7 before they talked to him and they advised him what
8 his rights were. He wanted to talk to Roosevelt and
9 he was more comfortable talking to Roosevelt. But
10 before going and doing that, Roosevelt went through
11 all of his rights with him. And he told him, You've
12 got the right to remain silent. You don't have to
13 talk to him. If you tell us this, we're going to
14 use it against you. He went through all of this.
15 Roosevelt indicated that he understood his rights
16 and he still told on himself.

17 He may have been wrong out there when he robbed
18 these people, but he was right when he did that. He
19 said, yes, I did it. He said, yes, Bryan did it and
20 he said, yes, K.C. did it. And he told on all three
21 of them. And, of course, they made the arrests in
22 this case. A statement against his interest.

23 Self preservation is a natural instinct and a
24 young man immature like this at 17 years old you
25 know he didn't want any negative consequences for

1 himself. He doesn't want any negative consequences
2 for them. He wishes they could all go home and that
3 this was over with and it didn't happen, but it did.

4 And they picked a whopper of a crime. A kid
5 whose priors are simple larceny and shoplifting, to
6 go from that to this, this is a whopper, ladies and
7 gentlemen. It doesn't get any worse than this short
8 of killing somebody. What a whopper of a crime for
9 a 17 year old to commit.

10 Do you think he came up with that all on his
11 own? They're going to tell you in this case, the
12 defense has tried to say, oh, man he was the ring
13 leader. He was 17 years old. You don't leave your
14 common sense at home when you come in the
15 courthouse. And, ladies and gentlemen, as
16 delicately as I can put it, you can tell that he's
17 not a leader. He's not brilliant. You can tell
18 that. Do you think he was a leader?

19 He got up here and he told you what was going
20 on as he struggled to read what they purport his
21 statement, and you look at this. And to get back to
22 what I was talking about, look at these statements.
23 There's a difference in between them. Roosevelt
24 Young went through all of this, his rights, he's got
25 a written form of waiver there. He had him write it

1 out and Alvin wrote it and you can see the way he
2 wrote here.

3 Unlike some of the people hanging on the wall,
4 he's probably not a great author. As he was talking
5 about Charles Dickens, he's not Charles Dickens in
6 the way he wrote it when he wrote this statement out
7 about what they did and implicated himself, put
8 himself in a world of trouble. That's not to be
9 villainized as they would have him villainized up
10 here.

11 They've been putting him on trial, oh, what a
12 horrible boy. The only thing he did was he owned up
13 to it when he made a mistake. He was man enough to
14 say, yes, I did it and told on himself. He didn't
15 have to do that, but he did. He told on himself. I
16 did it. I made a mistake.

17 Contrast this statement made in the light of
18 day where people actually sign it and say they
19 witnessed it, Roosevelt Young signed his name to it,
20 Alvin wrote it in his own handwriting, take a look
21 at these statements, sworn affidavit of Alvin
22 P. . Look at the handwriting on this, look at
23 the handwriting on this piece of paper here.
24 Somebody trying to be a lawyer here:

25 Further, I, Alvin P. , states that I was

1 not in my right state of mind when I made the
2 statement against K.C. Langford and Bryan Phillips.
3 The statement that I, Alvin P. , made was all
4 untruthful, therefore, I pray that all charges
5 against K.C. Langford and Bryan Phillips be
6 dismissed to bring about the end of justice.

7 Do you think this young man on the stand up
8 here wrote that? Absolutely not. He could barely
9 read it. Somebody else authored that.

10 And you notice here there's no witnesses
11 signing this. You didn't hear anything about how
12 this got generated. It got generated down there in
13 the jail and they put it in front of him to try to
14 get him to sign it because they want him to take
15 this ride by himself. They want him to suffer the
16 negative consequences by himself in this case as
17 they skip out of here and leave him holding the bag,
18 that's what this is about.

19 There's a certain amount of arrogance that
20 comes along with doing this. And these defense
21 lawyers, they didn't send an investigator down there
22 to talk to him. I'm not saying they were involved
23 in this. You know good and well this got generated
24 down there at the jail by K.C. He got this young
25 man to sign it. He didn't write it and that's

1 obvious. You don't leave your common sense at home
2 when you come up here. You know what's going on in
3 this case. You accept these consequences.

4 And, oh, my goodness what a deal he's got to go
5 through and tell you about all those seven reasons
6 he's got to lie, those seven indictments, all those
7 charges going through. Armed robbery carries, what
8 did he tell you, from 10 to 30 by itself, minimum of
9 10 maximum of 30. Oh, what a deal he got.

10 Oh, that deal's enticing you to make up
11 something and stick these to his own family member
12 over here and his girlfriend's, the father of her
13 baby, a man who's spending the night there, people
14 that he was running with, his friends, his
15 associates, people that he was associated with.

16 Oh, no, he made that up. They're not involved
17 in this is what they'd argue in this case. And the
18 only reason he's saying this is because somehow the
19 police and the State and the prosecutor and all want
20 him to lie and frame these two over here, that it
21 wasn't any of them and it's all a grand conspiracy.
22 And, oh, he can't tell the truth. He's looking over
23 here at the prosecutor to tell which lie to tell.

24 They can't sugarcoat that. The implication is
25 always there. You can't look at me, you've got to